

*Allen v. Milligan***Rebuttal Expert Report of Dr. Traci Burch****July 31, 2024**Scope of the report

I was asked to address two main arguments raised by the defense experts. First, I was asked to respond to the arguments, made by Dr. Reilly, including that racial disparities between Black and White Alabamians are the result of the “cultural practices”<sup>1</sup> of Black people rather than systemic discrimination. Second, I was asked to address Dr. Carrington’s arguments, including that voting patterns by race reflect partisanship rather than racial attitudes or policy preferences. I respond to each report in turn below.

Dr. Reilly’s Argument that Racial Disparities Do Not Result from Racial Discrimination

Dr. Reilly says that I argue “that some unique Alabama-specific vice—presumably that familiar devil, racism—is responsible for a series of group gaps in behavior and performance that we see between Black and White Alabamians.”<sup>2</sup> Dr. Reilly is correct that I discuss at length research into the historical and contemporary structural barriers faced by Black Alabamians relative to White Alabamians. However, I never say that racism is “some unique Alabama-specific vice” and disagree with that statement.

It is Dr. Reilly who wants to argue that because Black people also have worse outcomes relative to White people in other states, racial discrimination cannot be the cause of racial disparities in Alabama. He provides tables of racial disparities between Black and White outcomes along several dimensions in other states as proof that racial discrimination in Alabama does not cause racial disparities. (Dr. Hood provides these tables of racial disparities in various outcomes in other states as well.) The crux of this argument is that because other states are not “conventionally racist,”<sup>3</sup> whatever that undefined and unexplained phrase means, then the existence of disparities in those states means that racial discrimination did not cause the racial disparities in Alabama. To support his claim that other states are not “conventionally racist” and thus that racism does not cause disparities in Alabama, Dr. Reilly cites a peer-reviewed study that measures racism as Google searches of anti-Black racial epithets.<sup>4</sup> That study, however, reaches the opposite conclusion that he intends. It finds that Black people have worse health outcomes in places (like Alabama!) that score above average on this measure of racism, and that this pattern holds even after controlling for factors such as region, Black poverty and other demographic characteristics, and White mortality rates. The authors write that their “findings indicate that

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<sup>1</sup> Reilly Report, 13.

<sup>2</sup> Reilly Report, 16.

<sup>3</sup> Reilly Report, 27.

<sup>4</sup> Reilly Report, FN49, citing [Association between an Internet-Based Measure of Area Racism and Black Mortality](#) Chae DH, Clouston S, Hatzenbuehler ML, Kramer MR, Cooper HLF, et al. (2015) Association between an Internet-Based Measure of Area Racism and Black Mortality. PLOS ONE 10(4): e0122963.

area racism, as indexed by the proportion of Google searches containing the “N-word”, is significantly associated with not only the all-cause Black mortality rate, but also Black-White disparities in mortality.”<sup>5</sup>

Tellingly, Dr. Reilly does not examine aspects of structural disadvantage faced by Black people in other parts of the United States, or even interpersonal attitudes beyond the chart in one study. Black people have faced racial discrimination throughout the United States; we should and do see persistent racial gaps in outcomes in multiple states as a result. It also is true that Black people have faced and continue to face structural barriers to better outcomes in Alabama.

For instance, if we think of educational segregation as “conventionally racist,” there is clear evidence of historical and contemporary educational segregation in districts across the United States. According to a Pro Publica investigation, by 2014, school districts in 45 states and the District of Columbia had been subject to court-ordered or voluntary desegregation orders since *Brown v. Board of Education* was decided in 1954.<sup>6</sup> As of this year, desegregation orders in Department of Justice cases were still open in districts in several states; however, Alabama had the most open desegregation orders in 2024.<sup>7</sup> Contemporary educational segregation particularly plagues districts in the southeast, including in Alabama, but also can be found in districts with larger Black populations across the country as shown in Figure 1.<sup>8</sup> School segregation, along with other factors, is associated with student performance on assessment tests.<sup>9</sup> A nationwide study of racial segregation also notes, “[A]s Black–White racial segregation increases over time, total per pupil expenditures and other per pupil expenditures shift in ways that disfavor the typical Black student’s district relative to the typical White student’s district.”<sup>10</sup>

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<sup>5</sup> Chae et al. 2015: 7.

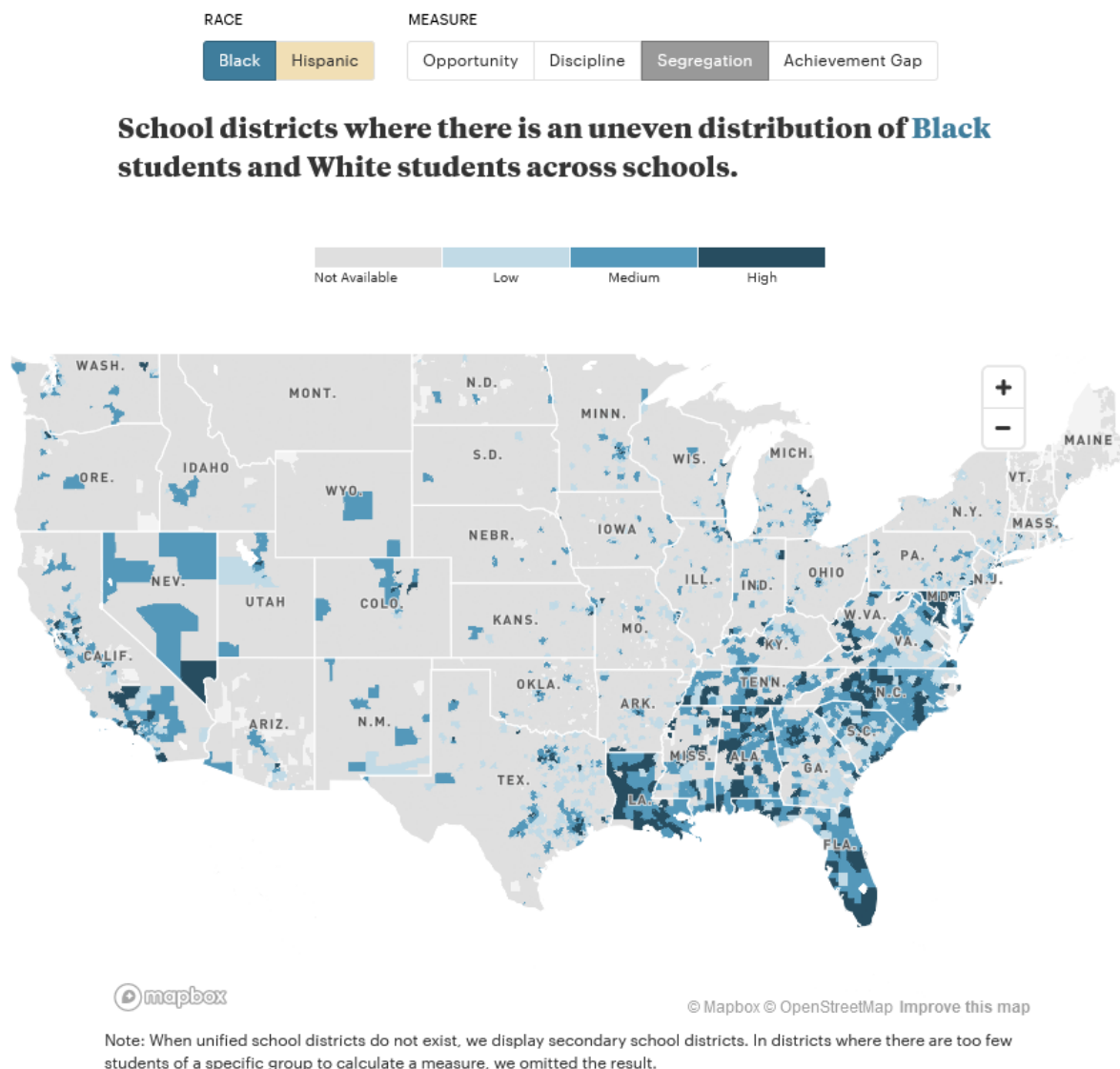
<sup>6</sup> Qiu, Yue and Nikole Hannah-Jones. 2014. “A National Survey of School Desegregation Orders.” *Pro Publica*. Available online <https://projects.propublica.org/graphics/desegregation-orders>. Accessed 17 Apr 2024.

<sup>7</sup> U.S. Department of Justice Civil Rights Division. “DOJ Cases with School Districts under Desegregation Orders.” Available online <https://www.wjtv.com/wp-content/uploads/sites/72/2024/05/Civil-Rights-Division-Desegregation-Cases-May-2024.pdf>. Accessed 30 Jul 2024.

<sup>8</sup> Groeger, Lena V., Annie Waldman, and David Eads. 2018. “Miseducation: Is there Racial Inequality at Your School?” *Pro Publica* Available online <https://projects.propublica.org/miseducation/>. Accessed 5 Apr 2024.

<sup>9</sup> Reardon, Sean F., Demetra Kalogrides, and Kenneth Shores. “The geography of racial/ethnic test score gaps.” *American Journal of Sociology* 124, no. 4 (2019): 1164-1221.

<sup>10</sup> Sosina, Victoria E., and Ericka S. Weathers. “Pathways to inequality: Between-district segregation and racial disparities in school district expenditures.” *AERA open* 5, no. 3 (2019): 2332858419872445. 12.

*Figure 1: Educational Segregation*

Dr. Reilly makes similar claims about racial gaps in incarceration rates throughout the country. However, academic research has established that racially discriminatory treatment in the criminal justice system is not limited to “Dixieland states”<sup>11</sup> either. For instance, scholars have documented in states across the country that racial disparities in arrests are caused partially by factors that make it more likely that police will stop or search Black people, such as spatially differentiated policing, racial residential segregation, and discrimination.<sup>12</sup> Differential

<sup>11</sup> Reilly Report, 26.

<sup>12</sup> Beckett, Katherine, Kris Nyrop, and Lori Pfingst. “Race, drugs, and policing: Understanding disparities in drug delivery arrests.” *Criminology* 44, no. 1 (2006): 105-137. Gelman, Andrew,

treatment also exists in bail decisions<sup>13</sup> and in sentencing in federal and state courts throughout the country.<sup>14</sup> These disparities in the operation of the criminal justice system persist even after accounting for legally relevant factors such as criminal history, crime type, or other behavioral factors, strongly suggesting that Black and White defendants are treated differently for reasons other than those related to the case.

In short, Dr. Reilly argues that the existence of racial disparities in outcomes in states outside Alabama absolves Alabama of their differential treatment of Black people. In making this argument, Dr. Reilly supposes that Black people in other parts of the country were not subjected to “conventional racism.” The fact is, educational segregation, discrimination in arrests and sentencing, and discrimination in health, employment, and other aspects of life exist outside of Alabama and the South and play a role in racially disparate outcomes everywhere.

Moreover, although the discrimination and disparate treatment that I document in my report affect outcomes for Black people nationwide, they are particularly salient for Alabama. Black people in Alabama are notably worse off not only relative to white Alabamians, but also relative to Black people throughout the rest of the country along several dimensions. For instance, in Dr. Hood’s Table 5, Black people in Alabama are worse off than Black people in most of the 19 comparison states in terms of high school and college completion: Alabama ranks 17<sup>th</sup> in high school completion and 15<sup>th</sup> in college completion. In Dr. Hood’s Table 15, Black people have worse internet access in Alabama than in 16 of 20 other states. With respect to poverty rates, Black poverty rates in Alabama are worse than those in 33 of the 39 states for which the census reports data.<sup>15</sup> Access to health insurance for Black Alabamians is worse than that for Black people in 32 of 39 other states for which the census reports data. Black male life

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Jeffrey Fagan, and Alex Kiss. "An analysis of the New York City police department's “stop-and-frisk” policy in the context of claims of racial bias." *Journal of the American statistical association* 102, no. 479 (2007): 813-823. Ousey, Graham C., and Matthew R. Lee. "Racial disparity in formal social control: An investigation of alternative explanations of arrest rate inequality." *Journal of Research in Crime and Delinquency* 45, no. 3 (2008): 322-355. Pierson, Emma, Camelia Simoiu, Jan Overgoor, Sam Corbett-Davies, Daniel Jenson, Amy Shoemaker, Vignesh Ramachandran et al. "A large-scale analysis of racial disparities in police stops across the United States." *Nature human behaviour* 4, no. 7 (2020): 736-745.

<sup>13</sup> Arnold, David, Will Dobbie, and Crystal S. Yang. “Racial bias in bail decisions.” *The Quarterly Journal of Economics* 133, no. 4 (2018): 1885-1932.

<sup>14</sup> Rehavi, M. Marit, and Sonja B. Starr. “Racial disparity in federal criminal sentences.” *Journal of Political Economy* 122, no. 6 (2014): 1320-1354; Abrams, David S., Marianne Bertrand, and Sendhil Mullainathan. “Do judges vary in their treatment of race?” *The Journal of Legal Studies* 41, no. 2 (2012): 347-383; Feigenberg, Benjamin, and Conrad Miller. “Racial Divisions and Criminal Justice: Evidence from Southern State Courts.” *American Economic Journal*. 13, no. 2 (2021): 207–40; Alesina, Alberto, and Eliana La Ferrara. 2014. “A Test of Racial Bias in Capital Sentencing.” *The American Economic Review* 104 (11): 3397–433.

<sup>15</sup> U.S. Census Bureau. "Selected Population Profile in the United States." American Community Survey, ACS 1-Year Estimates Selected Population Profiles, Table S0201, 2022.

expectancy in Alabama is worse than that in 33 of 39 other states, while Black female life expectancy is worse than 28 of 39 other states.<sup>16</sup>

Notably, Dr. Reilly does not dispute these facts or *any* of the research into structural barriers faced by Black Alabamians that I cite in my report. Rather, Dr. Reilly argues that Black people are disadvantaged relative to White people everywhere else in America and makes the unsubstantiated assertion that “ethnic conflict seems to have very little to do with this.”<sup>17</sup> Instead, Dr. Reilly argues that the nationwide disparities between Black and White people are caused by Black cultural inferiority—study habits, criminality,<sup>18</sup> illegitimacy,<sup>19</sup> and relative youth.<sup>20</sup> To support most of his points, Dr. Reilly relies on blog posts, Wikipedia, Reddit, Quora posts and other non-peer reviewed sources as evidence—sources where just anyone with a computer can post regardless of their experience or expertise. Of the few peer-reviewed studies that he does cite, two of the studies do not support his findings and a third has been discredited in the literature.

First, Dr. Reilly argues that the educational achievement gap can be explained by the cultural phenomenon of associating high achievement with “acting white” among Black students. Dr. Reilly cites an article from 1986 in support of this claim but ignores the subsequent studies that have called this hypothesis into question.<sup>21</sup> Several studies find that Black students value achievement<sup>22</sup> and find that accusations of “acting white” did not actually cause minority students to avoid academic achievement.<sup>23</sup> Thus, accusations of “acting white” fail to explain racial gaps in achievement.

Second, Dr. Reilly clings to the argument that higher rates of criminality among Black people explain racial gaps in crime rates, despite acknowledging research that finds that nationwide, differences in criminality explain only 60% of the racial disparity in crime rates. This finding means that a large proportion—40% of the racial disparity—can be attributed to

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<sup>16</sup> Johnson, Catherine O., Alexandra S. Boon-Dooley, Nicole K. DeCleene, Kiana F. Henny, Brigitte F. Blacker, Jason A. Anderson, Ashkan Afshin et al. "Life expectancy for White, Black, and Hispanic race/ethnicity in US states: trends and disparities, 1990 to 2019." *Annals of Internal Medicine* 175, no. 8 (2022): 1057-1064. (Supplemental Tables).

<sup>17</sup> Reilly report, 17.

<sup>18</sup> Reilly Report, 27.

<sup>19</sup> Reilly Report, 28.

<sup>20</sup> Reilly Report, 28.

<sup>21</sup> Reilly Report, FN50.

<sup>22</sup> Such as this one: Tyson, Carolyn, William Darity Jr, and Domini R. Castellino. "It's not “a black thing”: Understanding the burden of acting white and other dilemmas of high achievement." *American sociological review* 70, no. 4 (2005): 582-605.

<sup>23</sup> Such as these: Bergin, David A., and Helen C. Cooks. "High school students of color talk about accusations of “acting White”." *The Urban Review* 34 (2002): 113-134. Diamond, John B., Amanda E. Lewis, and Lamont Gordon. "Race and school achievement in a desegregated suburb: Reconsidering the oppositional culture explanation." *International Journal of Qualitative Studies in Education* 20, no. 6 (2007): 655-679.

something other than differences in behavior.<sup>24</sup> Differences in behavior also does not match up with prison admissions—as I note in my initial report, more White Alabamians are admitted to prison each year, and overall differences in violent<sup>25</sup> crime commission are too small to explain the large racial gap in incarceration. Dr. Reilly argues that “many things play into the outcomes that we see around us in the world,”<sup>26</sup> yet does not engage, as I do in my report, with peer-reviewed research that finds racial disparities in sentencing persist in Alabama even after controlling for legally-relevant factors such as crime type and criminal history. For instance, prosecutors in Alabama have been found to use peremptory strikes against potential Black jurors in a racially discriminatory manner.<sup>27</sup> Moreover, Black people still receive longer sentences than White people in Alabama even after controlling for legally-relevant factors that might explain such disparities like crime severity, criminal history, and demographic context.<sup>28</sup>

Third, Dr. Reilly argues in one throwaway sentence that racial gaps in well-being can be linked to out-of-wedlock births. Dr. Reilly does not cite any evidence linking out-of-wedlock birth rates to median incomes in Alabama, nor does he cite any evidence on out-of-wedlock births in Alabama. Dr. Reilly never explains how or why “illegitimacy” matters. Being born to unmarried parents may not be straightforwardly related to living with a single parent: sometimes unwed parents cohabit or get married later, sometimes married people get divorced, and sometimes single parents get (re)married. Dr. Reilly does not engage with the scholarly literature on parental involvement, which shows how Black fathers who do not live with their children are still involved with their children, sometimes more so than White fathers.<sup>29</sup>

Fourth, Dr. Reilly claims that the average age at the mode for a White person is more than two times as old as the average Black person in America, suggesting that this statistic is related to voting.<sup>30</sup> However, he never provides any citations for where these numbers come from or for why they might matter for voting. The average age at the mode is misleading terminology—the mode is just the most common age and says nothing about the age distribution. The census estimates for median age by race nationally (43.7 years for White people, 34.9 years for Black people) and in Alabama (43.1 years for White people, 35.1 years for Black people) show smaller race gaps in age. Moreover, Dr. Reilly does not offer any analyses that estimate voter turnout

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<sup>24</sup> Reilly Report, 28.

<sup>25</sup> <https://crime.alabama.gov/archive/CIA/2017.pdf>

<sup>26</sup> Reilly Report, 27.

<sup>27</sup> See *Madison v. Commissioner, Alabama Department of Corrections* ([https://scholar.google.com/scholar\\_case?case=6333162242108775170&hl=en&as\\_sdt=206&as\\_vis=1https://www.google.com/search?client=firefox-b-l-d&q=b.+https%3A%2F%2Fscholar.google.com%2Fscholar\\_case%3Fcase%3D6333162242108775170%26hl%3Den%26as\\_sdt%3D206%26as\\_vis%3D1](https://scholar.google.com/scholar_case?case=6333162242108775170&hl=en&as_sdt=206&as_vis=1https://www.google.com/search?client=firefox-b-l-d&q=b.+https%3A%2F%2Fscholar.google.com%2Fscholar_case%3Fcase%3D6333162242108775170%26hl%3Den%26as_sdt%3D206%26as_vis%3D1)) and *McGahee v. Alabama Department of Corrections* (<https://caselaw.findlaw.com/court/us-11th-circuit/1218771.html>) for examples.

<sup>28</sup> Feigenberg and Miller 2021; Appendix table A2. Available online <https://www.aeaweb.org/content/file?id=14354>. Accessed 8 Apr 2024.

<sup>29</sup> Jones, Jo, and William D. Mosher. "Fathers' involvement with their children: United States, 2006-2010." (2013).

<sup>30</sup> Reilly Report, 28.



controlling for age. This dearth of evidence matters because neither modal nor median age tells us anything about the age distribution of the voting age population because it includes children: a population distribution in which half of Black people were 60 and half were age 1 would have a lower median age than a White population where 100% of adults were age 40, even though the Black voting age population in this hypothetical scenario is older.

Fifth, Dr. Reilly argues, “The racial gaps in voting behavior in Alabama are themselves very small, whether matched up against some external state comparators or any logical definition of what a “large gap” might be.”<sup>31</sup> To support this point, Dr. Reilly discusses voter registration gaps over time:

Voter registration in Alabama currently seems to be 89% for non-Hispanic whites, versus 84% for African Americans. In 2020, the equivalent figures were 96.1% (W) and 93.9% (B). In 2018, the registration gap was less than one percent, with Blacks at 88% and whites reaching 88.4%.<sup>32</sup>

As I explained in my initial report, one must be careful when relying on registration rates because these totals may reflect “dead wood” rather than actual voter activity. The registration gap between Black and White Alabamians, as measured in the Current Population Survey, is 10 percentage points.

Sixth, Dr. Reilly argues that commuting patterns do not link Mobile County with other counties in the Black Belt. In making this point, Dr. Reilly ignores the fact that significant proportions of people in neighboring Black Belt counties work in Mobile County and vice versa. For instance, according to the Alabama Department of Labor, 21% of people who work in Washington County<sup>33</sup> live in Mobile County. Also, the Alabama Department of Labor reports that 34% of people who live in Washington County,<sup>34</sup> 16% of people who live in Clarke County,<sup>35</sup> and 11% percent of people who live in Monroe County<sup>36</sup> work in Mobile County.

As a final matter, Dr. Reilly argues that racial disparities between Black and White Alabamians do not mean that Black Alabamians in the Black Belt share a common interest.<sup>37</sup> He writes, “A final point to make here is that those disparities in performance or behavior that currently exist between Black and white Alabamians, and which were pointed out by plaintiffs’ experts such as Dr. Burch, cannot simply be attributed to the single variable of unique in-state bias in Alabama, and thus used *res ipsa* to establish the existence of a COI among Black Alabama residents who happen to live somewhat near one another.”<sup>38</sup> By reducing my report to a list of disparities and ignoring the evidence of structural barriers faced by Black Alabamians that I discuss in my report, Dr. Reilly misses at least two major common interests faced by Black

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<sup>31</sup> Reilly Report, 26.

<sup>32</sup> Reilly Report, 26.

<sup>33</sup> <https://www2.labor.alabama.gov/workforcedev/CountyProfiles/Washington%20County.pdf>

<sup>34</sup> <https://www2.labor.alabama.gov/workforcedev/CountyProfiles/Washington%20County.pdf>

<sup>35</sup> <https://www2.labor.alabama.gov/workforcedev/CountyProfiles/Clarke%20County.pdf>

<sup>36</sup> <https://www2.labor.alabama.gov/workforcedev/CountyProfiles/Monroe%20County.pdf>

<sup>37</sup> Reilly Report, 3.

<sup>38</sup> Reilly Report, 3.

Alabamians in this region: racial discrimination and socioeconomic distress. For example, as shown in Figure 2 in my initial report and reported as Figure 1 again in this report, Mobile County has a high-segregation school district, as do counties such as Conecuh and Escambia. I outline additional statistical and other evidence of discrimination in education, criminal justice, health and employment in Alabama and the Black Belt in my initial report. Further, Dr. Reilly's discussion of overall per capita income and employment ignores the fact that the Black median income in Mobile City (\$34,088<sup>39</sup>) is similar to that in the Black belt counties that I analyze in my report, above some counties such as Washington and Perry, but below other counties such as Macon and Montgomery. Mobile City also is similar to the Black Belt counties in terms of poverty: Mobile City's Black family poverty rate is 23%, while the average poverty rate for the Black Belt counties overall is 24%, as I note in my initial report.

Racial discrimination is important to Black Americans: a national survey conducted by the Pew Research Center found that 92% of Black Americans said that racism is either an extremely, very, or somewhat big problem for Black people living in the United States today, while only 7% said that it was a little problem or not a problem at all.<sup>40</sup> When asked about structural and individual racism, only 3% of Black respondents said that there was no discrimination against Black people in our country today.<sup>41</sup> Similarly small proportions of Black Americans think that economic inequality and police brutality are small or nonexistent problems (7%).<sup>42</sup> 85% of Black Americans think that the legacy of slavery affects the position of Black people in American society today.<sup>43</sup> In comparison, 40 percent of White Americans think that the legacy of slavery affects the position of Black people in American society today "not much" or "not at all."<sup>44</sup>

To conclude, Dr. Reilly's assertions that racial gaps in socioeconomic and incarceration outcomes in Alabama are the result of factors other than racial discrimination are not grounded in a serious examination of the scholarly literature. Recently published articles in highly regarded, peer-reviewed outlets support the notion that racial discrimination continues to plague African Americans' outcomes in Alabama.

#### Dr. Carrington's Argument that Factors other than Race Explain Racial Voting Patterns in Alabama

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<sup>39</sup> For Black alone or in combination, not Hispanic or Latino. Source: 2021 American Community Survey 5 Year Estimates.

<sup>40</sup> Pew Research Center. 2021. "Topline Questionnaire." Available online [https://www.pewresearch.org/wp-content/uploads/sites/20/2022/08/RE\\_2022.08.30\\_Black-Voices-Politics\\_TOPLINE.pdf](https://www.pewresearch.org/wp-content/uploads/sites/20/2022/08/RE_2022.08.30_Black-Voices-Politics_TOPLINE.pdf). Accessed 23 Jul 2024.

<sup>41</sup> Pew Research Center 2021.

<sup>42</sup> Pew Research Center 2021.

<sup>43</sup> Pew Research Center 2021.

<sup>44</sup> Pew Research Center 2022. "Black and White Americans are Far Apart in their Views of Reparations for Slavery." Available online. <https://www.pewresearch.org/short-reads/2022/11/28/black-and-white-americans-are-far-apart-in-their-views-of-reparations-for-slavery/>. Accessed 31 Jul 2024.



In his report, Dr. Carrington concludes that the clear correlations between race and voting in Alabama are caused by differences in non-racial policy preferences across racial groups rather than racial attitudes or racial policy preferences. In his report, Dr. Carrington relies on national-level data to argue that racial gaps in partisanship are instead shaped by preferences on economic policy, foreign policy and social issues. I was asked to assess the role of race and racial attitudes in partisanship and vote choice. I do so by briefly reviewing the relevant literature in political science. The literature is clear: racial identity and racial attitudes shape partisanship and party cohesion and these two phenomena have become increasingly linked since 2008. Dr. Carrington ignores this recent quantitative and qualitative literature in political science that shows the contemporary importance of race to candidate choice, policy preferences, and partisanship.

Today, “political observers take for granted” the distinction of the Democratic Party as the party of civil rights and racial liberalism, while the Republican Party is associated with “greater resistance to government programs to redress problems of racial inequality.”<sup>45</sup> Carmines and Stimson locate the origins of this distinction in the passage of the Civil Rights Act of 1964, when party elites such as Barry Goldwater clearly aligned themselves as anti-civil rights and party activists and masses gradually followed suit.<sup>46</sup> In fact, Lyndon Johnson, when signing the Civil Rights Act into law, said that by passing the law, “we have delivered the South to the Republican Party for your lifetime and mine.”<sup>47</sup> Schickler, however, offers an important corrective to this narrative, pointing out that partisan realignment began much earlier than the 1960s and was the result of movement of African American constituents toward the Democratic Party as a result of the New Deal.<sup>48</sup> These new voters put pressure on Democrats at the local and state levels to liberalize on issues of civil rights.<sup>49</sup> That leftward movement of the national Democratic Party on race predates the 1964 Presidential Election.<sup>50</sup>

Despite disagreement over the timing and mechanisms, the literature provides strong support for the notion that the contemporary partisan alignment stems from the positioning of the two parties on the issue of race and civil rights. Schickler characterizes this system as “the post-New Deal party system in which Democrats were identified with African Americans and racial liberalism, while Republicans were associated with racial conservatism.”<sup>51</sup> Barber and McCarty argue that for Democrats, left-ward ideological movement among elites in the party is a function of the election of African American and Latino representatives in southern majority-minority districts.<sup>52</sup> With respect to partisan sorting of the masses, research shows that the exodus of

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<sup>45</sup> Schickler, Eric. *Racial realignment: The transformation of American liberalism, 1932-1965*. Princeton University Press, 2016: 1.

<sup>46</sup> Schickler 2016: 2; Carmines, Edward G., and James A. Stimson. *Issue evolution: Race and the transformation of American politics*. Princeton University Press, 1989.

<sup>47</sup> Schickler 2016: 2.

<sup>48</sup> Schickler 2016.

<sup>49</sup> Schickler 2016.

<sup>50</sup> Schickler 2016.

<sup>51</sup> Schickler 2016: 2.

<sup>52</sup> Barber, Michael, Nolan McCarty, Jane Mansbridge, and Cathie Jo Martin. "Causes and consequences of polarization." *Political negotiation: A handbook* 37 (2015): 39-43; 27.

southern White voters from the Democratic Party from 1958 to 1980 was a reflection of racial attitudes rather than income or other non-race related policy preferences.<sup>53</sup> In the 1990s some observers argued that the importance of race to mass partisanship had faded;<sup>54</sup> however, more recent research, in some cases by those same authors, shows that the relationship of race and racial attitudes to partisanship is strong.<sup>55</sup> Valentino and Sears find that in the South, racial attitudes, more than ideological shifts or other policy preferences, explained an increasingly large part of candidate choice and partisanship among White voters between 1972 and 2000.<sup>56</sup> Work by M.V. Hood, III and several coauthors also finds support for the role of racial attitudes in partisanship. For instance, in their study of support for Confederate symbols and lost cause ideology, Cooper et al. find support “for racially motivated explanations for partisan change in the South.”<sup>57</sup> There is also support for the importance of race to partisan realignment in Alabama, although it took place later than in other states.<sup>58</sup>

Research that examines mass and elite partisanship from 2008 onward finds strong evidence of both partisan sorting and issue polarization along the lines of race in the electorate. However, Dr. Carrington does not seriously engage with the literature examining the causes of partisan polarization and candidate choice in more recent years. When examining such research, it becomes clear that the election of President Barack Obama, the first Black person elected to the presidency, was consequential to the relationship between race and partisanship and vote choice: although Obama’s candidacy and election did not seem to affect the level of racial prejudice or resentment among White Americans overall, that election did shape the importance

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<sup>53</sup> Kuziemko, Ilyana, and Ebonya Washington. “Why did the Democrats lose the South? Bringing new data to an old debate.” *American Economic Review* 108, no. 10 (2018): 2830-2867.

<sup>54</sup> Abramowitz, Alan I. 1994. “Issue evolution reconsidered: Racial attitudes and partisanship in the US electorate.” *American Journal of Political Science*:1-24. Kuklinski, James H, Paul M Sniderman, Kathleen Knight, Thomas Piazza, Philip E Tetlock, Gordon R Lawrence, and Barbara Mellers. 1997. “Racial prejudice and attitudes toward affirmative action.” *American Journal of Political Science*:402-419. Sniderman, Paul M, and Edward G Carmines. 1997. “Reaching beyond race.” *PS: Political Science & Politics* 30 (3):466-471.<sup>55</sup> For instance, see Abramowitz, Alan, and Jennifer McCoy. 2019. “United States: Racial resentment, negative partisanship, and polarization in Trump’s America.” *The ANNALS of the American Academy of Political and Social Science* 681 (1):137-156.

<sup>55</sup> For instance, see Abramowitz, Alan, and Jennifer McCoy. 2019. “United States: Racial resentment, negative partisanship, and polarization in Trump’s America.” *The ANNALS of the American Academy of Political and Social Science* 681 (1):137-156.

<sup>56</sup> Valentino, Nicholas A., and David O. Sears. “Old times there are not forgotten: Race and partisan realignment in the contemporary South.” *American Journal of Political Science* 49, no. 3 (2005): 672-688.

<sup>57</sup> Cooper, Christopher A., M. V. Hood III, Scott Huffmon, Quentin Kidd, H. Gibbs Knotts, and Seth C. McKee. “Switching sides but still fighting the Civil War in southern politics.” *Politics, Groups, and Identities* 10, no. 1 (2022): 100-116.

<sup>58</sup> Hood III, Morris V., Quentin Kidd, and Irwin L. Morris. *The rational southerner: Black mobilization, republican growth, and the partisan transformation of the American south*. Oxford University Press, 2012.

of those attitudes to partisanship and vote choice.<sup>59</sup> Political science research shows that race-related attitudes were an important predictor of support for President Obama, and the relationship between vote choice and racial attitudes was *stronger* in the 2008 presidential election than in those prior.<sup>60</sup> Similarly, Abramowitz and McCoy find that the relationship between racial attitudes and candidate preferences grew stronger beginning with the 2008 election, finding that “the presence of an African American presidential candidate on the ballot led to a sharp increase in the correlation between racial resentment and candidate feeling thermometer ratings among White working-class voters.”<sup>61</sup> Racial attitudes also predicted White voters’ willingness to vote for President Obama in the 2012 general election.<sup>62</sup> Several studies show that support for Obama would have been higher in Alabama and other states were it not for racial prejudice, which caused Obama to underperform.<sup>63</sup>

Attention to recent research also provides evidence that racial considerations shape evaluations of other candidates. Beginning with the 2008 presidential election, African American, Latino, and Asian support for Democratic presidential candidates increased.<sup>64</sup> Meanwhile, support for Democratic candidates among White voters decreased.<sup>65</sup> Abramowitz and McCoy find that with respect to candidate choice and racial resentment, “Donald Trump’s heavy emphasis on racial issues led to a further increase in the strength of this relationship, especially among White voters without college degrees.”<sup>66</sup> By 2016, racial resentment was strongly associated with how a voter evaluated candidates *even after controlling for other factors*: the correlation between the gap in evaluations of the two major party presidential candidates and racial resentment was .636 among White respondents.<sup>67</sup>

Partisanship also has been tied to racial attitudes in more recent research. Abramowitz and McCoy demonstrate that partisan sorting based on racial attitudes increased dramatically

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<sup>59</sup> Tesler, Michael. 2016. “Post-racial or Most-racial?” In *Post-Racial or Most-Racial?* : University of Chicago Press.

<sup>60</sup> Tesler, Michael. 2013. “The return of old-fashioned racism to White Americans’ partisan preferences in the early Obama era.” *The Journal of Politics* 75 (1):110-123.

<sup>61</sup> Abramowitz, Alan, and Jennifer McCoy, 2019: 142.

<sup>62</sup> Knuckey, Jonathan, and Myunghee Kim. “Racial resentment, old-fashioned racism, and the vote choice of southern and nonsouthern whites in the 2012 US presidential election.” *Social Science Quarterly* 96, no. 4 (2015): 905-922.

<sup>63</sup> Stephens-Davidowitz, Seth. “The cost of racial animus on a black candidate: Evidence using Google search data.” *Journal of Public Economics* 118 (2014): 26-40; Highton, Benjamin. “Prejudice rivals partisanship and ideology when explaining the 2008 presidential vote across the states.” *PS: Political Science & Politics* 44, no. 3 (2011): 530-535.

<sup>64</sup> Sides, John, Michael Tesler, and Lynn Vavreck. 2019. “Identity crisis.” In *Identity Crisis*. Princeton University Press; 25.

<sup>65</sup> Sides, Tesler, and Vavreck 2019: 26.

<sup>66</sup> Abramowitz and McCoy 2019: 142.

<sup>67</sup> Abramowitz and McCoy 2019: 142. Pearson’s R, a measure of correlation, can range from -1 to 1, with 0 meaning no association, and +1 meaning perfectly positive association. A correlation over .6 is considered strong.

among White voters since 2004; they find “the relationship between racial resentment and candidate feeling thermometer ratings was about 2.6 times stronger in 2016 than in 2004 among all White voters, but it was more than four times stronger among White working-class voters.”<sup>68</sup> Racial threat and racial anxiety also became more salient to partisanship and vote choice in the years since 2008. The strength of White identity politics—defined as “White Americans’ feelings of marginalization in an increasingly diverse America”<sup>69</sup>—is becoming increasingly salient to vote choice<sup>70</sup> and is more important than economic anxiety in explaining vote choice.<sup>71</sup> Bartels finds that Republicans and Democrats are sharply polarized with respect to holding attitudes of ethnic antagonism.<sup>72</sup> Bonikowski et al. argue that these “outgroup antipathies” are part of broader ideologies on which partisans are increasingly sorting.<sup>73</sup>

In direct contradiction of Dr. Carrington’s claims, research has shown that alternative explanations for polarization also became tied more strongly to racial attitudes in recent years. Several of the items Dr. Carrington discusses as not being “race-based issues” are increasingly tied to race.<sup>74</sup> Cooper et al. 2022 find support for the proposition that attitudes on the confederate flag are tied to race.<sup>75</sup> Negative partisan affect, economic anxiety, and antidemocratic sentiments are themselves increasingly explained by racial attitudes and anxieties.<sup>76</sup> The relationship between economic inequality and partisan polarization has been

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<sup>68</sup> Abramowitz and McCoy 2019: 143.

<sup>69</sup> Sides, Tesler, and Vavreck 2019: 87.

<sup>70</sup> Sides, Tesler, and Vavreck 2019: 89-90.

<sup>71</sup> Sides, Tesler, and Vavreck 2019: 90-91.

<sup>72</sup> Bartels, Larry M. 2020. “Ethnic antagonism erodes Republicans’ commitment to democracy.” *Proceedings of the National Academy of Sciences* 117 (37):22752-22759; 22757. Bartels defines ethnic antagonism using responses to survey items such as “discrimination against Whites is as big a problem today as discrimination against Blacks and other minorities.” Not far behind are items positing that “things have changed so much that I often feel like a stranger in my own country,” that immigrants get more than their fair share of government resources, that people on welfare often have it better than those who work for a living, that speaking English is “essential for being a true American” and that African-Americans “need to stop using racism as an excuse” (Bartels 2020: 22756).

<sup>73</sup> Bonikowski, Bart, Yuval Feinstein, and Sean Bock. 2021. “The Partisan Sorting of “America”: How Nationalist Cleavages Shaped the 2016 US Presidential Election.” *American Journal of Sociology* 127 (2):492-561.

<sup>74</sup> Carrington Report, 22. For instance, Randall Balmer links the origins of the religious right not in response to *Roe v. Wade*, but in response to tax exempt status for segregation academies. Balmer, Randall. *Bad faith: Race and the rise of the religious right*. Wm. B. Eerdmans Publishing, 2021.

<sup>75</sup> Cooper et al. 2022.

<sup>76</sup> Abramowitz and McCoy 2019; Bartels 2020; Sides, Tesler, and Vavreck 2019; Stewart, Alexander J, Nolan McCarty, and Joanna J Bryson. 2020. “Polarization under rising inequality and economic decline.” *Science advances* 6 (50):eabd4201.

shown to be a function of racial context.<sup>77</sup> Voters' positions on non-racial policy issues more generally have become more correlated with racial resentment,<sup>78</sup> including abortion attitudes.<sup>79</sup>

Recent studies have shown that party and race are linked in the American mind. Partisan sorting has caused parties to be explicitly identified with particular racial groups in the minds of some Americans; in particular, 97.2 percent of Americans think that the typical Republican is White.<sup>80</sup> Racial and partisan affect are increasingly linked, such that it is possible to activate one by activating the other.<sup>81</sup> Likewise, "White respondents who perceive the Democratic Party as African American are less favorable toward Democrats, more favorable toward Republicans, and take more conservative positions on political issues."<sup>82</sup>

Moreover, Dr. Carrington's argument that differences in partisanship and vote choice can be traced to religiosity, rather than racial attitudes and preferences, does not hold water in Alabama. Like their White counterparts, Black Alabamians traditionally are highly religious, and even higher proportions of Black Alabamians identify as evangelical or born-again.<sup>83</sup> Many Black Alabamians are socially conservative as well, particularly on issues such as abortion: a Pew study of Alabama adults found that 48% of Black Alabamians think that abortion "should be illegal in all or most cases."<sup>84</sup>

In conclusion, the literature clearly supports the point that party and candidate choice is shaped by racial identity and racial attitudes in the electorate. This relationship has been strengthening in recent years. To say that factors other than racial considerations explain the voting patterns along racial dimensions in Alabama, as Dr. Carrington argues, ignores the past fifteen years of evidence in the literature that race and racial attitudes drive partisanship and vote

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<sup>77</sup> Hersh, Eitan D, and Clayton Nall. 2016. "The primacy of race in the geography of income-based voting: new evidence from public voting records." *American Journal of Political Science* 60 (2):289-303.

<sup>78</sup> Enders, Adam M, and Jamil S Scott. 2019. "The increasing racialization of American electoral politics, 1988-2016." *American Politics Research* 47 (2):275-303.

<sup>79</sup> Deckman, Melissa, Laurel Elder, Steven Greene, and Mary-Kate Lizotte. "Abortion, religion, and racial resentment: Unpacking the underpinnings of contemporary abortion attitudes." *Social Science Quarterly* 104, no. 2 (2023): 140-152.

<sup>80</sup> Zhirkov, Kirill, and Nicholas A Valentino. 2022. "The Origins and Consequences of Racialized Schemas about US Parties." *Journal of Race, Ethnicity, and Politics*:1-21.

<sup>81</sup> Westwood, Sean J, and Erik Peterson. 2020. "The inseparability of race and partisanship in the United States." *Political Behavior*:1-23.

<sup>82</sup> Zhirkov and Valentino 2022: 17.

<sup>83</sup> Boorstein, Michelle. 2017. The Stunning Difference between Black and White Evangelical Voters in Alabama. *The Washington Post*. Available online <https://www.washingtonpost.com/news/acts-of-faith/wp/2017/12/13/there-was-an-enormous-gap-between-black-evangelical-voters-and-white-evangelical-voters-in-alabama/>. Accessed 25 Jul 2024.

<sup>84</sup> Pew Research Center. "Views about Abortion among Adults in Alabama." Available online <https://www.pewresearch.org/religious-landscape-study/database/state/alabama/views-about-abortion/#demographic-information>. Accessed 25 Jul 2024.

choice. Racial attitudes are becoming *more* salient to partisanship and vote choice and vote choice over time.

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

A handwritten signature in black ink, appearing to read "Imani Burch". The signature is written in a cursive, flowing style.

Date: July 31, 2024