

Stone v. Allen; Expert Report of Dr. Traci Burch**February 2, 2024****Scope of the Report**

I was asked by Plaintiffs' counsel in this case to evaluate evidence in Alabama and particularly the Greater Montgomery and Huntsville areas concerning Senate Factor 5 or "the extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process," is an important component of VRA analysis. Specifically, I was asked to analyze whether and to what extent there are disparities in socioeconomic status between Black and White Alabamians that might affect voter registration and turnout. Where available, I was asked to calculate these data statewide as well as for Crenshaw, Elmore, Limestone, Madison, Montgomery, and Morgan Counties. My understanding is that other experts will discuss the historical and contemporary discrimination that contributes to racial disparities. For my analysis, I rely on sources and methods commonly used by political scientists such as the analysis of survey and government data, agency reports, and the review of the scholarly literature in political science and other related disciplines.

Qualifications

I am an Associate Professor of Political Science at Northwestern University and a Research Professor at the American Bar Foundation. I received my Ph.D. in Government and Social Policy from Harvard University in 2007.

Over the past 15 years, I have led several large, long-term quantitative and qualitative research projects on political participation in the United States. I have participated in and coauthored several book chapters and articles that examine race, political participation, and inequality, and I have been recognized as an expert on political behavior, barriers to voting, and political participation. My work has been widely cited and replicated and has won several awards. I have received several grants for my work. I routinely review the work of my peers for tenure, scholarly journals, university presses, and grants and have served as a reviewer for the American Political Science Review, The American Journal of Political Science, The Journal of Politics, Political Behavior, the National Science Foundation, Cambridge University Press, Princeton University Press, the University of Chicago Press, Oxford University Press, and many other entities.

I am the author of several books and articles examining voter turnout and political participation, race and ethnic politics, and criminal justice using multiple methods. In particular, my articles "Did Disfranchisement Laws Help Elect President Bush? New Evidence on the Turnout and Party Registration of Florida's Ex-Felons" and "Turnout and Party Registration among Criminal Offenders in the 2008 General Election," which appeared in the peer-reviewed journals Law and Society Review and Political Behavior, respectively, included my calculations of felony disenfranchisement and voter turnout among people with felony convictions. My academic book on the community-level effects of criminal convictions on political participation, *Trading Democracy for Justice*, was published by the University of Chicago Press and also won multiple

national awards from the American Political Science Association and its sections, including the Ralph J. Bunche Award for the best scholarly work that explores the phenomenon of ethnic and cultural pluralism and best book awards from the law and politics and urban politics sections. *Trading Democracy for Justice*, along with many of my articles, relies on the analysis of large criminal justice and voter registration data files.

In addition to my published work, I have conducted analyses of legal financial obligations, re-registration after felony convictions, and barriers to voting as an expert witness. I have testified in cases involving allegations of intentional racial discrimination under the *Arlington Heights* framework as well as racial discrimination in terms of equal access to the political process under Section 2 of the Voting Rights Act. I have also testified before the U.S. Commission on Civil Rights about the collateral consequences of felony convictions with respect to voting and other issues.

Several of these projects have involved conducting research on voting in North Carolina. I examined voting among people with felony convictions and people who live near people with felony convictions in North Carolina for my book *Trading Democracy for Justice*, as well as for several articles published in peer-reviewed journals. I also analyzed voter turnout among people with felony convictions for a case in North Carolina.

My curriculum vitae is provided in the appendix, which includes all cases in which I have provided deposition and trial testimony during the past four years and every article I have authored over the past ten years. I am being compensated at the rate of \$400 per hour for work in this case, plus expenses. My compensation does not depend on the opinions I render. My prior expert engagements are set forth in my CV. In all cases where an opinion was issued, the courts accepted my expert testimony.

Opinions

I offer the following opinions:

- Racial disparities in voter registration and turnout exist in Alabama. My analysis finds disparities in voter registration between Black and White Alabamians for the past three general elections (2022, 2020, and 2018) and voter turnout disparities for the two elections for which I have data, 2020 and 2018.
- According to data from the Alabama Secretary of State, Black Alabamians were registered to vote at lower rates than White Alabamians for the 2022, 2020, and 2018 general elections.
- According to data from the Alabama Secretary of State, Black Alabama citizens were less likely to vote than White Alabama citizens in both the 2020 and 2018 general elections. The statewide turnout gap in 2020, as measured using vote totals by race from the Alabama Secretary of State, was 9.3 percentage points. In 2018, it was 3.3 percentage points. Data on voter turnout by race in 2022 were not yet available online.
- According to the state's data, Black residents of Crenshaw, Elmore, Limestone, Madison, Montgomery, and Morgan Counties also voted less than White residents in both 2020 and 2018. The gaps in turnout in 2020 ranged from 9.7 percentage points in Limestone

County to 16.2 percentage points in Elmore County. In 2018, the turnout gap ranged from 3.6 percentage points in Limestone County to 12.4 percentage points in Elmore County.

- There are large gaps in socioeconomic status between Black and White Alabama Residents. White Alabamians are better off in terms of educational attainment, median income, poverty rates, unemployment rates, health insurance, and food stamp receipt relative to Black Alabamians. Black Alabamians also are disadvantaged in other factors such as access to a vehicle, a computer, and broadband internet at home. These disparities also are apparent in Elmore, Limestone, Madison, Montgomery, and Monroe Counties (data were not available for Crenshaw County).
- Educational attainment is an important predictor of voting. It is well-established in the political science literature that people with higher educational attainment vote at higher rates. Statewide and at the county level, Black adult Alabamians were less likely to have graduated from high school or to have attained a bachelor's degree than White Alabama adults.

Methodology

My opinions in this case rely primarily on my analysis of several data sources, each of which are commonly used in political science: the American Community Survey,¹ the Current Population Survey Voting and Registration Supplement,² data from the Alabama Secretary of

¹ The American Community Survey (ACS) is conducted by the U.S. Census Bureau on an ongoing basis. It contains more detailed demographic questions than the decennial census and is fielded more frequently. For this report, I use data from the 2021 1-year and 5-year estimates as noted. However, I am aware that the 2022 5-year data were released shortly after I completed this analysis. I also use data from the Citizen Voting Age Population (CVAP) Special Tabulation from the 2016-2020 5-Year American Community Survey, available online from <https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.2020.html#list-tab-1518558936>

² The Current Population Survey (CPS) is fielded monthly by the U.S. Census Bureau and collects detailed economic and social data. For federal election cycles, the November CPS asks questions about voting participation. These data are widely used by political scientists to determine voter turnout. The Current Population Survey Voting and Registration data have been shown to overestimate voter turnout, and the problem is worse for Black respondents than White respondents. However, this problem is not as severe for Alabama as it is in other states. See Ansolabehere, Stephen, Bernard L. Fraga, and Brian F. Schaffner. 2022. "The Current Population Survey Voting and Registration Supplement Overstates Minority Turnout." *The Journal of Politics* 84 (3):1850-1855.

State,³ the Cooperative Election Survey,⁴ and the Survey of the Performance of American Elections.⁵ I describe my analyses of these data below.

Socioeconomic Status

Data on socioeconomic status by race in Alabama, at both the statewide and county levels, are taken from the 2021 American Community Survey. Statewide, I provide data from the 2021 1-year estimates. The county-level data are from the 2021 5-year estimates. I calculate several socioeconomic indicators for non-Hispanic White and non-Hispanic Black (alone or in combination) Alabama residents.⁶ I calculate educational attainment for adults age 25 and older,⁷ lack of health insurance for the civilian noninstitutionalized population ages 19-64,⁸ and the civilian unemployment rate for the population age 16 and older⁹ by race and ethnicity. I also calculate median income,¹⁰ family poverty,¹¹ the presence of a vehicle,¹² computer and internet access,¹³ and food stamp/SNAP reciprocity¹⁴ by race and ethnicity of household head.

Voter Registration and Turnout

I calculate voter registration and turnout in Alabama statewide and at the county level using data from the Alabama Secretary of State (SOS). For voter registration, I calculate the total number of active registered voters as the numerator, divided by the total number of adult citizens able to vote (CVAP) as the denominator.¹⁵ I calculate voter turnout using the total

³ These data on registration and votes cast by race are available online line from the Alabama Secretary of State at <https://www.sos.alabama.gov/sites/default/files/election-data/2021-06/2020%20General%20Election%20Participation%20by%20Race.pdf>

⁴ The Cooperative Election Survey (CES) is funded by the National Science Foundation and administered by 60 teams of researchers across the U.S. The survey is large enough to allow for state-level analyses of voting. I used the Alabama sample of the 2020 CES, which has 947 responses. The CES validates votes, meaning that unlike the other surveys used here, the CES team verifies the voter registration and turnout of respondents independently rather than relying on self-reports.

⁵ The Survey of the Performance of American Elections (SPAEE) is a large, national survey conducted by the MIT Election Data and Science Lab. I used the Alabama sample of the 2020 SPAEE, which has 200 respondents.

⁶ Analyses for non-Hispanic Black alone do not differ substantially from the Black alone or in combination analyses but are available upon request.

⁷ American Community Survey Table B15002

⁸ American Community Survey Table B27011

⁹ American Community Survey Table B23025

¹⁰ American Community Survey Table B19013

¹¹ American Community Survey Table B17010

¹² American Community Survey Table B25044

¹³ American Community Survey Tables B28001 & B28002

¹⁴ American Community Survey Table B22001

¹⁵ For the primary analysis of statewide and county level voter registration and turnout, I use the Alabama Secretary of State data on the number of registered voters and the number of votes cast in the general election, by race as the numerators. I divide these numerators by the citizen voting age population by race (non-Hispanic White alone and non-Hispanic Black alone or in

number of people who voted as the numerator, divided by the total number of adult citizens able to vote. As of this writing, the state provides voter registration by race for 2022, 2020, and 2018 online, but voter turnout by race is only available for 2018 and 2020.

For comparison with the state's 2020 voter turnout data, I also examine voter registration and turnout using surveys. The 2020 Current Population Survey Voting and Registration Supplement (CPS) allows me to calculate voter turnout by race while taking educational attainment into account.¹⁶ The analysis includes only adult Alabama citizens.

Analysis

My analysis shows that there are large disparities in socioeconomic status and political participation between Black and White Alabama residents. The literature in political science shows that socioeconomic status affects political participation.

Voter Registration, Turnout, and Race

In Alabama, White residents consistently vote at higher rates than Black residents. This relationship holds in each of the election cycles that I examined for this report.¹⁷ In 2022, the most recent state legislative election, 89.0% of non-Hispanic White Alabama residents were registered to vote statewide, compared with 84.0% of non-Hispanic Black (alone or in combination) Alabama residents. At the county level, White registration outpaced Black registration by 8.3 percentage points in Crenshaw County, 14.1 percentage points in Elmore County, 13.3 percentage points in Limestone County, 8.6 percentage points in Madison County, and 8.4 percentage points in Morgan County. Montgomery County was the only county with the reverse pattern; there, the Black voter registration rate was 1.3 percentage points higher than the White registration rate.

As Figure 1 shows, in the 2020 general election, the last general election for which turnout data by race has been reported by the SOS, White turnout as a percentage of the citizen voting age population was 66.3%, compared with Black turnout of 57.0%--a 9.3 percentage point gap statewide.¹⁸ The SOS 2020 election data also show that statewide, 96.1% of White Alabamians were registered to vote, compared with 93.9% of Black Alabamians.¹⁹ Turnout

combination). Estimates using Non-Hispanic Black alone produce similar results and are available upon request.

¹⁶ For the CPS, turnout measures the total number of people who answered "Yes" to the voting question (PES1) divided by the total number of people who answered "No," "Refused," "Don't Know," or "No Response." This method produces the same results provided by the U. S. Census Bureau in Table 4b, "Voting and Registration in the Election of November 2020." Available online <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html>. Accessed 29 Jan 2024.

¹⁷ The evidence shows that White voters have voted at higher rates than Black voters in state legislative general elections in 2014 and 2010 as well. See Ansolabehere et al. 2022 (Supplemental Appendix).

¹⁸ These estimates rely on data from the Alabama Secretary of State and the ACS CVAP special tabulation.

¹⁹ The self-reported estimates of turnout from the Current Population Survey, reported later in this section, may be a better estimate of voter registration. Registration rates depend on factors

disparities also exist between Black and White residents in the counties at issue in this case, ranging from 9.7 percentage points in Limestone County to 16.2 percentage points in Elmore County.

Turnout disparities also characterize the 2018 general election. The registration gap between White and Black Alabamians was very small in that election—88.4% of the White CVAP was registered to vote compared with 88.0% of the Black CVAP. However, the voter turnout gap persisted, as shown in Figure 2. Both statewide and in the counties at issue in this case White voters cast ballots at higher rates than Black voters.

Estimating statewide voter turnout by race using the 2020 Current Population Survey Voting and Registration Supplement (CPS) shows a turnout gap similar to that calculated using the statewide voter file for that year.²⁰ For non-Hispanic White Alabama residents, turnout in 2020 was 63.0%, compared with 54.9% of non-Hispanic Black (alone or in combination) Alabama residents—a gap of 8.1 percentage points.²¹ The CPS data also showed a 10-percentage-point gap in registration (71.0% for White and 61.0% for Black Alabama residents).²²

beyond the voters' control, such as list maintenance. Registration may be artificially high to the extent that registration rolls contain "deadwood." See Ansolabehere, Stephen and Eitan Hersh. "The Quality of Voter Registration Records: A State-by-State Analysis." Available online https://vote-prod.s3.amazonaws.com/documents/reg_quality_report_8-5-10.pdf?AWSAccessKeyId=AKIAI4764GFDOFW6EPAQ&Signature=oKV5mL9HlqhBo3i8l9oW20kDoDo%3D&Expires=1706656438. Accessed 30 Jan 2024.

²⁰ Although the CPS has been shown to overestimate voter turnout, and to do so worse for minority voters in several states, Ansolabehere et al. 2022 show that the problem is less of a concern for Alabama in the years that they analyzed. I also find that CPS estimates are about 2-3 percentage points off from estimates obtained using the Alabama SOS data for each racial group.

²¹ See also "Table 4b: Reported Voting and Registration by Sex, Race, and Hispanic Origin, for States: November 2020."

²² I also calculated voter turnout using the 2020 Cooperative Election Survey, which validates voter participation against independent records rather than relying on self-reports. For the CES, I report validated voter turnout, which is coded as responses other than "NA" to the variable "CL_2020gvm" as the numerator, divided by the total number of Alabama adult citizens (the analysis was weighted by "commonweight" according to the CES codebook). Like the Secretary of State's data and the CPS, the 2020 CES also showed a gap in turnout between Black and White Alabama respondents. However, the survey underestimated turnout for both groups relative to the CPS and the Secretary of State data. For Black CES respondents in Alabama, validated turnout was 37.6%; for White CES respondents, it was 55.4%.

Figure 1: Voter Turnout by Race in Alabama 2020 General Election. Source: Alabama Secretary of State Voter Data and 2020 American Community Survey Special Tabulation CVAP.

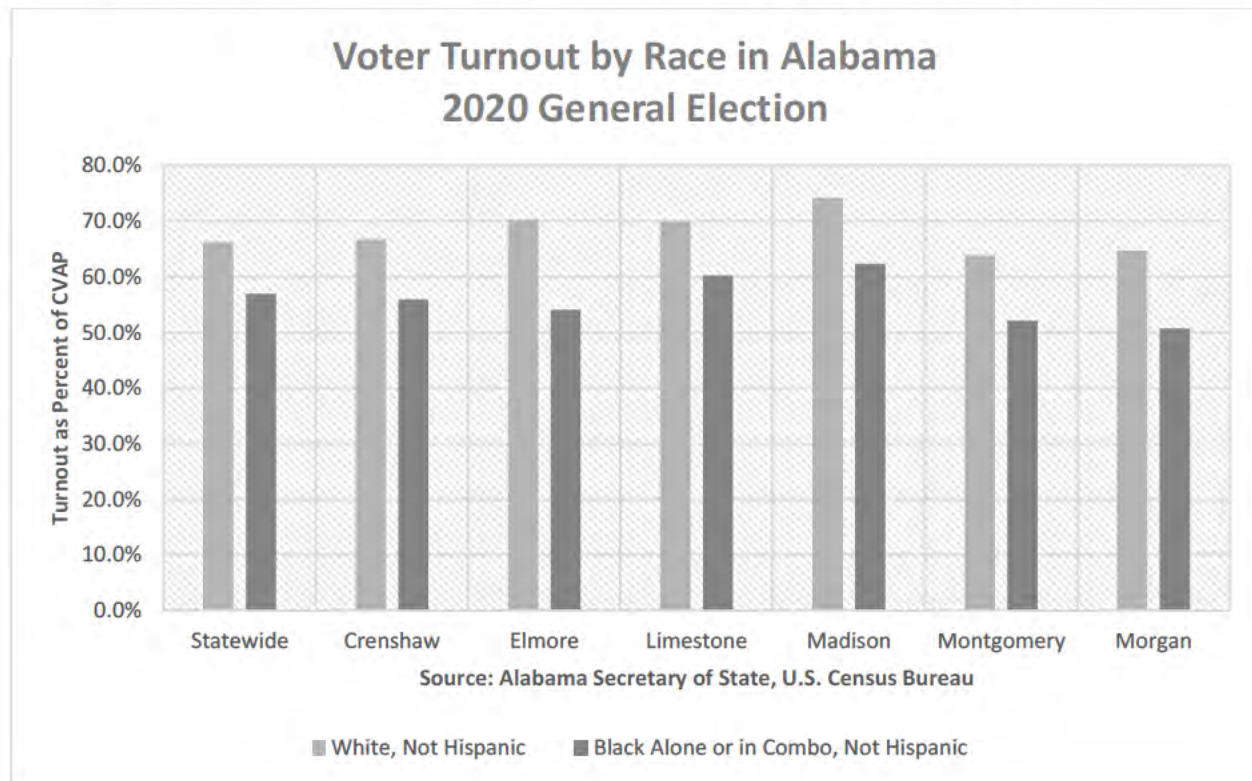
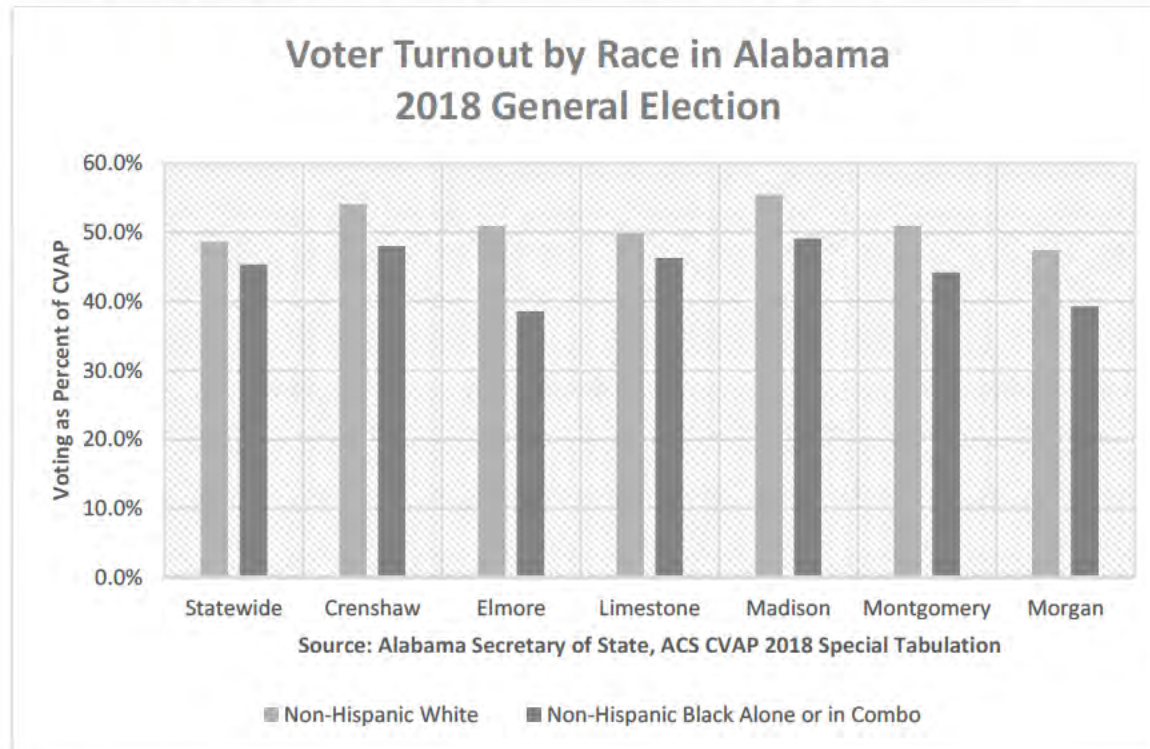


Figure 2: Voter Turnout by Race in Alabama 2018 General Election. Source: Alabama Secretary of State Voter Data and 2018 American Community Survey Special Tabulation CVAP.



Educational Attainment and Race

Verba, Schlozman, and Brady explain in one of the most widely cited books in American politics, *Voice and Equality*, that resources such as time, money, and civic skills are important to voting and other forms of political participation precisely because such resources allow people to surmount the costs of participation more easily.²³ Socioeconomic status is an important factor in whether an individual votes²⁴ because socioeconomic status is related to the available time, money, and civic skills an individual can devote to overcoming the costs of voting.²⁵ These costs can include the time it takes to acquire information about the candidates and issues or the process of registering, as well as the time or lost wages required to vote in person.²⁶

Of the components of socioeconomic status, educational attainment is the most important predictor of voting. In fact, "The powerful relationship between education and voter turnout is

²³ Verba, Sidney, Kay Lehman Schlozman, and Henry E. Brady. *Voice and equality: Civic voluntarism in American politics*. Harvard University Press, 1995.

²⁴ See Verba, Schlozman, and Brady 1995; See also Burden, Barry C. "The dynamic effects of education on voter turnout." *Electoral studies* 28, no. 4 (2009): 540-549.

²⁵ Smets, Kaat, and Carolien Van Ham. "The embarrassment of riches? A meta-analysis of individual-level research on voter turnout." *Electoral studies* 32.2 (2013): 344-359.

²⁶ Verba, Schlozman and Brady 1995.

arguably the most well-documented and robust finding in American survey research.”²⁷ An analysis of research appearing in top-10 political science journals finds that most studies confirm the importance of individual socioeconomic status, particularly educational attainment, to voting.²⁸ Research also shows that the relationship between education and voting is a causal one.²⁹

My analysis of educational attainment by race in Alabama shows significant disparities between Black and White residents, both statewide and at the county level. According to Figure 3, a higher percentage of Black Alabama residents have not graduated from high school (or its equivalent) and a lower percentage have received bachelor’s degrees than White Alabama residents. Figures 4 and 5 show the percentage of Black and White residents who have not completed high school and who have attained a bachelor’s degree or higher, respectively, for selected Alabama counties. As shown in the figures, White residents fare better in every county relative to Black residents.

The racial disparities shown in Figures 3, 4, and 5 are caused, in part, by historical and contemporary discrimination in education that make Black Alabamians less likely to have graduated from high school and college relative to White Alabamians.³⁰ The historical evidence of separate-but-unequal education in Alabama is clear. According to the Southern Educational Reporting Service 1961 Report, Alabama public education remained segregated into the 1960s even though several years had passed since the decision in *Brown v. Board of Education* in 1954. Racial inequality in schooling persists today; several indicators show that Black students do not receive the same educational experiences and lack the same educational opportunities as White students. For instance, there is a persistent test score gap between Black and White students in English and Language Arts, Math, and Science.³¹ The evidence also suggests that school segregation persists in several districts in the state and may have gotten worse since the 1990s.³²

²⁷ Sondheimer, Rachel Milstein, and Donald P. Green. "Using experiments to estimate the effects of education on voter turnout." *American Journal of Political Science* 54, no. 1 (2010): 174-189: 174.

²⁸ Smets and Van Ham 2013.

²⁹ Sondheimer and Green 2010.

³⁰ Southern Educational Reporting Service. 1961. A statistical summary, State by State, of segregation-desegregation activity affecting Southern schools from 1954 to present, together with pertinent data on enrollment, teachers, colleges, litigation and legislation. Southern Education Reporting Service: 1.

³¹ ELA: 31.8% vs. 59.5% proficiency; Math: 13.0% vs 39.2% proficiency; and Science 19.3% vs. 49.2% proficiency. See Alabama Department of Education (Report Card). Available online <https://reportcard.alsde.edu/OverallScorePage.aspx?ReportYear=2023&SystemCode=000&SchoolCode=0000>. Accessed 29 Jan 2024.

³² See Mann, Bryan. and Rogers, Annah. (2021), Segregation Now, Segregation Tomorrow, Segregation Forever? Racial and Economic Isolation and Dissimilarity in Rural Black Belt Schools in Alabama. *Rural Sociology*, 86: 523-558 and “Justice Department Secures Resolution in Madison County, Alabama, School Desegregation Case.” Available online <https://www.justice.gov/opa/pr/justice-department-secures-resolution-madison-county-alabama-school-desegregation-case>. Accessed 29 Jan 2024.

Figure 3: Alabama Statewide Educational Attainment for Adults Age 25 and Older, by Race.
Source: American Community Survey 2021 1-Year Estimates.

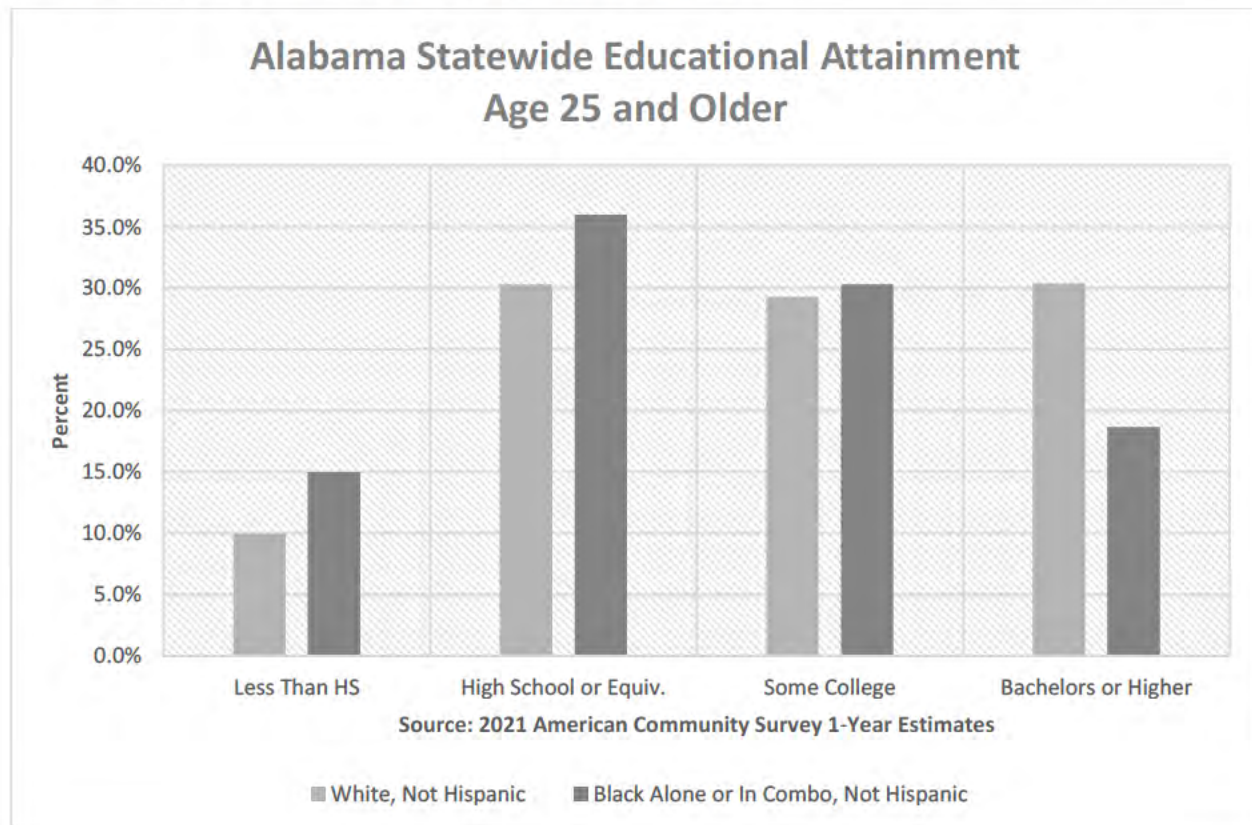


Figure 4: Percent of Alabama Adults Age 25 and Older without a High School Diploma, by Race. Source: American Community Survey 2021 5-Year Estimates.

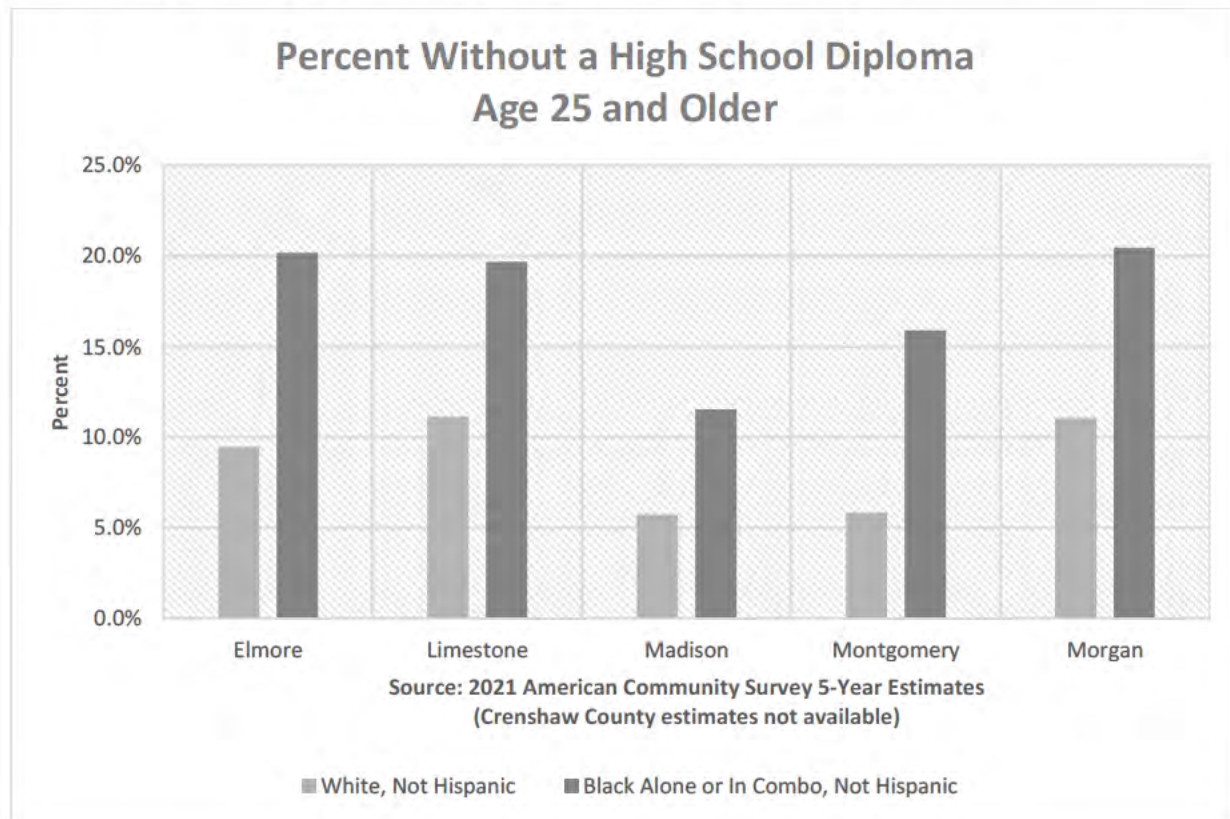
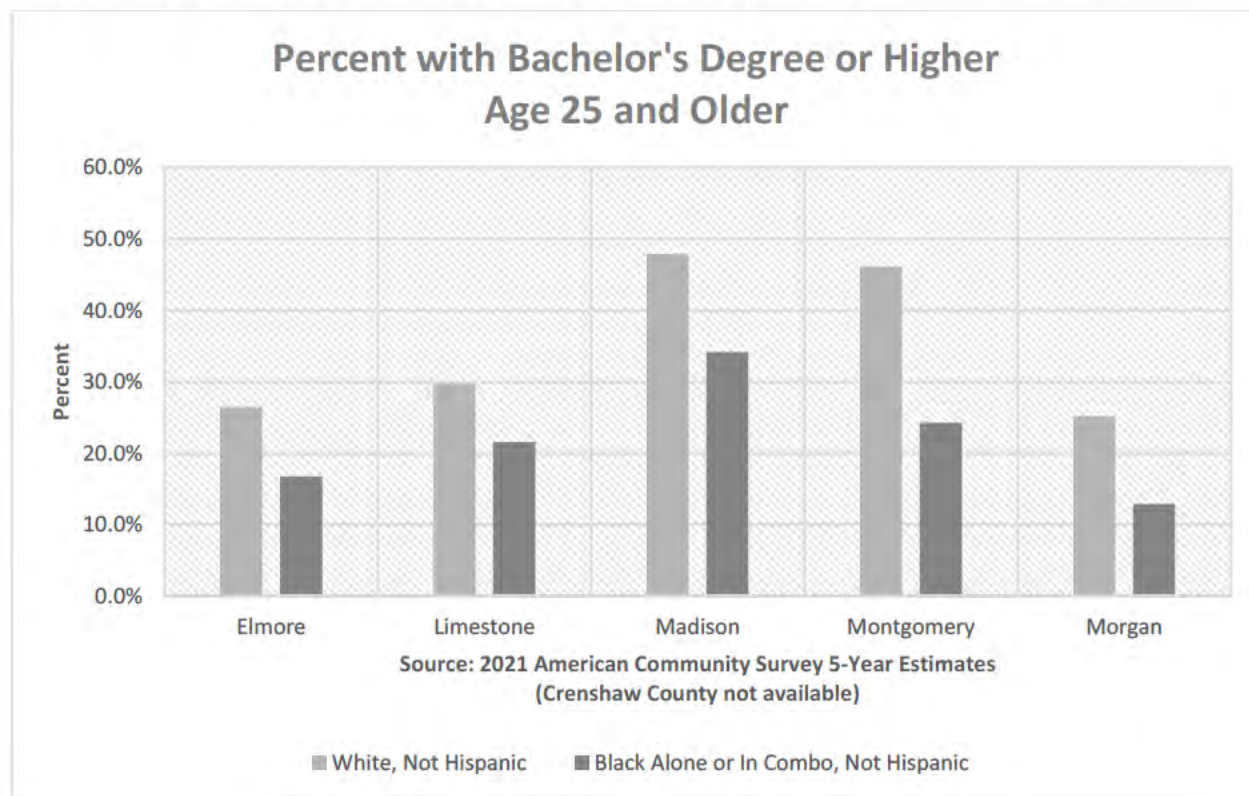


Figure 5: Percent of Alabama Adults Age 25 and Older with a Bachelor's Degree or Higher, by Race. Source: American Community Survey 2021 5-Year Estimates.



Additional Measures of Socioeconomic Status and Race

Income, poverty, and other socioeconomic factors also affects voting to the extent that greater resources can make it easier to overcome the costs of voting, such as having the ability to afford time off work to go to the polls.³³ Much of the impact of socioeconomic status happens through education, because educational attainment affects income, poverty, and employment.³⁴ However, these factors may exert an independent influence on voting as well.

Data from the American Community Survey show that there are large disparities along several measures of socioeconomic status between Black and White Alabama residents. For instance, as Figure 6 shows, the median household income for Black Alabama households is \$36,104, compared with \$62,545 for White Alabama households. White-headed households also are richer in each of the six counties analyzed in Figure 6. Black unemployment is more than twice as high as White unemployment statewide and in most counties depicted in Figure 7. Statewide, Black family poverty is nearly three times as high as White family poverty; in several

³³ Verba, Schlozman, and Brady 1995.

³⁴ Long, Mark C. 2010. "Changes in the returns to education and college quality." *Economics of Education Review* 29 (3):338-347.

counties, the racial disparity in family poverty is even greater (Figure 8). Relatedly, a higher percentage of Black households than White households receive SNAP benefits (Figure 9). In Alabama, Black people are less likely to have health insurance than White people as well, as shown in Figure 10. White households also are more likely to have a computer at home (Figure 11), as well as broadband internet access (Figure 12).

There are racial disparities in transportation access in Alabama. As shown in Figure 13, statewide, Black Alabama households are more than twice as likely to lack access to a vehicle than White Alabama households. These disparities also are present in the counties I was asked to examine for this case. Studies have shown that polling place distance affects voter turnout, and those effects are related to transportation access.³⁵ In states with no- excuse absentee voting, people tend to offset issues accessing physical polling places by voting by mail instead; however, in states with limited absentee ballot options such as Alabama,³⁶ the “substitution to mail-in voting” is smaller.³⁷

³⁵ Brady, Henry E., and John E. McNulty. 2011. "Turning Out to Vote: The Costs of Finding and Getting to the Polling Place." *The American Political Science Review* 105 (1):115-134; Bagwe, Gaurav, Juan Margitic, and Allison Stashko. 2020. Polling Place Location and the Costs of Voting. Working Paper.

³⁶ National Conference of State Legislatures. 2022. "Table 2: Excuses to Vote Absentee." accessed 5 Dec 2022. <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-2-excuses-to-vote-absentee.aspx>.

³⁷ Bagwe, Margitic, and Stashko 2020: 4

Figure 6: Median Income for Alabama Households, by Race of Householder. Source: 2021 American Community Survey 1-year and 5-year Estimates.

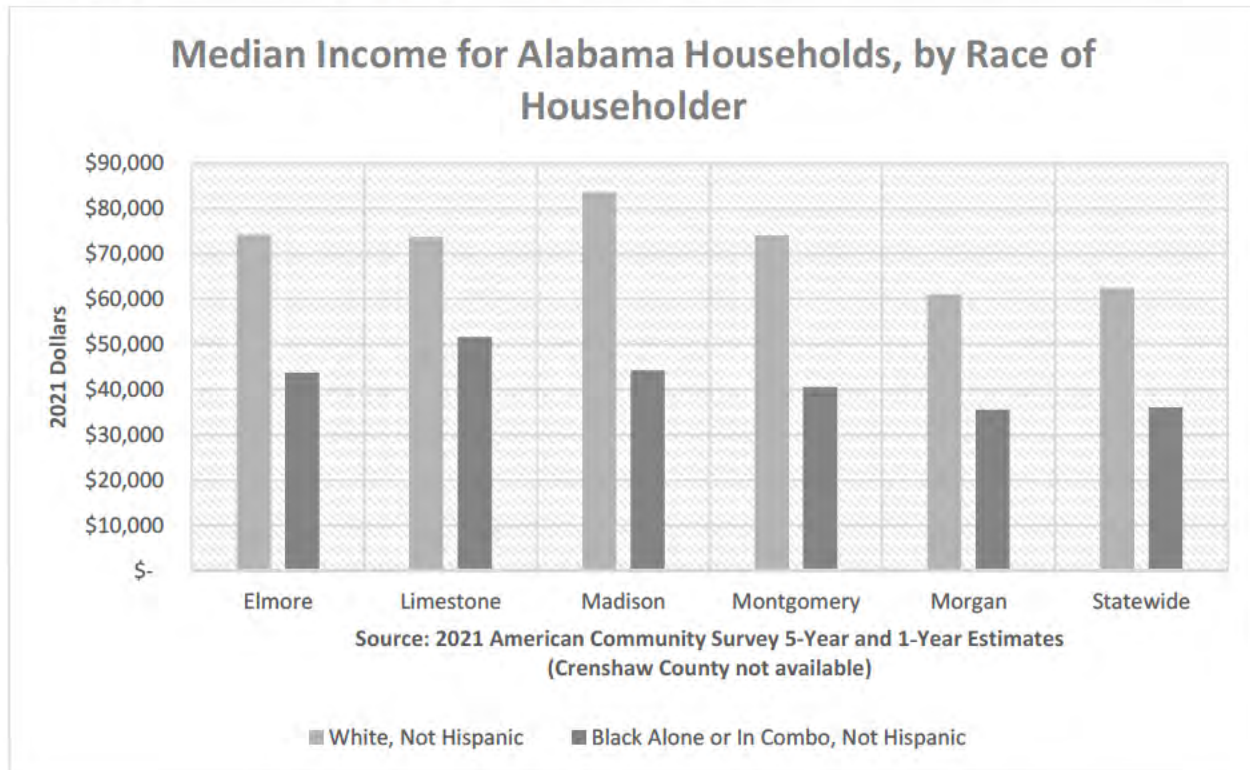


Figure 7: Civilian Unemployment Rate for Age 16 and Older, by Race. Source: 2021 American Community Survey 1-year and 5-year Estimates.

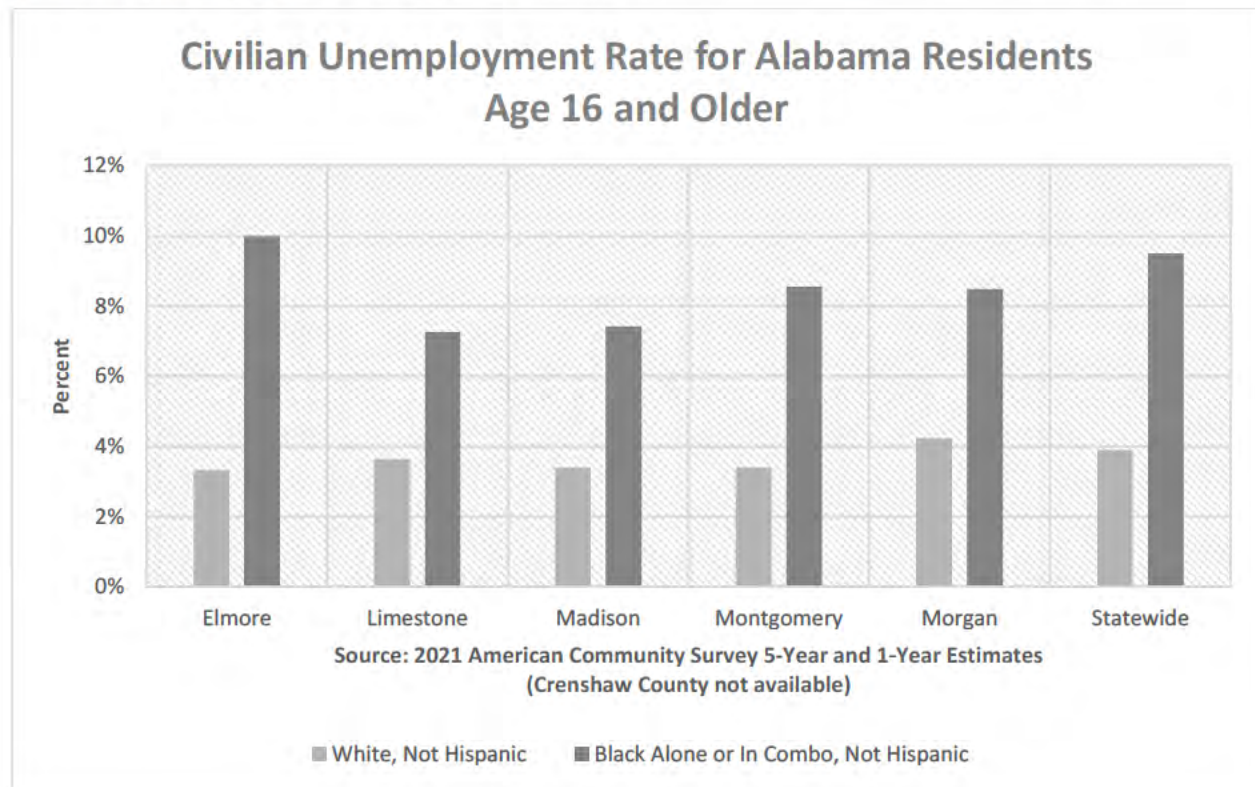


Figure 8: Family Poverty in Alabama, by Race of Householder. Source: 2021 American Community Survey 1-year and 5-year Estimates.

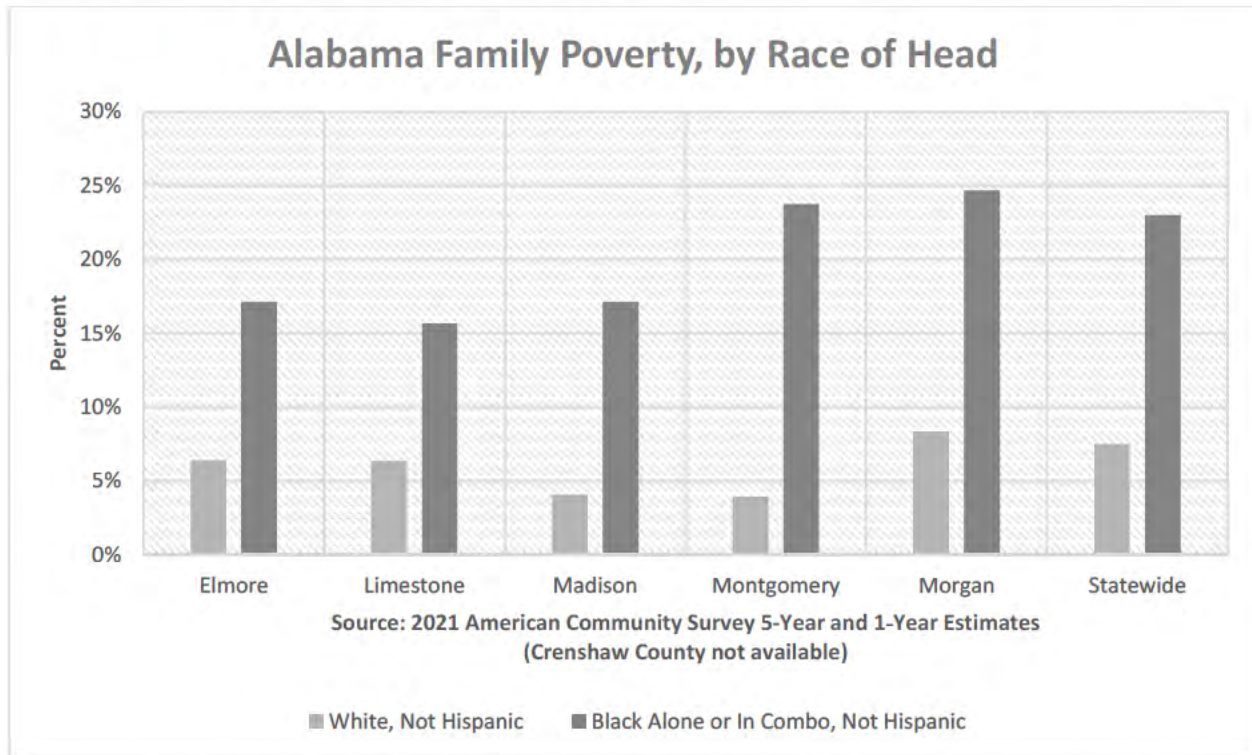


Figure 9: SNAP/Food Stamp Receipt, by Race of Householder. Source: 2021 American Community Survey 1-year and 5-year Estimates.

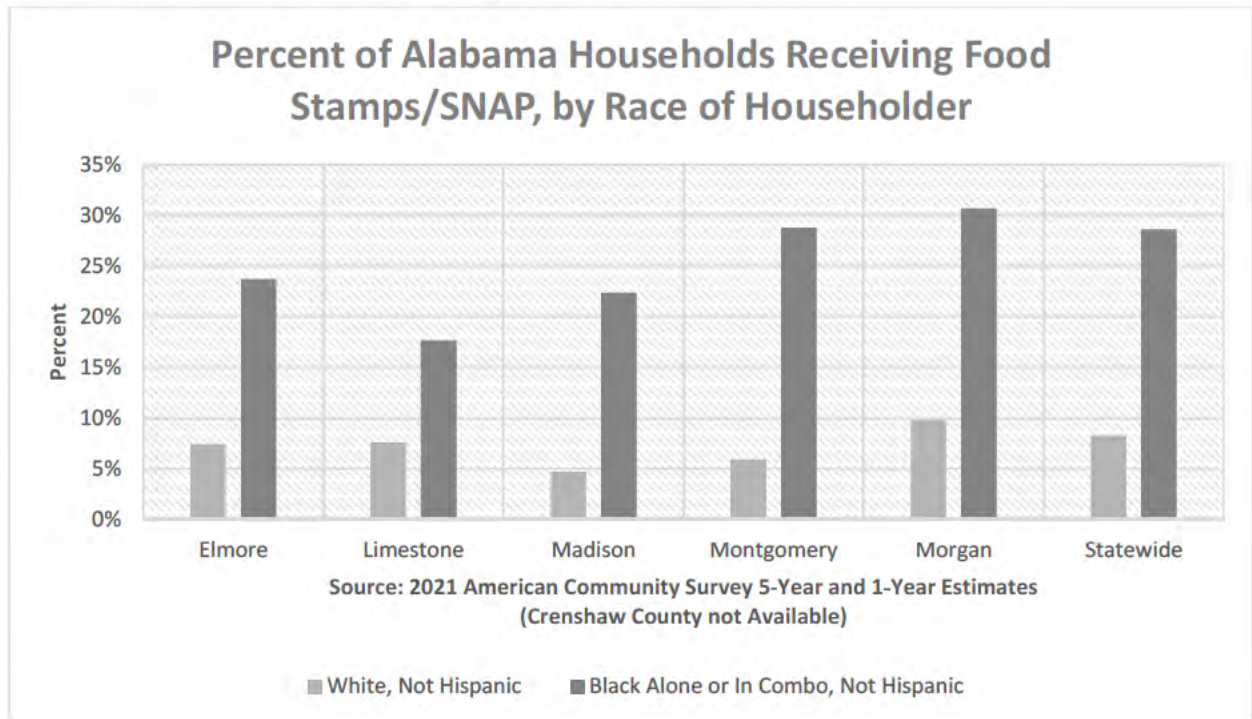
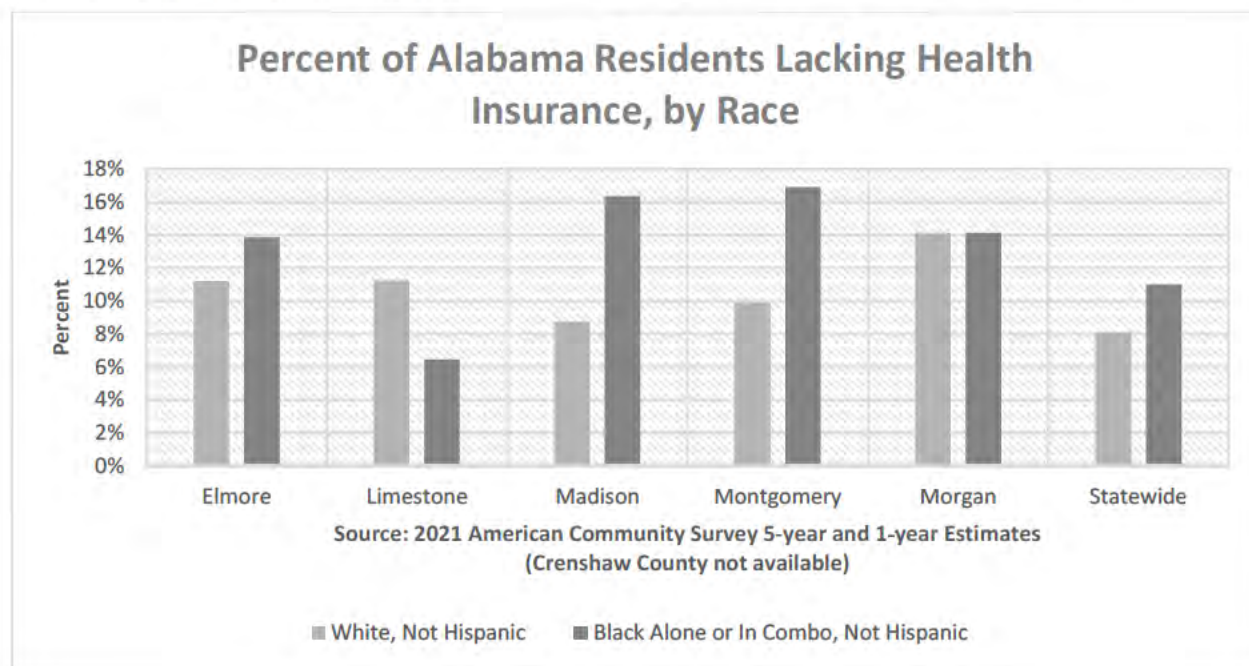


Figure 10: Health Insurance Access in Alabama, by Race. Source: 2021 American Community Survey 1-year and 5-year Estimates.



Race and Health

Health status also affects voting. Several studies have associated poor health with lower voter turnout.³⁸ The effects of health on voting may take many pathways, such as reducing the availability of free time and money that could otherwise be devoted to politics.³⁹ Impaired cognitive functioning or physical disability also may make voting more difficult.⁴⁰

Overall indicators of health show that Black Alabamians are in worse health than White Alabamians. For instance, the rate of infant mortality is nearly three times higher for Black infants than White infants.⁴¹ Overall life expectancy at birth varies by race in Alabama. Black

³⁸ Lyon, Gregory. 2021. "The Conditional Effects of Health on Voter Turnout." *Journal of Health Politics, Policy and Law* 46 (3):409-433. Pacheco, Julianna, and Jason Fletcher. 2015. "Incorporating health into studies of political behavior: Evidence for turnout and partisanship." *Political research quarterly* 68 (1):104-116. Blakely, Tony A, Bruce P Kennedy, and Ichiro Kawachi. 2001. "Socioeconomic inequality in voting participation and self-rated health." *American journal of public health* 91 (1):99.

³⁹ Pacheco and Fletcher 2015.

⁴⁰ Pacheco and Fletcher 2015.

⁴¹ Alabama Department of Public Health. "Infant Mortality Alabama 2022." Available online <https://www.alabamapublichealth.gov/healthstats/assets/infantmortality2022.pdf>. Accessed 2 Feb 2024.

women are expected to live over a year less than Women (77.6 vs. 78.8 years, respectively)⁴² while Black men are expected to live 3.6 fewer years than White men (69.9 vs. 73.5 years, respectively).⁴³

Race and the Criminal Justice System

A growing body of research shows that criminal-justice interactions affect political behavior. Several studies have shown that, for individuals, contact with the criminal-justice system, from police stops, to arrest, to incarceration, directly decreases voter turnout.⁴⁴ Primarily, criminal-justice contact decreases turnout through “the combined forces of stigma, punishment and exclusion” which impose “barriers to most avenues of influence” and diminish “factors such as civic capacity, governmental trust, individual efficacy, and social connectedness that encourage activity.”⁴⁵

The criminal-justice system also affects voting in Alabama. Alabama denies the right to vote to people in prison, on probation, or on parole who have been convicted of felonies involving “moral turpitude” (e.g., murder, rape, etc.).⁴⁶ People with felony convictions also are denied the right to vote even after they are no longer under supervision if they have not paid fines or fees or were convicted of certain infamous crimes.⁴⁷ According to estimates from the Sentencing Project, 318,681 people (8.6% of the voting eligible population) were barred from voting in Alabama elections in 2022 due to a felony conviction.⁴⁸ For Black Americans in Alabama, the rate is higher: the Sentencing Project estimates that 14.7% of otherwise-eligible Black people in Alabama cannot vote due to a relevant felony conviction.⁴⁹

⁴² 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).

⁴³ Johnson et al. 2022.

⁴⁴ Burch, Traci. 2011. "Turnout and Party Registration among Criminal Offenders in the 2008 General Election." *Law and Society Review* 45 (3):699-730. Weaver, Vesla M, and Amy E Lerman. 2010. "Political consequences of the carceral state." *American Political Science Review* 104 (04):817-833.

⁴⁵ Burch, Traci. 2007. *Punishment and Participation. How Criminal Convictions Threaten American Democracy*.

⁴⁶ Alabama Secretary of State. “Crimes Involving Moral Turpitude Include.” Available online <https://www.sos.alabama.gov/sites/default/files/voter-pdfs/Updated%20Version%20of%20Moral%20Turpitude%20Crimes.pdf>. Accessed 1 Feb 2024.

⁴⁷ Alabama Secretary of State. “Convicted of a Felony? You May Still Be Able to Vote.” Available online <https://www.sos.alabama.gov/sites/default/files/Voting-Rights-Final-Version.pdf>. Accessed 30 Jan 2024.

⁴⁸ Uggen, Christopher, Ryan Larson, Sarah Shannon, and Robert Stewart. 2022. “Locked Out 2022: Estimates of People Denied Voting Rights Due to a Felony Conviction.” Available online <https://www.sentencingproject.org/app/uploads/2022/10/Locked-Out-2022-Estimates-of-People-Denied-Voting.pdf>. Accessed 30 Jan 2024; 16.

⁴⁹ Uggen et al. 2022: 17.

This racial disparity in felony disenfranchisement reflects racial disparities in convictions and sentencing. For instance, although most Alabamians are White, Black people are a majority of the people in prison and on probation in Alabama. According to the Bureau of Justice Statistics, at the end of 2021, 53.3% of people in prison and 51.6% of people on probation were Black, compared with 41.1% and 46.0% White, respectively.⁵⁰

Race and Voting Access

Most voting in Alabama takes place in person. There are racial disparities in access to polling places in Alabama. First, there is a racial disparity in wait times at polling places in the state. Studies that use cell phone data to study wait times at polling places find that Black voters have longer wait times than White voters in Alabama.⁵¹

Alabama requires photo identification to vote. Studies have shown that there are racial disparities in access to photo identification in Alabama; an analysis of 2016 data found “1.37% of white, 2.44% of Black, and 2.29% of Hispanic registered voters lack any form of acceptable photo ID.”⁵² Poll workers can vouch for the identity of a voter in the absence of photo identification.⁵³ However, there are racial disparities in knowing poll workers as well. The 2020 SPAE asks if a voter personally knew the person who checked them in to vote. In Alabama, 19.4% of White respondents know the person who checked them in to vote, compared with 15.4% of Black voters (the overall sample size was 108 White and 26 black voters).⁵⁴

For people who are eligible to vote absentee, fulfilling the requirements also may pose difficulties because of racial disparities in socioeconomic status. Alabama requires absentee voters to prove their identities by using government documents or a notary. To provide this information, people wishing to vote absentee need access to a computer to scan and print identity documents or the financial means to pay for a notary. As shown in a previous section of this report, Black Alabamians are less likely to have access to computers and the internet at home. In my study of Alabama notaries in 2020, I found that the cost of using a notary to verify identify on ballots was expensive. Of the 42 notaries we were able to reach, 23 said they charged \$5 or

⁵⁰ Bureau of Justice Statistics. “Prisoners in 2021—Statistical Tables.” Available online <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/p21st.pdf>. Accessed 2 Feb 2024. Bureau of Justice Statistics. “Probation and Parole in the United States, 2021.” Available online <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/ppus21.pdf>. Accessed 2 Feb 2024.

⁵¹ Supplemental Appendix Figure B.2. Chen, M. Keith, Kareem Haggag, Devin G. Pope, and Ryne Rohla. “Racial disparities in voting wait times: Evidence from smartphone data.” *Review of Economics and Statistics* 104, no. 6 (2022): 1341-1350.

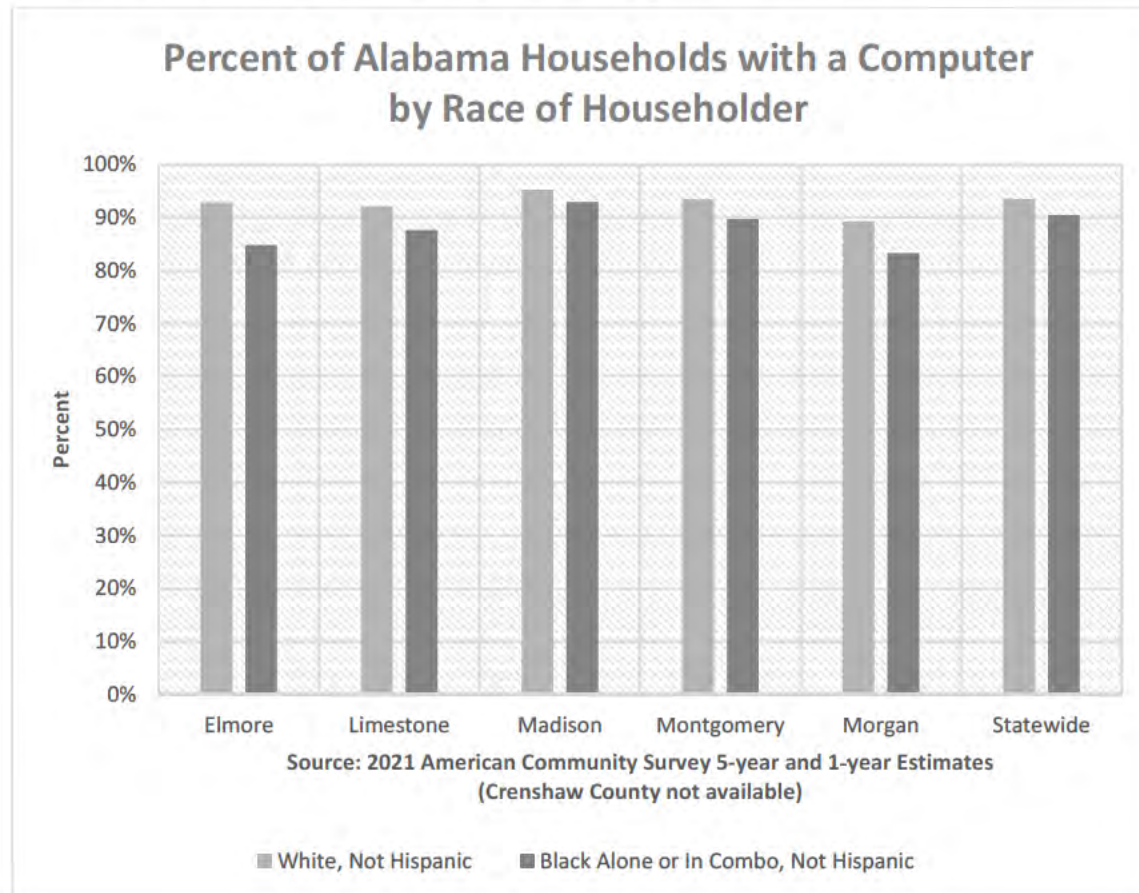
⁵² *Greater Birmingham Ministries v. Merrill*, 284 F. Supp. 3d 1253, 1269 (N.D. Ala. 2018). Experts for the Alabama Secretary of State also found racial disparities in the possession of photo identification. *Greater Birmingham Ministries v. Merrill*, 284 F. Supp. 3d 1253, 1269 (N.D. Ala. 2018).

⁵³ Alabama Secretary of State. “Alabama Photo Voter Identification.” Available online <https://www.sos.alabama.gov/alabama-votes/photo-voter-id>. Accessed 30 Jan 2024.

⁵⁴ Calculated with data weighted by “weight.”

less to notarize ballots, 6 said they charged \$10, and 13 said they charged more than \$10. There also may be additional travel costs assessed for the notary to come to the voter.⁵⁵

Figure 6: Households with a Computer in Alabama, by Race of Householder. Source: 2021 American Community Survey 1-year and 5-year Estimates.



⁵⁵ Burch Expert Declaration in *People First Alabama v. Merrill*, 467 F. Supp. 3d 1179 (N.D. Ala. 2020).

*Figure 7: Households with Broadband Internet Access in Alabama, by Race of Householder.
Source: 2021 American Community Survey 1-year and 5-year Estimates.*

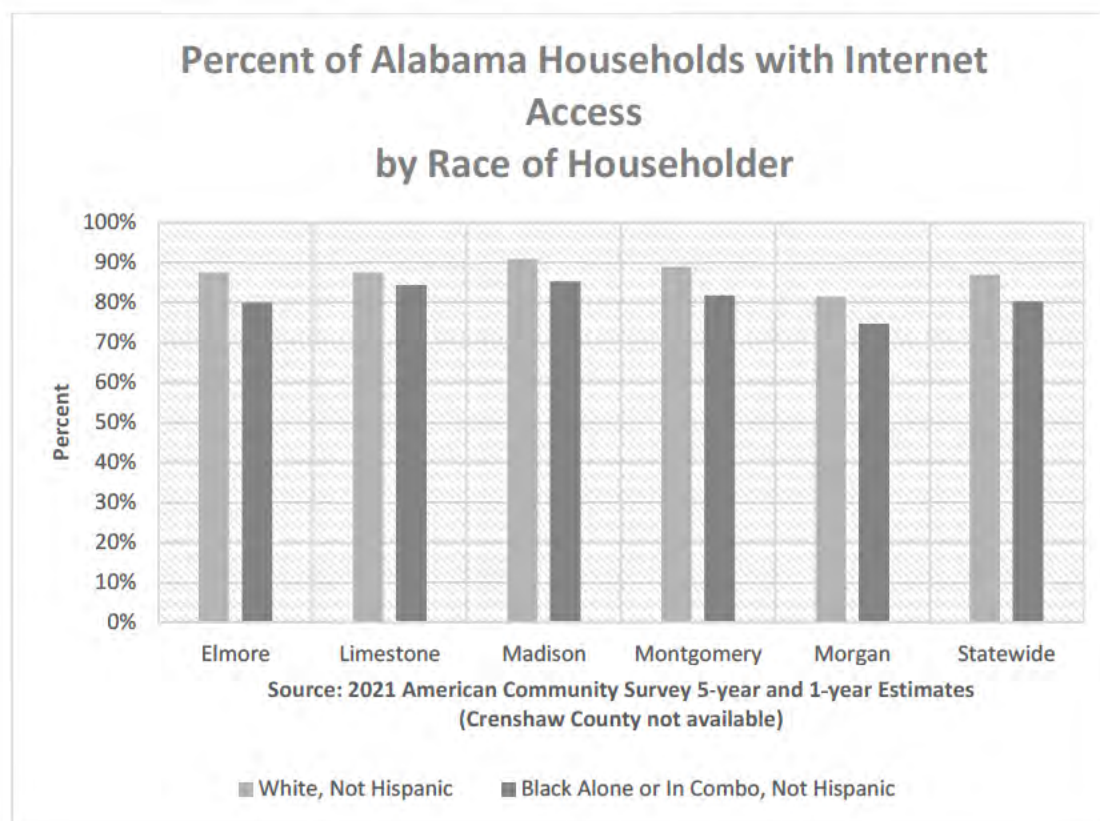
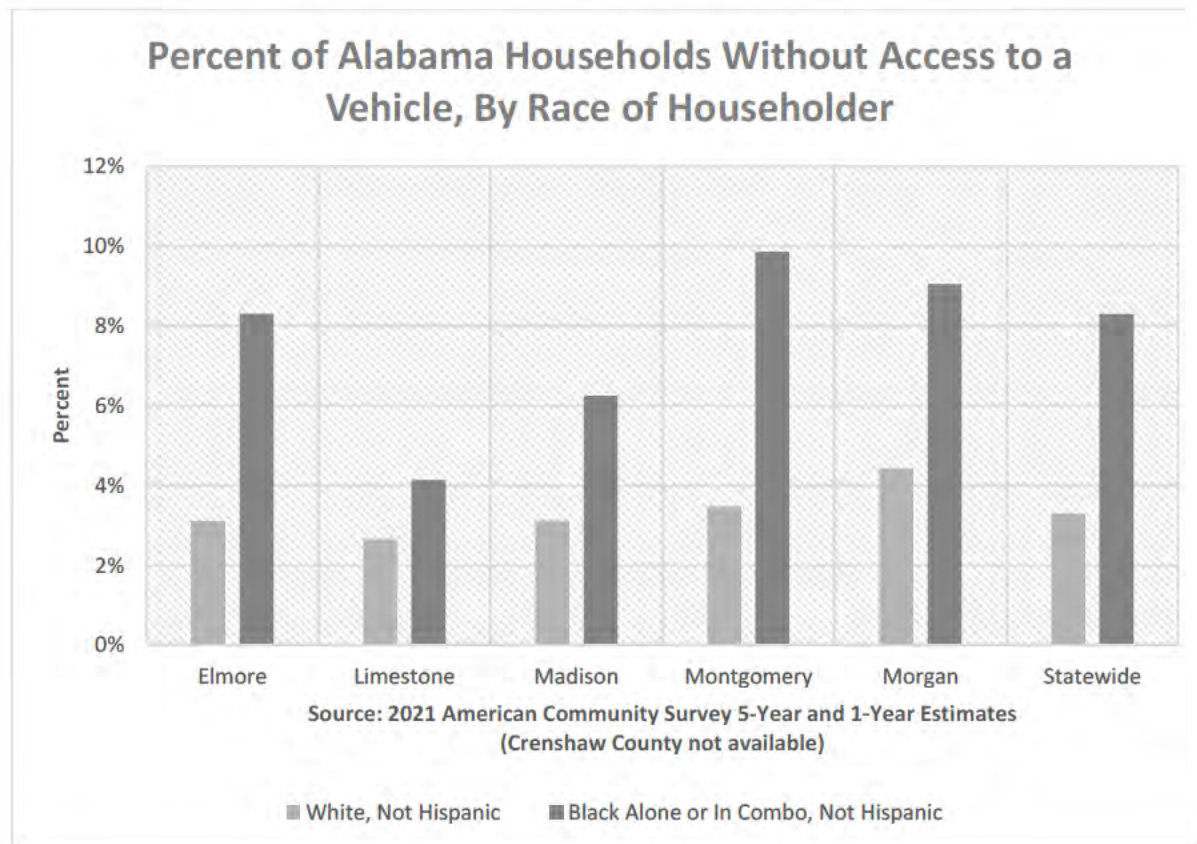


Figure 13: Household Vehicle Access in Alabama, by Race of Householder. Source: 2021 American Community Survey 1-year and 5-year Estimates.



Summary

My review of the data makes it clear that there is a disparity between Black and White Alabama residents with respect to voter registration and turnout. According to the Alabama Secretary of State's data, Black voter registration and turnout has been lower than White registration and turnout in all recent elections for which data are available. Moreover, Black turnout has lagged White turnout in recent elections in the six counties that are at issue in this case.

Socioeconomic status is an important factor for voting. The evidence that I analyzed for this report, in line with the scholarly literature in political science, supports the finding that people with higher educational attainment are more likely to vote. The data show that Black Alabamians are worse off in terms of educational attainment relative to White Alabamians, both statewide and in the six counties I was asked to analyze. These disparities can be linked to historical and contemporary racial discrimination in education. Black people in Alabama also are worse off relative to White people along a host of other socioeconomic measures that also can affect voting participation, such as income, poverty, unemployment, health insurance, and access to computers, internet, and vehicles at home.

My analysis also highlights disparities in health and criminal justice that may also affect voting. Overall indicators of health show that Black people are less healthy than White people in Alabama. Likewise, Black people have higher incarceration, probation, and disenfranchisement rates than White people in Alabama. The political science literature has shown that both of these factors affect political participation.

Finally, my examination of factors related to voting rules show additional disparities that may affect the ability of Black Alabamians to participate equally in the electoral process. First, a disproportionate number of Black Alabamians have lost the right to vote due to a felony conviction. Second, Black voters are less likely to have photo identification and to know their poll workers, which would prevent them from being able to vote without a photo identification.

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

A handwritten signature in black ink that reads "Traci Burch". The signature is written in a cursive, flowing style.

Dr. Traci Burch

Executed on: February 2, 2024