

THE FUTURE OF FELON DISENFRANCHISEMENT REFORM: HOW PARTISANSHIP AND POVERTY SHAPE THE RESTORATION OF VOTING RIGHTS IN FLORIDA

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INTRODUCTION

In 1974, on the eve of the era of mass incarceration, the Supreme Court held that the Fourteenth Amendment gave states an “affirmative sanction” to disenfranchise those convicted of a crime.¹ In the years since *Richardson v. Ramirez* was decided, the number of people unable to vote because of a criminal conviction swelled from less than 2 million to more than 6 million.² Felon disenfranchisement also became partisan.³ While Democratic states have liberalized their laws, Republican states, often in the South, remain bastions of disenfranchisement.⁴ By 2016, the Republican-led state of Florida accounted for more than a quarter of the entire country’s disenfranchised citizens.⁵

Because “the facial validity of felon disenfranchisement may be absolute,”⁶ substantially reducing the scope of disenfranchisement in states like Florida depends on building bipartisan coalitions, including addressing the expectation that expanding the right to vote will dramatically benefit Democrats. Yet even

¹ *Richardson v. Ramirez*, 418 U.S. 24, 54 (1974) (“[T]he exclusion of felons from the vote has an affirmative sanction in § 2 of the Fourteenth Amendment.”). The doctrinal move was foreshadowed by the Court’s summary affirmance of a challenge to North Carolina’s felon disenfranchisement statute during the prior term. See *Fincher v. Scott*, 352 F. Supp. 117, 119 (M.D.N.C. 1972), *aff’d*, 411 U.S. 961 (1973) (mem.) (“Putting it positively, we think § 1 must be read in light of § 2, and, so read, denial of the franchise to felons is specifically excepted from the Equal Protection Clause contained in § 1.”). The Court had also previously sanctioned the practice in dicta. Fifteen years prior, in *Lassiter v. Northampton County Bd. of Elections*, 360 U.S. 45, 50 (1959), a unanimous court upheld North Carolina’s literacy test and noted that while “[r]esidence requirements, age, previous criminal record are obvious examples indicating factors which a State may take into consideration in determining the qualifications of voters.” The *Lassiter* Court cited a turn-of-the-century opinion upholding the territory of Idaho’s disenfranchisement of polygamists, though that opinion was focused on a First Amendment challenge. See *Davis v. Beason*, 133 U.S. 333 (1890), *abrogated by Romer v. Evans*, 517 U.S. 620 (1996).

² See CHRISTOPHER UGGEN, RYAN LARSON, & SARAH SHANNON, THE SENTENCING PROJECT, 6 MILLION LOST VOTERS: STATE-LEVEL ESTIMATES OF FELONY DISENFRANCHISEMENT 9 fig.5 (2016) (reporting the estimated number disenfranchised for selected years, 1960-2016); see also NATIONAL RESEARCH COUNCIL, THE GROWTH OF INCARCERATION IN THE UNITED STATES: EXPLORING CAUSES AND CONSEQUENCES 39 fig.2-3, 41 fig.2-4, 43 fig.2-5 (2014) (showing increase in imprisonment beginning in the 1970s and vastly accelerating in the 1980s and 1990s).

³ See, e.g., Jason Belmont Conn, *Felon Disenfranchisement Laws: Partisan Politics in the Legislatures*, 10 MICH. J. RACE. & L. 495, 499 (2005) (arguing that “partisan politics drives changes to the state laws governing voter eligibility”).

⁴ See, e.g., UGGEN, LARSON, & SHANNON, *supra* note 2, at 8 fig. 4 (displaying a cartogram of total disenfranchisement rates by state); MORGAN MCLEOD, THE SENTENCING PROJECT, EXPANDING THE VOTE: TWO DECADES OF FELONY DISENFRANCHISEMENT REFORMS (2018) (cataloging reform by state and year).

⁵ See *id.* at 15 tbl.3 (reporting estimates of disenfranchisement by state).

⁶ *Farrakhan v. Locke*, 987 F. Supp. 1304, 1314 (E.D. Wash. 1997).

if these coalitions can come together, efforts to expand the right to vote can be complicated by the many collateral consequences of a criminal conviction. As the number of people involved with the criminal justice system has grown, so has the court-ordered assessment of fines, fees, and restitution.⁷ In its wake, an emerging issue is whether the payment of outstanding fines and fees is required to vote, particularly when voting rights are restored upon the general requirement for an individual to complete the terms of their sentence.⁸

This Article contributes to the symposium on democracy reform for the twenty-first century and its call to identify and evaluate key initiatives to strengthen our democracy by focusing specifically on a 2018 ballot initiative known as Amendment 4 to end lifetime disenfranchisement in Florida. It marshals hundreds of public information requests to introduce four novel datasets, covering the hundreds of thousands of petitions collected to put the initiative on the ballot; the millions of ballots cast for its victory; the voter registration records of people with felony convictions who were initially restored their right to vote; and the fines and fees owed by people with felony convictions that may cause them to remain disenfranchised.

The Article proceeds chronologically, from the ballot initiative to its partisan implementation and finally the ensuing (and ongoing) litigation. It makes three observations about the role of partisanship, poverty, and equality in the restoration of voting rights. First, that the campaign won a remarkable bipartisan victory, drawing Republican support from poorer and more racially diverse neighborhoods. Second, that expanding the right to vote to people with felony convictions has smaller partisan consequences than the typical politics of reform would suggest. Third, that because the vast majority of people with felony convictions owe fines and fees, the vast majority still remain disenfranchised, likely too poor to restore their right to vote. Together, these empirical lessons from the campaign for Amendment 4 suggest that the debate around felon disenfranchisement should be fundamentally recast: first as a question of democratic engagement, rather than partisan consequences; and second as an issue of criminal justice, and not merely voting rights.

Part I tells the story of the ballot initiative to restore the right to vote to people previously convicted of a felony, detailing its support among Democrats and Republicans by identifying for the first time who contributed to the campaign, who signed the petition to put it on the ballot, and who cast a vote for it on Election Day.

It begins by showing that, at least since Florida's contested 2000 election, efforts at felon disenfranchisement reform across the country have generally

⁷ See, e.g., U.S. GEN. ACCOUNTING OFFICE, GAO-01-664, CRIMINAL DEBT: OVERSIGHT AND ACTIONS NEEDED TO ADDRESS DEFICIENCIES IN COLLECTION PROCESSES 9 (2001) (outstanding criminal debt rose from \$260 million in 1985 to about \$13 billion in 2001).

⁸ See generally Beth Colgan, *Wealth-Based Penal Disenfranchisement*, 72 VAND. L. REV. 55, 66-67 (2019).

been centered around a set of expected partisan consequences: in short, that reform would be a boon to Democrats. Before the campaign for Amendment 4, Florida’s clemency process had become so mired in this pattern of partisanship that a federal judge found it violated the First Amendment’s ban on viewpoint discrimination.⁹ According to that judge, Florida’s policy was an example of how the “spigot [of voting rights] is turned on or off depending on whether politicians perceive they will benefit from the expansion or contraction of the electorate.”¹⁰

The campaign for Amendment 4 promised to reorder the landscape of felon disenfranchisement by amending the state constitution to replace lifetime disenfranchisement with automatic restoration of the right to vote “upon completion of all terms of sentence.”¹¹ In some ways, the campaign was typical of recent reform efforts, drawing heavily on Democratic support. The campaign was financed almost entirely by civil rights activists and Democrats. In fact, half of its ultimate \$27 million-dollar fundraising haul was the result of just three donors: the ACLU; the Sixteen Thirty Fund, a liberal secret-money non-profit; and the Bonderman family, long-time donors to Democrats.¹² Further, the campaign’s early coalition of petitioners was distinctly Democratic and disproportionately African-American, though there were signs of Republican support in lower income and more racially diverse neighborhoods.¹³

In order to amend the state constitution, though, the campaign needed to win the support of a super-majority of the electorate, including a substantial share of Republicans.¹⁴ These electoral constraints forced the campaign to chart a new path. The campaign recognized that the typical focus on racial disparities in disenfranchisement left little room for the white, more likely Republican, communities also impacted by felon disenfranchisement.¹⁵ The framework also likely inflated the public’s sense of how many people who are disenfranchised are African-Americans. This is critical because, as Part II will show, the partisan

⁹ See *Hand v. Scott*, 285 F. Supp. 3d 1289 (N.D. Fla. 2018), *vacated and remanded sub nom. Hand v. Desantis*, 946 F.3d 1272 (11th Cir. 2020).

¹⁰ *Id.* at 1310.

¹¹ See Division of Elections, *Voting Restoration Amendment 14-01*, FLA. DEP’T OF STATE, <https://dos.elections.myflorida.com/initiatives/initdetail.asp?account=64388&seqnum=1> (“Voting Restoration Amendment”).

¹² See *infra* Table 1 (calculating the total amount of contributions by contributor).

¹³ See *infra* Table 2 and Table 3.

¹⁴ See FLA. Const. art. XI, § 5(e) (constitutional amendments by initiative require 60% support).

¹⁵ See, e.g., At Liberty, *Desmond Meade and Dale Ho on Restoring the Right to Vote (ep. 5)*, American Civil Liberties Union, <https://www.aclu.org/print/node/69130> (“What is happening is that most of our narrative has been about the disproportionate impact it has on the African American community, it has created a narrative that would make people naturally assume that this is only an African American issue, or it’s only African Americans that are impacted by this particular policy and in reality, the opposite is true. And that is, there are more people who are white, there are more people who are not African American, that are impacted.”).

consequences of felon disenfranchisement are largely tied to the racial composition of who stands to regain the vote. The campaign instead evoked the work of the evangelical Prison Fellowship and focused on the concept of redemption to cultivate Republican support.

Remarkably, no political committee ever registered to oppose Amendment 4. Beyond the narrative choice, this lack of organized opposition was in large part because the campaign made a series of tradeoffs about the scope of reform. It took a cautious approach, evoking if not following the playbook set by former Republican governor Charlie Crist when he expanded the right to vote to certain people with felony convictions through an executive clemency reform about a decade before.

In fact, the campaign used nearly the same slogan, arguing that voting rights should be expanded because “when a debt is paid it’s paid,” and made the same strategic exclusions that those convicted of murder or sexual offenses or who owed restitution would not have their right to vote restored.¹⁶ Critically, the campaign also proposed restoring voting rights upon “completion of all terms of sentence” and did not define the term. One reason they did so is that the broader language polled better, even though it would reduce the number of people re-enfranchised. For example, during a research briefing before the ballot language was finalized, the campaign discussed the tradeoff between proposing to restore voting rights after the “full sentence” versus “post time served.”¹⁷ The campaign understood that the “full sentence” approach would “restore[] voting rights to less people” because there would be a “[d]isparate impact on the poor [who would be] unable to pay fines and restitution.”¹⁸ But with the “post time served” approach it would be a “[h]arder fight to win 60% + 1% approval,” particularly because the “opposition c[ould] use [the] ‘didn’t pay back full debt’ argument.”¹⁹ Although Amendment 4’s requirement to “complet[e] ... all terms of sentence” did not specifically mention fines and fees, the campaign told the Florida Supreme Court as part of the ballot approval process that payment of fines and fees would be required to restore voting rights too.²⁰

This strategy worked. Amendment 4 passed with the support of nearly 65%

¹⁶ See Voting Restoration Amendment, *supra* note 11 (exempting those “convicted of murder or a felony sexual offense”); Press Release, Second Chances Florida, National Military Veterans Organization VoteVets Announces Support for Amendment 4 (Sept. 27, 2018), <https://secondchancesfl.org/press-releases/national-military-veterans-organization-votevets-announces-support-for-amendment-4/> (“Amendment 4 would restore the eligibility to vote to Floridians who have served their time and completed all terms of their sentence as ordered by a judge—including parole, probation, and restitution.”).

¹⁷ See Supp. App. to Reply Br. of Sec. of State at app.D at 103, *Advisory Opinion to the Governor Re: Implementation of Amendment 4*, No. SC19-1341 (showing the “pros and cons of policy choices” as part of the “Florida Rights Restoration Briefing (September 2, 2014)”).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See Transcript of Oral Argument at 4, *Advisory Opinion to the Attorney General Re: Voting Restoration Amendment*, 215 So.3d 1202 (2017) (Nos. SC16-1785, SC16-1981).

of voters, including 40% of Republicans.²¹ The campaign was particularly successful at getting the support of Republican voters in lower-income areas.²² And despite its deemphasis of race, the campaign did not lose its core Black support.²³

The passage of Amendment 4 offers a unique opportunity to assess the actual, rather than perceived, partisan consequences of reform. The canonical effort by the sociologists Chris Uggen and Jeff Manza to estimate the partisan consequences of reform used national survey data from the public and applied it to the demographic profile of those incarcerated.²⁴ In contrast, Part II uses novel data on the actual political behavior of people with felony convictions who subsequently registered to vote.²⁵

Despite the initiative's watershed victory, partisan politics eventually engulfed the implementation of Amendment 4. Consistent with the expectation that reform would benefit Democrats, every Republican in the state legislature ultimately voted to limit the scope of Amendment 4 by requiring the full payment of fines, fees, and restitution as a term of sentence, even those that were later converted to civil liens.²⁶ Every Democratic colleague was opposed.²⁷

However, for the first five months that Amendment 4 was in effect, people with felony convictions in Florida were encouraged to register to vote. The initial registrations from people with felony convictions make clear that the expected partisan consequences should be revised, for two reasons. First, the view that felon disenfranchisement reform would be a boon to Democrats is a distinctly racial one—while it captures the demographic reality that African-Americans are strong supporters of the Democratic party, it overstates the likely benefit to Democrats because it misses the fact that most ex-felons are not African-American. In fact, only about 64% of the people with felony convictions who initially registered to vote after Amendment 4 were likely Democrats; while 94% of Black registrants were likely Democrats, only 36% of

²¹ See *infra* Figure 4 (breaking down the vote choice on Amendment 4 by vote for either the Democratic or Republican candidate for governor or senator).

²² See *infra* Figure 6 (showing that percentage of Republican voters supporting Amendment 4 is highest when the mean household income of a precinct is lowest); Figure 15 (same, but with number of persons released from prison).

²³ See *infra* Figure 7 (showing that the percentage of Democratic voters supporting Amendment 4 increases with the share of black registered voters in a precinct).

²⁴ See generally JEFF MANZA AND CHRISTOPHER UGGEN, *LOCKED OUT: FELON DISENFRANCHISEMENT AND AMERICAN DEMOCRACY* (2008).

²⁵ I previously made an abbreviated version of this argument in the run-up to the November 2018 election. See Marc Meredith and Michael Morse, *Why Letting Ex-Felons Vote Probably Won't Swing Florida*, Vox (Nov. 2, 2018), <https://www.vox.com/the-big-idea/2018/11/2/18049510/felon-voting-rights-amendment-4-florida>.

²⁶ See *Jones v. DeSantis*, No. 19-cv-300, 2020 WL 2618062, at *32 (N.D. Fla. May 24, 2020) (describing the “straight party-line vote”).

²⁷ See *id.*

other registrants likely were.²⁸ Importantly, the partisan preferences of people who initially registered after Amendment 4 are consistent with the partisan preferences of the hundreds of thousands of Floridians who were restored the right to vote as part of former Governor Crist's earlier executive reform. Second, felon disenfranchisement reform has a smaller partisan impact than is often suggested because of particularly low turnout by people with felony convictions, despite what would be predicted by demographics alone.²⁹ Ultimately, the administrative data underscore why felon disenfranchisement reform is best understood as a question of who gets to participate in our democracy instead of a question of the partisan realignment of the state.

While the campaign successfully persuaded Republican voters and moved beyond partisan politics, the campaign was arguably less successful in how it navigated the issue of legal financial obligations, or LFOs. The campaign at best underestimated and at worst was uninformed about the very different nature of the obstacle of outstanding fines, fees, and restitution. To the extent that the campaign for Amendment 4 discussed the impact of fines and fees on felon disenfranchisement, it noted that there was "no good estimate" of how many people would be affected.³⁰ One reason that the growth and scope of these legal financial obligations (LFOs) has been difficult to document is because of the decentralized nature of the criminal justice system. Part III helps to fill that gap by making another series of public information requests to local court clerks.

The novel sentencing records, which identify how much people owe and how long they have struggled to pay it back, make clear that a requirement to pay outstanding fines and fees perpetuates disenfranchisement and exacerbates the disparate racial impact. The median felony results in \$818 in fines and fees; but because one person can have multiple cases, the median person convicted of at least one felony faced a bill of at least \$1,141.³¹ Few people are able to meet these obligations. For example, there have been no payments at all in nearly half of the cases sentenced in 2010.³² As a result, one year after the passage of Amendment 4, at least 77% of people with felony convictions remain ineligible

²⁸ See *infra* Figure 8 (showing the party of registration of initial Amendment 4 registrants, overall and by race).

²⁹ See *infra id.* (showing the turnout and party affiliation of persons previously granted clemency by former Florida Governor Charlie Crist).

³⁰ See Memorandum from Howard Simon, Exec. Dir., ACLU of Florida and Marc Mauer, Exec. Dir., Sentencing Project, to Executive Board, Second Chances Team (Feb. 11, 2018), <https://docs.google.com/document/d/1om20yURi8GKBdtYUuur-R-RyAagoY1SvmWDWRYghVss/edit#> [<https://perma.cc/RZV8-D5Y5>] (Simon-Mauer Memorandum).

³¹ See *infra* Table 8, Table 10 (showing the distribution of the amount of fines and fees initially assessed and the balance remaining, as well as the percentage with a current balance, for all cases and all persons, including by race).

³² See *infra* Figure 11 (showing the relative distribution of the current balance of fines and fees by the year of case disposition).

to vote because of an outstanding debt.³³ Although the amount assessed by race is statistically indistinguishable, there is a distinct racial gap in who has a remaining balance, with African-Americans 11 percentage points more likely to remain disenfranchised.³⁴

Despite this, the campaign’s decision to not explicitly tackle “wealth-based disenfranchisement” in the text of Amendment 4 should not be read as an endorsement of the practice.³⁵ Instead, it reflects the tradeoffs, well-advised or ill-advised, that are a part of building political coalitions. Even if the resulting victories are piecemeal, they can open the door for further judicial intervention. That is because the restoration of voting rights should not be offered on discriminatory or otherwise unconstitutional grounds.

Note as of July 2, 2020: The litigation over Amendment 4 is ongoing. In a historic decision, Judge Robert Hinkle of the Northern District of Florida held that conditioning voting rights on the payment of court fees amounted to an unconstitutional poll tax, in violation of the Twenty-Fourth Amendment, and further that the “pay-to-vote system” was unconstitutional “as applied to individuals who are otherwise eligible to vote but are genuinely unable to pay the required amount.”³⁶ Importantly, the court constructed a simple remedy for the Equal Protection violation, creating a rebuttable presumption that those who had a public defender “in the last proceeding that resulted in a felony conviction” were genuinely unable to pay.³⁷ Judge Hinkle’s decision marked a sharp break from what had become standard jurisprudence, which distinguished between the right to vote, which is fundamental, and the restoration of that right, which is not.³⁸ Based on the data presented in Part III, Judge Hinkle’s “doctrinal intervention”³⁹ would have enabled hundreds of thousands of people with felony convictions in Florida to be able to vote in the presidential election this November. But the Eleventh Circuit

³³ See *infra* Table 10.

³⁴ See *id.*

³⁵ See generally Colgan, *supra* note 8.

³⁶ *Jones v. DeSantis*, No. 4:19CV300-RH/MJF, 2020 WL 2618062, at *44 (N.D. Fla. May 24, 2020)

³⁷ *Id.* at 45.

³⁸ The Sixth Circuit provides a concise look at what has become standard jurisprudence, quickly dismissing a 2010 challenge to a Tennessee law that conditioned the restoration of voting rights on the payment of LFOs, including child support. See *Johnson v. Bredesen*, 624 F.3d 742, 746 (6th Cir. 2010). First, the court recognized that “[t]he state may, within the bounds of the Constitution, strip convicted felons of their voting rights,” citing *Ramirez*. *Id.* Thus, “[h]aving lost their voting rights,” the court concluded that “Plaintiffs lack any fundamental interest to assert,” distinguishing the right to vote from the right to restore the vote. *Id.* This would doom the poll tax challenge. In the third sentence, the court corrected the Plaintiffs that “contrary to [their] other contention, wealth-based classifications do not discriminate against a suspect class.” *Id.* With that, the deferential standard of review was established in a single four-sentence paragraph: “Accordingly, because Tennessee’s re-enfranchisement law neither implicates a fundamental right nor targets a suspect class,” the Sixth Circuit “applied rational basis review, not strict scrutiny, to [the] equal protection challenge.” *Id.* Tennessee defended its practice as serving a number of interests, including an interest in collecting debt, requiring the completion of sentences, and protecting the ballot box, and the Sixth Circuit upheld the law.

³⁹ See generally Colgan, *supra* note 8.

has stayed the decision and will hear the State of Florida's appeal en banc, bypassing a three-judge panel.⁴⁰ The last time the Circuit reviewed Florida's disenfranchisement scheme en banc it upheld the clemency process against a challenge that it was the product of race discrimination and functioned as a poll tax.⁴¹ My ongoing project will ultimately take stock of the final decision in light of the data presented here. It will urge courts to rely on aggregate statistical evidence; caution against complex rules that sow confusion; and emphasize that, regardless of the development of legal doctrine, the future of felon disenfranchisement reform must grapple with the criminalization of poverty.

I. THE WATERSHED VOTE: ESTIMATING PUBLIC SUPPORT FOR REFORM

The campaign for Amendment 4 was launched by a group of people previously involved in the criminal justice system as a response to the drastic scale of disenfranchisement in the state of Florida.⁴² Since the 2000 election first called national attention to the issue, the estimated number of people disenfranchised in Florida had ballooned from about 600,000 to more than 1.6 million.⁴³ While many states, responding to calls to reform the historical practice, have since liberalized their laws, attempts at legislative reform in Florida from Black and Democratic lawmakers routinely failed in the Republican-led

⁴⁰ See *Jones et al. v. Gov. of State of Fla., et al.*, No. 20-12003-AA.

⁴¹ *Johnson v. Gov. of State of Fla.*, 405 F.3d 1214, 1223-25 (11th Cir. 2005) (concluding that “Florida’s felon disenfranchisement provision is constitutional because it was substantively altered and reenacted in 1968 in the absence of any evidence of racial bias”); *id.* at 1217 n.1 (on the poll tax claim).

⁴² The campaign used the term “returning citizens” to refer to people with felony convictions. See generally *Jones*, 2020 WL 2618062, at *3 (explaining that the order “does not use the plaintiffs’ proposed term ‘returning citizens’ because the term is both more accurate and less cumbersome. ‘Returning’ is inaccurate or at least imprecise; the citizens have not been away, except, for some, in prison, and most who went to prison have been back for years or decades.”).

⁴³ See JEFF MANZA AND CHRISTOPHER UGGEN, LOCKED OUT: FELON DISENFRANCHISEMENT AND AMERICAN DEMOCRACY 275 tbl.A.8 (2008) (reporting 613,514 “Florida ex-felons” as of the 2000 presidential election); UGGEN, LARSON, & SHANNON, *supra* note 2 at 15 tbl.3 (estimating 1,686,318 disenfranchised citizens in Florida).

state legislature.⁴⁴ Attempts at judicial reform in Florida fared no better,⁴⁵ largely because the Supreme Court's decision in *Richardson v. Ramirez* "suggest[ed] that the facial validity of felon disenfranchisement may be absolute."⁴⁶

Initially, executive reform showed some promise. In 2006, Charlie Crist, the Republican candidate for governor, backed the automatic restoration of voting rights for people with felony convictions. After his election, between 2007 and 2011, about 150,000 people previously convicted of a felony were restored their right to vote via the executive clemency process.⁴⁷

But the Republican reform did not last. At the end of his term, Crist left the Republican Party, first to become an Independent and then a Democrat.⁴⁸ Republican Governor Rick Scott then immediately rescinded Crist's policy when he took office.⁴⁹

About six months before the vote on Amendment 4, a federal district court judge held that Florida's clemency process had become so partisan as to violate the First Amendment's ban on viewpoint discrimination.⁵⁰ To Judge Mark Walker, Florida's see-sawing policy from Crist to Scott was another example of how the "spigot [of voting rights] is turned on or off depending on whether politicians perceive they will benefit from the expansion or contraction of the electorate."⁵¹

⁴⁴ See, e.g., Expert Report of J. Morgan Kousser at app. 114 tbl. 7, *Jones v. DeSantis*, No. 19-cv-300 (N.D. Fla. 2020) (listing Florida bills and resolutions on the rights of former felons, 1998-2018). It is interesting to note that in 1974, during the same year the Supreme Court upheld lifetime disenfranchisement in *Richardson v. Ramirez*, 418 U.S. 24 (1974), the state legislature enacted a bill for the automatic restoration of voting rights immediately upon "discharge from parole or release] . . . without parole." *In re Advisory Op. of Gov. Civ. Rights*, 306 So. 2d 520, 520 (Fla. 1975) (describing the bill). However, the state supreme court ultimately scuttled the reform, finding that it "constitute[d] a clear infringement upon the constitutional power of the Governor to restore civil rights." *Id.* at 520. Instead, the governor created an analogous provision as a rule of executive clemency. See Allison J. Riggs, *Felony Disenfranchisement in Florida: Past, Present and Future*, 28 J. CIVIL RIGHTS & ECONOMIC DEVELOPMENT 107, 109 (2015). The rule, though, required individuals to apply to restore their vote, sapping much of its potential. See *id.* As a result, on the eve of mass incarceration, felon disenfranchisement in Florida was ready to boom.

⁴⁵ See, e.g., *Johnson v. Bush*, 214 F. Supp. 2d 1333, 1339 (S.D. Fla. 2002), *aff'd sub nom. Johnson v. Gov. of State of Fla.*, 405 F.3d 1214 (11th Cir. 2005).

⁴⁶ *Farrakhan v. Locke*, 987 F. Supp. 1304, 1314 (E.D. Wash. 1997).

⁴⁷ See *Hand v. Scott*, 285 F. Supp. 3d 1289, 1310 (N.D. Fla. 2018), *vacated and remanded sub nom. Hand v. Desantis*, 946 F.3d 1272 (11th Cir. 2020) ("In Florida, more than 154,000 citizens had their voting rights restored during the last gubernatorial administration's four years.").

⁴⁸ See, e.g., Associated Press, *Changing Affiliation Again, Former Governor of Florida Becomes a Democrat*, N.Y. TIMES (Dec. 8, 2012), <https://www.nytimes.com/2012/12/09/us/politics/charlie-crist-former-florida-governor-joins-democratic-party.html>.

⁴⁹ See *id.* at 1310 ("Since 2011 . . . less than 3,000 people have received restoration."); see generally FLA. R. EXEC. CLEMENCY (2011).

⁵⁰ See generally *id.*

⁵¹ *Id.* at 1310.

In fact, there are many examples of Republican politicians describing their opposition to even modest reform in terms of its expected partisan consequences. In Alabama, the chairman of the state Republican Party once explained his opposition to reform in simple terms: “As frank as I can be,” he said at the time, “we’re opposed to it *because felons don’t tend to vote Republican*.”⁵² In Iowa, a Democratic executive order⁵³ led the former Republican governor to remark that reform “looks like *a very political move*. All of the sudden, you’re just going to make 50,000 people eligible to vote.”⁵⁴ When the former Republican governor won office again, he reversed the reform hours after being sworn in.⁵⁵ In the same vein, the Republican leadership in Virginia’s state legislature labelled the Democratic governor’s attempt at reform “*a transparent effort to win votes*.”⁵⁶ They successfully sued the governor in state court.⁵⁷ For these same reasons, Kentucky’s felon disenfranchisement policy has changed a total of three times in the past five years, depending on the party of the governor.⁵⁸ But it is not clear that these expectations of partisan consequences reflect reality.

The campaign for Amendment 4 proposed amending the state constitution to provide that “voting rights shall be restored upon completion of all terms of sentence including parole or probation,” rather than at the governor’s mercy.⁵⁹ To pass, the campaign needed to meet three thresholds. First, it needed to initially collect about a hundred thousand petitions from registered voters before the Florida Supreme Court would consider whether the proposed ballot language met state constitutional and statutory standards.⁶⁰ Second, it needed to ultimately collect about a million petitions to actually qualify for the ballot.⁶¹

⁵² Shaila Dewan, *In Alabama, A Fight to Regain Voting Rights Some Felons Never Lost*, N.Y. TIMES (March 2, 2008), <https://www.nytimes.com/2008/03/02/us/02felons.html> (emphasis added).

⁵³ See Iowa Exec. Order 42, 28 Iowa Admin. Bull. 218 (Aug. 3, 2005).

⁵⁴ Todd Dorman, *Former Governor Criticizes Vilsack’s Voting Rights for Felons Decision*, QUAD-CITY TIMES (June 21, 2005), https://qctimes.com/news/state-and-regional/former-governor-criticizes-vilsack-s-voting-rights-for-felons-decision/article_d4133c91-be2f-506f-ba48-7acefb5ee2e0.html.

⁵⁵ See Iowa Exec. Order No. 70, 33 Iowa Admin. Bull. 1165 (Feb. 9, 2011).

⁵⁶ Sheryl Gay Stolberg and Erik Eckholm, *Virginia Governor Restores Voting Rights to Felons*, N.Y. TIMES (Apr. 22, 2016), <https://www.nytimes.com/2016/04/23/us/governor-terry-mcauliffe-virginia-voting-rights-convicted-felons.html> (emphasis added).

⁵⁷ See *Howell v. McAuliffe*, 292 Va. 320 (2016).

⁵⁸ See Ky. Exec. Order 2015-871 (Nov. 15, 2015) (expanding right to vote); Ky. Exec. Order 2015-052 (Dec. 22, 2015) (rescinding expansion); Ky. Exec. Order 2019-003 (Dec. 12, 2019) (reinstating expansion).

⁵⁹ See Voting Restoration Amendment, *supra* note 11.

⁶⁰ See FLA. STAT. ANN. § 15.21(3) (2018) (threshold is “equal to 10 percent of the number of electors statewide and in at least one-fourth of the congressional districts required”); FLORIDA DIVISION OF ELECTIONS, FLA. DEP’T OF STATE, 2018 INITIATIVE PETITION HANDBOOK 8 app.B (2018).

⁶¹ See Fla. Const. art. XI, § 3 (threshold is “equal to eight percent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which

Third, it needed to garner 60% of all votes cast to become law.⁶²

The different thresholds suggested that the campaign needed the support of three overlapping constituencies: a small donor class to fund the entire effort; a medium number of voters to sign the petition necessary to qualify for the ballot; and a super-majority of actual voters, including many registered Republicans. In general, Part I introduces three new datasets, based on public records requests to each of Florida’s 67 counties, to track who contributed to the campaign, who signed the petition, and who voted for the initiative. Appendix Sections A. B. and C. describe the intensive data collection effort.

A. Donors

The campaign for Amendment 4, formally known as Floridians for a Fair Democracy, was registered as a political action committee in October 2014.⁶³ Although the campaign often struggled to raise money, it ultimately attracted a core group of liberals and Democrats to finance the effort.

In its first year, the campaign principally relied on the in-kind donations of three progressive groups to help with the petition drive: the ACLU of Florida, the Brennan Center for Justice, and Faith in Florida, a faith-based community organizing group chaired by a member of the campaign’s board.⁶⁴ By the end of 2015, though, the campaign had collected only about 5% of the necessary petitions.

It ultimately took the campaign about three years to collect the first half of the necessary petitions, and four months to collect the rest.⁶⁵ A major reason the campaign collected so few petitions for so long is that it had little money, at least in terms of direct, rather than in-kind, contributions.⁶⁶ Figure 1⁶⁷ uses the campaign finance data described in Appendix A. to chart the cumulative direct contributions to the campaign, from when it began in late 2014 to when it

presidential electors were chosen”); INITIATIVE PETITION HANDBOOK, *supra*, at 8 app.B (detailing the threshold requirement of at least 766,200 petitions statewide).

⁶² See FLA. CONST. art. XI, § 5(e).

⁶³ See Floridians for a Fair Democracy, Inc., *Statement of Organization of Political Committee*, FLA. DEP’T OF STATE, <https://dos.elections.myflorida.com/campaign-docs/?account=64388> (showing that the committee was formed on Oct. 16, 2014).

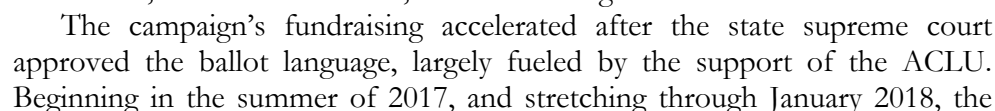
⁶⁴ From the start of the campaign until the end of 2015, the ACLU of Florida reported \$16,842.25 in in-kind contributions related to staff time for petition collection; the Brennan Center reported \$27,449; and Faith in Florida reported \$54,265.70. Code: figs_tbls/a4_campaign/finances/early_contributors.

⁶⁵ Figure A.17 shows the cumulative number of valid petitions for Amendment 4 over time, based on the month of the petition.

⁶⁶ For a sense of the lack of resources in the early petition effort, see Emily Bazelon, *Will Florida’s Ex-Felons Finally Regain the Right to Vote?*, N.Y. TIMES MAGAZINE (Sept. 26, 2018). (“Meade says that when he started the drive for Amendment 4 in 2015, his mother-in-law sorted the petitions, and his children counted the names.”).

⁶⁷ Code: figs_tbls/a4_campaign/finances/pre_qualification.

Figure 1: Direct Contributions Before Ballot Qualification



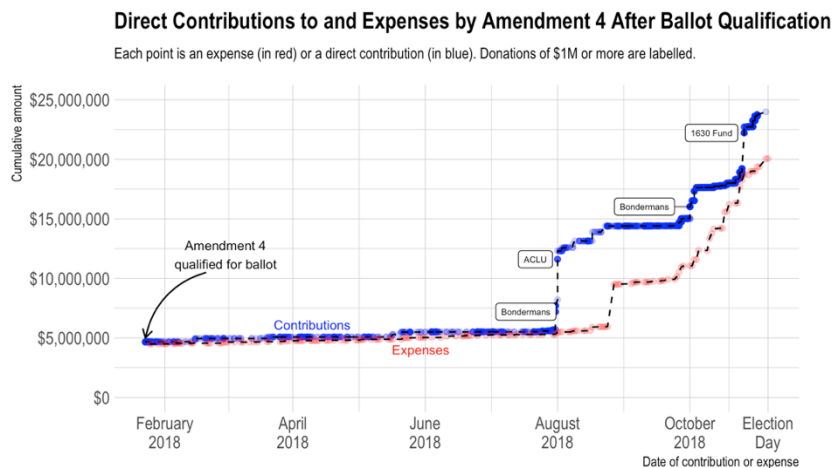
⁶⁹ See *Advisory Opinion to the Attorney General Re: Voting Restoration Amendment*, 215 So.3d 1202 (2017).

campaign raised roughly four million dollars. The new funds were used to pay a nationwide petition management firm. With their help, the campaign collected about 700,000 petitions over the final six months and qualified for the ballot with just eight days to spare.⁷⁰

Figure 2 extends Figure 1, using a blue line to chart cumulative daily contributions by donor to the campaign and a red line for cumulative expenses, beginning in January 2018 when Amendment 4 qualified for the ballot. The figure illustrates the pivotal role of three particular donors: the ACLU, which continued to lend substantial support to the campaign; the Sixteen Thirty Fund,⁷¹ a liberal secret-money non-profit related to the New Venture Fund; and the Bonderman family, long-time donors to Democrats.⁷²

For most of 2018, after Amendment 4 qualified for the ballot, the campaign had little money to spare. But in two summer days, the campaign doubled what it had raised in the previous four years. Of the \$6.6 million dollar haul, \$3.4 million came from the ACLU and \$1.5 million came from the Bonderman family. Contributions continued to well outpace expenses until near Election Day, when the Sixteen Thirty Fund donated \$3 million dollars for the final push.

Figure 2: Direct Contributions and Expenses After Qualification



⁷⁰ See *Voting Restoration Amendment*, *supra* 11 (reporting that the initiative qualified for the ballot on January 23rd, 2018). Once the collection effort began, it became a race against the clock, as a voter's signature is only good for two years. See FLA. ADMIN. CODE ANN. r. 1S-2.0091(2)(a)(2). Figure A.17 visualizes the cumulative number of valid petitions collected over time.

⁷¹ See Scott Bland, *Liberal Secret-Money Network Hammers House GOP*, POLITICO (July 29, 2018), <https://www.politico.com/story/2018/07/29/democrats-dark-money-midterms-house-745145>.

⁷² See *infra* Table 1 (summing the total amount of contributions by contributor).

Ultimately, consistent with the partisan approach to felon disenfranchisement reform, the largest donors to Amendment 4 were distinctly liberal and Democratic. Table 1⁷³ shows all donors who contributed at least \$250,000, or about 1% of the \$27 million dollars eventually raised.

Table 1: Top Contributors

| Contributor | State | Top Contributors | |
|---------------------------------|----------|------------------|------------|
| | | By Amount | By Percent |
| ACLU | NY | \$5,314,054 | 19.9% |
| Sixteen Thirty Fund | DC | \$3,950,000 | 14.8% |
| Bonderman Family | CA-NY-TX | \$3,745,000 | 14.0% |
| Simons Liz | CA | \$1,100,000 | 4.1% |
| Tides | CA-FL | \$911,401 | 3.4% |
| League of Conservation Voters | DC | \$802,717 | 3.0% |
| Open Philanthropy Action Fund | CA | \$750,000 | 2.8% |
| Ben and Jerry's | VT | \$623,428 | 2.3% |
| New Approach PAC | NH | \$600,000 | 2.2% |
| Beckenstein Family | MA | \$500,000 | 1.9% |
| Holloway Samantha | TX | \$500,000 | 1.9% |
| Lewis Daniel | FL | \$500,000 | 1.9% |
| National Education Association | DC | \$500,000 | 1.9% |
| Schusterman Stacy | OK | \$500,000 | 1.9% |
| State Engagement Fund | DC | \$500,000 | 1.9% |
| Pritzker Nicholas | CA | \$450,000 | 1.7% |
| ACLU FL | FL | \$381,489 | 1.4% |
| Advocacy Fund | CA | \$375,000 | 1.4% |
| Organize Florida | FL | \$365,705 | 1.4% |
| Delaney Mary Quinn | CA | \$350,000 | 1.3% |
| Civic Participation Action Fund | DC | \$300,000 | 1.1% |
| Simons James H. | NY | \$300,000 | 1.1% |
| Klarman Seth | MA | \$250,000 | 0.9% |
| Laufer Marsha | FL | \$250,000 | 0.9% |
| New Florida Vision PAC | FL | \$250,000 | 0.9% |
| New Approach PAC | DC | \$200,000 | 0.8% |

B. Petitioners

The almost one million registered voters who ultimately signed the petition to put Amendment 4 on the ballot offer an early snapshot of registered voters' support for Amendment 4. As might be expected, the early coalition was distinctly Democratic and disproportionately Black. But, importantly, there were signs of Republican support, particularly in lower income and more racially diverse neighborhoods.

No paper has previously collected these petitions. To do so, I made a public information request to each of Florida's 67 counties for all of the valid ballot

⁷³ Code: `figs_tbls/a4_campaign/finances/top_contributors`.

petitions collected and submitted by the campaign. Although the data provided by each county varied, all counties provided a report with at least the voter registration number of each registered voter who signed the petition and all but one provided the date each petition was signed. I was able to learn the race and party affiliation of nearly every petitioner by merging the petition data with an October 2018 copy of the statewide voter file.⁷⁴

Table 2⁷⁵ breaks down the party affiliation and race of each petitioner. The first two rows provide a statewide benchmark: the number of registered voters at the time of the November 2018 election and the corresponding percent. The remainder of the table reports three quantities of interest about the petitions collected: (1) the number of petition signers; (2) the take-up rate, or percent of registered voters who signed the petition; (3) the relative composition of petition signers.

In general, about 6.2% of registered voters signed a petition, though this take-up rate is inexact because the petition was circulated over the course of multiple years, during which the total number of registered voters changed. Still, although there were an approximately equal number of registered Democrats and registered Republicans, Democrats were three times more likely than Republicans to sign the petition. Further, while only about 13% of registered voters were Black, Black registrants were also about three times more likely than all other registrants to sign the petition.

Table 2: Petitioners by Party and Race

| Quantity | Overall | By Party | | By Race | |
|------------------------------|------------|-----------|-----------|-----------|------------|
| | | Dem | Rep | Black | Not Black |
| Registered Voters (Nov. '18) | 14,081,632 | 5,244,265 | 4,902,198 | 1,892,464 | 12,189,168 |
| (Pct. of Reg. Voters) | | (37.24%) | (34.81%) | (13.44%) | (86.56%) |
| Petitions | 873,248 | 518,037 | 150,047 | 289,405 | 583,595 |
| (Take-up Rate) | (6.20%) | (9.88%) | (3.06%) | (15.29%) | (4.79%) |
| (Relative Composition) | | (77.54%) | (22.46%) | (33.14%) | (66.83%) |

Table 2 reflects both initial expressions of support for Amendment 4 and the campaign's strategic decisions about which areas to target to gather petitions from. Nonetheless, in order to explain which types of registered Republicans signed the petition, I constructed the racial and class composition of each precinct, using both the voter file and the American Community Survey.⁷⁶

Table 3 calculates the petition take-up rate for registered voters living in precincts at various percentiles of household income and percent Black.

⁷⁴ Figure A.15 offers an example of a petition. Appendix B. offers more details on the data collection and data validation process. In particular, Table A.12 shows that there were few issues with petition data quality; Table A.13 that I was able to collect virtually every petition available; and Table A.14 that nearly every petitioner was matched to the voter file.

⁷⁵ Code: `figs_tbls/a4_campaign/petitions/tbl_by_overall_race_party_crist`.

⁷⁶ The demographic data construction and validation process are explained in Appendix B. 5.

Foreshadowing the campaign's eventual success, the take-up rate by both registered Democrats and registered Republicans was substantially higher in poorer precincts and more racially diverse ones. For example, about 13.1% of Democrats and 4.3% of Republicans signed the petition in the poorest precincts, relative to about 7.25% and 2.25% in the richest ones. Similarly, about 15.4% of Democrats and 5.8% of Republicans signed the petition in the most Black precincts, relative to about 5.3% and 1.75% in the least Black.

Table 3: Petitioners by Precinct Income and Race

| Percentile | By Mean Household Income | | | | By Percent of Black Registrants | | | |
|------------|--------------------------|-----------|-----------------|-------|---------------------------------|--------|-----------------|-------|
| | Income | | % Sign Petition | | Black | | % Sign Petition | |
| | Min | Max | Dem | Rep | Min | Max | Dem | Rep |
| 1 | \$17,426 | \$45,117 | 13.08% | 4.36% | 0.0% | 0.9% | 5.3% | 1.75% |
| 2 | \$45,117 | \$51,803 | 10.02% | 3.91% | 0.9% | 1.8% | 6.6% | 2.44% |
| 3 | \$51,803 | \$57,259 | 9.15% | 3.45% | 1.8% | 3.1% | 6.6% | 2.46% |
| 4 | \$57,259 | \$62,509 | 9.20% | 3.46% | 3.1% | 4.7% | 7.4% | 3.11% |
| 5 | \$62,509 | \$67,659 | 9.30% | 3.29% | 4.7% | 6.5% | 7.2% | 2.78% |
| 6 | \$67,659 | \$74,510 | 8.04% | 2.86% | 6.5% | 9.1% | 7.6% | 3.19% |
| 7 | \$74,510 | \$83,700 | 7.76% | 2.49% | 9.1% | 12.4% | 7.5% | 3.02% |
| 8 | \$83,700 | \$94,998 | 7.57% | 2.38% | 12.4% | 18.5% | 8.9% | 3.38% |
| 9 | \$94,998 | \$115,373 | 7.25% | 2.25% | 18.5% | 36.8% | 10.2% | 3.73% |
| 10 | \$115,373 | \$685,238 | 6.46% | 1.66% | 36.8% | 100.0% | 15.4% | 5.79% |

Finally, there is some evidence that the campaign attracted the involvement of people previously involved in the criminal justice system. In general, those whose right to vote was at stake with Amendment 4 could not directly support the effort. One exception was the people who were automatically restored the right to vote between 2007 and 2011 under former governor Crist and subsequently registered to vote. Using the data more fully described in Part II, Table A.X shows that about 15% of the Crist-era registrants signed the petition, roughly double the take-up rate of all registered voters.

C. Message

The general election campaign was in many ways unlike the petition drive, for the simple reason that the electoral threshold was different: while the organizers only needed to collect a minimum number of petitions to qualify for the ballot, winning the election required at least 60% support of whoever cast a vote.⁷⁷ As a result, if the petition drive was about turning out support, the general election was about coalition building, particularly with Republicans and conservatives.

⁷⁷ See FLA. CONST. art. XI, § 5(e) (constitutional amendments by initiative require 60% support).

1. Defining the Narrative

The campaign polled various possible narratives to garner bipartisan support.⁷⁸ But two narratives in particular stood out: a liberal frame, which cast reform in terms of racial justice, and a conservative frame, which cast reform in terms of redemption.

The primary donors to Amendment 4 were the type for whom the racial justice framework was likely to be particularly compelling. For example, although law professor Michelle Alexander brought the analogy of felon disenfranchisement to the New Jim Crow mainstream, arguing that “mass incarceration is, metaphorically, the New Jim Crow,”⁷⁹ she built off earlier efforts by the ACLU to develop that narrative.⁸⁰ The Florida chapter of the ACLU not only helped draft the amendment,⁸¹ but the national organization was its largest supporter.⁸²

The “New Jim Crow” framework fits comfortably into reform efforts. First, felon disenfranchisement has been compared to the New Jim Crow because felon disenfranchisement is, literally, a product of the old Jim Crow. After the Civil War, the South embraced felon disenfranchisement as an explicit tool to maintain white supremacy.⁸³ This racial history has been widely acknowledged, even by a judiciary reticent to strike down felon disenfranchisement laws for their historical intent.⁸⁴

Second, felon disenfranchisement laws also continue to have a starkly disparate racial impact. The Sentencing Project has drawn attention to the fact that about 1 in 13 Black citizens across the country could not vote in 2016.⁸⁵ To

⁷⁸ See, e.g., Supp. App. to Reply Br. of Sec. of State at app.C, *Advisory Opinion to the Governor Re: Implementation of Amendment 4*, No. SC19-1341 (providing the results of the campaign’s internal March 2017 telephone survey, which polled various supporter messaging, including “second changes and forgiveness” and “disproportionate minorit[y]” impact).

⁷⁹ MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* 11 (2012).

⁸⁰ See James Forman, Jr., *Racial Critiques of Mass Incarceration: Beyond the New Jim Crow*, 87 N.Y.U. L. REV. 21, 25-27 (2012) (explaining “a brief history of the ‘New Jim Crow,’” including its earlier use by Ira Glasser, the executive director of the ACLU, and Graham Boyd, the leader of the ACLU’s drug policy litigation unit).

⁸¹ Howard Simon, then the executive director of the Florida chapter, explained in an interview that “I was on a committee of three people that worked for a year and a half on crafting th[e] language.” Daniel Rivero, *Amendment 4 Passed. Will It Actually Get Implemented?* (Nov. 8, 2018), <https://www.wlrn.org/post/amendment-4-passed-will-it-actually-get-implemented>.

⁸² See *infra* Table 1.

⁸³ See MANZA & UGGEN, *supra* note 43, at 55 (“In the South, during and after Reconstruction, many states expanded their restrictions on the felon population, which began to contain large proportions of African Americans for the first time.”).

⁸⁴ See, e.g., *Hunter v. Underwood*, 471 U.S. 222, 229 (1985) (explaining that “the Alabama Constitutional Convention of 1901 was part of a movement that swept the post-Reconstruction South to disenfranchise blacks”).

⁸⁵ See UGGEN, LARSON, & SHANNON, *supra* note 2, at 16 tbl.4.

drive this home, the cover of the Sentencing Project's prominent publication cataloguing "two decades of felony disenfranchisement reform" is a Black man at a voting booth.⁸⁶

The strength of the New Jim Crow framework is that it offers a systemic critique of the historical practice of disenfranchisement. Many previous reform efforts have thus invoked racial justice to support reform.⁸⁷ But by focusing on racial disparities, the frame likely inflates the public's sense of how many people who are disenfranchised are African-Americans. This is critical because, as Part II will show, the partisan consequences of felon disenfranchisement are largely tied to the racial composition of who stands to regain the vote. Another difficulty is that the New Jim Crow framework sidelines or deemphasizes outreach to non-Black communities to support its critique. Michelle Alexander literally labels white communities impacted by mass incarceration as "collateral damage" in a larger racial struggle.⁸⁸

The campaign recognized that framing reform in terms of the New Jim Crow is at best a difficult political strategy to win a supermajority of a battleground state like Florida. "[M]ost of our narrative," campaign chair Desmond Meade explained, referring to felon disenfranchisement reform efforts in general, "has been about the disproportionate impact it has on the African-American community," which "has [in turn] created a narrative that would make people naturally assume that . . . it's only African-Americans that are impacted by this particular policy."⁸⁹ But "in reality," Meade clarified, "the opposite is true."⁹⁰ He noted that "[t]he average person in Florida who've lost their voting rights does not look like me. They're not African-American."⁹¹ In

⁸⁶ Morgan McLEOD, THE SENTENCING PROJECT, EXPANDING THE VOTE: TWO DECADES OF FELONY DISENFRANCHISEMENT REFORMS (2018), *available at* <https://www.sentencingproject.org/wp-content/uploads/2018/10/Expanding-the-Vote-1997-2018.pdf>.

⁸⁷ Virginia Governor Terry McAuliffe, for example, explained his 2016 executive order to effectively end the state's practice of lifetime disenfranchisement by noting that "[w]e've had a horrible history in voting rights as it relates to African-Americans" and arguing that "we should remedy it . . . as soon as we possibly can." Sheryl Gay Stolberg and Erik Eckholm, *Virginia Governor Restores Voting Rights to Felons*, N.Y. Times (Apr. 22, 2016), <https://www.nytimes.com/2016/04/23/us/governor-terry-mcauliffe-virginia-voting-rights-convicted-felons.html>. Further, Iowa Governor Tom Vilsack's executive order, for explained that "disenfranchisement of offenders has a disproportionate racial impact." Iowa Exec. Order 42, 28 Iowa Admin. Bull. 218 (Aug. 3, 2005). New York Governor Andrew Cuomo recently used nearly identical language. See N.Y. Exec. Order 181 (Apr. 18, 2018) (explaining that "disenfranchisement of individuals on parole has a significant disproportionate racial impact thereby reducing the representation of minority populations"). Notably, executive orders that have invoked racial justice to frame reform require no legislative or public support.

⁸⁸ ALEXANDER, *supra* note 79, at 205.

⁸⁹ At Liberty, *Desmond Meade and Dale Ho on Restoring the Right to Vote* (ep. 5), AMERICAN CIVIL LIBERTIES UNION, <https://www.aclu.org/print/node/69130>.

⁹⁰ *Id.*

⁹¹ *Id.* For the more general, and academic, version of this argument, see MARIE

fact, only about a third of people nationally who have been convicted of a felony and completed supervision are African-American.⁹² In Florida, it's closer to a quarter.⁹³

The campaign's internal polling revealed that only about a quarter of likely voters found a racial justice framework "very convincing," leading them to conclude that "[f]ocusing on the racial element of disenfranchisement is not an effective way to grow support, particularly among Republican and Independent voters."⁹⁴ Further, the vast majority of people surveyed thought that those who would ultimately benefit from Amendment 4 would register as Democrats, fueling the counter-narrative that reform was nothing but a political organizing effort for the left.⁹⁵

Instead of racial justice, the campaign charted a new course. As Meade explained in the same interview, given during the height of the campaign: "I ask folks, you know, would you like to never be forgiven for anything you've done in your life? I think at the end of the day, this thing is about forgiveness, it's about redemption and restoration."⁹⁶ The same internal polling showed that this alternative frame was twice as likely to be rated as "very convincing."⁹⁷

Rather than Michelle Alexander and the New Jim Crow, the campaign's message instead evoked the work of the Prison Fellowship, a Christian non-profit founded by Chuck Colson.⁹⁸ Colson was a former Republican operative who went to federal prison and found religion. In this sense, Colson was similar to Neil Volz, the political director of the Amendment 4 campaign who also served time in prison after working as a lobbyist with Jack Abramoff.⁹⁹

The Prison Fellowship initially focused on the religious rights of prisoners and the problem of sexual abuse, "emphasizing . . . the humanity of the

GOTTSCHALK, CAUGHT: THE PRISON STATE AND THE LOCKDOWN OF AMERICAN POLITICS 138 (2015) (arguing that the frame of *The New Jim Crow* "has helped perpetuate the mistaken view that the problem of the carceral state is a problem confined primarily to African-Americans and member of other minority groups").

⁹² See UGGEN, LARSON, & SHANNON, *supra* note 2 (estimating a total of 3,092,471 disenfranchised ex-felons, of which 1,061,377 are African-American).

⁹³ See *id.* (estimating a total of 1,487,847 disenfranchised ex-felons in Florida, of which 418,224

⁹⁴ Supp. App. to Reply Br. of Sec. of State at app.B at 47, *Advisory Opinion to the Governor Re: Implementation of Amendment 4*, No. SC19-1341 (summarizing the campaign's internal "proposed campaign research program").

⁹⁵ See *id.* at app.C at 86 (reporting the results of the campaign's internal March 2017 telephone survey, which included the question "Do you think that those who have their voting rights are more likely to register as ...")

⁹⁶ At Liberty, *Desmond Meade and Dale Ho on Restoring the Right to Vote* (ep. 5), AMERICAN CIVIL LIBERTIES UNION, <https://www.aclu.org/print/node/69130>.

⁹⁷ *Id.* at app.C at 73 (summarizing the results of the campaign's internal March 2017 telephone survey).

⁹⁸ See DAVID DAGAN & STEVEN M. TELES, PRISON BREAK: WHY CONSERVATIVES TURNED AGAINST MASS INCARCERATION 143 (2016) (describing the organization).

⁹⁹ See Bazelon, *supra* note 66.

imprisoned and the possibility of redemption.”¹⁰⁰ The group has more recently addressed felon disenfranchisement, explaining to its supporters that “[t]he right to vote speaks to our country’s expression of morals and values more than the practical application of political power” and calling on “Christian and other faith leaders” to “join together in restoring the right to vote for all.”¹⁰¹

In its advertising, the campaign similarly described Amendment 4 as “a moral issue, [not] a political issue,” and stressed that “it [wasn’t] about black or white . . . [but] right and wrong.”¹⁰² This moral language won the campaign the endorsement of the Christian Coalition of America, which expressly referenced forgiveness in its endorsing op-ed.¹⁰³ Together, the Black, Democratic Meade and the white, Republican Volz often stressed that they were “fighting just as hard, if not more, for that guy who wanted to vote for Donald Trump than a guy who wishes to vote for Hillary Clinton.”¹⁰⁴

To emphasize what might otherwise be unexpected given the dominant framing of felon disenfranchisement reform around racial justice, the organizers set out to “educat[e] people about the impact a felony conviction can have on a family in a way that reflects the diversity of who is affected.”¹⁰⁵ As a result, advertisements for Amendment 4 largely focused on older whites. For example, the first ad, produced by a partner organization, featured a white father returning home from prison.¹⁰⁶ There were no words as he struggled to readjust to life with his wife and teenage daughter. In another ad, aptly titled “Redemption,” the campaign highlighted a series of people who had lost their right to vote for life.¹⁰⁷ Figure 3 presents four sequential scenes from the ad. “Who needs a second chance?” the narrator asked as the camera followed a few of them in their daily lives.

¹⁰⁰ DAGAN & TELES, *supra* note 98, at 143.

¹⁰¹ Craig DeRoche, *Felony Disenfranchisement in America: 2015*, PRISON FELLOWSHIP (Nov. 24, 2015), <https://www.prisonfellowship.org/2015/11/23117/>.

¹⁰² Florida Rights Restoration Coalition, *Returning Citizens*, YOUTUBE (Mar. 18, 2018), <https://www.youtube.com/watch?v=sbOGLDLR-Mk>.

¹⁰³ Keith den Hollander, the national field director, penned an op-ed asking its more than 150,000 members in Florida to support reform. *See* Opinion, Keith den Hollander, *We Support Restoration of an Ex-Felon’s Voting Rights*, FORT MYERS NEWS-PRESS (Sept. 13, 2018), <https://www.news-press.com/story/opinion/contributors/2018/09/13/we-support-restoration-ex-felons-voting-rights/1289891002/> (“As Christians . . . divinity is what we strive for, and forgiving those who had trespassed against society, and restoring them to a right relationship is just a little more divine, and why we are supporting Amendment 4.”).

¹⁰⁴ Bazelon, *supra* note 66.

¹⁰⁵ Bazelon, *supra*.

¹⁰⁶ *See* Alliance for Safety and Justice, *#TimeDone; When Will Our Sentence End?*, YOUTUBE (Aug. 28, 2018), <https://www.youtube.com/watch?v=Xf2TEMubNp8>.

¹⁰⁷ *See* Second Chances Florida, *Redemption*, YouTube (Oct. 15, 2018), <https://www.youtube.com/watch?v=TQwWfQZBVDY>.

Figure 3: Four Scenes from 'Redemption'



Although the campaign featured each of these returning citizens in their own ad, it spotlighted Brett Ramsden, bottom left, more than anyone else. Along with a solo spot in September and “Redemption” in October, the campaign also released a third ad featuring him and his family.¹⁰⁸ It introduced Brett as someone who “was addicted to opioids and has a non-violent felony conviction. Now he’s clean, has completed the terms of his sentence, and is helping others.”¹⁰⁹

The campaign also focused on redemption’s purported tangible benefits, particularly in its outreach to business conservatives. As one ad put it, a vote for Amendment 4 was a vote to “[r]educe crime, create safer communities, and foster a healthier economy.”¹¹⁰ In this sense, the campaign also evoked the messaging of Right on Crime, another conservative group which championed a “return on investment” approach focused on the cost savings of reducing prison and jail populations.¹¹¹ Although felon disenfranchisement does not fit neatly into this part of the framework, since the practice of restricting or extending voting rights costs only a nominal amount of money, the campaign cast the restoration of voting rights as a re-entry program itself.¹¹²

¹⁰⁸ See Second Chances Florida, Brett and Mallery, YouTube (Oct. 15, 2018), <https://www.youtube.com/watch?v=maKY4vocHLU>.

¹⁰⁹ *Id.*

¹¹⁰ Second Chances Florida, *Turn the Page*, YouTube (Sept. 7, 2018), https://www.youtube.com/watch?v=nDQ8X_59Ixo.

¹¹¹ See DAGAN & TELES, *supra* note 98, at 63–66.

¹¹² An economic impact analysis touted by the campaign claimed reform would significantly reduce both crime and unemployment. See The Washington Economics Group, Economic Impacts of Restoring the Eligibility to Vote for Floridians with Felony Convictions as a Result of Passage of Amendment 4 (May 8, 2018), *available at* <https://drive.google.com/file/d/1sP2BiK-CEmkjOiKjAgUBAwI75H5UP08/view>. This fact was repeated by key supporters and amplified by the campaign. See, e.g., Press Release, Second Chances Florida, Economic Study Says Amendment 4 to Add \$365 Million to Florida’s

2. Defining the Terms of Sentence

Although there were always partisan differences in support for Amendment 4, the campaign's messaging consistently garnered Republican support in the run up to the election. In March 2017, for example, an internal poll found 82% support among Democrats and 58% support among Republicans, although this was cut down to a bare majority among Republicans after testing various potential opposition messaging.¹¹³ In May 2018, the campaign commissioned a public poll, which showed 88% support among Democrats and 61% support among Republicans.¹¹⁴ A September poll showed essentially the same thing,¹¹⁵ though an October poll by a different firm for a media group instead put Republican support at 40%.¹¹⁶

Perhaps most importantly, the campaign's messaging did not stir the type of organized Republican opposition found across the country, even in the run up to the election. The campaign's inclusive, moral, and business language won the endorsement of the powerful Koch brothers, one of the leading Republican donors in the nation and central supporters of the conservative group Right on Crime.¹¹⁷ Ron DeSantis, the Republican candidate for governor, "was ducking questions from the press about the ballot initiative for months."¹¹⁸ Eventually, in a debate, he came out opposed to Amendment 4.¹¹⁹ But the Republican Party

Economy Annually (May 17, 2018), <https://web.archive.org/web/20180926152350/https://secondchancesfl.org/media/press-releases/economic-study-says-amendment-4-to-add-365-million-to-floridas-economy-annually/>. The conservative firm's analysis, though, was less than logical, the result of flagrantly misinterpreting a state report on recidivism and confusing the restoration of the right to vote with the expungement of felony conviction, which is the actual barrier to employment. But the shoddy analysis was never seriously contested.

¹¹³ See Supp. App. to Reply Br. of Sec. of State at app.C at 67, 78, *Advisory Opinion to the Governor Re: Implementation of Amendment 4*, No. SC19-1341 (reporting the results of the campaign's internal March 2017 telephone survey, which included initial support by demographic before and after messaging).

¹¹⁴ See Press Release, Second Chances Florida, Statewide Poll Shows 74% of Floridians Back Amendment 4 (May 2, 2018), <https://secondchancesfl.org/press-releases/latest-statewide-poll-finds-74-of-floridians-support-amendment-4>

¹¹⁵ See Press Release, Second Chances Florida, Latest Statewide Poll Finds 74% of Floridians Support Amendment 4 (Oct. 1, 2018), <https://secondchancesfl.org/press-releases/latest-statewide-poll-finds-74-of-floridians-support-amendment-4/>.

¹¹⁶ See Memorandum from Matt Florell, President, St. Pete Polls (Oct. 28, 2018), *available at* http://stpetepolls.org/files/StPetePolls_2018_State_GEN_Amend46_October28_PD5S.pdf.

¹¹⁷ See Press Release, Second Chances Florida, Freedom Partners Chamber of Commerce Endorses Amendment 4 (Sept. 13, 2018), <https://secondchancesfl.org/press-releases/freedom-partners-chamber-of-commerce-endorses-amendment-4>.

¹¹⁸ See Bazelon, *supra* note 66.

¹¹⁹ See Steve Bosquet, *Diverse Donors Fund Final Push in Campaign to Win Voting Rights for Florida Felons*, Miami Herald (Oct. 5, 2018), <https://www.miamiherald.com/news/politics-government/state-politics/article220614240.html> (quoting Ron DeSantis as saying that "I think it's wrong to automatically restore rights to felons who've committed very serious crimes. I want

of Florida took no position on Amendment 4.¹²⁰ In fact, no political committee was ever registered to oppose Amendment 4.¹²¹

This lack of organized opposition was in large part because the campaign took a cautious, conservative, approach, evoking if not following the playbook set by former governor Crist years before.

In many ways, Crist had introduced the logic of redemption and the analogy of debt to explain reform to fellow Republicans. “If you’re a fair-minded person and you truly believe in the concept that an individual pays their debt to society,” Crist said in 2006, “then if they’ve paid their debt to society, they’ve paid it.”¹²² To win his cabinet’s support, and perhaps to align with the “redemption” narrative, Crist excluded individuals convicted of murder, sexual offenses, and some other violent offenses.¹²³ He also explicitly required the payment of restitution.¹²⁴

The campaign used nearly the same slogan, arguing that voting rights should be expanded because “when a debt is paid it’s paid,”¹²⁵ and made the same strategic exclusions about who would not be restored the right to vote. The campaign excluded individuals convicted of “murder and felony sexual offenses.”¹²⁶ After a series of focus groups, the campaign concluded that “[e]xcluding murderers and sex offenders is central to developing potentially passable ballot language” as it “preempt[s] the opposition[’]s strongest message against the amendment.”¹²⁷ It repeatedly reminded the public of this tradeoff in

people to be redeemed. But you’ve got to prove that you’re getting back with the law.”).

¹²⁰ See, e.g., *id.*

¹²¹ Richard Harrison incorporated the group Floridians for a Sensible Voting Rights Policy in 2017 and wrote op-eds opposing Amendment 4. See, e.g., Opinion, Richard Harrison, *Column: Reject Effort to Restore Voting Rights For Most Felons*, TAMPA BAY TIMES (Aug. 31, 2017), <http://www.tampabay.com/opinion/columns/column-reject-effort-to-restore-voting-rights-for-most-felons/2335809>. But he never formed a political committee to accept contributions and advocate against it.

¹²² William March, *Crist Would Let All Felons Vote*, Tampa Bay Tribune (Oct. 14, 2006).

¹²³ See Fla. R. Exec. Clemency 9(A)(4) (2007) (listing each disqualifying offense); see also Farhad Manjoo, *What Was Charlie Crist Thinking?*, Slate (Apr. 6, 2007), https://www.salon.com/2007/04/06/crist_10/ (describing the negotiation between Crist and his cabinet members, including this concession).

¹²⁴ See *id.* at 9(A)(3) (“The person has paid all restitution pursuant to a court order or civil judgment.”).

¹²⁵ *Id.* For uses of the slogan in press releases, see, e.g., Press Release, Second Chances Florida, Freedom Partners Chamber of Commerce Endorses Amendment 4 (Sept. 13, 2018), <https://secondchancesfl.org/press-releases/freedom-partners-chamber-of-commerce-endorses-amendment-4>. For uses in other advertisements, see, e.g., Second Chances Florida, Hear Veteran Alan Rhyelle’s Story, YOUTUBE (Sept. 4, 2018), <https://www.youtube.com/watch?v=v09WRPGAC2M>; Second Chances Florida, Gary Winston, YOUTUBE (Oct. 15, 2018), https://www.youtube.com/watch?v=9YnEU_m4OG0; Second Chances Florida, *Redemption*, YOUTUBE (Oct. 15, 2018), <https://www.youtube.com/watch?v=TQwWfQZBVDY>.

¹²⁶ See FLA. CONST. art. VI, § 4.

¹²⁷ See Supp. App. to Reply Br. of Sec. of State at app.E at 112, *Advisory Opinion to the Governor*

its press releases and advertisements. One ad zoomed in on the ballot initiative itself, as if to prove that these individuals indeed would not benefit from the reform. “You can read it for yourself,” a campaign supporter said. “And when you do, you ought to vote for Amendment 4.”¹²⁸

The campaign also made clear that those who owed restitution would not be able to vote because restitution went to personal responsibility. As the campaign explained, people with felony convictions had to earn back their right to vote by ensuring victims are “made whole.”¹²⁹ Campaign press releases routinely emphasized how “Amendment 4 would restore the eligibility to vote to Floridians who have served their time and completed all terms of their sentence as ordered by a judge—including parole, probation, *and restitution*.”¹³⁰

Amendment 4’s requirement to “complet[e] ... all terms of sentence,” though, did not specifically mention restitution. It also did not mention the court-ordered assessment of fines or fees, which have transformed the administration of justice.

Early on, a statewide finance committee flagged the language. “It is unclear,” they wrote in late 2016, “whether the phrase ‘terms of sentence’ includes payment of court-ordered restitution, fines and court costs.”¹³¹ When the campaign went before the Florida Supreme Court several months later to seek approval of the ballot language, it specifically addressed these questions. Asked whether the amendment “would . . . include the full payment of any fines,” Jon L. Mills, the campaign’s lawyer and a drafter of the amendment, responded, “Yes sir. . . . [A]ll terms means all terms within the four corners.”¹³² Asked whether it “would . . . also include restitution,” Mills responded, “Yes.”¹³³ One justice took the requirement to pay fines to mean a requirement to pay fees,

Re: Implementation of Amendment 4, No. SC19-1341 (reporting the results of the campaign’s internal March 2017 telephone survey, which included the question “Do you think that those who have their voting rights are more likely to register as . . .”).

¹²⁸ See Second Chances Florida, *Gary Winston*, YOUTUBE (Oct. 15, 2018), https://www.youtube.com/watch?v=9YnEU_m4OG0.

¹²⁹ See Lawrence Mower, *Amendment 4 Will Likely Cost ‘Millions’ to Carry Out*, TAMPA BAY TIMES (Apr. 4, 2019), <http://www.tampabay.com/florida-politics/2019/04/04/amendment-4-will-likely-cost-millions-to-carry-out-heres-why/>.

¹³⁰ E.g., Press Release, Second Chances Florida, National Military Veterans Organization VoteVets Announces Support for Amendment 4 (Sept. 27, 2018), <https://secondchancesfl.org/press-releases/national-military-veterans-organization-votevets-announces-support-for-amendment-4/> (emphasis added).

¹³¹ Financial Impact Estimating Conference, *Complete Initiative Financial Information Statement Voting Restoration Amendment (14-01)*, http://edr.state.fl.us/Content/constitutional-amendments/2018Ballot/VRA_Report.pdf, at 2. At the time, the benefit redounded to the campaign, because the ambiguity meant that “[t]he revenue impact, if any, [could] not be determined.”

¹³² Transcript of Oral Argument at 4, *Advisory Opinion to the Attorney General Re: Voting Restoration Amendment*, 215 So.3d 1202 (2017) (Nos. SC16-1785, SC16-1981).

¹³³ *Id.* at 10.

or costs, too.¹³⁴ When another later described how “fines, costs, and restitution are a requirement” of the amendment and asked whether the Secretary of State could “require . . . the registrant . . . to . . . themselves certify [that they’ve] done this,” Mills embraced the premise. “There’s no reason that the Secretary of State couldn’t do that,” he said.¹³⁵ “The scope of this clearly says that’s what’s required.”¹³⁶

One reason that the campaign may have proposed restoring voting rights upon “completion of all terms of sentence” is that the broader language polled better. For example, during a research briefing in September 2014, about a month before the ballot language was finalized, the campaign reviewed various options for when to propose restoring the right to vote.¹³⁷ The participants, including campaign chair Desmond Meade and Myrna Perez, the director of voting rights and elections for the Brennan Center, discussed the pros and cons of restoring voting rights after the “full sentence” as opposed to “post time served.”¹³⁸ The pros for the “full sentence” option included the fact that it “[p]olls higher” and that, relatedly, there are “[l]ess opposition arguments.”¹³⁹ The cons were that there would be a “[d]isparate impact on the poor [who would be] unable to pay fines and restitution.”¹⁴⁰ As a result, the campaign understood that this option would “restore[] voting rights to less people.” Conversely, the pros of the “post time served” option were that it would “[r]estore[] voting rights to more impacted people” and that “[m]ore people [would] get their voting rights faster.”¹⁴¹ But the cons were clear: it would be a “[h]arder fight to win 60% + 1% approval,” particularly because the “opposition c[ould] use [the] ‘didn’t pay back full debt’ argument.”¹⁴²

Still, the campaign never squarely addressed to the public, as opposed to the

¹³⁴ See *id.* (Justice Lawson prefacing his question by noting that “you said that terms of sentence include fines and costs”).

¹³⁵ *Id.* at 11.

¹³⁶ *Id.* at 11.

¹³⁷ See Supp. App. to Reply Br. of Sec. of State at app.D at 103, *Advisory Opinion to the Governor Re: Implementation of Amendment 4*, No. SC19-1341 (showing the “pros and cons of policy choices” as part of the “Florida Rights Restoration Briefing (September 2, 2014)”).

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.* When the campaign announced the support of the Koch brothers, their representative, senior vice president of Koch Industries Mark Holden, explained that “[w]e believe that when individuals have served their sentences *and paid their debts as ordered by a judge*, they should be eligible to vote.” Press Release, Second Chances Florida, Freedom Partners Chamber of Commerce Endorses Amendment 4 (Sept. 13, 2018), <https://secondchancesfl.org/press-releases/freedom-partners-chamber-of-commerce-endorses-amendment-4> (emphasis added). Although the campaign’s slogan that “when a debt is paid, it’s paid,” could sometimes be interpreted symbolically as reference to time served, the Koch brothers appeared to be literally describing the importance of paying fines, fees, and restitution to their support

court, whether the proposed amendment would actually encompass outstanding fines and fees, at least in the same terms they clearly addressed murder, sexual offenses, and restitution. The campaign's slogan, "when a debt is paid, it's paid," is about redemption, but also, literally, about money. As a result, some have argued that newspaper coverage at the time was distinctly ambiguous about the actual scope of Amendment 4.¹⁴³

D. Victory

The organizers of Amendment 4 ran a new type of campaign, in perhaps the toughest state for felon disenfranchisement reform in the country, and won a watershed victory.¹⁴⁴ Understanding the breadth of the electoral coalition is important because it informs how much and to what extent the campaign's messaging should be considered a blueprint for future reform efforts.¹⁴⁵

Most states, including Florida, make election results readily available online. These summaries report how many votes each candidate or amendment received—either at the precinct-level, the county-level, or statewide. This format makes sense given the job of election administrators to certify the results of each contest. In recent years, though, it has become possible for election administrators to electronically preserve the raw, ballot-level data when tallying each ballot cast. By definition, the raw data can be aggregated to verify the reported number of votes in each contest. But the primary benefit of obtaining ballot-level data is that it reveals how individuals vote across contests.

Ballot-level data is about as difficult to obtain as it is useful to analyze. To my knowledge, no one has ever comprehensively compiled it in Florida, for 2018 or any other year. The data is not posted online. Because election administration is run at the local level, I needed to contact the supervisor of elections in each of Florida's 67 counties to gather it. Many counties had difficulty fulfilling my request because they had never received a similar one.¹⁴⁶

Figure 4¹⁴⁷ uses the ballot-level data to show the support for Amendment 4 by party, using individuals' votes for governor in the top panel or senator in the

¹⁴³ See, Expert Report of J. Morgan Kousser at app. 114 tbl. 7, *Jones v. DeSantis*, No. 19-cv-300 (N.D. Fla. 2020) (making this argument and listing Florida bills and resolutions on the rights of former felons, 1998-2018).

¹⁴⁴ See Division of Elections, *November 6, 2018 General Election*, FLA. DEP'T OF STATE, <https://results.elections.myflorida.com/Index.asp?ElectionDate=11/6/2018&DATAMODE=>.

¹⁴⁵ For example, the success of Amendment 4 immediately set off speculation that a similar campaign could be run in Mississippi. See Daniel Nichanian, *In the Wake of Amendment 4: Spotlight on Disenfranchisement in Mississippi*, THE APPEAL (Nov. 29, 2018), <https://www.appealpolitics.org/2018/mississippi-disenfranchisement/>.

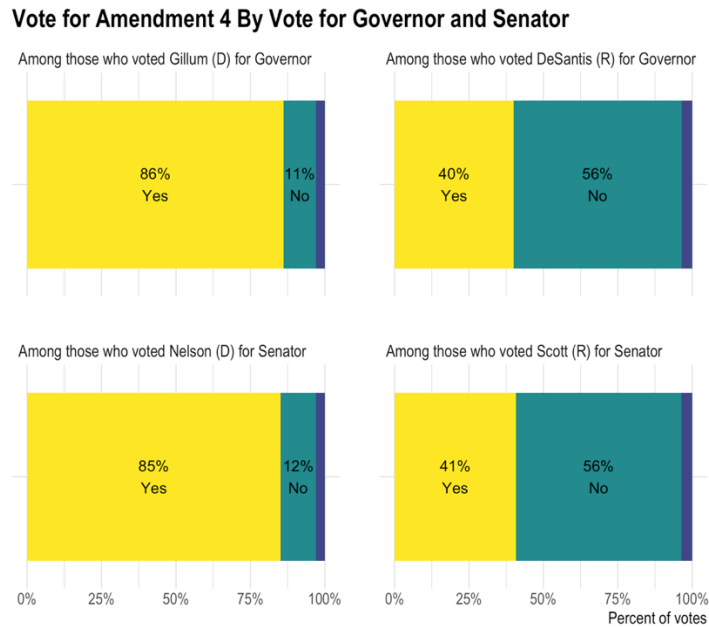
¹⁴⁶ Appendix C. details the status of my year-long collection effort for each county and validates the result. In total, my baseline dataset includes about 6 million ballots from 51 counties, or roughly 75% of the ballots cast in the state.

¹⁴⁷ Code: `figs_tbls/a4_support/partisan_support/by_statewide/fig`

bottom panel as a proxy for partisanship.¹⁴⁸ Each panel shows the relative percentage of people who voted yes on Amendment 4 given their vote for governor or senator. By design, the percentages within a panel sum to 100%. The percent of yes votes are indicated by yellow, no votes by teal, and the small share of invalid votes by blue.

As expected, Democrats were strongly supportive of Amendment 4. Among those who voted Democratic for governor, the yellow bar in the top-left panel shows that 86% supported Amendment 4. But, critically, Republicans were supportive of reform too. Among those who voted Republican for governor, the same color bar in the top right shows that 40% voted for Amendment 4.¹⁴⁹ The pattern in the bottom panel using the Senate race was essentially the same.

Figure 4: Partisan Support for Amendment 4



In order to explain the campaign's broad support, particularly among Republicans,¹⁵⁰ I supplemented the ballot data with the racial and class

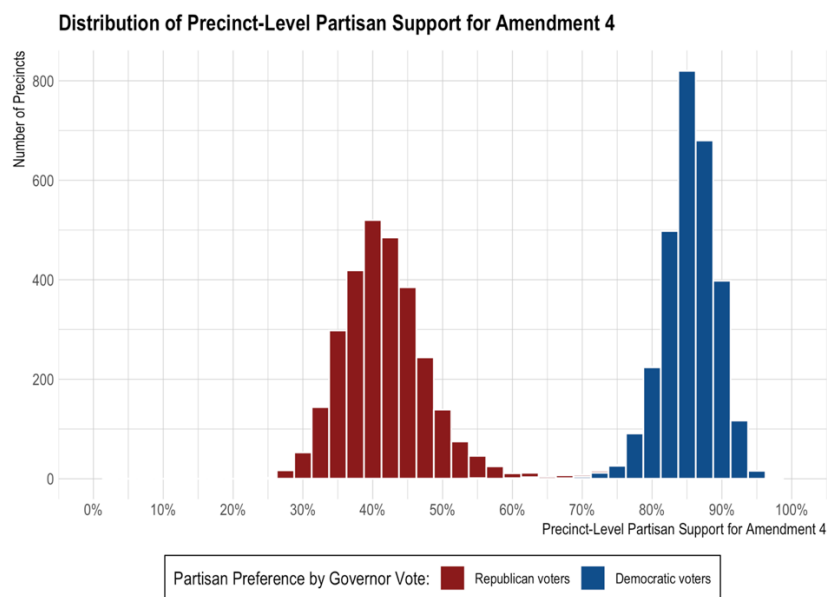
¹⁴⁸ Figure A.18 and Figure A.19 show how this marks an improvement over the standard approach of ecological inference, which relies on aggregate precinct-level rather than ballot-level data.

¹⁴⁹ One concern is that some yes votes for Amendment 4 may reflect ballot fatigue rather than true preferences, particularly in light of the fact that Amendment 4 was one of twelve statewide amendments in addition to potentially numerous local amendments. But Table A.18 shows that the estimate of partisan support is robust to considering only those with at least one yes vote and at least one no vote on any of the statewide amendments.

¹⁵⁰ Importantly, all analyses that follow are limited to precincts with at least 100 ballots cast.

composition of each precinct as well as a measure of the level of criminal justice contact.¹⁵¹ Figure 5¹⁵², below, shows the distribution of partisan support for Amendment 4 at the precinct-level, using the 44 counties for which I have ballot data with precinct information. The color of the bar corresponds to whether the ballots in question were cast by a Republican (red) or Democrat (blue), as determined by their vote for governor, while the height of each bar shows the number of precincts with various levels of partisan support among voters categorized as either Democrats or Republicans. In the median precinct, about 41% of Republicans and 85% of Democrats supported the effort.

Figure 5: Precinct-Level Partisan Support



This variation in support provides some leverage to explore which types of voters were most likely to support reform.

Figure 6,¹⁵³ below, shows that the campaign was particularly successful at persuading Republicans in poorer neighborhoods to buck their partisanship and support reform. More specifically, the figure plots the relationship between partisan support for Amendment 4 (on the y-axis) and the mean household income of precincts (on the x-axis). The left panel examines ballots that voted Democratic for governor, while the right panel examines ballots that voted

¹⁵¹ The data collection and validation is explained in Appendix B. 5 and C. 5.

¹⁵² Code: `figs_tbls/a4_support/partisan_support/by_precinct`.

¹⁵³ Code: `figs_tbls/a4_support/by_covariates/by_household_income`.

Republican. Each point in each panel represents a precinct, with the size of the point scaled to the number of ballots cast and the darkness of the point indicating the number of similar precincts overlaid on one another.

In general, Democratic support was high and steady across all average household income levels. In contrast, there was a strong class difference in the preference of Republican voters. About 45% of Republicans voted for Amendment 4 in precincts with an average household income between \$40,000 (the 5th percentile of the distribution) and \$50,000 (the 20th percentile). However, only about 37% of Republicans voted yes in precincts with an average household income between \$90,000 (the 80th percentile) and \$125,000 (the 95th). While the relationship between income and Republican support is roughly linear for the 90% of precincts with an average household income of between \$50,000 and \$125,000, the overall relationship appears non-linear because Republicans in the poorest precincts were even more supportive of Amendment 4, while Republicans in the richest precincts were about as supportive as Republicans in the median precinct.

Figure 6: Partisan Support by Class Context

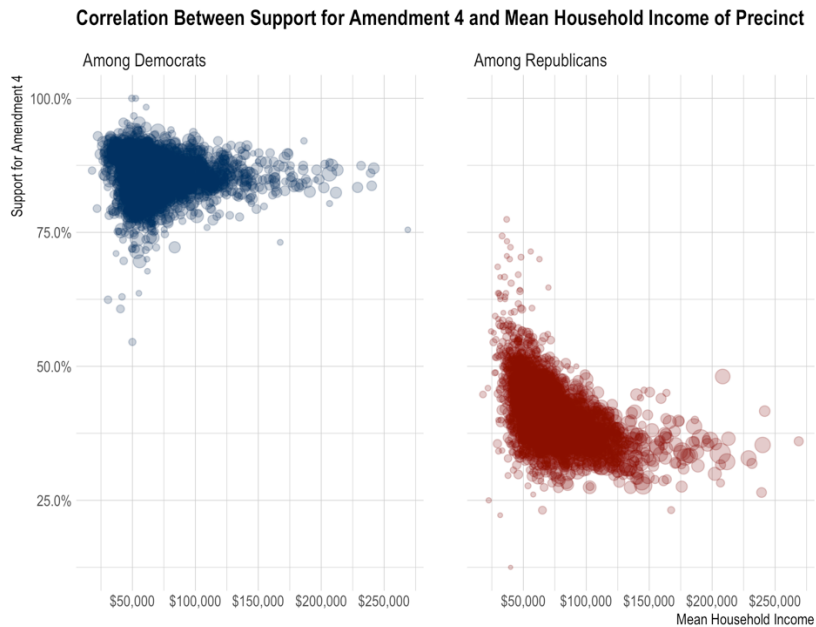
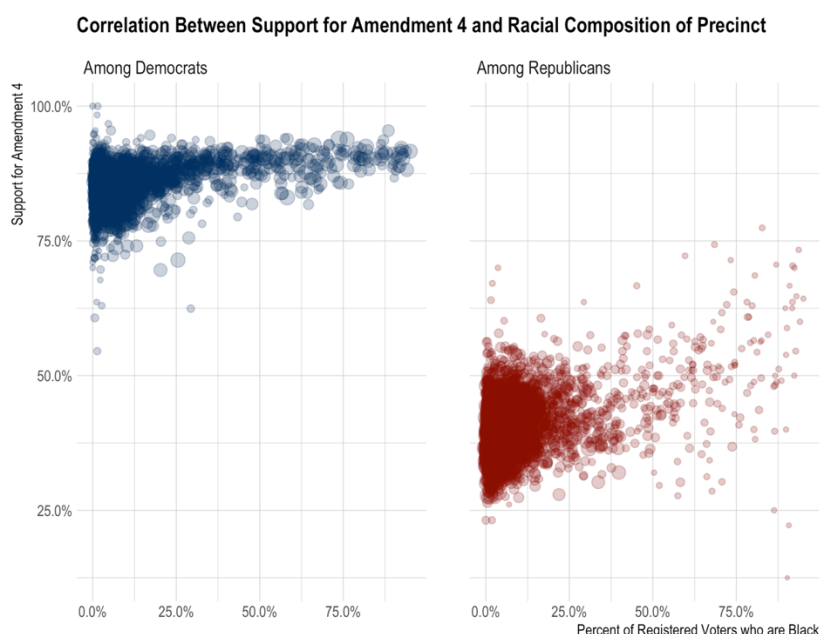


Figure 7¹⁵⁴ shows that the campaign's focus on redemption, rather than racial justice, did not come at the cost of reducing Democratic support. The figure is styled the same way as Figure 6, above. On the y-axis is partisan support for Amendment 4. On the x-axis is the percentage of African-Americans among all registered voters in the precinct, constructed using the statewide voter file. Both Democratic and Republican voters were more likely to support reform in more racially diverse precincts. This is particularly interesting because the typical perception that expanding voting rights to people with felony convictions would harm Republicans was more likely to be relevant in areas with more racial diversity.

Figure 7: Partisan Support by Racial Context



One reason that the campaign may have persuaded Republican voters to support reform is that felon disenfranchisement has also affected these communities. The core of the criticism of the New Jim Crow—and the motivation for a more universal message of redemption—is that the expanding carceral net has also caught many white, often poor, people too. Table 4¹⁵⁵ makes clear that poorer precincts and more racially diverse precincts are more likely to have a higher number of people who have been released from prison.

¹⁵⁴ Code: `figs_tbls/a4_support/by_covariates/by_race`.

¹⁵⁵ Code: `figs_tbls/a4_support/by_covariates/by_cj_contact/tbl`.

It divides each precinct into 10 equal bins, from the least number of releases to the most. The first row shows that the 293 precincts with the smallest number of people released from prison had on average about 3 over the last 20 years. These precincts were 4.5% black, with an average income of over \$100,000. The percent Black steadily rises and the average household income steadily drops as the average number of releases increase. The bottom row shows that, relative to the first row, the 292 precincts with the highest number of releases were seven times more black with less than half the household income. The resulting picture suggests that Republican voters may be increasingly receptive to reform—if they see the campaign for reform “as speaking to and for them” as well.¹⁵⁶

Table 4: Criminal Justice Contact

| Percentile | # Precincts | # Releases | % Black | Avg. Household Income |
|------------------|-------------|------------|---------|-----------------------|
| 10th percentile | 293 | 3.27 | 4.5% | \$109,844 |
| 20th percentile | 293 | 7.82 | 5.7% | \$99,212 |
| 30th percentile | 293 | 12.80 | 5.6% | \$95,064 |
| 40th percentile | 293 | 18.22 | 7.5% | \$81,418 |
| 50th percentile | 292 | 24.68 | 7.9% | \$77,159 |
| 60th percentile | 293 | 32.72 | 9.7% | \$73,317 |
| 70th percentile | 293 | 43.21 | 10.4% | \$65,813 |
| 80th percentile | 293 | 57.37 | 11.7% | \$63,444 |
| 90th percentile | 293 | 85.85 | 17.0% | \$57,171 |
| 100th percentile | 292 | 215.41 | 32.8% | \$50,243 |

II. THE PARTISAN IMPLEMENTATION: ESTIMATING THE PARTISAN CONSEQUENCES OF REFORM

Despite the initiative’s watershed victory, partisan politics quickly engulfed the implementation of Amendment 4. Although the campaign took the position that the amendment was self-implementing,¹⁵⁷ the actual scope of reform depended on the interpretation of the requirement that a person “complet[e] all terms of [their] sentence” before regaining their right to vote.¹⁵⁸ The entrenched expectation that reform would benefit Democrats was only amplified by the media coverage of the campaign’s victory and the closeness of other statewide elections.¹⁵⁹

¹⁵⁶ See Forman, *supra* note 80, at 64.

¹⁵⁷ See, e.g., Daniel Rivero, *Amendment 4 Passed. Will It Actually Get Implemented?* (Nov. 8, 2018), <https://www.wlrn.org/post/amendment-4-passed-will-it-actually-get-implemented>.

¹⁵⁸ See FLA. CONST. art. VI, § 4.

¹⁵⁹ In fact, Rick Scott, the Republican candidate for Senate who had so restricted the restoration of voting rights as governor to prompt the campaign for Amendment 4, won his race by only one-tenth of one-percent. See Division of Elections, *November 6, 2018 General Election*, FLA. DEP’T OF STATE, <https://results.elections.myflorida.com/Index.asp?ElectionDate=11/6/2018&DATAMODE=>

Consistent with this, every Republican in the legislature ultimately voted to limit the scope of Amendment 4 by requiring the full payment of fines, fees, and restitution as a term of sentence, even those that were later converted to civil liens.¹⁶⁰ Every Democratic colleague was opposed.¹⁶¹ The stark legislative divide was a sharp break from the campaign, but it fit neatly into the many examples of Republican politicians' opposition to reform. To the extent the campaign's bipartisan coalition was built in part on the ambiguity of what was included in a sentence, it seemed to collapse when that ambiguity was resolved. Once the legislature became polarized, the public appeared to as well: while about 70% of Democrats opposed the Republican implementing legislation, about 70% of Republicans supported it.¹⁶²

A. Design

The roughly six-month period between when Amendment 4 went into effect and when the Republican implementing legislation went into effect offers a limited opportunity to assess the actual, rather than perceived, political behavior of the people who stood to benefit from a more robust interpretation of Amendment 4. The roughly 150,000 people who were previously restored the vote as part of the prior, Crist-era reform offer a similar opportunity.

In order to estimate the partisan consequences of felon disenfranchisement, I gathered individual-level data on who was convicted of a felony¹⁶³ and who was granted clemency.¹⁶⁴ Importantly, no previous paper has managed to gather all of this data, primarily because the bulk of it is not considered public record. Some work has used data on persons released from state prison (of which I collected 386,627 records),¹⁶⁵ but there are many more people who have been convicted of a felony but never been to prison (1,451,518 records). Further, without clemency records, it is difficult to distinguish between those who could and could not vote before Amendment 4.

In general, Appendix F. develops a general methodology to match individuals across two lists using their full name and date of birth, including estimating the degree of uncertainty of the total number of matches.¹⁶⁶ I first use

¹⁶⁰ See *Jones v. DeSantis*, No. 19-cv-300, 2020 WL 2618062, at *32 (N.D. Fla. May 24, 2020) (describing the “straight party-line vote”).

¹⁶¹ See *id.*

¹⁶² See Quinnipiac University Poll, Florida Voters Split on Making Felons Pay Fines Before Voting, https://poll.qu.edu/images/polling/fl/fl06202019_fhcr21.pdf/.

¹⁶³ See *infra* Appendix D.

¹⁶⁴ See *infra* Appendix E.

¹⁶⁵ See, e.g., KEVIN MORRIS, BRENNAN CENTER FOR JUSTICE, THWARTING AMENDMENT 4 (May 9, 2019), available at <https://www.brennancenter.org/analysis/thwarting-amendment-4>.

¹⁶⁶ Table A.22 and Table A.23 indicate the strength of each match to the voter file, for the initial Amendment 4 registrations and the Crist registrations, respectively, while Table A.25 and

this to merge the correctional data with the clemency data to construct two datasets of people who were previously disenfranchised and either were at least temporarily (in the case of Amendment 4) or definitively (in the case of Crist’s clemency) restored the right to vote.¹⁶⁷ I ultimately merge both the Amendment 4 dataset and the Crist dataset with the statewide voter file, using the same matching method. As a result, this paper is able to present for the first time a relatively complete picture of who has been restored the right to vote in Florida.¹⁶⁸

Together, these novel administrative data make clear that the expected partisan consequences of felon disenfranchisement reform should be revised, for two reasons. First, the view that those whose right to vote is restored would be a boon to Democrats is a distinctly racial one—it captures the demographic reality that African-Americans are strong supporters of the Democratic party, but misses the fact that most people who stand to have their right to vote restored are not African-American. Second, reform is less politically consequential than often suggested because of particularly low turnout by people with felony convictions, despite what would be predicted by demographics alone. Ultimately, using the estimated political preferences and turnout of people with felony convictions suggests that felon disenfranchisement reform is best understood as a question of who gets to participate in our democracy instead of a question of the partisan realignment of the state.

B. Political Preferences

Figure 8¹⁶⁹ illustrates the breakdown in party of registration of people with felony convictions. Each panel shows a relative percentage, such that within a panel the percentages sum to 100%. Democratic registrations are colored blue and Republican registrations are colored red. Importantly, a substantial number of people in Florida, with and without felony convictions, register to vote without selecting a party affiliation. The figure identifies these registrations by shading them a lighter color. Rather than assume that half of these unaffiliated registrants would support Democrats and half would support Republicans, the

Table A.26 use a permutation test to show that there were very few false matches.

¹⁶⁷ The Amendment 4 dataset includes individuals who were previously convicted of a felony based on the correctional data, with an indication for whether they were convicted of a misdemeanor, never lost their voting rights, or were subsequently granted clemency. The Crist dataset includes individuals who were specifically restored the right to vote during Crist’s automatic restoration reform, with an indicator for whether they subsequently lost their right to vote again.

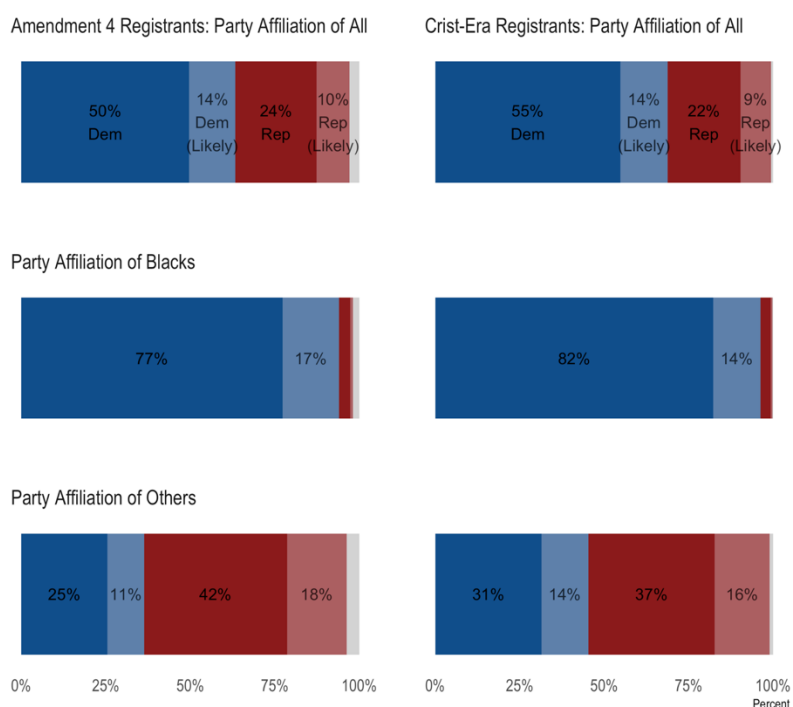
¹⁶⁸ Table A.22 and Table A.23 indicate the strength of each match to the voter file, for the initial Amendment 4 registrations and the Crist registrations, respectively, while Table A.25 and Table A.26 use a permutation test to show that there were very few false matches.

¹⁶⁹ Code: `figs_tbls/exfel_preferences/fig_registration`.

figure uses the partisanship of people with felony convictions who did register with a party to predict the partisanship of those with felony convictions who did not. Specifically, it estimates the total number of these registrants who would be likely to support each party based on both the race and county of the registrants, as further explained in Appendix G.

The left panel of Figure 8 focuses on the best estimate¹⁷⁰ of initial Amendment 4 registrants, from the effective date of the amendment until the implementing legislation, while the right panel focuses on the best estimate of Crist registrations to date.

Figure 8: Party of Registration of People with Felony Convictions



Overall, the top-left panel shows that half of people (50%) who initially

¹⁷⁰ The best estimate focuses on these people were previously in the custody of the Department of Corrections and there is no indication that either their adjudication was withheld, their conviction was for a misdemeanor, or they were subsequently granted a still-valid clemency. Because these variables may be measured with error, and because people with felony convictions whose eligibility does not legally stem from Amendment 4 may nonetheless believe it does, I also calculate all possible Amendment 4 registrations. Table A.24 shows both measures of Amendment 4 registrations.

registered as a result of Amendment 4 registered as Democrats, while about a quarter (24%) registered as Republicans. Among those people who did not register with a party, there was likely a slight Democratic advantage, with an additional 14% of people registering with no party affiliation but likely Democrats and an additional 10% of people registering with no party affiliation but likely Republicans. The remainder of the panel shows a clear racial divide in party affiliation. The vast majority of African-Americans (77%) registered as Democrats, while more than half of all other registrants either registered as Republicans (42%) or were unaffiliated but likely Republicans (18%).

Particularly because there were only an estimated 12,633 initial Amendment 4 registrations from January through June 2019,¹⁷¹ it is important to note that the right panel, which uses Crist registrants, shows almost exactly the same breakdown of partisanship by race. The reason that Crist registrants are overall more Democratic than initial Amendment 4 registrants is only partly because African-Americans restored voting rights by Crist are somewhat more Democratic. It is also because there are relatively more African-Americans in the population of Crist-era registrants than initial Amendment 4 registrants. But despite this, the two pools of voters—restored by Amendment 4 and former Governor Crist—demonstrate similar political preferences.

Table 5¹⁷² confirms the overriding role of race in the political preferences of people with felony convictions, above and beyond the effect of a criminal conviction itself. It reports the results of a series of regressions that focus on the party of registration among all registrants in Florida, including those with and without felony convictions. The dependent variable in each regression is whether the registrant is a Democrat. To explain Democratic party preference, each regression includes an indicator for whether a registrant had a felony conviction using three different measures: (1) registrants restored voting rights by Crist; (2) Amendment 4 registrants; and (3) all persons who have been released from the Florida Department of Corrections, either from prison or supervision, and are currently registered to vote, including those who were granted clemency or never lost their right to vote.

The first three columns report the raw difference in Democratic preference between registrations with and without a felony conviction. Among all three measures, people with felony convictions are between 10 and 18% more likely to register as Democrats than people without felony convictions, before accounting for any difference in demographics.

¹⁷¹ Table A.25 reports the absolute numbers of initial Amendment 4 registrations, while Figure A.20 visualizes the number of new registrations by day, using both the best estimate and an alternative estimate of Amendment 4 registrations.

¹⁷² Code: `figs_tbls/exfel_preferences/tbl_registration_regression`.

Table 5: Effect of Felony Conviction on Party of Registration

| Dependent Variable: | | Registered Democrat | | | | |
|-------------------------|-----------------------|---------------------|------------------------|-----------------------|---------------------|------------------------|
| Model: | Crist Clemency (1) | Amendment 4 (2) | Any Supervision (3) | Crist Clemency (4) | Amendment 4 (5) | Any Supervision (6) |
| <i>Variables</i> | | | | | | |
| Ex-Felon | 0.181 (0.003) | 0.129 (0.004) | 0.101 (0.0008) | 0.039 (0.003) | 0.001 (0.004) | 0.027 (0.0008) |
| Black | | | | 0.417 (0.002) | 0.417 (0.002) | 0.418 (0.002) |
| Male | | | | -0.069 (0.0003) | -0.070 (0.0003) | -0.070 (0.0003) |
| Year of Birth De-Meaned | | | | -0.002 (0.00002) | -0.002 (0.00002) | -0.002 (0.00002) |
| (Intercept) | 0.367 (0.0001) | 0.367 (0.0001) | 0.367 (0.0001) | | | |
| <i>Fixed-Effects</i> | | | | | | |
| Precinct | No | No | No | Yes | Yes | Yes |
| <i>Observations</i> | | | | | | |
| Registrants | 13,718,125 | 13,700,233 | 14,041,281 | 13,710,576 | 13,692,672 | 14,033,609 |
| Ex-Felons | 30,531 | 12,639 | 353,687 | 30,531 | 12,639 | 353,687 |

The second set of three columns show that the bulk of this difference is, in fact, attributable to demographics. Columns (4), (5), and (6) account for the role of demographics in partisan preferences by including indicators for whether a registrant is Black or is male as well as their year of birth relative to the average year of birth and precinct. The precinct is used as a proxy for income, because of both the clustering of neighborhood home values and other unobserved neighborhood-level differences, such as racial context. (For example, while registrants identified as not black could be either Hispanic or Caucasian, registrants in a particular precinct are more likely to be one or the other.) Overall, the difference in Democratic preference between people with and without felony convictions shrinks to between no difference at all and about 4%, once accounting for race, as well as gender, age, and precinct. As a result, the potential political consequences of reform will be shaped in large part by the racial profile of those who stand to regain their right to vote.

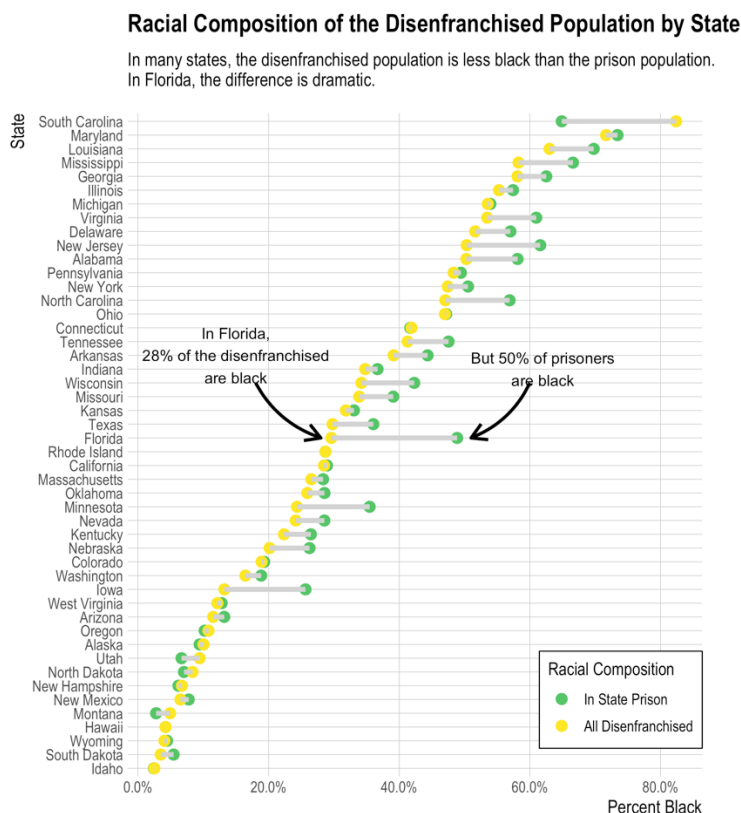
Despite the importance of demographics in estimating political preferences, the relevant demographic profile can be easily confused. Importantly, the racial profile of those *in* prison can be dramatically different than the racial profile of those who *are disenfranchised*, particularly in states that practice lifetime disenfranchisement. Figure 9¹⁷³ illustrates the divergence between the two measures in each state in 2016, before Amendment 4 passed.¹⁷⁴ In many states, African-Americans make up a smaller percentage of the total disenfranchised population (yellow points) than the prison population (green points). In Florida, for example, while about half of state prisoners in 2016 were Black, only about a quarter of disenfranchised were. As a result, if the public or the media assumes that the racial composition of those disenfranchised is the same as the racial composition of those in prison, they will overestimate the potential Democratic gain from reform by obscuring the importance of more conservative whites in the ranks of the disenfranchised.¹⁷⁵

¹⁷³ Code: `figs_tbls/disenfranchisement_across_states`.

¹⁷⁴ See UGGEN, LARSON, & SHANNON, *supra* note 2, at 16 tbl.4.

¹⁷⁵ In fact, data constraints required Uggen and Manza to use the racial composition of all state prisoners across the country to estimate the racial composition of ex-felons who were disenfranchised. See UGGEN & MANZA, *supra* note 43, at 271.

Figure 9: Racial Composition of Disenfranchised Population by State (2016)



C. Turnout

While demographics largely explain the political preferences of people with felony convictions, relying on demographics alone will substantially overestimate turnout. As a result of this lower-than-expected turnout, the partisan consequences of even a robust Amendment 4 would likely have been muted, regardless of the breakdown in partisanship.

The people who registered to vote as a result of Amendment 4 have yet to experience a general election, so it is not possible to calculate their general election turnout to date. However, the people who registered as a result of the Crist-era reform have been able to participate in at least three and up to five general elections. Table 6¹⁷⁶ compares their estimated turnout rate for 2016 with what I have found for people who have been released from felony convictions in other states using a similar method of combining individual-level public

¹⁷⁶ Code: `figs_tbls/exfel_preferences/tbl_cross_state_comparison`

records. The first row of Table 6 shows that just 11% of people restored the right to vote by Crist actually voted in the 2016 general election. The depressed turnout rate is consistent with what I have found in other states using a similar method of combining individual-level public records. For example, the estimated 2012 turnout of people who had completed any term of incarceration or supervision was about 13% in Iowa and North Carolina, 12% in Maine, 9% in Rhode Island, and 8% in New York.¹⁷⁷

Table 6: Estimated Turnout of People with Felony Convictions

| State | Year | Turnout |
|----------------|------|---------|
| Florida | 2016 | 11% |
| Iowa | 2012 | 13.3% |
| North Carolina | 2012 | 12.55% |
| Maine | 2012 | 11.45% |
| Rhode Island | 2012 | 9.1% |
| New York | 2012 | 8.2% |

People with felony convictions may vote at a low rate at least in part because they are more likely to be young, less educated, and a minority, all of which are correlated with reduced participation. But turnout may be even lower than predicted by demographics alone because contact with the criminal justice system depletes trust in government. Consistent with this theory, political scientists Amy Lerman and Vesla Weaver have shown that survey respondents who report more contact with the criminal justice system also report reduced political participation.¹⁷⁸ This effect, however, may be driven in part by selection bias. More recent work leverages variation in sentencing in administrative data to suggest that the causal effect of incarceration on voting is minimal.¹⁷⁹

Another partial explanation is that confusion is a significant culprit for the turnout gap between demographically similar people with and without felony convictions. In previous work with Marc Meredith, I have shown that Iowans with felony convictions who are provided notice about their eligibility to vote are about a third more likely to vote than their peers who were also restored

¹⁷⁷ See Marc Meredith and Michael Morse, *The Politics of the Restoration of Ex-Felon Voting Rights*, 41 Q.J. POL. SCI. 41, 72 tbl.6 (2015) (reporting the estimated turnout rates for Iowa, Maine, and Rhode Island); Marc Meredith & Michael Morse, *Do Voting Rights Notification Laws Increase Ex-Felon Turnout?*, 651 Annals Am. Acad. Pol. Soc. Sci. 220, tbl.3 (2014) (New Mexico); *id.* at tbl.4 (North Carolina); *id.* at tbl.2 (New York).

¹⁷⁸ See Vesla M. Weaver & Amy E. Lerman, *Political Consequences of the Carceral State*, 104 AM. POL. SCI. REV. 817, 824 tbl.1, 830 fig.3 (2010) (estimating a 4 percentage point reduction in turnout between self-reported drug users who had been convicted at the time of the survey and self-reported drug users who had not been convicted at the time but subsequently were convicted).

¹⁷⁹ See Alan S. Gerber et al., *Does Incarceration Reduce Voting? Evidence about the Political Consequences of Spending Time in Prison*, 79 J. POL. 1130, 1144 tbl.6 (2017) (estimating the effect of incarceration on voting to be about half of a percentage point).

voting rights but not notified.¹⁸⁰ This suggests that the converse might also be true: misinformation could decrease turnout.

In line with this, a few audit studies have found that local election officials can play a disruptive role in administering felon disenfranchisement policies. For example, Jessie Allen and a team of law students “phoned all sixty-two county election boards in New York and inquired what a person with a felony conviction who had fully served his sentence needed to do in order to register to vote.”¹⁸¹ About half of the local election boards inaccurately reported the conditions under which an ex-felon’s voting rights could be restored.¹⁸² Similarly, Alec Ewald conducted telephone interviews with “one hundred city, county, town, and parish officials drawn from ten selected states.”¹⁸³ More than a third stated a central aspect of the law incorrectly.¹⁸⁴

D. Trump Didn’t Win Florida Because of Felon Disenfranchisement

Regardless of the mechanism causing low turnout, the administrative data now available should lead us to revise the political consequences of felon disenfranchisement reform. Before Amendment 4 passed, some election analysts had speculated about the partisan consequences of such reform.¹⁸⁵ Had people who had completed any period of prison or supervision been allowed to participate in 2016, the story went, their votes would have wiped out President Trump’s victory. This recalled the initial claim by Chris Uggen and Jeff Manza that, but for felon disenfranchisement, Al Gore would have won Florida and become President.¹⁸⁶ Perhaps after Amendment 4 won, the state legislature was considering these same scenarios.

The canonical effort by Uggen and Manza to estimate the consequences of reform used national survey data from the public and applied it to the demographic profile of those incarcerated. The method suggested that about 69% of people with felony convictions would have supported Democrats in

¹⁸⁰ See Meredith & Morse, *Restoration of Ex-Felon Voting Rights*, *supra* note 177, at 64 fig.2, 66 tbl.4 (estimating that the effect of notification on turnout is 6.7 (standard error 1.7) and 6.2 (s.e. 3.3) percentage points, while baseline turnout without notification is about 15%).

¹⁸¹ Jessie Allen, *Documentary Disenfranchisement*, 86 TUL. L. REV. 389, 417 (2011).

¹⁸² See *id.*

¹⁸³ Alec Ewald, The Sentencing Project, A ‘Crazy-Quilt’ of Tiny Pieces: State and Local Administration of American Criminal Disenfranchisement Law (Nov. 2005), <http://www.sentencingproject.org/wp-content/uploads/2016/01/A-Crazy-Quilt-of-Tiny-Pieces-State-and-Local-Administration-of-American-Criminal-Disenfranchisement-Laws.pdf>

¹⁸⁴ See *id.* at i.

¹⁸⁵ See, e.g., Nate Cohn, *A ‘Blue Florida’?*, N.Y. Times (Feb. 1, 2018), <https://www.nytimes.com/2018/02/01/upshot/a-blue-florida-there-are-no-quick-demographic-fixes-for-democrats.html>.

¹⁸⁶ See UGGEN & MANZA, *supra* note 43, at 191-92 (making the claim); *id.* at 275 tbl.A8.1 (showing how they arrived at the claim).

2000.¹⁸⁷ Based on Figure 4, above, this estimate is largely consistent with the data in Florida. This makes sense, because Table 5 shows that the net effect of a felony conviction on political preferences is small. However, the Uggen and Manza method consistently overestimated turnout. For example, the method suggests that 27% of ex-felons would have voted in 2000.¹⁸⁸ But the Crist results in Florida and administrative data collected elsewhere consistently show that ex-felons turn out less than half as often as predicted by demographics.

Importantly, the Crist data suggest that Republicans should not fear a “blue wave” from supporting robust reform, at least to the extent that the analogy suggests a massive turn towards Democrats. Table 7¹⁸⁹ imagines various counterfactual scenarios: Had all of the estimated 1.48 million¹⁹⁰ people in Florida who had completed any period of prison or supervision been eligible to vote, how many additional votes would have been generated for Democrats? Depending on the assumptions used for Democratic preference and turnout, Democrats would have gained between about 20,000-60,000 votes. This would not have wiped out President Trump’s 113,000-vote margin of victory in 2016. But the difficulty with these exercises is that the 2000 election was determined by just 537 votes.¹⁹¹ The estimation exercise is helpful primarily because it underscores how enacting felon disenfranchisement reform would not lead to a wholesale partisan realignment of the state. The fact that some razor-thin elections may or may not go the other way does not indicate otherwise. Rather, the net vote gain should be understood in relation to the more than 9.5 million ballots cast in 2016. The estimated Democratic gain from a more inclusive democracy is equal to roughly one half of one percent of all ballots cast in the election.

Table 7: Counterfactual Democratic Margin

| | Method | Ex-Felons (2016) | Democratic Preference | | | Democratic Votes | | | % of Ballots Cast |
|---|-----------|------------------|-----------------------|------------|--------|------------------|---------|--------|-------------------|
| | | | Estimate | Preference | Margin | Turnout (2016) | Votes | Margin | |
| 1 | Overall | 1,487,847 | Low | 64.0% | 28% | 10.70% | 44,576 | 44,576 | 0.465% |
| 2 | Overall | 1,487,847 | High | 69.0% | 38% | 10.70% | 60,496 | 60,496 | 0.631% |
| 3 | By Race | | Low | | | | | 20,291 | 0.212% |
| 4 | Black | 418,224 | | 94.0% | 88% | 13.00% | 47,845 | | |
| 5 | Not Black | 1,069,623 | | 36.0% | -28% | 9.20% | -27,553 | | |
| 6 | By Race | | High | | | | | 40,179 | 0.419% |
| 7 | Black | 418,224 | | 96.0% | 92% | 13.00% | 50,020 | | |
| 8 | Not Black | 1,069,623 | | 45.0% | -10% | 9.20% | -9,841 | | |

¹⁸⁷ See *id.*

¹⁸⁸ See *id.* at 275 tbl.A8.1.

¹⁸⁹ Code: `figs_tbls/exfel_preferences/tbl_counterfactual_dem_gain`.

¹⁹⁰ See UGGEN, LARSON, & SHANNON, *supra* note 2, at 15 tbl.3 (reporting estimates of disenfranchisement by state and overall).

¹⁹¹ See Division of Elections, *November 7, 2000 General Election*, FLA. DEP’T OF STATE, <https://results.elections.myflorida.com/Index.asp?ElectionDate=11/7/2000&DATAMODE=> (reporting that George W. Bush and Dick Cheney received 2,912,790 votes, while Al Gore and Joe Lieberman received 2,912,253).

III. THE ENSUING LITIGATION: ESTIMATING THE BURDEN OF FINES & FEES

A. Campaign Strategy or Voter Suppression?

One challenge in assessing the effect of the partisan legislation adopted after Amendment 4 is understanding how many people stood to be reenfranchised in the first place. Republican legislators, faced with accusations of voter suppression, pointed to various campaign statements explaining that “completion of all terms of sentence” would include the payment of fines, fees, and restitution.¹⁹² In fact, the state supreme court ultimately agreed, finding both that the campaign intended to restore voting rights upon the payment of fines, fees, and restitution and that the plain text of Amendment 4 compelled such an interpretation.¹⁹³

The campaign’s own understanding of “completion of all terms of sentence” can be easily obscured by its contradictory statements. Howard Simon, the vice chair of the campaign¹⁹⁴ and a drafter of Amendment 4, wrote an internal memorandum to the campaign to this effect.¹⁹⁵ The memorandum was co-authored by Marc Mauer, then the executive director of the Sentencing Project.

Simon and Mauer were generally concerned that “several speakers and organizational allies (as well as the press) have been using different numbers for the returning citizens who could be affected when Amendment 4 is approved by the voters ranging from 1.2 million to 1.8 million.”¹⁹⁶ The memo focused on correcting “[t]he number of people who could be directly impacted by

¹⁹² See, e.g., Patricia Mazzei, *Florida Limits Ex-Felon Voting, Prompting a Lawsuit and Cries of ‘Poll Tax,’* N.Y. TIMES (June 28, 2019), <https://www.nytimes.com/2019/06/28/us/florida-felons-voting-rights.html>.

¹⁹³ See *Advisory Opinion to Governor re Implementation of Amendment 4, The Voting Restoration Amendment*, 288 So. 3d 1070, 1078 (Fla. 2020) (“Although the representations to this Court and to the public close the door on any credible suggestion that ‘all terms of sentence’ was *intended* by the Sponsor to refer only to durational periods, we need not address whether Amendment 4 involved a ‘bait and switch’ attempt to amend our State’s constitution. Indeed, our opinion is based not on the Sponsor’s subjective intent or campaign statements, but rather on the objective meaning of the constitutional text. The language at issue, read in context, has an unambiguous ‘ordinary meaning’ that the voters ‘would most likely understand’ ... to encompass obligations including LFOs. The Sponsor’s expressed intent and campaign statements simply are consistent with that ordinary meaning that would have been understood by the voters.”).

¹⁹⁴ See Letter from Desmond Meade, Chairperson, Floridians for a Fair Democracy, and Norman Wilson, Treasurer, Floridians for a Fair Democracy, to Kristi Reid Bronson, Chief, Bureau of Elections Records (Jan. 22, 2016) (informing the state of the change in officers).

¹⁹⁵ See Memorandum from Howard Simon, Exec. Dir., ACLU of Florida and Marc Mauer, Exec. Dir., Sentencing Project, to Executive Board, Second Chances Team (Feb. 11, 2018), <https://docs.google.com/document/d/1om20yURi8GKBdtYUuur-R-RyAagoY1SvmWDWRYghVss/edit#> [<https://perma.cc/RZV8-D5Y5>] (Simon-Mauer Memorandum).

¹⁹⁶ *Id.* at 1.

Amendment 4” because different estimates not only reflected an inconsistent message but undermined the campaign’s message of redemption.¹⁹⁷

The memo initially explained that there were an estimated 1.7 million people in Florida who could not vote in 2016 because of a felony conviction, including people incarcerated and people since released. But Simon and Mauer did not want the campaign or its allies to use this number because “using a number that reflects the entire population of people with felony convictions ... could ... inadvertently support[] the narrative that the ballot issue is about ... ‘felons voting’ or ‘voting rights for felons,’ rather than “second chances for those who have successfully completed the terms of their sentence.”¹⁹⁸ The memo also calculated that there were “about 1.4 million” Floridians who were convicted of a felony and had subsequently completed any period of incarceration or supervision, excluding those convicted of murder or a felony sex offense. But Simon and Mauer did not want the campaign or its allies to use this number either because, as the memo explained, “[m]any felony sentences, whether to prison or probation, include a requirement of a mix of fines, fees, and restitution.”¹⁹⁹

Importantly, the memo confessed there were “no good estimates” on the number of Floridians with felony convictions who continued to owe fines and fees. However, the memo did estimate that 40% may owe restitution.²⁰⁰ Based on this, the memo concluded that “the 40% level of non-payment would reduce the population eligible for rights restoration to about 840,000,” and “some additional portion would be reduced for non-payment of fines and fees.”²⁰¹

Despite the Simon-Mauer memo, the campaign routinely promoted in the run-up to the vote that at least 1.4 million people would have their right to vote immediately restored, perhaps suggesting that outstanding fines, fees, and restitution would not be taken into account. As one ad put it, “It’s time to restore 1.4 million Floridians who are permanently excluded from voting.”²⁰² This led the *New York Times Magazine* to frame Amendment 4 as “a potential civil rights triumph: It could enfranchise more people at once than any single initiative since women’s suffrage.”²⁰³

Nonetheless, the campaign’s strategy is not so easily summarized. The

¹⁹⁷ *Id.*

¹⁹⁸ *Id.* at 2.

¹⁹⁹ *Id.* (emphasis added).

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² See Second Chances Florida, *Turn the Page*, YOUTUBE (Sept. 13, 2018), <https://www.youtube.com/watch?v=QqxfsEBCGqA>. For press releases to the same effect, see, e.g., Press Release, Second Chances Florida, Voting Restoration Amendment Qualifies for November Ballot (Jan. 23, 2018), <https://secondchancesfl.org/press-releases/voting-restoration-amendment-qualifies-for-november-ballot/>.

²⁰³ See Bazelon, *supra* note 63. The teaser of the article said: “A referendum on the November ballot in Florida would re-enfranchise 1.5 million citizens — and could change the state’s electorate.”

memo also belies the Republican legislators' arguments that they were merely the "faithful steward" of a singular strategy—that is, that their implementing legislation was simply executing the campaign's clear goal. Simon and Mauer ultimately advised that it would be "*technically correct* . . . to describe the scale of the impact as follows: Under Amendment 4, *as many as* 1.4 million Floridians who have completed supervision of a felony sentence have earned a 2nd chance to fully participate in their community and could be eligible for the restoration of their ability to vote upon payment of fines, fees, and restitution."²⁰⁴ In this formulation, the words "as many as" were doing much if not all of the work. One reason Simon and Mauer opted for this formulation, rather than, for example, "up to 840,000 Floridians," is what they described as a "key issue," namely that "the state has the power to waive payment of fines and fees."²⁰⁵ In general, as the federal district judge hearing the challenge to Amendment 4 would explain, "Florida law allows a judge to convert a financial obligation included in a criminal judgment to a civil lien. Judges often do this, usually because the defendant is unable to pay. The whole point of conversion is to take the obligation out of the criminal-justice system—to allow the criminal case to end when the defendant has completed any term in custody or on supervision."²⁰⁶

B. The Growth and Scope of Fines and Fees

The growth and scope of legal financial obligations (LFOs) across the United States has been difficult to document, in large part because of the decentralized nature of the criminal justice system. To quantify for the first time the obstacle of fines and fees to the restoration of voting rights in Florida, I took advantage of the fact that Florida has a unified court system, although not all counties fully participate in it. After a series of public information requests, I collected administrative court records for each felony case in 27 of Florida's 67 counties since the year 2000, including information on the total amount of combined fines and fees assessed and the current total balance owed.²⁰⁷ Regardless of whether the requirement to pay fines, fees, and restitution is better viewed as the result of voter suppression or campaign strategy, the administrative data reveals that the requirement, without an exception for indigency, will likely lead many people with felony convictions to be too poor to vote.

²⁰⁴ *Id.* (emphasis added)

²⁰⁵ *Id.*

²⁰⁶ *Jones*, 2020 WL 2618062 at *31.

²⁰⁷ Appendix I. details the data collection process, while Table A.27 validates the data by comparing it to aggregate information published in annual reports.

1. Fines and Fees per Case

Table 8²⁰⁸ reports the 25th, 50th, and 75th percentiles of the distribution of fines and fees assessed in total and the current balance remaining for all cases in my dataset. It shows that, overall, across 400,980 felony cases, the median felony case resulted in \$818.00 in fines and fees and has a current balance of \$668. Due to data limitations, this is without even taking account of outstanding restitution. Nonetheless, almost 80% of cases have some remaining balance.

Table 8: Fines and Fees by Case

| # Cases | Amount Due | | | Balance Remaining | | | Cases with Balances |
|---------|------------|-------|---------|-------------------|-------|-------|---------------------|
| | 25th | 50th | 75th | 25th | 50th | 75th | |
| 400,942 | \$621 | \$818 | \$1,218 | \$110.43 | \$668 | \$975 | 79.9% |

While Table 8 aggregates information across all cases, Figure 10²⁰⁹ shows that the median amount assessed has increased over time, more than doubling from \$465 in 2000 to a peak of \$941 in 2010. Last year, the median amount assessed had declined to \$780. The legend at the bottom of the figure shows how the scale of each point is proportional to the number of cases observed.

These fines and fees are not only a punishment for criminal behavior, but also reflect a budgeting decision about how to fund the court system. The sharp change in the amount of fines and fees assessed in the mid-2000s corresponds to a series of legislation that marked a “fundamental shift” for county clerks “from county funding to being a self-funded office.”²¹⁰ The various bills raising fines and fees were enacted to implement a state constitutional amendment governing the funding of the state court system.²¹¹ Of particular significance is the fact that one of the co-sponsors of the amendment was Jon L. Mills, the campaign lawyer who helped draft Amendment 4 and represented to the state supreme court that full payment of fines, fees, and restitution would be required before the restoration of voting rights.²¹² At the time, Mills embraced a fee-centric model of justice, explaining that “The bottom line is there are only about

²⁰⁸ Code: `figs_tbls/lfos/case_level/tbl`.

²⁰⁹ Code: `figs_tbls/lfos_case_level/fig_median_over_time`.

²¹⁰ FLORIDA COURT CLERKS AND COMPTROLLERS, DISTRIBUTION SCHEDULE OF COURT-RELATED FILING FEES, SERVICE CHARGES, COSTS AND FINES, INCLUDING A FEE SCHEDULE FOR RECORDING 2 (2009), *available at* https://www.flclerks.com/resource/resmgr/public_documents_/2018_distribution_schedule_1.pdf.

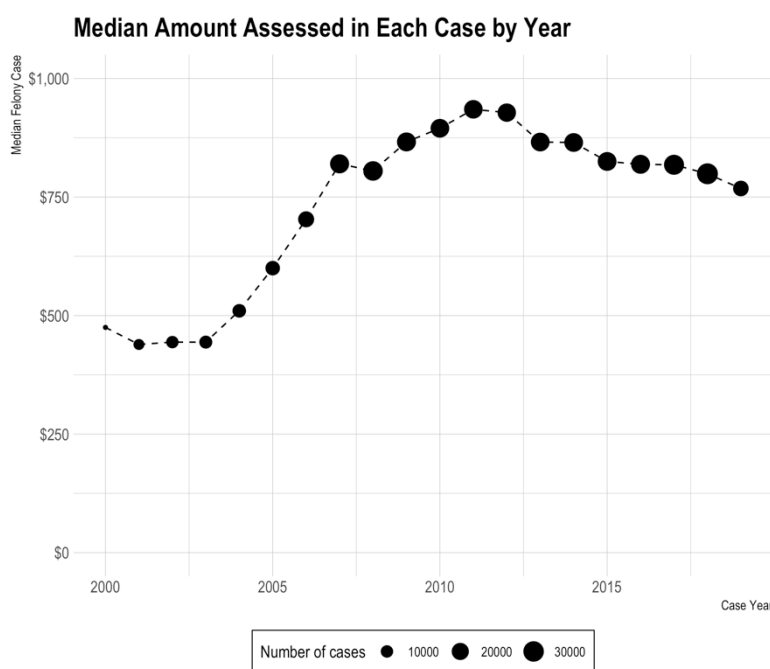
²¹¹ See FLA. CONST. art. V, § 14.

²¹² See Daniel Rivero, *Co-Author and Attorney for Florida’s Amendment 4 Helped Create Statewide Fines and Fees Policy*, WLRN (Mar. 27, 2019), <https://www.wlrn.org/post/co-author-and-attorney-floridas-amendment-4-helped-create-statewide-fines-and-fees-policy>.

three areas to draw [revenue] from: that is, the state taxpayer, the local property taxpayer and the user. That is, the persons who use the court system either through paying their filing fees or through collection of other fines, etcetera. . . . We suggest you construct a system whereby clerks would be funded by fees. This entails raising fees.”²¹³

The legislature has enacted a litany of statutory fees that are mandatorily imposed by the judge at sentencing, such as \$100 for the “cost of prosecution,” \$50 for a “public defender application fee,” \$225 for “additional court costs,” and at least \$100 more for various “crime prevention,” “crime compensation,” and “crime stoppers” funds, in addition to any local fees tacked on.

Figure 10: Median Fines and Fees Assessed by Year



The amount of fines and fees is staggering when the estimated average annual income of the formerly incarcerated population is less than \$10,000.²¹⁴ While the court data cannot distinguish between whether any particular individual is unable versus unwilling to pay, the fact that individuals who do not pay can already face a range of sanctions, from a driver’s license suspension to

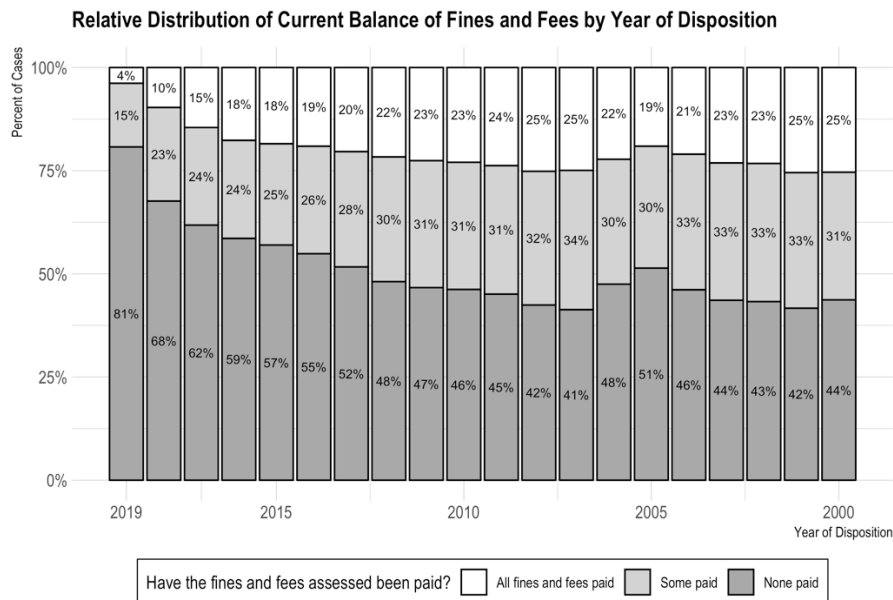
²¹³ *Id.*

²¹⁴ See BRUCE WESTERN, PUNISHMENT AND INEQUALITY IN AMERICA (2006).

the revocation of supervision, suggests that many are too poor to pay these financial obligations.

Figures Figure 11, Figure 12Figure 13 highlight the pattern of stubborn debt by focusing on the balance remaining in each case. In Figure 11,²¹⁵ the bars illustrate the relative percentage of cases sentenced each year in which all fines and fees have since been paid, some fines and fees have been paid, or no fines and fees at all have been paid. Together, the dark grey and light grey bars indicate the percentage of cases from that year with a remaining balance today. While Table 8 reports that 80% of cases overall have a remaining balance, this percent changes over time. The individuals in the vast majority of recent cases have paid no fines and fees at all. This relative percentage decreases over time, presumably as people have more time to pay and complete any period of incarceration or supervision. But even for cases decided almost 20 years ago back in 2000, the white bar indicates that only a quarter of cases have no remaining fines and fees today.

Figure 11: Relative Balance of Fines and Fees by Year



One indicia of ability-to-pay is the time it takes to pay all fines and fees assessed. Figure 12 and Figure 13 complement Figure 11 by examining when individuals pay fines and fees over time, if they ever do. Both use the cases

²¹⁵ Code: `figs_tbls/lfos/fig_relative_lfo_balance_over_time`.

decided in 2010 as an example. Figure 12 examines the 23% of cases that year in which individuals paid all fines and fees, while Figure 18 examines the 31% of cases in which individuals paid some. Individuals have made no payments at all in the remaining 46% of cases decided that year.

Consistent with a theory that most individuals with outstanding fines and fees cannot afford to pay their debt, Figure 12²¹⁶ shows that those cases with no remaining balance today were paid off relatively quickly. The x-axis tracks the time from the date of disposition to the date of last payment. About a third of fully-paid cases are paid within one year and 70% are paid within three. In other words, if debt is not paid off quickly, it is unlikely to be paid at all. This suggests that the majority of the extant debt, assessed years ago, is stubborn debt, unlikely to be paid back.

Figure 12: Time to Payback

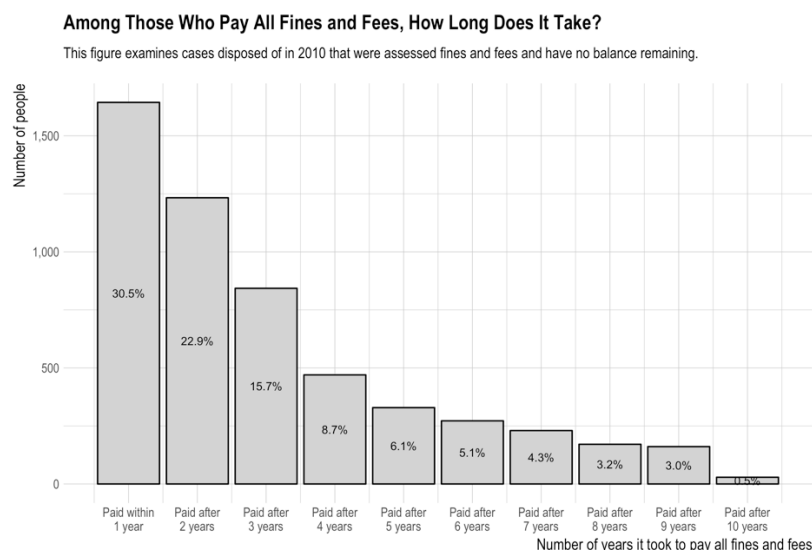
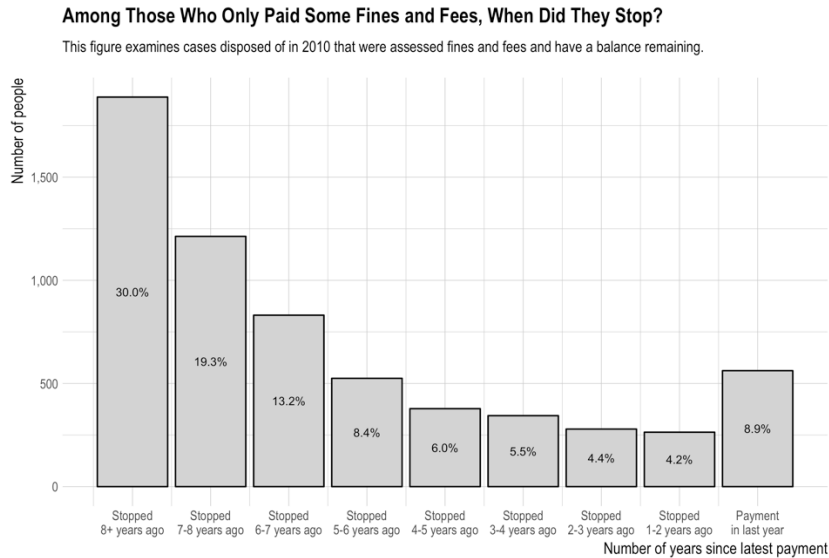


Figure 13²¹⁷ shows that cases in which some, but not all, fines and fees have been paid have had little recent payment activity. The x-axis shows the time from the last payment to today. In about two-thirds of cases, individuals made a payment within three years of the sentence, but never paid again. As a result, because all of the cases displayed were sentenced in 2010, the last payment in these cases was seven or more years ago.

²¹⁶ Code: `figs_tbls/lfos/fig_time_to_payback`.

²¹⁷ Code: `figs_tbls/lfos/fig_time_to_stop_paying`.

Figure 13: Time Since Last Payment



Unsurprisingly, the statewide association of court clerks in Florida estimate that of the quarter billion dollars assessed in fines and fees for felony cases in 2018, about 23% was unlikely to ever be collected because the defendant was indigent and about 8% was unlikely to ever be collected because the debt was already converted to a civil lien.²¹⁸

Although few people are able to pay off all of the fines and fees associated with a given criminal case, Table 9 and Figure 14 show a distinct racial gap in who has an outstanding balance. Because the assessments per case are not significantly different by race, this racial gap is best understood as a wealth gap.

The two rows of Table 9²¹⁹ report the same information as in Table 8 but broken down by the race of the defendant.²²⁰ Although the amount assessed to white and black defendants is largely the same, the distribution of the balance owed is quite different. Because most people, of any race, struggle to pay back this debt, the difference is only seen at the 25th percentile in the distribution, where black defendants still owe \$372 while white defendants owe just \$25. In total, 86.5% of cases with a black defendant have a remaining balance, while 76.1% of cases with a white defendant do.

²¹⁸ See FLORIDA COURT CLERKS & COMPTROLLERS, 2018 ANNUAL ASSESSMENTS AND COLLECTIONS REPORT 18 (2018).

²¹⁹ Code: figs_tbls/lfos/case_level/tbl.

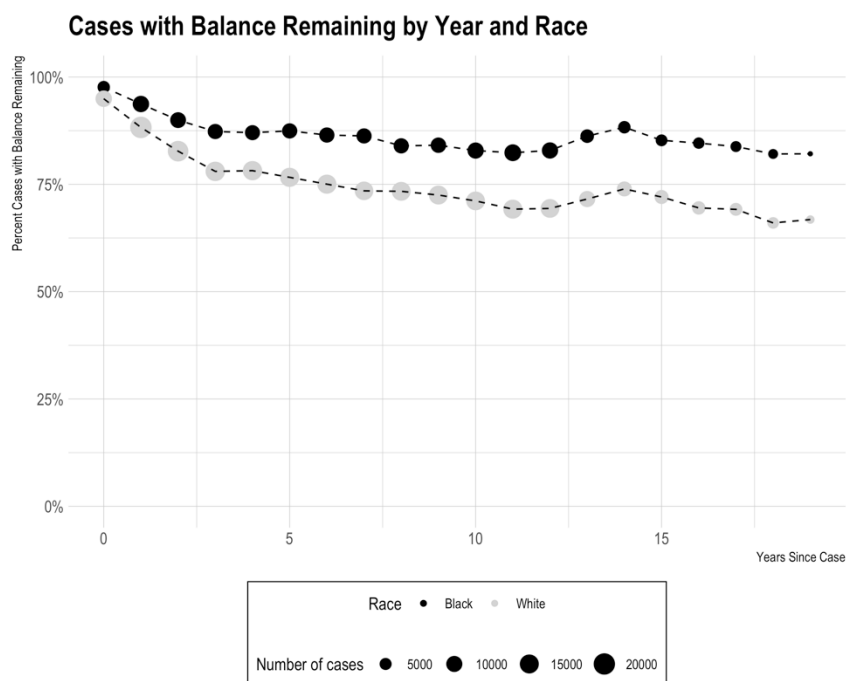
²²⁰ There are fewer total observations in Table 9 than Table 8 because defendants with an inconsistent race over time or no race are dropped.

Table 9: Fines and Fees Per Case By Race

| | # Cases | Amount Due | | | Balance Remaining | | | Cases with Balances |
|-----------------|---------|------------|-------|---------|-------------------|-------|-------|---------------------|
| | | 25th | 50th | 75th | 25th | 50th | 75th | |
| Black Defendant | 148,659 | \$605 | \$801 | \$1,150 | \$372.56 | \$675 | \$993 | 86.5% |
| White Defendant | 242,060 | \$638 | \$830 | \$1,264 | \$25.00 | \$660 | \$965 | 76.1% |

Figure 14²²¹ shows the percentage of cases with outstanding fines and fees based on the number of years since disposition and the race of the defendant. The racial gap emerges quickly and grows over time as individuals with more means have more opportunity to pay. For example, among all cases sentenced by summer 2019, nearly every case has a remaining balance, black or white. But among all cases sentenced in 2010, cases with a black defendant are about 12 percentage points more likely to have a remaining balance.

Figure 14: Cases with Balance Remaining by Year and Race



2. Fines and Fees per Person

²²¹ Code: figs_tbls/lfos/fig_racial_gap_over_time.

Because disenfranchisement applies to an individual, not a case, case-level data is ultimately limited in its ability to characterize the effect of conditioning voting rights on the payment of fines and fees. To estimate the percentage of people with felony convictions in Florida who owe fines and fees, Table 10²²² aggregates all cases associated with each individual. In general, the total amount due and balance remaining are underestimates, because the sentencing data is only drawn from 27 of Florida's 67 counties and at least some individuals may have other cases, in missing counties, in which they also owe fines and fees.

Table 10: Fines and Fees by Person

| | # People | Amount Due | | | Balance Remaining | | | Persons with Balances |
|---------------|----------|------------|------------|------------|-------------------|----------|------------|-----------------------|
| | | 25th | 50th | 75th | 25th | 50th | 75th | |
| All Persons | 240,343 | \$698 | \$1,141.16 | \$2,233.00 | \$40 | \$763.00 | \$1,681.84 | 76.6% |
| Black Persons | 79,820 | \$728 | \$1,215.96 | \$2,400.57 | \$373 | \$888.71 | \$1,981.00 | 84.1% |
| White Persons | 153,489 | \$688 | \$1,110.20 | \$2,135.00 | \$0 | \$682.60 | \$1,536.00 | 73.0% |

Overall, the first row of Table 10 shows that the median individual with at least one felony conviction was assessed \$1,141, in contrast to the median felony which is \$818. The case-level racial disparity is prominent in the individual-level data too. Although conditioning voting rights on fines and fees leaves the vast majority of ex-felons disenfranchised, it disproportionately affects African-Americans. Table 10 shows that at least 73% of white ex-felons and 84.1% of Black ex-felons are now ineligible to vote.

Perhaps most important for summarizing the current effect of fines and fees on voter eligibility, the last column shows that at least three-quarters of persons in the sentencing data for these counties currently owe fines and fees. The total percentage could be higher if people who have paid their fines and fees nonetheless have outstanding restitution, as that is not consistently tracked in the sentencing data, or if they have other convictions, in counties where data was not provided to me, with outstanding fines and fees.

Despite this, some critics have argued that even if the majority of people with felony convictions are unable to pay their fines and fees, many are uninterested in voting. To some extent, this argument draws support from the generally low rates of observed registration and turnout, both in Florida and across the country, among people with felony convictions.

Table 11²²³ is the result of matching persons in the sentencing data with the statewide voter file.²²⁴ It shows that the vast majority of initial Amendment 4 registrants owed fines and fees, at almost the same amount and same rate as people with felony convictions in general.²²⁵ While Table 11 is informative of

²²² Code: `figs_tbls/lfos/person_level/tbl`.

²²³ Code: `figs_tbls/a4_preferences/lfos/tbl_lfo_distribution`.

²²⁴ Table A.28 in the Appendix details the quality of each match.

²²⁵ Table A.29 shows that this distribution is roughly the same under a different, more

the extent of interest in voting, despite legal debt, it is important to remember that Table 11 only reflects persons in the sentencing data of 27 of Florida's 67 counties. As a result, the data is most appropriate for its relative information on the composition of Amendment 4 registrants by fines and fees owed, rather than an assessment of the total number of such initial registrants. Nonetheless, under the definition of "completion of all terms of sentence" adopted by the Republican legislature and the Florida Supreme Court, the vast majority of initial registrations produced by Amendment 4 would likely be removed from the voter rolls.

Table 11: Fines and Fees by Persons Registered

| | # Registrations (only 27 of 67 counties) | Amount Due | | | Balance Remaining | | | Registrants with Balances |
|---------------|---|------------|------------|------------|-------------------|------------|------------|------------------------------|
| | | 25th | 50th | 75th | 25th | 50th | 75th | |
| All Persons | 2,040 | \$821.38 | \$1,486.58 | \$2,863.50 | \$40 | \$831.47 | \$1,985.75 | 77.0% |
| Black Persons | 945 | \$832.00 | \$1,492.50 | \$2,756.00 | \$314 | \$1,008.00 | \$2,112.30 | 83.2% |
| White Persons | 1,072 | \$817.50 | \$1,481.85 | \$2,916.50 | \$0 | \$704.22 | \$1,742.52 | 71.5% |

3. Florida's Fines and Fees in Context

Importantly, the overall data in Florida are consistent with data previously collected in other states. As a result, some of the additional findings in these states are likely informative of the picture in Florida, too.

For example, the initial study, by Alexis Harris, Heather Evans, and Katherine Beckett looked at the 3,366 felony cases sentenced in Washington State during January and February 2004. It found that the median felony resulted in \$1,347 in LFOs.²²⁶ My prior work with Marc Meredith collecting a random sample of roughly 1% of felony court records in Alabama found that the median felony resulted in about \$2,000 in LFOs in 2005.²²⁷ One reason that the overall amount assessed in Florida is lower than what was found in Alabama or Washington State is that both of those studies also included restitution. In Alabama, for example, about a quarter of all LFOs assessed were estimated to be for restitution.²²⁸ Importantly, the stratified Alabama sample also revealed that the median amount of LFOs assessed in felony cases in the state had doubled since 1995, consistent with what Figure 10 shows in Florida.²²⁹

capacious definition of an Amendment 4 registrant that does not remove persons granted clemency, who had their adjudication withheld, or who were convicted of a misdemeanor.

²²⁶ See Alexis Harris, Heather Evans, & Katherine Beckett, *Drawing Blood From Stones: Legal Debt and Social Inequality in the Contemporary United States*, 115 AM. J. SOC. 1753, 1774 tbl.5 (2010).

²²⁷ See Claire Greenberg, Marc Meredith, & Michael Morse, *The Growing and Broad Nature of Legal Financial Obligations: Evidence from Alabama Court Records*, 48 CONN. L. REV. 1079, 1104 & fig.4a.1, 1105 fig.4a.2 (2016).

²²⁸ See Meredith & Morse, *Discretionary Disenfranchisement: The Case of Legal Financial Obligations*, 46 J. LEG. STUD. 309, 323 fig.1 (2017).

²²⁹ See Greenberg, Meredith, and Morse, *supra* note 227, at 1105 fig.4A.2. Further, although the data in Florida do not distinguish between a fine and a fee, the data in Alabama show that fees make up about half of the total amount of LFOs assessed. See Meredith & Morse,

The Harris, Evans, and Beckett study also collected a complete court history for a random subset of 500 defendants and found that the median person was assessed \$7,234 in LFOs over their lifetime.²³⁰ Overall, people in the sample collectively owed nearly 77% of the total bill at the time of the study.²³¹ There are some concerns, though, that this is an overestimate, because individuals who had multiple felony cases in the study period, and thus were likely assessed more in total LFOs, would also have been more likely to be randomly sampled, thus skewing the results.²³² Perhaps because of this, my prior work in Alabama finds a smaller total assessment per person. The median person was assessed just under \$4,000 across all of their felony cases, and owed about \$2,000 at the time of the study.²³³ Regardless, 77% of people with felony convictions in Alabama also had a remaining balance, matching the Washington study overall payback pattern at the individual-level.²³⁴ This is almost exactly the same pattern observed in Table 10 for Florida.

The Harris, Evans, and Beckett study had too few African-Americans in the individual-level sample to reliably estimate the extent of LFOs by race and no indicator of whether persons were appointed a public defender.²³⁵ But African-Americans in Alabama were 9 percentage points more likely to owe outstanding LFOs, again similar to the 11-point racial gap observed in Table 10 for Florida. Further, consistent with the notion that many people are too poor to pay their fines and fees, people with a public defender in Alabama were 15 percentage points more likely to owe outstanding LFOs.²³⁶ Because a defendant whose income was at or below 125% of the federal poverty guidelines was eligible for a public defender, the resulting gap presumably tracks ability to pay.²³⁷

Discretionary Disenfranchisement, *supra* note 228, at 323 fig.1 (reporting that, among a representative statewide sample of ex-felons in Alabama, fees made up about 44% of the total amount of LFOs assessed and 57% of the average ex-felon's total LFO assessment).

²³⁰ See Harris, Evans, & Beckett, *supra* note 226, at 1175 tbl.6.

²³¹ See *id.*

²³² See Greenberg, Meredith & Morse, *supra* note 227, at 314 n.2 (raising this concern).

²³³ See Meredith & Morse, *Discretionary Disenfranchisement*, *supra* note 228, at 326 tbl.2.

²³⁴ See *id.*

²³⁵ See Harris, Evans, & Beckett, *supra* note 226 at 1175 tbl.6 (reporting 64 black defendants in a sample of 500).

²³⁶ See Meredith & Morse, *Discretionary Disenfranchisement*, *supra* note 228, at 325 tbl.2.

²³⁷ See ALA. CODE § 15-12-1.

ONLINE APPENDIX

A. Campaign Finance Records

The Division of Elections posted the campaign finance activity for Floridians for a Fair Democracy online.²³⁸ I downloaded and standardized this data.²³⁹ For example, all donations by the Bonderman family (Cale Bonderman, Django Bonderman, Zoe Bonderman, and Laurie Michaels) are reported together. Similarly, all donations by the Beckenstein family (Anita Beckenstein and Josh Beckenstein) are reported together. Donations by any entity created or funded by Tides are also reported together (Tides Center, Tides Foundation, Alliance for Safety and Justice, and the Florida Restoration Rights Coalition).

B. Petitions

1. Data Collection

Figure A.15²⁴⁰ provides an example of the petition forms that the campaign collected.

²³⁸ The link is available here: <https://dos.myflorida.com/elections/candidates-committees/campaign-finance/campaign-finance-database/>.

²³⁹ Code: `data/campaign_finance/contributions`.

²⁴⁰ File: `figs_tbls/a4_campaign/petitions/example`

Figure A.15: Example of Ballot Petition

CONSTITUTIONAL AMENDMENT PETITION FORM

Note:

- All information on this form, including your signature, becomes a public record upon receipt by the Supervisor of Elections
- Under Florida Law, it is a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.08, Florida Statutes, to knowingly sign more than one petition for an issue. [Section 104.185, Florida Statutes]
- If all requested information on this form is not completed, the form will not be valid.

Your name: _____
Please Print Name as it appears on your Voter Information Card

Your address: _____

City: _____ **Zip:** _____ **County:** _____

☐ Please change my legal address on my voter registration record to the above residence address (check box, if applicable).

Voter Registration Number: _____ **or Date of Birth:** _____

I am a registered voter of Florida and hereby petition the Secretary of State to place the following proposed amendment to the Florida Constitution on the ballot in the general election:

BALLOT TITLE: Voting Restoration Amendment

BALLOT SUMMARY: This amendment restores the voting rights of Floridians with felony convictions after they complete all terms of their sentence including parole or probation. The amendment would not apply to those convicted of murder or sexual offenses, who would continue to be permanently barred from voting unless the Governor and Cabinet vote to restore their voting rights on a case by case basis.

ARTICLE AND SECTION BEING CREATED OR AMENDED: Article VI, § 4.

FULL TEXT OF THE PROPOSED CONSTITUTIONAL AMENDMENT:

Article VI, Section 4. Disqualifications.—

(a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation.

(b) No person convicted of murder or a felony sexual offense shall be qualified to vote until restoration of civil rights.

(b c) No person may appear on the ballot for re-election to any of the following offices:

- (1) Florida representative,
- (2) Florida senator,
- (3) Florida Lieutenant governor,
- (4) any office of the Florida cabinet,
- (5) U.S. Representative from Florida, or
- (6) U.S. Senator from Florida

if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for eight consecutive years.

DATE OF SIGNATURE

X
SIGNATURE OF REGISTERED VOTER

Initiative petition sponsored by Floridians for a Fair Democracy, Inc., 3000 Gulf-to-Bay Blvd., Suite 503, Clearwater, FL 33759

If paid petition circulator is used:

Circulator's name _____

Circulator's address _____

RETURN TO:
 Floridians for a Fair Democracy, Inc.
 3000 Gulf-to-Bay Blvd., Suite 503
 Clearwater, FL 33759

For Official Use Only:

Serial Number: _____

Date Approved: _____

I sent a letter on October 1, 2018 to the supervisor of elections of each county making a public information request for the individual-level information on these petitions. The letter noted that “[a]ll information on this form, including [the] signature, becomes a public record upon receipt by the Supervisor of Elections.” Further, it explained how state law requires that

supervisors “shall retain the signature forms for at least 1 year following the election in which the issue appeared on the ballot.”

I ultimately collected petition data from all 67 counties in Florida. In general, my request was for and my analysis is limited to valid petitions, but some supervisors of elections instead provided all petitions, valid or otherwise, with an indication of the status of each petition.

2. Data Quality

Table A.12,²⁴¹ below, shows that the petition data quality was very high. Most counties are not in the table because no voter registration number was missing, invalid, or a duplicate; and no dates were missing or improbable. In total, only 58 total petitions had a missing voter registration number and only 3 had an invalid one. These petitions were dropped both because the petitions themselves were likely invalid and because they cannot be merged with the voter file.

There were also 346 duplicate petitions in Highlands County and 12,872 duplicate petitions in Palm Beach, although the vast majority of these duplicates in Palm Beach were not signed on the same day. I kept the earlier of each duplicate petition, if at least one of the duplicate petitions had a valid date, or took a random petition if not.

Table A.12 also shows that a total of 59,115 petitions had missing dates and an additional 47 petitions had improbable dates. None of the petitions collected in Orange County had a date because the county instead provided an extract of the voter file subset to the records of registered voters who signed the petition. These petitions, however, are not dropped.

Table A.12: Petition Data Quality

| County | Voter ID | | | | Date | |
|--------------|----------|---------|---------|------------------------|---------|------------|
| | Missing | Invalid | Overall | Duplicate Same Date | Missing | Improbable |
| Clay | 3 | 0 | 0 | 0 | 4,784 | 0 |
| Highlands | 0 | 0 | 346 | 346 | 0 | 0 |
| Hillsborough | 19 | 2 | 0 | 0 | 0 | 0 |
| Madison | 0 | 0 | 6 | 0 | 1 | 1 |
| Martin | 0 | 0 | 0 | 0 | 3,711 | 0 |
| Okaloosa | 33 | 1 | 0 | 0 | 350 | 0 |
| Orange | 0 | 0 | 0 | 0 | 50,197 | 0 |
| Palm Beach | 0 | 0 | 12,872 | 739 | 66 | 45 |
| Sarasota | 0 | 0 | 0 | 0 | 1 | 1 |
| St. Johns | 3 | 0 | 0 | 0 | 0 | 0 |
| Sumter | 0 | 0 | 0 | 0 | 5 | 0 |
| Total | 58 | 3 | 13,224 | 1,085 | 59,115 | 47 |

²⁴¹ Code: `figs_tbls/a4_campaign/petitions/check_voter_id_and_date`.

3. Data Validation

Table A.13²⁴² validates the number of petitions collected by comparing the number I collected per county to the aggregate county totals reported by each county to the Division of Elections and made available online.²⁴³ My dataset actually includes 4.46% more petitions than reported to the state. This is likely because, after the amendment qualified, the Division of Elections ceased updating the online portal, though counties may have continued to process the petitions submitted by the campaign.²⁴⁴

²⁴² Code: `figs_tbls/a4_campaign/petitions/validation/compare_n_to_reported_total`

²⁴³ That data is available here: <https://dos.elections.myflorida.com/initiatives/initdetail.asp?account=64388&seqnum=1>.

²⁴⁴ See, e.g., E-mail from Ray Bolden, Candidate and VBM Coordinator, Okaloosa County Supervisor of Elections, to Michael Morse (Feb. 25, 2019) (on file with author) (explaining a discrepancy between by noting that counties cannot “post results directly to the state site. . . . Instead we have to mail letters to the Division of Elections and they post the results.”).

Table A.13: Petition Collection Validation

| County | Number of Petitions | | Difference | |
|---------------------|---------------------|----------|------------|--------|
| | Collected | Reported | Total | % |
| Total | 880,378 | 842,796 | 37,582 | 4.46 |
| Alachua | 23,197 | 23,197 | 0 | 0.00 |
| Baker | 370 | 370 | 0 | 0.00 |
| Bay | 7,097 | 6,692 | 405 | 6.05 |
| Bradford | 818 | 776 | 42 | 5.41 |
| Brevard | 19,831 | 18,655 | 1,176 | 6.30 |
| Broward | 107,489 | 102,704 | 4,785 | 4.66 |
| Calhoun | 145 | 145 | 0 | 0.00 |
| Charlotte | 8,612 | 8,487 | 125 | 1.47 |
| Citrus | 3,381 | 3,273 | 108 | 3.30 |
| Clay | 4,796 | 4,603 | 193 | 4.19 |
| Collier | 3,567 | 3,100 | 467 | 15.06 |
| Columbia | 2,207 | 2,090 | 117 | 5.60 |
| DeSoto | 76 | 324 | -248 | -76.54 |
| Dixie | 92 | 92 | 0 | 0.00 |
| Duval | 47,335 | 44,468 | 2,867 | 6.45 |
| Escambia | 10,325 | 8,822 | 1,503 | 17.04 |
| Flagler | 8,246 | 8,178 | 68 | 0.83 |
| Franklin | 378 | 360 | 18 | 5.00 |
| Gadsden | 3,813 | 3,259 | 554 | 17.00 |
| Gilchrist | 246 | 246 | 0 | 0.00 |
| Glades | 48 | 48 | 0 | 0.00 |
| Gulf | 303 | 303 | 0 | 0.00 |
| Hamilton | 148 | 148 | 0 | 0.00 |
| Hardee | 113 | 113 | 0 | 0.00 |
| Hendry | 241 | 374 | -133 | -35.56 |
| Hernando | 5,294 | 5,178 | 116 | 2.24 |
| Highlands | 1,059 | 886 | 173 | 19.53 |
| Hillsborough | 72,962 | 69,745 | 3,217 | 4.61 |
| Holmes | 62 | 62 | 0 | 0.00 |
| Indian River | 3,364 | 2,236 | 1,128 | 50.45 |
| Jackson | 380 | 380 | 0 | 0.00 |
| Jefferson | 655 | 576 | 79 | 13.72 |
| Lafayette | 50 | 50 | 0 | 0.00 |
| Lake | 9,169 | 8,167 | 1,002 | 12.27 |
| Lee | 19,310 | 20,055 | -745 | -3.71 |
| Leon | 27,596 | 24,316 | 3,280 | 13.49 |
| Levy | 788 | 736 | 52 | 7.07 |
| Liberty | 65 | 99 | -34 | -34.34 |
| Madison | 797 | 629 | 168 | 26.71 |
| Manatee | 7,370 | 6,833 | 537 | 7.86 |
| Marion | 12,646 | 11,948 | 698 | 5.84 |
| Martin | 3,728 | 3,365 | 363 | 10.79 |
| Miami Dade | 90,443 | 82,534 | 7,909 | 9.58 |
| Monroe | 1,767 | 1,792 | -25 | -1.40 |
| Nassau | 1,402 | 1,296 | 106 | 8.18 |
| Okaloosa | 353 | 1,261 | -908 | -72.01 |
| Okeechobee | 268 | 268 | 0 | 0.00 |
| Orange | 50,273 | 52,351 | -2,078 | -3.97 |
| Osceola | 19,995 | 19,845 | 150 | 0.76 |
| Palm Beach | 62,755 | 55,804 | 6,951 | 12.46 |
| Pasco | 26,607 | 26,308 | 299 | 1.14 |
| Pinellas | 69,223 | 67,910 | 1,313 | 1.93 |
| Polk | 29,062 | 27,617 | 1,445 | 5.23 |
| Putnam | 3,080 | 3,031 | 49 | 1.62 |
| Santa Rosa | 1,837 | 1,642 | 195 | 11.88 |
| Sarasota | 15,427 | 15,427 | 0 | 0.00 |
| Seminole | 26,530 | 26,996 | -466 | -1.73 |
| St Johns | 8,182 | 7,773 | 409 | 5.26 |
| St Lucie | 16,879 | 15,761 | 1,118 | 7.09 |
| Sumter | 2,564 | 2,265 | 299 | 13.20 |
| Suwannee | NA | 389 | NA | |
| Taylor | 216 | 216 | 0 | 0.00 |
| Union | 270 | 270 | 0 | 0.00 |
| Volusia | 33,405 | 34,382 | -977 | -2.84 |
| Wakulla | 1,017 | 1,017 | 0 | 0.00 |
| Walton | 367 | 329 | 38 | 11.55 |
| Washington | 287 | 224 | 63 | 28.12 |

4. Combining Petition Data with Voter File Demographics

I matched each petition by voter registration number to a copy of the statewide voter file to gather additional demographics on these registered voters, including their race. Table A.14²⁴⁵ shows that I matched 99.1% of petitions with the latest voter file prior to the 2018 general election. A few registered voters though who had signed a petition were no longer on the voter file by October 2018. I matched 0.75% of petitions to a 2017 voter file, and 0.08% to a 2015 voter file. In total, I failed to match 251 petitions to any voter file, or .03%. For these petitions, I do not know the race or party of the registered voter.

²⁴⁵ Code: `figs_tbls/a4_campaign/petitions/validation/match_to_vf`

Table A.14: Identifying Registration of Petitioners

| County | Sequential Voter File Match | | | |
|--------------|-----------------------------|-------------------|------------------|------------------|
| | 2018 | 2017 | 2015 | None |
| Alachua | 23,015 | 114 | 11 | 7 |
| Baker | 364 | 5 | 0 | 0 |
| Bay | 7,010 | 70 | 2 | 4 |
| Bradford | 814 | 3 | 0 | 0 |
| Brevard | 19,541 | 236 | 24 | 4 |
| Broward | 106,293 | 823 | 130 | 34 |
| Calhoun | 143 | 2 | 0 | 0 |
| Charlotte | 8,504 | 91 | 4 | 6 |
| Citrus | 3,323 | 47 | 2 | 2 |
| Clay | 4,737 | 43 | 1 | 3 |
| Collier | 3,507 | 36 | 17 | 2 |
| Columbia | 2,191 | 13 | 2 | 1 |
| DeSoto | 76 | 0 | 0 | 0 |
| Dixie | 91 | 1 | 0 | 0 |
| Duval | 46,830 | 395 | 41 | 12 |
| Escambia | 10,155 | 124 | 27 | 2 |
| Flagler | 8,151 | 78 | 1 | 10 |
| Franklin | 378 | 0 | 0 | 0 |
| Gadsden | 3,770 | 28 | 6 | 0 |
| Gilchrist | 244 | 1 | 0 | 0 |
| Glades | 47 | 1 | 0 | 0 |
| Gulf | 302 | 0 | 1 | 0 |
| Hamilton | 148 | 0 | 0 | 0 |
| Hardee | 112 | 1 | 0 | 0 |
| Hendry | 237 | 3 | 1 | 0 |
| Hernando | 5,235 | 51 | 3 | 0 |
| Highlands | 877 | 7 | 1 | 1 |
| Hillsborough | 72,156 | 586 | 55 | 27 |
| Holmes | 62 | 0 | 0 | 0 |
| Indian River | 3,297 | 41 | 13 | 1 |
| Jackson | 377 | 3 | 0 | 0 |
| Jefferson | 651 | 4 | 0 | 0 |
| Lafayette | 50 | 0 | 0 | 0 |
| Lake | 9,040 | 81 | 22 | 2 |
| Lee | 19,030 | 252 | 4 | 8 |
| Leon | 27,225 | 199 | 39 | 11 |
| Levy | 780 | 6 | 1 | 0 |
| Liberty | 63 | 2 | 0 | 0 |
| Madison | 786 | 7 | 1 | 0 |
| Manatee | 7,256 | 82 | 13 | 2 |
| Marion | 12,511 | 100 | 13 | 3 |
| Martin | 3,658 | 41 | 11 | 1 |
| Miami Dade | 89,401 | 670 | 156 | 19 |
| Monroe | 1,734 | 31 | 0 | 0 |
| Nassau | 1,369 | 25 | 3 | 1 |
| Okaloosa | 337 | 10 | 3 | 0 |
| Okeechobee | 267 | 1 | 0 | 0 |
| Orange | 50,195 | 2 | 0 | 0 |
| Osceola | 19,841 | 133 | 2 | 5 |
| Palm Beach | 56,649 | 21 | 0 | 13 |
| Pasco | 26,316 | 237 | 3 | 11 |
| Pinellas | 68,299 | 825 | 24 | 14 |
| Polk | 28,710 | 283 | 26 | 12 |
| Putnam | 3,048 | 22 | 0 | 4 |
| Santa Rosa | 1,824 | 7 | 3 | 0 |
| Sarasota | 15,413 | 2 | 0 | 0 |
| Seminole | 26,250 | 194 | 21 | 3 |
| St. Johns | 8,076 | 85 | 5 | 2 |
| St. Lucie | 16,694 | 133 | 19 | 6 |
| Sumter | 2,515 | 33 | 8 | 1 |
| Suwannee | 526 | 3 | 1 | 0 |
| Taylor | 215 | 1 | 0 | 0 |
| Union | 265 | 5 | 0 | 0 |
| Volusia | 33,063 | 258 | 12 | 14 |
| Wakulla | 1,012 | 3 | 0 | 0 |
| Walton | 360 | 5 | 1 | 0 |
| Washington | 285 | 0 | 0 | 0 |
| Total | 865,701 (99.1%) | 6,566 (0.752%) | 733 (0.0839%) | 248 (0.0284%) |

5. Constructing Precinct-Level Demographics

a. Racial and Age Demographics Using Statewide Voter File

I used an October 2018 copy of the statewide voter registration file, the latest before the November 2018 election, to compute precinct-level racial and age demographics using registrants' listed race and date of birth. Of the 14,081,632 registrations in the file, I dropped the 62,887 which were exempt from public records disclosure and thus did not list a precinct.²⁴⁶ I appended turnout in the November 2018 election to the voter registration list using a January 2019 copy of the statewide voter history file, the first since the election.

For each precinct, I calculated the percent of registrants and voters who were black as well as the percent of registrants and voters who were between the ages of 18-34, 45-64, and 65 and over as of March 12, 2019.

b. Racial and Class Demographics Using American Community Survey

I used the 2017 5-year estimates of the American Community Survey (ACS) to compute additional precinct-level racial and class demographics based on the number of black residents and mean household income per Census block group. In order to transform the data from the block-level to the precinct-level, I did the following:²⁴⁷

- (a) I first geo-coded the statewide voter file using geocod.io to identify the block-group of each registrant. I kept the 90.77% of registrations that were geo-coded with the highest accuracy score of 1 and the highest accuracy type of "rooftop."
- (b) I aggregated the voter file to the county-precinct-tract-block-group-level and calculated the number of registrants in each county-precinct-tract-block.
- (c) For each county-tract-block, I calculated the percentage of registrants in each of the overlapping precincts.
- (d) I joined the block-level data to the aggregate counts by county, tract, and block group. By design, the resulting dataset repeated each block-level observation for each overlapping precinct.
- (e) To transform a mean from the block-level to the precinct-level, I calculated the weighted average of the block-level value by the number of registrants in the overlapping precincts.

To transform a sum from the block-level to the precinct-level, I first

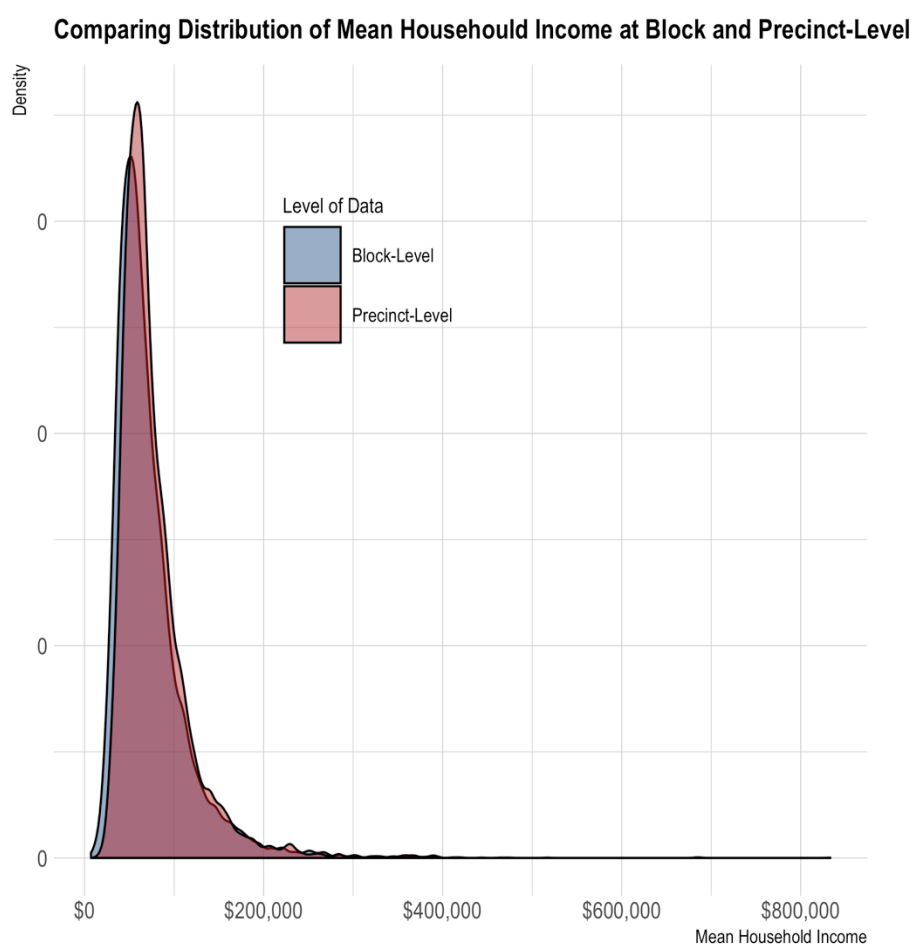
²⁴⁶ Code: `data/voter_file`.

²⁴⁷ Code: `A4tools::get_precinct_data_from_block_group_data`.

disaggregated the block-level sum to the block-precinct level. I did this by multiplying the block-level sum by the percentage of registrants in each of the overlapping precincts. I then aggregated the data from the block-precinct level to the precinct-level. Because each precinct could overlap with multiple blocks, I summed the block-precinct value within each precinct.

As a validation, Figure A.16²⁴⁸ shows that the distribution of mean household income from the original block-level to the transformed precinct-level is very similar.

Figure A.16: Block-to-Precinct Validation

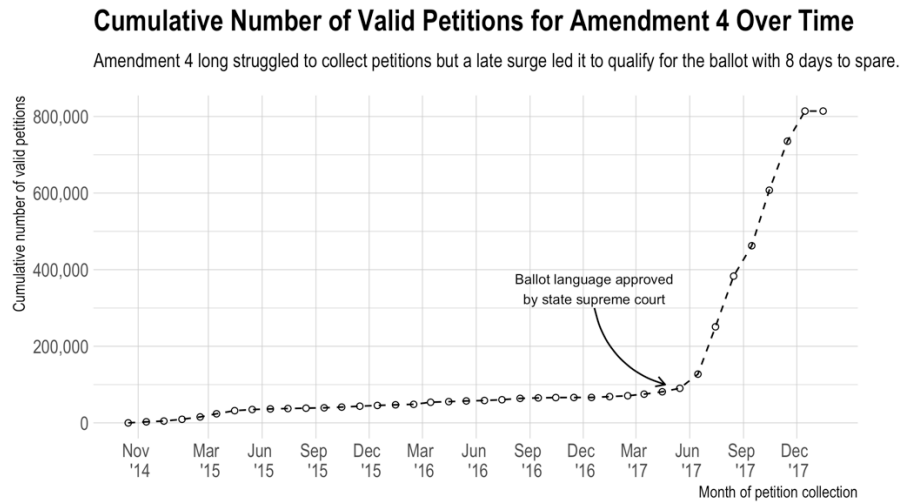


²⁴⁸ Code: `figs_tbls/other_meta/block2precinct_validation`.

6. Supplemental Petition Results

Figure A.17²⁴⁹ uses the petition data to depict the cumulative number of valid petitions collected by the campaign per month. It reveals that there were essentially two different petition drives for Amendment 4, with little progress for three years followed by a sudden surge beginning in the summer of the 2017.

Figure A.17: Cumulative Petitions by Month



C. Ballots

1. Data Collection

Most states, including Florida, make election results readily available online. These summaries report how many votes each candidate or amendment received—either at the precinct-level, the county-level, or statewide. This format makes sense given the job of election administrators to certify the results of each contest. In recent years, though, it has become possible for election administrators to electronically preserve the raw, ballot-level data when tallying each ballot cast. By definition, the raw data can be aggregated to verify the reported number of votes in each contest.

I sent an initial letter on November 21, 2018 to the supervisor of elections of each county making a public information request for ballot-level data from

²⁴⁹ Code: `figs_tbls/a4_campaign/petitions/fig_cumulative_over_time`.

the November 2018 election. I ultimately revised my initial request after helpful conversations with local election administrators.

In general, the availability and quality of ballot-level data depended on the vendor each county used to run its elections. Table A.15²⁵⁰ details the status of my data collection effort. Columns 1 and 2 list the county and latest census population. Column 3 reveals that I ultimately was able to collect data for 59 of Florida's 67 counties, though in Miami-Dade I only collected a sample. In Calhoun, Franklin, Glades, Jefferson, Lee, and Palm Beach counties, the supervisors of election were not able to generate the necessary data, though for varying reasons. For example, both Glades and Jefferson use election software called AccuVote which could not output ballot-level data, while Palm Beach used paper ballots and only had ballots available for manual inspection. Column 4 reports whether I was able to include the initial data collected in my baseline analysis. Of the 59 counties where I successfully collected data, I was only able to include 51, primarily because some counties could only provide literal images of each ballot.

Note as of July 2, 2020: Table A.15 is in the process of being slightly updated.

²⁵⁰ Code: `figs_tbls/a4_support/meta/ballot_records_available`

Table A.15: Ballot Collection

| County | Population | Obtained Ballot Records? | Included in Analysis? | |
|--------------|------------|--------------------------------|------------------------------------|-------------------------|
| | | | Overall Analysis | Precinct-Level Analysis |
| Alachua | 247,336 | Yes | Yes | Yes |
| Baker | 27,115 | Yes | No – ballot images to be processed | — |
| Bay | 168,852 | Yes | Yes | Yes |
| Bradford | 28,520 | Yes | Yes | Yes |
| Brevard | 543,376 | Yes | Yes | Yes |
| Broward | 1,748,066 | Yes | No – multi-page ballot | — |
| Calhoun | 14,625 | No – not able to generate | — | Yes |
| Charlotte | 159,978 | Yes | Yes | Yes |
| Citrus | 141,236 | Yes | Yes | Yes |
| Clay | 190,865 | Yes | Yes | Yes |
| Collier | 321,520 | Yes | Yes | Yes |
| Columbia | 67,531 | Yes | No – processing | — |
| DeSoto | 34,862 | No – has not fulfilled request | — | No |
| Dixie | 16,422 | Yes | Yes | No |
| Duval | 864,263 | Yes | Yes | Yes |
| Escambia | 297,619 | Yes | Yes | Yes |
| Flagler | 95,696 | Yes | Yes | Yes |
| Franklin | 11,549 | No – not able to generate | — | Yes |
| Gadsden | 46,389 | Yes | Yes | Yes |
| Gilchrist | 16,939 | Yes | No – ballot images to be processed | — |
| Glades | 12,884 | No – not able to generate | — | Yes |
| Gulf | 15,863 | Yes | Yes | Yes |
| Hamilton | 14,799 | Yes | Yes | Yes |
| Hardee | 27,731 | No – has not fulfilled request | Yes | Yes |
| Hendry | 39,140 | Yes | Yes | Yes |
| Hernando | 172,778 | Yes | No – ballot images to be processed | — |
| Highlands | 98,786 | Yes | Yes | Yes |
| Hillsborough | 1,229,226 | Yes | Yes | Yes |
| Holmes | 19,927 | Yes | Yes | Yes |
| Indian River | 138,028 | Yes | Yes | Yes |
| Jackson | 49,746 | Yes | Yes | Yes |
| Jefferson | 14,761 | No – not able to generate | — | Yes |
| Lafayette | 8,870 | Yes | Yes | Yes |
| Lake | 297,052 | Yes | Yes | Yes |
| Lee | 618,754 | No – not able to generate | — | Yes |
| Leon | 275,487 | Yes | Yes | No |
| Levy | 40,801 | Yes | Yes | Yes |
| Liberty | 8,365 | Yes | No – ballot images to be processed | — |
| Madison | 19,224 | Yes | Yes | No |
| Manatee | 322,833 | Yes | Yes | Yes |
| Marion | 331,298 | Yes | Yes | Yes |
| Martin | 146,318 | Yes | Yes | Yes |
| Miami-Dade | 2,496,435 | Yes (sample) | No – ballot images to be processed | — |
| Monroe | 73,090 | Yes | Yes | No |
| Nassau | 73,314 | Yes | Yes | Yes |
| Okaloosa | 180,822 | Yes | Yes | Yes |
| Okeechobee | 39,996 | Yes | Yes | No |
| Orange | 1,145,956 | Yes | Yes | Yes |
| Osceola | 268,685 | Yes | Yes | Yes |
| Palm Beach | 1,320,134 | No – not able to generate | — | Yes |
| Pasco | 464,697 | Yes | Yes | Yes |
| Pinellas | 916,542 | Yes | Yes | Yes |
| Polk | 602,095 | Yes | Yes | Yes |
| Putnam | 74,364 | Yes | Yes | No |
| Santa Rosa | 151,372 | Yes | Yes | Yes |
| Sarasota | 379,448 | Yes | Yes | Yes |
| Seminole | 422,718 | Yes | Yes | Yes |
| St. Johns | 190,039 | Yes | Yes | Yes |
| St. Lucie | 277,789 | Yes | No – ballot images to be processed | — |
| Sumter | 93,420 | Yes | Yes | Yes |
| Suwannee | 41,551 | Yes | Yes | Yes |
| Taylor | 22,570 | Yes | Yes | No |
| Union | 15,535 | Yes | Yes | Yes |
| Volusia | 494,593 | Yes | Yes | Yes |
| Wakulla | 30,776 | Yes | Yes | Yes |
| Walton | 55,043 | Yes | Yes | Yes |
| Washington | 24,896 | Yes | Yes | Yes |

2. Data Coverage

The exact data provided depended on the vendor the county used for vote tabulation. For example, counties that used Dominion as their vendor rather than ES&S could not provide the precinct in which each ballot was cast, while counties that used ES&S could not link the first and second pages of a ballot with the third and fourth pages. Table A.16²⁵¹ reports the number of ballots for which I can observe both the statewide races (e.g. governor) and Amendment 4. In general, I can observe both races for about 5 million ballots. Broward County is the largest county where a long ballot means that I cannot observe both races.

²⁵¹ Code: `figs_tbls/a4_support/meta/ballot_records_coverage`.

Table A.16: Ballots with Partisanship

| County | Precinct Available? | Governor and A4 on same ballot page? | | |
|--------------|---------------------|--------------------------------------|-----------|--------|
| | | Yes | No | % Same |
| Alachua | No | 84,321 | 0 | 100% |
| Bay | Yes | 63,888 | 0 | 100% |
| Bradford | Yes | 10,594 | 0 | 100% |
| Brevard | Yes | 284,252 | 0 | 100% |
| Broward | No | 0 | 2,139,539 | 0% |
| Charlotte | Yes | 88,909 | 0 | 100% |
| Citrus | Yes | 71,492 | 0 | 100% |
| Clay | Yes | 73,778 | 0 | 100% |
| Collier | Yes | 78,431 | 19,121 | 80% |
| Dixie | Yes | 5,856 | 0 | 100% |
| Duval | Yes | 346,596 | 0 | 100% |
| Escambia | Yes | 130,405 | 0 | 100% |
| Flagler | Yes | 53,311 | 0 | 100% |
| Gadsden | Yes | 20,158 | 0 | 100% |
| Gilchrist | No | 7,421 | 0 | 100% |
| Gulf | Yes | 5,942 | 0 | 100% |
| Hamilton | Yes | 4,590 | 0 | 100% |
| Hendry | Yes | 8,964 | 0 | 100% |
| Highlands | Yes | 40,172 | 0 | 100% |
| Hillsborough | Yes | 523,943 | 521,637 | 50% |
| Holmes | Yes | 6,839 | 0 | 100% |
| Indian River | Yes | 74,999 | 0 | 100% |
| Jackson | Yes | 16,109 | 0 | 100% |
| Lafayette | Yes | 2,830 | 0 | 100% |
| Lake | Yes | 156,348 | 156,061 | 50% |
| Leon | No | 141,111 | 0 | 100% |
| Levy | No | 17,208 | 0 | 100% |
| Madison | No | 6,477 | 0 | 100% |
| Manatee | Yes | 164,885 | 0 | 100% |
| Marion | Yes | 154,475 | 0 | 100% |
| Martin | Yes | 78,584 | 0 | 100% |
| Monroe | No | 23,486 | 0 | 100% |
| Nassau | Yes | 43,761 | 0 | 100% |
| Okaloosa | Yes | 84,602 | 0 | 100% |
| Okeechobee | No | 11,360 | 0 | 100% |
| Orange | Yes | 480,919 | 479,168 | 50% |
| Osceola | Yes | 116,111 | 115,536 | 50% |
| Pasco | Yes | 19,988 | 0 | 100% |
| Pinellas | Yes | 437,865 | 435,252 | 50% |
| Polk | Yes | 247,043 | 0 | 100% |
| Putnam | No | 23,063 | 0 | 100% |
| Santa Rosa | Yes | 55,654 | 0 | 100% |
| Sarasota | Yes | 213,220 | 0 | 100% |
| Seminole | Yes | 67,659 | 67,621 | 50% |
| St. Johns | Yes | 131,589 | 0 | 100% |
| Sumter | Yes | 74,975 | 0 | 100% |
| Suwannee | Yes | 16,066 | 0 | 100% |
| Taylor | Yes | 8,000 | 0 | 100% |
| Union | Yes | 4,901 | 0 | 100% |
| Volusia | Yes | 231,945 | 0 | 100% |
| Wakulla | Yes | 14,309 | 0 | 100% |
| Walton | Yes | 30,579 | 0 | 100% |
| Washington | Yes | 9,129 | 0 | 100% |
| All Counties | No | 314,447 | 2,139,539 | 13% |
| | Yes | 4,754,665 | 1,794,396 | 73% |
| | Overall | 5,069,112 | 3,933,935 | 56% |

3. Data Validation

Regardless, Table A.17²⁵² validates the data collected by comparing the total number of votes cast in the ballot-level I collected with the aggregate data reported by the counties to the state.

²⁵² Code: `figs_tbls/a4_support/meta/ballot_records_validate`

Table A.17: Ballot Validation

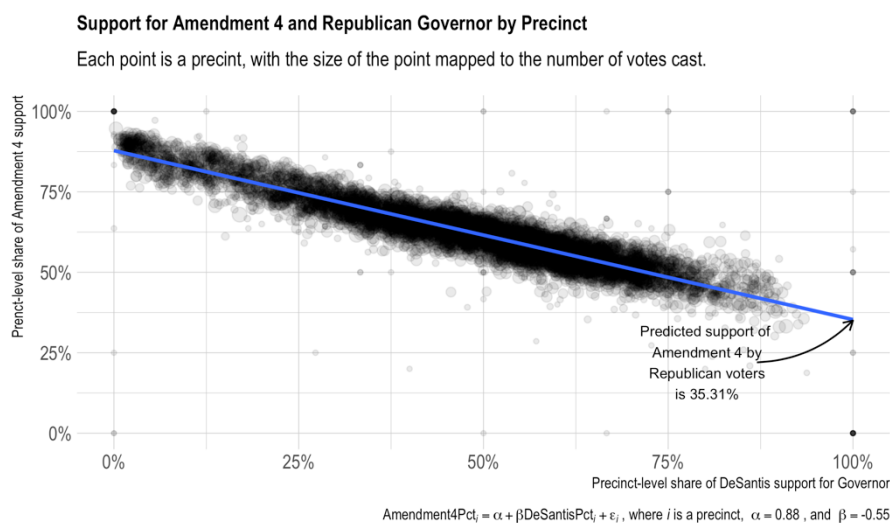
| | County | Amendment 4 | | | Senate | | | Governor | | |
|----|--------------|-------------|---------|----------|---------|---------|----------|----------|---------|----------|
| | | Ballot | State | Coverage | Ballot | State | Coverage | Ballot | State | Coverage |
| 1 | Alachua | 84,321 | 116,175 | 0.73 | 84,321 | 116,175 | 0.73 | 83,550 | 114,973 | 0.73 |
| 2 | Bay | 63,888 | 63,888 | 1.00 | 63,888 | 63,888 | 1.00 | 63,023 | 63,023 | 1.00 |
| 3 | Bradford | 10,594 | 10,594 | 1.00 | 10,594 | 10,594 | 1.00 | 10,458 | 10,458 | 1.00 |
| 4 | Brevard | 284,252 | 284,252 | 1.00 | 284,252 | 284,252 | 1.00 | 279,803 | 279,800 | 1.00 |
| 5 | Broward | 712,745 | 713,584 | 1.00 | 712,822 | 715,519 | 1.00 | 708,929 | 710,504 | 1.00 |
| 6 | Charlotte | 88,909 | 87,912 | 1.01 | 88,909 | 87,912 | 1.01 | 86,860 | 86,367 | 1.01 |
| 7 | Citrus | 71,492 | 71,492 | 1.00 | 71,492 | 71,521 | 1.00 | 69,520 | 69,522 | 1.00 |
| 8 | Clay | 73,778 | 94,068 | 0.78 | 73,778 | 94,068 | 0.78 | 73,141 | 93,137 | 0.79 |
| 9 | Collier | 78,431 | 156,904 | 0.50 | 97,552 | 157,037 | 0.62 | 96,699 | 155,432 | 0.62 |
| 10 | Dixie | 5,856 | 5,858 | 1.00 | 5,856 | 5,858 | 1.00 | 5,726 | 5,728 | 1.00 |
| 11 | Duval | 380,046 | 381,877 | 1.00 | 380,046 | 381,875 | 1.00 | 376,637 | 378,442 | 1.00 |
| 12 | Escambia | 130,405 | 130,405 | 1.00 | 130,405 | 130,405 | 1.00 | 128,593 | 128,593 | 1.00 |
| 13 | Flagler | 53,311 | 53,324 | 1.00 | 53,311 | 53,327 | 1.00 | 52,629 | 52,643 | 1.00 |
| 14 | Gadsden | 20,158 | 20,161 | 1.00 | 20,158 | 20,117 | 1.00 | 20,014 | 20,000 | 1.00 |
| 15 | Gilchrist | 7,421 | 7,421 | 1.00 | 7,421 | 7,422 | 1.00 | 7,312 | 7,312 | 1.00 |
| 16 | Gulf | 5,942 | 5,952 | 1.00 | 5,942 | 5,951 | 1.00 | 5,822 | 5,830 | 1.00 |
| 17 | Hamilton | 4,590 | 4,593 | 1.00 | 4,590 | 4,593 | 1.00 | 4,537 | 4,540 | 1.00 |
| 18 | Hendry | 8,964 | 8,971 | 1.00 | 8,964 | 8,972 | 1.00 | 8,785 | 8,792 | 1.00 |
| 19 | Highlands | 40,172 | 40,176 | 1.00 | 40,172 | 40,176 | 1.00 | 39,483 | 39,487 | 1.00 |
| 20 | Hillsborough | 523,943 | 527,294 | 0.99 | 523,943 | 527,294 | 0.99 | 517,567 | 520,866 | 0.99 |
| 21 | Holmes | 6,839 | 6,840 | 1.00 | 6,839 | 6,841 | 1.00 | 6,743 | 6,745 | 1.00 |
| 22 | Indian River | 74,999 | 74,999 | 1.00 | 74,999 | 74,999 | 1.00 | 74,132 | 74,132 | 1.00 |
| 23 | Jackson | 16,109 | 16,111 | 1.00 | 16,109 | 16,111 | 1.00 | 15,922 | 15,924 | 1.00 |
| 24 | Lafayette | 2,830 | 2,853 | 0.99 | 2,830 | 2,853 | 0.99 | 2,790 | 2,811 | 0.99 |
| 25 | Lake | 156,348 | 156,350 | 1.00 | 156,348 | 156,339 | 1.00 | 154,135 | 154,126 | 1.00 |
| 26 | Leon | 141,111 | 141,111 | 1.00 | 141,111 | 141,111 | 1.00 | 139,791 | 139,791 | 1.00 |
| 27 | Levy | 17,208 | 17,208 | 1.00 | 17,208 | 17,208 | 1.00 | 16,921 | 16,921 | 1.00 |
| 28 | Madison | 6,477 | 7,676 | 0.84 | 6,477 | 7,676 | 0.84 | 6,441 | 7,631 | 0.84 |
| 29 | Manatee | 164,885 | 164,885 | 1.00 | 164,885 | 164,885 | 1.00 | 162,415 | 162,415 | 1.00 |
| 30 | Marion | 154,475 | 156,307 | 0.99 | 154,475 | 156,307 | 0.99 | 151,938 | 153,745 | 0.99 |
| 31 | Martin | 78,584 | 78,591 | 1.00 | 78,584 | 78,591 | 1.00 | 77,814 | 77,821 | 1.00 |
| 32 | Monroe | 23,486 | 36,586 | 0.64 | 23,486 | 36,586 | 0.64 | 23,208 | 36,141 | 0.64 |
| 33 | Nassau | 43,761 | 43,808 | 1.00 | 43,761 | 43,808 | 1.00 | 43,372 | 43,418 | 1.00 |
| 34 | Okaloosa | 84,602 | 84,723 | 1.00 | 84,602 | 84,723 | 1.00 | 83,071 | 83,190 | 1.00 |
| 35 | Okeechobee | 11,360 | 11,360 | 1.00 | 11,360 | 11,360 | 1.00 | 11,157 | 11,157 | 1.00 |
| 36 | Orange | 480,919 | 479,351 | 1.00 | 480,919 | 479,351 | 1.00 | 475,668 | 474,117 | 1.00 |
| 37 | Osceola | 116,111 | 116,111 | 1.00 | 116,111 | 116,111 | 1.00 | 114,424 | 114,424 | 1.00 |
| 38 | Pasco | 211,460 | 213,431 | 0.99 | 211,471 | 213,442 | 0.99 | 207,692 | 209,631 | 0.99 |
| 39 | Pinellas | 437,865 | 439,590 | 1.00 | 437,865 | 439,590 | 1.00 | 431,104 | 432,798 | 1.00 |
| 40 | Polk | 247,043 | 247,295 | 1.00 | 247,043 | 247,295 | 1.00 | 243,401 | 243,652 | 1.00 |
| 41 | Putnam | 23,063 | 28,302 | 0.81 | 23,063 | 28,307 | 0.81 | 22,771 | 27,911 | 0.82 |
| 42 | Santa Rosa | 55,654 | 76,205 | 0.73 | 55,654 | 76,207 | 0.73 | 54,773 | 74,996 | 0.73 |
| 43 | Sarasota | 213,220 | 213,220 | 1.00 | 213,220 | 213,220 | 1.00 | 210,473 | 210,473 | 1.00 |
| 44 | Seminole | 200,980 | 201,025 | 1.00 | 200,980 | 201,025 | 1.00 | 198,588 | 198,633 | 1.00 |
| 45 | St. Johns | 131,589 | 131,696 | 1.00 | 131,589 | 131,695 | 1.00 | 130,459 | 130,564 | 1.00 |
| 46 | Sumter | 74,975 | 74,978 | 1.00 | 74,975 | 74,978 | 1.00 | 74,221 | 74,223 | 1.00 |
| 47 | Suwannee | 16,066 | 16,066 | 1.00 | 16,066 | 16,035 | 1.00 | 15,844 | 15,811 | 1.00 |
| 48 | Taylor | 8,000 | 8,000 | 1.00 | 8,000 | 8,000 | 1.00 | 7,878 | 7,878 | 1.00 |
| 49 | Union | 4,901 | 4,903 | 1.00 | 4,901 | 4,907 | 1.00 | 4,846 | 4,848 | 1.00 |
| 50 | Volusia | 231,945 | 231,004 | 1.00 | 231,945 | 231,004 | 1.00 | 228,474 | 227,542 | 1.00 |
| 51 | Wakulla | 14,309 | 14,309 | 1.00 | 14,309 | 14,311 | 1.00 | 14,085 | 14,087 | 1.00 |
| 52 | Walton | 30,579 | 30,579 | 1.00 | 30,579 | 30,579 | 1.00 | 30,192 | 30,192 | 1.00 |
| 53 | Washington | 9,129 | 9,134 | 1.00 | 9,129 | 9,134 | 1.00 | 8,963 | 8,968 | 1.00 |

4. Improvement Over Ecological Inference

Without ballot-level data, social scientists would need to instead make an ecological inference, using aggregate vote patterns at the precinct-level to estimate how individuals may have voted. A simple version of this approach is

visualized by Figure A.18²⁵³, below, which plots the share of support for Amendment 4 on the y-axis against the share of support for the Republican candidate for governor on the x-axis. Each point is a particular precinct. The pattern suggests that about 35%, rather than 40%, of individuals who voted for Republican Ron DeSantis for governor supported Amendment 4.

Figure A.18: Predicting Partisan Support with Ecological Inference



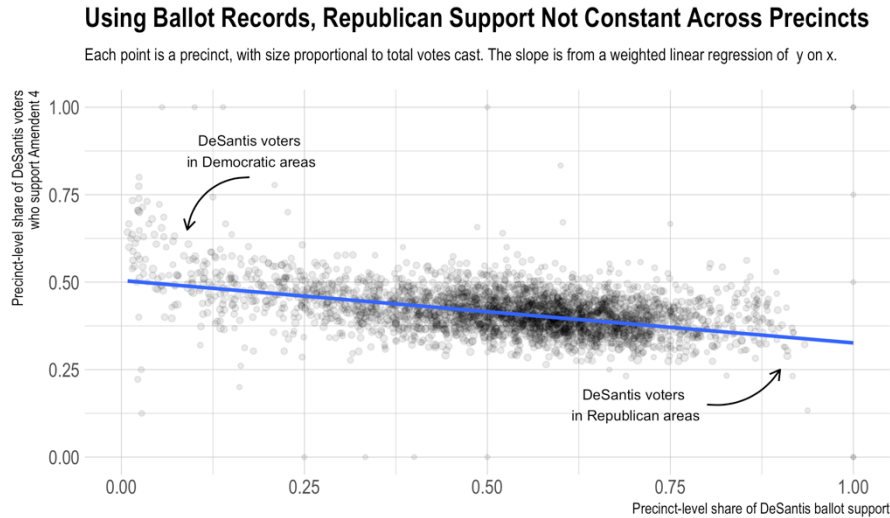
One reason that a simple ecological inference underestimates Republican support for Amendment 4 is that Republican voters behaved differently depending on the political context of their precinct. For example, Figure 25²⁵⁴, below, shows that Republican voters who lived in areas that were more Democratic were more supportive of Amendment 4 than those who lived in more Republican areas.

²⁵³ Code: `figs_tbls/a4_support/ecological_inference/predict_using_precinct_records`

²⁵⁴

Figure 25

Figure A.19: Testing the Ecological Inference



5. Supplementing Demographics with Criminal Justice Contact

I used the January 2019 copy of the Florida Department of Corrections inmate release file ($n = 514,454$) to calculate the percentage of people released from prison to each precinct. I took a similar approach as above. I first geo-coded the correctional data based on individual's listed address in their release plan. I dropped 2% of total releases that had no valid address ($n = 11,115$) and 12% of total releases that listed an address outside the state of Florida ($n = 58,915$). Among valid addresses in Florida, I kept 68% of remaining releases ($n = 301,501$) that were geo-coded with the highest accuracy score of 1 and the highest accuracy type of "rooftop." I counted the number of releases per county-tract-block and then applied the block-to-precinct transformation described above.

6. Supplemental Ballot Results

Table A.18²⁵⁵ calculates multiple measures of partisan support for Amendment 4, using either the contest for governor or the contest for senate to identify the partisanship of each voter. The main specification examines all

²⁵⁵ Code: `figs_tbls/a4_support/partisan_support/by_statewide`

ballots for which the vote for statewide contests and Amendment 4 were connected. However, it is possible that some votes for Amendment 4 were the result of people simply voting “Yes” or “No” on all amendments, without specifically considering Amendment 4. As a robustness check, the final two columns limit the ballots considered to those where the voter was more likely to be expressing a true preference on Amendment 4. The first robustness check limits the ballots to those in which there is at least one yes and at least one no vote on the amendments; the second limits the ballots to those in which there is at least one valid vote and one invalid vote. Regardless, partisan support for Amendment 4 is consistent across all specifications.

Table A.18: Multiple Measures of Partisan Support

| Ballots | Reference | A4 Vote | Support for Amendment 4 | | |
|---------|-----------|---------|---|---------------------------------------|--|
| | | | All Connected Ballots (N = 5,069,112) | Limited to Amendment Attention Check | |
| | | | | 1 Yes & 1 No votes (N = 4,163,268) | 1 Valid & 1 Invalid votes (N = 4,352,698) |
| D | Governor | Yes | 86.1% | 86.9% | 86.1% |
| R | Governor | Yes | 39.9% | 35.2% | 35.6% |
| D | Governor | No | 10.8% | 12.3% | 11.8% |
| R | Governor | No | 56.4% | 63.8% | 61.6% |
| D | Senator | Yes | 85.1% | 85.8% | 85.0% |
| R | Senator | Yes | 40.7% | 35.9% | 36.3% |
| D | Senator | No | 11.9% | 13.4% | 12.8% |
| R | Senator | No | 55.7% | 63.1% | 60.9% |

D. Correctional Records

The Florida Department of Corrections makes available individual-level information on all persons who have been released from state prison since October 1997. For each of the 386,627 observed releases, the data lists in relevant part an internal identification number, their full name, race, gender, date of birth, the start and end date of their sentence, and details about their adjudication, including whether their adjudication was withheld and whether their incarceration was for a misdemeanor.

In line with expectations that adjudication withheld is often used with probation, not prison, only 112 inmate releases have a reported status of adjudication withheld. Only one has a reported misdemeanor conviction.

I remove from the list of prison releases any person who is currently listed as being in state prison or on state supervision according to analogous Department of Corrections data produced in January 2019. By definition, no person listed in the inmate release data should also be in the current inmate data. In fact, one person was. The resulting dataset of ex-prisoners has 349,145 observations.

The Department has so far declined to make available analogous information on the individuals who have been released from state supervision,

most often probation.²⁵⁶ However, it previously provided such a file in mid-2015 in response to a request from the Project on Accountable Justice, which generously shared the data with me. For each of the 1,559,099 observed releases from supervision, the data lists the same information as in the prison release file described above, although the variable names can be different.

Regardless, the data do not cover the period from mid-2015 through 2018. To address this, I make use of alternative data that the Department does make available. Every few months, the Department posts a snapshot with similar individual-level information on persons who are on state supervision at the time of the report. I began to gather these snapshots in January 2013 and have a total of six snapshots, from January 2013, January 2015, June 2015, April 2017, October 2018, and January 2019, some of which were generously provided by Cyrus O'Brien. The snapshots have between 156,070 and 171,521 records each. Using these snapshots, I am able to determine the subpopulation of individuals who appeared in at least one probation snapshot before January 2019 but do not appear in the January 2019 data because they were previously released.

I combine the different supervision data and take the latest record available for each person. I then remove any person from my probation release data who also appears in my prison release data. In other words, I consider any person who ever served time in prison (and is not currently in prison or on probation) to be an ex-prisoner.

A substantial number of the 1,451,518 people I can observe being released from supervision have never lost their voting rights. In total, 767,802 persons have a status of adjudication withheld and 73,741 were convicted of a misdemeanor.²⁵⁷ The same caveat about measurement error discussed above applies here too, but for a different reason. The correctional data is much more comprehensive than the sentencing data, but the details it has on individuals' convictions are likely less accurate, for the simple reason that it is not central to the mission of the Department of Corrections to track the collateral consequences of a criminal conviction.

Between the data on ex-prisoners and ex-probationers, I have a total of about 1.8 million individual-level records of persons who may have been disenfranchised prior to Amendment 4. It is important to underscore that, by definition, this does not include any persons who were disenfranchised because of a felony in another state or for a violation of federal law. Beyond this, the number is reasonably in line with previous estimates of the size of the

²⁵⁶ See E-Mail from Kristine Dougherty, Operations and Management Consultant Manager, Bureau of Research and Data Analysis, Florida Department of Corrections, to Michael Morse (Jun. 4, 2019) (on file with author).

²⁵⁷ This is in line with the Sentencing Project's report on felon disenfranchisement in Florida, which notes that "as much as 40 percent of the total probation population holds this 'adjudication withheld' status." See UGGEN, LARSON, & SHANNON, *supra* note 2, at 5 n.1.

population.²⁵⁸

E. Clemency Records

The Office of Executive Clemency currently takes the position that “no release of any clemency record is permissible absent the express permission of the Governor.”²⁵⁹ The current governor has declined to provide the names and dates of birth of persons who were granted clemency, during his term or the terms of prior governors.²⁶⁰ However, I began to gather information on the population of persons who have been granted clemency in 2011 and 2012, when the Office of Executive Clemency took a different legal position.²⁶¹

The data I obtained list each individual restored the right to vote through part of 2012, including their full name, race, gender, and date of birth, as well as the date and type of clemency. Although I am missing subsequent grants of clemency through 2018, there were only about 3,000 such grants, many fewer than the 374,370 records in my dataset.

For analysis of the party of registration of people with felony convictions, Table A.19²⁶² shows there are 151,535 records of people who were automatically restored the right to vote through Crist’s automatic restoration reform, consistent with official state reports. All records have a valid clemency date and a valid race. However, I dichotomize race into black and non-black because of concerns that the data inconsistently records too few people as Hispanic.

²⁵⁸ See Sarah K.S. Shannon et al., *The Growth, Scope, and Spatial Distribution of People with Felony Records in the United States, 1948-2010*, 54 *DEMOGRAPHY* 1795 (2017) (estimating Florida had an estimated 1,818,825 ex-felons in 2010, of which 307,655 people were considered ex-prisoners and 1,511,170 ex-probationers).

²⁵⁹ E-mail from Rana Wallace, General Counsel, Florida Commission on Offender Review, to Michael Morse (June 24, 2019) (on file with author).

²⁶⁰ See E-Mail from Rana Wallace, General Counsel, Florida Commission on Offender Review, to Michael Morse (Oct. 31, 2018) (on file with author).

²⁶¹ See E-Mail from Jane Tillman, Director, Communications & Legislative Affairs, Florida Parole Commission, to Michael Morse (Mar. 1, 2011) (on file with author).

²⁶² Code: `figs_tbls/crist_preferences/meta/descriptive_stats`.

Table A.19: Data Available for Crist Restorations

| Quantity | Number | Percent |
|----------------------|---------|---------|
| Overall Records | 151,535 | |
| Valid Date | 151,535 | 100.00% |
| Date During Crist | 151,527 | 99.99% |
| Valid Race | 151,535 | 100.00% |
| Black | 57,180 | 37.73% |
| White | 90,736 | 59.88% |
| Hispanic | 2,966 | 1.96% |
| Valid DOB | 151,532 | 99.99% |
| Valid First Name | 151,535 | 100.00% |
| Only First Initial | 163 | 0.11% |
| Valid Middle Initial | 93,042 | 61.40% |
| Valid Last Name | 151,535 | 100.00% |
| Only Last Initial | 0 | 0.00% |

I also used the full clemency data to determine whether any person in either the sentencing or correctional lists, separately, has been granted clemency, by matching the datasets together using first name, middle initial, last name, and date of birth, according to the matching process previously described. I then considered whether any person granted clemency has since recidivated and lost that clemency by comparing whether the latest clemency grant date is earlier than the start date of the matched sentencing or correctional record.

F. Matching Methodology

In general, I first remove any punctuation and standardize the case of names. After this pre-processing, I consider whether any clemency record exactly matches to a registration record, meaning they share the exact same first name, middle initial, and last name, in addition to date of birth. Because middle initials are often missing, I then consider whether any remaining clemency record which has the exact same first name, last name, and date of birth as a registration record also does not have an inconsistent middle initial. This allows a clemency record with a middle initial to be matched to a registration record without one. Finally, I consider whether any clemency record matches to a registration record once I standardize all first names to their root and account for potential typographical errors.

More specifically, given two lists with first name, middle initial, last name, and date of birth, I identify which records in the first list have a corresponding match in the second based on the following sequential rules.²⁶³

- (a) I first exactly match by first name, middle initial, last name, and date

²⁶³ Code: A4tools::my_match.

of birth. I consider two records with missing middle initials to be an exact match.

- (b) I then exactly match by first name, last name, and date of birth, and identify matched records where the middle initial is present in one record but not the other.
- (c) I next standardize the first names in both lists by transforming any nickname to its root name according to a third-party dataset called `pdNickname` compiled by Peacock Data. I only look for nicknames that are identified as short-form or diminutive nicknames in `pdNickname`. I also only consider transformations of nicknames to root names with the highest relationship quality scores (less than 5, on a scale of 1 to 100). It is possible for nicknames to map to multiple root names and it is possible for these multiple root names to be assigned the same quality score. In these cases, for each nickname I take the most common root name among all Florida registered voters with the same gender. Table A.20²⁶⁴, below, shows an example of the resulting dataset for the fifteen most popular root names. I then exactly match by standardized first name, middle initial, last name, and date of birth.
- (d) I exactly match by standardized first name, last name, and date of birth, and identify matched records where the middle initial is present in one record but not the other.
- (e) I next exactly match by middle initial, last name, date of birth, and gender, and identify matched records where the string distance between the first names is less than or equal to 2 using the optimal string alignment method implemented in the `stringdist` R package.
- (f) I finally exactly match by standardized first name, middle initial, and date of birth, and identify matched records where the string distance between last names is less than or equal to 1.

²⁶⁴ Code: `figs_tbls/examples/nickname_tbl`.

Table A.20: Standardization of Nicknames to Root Names

| | Nickname | Root Name | Gender |
|----|----------|-------------|--------|
| 1 | MICK | MICHAEL | M |
| 2 | MICKEY | MICHAEL | M |
| 3 | MIKE | MICHAEL | M |
| 4 | ROB | ROBERT | M |
| 5 | ROBBY | ROBERT | M |
| 6 | JOHNIE | JOHN | M |
| 7 | JOHNNIE | JOHN | M |
| 8 | JOHNNY | JOHN | M |
| 9 | JOHN | JOHN | M |
| 10 | JAMEY | JAMES | M |
| 11 | JAMIE | JAMES | M |
| 12 | JAY | JAMES | M |
| 13 | JAE | JAMES | M |
| 14 | JIMMIE | JAMES | M |
| 15 | JIMMY | JAMES | M |
| 16 | DAVE | DAVID | M |
| 17 | DAVEY | DAVID | M |
| 18 | WILL | WILLIAM | M |
| 19 | WILLIE | WILLIAM | M |
| 20 | RICH | RICHARD | M |
| 21 | RICHIE | RICHARD | M |
| 22 | RICK | RICHARD | M |
| 23 | RICKY | RICHARD | M |
| 24 | MAE | MARY | F |
| 25 | MAMIE | MARY | F |
| 26 | MARIANNE | MARY | F |
| 27 | MARIEL | MARY | F |
| 28 | MARION | MARY | F |
| 29 | MAY | MARY | F |
| 30 | MAYME | MARY | F |
| 31 | MARINDA | MARY | F |
| 32 | MOLLIE | MARY | F |
| 33 | MOLLY | MARY | F |
| 34 | MARIA | MARIA | F |
| 35 | JODY | JOSEPH | M |
| 36 | JOE | JOSEPH | M |
| 37 | JOEY | JOSEPH | M |
| 38 | TOM | THOMAS | M |
| 39 | TOMMY | THOMAS | M |
| 40 | TOMMIE | THOMAS | M |
| 41 | PAT | PATRICIA | F |
| 42 | PATSY | PATRICIA | F |
| 43 | PATTY | PATRICIA | F |
| 44 | CHRIS | CHRISTOPHER | M |
| 45 | CHRIST | CHRISTOPHER | M |
| 46 | JENNIE | JENNIFER | F |
| 47 | JENNY | JENNIFER | F |
| 48 | JENNI | JENNIFER | F |
| 49 | DAN | DANIEL | M |
| 50 | DANNY | DANIEL | M |

G. Methodology for Predicting NPA Preferences

Table A.21 details the breakdown in Amendment 4 registrations and Crist registrations by race and party affiliation.

Table A.21: Registrations by County, Race, and Party

| | County | Initial Amendment 4 Registrations | | | | | | Crist Registrations To Date | | | | | |
|----|--------|-----------------------------------|-------|-----|-----------|-------|-------|-----------------------------|--------|-------|-----------|--------|--------|
| | | Black | | | Not Black | | | Black | | | Not Black | | |
| | | NPA | D | R | NPA | D | R | NPA | D | R | NPA | D | R |
| 1 | ALA | 33 | 160 | 2 | 23 | 44 | 45 | 391 | 2,244 | 78 | 772 | 980 | 973 |
| 2 | BAK | 2 | 8 | 0 | 5 | 1 | 5 | 13 | 111 | 4 | 62 | 175 | 232 |
| 3 | BAY | 13 | 37 | 4 | 25 | 13 | 43 | 125 | 616 | 36 | 732 | 611 | 1,359 |
| 4 | BRA | 2 | 11 | 0 | 2 | 1 | 15 | 25 | 189 | 9 | 129 | 190 | 278 |
| 5 | BRE | 30 | 92 | 5 | 82 | 60 | 120 | 413 | 1,872 | 94 | 2,752 | 2,477 | 3,681 |
| 6 | BRO | 52 | 296 | 17 | 122 | 162 | 105 | 2,430 | 12,540 | 485 | 6,052 | 7,774 | 5,675 |
| 7 | CAL | 1 | 4 | 0 | 2 | 0 | 5 | 8 | 64 | 2 | 64 | 177 | 95 |
| 8 | CHA | 5 | 7 | 1 | 34 | 14 | 45 | 65 | 166 | 13 | 835 | 693 | 944 |
| 9 | CIT | 6 | 8 | 1 | 29 | 24 | 48 | 35 | 90 | 15 | 819 | 744 | 1,226 |
| 10 | CLA | 3 | 21 | 3 | 19 | 11 | 44 | 120 | 379 | 40 | 766 | 477 | 1,816 |
| 11 | CLL | 1 | 8 | 2 | 22 | 13 | 34 | 65 | 172 | 18 | 673 | 548 | 958 |
| 12 | CLM | 3 | 41 | 0 | 11 | 9 | 20 | 67 | 455 | 12 | 291 | 355 | 548 |
| 13 | DAD | 83 | 518 | 16 | 93 | 99 | 105 | 1,846 | 10,895 | 432 | 5,063 | 5,174 | 5,110 |
| 14 | DES | 0 | 2 | 0 | 2 | 5 | 0 | 24 | 146 | 5 | 136 | 194 | 176 |
| 15 | DIX | 0 | 4 | 0 | 2 | 3 | 9 | 8 | 53 | 5 | 110 | 209 | 177 |
| 16 | DUV | 106 | 591 | 33 | 82 | 82 | 175 | 1,330 | 9,022 | 348 | 2,356 | 2,187 | 4,619 |
| 17 | ESC | 30 | 116 | 6 | 44 | 25 | 55 | 523 | 3,094 | 135 | 1,207 | 1,219 | 2,356 |
| 18 | FLA | 4 | 19 | 1 | 11 | 8 | 18 | 78 | 273 | 23 | 465 | 362 | 570 |
| 19 | FRA | 0 | 13 | 0 | 4 | 0 | 4 | 2 | 66 | 1 | 39 | 155 | 66 |
| 20 | GAD | 11 | 77 | 1 | 2 | 3 | 2 | 111 | 1,424 | 31 | 64 | 154 | 146 |
| 21 | GIL | 0 | 1 | 0 | 2 | 6 | 5 | 3 | 19 | 1 | 83 | 155 | 233 |
| 22 | GLA | 1 | 1 | 0 | 4 | 2 | 5 | 1 | 26 | 4 | 42 | 73 | 87 |
| 23 | GUL | 3 | 6 | 0 | 2 | 1 | 1 | 10 | 78 | 2 | 38 | 145 | 121 |
| 24 | HAM | 1 | 4 | 1 | 0 | 1 | 5 | 22 | 165 | 8 | 43 | 112 | 102 |
| 25 | HAR | 0 | 3 | 0 | 4 | 2 | 6 | 12 | 55 | 2 | 98 | 120 | 167 |
| 26 | HEN | 1 | 10 | 0 | 1 | 4 | 7 | 19 | 175 | 8 | 120 | 176 | 164 |
| 27 | HER | 2 | 12 | 1 | 38 | 35 | 66 | 60 | 287 | 29 | 1,111 | 1,043 | 1,383 |
| 28 | HIG | 3 | 14 | 0 | 7 | 18 | 18 | 58 | 333 | 15 | 358 | 370 | 544 |
| 29 | HIL | 126 | 475 | 21 | 149 | 175 | 193 | 1,944 | 8,922 | 404 | 5,667 | 5,790 | 5,800 |
| 30 | HOL | 0 | 5 | 0 | 1 | 3 | 9 | 0 | 19 | 3 | 71 | 133 | 195 |
| 31 | IND | 6 | 37 | 2 | 12 | 12 | 24 | 98 | 469 | 26 | 675 | 529 | 916 |
| 32 | JAC | 0 | 13 | 0 | 4 | 1 | 12 | 29 | 363 | 13 | 132 | 279 | 289 |
| 33 | JEF | 3 | 9 | 0 | 0 | 3 | 4 | 20 | 201 | 4 | 34 | 77 | 85 |
| 34 | LAF | 0 | 0 | 0 | 0 | 0 | 4 | 3 | 17 | 0 | 7 | 79 | 62 |
| 35 | LAK | 9 | 41 | 2 | 24 | 29 | 49 | 145 | 791 | 63 | 1,110 | 1,027 | 1,810 |
| 36 | LEE | 39 | 78 | 3 | 58 | 38 | 72 | 308 | 979 | 58 | 1,948 | 1,420 | 2,190 |
| 37 | LEO | 42 | 209 | 9 | 18 | 21 | 39 | 558 | 3,317 | 104 | 648 | 972 | 980 |
| 38 | LEV | 1 | 10 | 0 | 14 | 7 | 15 | 28 | 194 | 10 | 237 | 301 | 495 |
| 39 | LIB | 0 | 0 | 1 | 2 | 7 | 5 | 5 | 34 | 1 | 18 | 159 | 52 |
| 40 | MAD | 0 | 7 | 0 | 1 | 0 | 5 | 15 | 324 | 10 | 39 | 98 | 88 |
| 41 | MAN | 18 | 79 | 1 | 38 | 27 | 58 | 237 | 1,109 | 47 | 1,296 | 1,182 | 1,819 |
| 42 | MON | 0 | 5 | 1 | 9 | 11 | 13 | 31 | 118 | 5 | 445 | 423 | 487 |
| 43 | MRN | 10 | 98 | 2 | 31 | 31 | 97 | 222 | 1,414 | 70 | 1,427 | 1,419 | 2,432 |
| 44 | MRT | 6 | 26 | 1 | 22 | 9 | 42 | 54 | 225 | 26 | 625 | 546 | 938 |
| 45 | NAS | 3 | 9 | 0 | 8 | 5 | 14 | 32 | 189 | 11 | 313 | 313 | 734 |
| 46 | OKA | 5 | 10 | 0 | 16 | 11 | 34 | 114 | 354 | 35 | 665 | 444 | 1,427 |
| 47 | OKE | 0 | 3 | 0 | 4 | 3 | 5 | 15 | 65 | 8 | 173 | 224 | 290 |
| 48 | ORA | 65 | 229 | 10 | 96 | 62 | 71 | 1,472 | 6,246 | 276 | 3,519 | 3,652 | 3,250 |
| 49 | OSC | 8 | 30 | 0 | 21 | 28 | 28 | 156 | 499 | 38 | 1,121 | 1,282 | 901 |
| 50 | PAL | 51 | 197 | 9 | 96 | 92 | 120 | 1,132 | 5,392 | 233 | 4,386 | 4,606 | 4,491 |
| 51 | PAS | 15 | 26 | 3 | 118 | 62 | 144 | 196 | 652 | 35 | 3,006 | 2,512 | 3,344 |
| 52 | PIN | 82 | 301 | 12 | 172 | 146 | 193 | 1,069 | 4,805 | 203 | 5,290 | 5,172 | 5,703 |
| 53 | POL | 46 | 182 | 7 | 76 | 53 | 147 | 645 | 3,283 | 137 | 2,785 | 2,455 | 3,476 |
| 54 | PUT | 6 | 17 | 0 | 9 | 14 | 28 | 88 | 524 | 34 | 405 | 505 | 692 |
| 55 | SAN | 4 | 6 | 0 | 18 | 12 | 41 | 66 | 180 | 25 | 733 | 644 | 1,691 |
| 56 | SAR | 12 | 61 | 2 | 56 | 49 | 81 | 164 | 767 | 47 | 1,641 | 1,527 | 2,063 |
| 57 | SEM | 11 | 52 | 3 | 31 | 24 | 34 | 422 | 1,557 | 84 | 1,787 | 1,560 | 2,070 |
| 58 | STJ | 8 | 20 | 0 | 13 | 15 | 40 | 74 | 396 | 29 | 688 | 520 | 1,337 |
| 59 | STL | 22 | 79 | 5 | 38 | 36 | 49 | 306 | 1,698 | 68 | 1,354 | 1,251 | 1,533 |
| 60 | SUM | 1 | 16 | 0 | 8 | 9 | 17 | 34 | 233 | 18 | 251 | 262 | 419 |
| 61 | SUW | 0 | 9 | 0 | 1 | 2 | 18 | 17 | 177 | 11 | 182 | 286 | 416 |
| 62 | TAY | 1 | 9 | 1 | 4 | 3 | 7 | 13 | 204 | 4 | 74 | 237 | 195 |
| 63 | UNI | 0 | 2 | 0 | 0 | 0 | 3 | 4 | 58 | 3 | 27 | 115 | 109 |
| 64 | VOL | 33 | 113 | 6 | 62 | 51 | 90 | 547 | 2,229 | 107 | 3,048 | 2,636 | 3,182 |
| 65 | WAK | 1 | 6 | 0 | 5 | 3 | 10 | 12 | 151 | 2 | 145 | 224 | 277 |
| 66 | WAL | 2 | 4 | 2 | 10 | 4 | 11 | 19 | 79 | 18 | 247 | 245 | 584 |
| 67 | WAS | 0 | 6 | 2 | 4 | 6 | 6 | 13 | 102 | 6 | 79 | 168 | 271 |
| 68 | TOTAL | 1,032 | 4,563 | 199 | 1,923 | 1,710 | 2,842 | 18,171 | 93,345 | 4,131 | 71,578 | 72,323 | 90,899 |

H. Supplemental Registration and Turnout Results

Table A.22²⁶⁵ breaks down the preferred estimate of initial Amendment 4 registrants by the quality of the match to the voter file.

Table A.22: Match Quality for Amendment 4 Registrants

| Ex-Felon Type | Specification | Exact Match | Middle Initial Not Inconsistent | Account for Nicknames | Both (2) and (3) | Account for Typos | |
|-----------------|---------------|-------------|---------------------------------|-----------------------|------------------|-------------------|-------------|
| | | (1) | (2) | (3) | (4) | in First (5) | in Last (6) |
| Ex-Prisoners | Baseline | 5,876 | 1,367 | 25 | 10 | 181 | 108 |
| Ex-Prisoners | +35 days | 1 | 2 | 0 | 0 | 0 | 1 |
| Ex-Prisoners | -35 days | 2 | 3 | 1 | 0 | 0 | 0 |
| Ex-Probationers | Baseline | 7,318 | 4,044 | 37 | 18 | 280 | 203 |
| Ex-Probationers | +35 days | 0 | 27 | 0 | 1 | 5 | 3 |
| Ex-Probationers | -35 days | 5 | 9 | 0 | 2 | 1 | 0 |

Table A.23²⁶⁶ does the same thing for those automatically restored the vote by former Governor Crist.

Table A.23: Match Quality for Crist Registrants

| Specification | Exact Match | Middle Initial Not Inconsistent | Account for Nicknames | Both (2) and (3) | Account for Typos | |
|---------------|-------------|---------------------------------|-----------------------|------------------|-------------------|-------------|
| | (1) | (2) | (3) | (4) | in First (5) | in Last (6) |
| Baseline | 19671 | 9119 | 156 | 58 | 931 | 545 |
| +35 days | 32 | 108 | 2 | 10 | 34 | 8 |
| -35 days | 26 | 126 | 2 | 15 | 21 | 8 |

Each point in Figure A.20 shows the number of people who registered to vote as a result of Amendment 4 that day. The yellow points represent the best estimate of which registrations were Amendment 4 registrations: these people were previously in the custody of the Department of Corrections and there is no indication that either their adjudication was withheld, their conviction was for a misdemeanor, or they were subsequently granted a still-valid clemency. Because these variables may be measured with error, and because ex-felons whose eligibility does not legally stem from Amendment 4 may nonetheless believe it does, the gray points represent all possible Amendment 4 registrations. By definition, the gray points will always be above (greater than) the yellow points.

Under either specification, the most common day for Amendment 4 registration was the first day the amendment went into effect. In fact, Figure A.20 shows more Amendment 4 registrations on January 8, 2019 than the Brennan Center estimated for the entire month of January. This is because the Brennan Center only used data on persons released from prison, missing the

²⁶⁵ Code: `figs_tbls/a4_preferences/registrations/tbl_match_quality`.

²⁶⁶ Code: `figs_tbls/crist_preferences/meta/match_quality`.

many more released from probation but not as readily available.²⁶⁷

Figure A.20: Initial Amendment 4 Registrations by Day

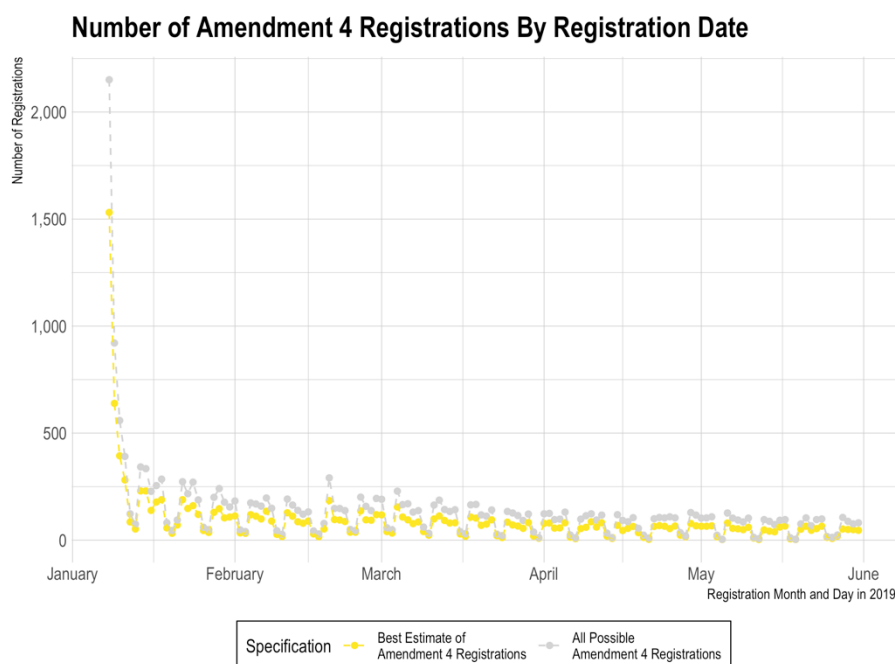


Table A.24²⁶⁸, below, details the source of the different estimates of Amendment 4 registrations visualized in Figure A.20. The first panel focuses on those persons released from state prison, while the second focuses on those released from state supervision, which is almost always probation. In each panel, Table A.24 presents the baseline specification first followed by the results of the permutation-based test to estimate the number of false positive registrations. Overall, there are very few false positives.

²⁶⁷ See KEVIN MORRIS, BRENNAN CENTER FOR JUSTICE, THWARTING AMENDMENT 4 (May 9, 2019), *available at* <https://www.brennancenter.org/analysis/thwarting-amendment-4> (estimating 1,189 registrations for January).

²⁶⁸ Code: `figs_tbls/a4_preferences/registrations/tbl_registration`.

Table A.24: Multiple Estimates of Initial Amendment 4 Registrations

| Ex-Felon Type | Specification | Best Estimate | May Have Already Had Voting Rights | | |
|-------------------|---------------|---------------------------|------------------------------------|--------------------------|-----------------------|
| | | Amendment 4 Registrations | Received Clemency | Convicted of Misdemeanor | Adjudication Withheld |
| Ex-Prisoner | Baseline | 7,117 | 448 | 0 | 2 |
| Ex-Prisoner | -35 days | 5 | 1 | 0 | 0 |
| Ex-Prisoner | +35 days | 2 | 2 | 0 | 0 |
| Ex-ProbationerALL | Baseline | 5,519 | 983 | 398 | 4,982 |
| Ex-ProbationerALL | -35 days | 6 | 4 | 0 | 7 |
| Ex-ProbationerALL | +35 days | 9 | 4 | 3 | 20 |

The columns separate out the best estimate of Amendment 4 registrations from the number of additional registrations by persons who may have already had the right to vote. Importantly, the measures of who was convicted of a misdemeanor, had their adjudication withheld, or subsequently received clemency may be measured with error, making it important to consider the best estimate in the context of the additional estimates.

The first row of the first panel shows that the best estimate of the number of people who have been released from state prison and recently registered to vote as a result of Amendment 4 is 7,117 persons. An additional 448 persons released from state prison also recently registered, but they were previously granted clemency. Further, two persons had a status of adjudication withheld.

The first row of the second panel shows that the best estimate of the number of Amendment 4 registrations among ex-probationers is 5,519. However, there is a much larger disparity between the best estimate of such registrations and all possible registrations for ex-probationers. There are an additional 983 registrations from persons who were released from probation and subsequently granted clemency and 383 from persons convicted of a misdemeanor. Most importantly, there are an additional 4,982 registrations from persons who have a status of adjudication withheld. This is in line with the information cost theory discussed previously—these people had likely never lost their voting rights, but did not realize as much until Amendment 4—but complicates efforts to quantify the impact of Amendment 4 on voter registration.

Table A.25: Party of Registration of Initial Amendment 4 Registrants

| Population | Specification | Number of Releases Likely Disenfranchised Before Amendment 4 | Registration between January–June 2019 | | | | | |
|-------------------|------------------|--|--|-------|-------|-------|-------|-----------------------------|
| | | | Overall | % | Dem | Rep | As Is | NPA Likely D Likely R |
| All Restorations | Baseline | 808,354 | 12,633 | 1.56% | 6,273 | 3,041 | 2,955 | 1232.21 |
| | Permute +35 days | 808,354 | 11 | 0.00% | 5 | 3 | 3 | 1.00 |
| | Permute -35 days | 808,354 | 11 | 0.00% | 6 | 4 | 1 | 0.00 |
| African-Americans | Baseline | 267,153 | 5,907 | 2.21% | 4,563 | 199 | 1,032 | 44.13 |
| | Permute +35 days | 267,153 | 4 | 0.00% | 4 | 0 | 0 | 0.00 |
| | Permute -35 days | 267,153 | 7 | 0.00% | 4 | 3 | 0 | 0.00 |
| Others | Baseline | 541,201 | 6,726 | 1.24% | 1,710 | 2,842 | 1,923 | 1188.08 |
| | Permute +35 days | 541,201 | 7 | 0.00% | 1 | 3 | 3 | 1.00 |
| | Permute -35 days | 541,201 | 4 | 0.00% | 2 | 1 | 1 | 0.00 |

Table A.26²⁶⁹ on registration and turnout by party for Crist.

Table A.26: Party of Registration of Crist Registrants

| Population | Specification | Restoration | Registration | | | | | | Turnout | | | |
|-------------------|------------------|-------------|--------------|-------|--------|-------|-------|---------|---------|-------|-------|-------|
| | | | Overall | % | Dem | Rep | As Is | NPA | Overall | % | Dem | Rep |
| All Restorations | Baseline | 151,565 | 30,480 | 20.1% | 16,703 | 6,566 | 7,007 | 4252.57 | 16,163 | 10.7% | 9,440 | 3,936 |
| | Permute +35 days | 151,535 | 194 | 0.1% | 78 | 64 | 51 | 21.04 | 129 | 0.1% | 51 | 46 |
| | Permute -35 days | 151,538 | 198 | 0.1% | 77 | 68 | 51 | 27.46 | 137 | 0.1% | 55 | 48 |
| African-Americans | Baseline | 57,194 | 14,032 | 24.5% | 11,537 | 426 | 2,035 | 1961.79 | 73.21 | 13.0% | 6,599 | 172 |
| | Permute +35 days | 57,180 | 91 | 0.2% | 45 | 23 | 22 | 9.90 | 56 | 0.1% | 27 | 16 |
| | Permute -35 days | 57,181 | 90 | 0.2% | 37 | 31 | 21 | 13.17 | 65 | 0.1% | 29 | 23 |
| Others | Baseline | 94,371 | 16,448 | 17.4% | 5,166 | 6,140 | 4,972 | 2290.78 | 2681.22 | 9.2% | 2,841 | 3,764 |
| | Permute +35 days | 94,355 | 103 | 0.1% | 33 | 41 | 29 | 11.14 | 73 | 0.1% | 24 | 30 |
| | Permute -35 days | 94,357 | 108 | 0.1% | 40 | 37 | 30 | 14.30 | 72 | 0.1% | 26 | 25 |

²⁶⁹ Code: figs_tbls/crist_preferences/tbl_registration_and_turnout_by_party.

I. Fines and Fees Data

1. Data Collection

The Florida Court Clerks & Comptrollers maintain the Comprehensive Case Information System (CCIS), which is “a secured single point of search for state wide court case information.”²⁷⁰ The CCIS has a voluminous amount of information about each felony case in the state, including the defendant’s full name, race, gender, and date of birth, each charge, and each sentence.

In general, the CCIS is organized by uniform case numbers, or UCNs. Each UCN includes a defendant-specific identifier, such that the unit of analysis is the defendant-case. I thus treat a single case with multiple defendants as if it were multiple cases. I used my matching algorithm described in full in Appendix F. to link individual defendants across cases and counties. In total, my final dataset includes 400,992 cases on 240,348 persons.²⁷¹

The CCIS mandates that county clerks report the total amount of fines and fees assessed in each case, the current balance owed, and the date of last payment. The data are thus well-suited for assessing the specific amount of fines and fees that must be paid before registering to vote under the current implementation of Amendment 4, because the total assessment reported is based on the original judgment and sentence. This tracks the legislative language that “the financial obligations required [to be paid before the restoration of voting rights]. . . include only the amount specifically ordered by the court as part of the sentence and do not include any fines, fees, or costs that accrue after the date the obligation is ordered as a part of the sentence.”²⁷² In addition to what is reported in CCIS and required to vote, individuals may also be assessed additional fees, such as for the cost of collection, supervision, or room and board.²⁷³

The CCIS data is not well-suited for assessing the amount of restitution required to be paid before voting rights are restored. Although CCIS permits county clerks to provide similar information about restitution, it is only mandatory if the data is already available in the local case management system. The information, though, is often not tracked because restitution is typically owed to a third-party and is not collected by the court system.²⁷⁴ As a result, I

²⁷⁰ See Comprehensive Case Information System, <https://www.flccis.com/ocrs/login.xhtml>.

²⁷¹ Code: `figs_tbls/lfos/meta`.

²⁷² See FLA. STAT. § 98.0751(2)(a)(5)(c).

²⁷³ See REBEKAH Diller, BRENNAN CENTER FOR JUSTICE, THE HIDDEN COSTS OF FLORIDA’S CRIMINAL JUSTICE SYSTEM 27-33 (2010) (listing LFOs established by Florida law, some of which are assessed post-trial).

²⁷⁴ See, e.g., Lawrence Mower, *Amendment 4 Will Likely Cost Millions to Carry Out*, TAMPA BAY TIMES (Apr. 4, 2019), <https://www.tampabay.com/florida-politics/2019/04/04/amendment->

do not report data about restitution in the main text.

Importantly, not all persons who are in the CCIS data have lost their right to vote. In fact, 55,980 people overall have a status of adjudication withheld, rather than adjudicated guilty. As the Florida Bar has explained,

Florida judges have a special authority vested upon them to “withhold adjudication” in a criminal matter. . . . The statute provides the court with the ability to withhold adjudication after the imposition of a probation sentence without imposing upon the defendant a conviction and the collateral consequences that accompany a conviction.²⁷⁵

Similarly, 35,943 individuals overall were also convicted of a misdemeanor, even if they were originally charged with a felony. Others were granted clemency after the fact, which I discuss below. Individuals who only have a status of adjudication withheld, or only have convictions of misdemeanors, have never lost their right to vote. However, because I currently only have the CCIS data from 27 of Florida’s 67 counties, it is difficult to determine whether a person who only has a status of adjudication withheld throughout all available felony cases nonetheless has a missing case in another county for which adjudication was not withheld. This would lead me to mischaracterize a person as having never lost their voting rights when in fact they had. A similar potential problem exists for determining who was convicted of a misdemeanor. My preferred specification in the main text focuses on those persons most likely to be affected by Amendment 4: people who were adjudicated guilty, convicted of a felony, and not granted clemency. But given this potential for measurement error, I also consider all persons available in the data, without these filters, as a robustness check.

2. Data Validation

The Florida Court Clerks and Comptrollers compiles an annual report for the state legislature on the assessment and payback of fines and fees.²⁷⁶ The report tracks the fiscal year of October 1 through September 30.²⁷⁷ It includes the “Amount Actually Assessed” in each county, which is defined as “fines, court costs and other monetary penalties and fees, service charges and costs actually imposed by the court at the time of sentencing or re-sentencing, or other type of disposition of the case.” Because the report is generated using CCIS, the data provided should match the annual report. Comparing the two then should

4-will-likely-cost-millions-to-carry-out-heres-why/.

²⁷⁵ See George E. Tragos & Peter A. Sartes, Florida Bar Journal, *Withhold of Adjudication: What Everyone Needs to Know*, available at <https://www.floridabar.org/the-florida-bar-journal/withhold-of-adjudication-what-everyone-needs-to-know/>.

²⁷⁶ See FLA. STAT. ANN. § 28.246.

²⁷⁷ See FLA. STAT. ANN. § 166.241.

serve as a validation that I have used the data correctly. However, the report does not detail whether it generates the population of cases based on, for example, the filing date or disposition date. Assuming it is the disposition date, it does not say when the report itself was generated, which would matter to the extent that counties do not immediately provide their case data or subsequently update a case to include additional fines and fees. Further, my dataset drops certain cases that appear inconsistent, for example because they have assigned the same defendant ID in the same case to two persons with varying information. As a result, the validation is at best approximate.

Table A.27²⁷⁸ compares the total amount assessed for all cases in my dataset with a disposition date between October 1, 2017 and September 30, 2018, to the amount reported as “Amount Actually Assessed” in the statewide report. The percentage difference is also reported. In general, the data I’ve collected roughly resembles the data in the report.

²⁷⁸ Code: `figs_tbls/lfos/validation/as_tbl`.

Table A.27: Validation of Fines and Fees Data

| | County | Total Assessment | | % Difference |
|----|--------------|------------------|---------------|--------------|
| | | Dataset | Annual Report | |
| 1 | Alachua | \$3,522,335 | \$3,000,758 | 0.17 |
| 2 | Baker | \$402,433 | \$344,825 | 0.17 |
| 3 | Calhoun | \$353,786 | \$320,401 | 0.10 |
| 4 | Charlotte | \$3,503,025 | \$3,361,665 | 0.04 |
| 5 | Columbia | \$2,091,964 | \$1,684,985 | 0.24 |
| 6 | Dixie | \$96,608 | \$141,733 | -0.32 |
| 7 | Flagler | \$692,818 | \$654,690 | 0.06 |
| 8 | Franklin | \$156,134 | \$187,147 | -0.17 |
| 9 | Gadsden | \$211,925 | \$320,128 | -0.34 |
| 10 | Hendry | \$787,943 | \$772,807 | 0.02 |
| 11 | Highlands | \$2,646,255 | \$2,216,700 | 0.19 |
| 12 | Holmes | \$1,207,845 | \$1,237,747 | -0.02 |
| 13 | Indian River | \$13,609,311 | \$1,917,160 | 6.10 |
| 14 | Jefferson | \$67,959 | \$71,000 | -0.04 |
| 15 | Levy | \$215,979 | \$330,066 | -0.35 |
| 16 | Liberty | \$85,341 | \$88,630 | -0.04 |
| 17 | Madison | \$365,130 | \$461,211 | -0.21 |
| 18 | Monroe | \$1,073,148 | \$1,138,521 | -0.06 |
| 19 | Nassau | \$1,387,548 | \$581,730 | 1.39 |
| 20 | Okaloosa | \$2,479,694 | \$3,376,854 | -0.27 |
| 21 | Orange | \$16,336,093 | \$15,701,284 | 0.04 |
| 22 | Putnam | \$1,120,097 | \$1,045,923 | 0.07 |
| 23 | Santa Rosa | \$2,312,610 | \$2,413,718 | -0.04 |
| 24 | Sumter | \$1,913,249 | \$1,891,327 | 0.01 |
| 25 | Taylor | \$519,091 | \$513,258 | 0.01 |
| 26 | Union | \$262,430 | \$209,808 | 0.25 |
| 27 | Volusia | \$6,752,311 | \$4,906,996 | 0.38 |
| 28 | TOTAL | \$64,173,062 | \$48,891,072 | 0.31 |

3. Supplemental Results

I merge the sentencing data to a July 2019 copy of the statewide voter file to identify Amendment 4 registrations. By definition, Amendment 4 registrations must occur on or after the date it went into effect on January 8, 2019. Although the implementing legislation now requires the full payment of fines, fees, and restitution prior to registration, this law did not take effect until July 1, 2019. The July 2019 copy of the voter file has the latest registrations through June 30, 2019. As a result, my dataset includes all Amendment 4 registrations through June, including those registrations that may later be cancelled due to outstanding LFOs.

Table A.28²⁷⁹ shows the quality of each match.

Table A.28: Sentencing Data-to-Voter File Match Quality

| Specification | Exact Match (1) | Middle Initial Not Inconsistent (2) | Account for Nicknames (3) | Both (2) and (3) (4) | Account for Typos | |
|---------------|--------------------|---|---------------------------------|----------------------------|-------------------|----------------|
| | | | | | in First (5) | in Last (6) |
| Baseline | 2,057 | 217 | 7 | 0 | 61 | 23 |
| +35 days | 48 | 0 | 0 | 0 | 0 | 0 |
| -35 days | 48 | 1 | 1 | 0 | 1 | 0 |

Table A.29²⁸⁰ shows the distribution of fines and fees using the alternative measure of initial Amendment 4 registrants.

Table A.29: Fines and Fees by Person Registered (Robust)

| | # Registrations (only 27 of 67 counties) | Amount Due | | | Balance Remaining | | | Registrants with Balances |
|---------------|---|------------|------------|------------|-------------------|----------|------------|------------------------------|
| | | 25th | 50th | 75th | 25th | 50th | 75th | |
| All Persons | 2,995 | \$715.00 | \$1,289.50 | \$2,469.52 | \$0.00 | \$680.00 | \$1,636.65 | 72.9% |
| Black Persons | 1,343 | \$726.50 | \$1,336.00 | \$2,465.94 | \$167.75 | \$831.49 | \$1,847.50 | 80.1% |
| White Persons | 1,600 | \$697.88 | \$1,232.00 | \$2,459.22 | \$0.00 | \$569.50 | \$1,446.05 | 66.8% |

²⁷⁹ Code: `figs_tbls/a4_preferences/lfos/tbl_match_quality`.

²⁸⁰ Code: `figs_tbls/a4_preferences/lfos/tbl_lfo_distribution`.