UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, EDGAR CAGE, DOROTHY NAIRNE, EDWIN RENE SOULE, ALICE WASHINGTON, CLEE EARNEST LOWE, DAVANTE LEWIS, MARTHA DAVIS, AMBROSE SIMS, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ("NAACP") LOUISIANA STATE CONFERENCE, AND POWER COALITION FOR EQUITY AND JUSTICE, *Plaintiffs*, v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana. *Defendant*.	Civil Action No. 3:22-cv-00211-SDD-RLB
EDWARD GALMON, SR., CIARA HART, NORRIS HENDERSON, TRAMELLE HOWARD, *Plaintiffs*, v. KYLE ARDOIN, in his official capacity as Secretary of State for Louisiana. *Defendant*.	Civil Action No. 3:22-cv-00214-SDD-RLB

Preliminary Expert Report of Dr. Traci Burch

Hearing Exhibit
PR-14
3:22-cv-00211-SDD-RLB

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Qualifications and Background

My name is Dr. Traci Burch. I am Associate Professor of Political Science at Northwestern University and 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. For instance, I have worked with Professors Kay Schlozman, Sidney Verba, and Henry Brady on book chapters and articles related to the causes and consequences of inequality in political participation. I also collected data on congressional hearings and interest group activities for that book. For my coauthored article with Jennifer Hochschild and our book with Vesla Weaver, I analyzed the legislative history of several racial policies, including the 1965 Hart-Cellar Act. We also explore political participation and attitudes in our book *Creating a New Racial Order*.

I am widely regarded 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. My dissertation on the effects of felony disenfranchisement on voting in North Carolina, Georgia, and other states, "Punishment and Participation: How Criminal Convictions Threaten American Democracy" won the Robert Noxon Toppan Prize for the Best Dissertation on a Subject of Political Science at Harvard in 2007. I also achieved national recognition for this work; the dissertation was awarded the E.E. Schattschneider Award from the American Political Science Association for the best dissertation in American Government, and the William Anderson Award for the best dissertation in federalism, intergovernmental relations, and state and local politics. Several articles from this dissertation, including work evaluating voting patterns among people with felony convictions in North Carolina, Georgia, Florida, Missouri, and Michigan, have been published in leading peer-reviewed journals. 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.

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*, as well as the articles "The Effects of Imprisonment and Community Supervision on Political Participation," "Did Disenfranchisement Laws Help Elect President Bush?," "Skin Color and the Criminal Justice System," and "Turnout and Party Registration among Criminal Offenders in the 2008 General Election" rely on the analysis of data from Georgia. My most recent articles measure the effects of officer-involved killings on political interest, voter turnout, and protest among community members.

I have had the opportunity to engage in important professional service. Currently, I am a member of the Executive Council of the Elections, Public Opinion, and Voting Behavior Section of the American Political Science Association. I also serve on the Scientific Advisory Board for the General Social Survey, a longstanding national public opinion survey run by the National Opinion Research Center at the University of Chicago. I have served on the editorial boards of leading journals including *Political Behavior* and *Law and Social Inquiry*. 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 have received several grants for my work, including a grant from the Stanford University Center on Poverty and Inequality. I also serve as co-Principal Investigator on a National Science Foundation grant that supports graduate and postdoctoral fellowships at the American Bar Foundation.

My curriculum vitae is provided in the Appendix. I am being compensated $300 per hour for work in this case, plus expenses. My compensation is not contingent on the analysis and opinions offered or on the outcome of this litigation. This is my seventh engagement as an expert witness. I previously testified at trial and in a deposition in a case in federal district court in Florida, (*Jones* v. *DeSantis*, Consolidated Case No. 4:19-cv-300), at trial and in a deposition in a case in Wake County Superior Court in North Carolina (*Community Success Initiative, et al.* v. *Moore*, No. 19-CVS-15941), at trial and in a deposition in federal district court in Alabama (*People First of Alabama*, v. *Merrill*, No. 2:20-cv-00619-AKK), and at trial and in a deposition in federal district court in Florida (*Florida State Conference of the NAACP* v. *Lee*, No. 4:21-cv-00187-MW-MAF). The trial courts relied on my expert testimony and I was cited in the courts' opinions in *Jones* v. *DeSantis*, *People First of Alabama* v. *Merrill, Florida State Conference of the NAACP* v. *Lee*, and in *Community Success Initiative* v. *Moore*. Recently, I was deposed in a case in a consolidated case in federal district court in the Western District of Wisconsin (*One Wisconsin Institute Inc.* v. *Jacobs* and, No. 15-CV-324-JDP and *Luft* v. *Evers*, No. 20-CV-768-JDP). I also have testified before the U.S. Commission on Civil Rights about the collateral consequences of felony convictions with respect to voting and other issues.

Scope of the Report

For this case, I was asked by the attorneys for the plaintiffs to examine the Louisiana Legislature's passage of HB1 and SB5 with respect to information relevant for evaluating the totality of the circumstances as it relates to Section 2 of the Voting Rights Act, which I understand to refer to discrimination or practices in the social, political, and economic environment that might make it harder for minority groups to cast ballots. I was asked to discuss information pertaining to 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," particularly with respect to Black Louisianans. I also was asked to discuss information that would be relevant for evaluating Senate Factor 6, or "the use of overt or subtle racial appeals in political campaigns;" Senate Factor 7, or "the extent to which members of the minority group have been elected to public office in the jurisdiction;" Senate Factor 8, or "whether there is a lack of responsiveness on the

part of elected officials to the particularized needs of minority group members;" and Senate Factor 9, or whether the policy underlying the challenged standard or practice is tenuous.

In formulating my opinions, I relied on my analysis of standard sources for political scientists such as the reviews of scholarly literature and the analysis of demographic data, census data, historical records, government reports and data, and public opinion surveys where noted.

Summary of Opinions

Based on my analyses and review of the scholarly literature, I offer the following opinions:

1. Senate Factor 5: There are large gaps in educational attainment, unemployment, and other socioeconomic indicators between Black and White Louisianans. Research shows that these disparities are the result of contemporary and historical discrimination by government and market institutions and actors. Educational attainment and other socioeconomic indicators are important predictors of voting behavior.

2. Senate Factor 5: Several cities in Louisiana are marked by racial residential segregation, which has been shown to affect voting. These patterns of residential segregation are the result of contemporary and historical racial discrimination by government and market actors.

3. Senate Factor 5: Health outcomes vary by race in Louisiana; health is also an important predictor of voter turnout. Health disparities in Louisiana are shaped by government and market policies that affect the sites of environmental hazards as well as access to health care.

4. Senate Factor 5: Criminal justice involvement also affects voting, and criminal justice outcomes vary by race in Louisiana. Black people are overrepresented in Louisiana's correctional populations. Research has shown that racial discrimination played a role in racial disparities in criminal justice in Louisiana in the past and continues to do so today. Patterns of criminal justice outcomes cannot be explained fully by the differential commission of crimes by race.

5. Senate Factor 6: Political campaigns in Louisiana have historically been and remain marked by implicit and explicit racial appeals.

6. Senate Factor 7: Black people are one third of Louisiana's overall population, yet are underrepresented among elected officials at all levels of government, including among executives (such as Governor, Lieutenant Governor, and Mayors), federal and state legislators, and judges.

7. Senate Factor 8: Policy outcomes, such as with respect to infrastructure, do not track the specific needs of the minority community in several ways. Moreover, Black Louisianans often express the belief that they are not valued equally by elected representatives in both public comments and surveys.

8. Senate Factor 9: Although supporters of SB5 and HB1 offered several justifications for passing SB5 and HB1, including respect for traditional redistricting principles such as minimizing deviations from the ideal district population, compactness, keeping precincts and parishes whole, keeping traditional district boundaries, and maintaining communities of interest, the Legislature ultimately elected not to pass legislation proposing maps with two majority-minority districts that more closely conformed to these traditional redistricting principles than SB5 and HB1.

9. Senate Factor 9: Sponsors of SB5 and HB1 provided no evidence that they tried to draw an additional majority-minority district, nor did they provide evidence that adding a second majority-minority district would fail to allow Black Louisianans an opportunity to elect a candidate of their choice.

Senate Factor 5: Historical Discrimination in Education, Employment, Health, and Other Areas

Education and Political Participation in Louisiana

Educational attainment is one of the most fundamental explanatory variables with respect to political participation (Almond and Verba 1963, Brady, Verba, and Schlozman 1995, Burden 2009, Campbell et al. 1980, Verba, Schlozman, and Brady 1995). Voters with higher educational attainment are more likely to vote. Verba, Schlozman, and Brady argue that the relationship between socioeconomic status and voting exists because people with greater income and education also tend to have more of the resources such as time, money, and civic skills that affect the calculus of participation (1995: 282). Education makes it easier for individuals to navigate the costs of voting such as acquiring information about the candidates and issues or learning how to register and vote (Verba, Schlozman, and Brady 1995).

Black Louisianans have faced educational discrimination throughout Louisiana's history. Although the U. S. Supreme Court ruled segregation in public schools unconstitutional in *Brown* v. *Board of Education* in 1954, and Congress outlawed segregation in public accommodations in the Civil Rights Act of 1964, Louisiana's state and local governments continued to enforce and support segregation in educational institutions well into the 1970s. Despite the court's ruling in *Brown*, the education provided by the state to Black and White students remained separate and unequal. In 1959, the average district in Louisiana spent only 72 cents on Black instruction for every dollar spent on White students (Reber 2011: 406). By May of 1961, the Southern Educational Reporting Service found that only .0004% of Louisiana Black students attended school with White students (1961). Even as late as 1968, Reber writes, "11 of 64 counties [*sic*] in Louisiana still were completely segregated, but the average black was still in a school that was about 8 percent white, while whites comprised over 60 percent of enrollment" (Reber 2004: 5). In 1961, only five of 13 publicly supported colleges and universities in Louisiana enrolled both Black and White students, and even this limited integration occurred only as a result of a court order (1961).

The lack of progress on desegregating public schools was due to Louisiana's state and local governments' policies of consistent resistance. Federal courts issued orders to desegregate the schools in Orleans Parish in 1956 (Douglas and Center 2005), but the Louisiana legislature adopted several laws in special sessions that were designed to maintain segregated schools

(1961, Douglas and Center 2005). According to the district court ruling in *Bush* v. *Orleans Parish School District* (1960), the Legislature:

> promptly enacted 25 measures designed to halt, or at least forestall, the implementation of the Orleans Parish School Board's announced proposal to admit five Negro girls of first grade age to formerly all-white schools. The first of these, Act 2 of the First Extraordinary Session of 1960, LSA-R.S. 49:801 et seq., is the so-called "interposition" statute by which Louisiana declares that it will not recognize the Supreme Court's decision in *Brown* v. *Board of Education*, supra, or the orders of this court issued pursuant to the mandate of that case."

The Louisiana Legislature attempted to abolish the Orleans Parish School Board and passed Act 555, which required separate schools for Black and White children (1961). However, with federal intervention, the first seven Black students integrated New Orleans public schools in November, 1960 (1961). Ultimately, the story of one of those children, Ruby Bridges, inspired the Normal Rockwell painting, *The Problem We All Live With* (Douglas and Center 2005: 1)

Although integration and funding equalization accelerated throughout the late 1960s and early 1970s due to the continued oversight of federal courts (Douglas and Center 2005, Reber 2004, 2011), the State of Louisiana continued to support school segregation. In 1975, federal courts prevented the state from continuing its practice of providing "substantial state assistance to racially segregated private schools" such as "furnishing school textbooks, school supplies and educational materials, library books, and by providing school bus transportation to students attending private, racially segregated schools which serve as a haven to those leaving racially integrated public schools" *Brumfield* v. *Dodd*, 405 F. Supp. 338 (E.D. La. 1975).

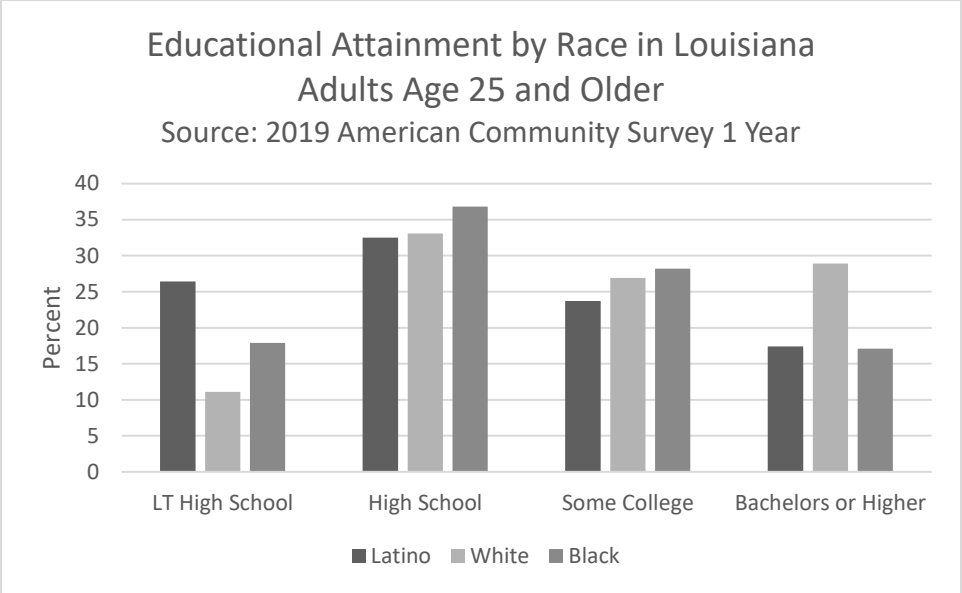
This long history of persistent racial discrimination in education affects outcomes in educational attainment for Louisianans to this day. Although there have been gains in educational attainment in Louisiana over time, racial gaps persist. Figure 1 shows data from the 2019 1-Year Estimates from the American Community Survey on the percentage of Louisianans over the age of 25 who have earned a bachelor's degree or higher, by race. The data show that White and Asian Louisiana adults are far more likely than Black and Latino adults to have earned a bachelor's or postgraduate degree. Louisiana's history of educational segregation contributes to these disparities, because the youngest school-age children in the 1970s are only in their mid-50s today; in Louisiana, people age 55 and older make up 41.6 percent of registered voters (2022h). Put another way: 41.6 percent of Louisiana voters were school age when Louisiana's state and local governments still funded segregated and unequal schools by law.[1] As of the date of this report, Ruby Bridges, one of the young students who integrated New Orleans public schools, is only 67 years old.[2]

Differences in educational attainment can explain some of the racial gap in voter turnout in Louisiana. Based on my calculations of data from the 2020 Current Population Survey Voting and Registration Supplement, 64% of White Louisianans said that they voted in the 2020 general

[1] For reference, 77.6 percent of Louisiana residents were born in Louisiana (2020b).
[2] People age 65 and older make up 23.9 percent of Louisiana's registered voters (2022h).

election, compared with 58% of Black Louisianans.[3] However, as Table 1 shows, voter turnout among Louisianans increases with educational attainment across racial groups. Within educational levels, Black voting may reach parity or, in the case of people without high school diplomas, outperform White voting. But as Figure 1 shows, Black Louisianans have lower educational attainment overall due to the factors discussed here, which results in lower voter turnout overall compared with White Louisianans.

Figure 1: Educational Attainment by Race among Louisiana Adults Age 25 and Older



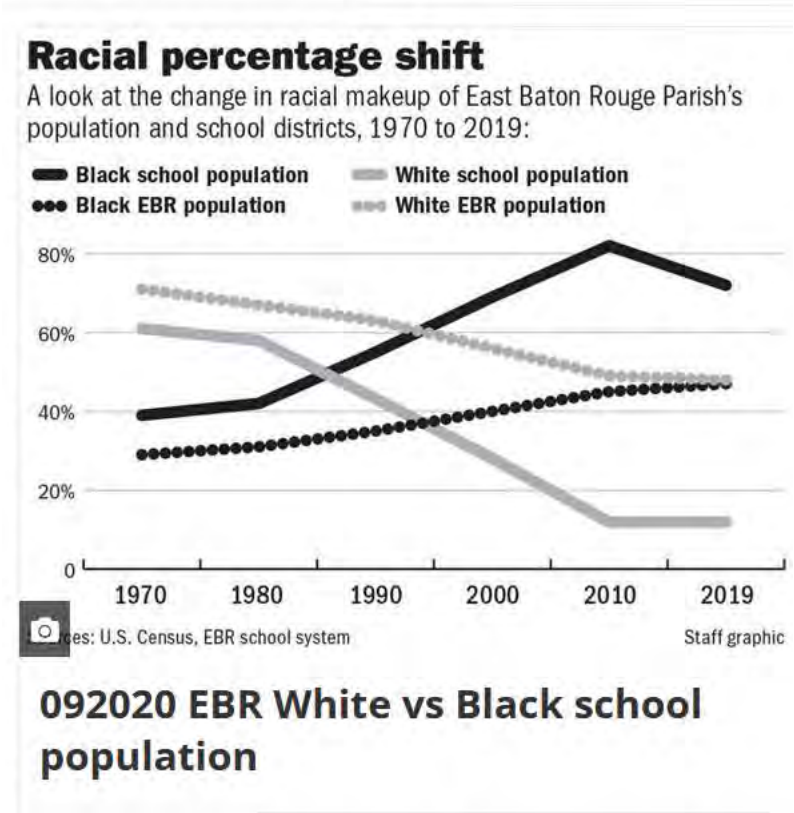
[3] These figures may differ from those calculated using other methods, such as the census voting age population, for several reasons: First, I calculated these figures for non-Hispanic Black alone and White alone citizens aged 18 and older (McDonald and Popkin 2001). Moreover, because the CPS is a household survey, it excludes people in group quarters, which may inflate turnout, especially when certain racial groups are more likely to be in group quarters populations such as prisons (Pettit 2012). Finally, people in surveys sometimes overreport voting (Silver, Anderson, and Abramson 1986).

Table 1: 2020 Voter Turnout by Educational Attainment and Race among Louisianans. Source 2020 Current Population Survey Voting and Registration Supplement. Cells contain estimated number who voted, with turnout rate in parentheses.

Educational Level	**White Turnout**	**Black Turnout**
No High School Diploma	52,269 (30%)	71,105 (46%)
High School Diploma	432,887 (61%)	258,376 (56%)
Some College or Associates Degree	374,984 (67%)	162,680 (60%)
Bachelor's Degree	293,618 (74%)	62,456 (76%)
Graduate School	152,234 (86%)	39,603 (70%)

Moreover, school segregation and educational inequality still are the reality for current Louisiana students today. School segregation has been shown to detrimentally affect the academic performance of minority students: Black and Latino students who grew up under conditions of segregation were less academically prepared for college and had been exposed to more violence and social disorder than those coming from "majority-dominant settings." (Massey and Fischer 2006). According to ProPublica's *Miseducation* project, as recent as 2017, 50 percent of traditional school districts for which data were available demonstrated high levels of racial segregation within the district (2017). Nine of the 68 traditional school districts in Louisiana were more than 87% non-White (2021c). Partly, this persistent educational racial segregation is the result of racial residential segregation and of White parents opting out of integrated schools, and out of public schools in general (Reber 2011). For instance, as Figure 2 shows, White people are about half of the population in East Baton Rouge Parish, but only 11 percent of that district's students (Lussier 2020). Secession movements driven by flight from East Baton Rouge schools (2022a) have further contributed to the high concentration of minority students in that district (Harris 2019).

Figure 2: Racial Makeup of East Baton Rouge Parish's Population and School Districts. (Lussier 2020)



Educational outcomes vary among current students by race. As shown in Figures 3 and 4, among current students, there is a gap in scores on assessment tests in Louisiana; for example, Black eighth graders score 30 points lower in Math (on average) and 26 points lower in Reading (on average) than White eighth graders (2019b). In the 2017-2018 school year (the latest data available from the federal government), Black students were 43.5 percent and White students were 44.7 percent of Louisiana public school students (2019b). However, that year, Black students were only 22.9 percent of students in gifted and talented programs and 35.5 percent of students taking Advanced Placement courses (2018). Two out of every three students who had received one or more out of school suspensions that year were Black, while 26.5 percent of students who had received a suspension were White (2018). School suspensions have been shown to increase subsequent arrests and other anti-social behavior in youth (Mowen and Brent 2016, Hemphill et al. 2006).

Figure 3: Scores on 8th Grade Math Assessments in Louisiana, by Race (2019b)

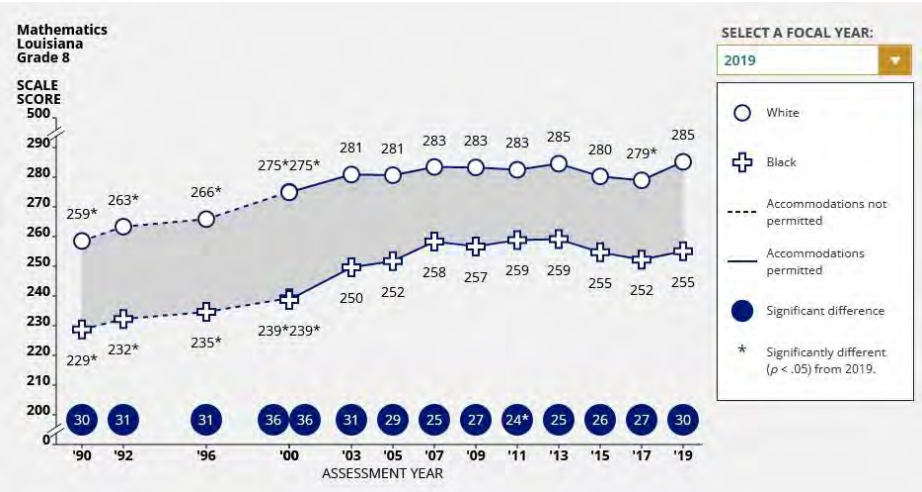
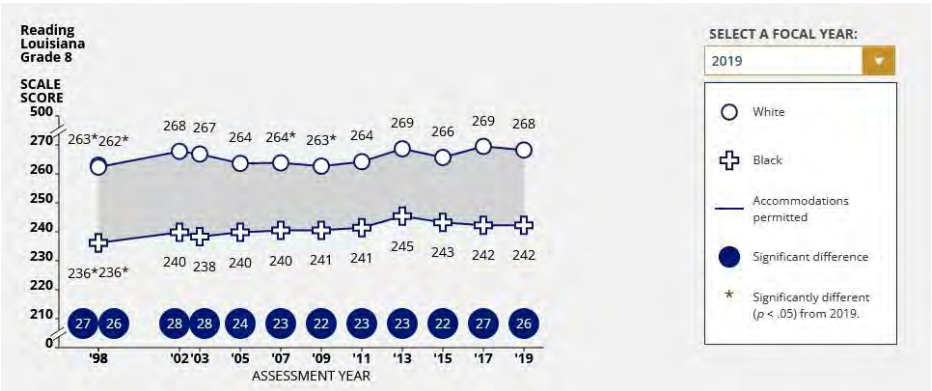


Figure 4: Scores on 8th Grade Reading Assessments in Louisiana, by Race (2019b)



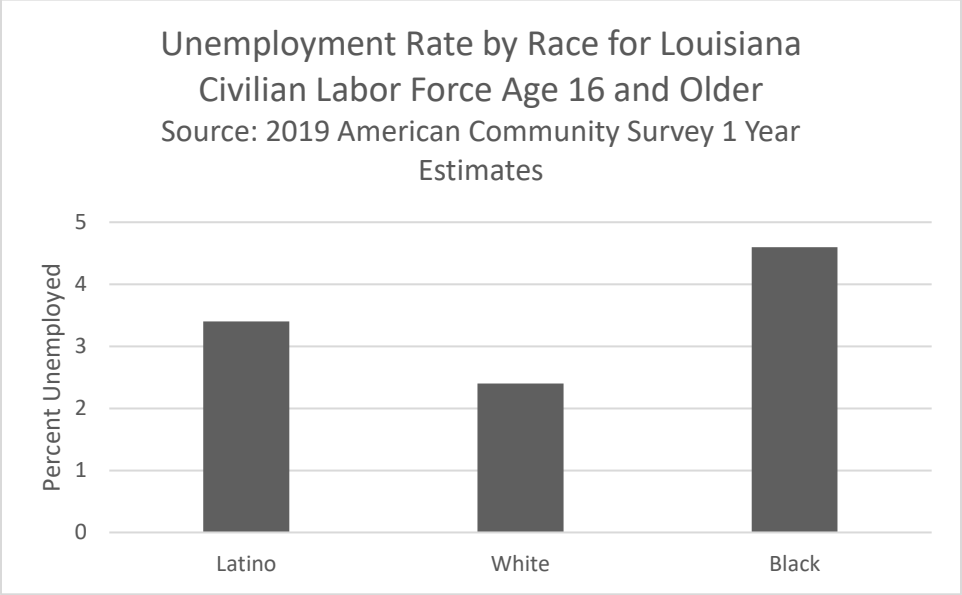
Employment, Socioeconomic Status, and Voting in Louisiana

Employment also may affect voter turnout through several pathways. First, white collar occupations may provide employees with a greater opportunity to develop civic skills that can be useful in navigating electoral bureaucracies (Almond and Verba 1963, Verba, Schlozman, and Brady 1995). Second, salaried workers may have greater freedom to take time off work without risking their pay. Finally, Rosenstone and Hansen argue that work is an important site for recruitment into politics, which also increases voter turnout (Rosenstone and Hansen 1993).

As depicted in Figure 5, data from the 2019 American Community Survey show there are racial gaps in unemployment, with Black Louisianans nearly twice as likely to be unemployed than White Louisianans. There is evidence that people of color in Louisiana face racial discrimination in employment. In 2021, 74 percent of Black respondents to the Louisiana Survey agreed that ". . . Black people are treated less fairly than White people . . . in hiring, pay, and promotions at work" (2021a). Research supports these claims: audit studies, which hold constant potentially confounding factors in order to isolate the causal effect of race, have consistently found that employers discriminate against racial minorities in hiring (Bertrand and Mullainathan 2004, Pager and Quillian 2005, Quillian et al. 2017). This racial discrimination is

magnified when job applicants have a criminal background (Pager and Quillian 2005). Data on discrimination filings with the Equal Employment Opportunity Commission show that 8,698 charges of race- or color-based employment discrimination were filed in Louisiana between 2011 and 2021 (2022f).

Figure 5: Unemployment by Race in Louisiana for Civilian Labor Force Age 16 and Older



There are persistent racial gaps in income and poverty among Louisianans as well. The American Community Survey shows that racial gaps in poverty rates, shown in Figure 6, also are large and persist over time: the Black and Latino poverty rates are more than 2.8 times as high as the White poverty rate in Louisiana. The median income for Black Louisiana households is about $29,000 less than that of White Louisiana households (Figure 7). More than three times as many Black households lack access to a vehicle than White households (Figure 8).

Educational discrimination (Long 2010), as well as discrimination in access to capital, can produce such economic disparities. According to JP Morgan Chase, Black Louisianans are underrepresented among small business owners relative to Whites (Farrell, Wheat, and Mac 2020). Black Louisianans also face more difficulty in securing relief to rebuild homes and businesses after natural disasters such as hurricanes (Fussell, Sastry, and VanLandingham 2010). Among Black respondents to the Louisiana Survey, 72 percent believe that Black people are treated less fairly when applying for a loan or mortgage (2021a).

Figure 6: Median Household Income in Louisiana by Race

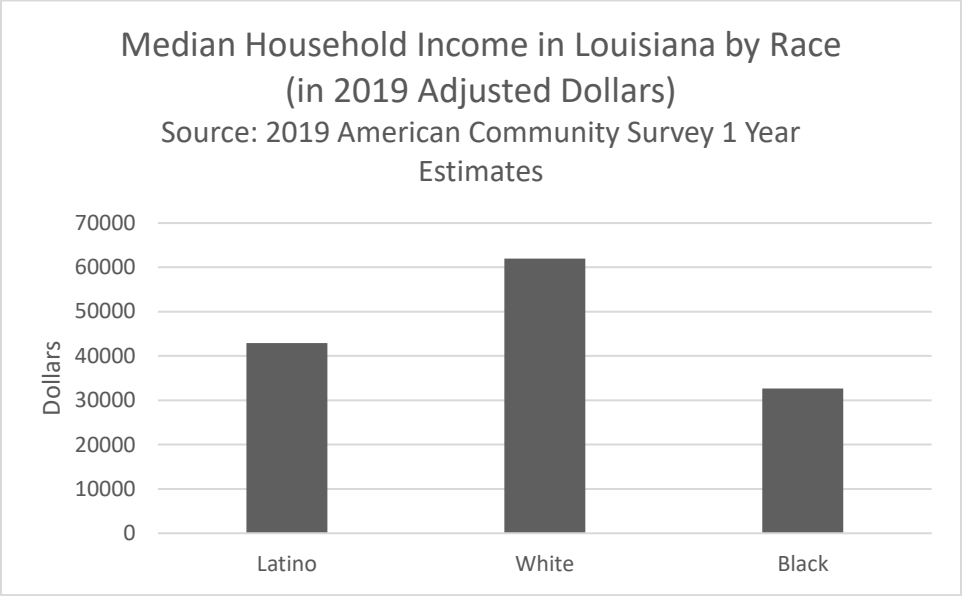


Figure 7: Family Poverty in Louisiana, by Race.

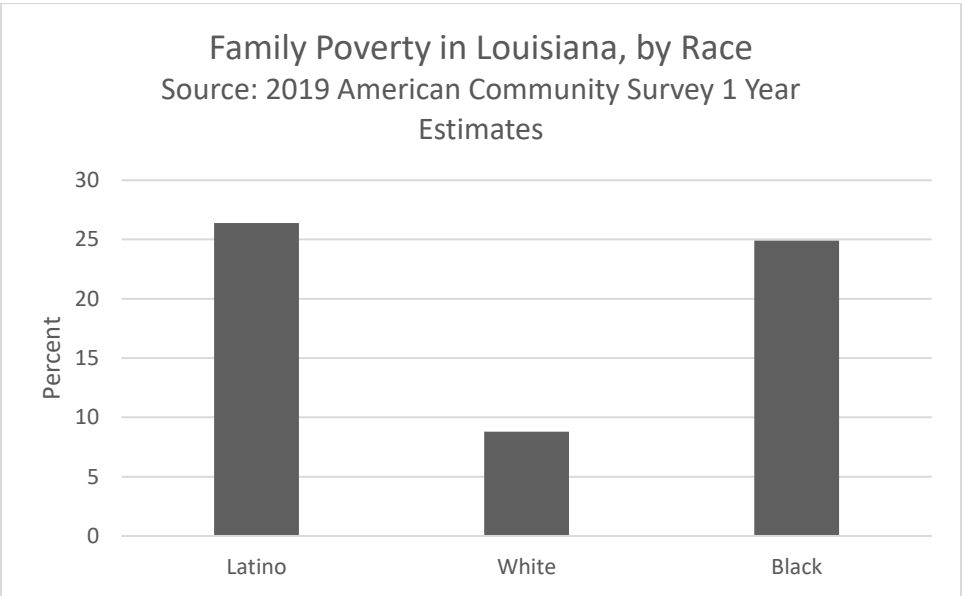
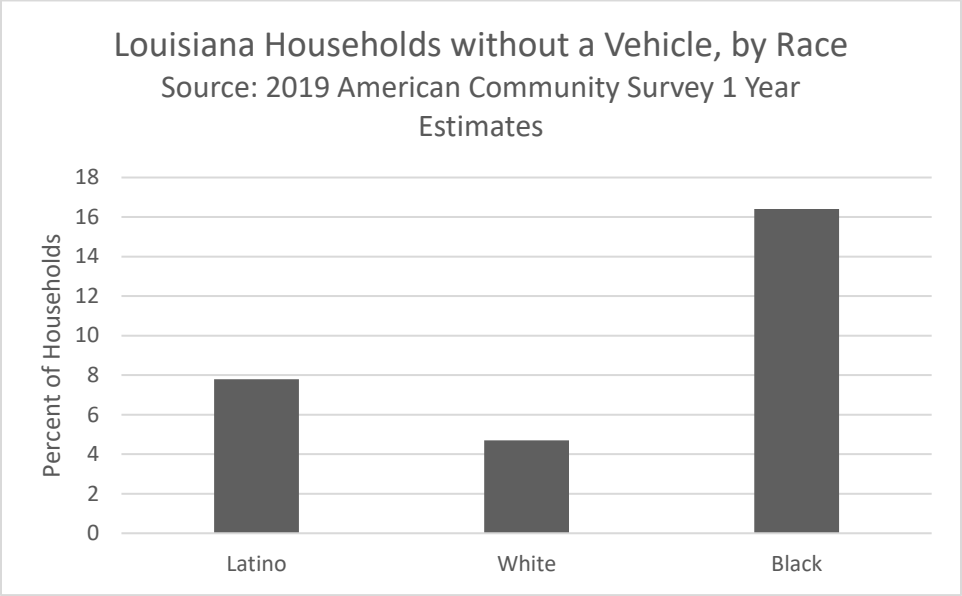


Figure 8: Louisiana Households without Access to a Vehicle, by Race.



In sum, education, employment, and other elements of socioeconomic status are leading predictors of voting. From this discussion, it is clear that Black Louisianans are at a disadvantage relative to White Louisianans along many of the socioeconomic indicators that have been shown to affect voting. These contemporary disparities are the result of historical and present-day discrimination by government policies and market actors.

Racial Residential Segregation and Voting in Louisiana

Neighborhood context matters for political mobilization and political outcomes (Burbank 1997, Burch 2013, Cohen and Dawson 1993, Huckfeldt, Plutzer, and Sprague 1993, Huckfeldt 1979, Tam Cho and Rudolph 2008). In particular, racial residential segregation has been shown to decrease Black voter turnout. Researchers argue that segregated Black areas have less access to public goods, such as polling places or transportation, that might matter for voting (Zingher and Moore 2019). Racial residential segregation also affects politics indirectly because it is an important determinant of economic and health outcomes. Racial residential segregation increases Black poverty rates, lowers Black educational attainment, and increases income inequality between Black and White residents (Ananat 2011). Research attributes these effects to isolation from quality schools and jobs (Kruse 2013, Massey and Fischer 2006, Wilson 1996). Racial residential segregation also contributes to the test score gap between Black and White students (Reardon, Kalogrides, and Shores 2019), to inequalities in the provision of public goods, to lower public goods expenditures (Trounstine 2016), and to worse health outcomes and greater exposure to environmental toxins (Ard 2016, Kramer and Hogue 2009).

Like many southern states, Louisiana operated under a strict regime of *de jure* racial segregation that affected nearly all aspects of public life and even intimate relationships for much of the 20th century. Residential patterns in Louisiana also were affected by local laws and policies that facilitated White suburbanization and Black segregation, such as segregation in public housing (Spain 1979). Federal housing policy also was a major driver of racial residential segregation in many cities. The Federal Housing Administration (FHA) was created in 1934 in

order to "insure lenders against any loss on loans made for purchasing homes" (Kimble 2007: 402). The FHA, in this role, "could dictate the range of acceptable, insurable terms and conditions of home lending" (Kimble 2007: 403). Race was the most important criterion that the FHA used to evaluate "the trajectory of a city and its neighborhoods" (Kimble 2007: 403). Black and racially mixed areas were deemed hazardous for lending; the FHA "instructed financial institutions not to lend to households in integrated or predominantly African American areas" (Kimble 2007: 405). The FHA also encouraged the use of racially restrictive covenants and racial zoning to uphold racial residential segregation (Kimble 2007). The FHA did not officially abandon this policy until 1949 (Kimble 2007).

In order to prevent lending to places where Black people lived, the FHA relied on Residential Security Maps that were produced by the Home Owners Loan Corporation ("HOLC") (2021h). These maps "color-coded neighborhoods using racial composition as a primary indicator of their acceptability as candidates for mortgage investment" (Kimble 2007: 405). The maps assigned grades to neighborhoods based on racial composition, "with "A" being most desirable and a "D" grade ensuring rejection" (Kimble 2007: 405). For example, the HOLC maps for New Orleans and Shreveport are shown in Figures 9 and 10, respectively. In the maps, hazardous areas are shown in red. In the New Orleans map, flooding and elevation may have played a role in the neighborhood grades. However, the HOLC descriptions of the red zone areas contain several references to race as well: part of Area 34 is described as "composed of 2 story singles and doubles, some camel backs, some negro tenements, a conglomeration of everything. It is the largest area of concentrated negro population in the City;" Area 3 is described as "[a]n area predominantly of cheaply constructed cottages occupied by Negroes. Large Negro school in area;" Area 35 is described as "composed of 2 story doubles, negro row houses, raised singles. This area includes what is often referred to as the "Irish Channel" and it is one of the toughest sections in the entire City. It has a mixed population, some blocks are mixed white and colored, some solid white, some solid colored, and properties are in a varying condition, fair, bad and indifferent. It is a regular conglomeration of the worst features found in the city" (2021h). In Shreveport, all the areas graded A or B were 100 percent White, while all the areas marked D had some proportion of Black residents (2021h).

Figure 9: Homeowners Loan Corporation Underwriting Map for New Orleans.

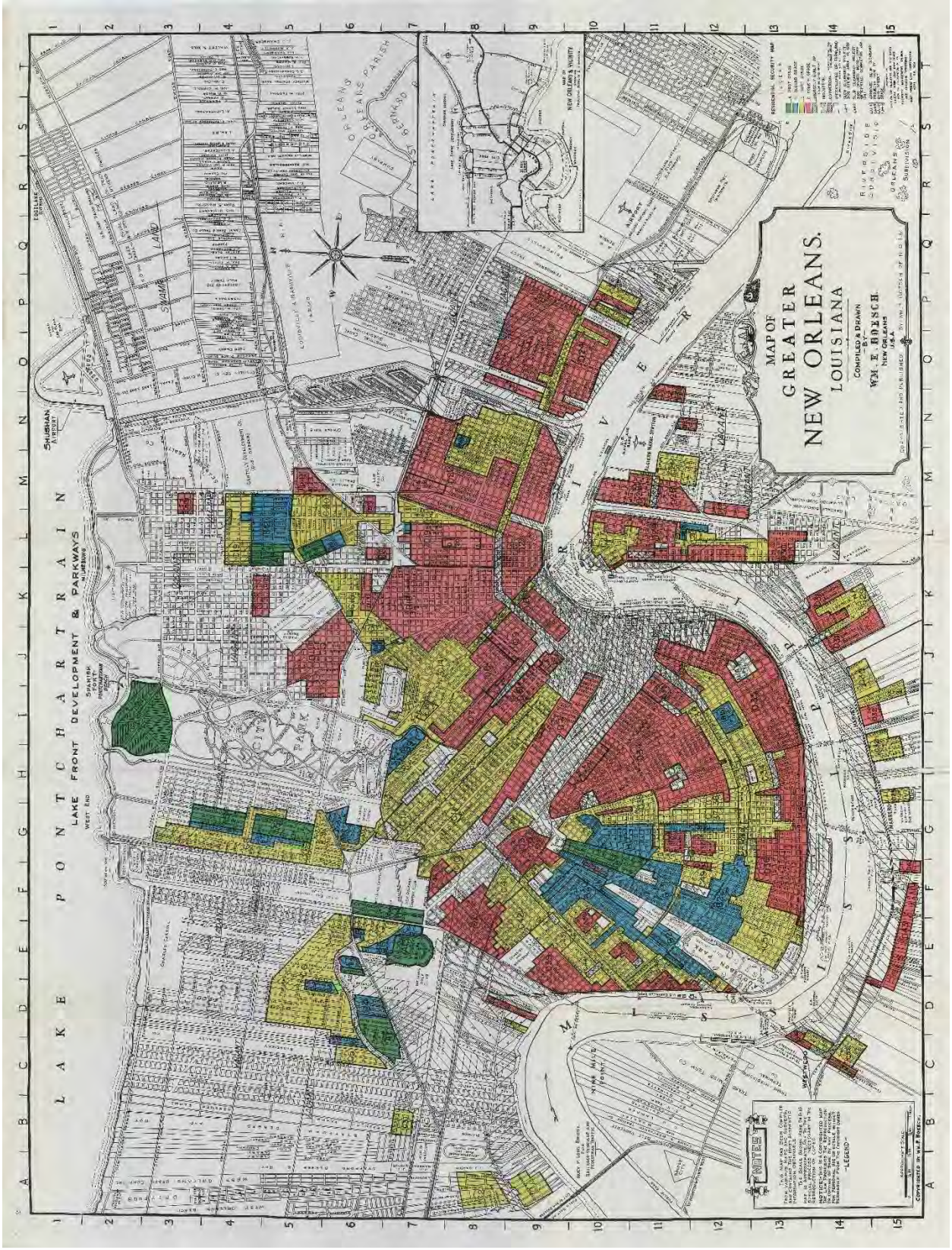
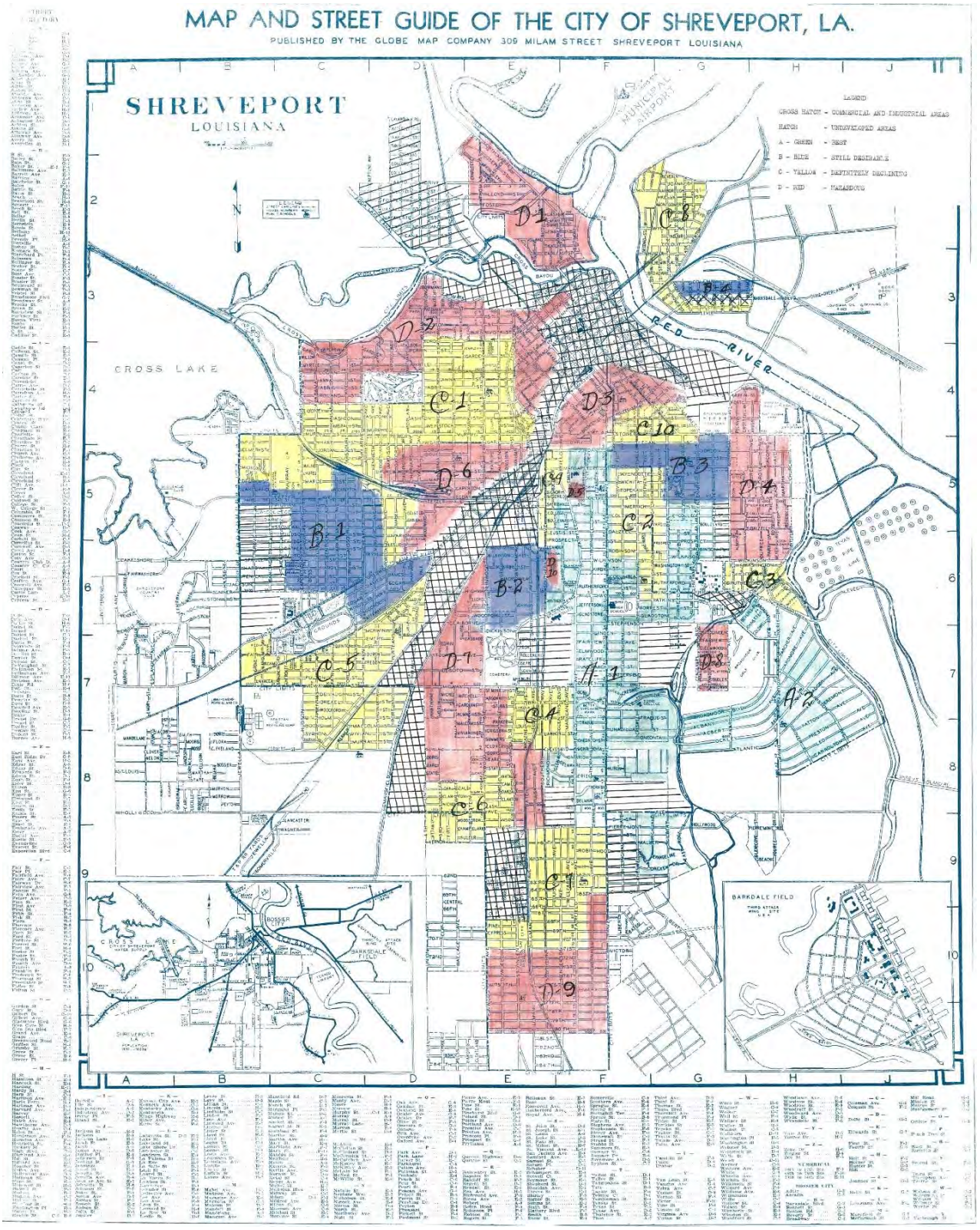


Figure 10: Homeowners Loan Corporation Underwriting Map of Shreveport, Louisiana.



Both 2020 census data and the geographic analysis of cell phone data demonstrate that many of the most populous cities and metropolitan areas in Louisiana still are highly segregated by race. The Othering and Belonging Institute characterized the metropolitan areas of New Orleans-Metairie-Kenner, Baton Rouge, Shreveport-Bossier City, and Lake Charles as high segregation (2021i). Baton Rouge, New Orleans, Monroe, Alexandria, Shreveport, and Lake Charles cities are highly segregated as well (Athey et al. 2021).

Contemporary government polices continue to shape patterns of racialized displacement and resettlement. For instance, neighborhoods damaged by Hurricane Katrina in 2005 were 45.8 percent Black, on average, compared with undamaged neighborhoods, which were 26.4 percent Black (Logan 2006). In the aftermath of Hurricane Katrina, preexisting inequalities by race and socioeconomic status made Black New Orleans residents more likely to be displaced, and for longer periods, than White New Orleans residents (Fussell, Sastry, and VanLandingham 2010, Fussell 2015). Black New Orleans residents also had a more difficult time returning to their old neighborhoods due to disparities in the delayed timing of disaster relief and rebuilding efforts (Gotham 2014, Fussell 2015). As a result, New Orleans's Black population still has not recovered to its pre-Katrina levels: in 2000, New Orleans was 67.5 percent Black, while in 2020, it was only 59.5 percent Black.

To conclude, where a person lives affects their ability to vote. Black Louisianans have been subjected to racial residential segregation for generations. The existing literature shows that such racial residential segregation detrimentally affects voting.

Race and Health in Louisiana

Health status also may affect voting. Several studies have associated poor health with lower voter turnout (Blakely, Kennedy, and Kawachi 2001, Lyon 2021, Pacheco and Fletcher 2015). 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 (Pacheco and Fletcher 2015). Impaired cognitive functioning or physical disability also may make voting more difficult (Pacheco and Fletcher 2015). Poor health is likely the reason that voter turnout declines in old age (Pacheco and Fletcher 2015). People with disabilities also are less likely to vote; problems with polling place accessibility only partially explain this gap (Schur, Ameri, and Adya 2017, Schur et al. 2002).

Black Louisianans have worse health outcomes than White Louisianans on several metrics. For instance, although rates of invasive cancer are similar across Black and White Louisianans (487.9 per 100,000 adults vs. 478.7 per 100,000 adults, respectively), as shown in Figure 11, there is a large disparity in the mortality rate from invasive cancers (211.2 deaths per 100,000 adults for Black Louisianans vs. 173.6 deaths per 100,000 adults for White Louisianans) (CDC) . Similarly, Figure 11 also shows large racial differences in the mortality rates for cardiovascular disease and diabetes (for cardiovascular disease: 260.5 per 100,000 White adults vs. 321.5 per 100,000 Black adults; for diabetes: 62.2 per 100,000 White adults vs. 110.8 per 100,000 Black adults) (CDC). Disease prevalence rates also vary by race: 17.7 percent of Black Louisiana adults have been diagnosed with diabetes, compared with 10.8 percent of White adults (CDC). Obesity disparities also are large: 42.9 percent of Black Louisiana adults are obese, compared with 32.4 percent of White Louisiana adults (CDC). These disparities in health

translate into disparities in life expectancy as shown in Figure 12: in Louisiana, White men are expected to live over seven years longer than Black men (72.71 vs. 65.62, respectively), while White women are expected to live over five years longer than Black women (78.37 vs. 73.34, respectively) (2022g). Infant and child mortality rates among Black children are about twice as high as those for White children (Benno and Lake).

Figure 11: Disease Mortality Rates by Race among Louisiana Adults.

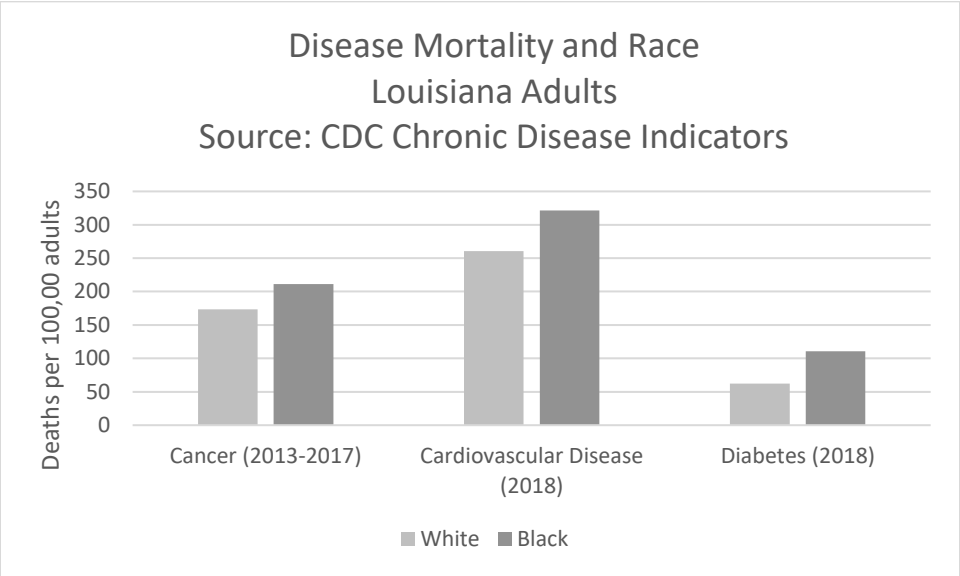
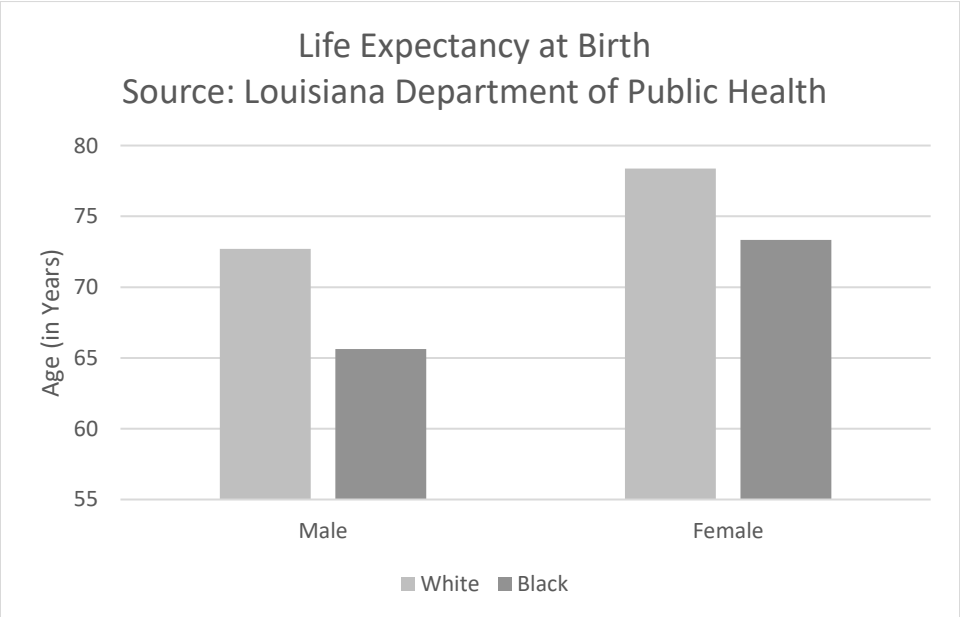


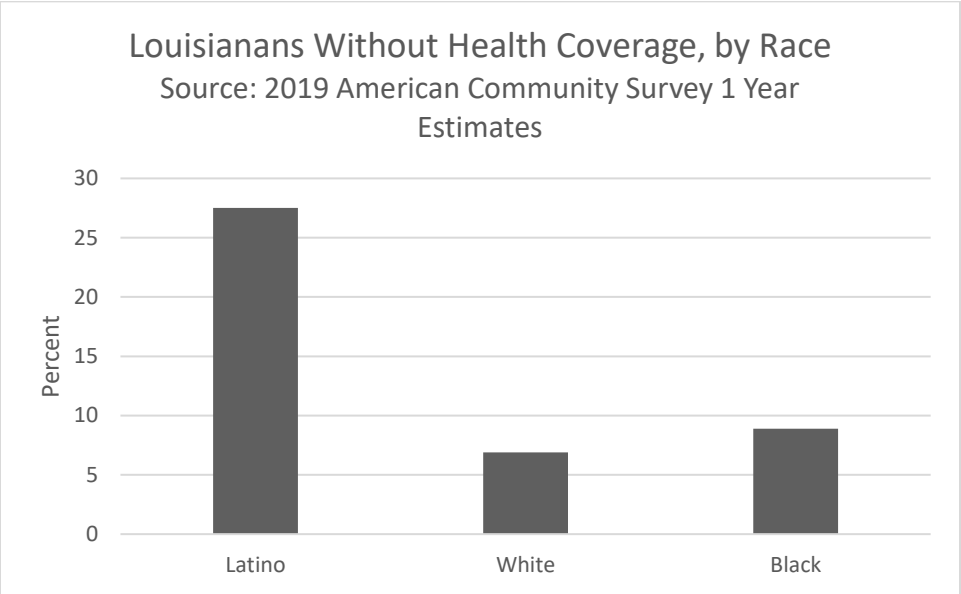
Figure 12: Life Expectancy at Birth, by Race and Gender (2022g).



These racial gaps in health outcomes are partly explained by racial disparities in access to care. According to a 2020 Kaiser Family Foundation survey, Black Louisianans are more likely than White Louisianans to say that there was a time in the past 12 months that they needed to see

a doctor but could not because of cost (12.8 percent of Black respondents vs. 8.2 percent of White respondents) (2020a). Moreover, as shown in Figure 13, data from the 2019 American Community Survey 1-Year Estimates shows that White Louisianans also are more likely to have health insurance than Black Louisianans. More than 60 percent of Black Louisianans also think that Black people are treated less fairly than White people when seeking medical care (2021a).

Figure 13: Health Coverage in Louisiana by Race



Discrimination in other arenas of life also contributes to racial health disparities. Racial residential segregation, which, as discussed above, affects many Louisiana cities, has been shown to lead to worse health outcomes for Black Americans. Several studies have demonstrated that racial residential segregation contributes to racial gaps in cancer outcomes (Landrine et al. 2017, Blanco et al. 2021, Poulson et al. 2021). Racial residential segregation also may make it more difficult for Black Americans to access primary care physicians and other doctors (Gaskin et al. 2012, Anderson 2018). Similar problems have been reported with respect to racial disparities in access to COVID-19 vaccination sites in Louisiana (Berenbrok et al. 2021, McMinn et al. 2021). Such factors, by contributing to racial disparities in health, ultimately may affect voting because of the link between poor health and lower voter turnout.

In Louisiana, environmental factors contribute to racial health disparities. Natural disasters are one such avenue: Black mortality rates during Hurricane Katrina were significantly higher in Orleans Parish across all age group categories 30 years and older (Brunkard, Namulanda, and Ratard 2008:3). The siting of chemical plants and other hazards near heavily Black residential areas exposes residents to high levels of air pollution and other dangers (2021d, Baurick, Younes, and Meiners 2019). In Cancer Alley, an area of Louisiana that stretches between New Orleans and Baton Rouge, studies have linked high levels of air pollution to increased risk of cancer, COVID-19, and asthma (Bakshi et al. 2022, Terrell and James 2020). Cancer Alley includes several unincorporated, mostly Black land areas that have little say in the decisions to locate factories and refineries near their homes (2021d, Baurick, Younes, and Meiners 2019, Terrell and James 2020). Such policies of siting environmental hazards in ways

that detrimentally affect the health of Black communities can shape voting, because health affects voting as shown above.

To reiterate, poor health can decrease voter turnout. In Louisiana, Black people are more likely to be in poor health than White people by several measures, including mortality rates, disease prevalence, and life expectancy. These health disparities partly are the result of racial discrimination: disparities in access to care, exposure to environmental hazards, and racial residential segregation all detrimentally affect the health of Black Louisianans.

Race, Criminal Justice, and Voting in Louisiana

A growing body of research shows that criminal justice interactions affect political behavior. Several studies (including my own work) have shown that, for individuals, contact with the criminal justice system, from police stops, to arrest, to incarceration, directly decreases voter turnout (Burch 2011, Lerman and Weaver 2014, Weaver and Lerman 2010). 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" (Burch 2007: 12).

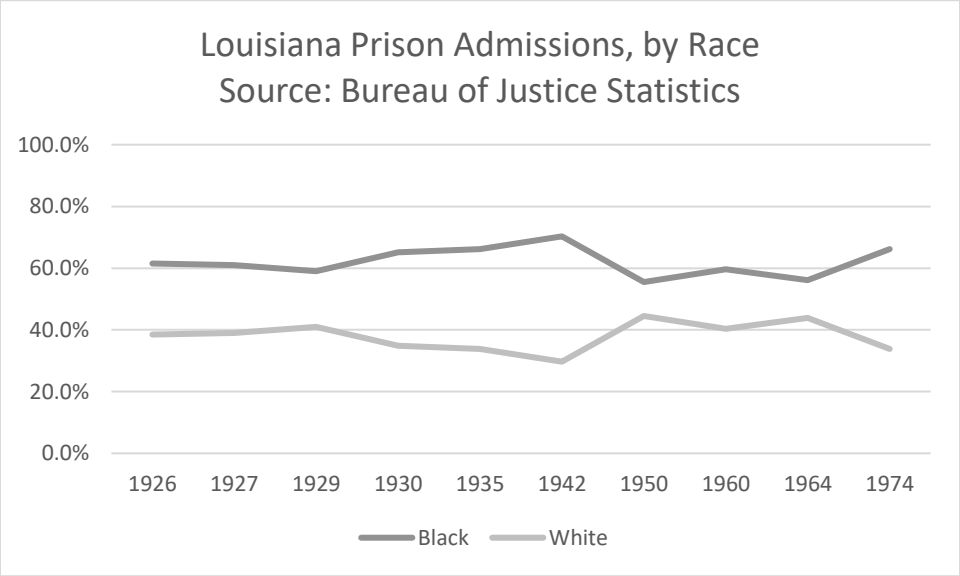
As in other aspects of life, criminal justice outcomes in Louisiana have been shaped by race for more than a century. For instance, like many other southern states, Louisiana enacted Black codes at the end of the Civil War, which were designed to penalize newly freed slaves and control their labor through enticement laws, vagrancy laws, and other schemes (Vandal 2001, Roback 1984, Cohen 1976). Louisiana's prison was destroyed during the War, so the state turned to a system of convict leasing (2019a, Cardon 2017, Muller 2018, Mancini 1978). Louisiana's Black Codes were used to force newly freed Blacks into labor contracts, and many people who refused to sign contracts were arrested and "subleased to landowners to replace slaves" (2019a). As a result of the legal changes brought about by the Black Codes, the racial makeup of Louisiana's convict labor population shifted from mostly White in the antebellum period to mostly Black after the Civil War (Cardon 2017, Vandal 2001).

Louisiana's contracts were awarded to S. L. James, a civil engineer and planter who bought up several plantations in Louisiana, including Angola Cotton Plantation (2019a, Cardon 2017). The prisoners' labor also was used for post-war rebuilding and modernization, particularly for the construction of levees and railroads (Cardon 2017). Angola Plantation was known as the James Prison Camp beginning in 1880, and in 1900 the state purchased the site from the James Family (2019a). Currently, Angola is the largest maximum security prison in the world (2019a); its lands have been worked continuously by an unfree, majority Black labor force since before the Civil War.

The pattern of disproportionate racial impact has continued unabated in Louisiana since reconstruction. Between 1925 and 1940, for instance, Adler finds that the Louisiana prison population increased in a racially disproportionate manner: White incarceration rose by 39 percent during the period, while Black incarceration rose by 143 percent, despite lower overall crime rates in 1940 (Adler 2015: 44). Data from the Bureau of Justice Statistics in Figure 14

shows that Black people constituted around 60 percent of Louisiana's prison admissions in each year between 1926 and 1974 (Langan 1991).

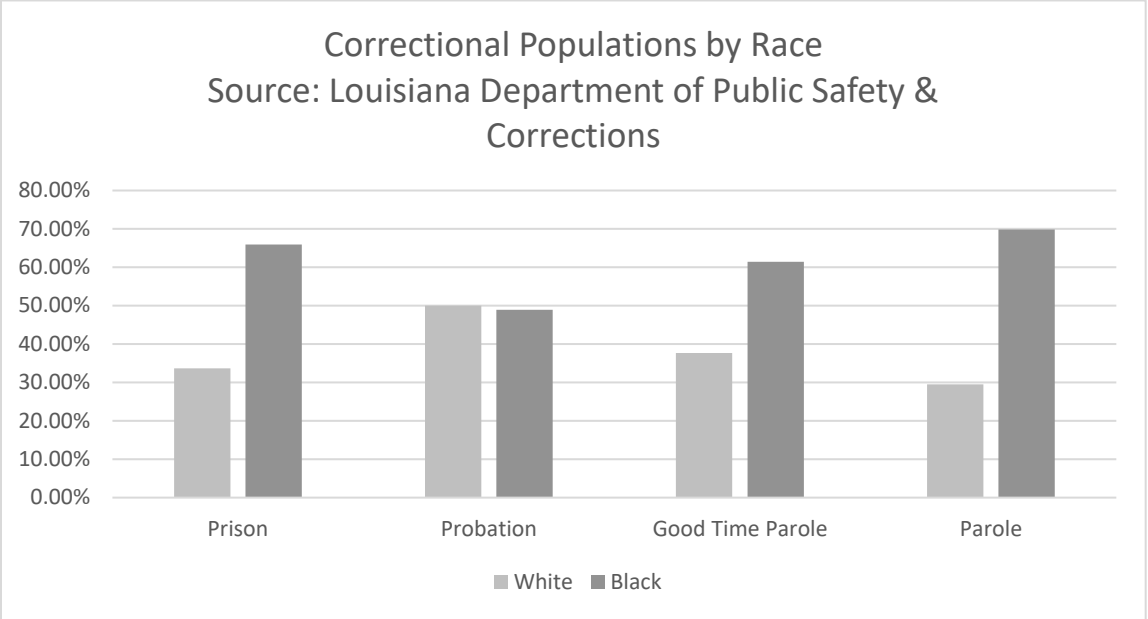
Figure 14: Louisiana Prison Admissions, by Race (Langan 1991).



Today, Louisiana's incarceration rate is the highest in the country (Minton, Beatty, and Zeng 2021: 11). Black prisoners still constitute about two-thirds of Louisiana's prisoners and are imprisoned at a rate double their presence in the population. Black Louisianans also are disproportionately on probation and parole in Louisiana. Although approximately one-third of Louisiana's population identifies as Black, Black people are a majority of people in prison or on community supervision in the state (2022d). As Figure 15 shows, 65.92 percent of prisoners, 48.90 percent of probationers, 61.46 percent of good-time parolees, and 69.89 percent of parolees are Black (2022d). Overall, in 2019, the Black incarceration rate in Louisiana was 1,411 per 100,000 adults, which is 3.7 times that of White Louisiana adults (381 per 100,000).

Disparities punishment may not be explained solely by disparities in crime rates (Mitchell and Caudy 2017). For instance, there is a racial disparity in imprisonment for drugs: about 61.5 percent of people in prison in Louisiana for drugs as their most serious offense are Black, while 38.3 percent are White (2022d). However, among Black Louisianans arrested for drug offenses in 2019, 62.5 percent were arrested for marijuana possession only, while only 42 percent of White Louisianans arrested for drug offenses were arrested for marijuana possession (2021e). Once marijuana possession is excluded, White people constitute a majority of people arrested for more serious drug offenses (e.g., possession of hard drugs, or the sale or trafficking of any drug) in Louisiana (2021e). The racial disparity in imprisonment, where Black Louisianans make up two-thirds of the incarcerated population, does not reflect the fact that the majority of people arrested for serious drug offenses in Louisiana are White.

Figure 15: Correctional Populations by Race, 2021 (2022d).



Racial discrimination still is an important contributor to the disproportionate representation of Black people in the criminal justice system today. For instance, 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 (Beckett, Nyrop, and Pfingst 2006, Gelman, Fagan, and Kiss 2007, Ousey and Lee 2008, Pierson et al. 2020). Racial disparities also exist in bail decisions (Arnold, Dobbie, and Yang 2018) and in sentencing (Bushway and Piehl 2001, Mitchell 2005, Steffensmeier and Demuth 2000, Steffensmeier, Ulmer, and Kramer 1998).

With respect to Louisiana in particular, research shows that racial discrimination affects criminal justice outcomes. For instance, a high proportion of Black Louisianans (86 percent) believe that Black people are treated less fairly when dealing with police (2021a). Studies have shown that racial disparities are associated with capital sentencing in Louisiana: people who kill Black victims are less likely to receive the death penalty than people who kill White victims (Baumgartner and Lyman 2015). As of 2015, no White person had been executed in Louisiana for killing a Black person since 1752 (Baumgartner and Lyman 2015). A study of prosecutorial case files in Caddo Parish shows that prosecutors extend greater effort in cases with White female victims than Black victims (Pierce et al. 2014).

Another important pathway by which criminal justice contact can decrease voter turnout, at least for people with felony convictions, is through felony disenfranchisement laws (Burch 2007). Louisianans who are serving an active sentence in prison or on parole or probation for a felony conviction cannot vote (Uggen et al. 2020). An estimated 4.41 percent of the Black voting age population in Louisiana cannot vote due to a felony conviction compared with 2.23 percent of the state's population as a whole (Uggen et al. 2020). Uggen et al. estimates that 47,951 Black Louisianans were unable to vote in 2020 due to their felony convictions (Uggen et al. 2020).

To summarize, criminal justice involvement has been shown to affect voter turnout through several pathways. In Louisiana, Black people are disproportionately arrested, convicted, and punished for crimes. Research suggests that racial discrimination has played a role in these disparities historically and continues to do so because of discriminatory arrest, conviction, and sentencing practices.

Senate Factor 6: Racial Appeals in Campaigns

Whether politics is marked by "the use of overt or subtle racial appeals in political campaigns" is another consideration of section 2 of the Voting Rights Act. A deep and robust literature on racial appeals in campaigns exists in political science (Hutchings and Valentino 2004, Stephens-Dougan 2021). Writing in 2001, Mendelberg argued that a "norm of racial equality," which held that "southern segregation and the ideology of white supremacy were illegitimate" gained ascendance in the U. S. (Mendelberg 2001: 70). The norm of racial equality meant that using explicitly racist rhetoric or espousing explicitly racist policy positions would not help, and may even hurt, politicians (Mendelberg 2001). However, because "racial attitudes are still a potent force in American politics," candidates still have an incentive to appeal to White racial fears (Valentino, Hutchings, and White 2002: 76). These two phenomena, the need to appear racially egalitarian while activating racial attitudes, means that campaigns would work to activate White voters' negative racial attitudes through covert or implicit means such as images or coded language (Valentino, Hutchings, and White 2002, Mendelberg 2001).

Implicit racial appeals make racial attitudes and concerns more salient in the minds of voters, even without explicitly mentioning or referring to a particular race or group (Valentino, Hutchings, and White 2002, Mendelberg 2001). Implicit racial appeals may rely on certain code words or issues, use images of Black exemplars, or a combination of both, to make race more salient to voters (Valentino, Hutchings, and White 2002). In particular, Caliendo and McIlwain highlight racist appeals, which "prime antiminority racial fear, resentment, and bias . . . through a variety of audiovisual and textual cues that associate persons of color with long-standing, negative, racial stereotypes" (McIlwain and Caliendo 2014: 1159). These implicit racial appeals can rely on code words such as "inner-city" or "sanctuary city" or reference crime, welfare, and illegal immigration (Brader, Valentino, and Suhay 2008, Collingwood and O'Brien 2019, Hurwitz and Peffley 2005, Valentino, Hutchings, and White 2002). More broadly, McIlwain and Caliendo argue that racial appeals in television ads typically include elements such as, "a salient stereotype, most often those of criminality, laziness, taking undeserved advantage, and the charge of liberalism (read, "extreme" liberal, "dangerously" liberal, "radical,"etc.); a minority opponent's image; all-White, noncandidate images; and an exposed audience that includes a high percentage of White potential voters" (McIlwain and Caliendo 2014: 1159).

The 1988 Willie Horton ad targeting Michael Dukakis is probably the most famous example of an implicit racial appeal (Hurwitz and Peffley 2005, Valentino, Hutchings, and White 2002, Mendelberg 2001). In this ad, "the narrator of the spot states that Willie Horton, a convicted murderer, received multiple weekend furlough passes from prison," during the last of which, the narrator informs us, he "fled, kidnapping a young couple, stabbing the man and

repeatedly raping his girlfriend." While the ad could have conveyed exactly the same information without graphics, NSPAC elected to superimpose the most menacing possible picture of Horton, a Black man, over the narrative. (Hurwitz and Peffley 2005: 100). The ad never explicitly mention's Horton's race, but the ad does incorporate many of the elements common to implicit racial appeals as expressed in the literature: evoking the salient stereotype of criminality and the charge of liberalism by using images of a Black exemplar, in this case, Horton's mugshot.

There are prominent examples of racial appeals in Louisiana politics. Most notably, David Duke, a former Grand Wizard of the Ku Klux Klan, "won a strong majority of Louisiana's white vote in three recent statewide elections: a 1990 U.S. Senate race, a 1991 gubernatorial open primary, and a 1991 gubernatorial runoff" (Voss 1996: 1156) . Duke's base of support included White suburbanites as well as White college graduates (Voss 1996). Duke, the founder of the National Association for the Advancement of White People, ran on a platform that openly appealed to white racial fears (Harrison 1989). Duke also endorsed other Louisiana political candidates, such as Governor Mike Foster, who received eighty-four percent of the White vote and only four percent of the Black vote (Sack 1995).

Louisiana politicians still resort to implicit racial appeals to mobilize White voters. In the 2019 Gubernatorial race, Eddie Rispone, the Republican candidate, produced an ad that echoed the same themes as the Horton ad (2019c). Like the Horton ad, Rispone blames Governor Jon Bel Edwards for crimes committed by people after their early release from prison (2019c, Governor 2019). The ad never explicitly mentions race, but does discuss crime and sanctuary cities (2019c, Governor 2019). Similar to the Horton ad, Rispone's ad begins with mugshots of Black men prominently displayed, alongside additional mugshots of two other men who could be Latino.[4] The imagery of the ad also contains the all-White, non-candidate images of Rispone with his constituents that McIlwain and Caliendo mark as common in implicit racial appeals. The mugshots, words such as murder, robbery, New Orleans, and sanctuary city, and Rispone and his White constituents flash as ominous music plays and a narrator says the following:

> Dangerous, sick, violent. John Bel Edwards put them back on our streets where they robbed, attacked, murdered. Under Edwards murder is up 20 percent. Thousands of dangerous criminals released and New Orleans a sanctuary city mecca for lawlessness. Eddie Rispone will ban sanctuary cities and leave forgiveness to God, not government. Commit the crime, do the time. Eddie Rispone for governor." (Hilburn 2019).

In an ad placed in a prominent newspaper, Rispone further embraced implicit racial appeals, again relying on "the charge of liberalism" and code words such as sanctuary city, illegal immigration, terrorist, gang, and radical leftists protesting that research has shown to prime racial resentment in White voters (Brader, Valentino, and Suhay 2008, Christiani 2021, Clapp 2019, Collingwood and O'Brien 2019, Hurwitz and Peffley 2005, Major, Blodorn, and Major

[4] After searching the citations provided in the ad, I was unable to find the news stories that identified all of the people in the mugshots.

Blascovich 2018, Mendelberg 2001, Reny, Valenzuela, and Collingwood 2020, Valentino, Hutchings, and White 2002).

The conventional wisdom based on studies conducted primarily before the elections of Presidents Obama and Trump argued that these kinds of implicit racial appeals were more effective than explicit racial appeals, which could backfire (Stephens-Dougan 2021, White 2007, Valentino, Hutchings, and White 2002, Mendelberg 2001). However, recent studies suggest that candidates can increase their vote share by making explicit racial appeals (Reny, Valenzuela, and Collingwood 2020, Valentino, Neuner, and Vandenbroek 2018, Stephens-Dougan 2021, Christiani 2021, Major, Blodorn, and Major Blascovich 2018). The implicit-explicit distinction appears to work only for certain subsets of White voters, meaning that racial appeals need not be subtle in order to activate negative racial attitudes (Wetts and Willer 2019, Huber and Lapinski 2006).

Explicit racial appeals may target Black voters as well. For Black voters, racial appeals operate differently; White argues that racial appeals often activate in-group attachments rather than out-group antagonism among Black voters (White 2007). However, certain kinds of racial campaign rhetoric, specifically messages designed to portray the chosen candidate or party of Black voters as racist or indifferent to Black concerns, can demobilize Black voters (Stout and Baker 2021). Such messages may include assertions "that the Democratic Party and its presidential candidates, Hillary Clinton in 2016 and Joe Biden in 2020, were using African Americans for their votes without providing any solutions for systematic racial inequality" (Stout and Baker 2021: 1).

In a particularly ugly exchange, again during the 2019 Gubernatorial Race, Rispone and Edwards began trading accusations that the other was racist. Supporters of Edwards ran ads targeting Black voters, arguing that Rispone supported Donald Trump and calling Trump a racist. Studies have shown that this type of explicit racial appeal can serve as a counterstrategy to neutralize racial appeals in ways that galvanize White liberals and Black voters (Banks and Hicks 2019, White 2007). In response, Rispone and the Lousiana GOP said that Edwards, who did not run the ad himself, was a racist taking part in the family tradition of taking advantage of Black people:

> It is absurd for John Bel Edwards to attempt to link Eddie Rispone to a Ku Klux Klan member when historical records make it clear that the Edwards family has been racist for generations. From slavery, through segregation the Edwards clan has been taking advantage of black people in Louisiana for their personal benefit since Louisiana was born.
>
> John Bel is just the latest Edwards to follow in this "family tradition"(2019d).

As noted above, studies have shown that messages like these are designed to demobilize Black voters by portraying their chosen candidate or party as insensitive to the group's needs (Stout and Baker 2021). Other candidates in Louisiana have embraced this tactic as well. For instance,

Republican State Sen. Conrad Appel argued in a Facebook post that African Americans should not support Democrats because the party's policies will lead to racial replacement:

> And this is the great irony of blind support of Democrats by African Americans. The Democrat Party has assumed the position that open borders and unlimited illegal immigration is their cause célèbre. Their logic appears to be that inviting millions of illegal immigrants into the nation will lead to pressure in the future for blanket amnesty and eventual citizenship. That, in their plan, will create an unbeatable mass of Democrat voters for the future.
>
> But that inflow of non-white immigrants will swamp the native black population and accelerate the demand by these new immigrant populations to assume the roles that African Americans enjoy today.
>
> So as this year's Essence Festival ends I am left to wonder why any black American would want to see an acceleration to the inevitable time when other non-white citizens have the voting power to overwhelm and displace African Americans.
>
> But, as in the past, by block voting for Democrats and by ignoring the logic of border and immigration control offered by Republicans that is exactly what they are doing (Rasso 2019).

Comments such as these make it clear that politicians think that explicit racial appeals still resonate in Louisiana politics. As a result, explicit racial appeals such as these appear even in recent political campaigns.

Senate Factor 7: Black Elected Officials

Black Louisianans are underrepresented relative to their share of the population with respect to Senate Factor 7, or "the extent to which members of the minority group have been elected to public office in the jurisdiction." There have been no Black people elected as Governor of Louisiana since Reconstruction, when P. B. S. Pinchback was elected governor. Similarly, three Black men served as Lieutenant Governor of Louisiana (Pinchback, Oscar Dunn, and Caesar Antoine) during Reconstruction; however, none have been elected since. No Black senators have been elected to the U. S. Congress from Louisiana.

Louisiana has sent five Black people to Congress. Charles Nash served during Reconstruction (2022b). Cleo Fields, William Jennings Jefferson, Cedric Richmond, and Troy Carter have been elected since (2022b). Troy Carter is currently the member from the majority-minority 2nd district, which Richmond and Jefferson also represented (2022b).

Black people are underrepresented in other elected offices as well. As noted previously, about one-third of Louisianans are Black. However, Black legislators hold only 25 percent of state legislative seats, or 36 of 144 total seats (2021g). There are 10 Black Louisiana State Senators out of 39 total seats (2021g). Twenty-six Black legislators serve in the state House of Representatives out of 105 total members (2021g). Less than one-quarter of Louisiana mayors are Black (71/304) and 26.1 percent of Louisiana's state court judges are Black (2022e). Two of

the eight elected Board of Elementary and Secondary Education members are Black (2022e). One Associate Justice on the Louisiana Supreme Court, Piper Griffin, is Black (2022e).

Senate Factor 8: Lack of Responsiveness

When reauthorizing Section 2 of the Voting Rights Act in 1982, the Senate also suggested the consideration of "whether there is a lack of responsiveness on the part of elected officials to the particularized needs of minority group members." Louisiana ranks among the worst states in the nation on many indicators of well-being. For instance, Louisiana ranks 48th out of 50 states in math achievement scores (2019b), 46th for cancer death rates (2022c), and 44th for overall life expectancy (2021f). As the previous discussion shows, Black Louisianans are even worse off along all of these dimensions, which, in my opinion, indicates a lack of responsiveness of public officials to these problems. Racial disparities in education, segregation, employment, housing, health, and criminal justice have been evident in Louisiana for generations.

Louisiana public officials often are opposed to specific policies that might ameliorate problems experienced by Black communities. For instance, in 2021, when President Biden announced several climate-related executive orders designed to promote environmental justice and mentioned Louisiana's "Cancer Alley" specifically, Louisiana Senator Bill Cassidy called the remarks "a slam upon our state" and denied that pollution was a factor in elevating cancer rates (Boyle 2021). Instead, Cassidy blamed behavioral factors for the elevated cancer rates:

> We have a higher incidence of cigarette smoking, of obesity, of certain viral infections, and other things which increase the incidence of cancer in our state, (Boyle 2021).

An advocate for the affected areas called Cassidy's comments victim blaming: "It's always 'blame the folks' -the poor, Black folks -for their own demise" (Boyle 2021). Also, as noted previously, peer-reviewed studies (Terrell and St Julien 2022, Terrell and James 2020) do find a statistically significant relationship between pollution and both cancer and COVID-19 in Louisiana.

Similarly, Black Louisianans noted the opposition of their congressional delegation to the passage of the Build Back Better Act, which the White House claimed would, among other benefits, support early childhood education, childcare, Pell Grants, and rental assistance for thousands of Louisiana families (2021b), including the families of Black Louisianans. Five of Louisiana's six members of congress voted against the bill. During the redistricting road show, Herbert Dixon, of Alexandria, said of Build Back Better:

> In my community of similar interests, there should be a Congress person that understand[s] the importance of a $1.2 trillion infrastructure bill that would create vast opportunities for central Louisiana and our state. According to Republican U.S. Senator Bill Cassidy, one of the chief architects of the bill, the $1.2 trillion infrastructure Bill signed by President Biden would do the following: One, $6 billion would be allocated to Louisiana for roads and bridges for the first five years of the rollout. Think what this would mean for Gilchrist Construction Company, Diamond B Construction Company,

> TL Construction, Madden Construction Company and all other local contractors in our area. . . . In the Alexandria region we should have a U.S. Congress person that represent our community interest. Every Louisiana U.S. House Congressional member voted against the $1.2 trillion infrastructure bill, except one. That one House Congressperson represented the community interest of South Louisiana and represented a majority-minority congressional district.[5]

Several other members of the public noted the opposition as well.[6]

The evidence suggests that Black Louisianans do not feel adequately represented and believe that many public officials are not responsive to their needs. For instance, during the redistricting road show, where members of the Louisiana Legislature traveled to public meetings throughout the state, several Black Louisianans from across the state offered opinions on the redistricting process and criticized current officials for being unresponsive to their needs. The speakers often explicitly linked officials' lack of responsiveness to race. For instance, at a meeting in Lake Charles, Louisiana, Lydia Larse, a Black citizen of Lake Charles, said:

> "the Constitution starts with we the people. I don't feel that. None of you guys up here represent me, but a few. . . We're one-third of the state, and I'm not being represented. . . Our voices are not being heard. At all." . . . I feel as though my voice is not being heard because y'all don't need us. We're not needed. You don't care." [7]

As an example of how disregarded she felt by public officials, Ms. Larse further noted, "I've been watching Representative Tarver, he's been sleeping back there. I guess he's not interested, but I understand. We don't matter to you. I just want to matter. I just want to matter."[8] Another Black Lake Charles resident, Adam Moore, expressed similar sentiments when he said, "Do we care about gerrymandering? Hey, let's isolate these people over here! Do you care? . . . Help us! . . . Do anyone care? Hey, its not my fault I'm Black! I was born this way!"[9] Jacqueline Germany said, "I'm sick and tired of being sick and tired. I'm sick and tired of being not fairly

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[5] 2:03:00. "Louisiana Redistricting Video, Alexandria, Louisiana 11/9/21." https://redist.legis.la.gov/default_video?v=house/2021/nov/1109_21_Alexandria_Redist. Accessed 11 Mar 2022.

[6] For an additional example, see public testimony of Albert Samuels, Baton Rouge, at 1:19:40. "Louisiana Redistricting Video, Baton Rouge, Louisiana 11/16/21." https://redist.legis.la.gov/default_video?v=house/2021/nov/1116_21_BatonRouge_RedistSU. Accessed 7 Mar 2022.

[7] 1:35:40. "Louisiana Redistricting Video, Lake Charles, Louisiana 12/15/21." https://redist.legis.la.gov/default_video?v=house/2021/dec/1215_21_Southwest_Redist. Accessed 7 Mar 2022.

[8] 1:39:20. Lousiana Redistricting Video, Lake Charles, Louisiana 12/15/21." https://redist.legis.la.gov/default_video?v=house/2021/dec/1215_21_Southwest_Redist. Accessed 7 Mar 2022.

[9] 1:17:20. "Lousiana Redistricting Video, Lake Charles, Louisiana 12/15/21." https://redist.legis.la.gov/default_video?v=house/2021/dec/1215_21_Southwest_Redist. Accessed 7 Mar 2022.

represented in Congress. I'm sick and tired of a congressman overlooking my district."[10] Even non-Black Louisianans noted that Black people did not receive proper consideration from their representatives. Melissa Flournoy of Louisiana said in Baton Rouge:

> We have five hardcore Republican Congressmen, and we have one African-American Congressman who for all intents and purposes, is expect [*sic*] to represent the voices of African-American voters in Caddo Parish, in East Baton Rouge Parish, in Tallulah, Richland, Tensas, Concordia Parish. Because he's the only congressman that will return the calls, okay? He's the only congressman that really will be engaged in the issues that are important to people. So, Mr. Jenkins can say race doesn't matter. I'm here today to say race does matter.[11]

The lack of responsiveness of public officials to the interests of Black Louisianans was a persistent theme in the public comments.

In every redistricting road show, the members of the public who commented on the issue of a second majority-minority district favored drawing a second majority-minority congressional district outnumbered those who opposed the idea. For instance, among the speakers in New Orleans, the topic of a second majority-minority district was addressed by a majority of speakers, with 19 of the 25 speakers who expressed a clear opinion in favor of adding the second majority-minority congressional district. In Covington, all six speakers who referenced the topic supported a second majority-minority district; in Thibodeaux, there were only a handful of speakers, but the four who mentioned a second majority-minority congressional district were in favor. In Lafayette, of the seven speakers who expressed an opinion about adding a second majority-minority district, only one expressed opposition. Across the road shows, nearly two-thirds of the written comments that expressed a clear opinion on the topic supported drawing a second majority-minority congressional district.

The Louisiana Senate failed to pass a map with a second majority-minority congressional district. Senator Hewitt did acknowledge the clear and passionate arguments against racial gerrymandering that packed Black voters into the second congressional district:

> I want you to know I've been moved by much of what I've heard. Several members of the public in their comments yesterday and others on the road have helped me to better understand the passion around the right to vote and the importance of the Voting Right Act. Senator Price, and you know, I was especially moved yesterday when one of the ladies came and testified and she said, "I just felt like I had to be here. I had to come and speak. I wanted to be heard." We've heard that Senator Price along on the road show

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[10] 2:21:00. "Louisiana Redistricting Video, Baton Rouge, Louisiana 11/16/21." https://redist.legis.la.gov/default_video?v=house/2021/nov/1116_21_BatonRouge_RedistSU. Accessed 7 Mar 2022.

[11] 1:37:42. "Louisiana Redistricting Video, Baton Rouge, Louisiana 11/16/21." https://redist.legis.la.gov/default_video?v=house/2021/nov/1116_21_BatonRouge_RedistSU. Accessed 29 Mar 2022.

> from other people that were just as passionate about that, and I really appreciate that. And, some people have traveled around the state, right? So, we had people here from North Louisiana who traveled here yesterday to speak and it really has helped me to understand more about how people feel. It's a blessing and I appreciate that people took the time to say that and to help us understand better. And so, I just want to acknowledge that because that's been a very important part of the process and an important part of the journey to me. It's not just about maps and numbers. It is about people and I appreciate that.[12]

However, Senator Hewitt went on argue against creating a second majority-minority district anyway, saying, without presenting any evidence, that "[b]y taking minority voters out of a district that is 56 percent Black VAP today and creating two underperforming districts as proposed in several other bills, we would jeopardize the current majority-minority district and this Legislature would be remiss in our obligations to comply with the Voting Rights Act."[13] In other words, in the face of a clearly articulated policy preference expressed by members of the minority community, Senator Hewitt and the members of the Senate chose do the opposite of what was responsive to the particularized needs of the group.

Senate Factor 9: Tenuousness

The sponsors and advocates of SB5 and HB1 provided several justifications for supporting these plans over plans that provided for two majority-minority districts in Louisiana. However, as I will show, many of the proffered justifications lacked empirical support, were vague or contradictory, or were based on misunderstandings. In some instances, the final plan adopted by the Louisiana legislature fails to live up to the very principles that bill sponsors said were important.

Adherence to Traditional Redistricting Principles

The most important criterion, according to Speaker Schexnayder, who sponsored HB1, was adherence to the principle of one person, one vote. Speaker Schexnayder took pride in the fact that his map had low relative and absolute deviations between districts:

> This Bill is my best efforts to achieve population equality among the districts. In fact, HB1 has a relative deviation of 0.00 percent, which is the percentage of which all district populations differ from the ideal population of 776,292. And then, the overall range of 46 which means that between the highest populated district in my Bill, which is District 4

[12] 26:30. "Louisiana Senate and Governmental Affairs Committee, 2/4/2022." https://redist.legis.la.gov/default_video?v=senate/2022/02/020422SG. Accessed 14 Mar 2022.

[13] 29:11. "Louisiana Senate and Governmental Affairs Committee, 2/4/2022." https://redist.legis.la.gov/default_video?v=senate/2022/02/020422SG. Accessed 14 Mar 2022.

> and the lowest populated district in my Bill which is Senate District 3, there's a difference of only 46 people.[14]

Chairman Stefanski agreed:

> Our duty to make sure that these populations are equal is an overriding duty. Specially, on this map. We have to try to get down to as close to the nearest person and I think the numbers speak for themselves on that.[15]

Representative McGee also stressed the importance of equalizing the population across the six districts as the paramount goal:

> The reason why you come into redistricting is because the census data has changed and you have to do it because you have to make the districts equal and Mr. Speaker's map is the best map as far as making them equal in population.[16]

However, maps with two majority-minority districts, such as Senator Gaines's Amendment 88, had lower absolute and relative deviation.[17] When it was pointed out that Senator Fields had presented an amendment with a lower absolute deviation than SB5 and also managed to create a second majority-minority district, Senator Hewitt said that getting to the lowest deviation was not that important after all:

> The things that I see different in this map and the map in the Amendment that Senator Fields has proposed and the map that I have presented . . . this is very similar to Senate Bill 2 with a few tweaks which the committee did already consider and did hear. The senator talks about the deviation from zero, you know what the courts have ruled is that passed when we were working under preclearance ten years ago was to anything less than a hundred was kind of the objective, and so Senate Bill 5 definitely meets that objective; it ranges from minus 92 to 36. The amendment from minus 12 to 32, although it is better, I don't know that it is significant in terms of the law.[18]

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[14] 3:47. "Louisiana House and Governmental Affairs Committee, 2/4/2022." https://redist.legis.la.gov/default_video?v=house/2022/feb/0204_22_HG. Accessed 11 Mar 2022.

[15] 12:40. "Louisiana House and Governmental Affairs Committee, 2/4/2022." https://redist.legis.la.gov/default_video?v=house/2022/feb/0204_22_HG. Accessed 11 Mar 2022.

[16] 32:50. "Louisiana House and Governmental Affairs Committee, 2/4/2022." https://redist.legis.la.gov/default_video?v=house/2022/feb/0204_22_HG. Accessed 11 Mar 2022.

[17] "House Floor Amendments." http://www.legis.la.gov/Legis/ViewDocument.aspx?d=1246825 Accessed 28 Mar 2022.

[18] 2:31:25. "Louisiana Senate Chamber Day 6, 2022 ES1." https://senate.la.gov/s_video/videoarchive.asp?v=senate/2022/02/020822SCHAMB. Accessed 17 Mar 2022.

The sponsors of HB1 and SB5 stressed the importance of keeping precincts whole. This claim came up multiple times throughout the process. For instance, Senator Hewitt said:

> Another principle: respect the established boundaries of political subdivisions and the natural geography of the state and contain whole precincts to the extent practicable. We've done that in this map. We've kept 49 of 64 parishes whole, which is more than the current map, we minimized the split precincts and they are actually zero.[19]

Representative Stefanski also said publicly, "I'll tell you from my House perspective though, I don't want to split precincts, and I want to try to stick as much to the natural geography as possible."[20] Likewise, Representative Farnum said during committee:

> You get into splitting of precincts and things of that nature that to me is a very disenfranchising method of splitting absolutely an area of interest. When you take an individual precinct and cut it in half, much less a parish or any other thing. So, I guess the method of how you got here is disturbing.[21]

It is important to note that the legislature voted not to proceed with plans, such as the maps presented in HB4, for instance, that managed to draw two majority-minority districts also without splitting precincts.

At various points, supporters of HB1 and SB5 also stressed the importance of compactness. Supporters of HB1 and SB5 were particularly concerned with what they referred to as the "Z map" or the "7 map." They argued that this map was not compact and was similar to a district that was struck down by courts in *Hays* v. *State of Louisiana*, 862 F. Supp. 119 (W.D. La. 1994). Legislators raised this point in particular with reference to SB16, which drew a second majority-minority district through Shreveport. As Senator Hewitt said:

> This is sort of the famous Z-Map that we had back in the day that, you know, gets used in a lot of classes, political science classes as maybe not such a great example, but nevertheless I want to just try to talk to you a few minutes about it. It looks to me like a lot of metropolitan areas, you know, seems to get split up in this map. Not Alexandria so much, because it misses the Z, but the Z catches a lot of other things, you know, you've got Lafayette in a district with New Orleans. You've got neighborhoods in Baton Rouge, would share a member of Congress with Shreveport and Lake Charles is joined with parts of Monroe, it divides up some of the Barksdale Community. I guess tell me your thoughts on that because, you know, one of our redistricting principles is trying to as you said, keep the parishes together, but also the communities of interest in some of those

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[19] 2:02:42. "Louisiana Senate Chamber Day 6, 2022 ES1." https://senate.la.gov/s_video/videoarchive.asp?v=senate/2022/02/020822SCHAMB. Accessed 17 Mar 2022.

[20] 21:09. "State Rep. John Stefanski Press Club 11/22/2021." Louisiana Public Broadcasting. https://www.youtube.com/watch?v=SuquGa6rJI8 Accessed 29 Mar 2022.

[21] 2:24:50"Louisiana House and Governmental Affairs Committee, 2/10/22." https://redist.legis.la.gov/default_video?v=house/2022/feb/0210_22_HG. Accessed 16 Mar 2022.

> metropolitan areas, you know, seems to me, you would want to try to keep them together as best you could.[22]

Representative Beaullieu raised a similar concern earlier in the process:

> So just from a personal standpoint, I think map five should have been labeled as map seven when I'm looking at it because it looks you got a big lucky seven in that map, or we'll call it the border map. And I guess kind of on this one, specifically, it looks like you're going all the way from Oil City to Kentwood, Louisiana. Do you think someone in the Shreveport area and the communities of interest in those two geographic areas of the state are all – I guess what was the thought there with just that border map?[23]

However, when presented with redistricting plans that achieved better compactness scores across multiple empirical measures than HB1 and SB5, supporters of HB1 and SB5 then rejected the measures used by courts and demographers in favor of eyeball tests and other subjective notions of appearance. For instance, Representative Ivey said about one of the coalition maps that drew two majority-minority districts, "Yeah, I mean that's one of the craziest looking maps I've seen. Now, it may meet Section 2, but I'm telling you, you've got Shreve--parts of Shreveport, Monroe, East Baton Rouge Parish. I mean, my God, that's a crazy-looking map."[24] Chairman Stefanski said:

> I'm a little more curious and you discussed the measure of how much fits in the circle. I understand that analyzation but I think for a lay person looking at that presentation, District 5 is pretty hard for just a normal person without a deep understanding of redistricting law – it's been a long day already – to call that district compact.[25]

It is important to note that these and other maps with two majority-minority districts that were before the legislature still were more compact, based on objective measures used by courts and demographers, than the plans adopted by the Louisiana legislature. For instance, Senator Fields argued that his amendment was superior to SB5 in terms of compactness.[26] By the final debate,

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[22] 4:25. "Louisiana Senate and Governmental Affairs Committee, 2/3/22." https://redist.legis.la.gov/default_video?v=senate/2022/02/020322SG. Accessed 16 Mar 2022.

[23] 2:18:56. "Louisiana Joint Governmental Affairs Committee, 1/20/22." https://redist.legis.la.gov/default_video?v=house/2022/jan/0120_22_JGA_BatonRouge_Redist. Accessed 16 Mar 2022.

[24] 2:27:53. "Louisiana Joint Governmental Affairs Committee, 1/20/22." https://redist.legis.la.gov/default_video?v=house/2022/jan/0120_22_JGA_BatonRouge_Redist. Accessed 16 Mar 2022.

[25] 2:41:22. "Louisiana Joint Governmental Affairs Committee, 1/20/22." https://redist.legis.la.gov/default_video?v=house/2022/jan/0120_22_JGA_BatonRouge_Redist. Accessed 16 Mar 2022.

[26] 1:12:50. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

Representative Magee said that compactness was no longer a primary concern for the drafters of HB1.[27]

Supporters of HB1 and SB5 also stressed the importance of maintaining existing districts and communities of interest. They also expressed concerns about splitting parishes. For instance, when closing on SB5 in committee, Senator Hewitt argued for SB5 because, in her view, "it does the best job of the maps presented to this committee in keeping communities of interest, parishes and precincts together and providing for continuity of representation by preserving the cores of our current districts."[28] At several points in the road shows and hearings, community members did request to be considered as communities of common interest. For instance, Kay Katz, speaking at the Monroe meeting, said:

> And I hope that in the lines that were drawn, I hope that District 5 stays in Northeast and North Central Louisiana. We're a rural area and we have the same interest. Of course, we have a great metropolitan area in Monroe, which is the big city in Northeast Louisiana, and we're not real big. So we're good folks together, and I hope that you will keep the lines as close as to what they were before. I support the 5th district the way it is. Thank you.[29]

Several people noted that Acadiana was a community of interest in the Lafayette meeting. For example, George Swift said that keeping the third congressional district intact because of common interests was important to him:

> . . . we think the congressional districts need to be comprised of areas that have things in common. And in our particular district, District 3, we have of course the I-10 corridor, we have all of the things that have been talked about earlier. So we would ask that you consider keeping the congressional districts as much intact as possible with common areas and particularly we think in District 3 that that would mean that basically the metros of Lafayette and Lake Charles would stay together in the same district.[30]

In the Covington road show meeting, several people spoke of the North Shore as a community of interest that deserved representation separate from New Orleans. Melissa Flournoy of Louisiana Progress spoke of the North Shore as a community of interest that should have its own congressional district:

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[27] 20:33. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

[28] 28:12. "Louisiana Senate and Governmental Affairs Committee, 2/4/2022." https://redist.legis.la.gov/default_video?v=senate/2022/02/020422SG. Accessed 14 Mar 2022.

[29] 1:09:48. "Louisiana Redistricting Video, Monroe, Louisiana 10/20/21." https://redist.legis.la.gov/default_video?v=house/2021/oct/1020_21_Monroe_Redist Accessed 29 Mar 2022.

[30] 1:46:02. "Louisiana Redistricting Video, Lafayette, Louisiana 10/26/21." https://redist.legis.la.gov/default_video?v=house/2021/oct/1026_21_Lafayette_Redist. Accessed 29 Mar 2022.

> We think there's an opportunity to really think of the Northshore of Louisiana really as Louisiana's Gold Coast. We look at the development here along the I-10 and I-12 corridor. It's the center of economic development and energy around redevelopment, commercial development, population growth. And as people are forced by hurricanes really to become climate migrants, we think that there'll be even additional growth in this I-10, I-12 corridor over the next ten years. So, as you consider redrawing these maps, we know it will be difficult to make everyone happy. We do think that there's an opportunity to create a Northshore congressional district, a second minority district to look at the possibility of a second minority district for the supreme court and the public service commission.[31]

Several other community configurations were mentioned by members of the public throughout the road shows.

For their part, several legislators who supported HB1 and SB5 also raised concerns about keeping multiple communities of interest intact. For instance, Representative Deshotel mentioned Avoyelles Parish as a community of interest:

> Representative Deshotel: Thank you Mr. Chairman. Representative, I'm looking at the map and I'm obviously interested in my area and I'm looking at Avoyelles Parish. And I noticed that you have the northern portion of Avoyelles in District 3. And I'm assuming that you separated Avoyelles via the river. Is that the case?
>
> Representative Marcelle: Absolutely.
>
> Representative Deshotel: So, I just would like to know your thought process of giving North Avoyelles, which is a community of interest with more North Louisiana. Why did you give North Avoyelles to a district in -- that would be South Louisiana?[32]

Senator Hewitt identified some communities of interest that were important to her as well:

> . . . we heard a lot in Iberia and St. Martin Parish just to give a shout out to our Lafayette friends about that being a community of interest certainly and Lake Charles and Lafayette see themselves as a community of interest so we want to make sure that we hear those issues as well.[33]

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[31] 1:26:59. "Louisiana Redistricting Video, Covington, Louisiana 11/30/21." https://redist.legis.la.gov/default_video?v=house/2021/nov/1130_21_Northshore_Redist. Accessed 29 Mar 2022.

[32] 2:12:38. "Louisiana House and Governmental Affairs Committee, 2/10/22." https://redist.legis.la.gov/default_video?v=house/2022/feb/0210_22_HG. Accessed 16 Mar 2022.

[33] 2:53:54. "Louisiana Joint Governmental Affairs Committee, 1/20/22." https://redist.legis.la.gov/default_video?v=house/2022/jan/0120_22_JGA_BatonRouge_Redist. Accessed 16 Mar 2022.

Representative Ivey expressed concerns with a map that split East Baton Rouge three times[34] and later identified "rural Louisiana" and "urban Louisiana" as separate communities of interest.[35] In the final debate on HB1, Representative Magee said that "the people of Monroe have a certain community of interest, the people of Shreveport have a certain community of interest, the people of Lafayette have a certain community of interest, the people in Terrebonne have a certain community of interest, the north shore has its own flavor, all of that is maintained in this map."[36] Representative Magee said that he had concerns that maps with two majority-minority districts split LaFourche and Terrebonne parishes.[37] Senator Hewitt identified several other communities of interest:

> We ensure that Louisiana's agriculture heritage continues to be respected by maintaining a primarily rural and agricultural-based district. We preserve the connectivity of Louisiana's Acadiana region. Louisiana's major cities and their surrounding communities are preserved and connected to the maximum extent possible. We ensure that Louisiana's major military installations remain strong and in connection with their surrounding communities of support, which is very important when you're looking at brack implications. This maintains the connection with the community of interest of Baton Rouge and its surrounding communities. It maintains the connections of the communities of interest of the New Orleans region and its surrounding communities. It maintains the connections and the community of interest of the Shreveport region, and its surrounding communities and the same for Alexandria, and Monroe.[38]

Based on these statements, there are clearly multiple communities of interest that could be accounted for when drawing congressional districts.

However, there was little sense of which communities of interest were to be prioritized over others and why, a point poignantly made by Devonte Lewis of Baton Rouge:

> . . . you've probably heard from George Swift about keeping Lake Charles and Lafayette in the same congressional district. And this map does that. But I've heard Black people

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[34] 2:27:16. "Louisiana Joint Governmental Affairs Committee, 1/20/22." https://redist.legis.la.gov/default_video?v=house/2022/jan/0120_22_JGA_BatonRouge_Redist. Accessed 16 Mar 2022.

[35] 1:37:40. "Louisiana House and Governmental Affairs Committee, 2/4/2022." https://redist.legis.la.gov/default_video?v=house/2022/feb/0204_22_HG. Accessed 11 Mar 2022.

[36] 14:05. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

[37] 22:55. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

[38] 2:03:51. "Louisiana Senate Chamber Day 6, 2022 ES1." https://senate.la.gov/s_video/videoarchive.asp?v=senate/2022/02/020822SCHAMB. Accessed 17 Mar 2022.

> say, give me an opportunity and they haven't been heard. And so, all I'm asking is that this committee gives Black people, minorities, and some of us the same privilege that we give Mr. Swift. I love George Swift, but I want to know why his voice is more powerful than mine. Why do we value the interest of that community more than we value the interest of Black and Brown people of this state?[39]

Similarly, when Representative Miguez asked why HB1 split St. Martin and St. Mary parishes, Representative Magee just said that sometimes the lines have to move.[40] Ultimately, the House plan split Rapides Parish when it was first adopted, spurring objections.[41] After the compromise bill split Grant Parish, Representative Firment responded, "All along we've heard about continuity of representation and communities of interest, but those two factors do not seem to have been considered in this amendment."[42] Ultimately, supporters of HB 1 and SB5 felt they had to sacrifice some of these communities of interest, but there was no a clear explanation in the record of why some interests were spared over others.

It is important to note that there were several maps that managed to incorporate two majority-minority districts while keeping certain parishes or communities together to the same degree as the map ultimately adopted by the legislature. For example, SB2, SB9, and SB11 do not split Avoyelles Parish. SB2 and SB11, like SB5, split East Baton Rouge into only two districts. HB8 and HB12 both drew two majority-minority districts while splitting the same or fewer parishes than the plan ultimately adopted by the legislature also while keeping Terrebonne and LaFourche parishes whole. Representative Duplessis said that he presented an option that did not break up Grant Parish.[43] Some alternative bills also show that it is possible to create two majority-minority districts while splitting even fewer parishes than the plans in HB1 and SB5; for example, HB8, HB9, and SB9 split fewer than 15 parishes overall. The plan adopted in HB1/SB5 splits 15 parishes.[44] In any event, when members raised issues with particular districts

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[39] 2:49:54. "Louisiana House and Governmental Affairs Committee, 2/4/2022." https://redist.legis.la.gov/default_video?v=house/2022/feb/0204_22_HG. Accessed 11 Mar 2022.

[40] 18:06. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

[41] 1:02. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

[42] 10:50. "Louisiana House Session Day 15, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0218_22_Day15_20221ES_Redist. Accessed 17 Mar 2022.

[43] 37:04. "Louisiana House Session Day 15, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0218_22_Day15_20221ES_Redist. Accessed 17 Mar 2022.

[44] Enrolled Senate Bill 5. https://legis.la.gov/legis/ViewDocument.aspx?d=1248635

or communities of interest in maps with two majority-minority districts, the sponsors of those maps always expressed willingness to redraw the maps to keep particular areas intact.[45]

It is also important to note that the prominent voices in the road show who stressed that New Orleans and Baton Rouge were *not* communities of common interest were ignored. Such sentiments came up at multiple points in the road shows, committee hearings, and debates.[46] For instance, in the House Governmental Affairs Committee Hearing on February 4, Devonte Lewis said:

> I live in here in the Garden District in Baton Rouge. But I live on what's known on the south side, which is typically considered Black. You walk up the street, you enter the sixth congressional district, Garry Graves, same neighbors, same power line, same water infrastructure, but the only thing that is different between my neighbor on Park Boulevard and me on South 18th is I start what known as the Black side of the city and so I got thrown into the second congressional district. Even though if we took communities of interest of my community and my neighborhood, I would be with my neighbor, Garry Graves, who lives three blocks down. So, when we talk about community of interest, it seems that the only time Black community of interest matters is when it's being diluted, not when we are giving the opportunity to succeed and have our voices be heard.[47]

The issue also came up in this exchange with Senator Hewitt:

> Michael Pernick: . . . One of the most significant requests that I've heard from members of the public just following this process was to not place East Baton Rouge and Orleans Parish in the same congressional district. . .
>
> Senator Hewitt:: Well, we certainly heard that in a couple places primarily in New Orleans and that was a theme in Baton Rouge as well.[48]

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[45] For instance, see 2:17:00. "Louisiana House and Governmental Affairs Committee, 2/10/22." https://redist.legis.la.gov/default_video?v=house/2022/feb/0210_22_HG. Accessed 16 Mar 2022. Or 2:54:09. "Louisiana Joint Governmental Affairs Committee, 1/20/22." https://redist.legis.la.gov/default_video?v=house/2022/jan/0120_22_JGA_BatonRouge_Redist. Accessed 16 Mar 2022. Or at 1:41:22. "Louisiana House and Governmental Affairs Committee, 2/4/2022." https://redist.legis.la.gov/default_video?v=house/2022/feb/0204_22_HG. Accessed 11 Mar 2022.

[46] This statement from Melissa Flournoy, also cited above, is one example. 1:26:59. "Louisiana Redistricting Video, Covington, Louisiana, 11/30/21." https://redist.legis.la.gov/default_video?v=house/2021/nov/1130_21_Northshore_Redist. Accessed 29 Mar 2022.

[47] 2:51:43. "Louisiana House and Governmental Affairs Committee, 2/4/2022." https://redist.legis.la.gov/default_video?v=house/2022/feb/0204_22_HG. Accessed 11 Mar 2022.

[48] 2:53:25. Louisiana Joint Governmental Affairs Committee, 1/20/22." https://redist.legis.la.gov/default_video?v=house/2022/jan/0120_22_JGA_BatonRouge_Redist. Accessed 16 Mar 2022.

Representative Stefanski also acknowledged the concerns over Baton Rouge publicly:

> If anyone was listening to the road show we had in Baton Rouge there was a lot of talk about that. A lot of talk about Baton Rouge not being split, talks about Baton Rouge not being included in an Orleans congressional district. So I think that's an evolving conversation. Certainly in Baton Rouge there is a high minority population so if the conversations are devolving on a second majority-minority district, it's hard to have those conversations without Baton Rouge in em [sic].[49]

As Senator Hewitt and Representative Stefanski both noted, this sentiment was raised repeatedly in the road shows. In Baton Rouge, Roland Volk said:

> People often ask me, why is the U.S. Congress so confrontational and what can be done? I believe the answer is we need to move to congressional districts that are not gerrymandered. With one district, with all minority and low-income people packed into it. In the other district's minority and low-income voters influence is diluted. How do we regain the sense of community in our politics? The answer is to adjust political districts to match the communities they serve rather than being gerrymandered for political gains. The North Baton Rouge to New Orleans district is a classic example.[50]

Albert Samuels also said in Baton Rouge, "Fairness might ask the question of why is the Scotlandville area, the North Baton Rouge area, lumped in with a district that really predominantly represents New Orleans?"[51] Ultimately, the legislature did not act on these expressions of community: Representative Marcelle's amendment that would give the legislature the opportunity to split Baton Rouge from New Orleans failed.[52]

Finally, it is important to note that Black Louisianans constitute a community of common interest whose needs should be considered. This viewpoint was shared at several points during the road shows and hearings. For instance, Sheila Lewis, in Baton Rouge, said, "It is time for Louisiana to do the right thing. It is time for us to be able to say that we, people of color, have a seat at the table where there is representation that takes care of the well-being of all citizens of

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[49] 23:00. "State Rep. John Stefanski Press Club 11/22/2021." Louisiana Public Broadcasting. https://www.youtube.com/watch?v=SuquGa6rJI8 Accessed 29 Mar 2022.

[50] 1:45:00. "Louisiana Redistricting Video, Baton Rouge, Louisiana 11/16/21." https://redist.legis.la.gov/default_video?v=house/2021/nov/1116_21_BatonRouge_RedistSU. Accessed 29 Mar 2022.

[51] 1:18:30. "Louisiana Redistricting Video, Baton Rouge, Louisiana 11/16/21." https://redist.legis.la.gov/default_video?v=house/2021/nov/1116_21_BatonRouge_RedistSU. Accessed 29 Mar 2022.

[52] "House Floor Amendments." http://www.legis.la.gov/legis/ViewDocument.aspx?d=1247152. Accessed 31 Mar 2022.

this great state of Louisiana."[53] Valerie D. Oliver, also from Baton Rouge, said, "I am concerned about policing in my community, and who will understand what it is like to wonder, every single day, if I am pulled over for a busted taillight, if I am going to make it home?"[54] At the Joint Governmental Affairs Committee Hearing, Chris Kaiser of the ACLU said:

> Kaiser: And so, I would just offer that in this date, minority voters and in particular Black voters are themselves communities of common interest—
>
> Representative Ivey: Absolutely.[55]

However, the legislature failed to provide Black Louisianans with the two districts they had requested.

In summary, it is clear from the record that, although sponsors of HB1 and SB5 cited the importance of traditional principles of redistricting, such as compactness, maintaining communities of interest, or respecting political boundaries, when presented with alternative bills that added a second majority-minority district while outperforming SB5 and HB1 on those metrics, they backed away from their strict adherence to traditional principles. By the end of the process, the supporters of HB1 in particular had shifted their legislative priorities. Instead of compactness or other measures, Representative Magee said that the primary criterion for drawing the congressional districts had become "to honor the traditional boundaries as best as possible to create this map that we believe is legal."[56] Representative Magee said the drafters of HB1 prioritized the traditional boundaries after looking at all the other criteria they could have used. He refused to even say why HB1, which he sponsored, was superior to other bills.[57] Later, he said that HB1 was designed to "maintain traditional boundaries, communities of interest, geography, and make sure it accounted for the population deviation, and that it comported with federal law."[58] Representative Magee said that he did not even look at any performance data or

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[53] 1:03:20. "Louisiana Redistricting Video, Baton Rouge, Louisiana 11/16/21." https://redist.legis.la.gov/default_video?v=house/2021/nov/1116_21_BatonRouge_RedistSU. Accessed 7 Mar 2022.

[54] 2:01:40. "Louisiana Redistricting Video, Baton Rouge, Louisiana 11/16/21." https://redist.legis.la.gov/default_video?v=house/2021/nov/1116_21_BatonRouge_RedistSU. Accessed 7 Mar 2022.

[55] 1:23:15. "Louisiana Joint Governmental Affairs Committee, 1/20/22." https://redist.legis.la.gov/default_video?v=house/2022/jan/0120_22_JGA_BatonRouge_Redist. Accessed 16 Mar 2022.

[56] 12:55. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

[57] 15:25. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

[58] 20:30. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

metrics to compare HB1 with plans that would create two majority-minority districts.[59] Representative Magee did not know of any performance analysis that had been done on HB1.[60] The legislature had the opportunity to adopt maps that performed better on metrics such as compactness, population deviation, parish, and precinct splits, and with similar groupings with respect to communities of interest that established two majority-minority districts. The members chose to reject those options.

Resistance to Adding a Second Majority-minority District

Supporters of HB1 and SB5 resisted the idea of adding a second majority-minority district. When asked, they admitted that they did not prioritize, consider, or even try incorporating changes in the racial demographics of Louisiana into their maps. For instance, when asked specifically whether the map in HB1 reflects changes in the racial demographics of Louisiana, in particular the decline of the White population percentage relative to the Black population percentage, Representative Magee replied, "That is not something that I think is the primary driver, it's an important driver, it's a factor, but this map was based off of maintaining the traditional maps that we've always had in the State of Louisiana."[61] When asked by Representative Marcelle whether the authors of HB1 even attempted to draw a plan with a second minority district, Representative Magee replied, "I cannot say that it rose to the level of attempt."[62] When pushed to provide a map or draft that they worked on that attempted a second majority-minority district, Representative Magee said, "There has been no draft maps that answers your questions."[63] Under lengthy questioning, Representative Stefanski never said that any attempt to draw a second majority-minority district was ever made, and refused to give any reasons for why it was not possible for the bill's authors to have done so:

> Representative W. Carter: What specific did you do in order to comply with section 2? Did you draw a map and find that map didn't work, or did you draw a proposed district and couldn't get enough numbers in there because you had to comply with the population

[59] 50:30. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

[60] 53:00. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

[61] 09:45. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

[62] 21:10. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

[63] 22:09. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

requirement of the congressional act? What specific did you do or the speaker or the authors of the bill do to try to comply with Section 2?

Representative Stefanski: Well, specifically, we're discussing a senate instrument that I am not the author of I've just been asked to carry so there's not a lot—my efforts are minimal because it's not mine.

Representative W. Carter: But my point is, you just said this is a compromise between the two.

Representative Stefanski: Yeah.

Representative W. Carter: You did the other phase of the bill, the other half. I'm very interested in the southern part of the state. That's where I'm from. Okay? So I thank you for keeping Calcasieu together, whole, in the compromise. But, that second half of the state is really the speaker's bill.

Representative Stefanski: Yes.

Representative W. Carter: You handled that bill for the speaker.

Representative Stefanski: Well, Representative Magee was actually the one who handled that.

Representative W. Carter: Well your committee was the one who was responsible.

Representative Stefanski: Yes it was, correct.

Representative W. Carter: You had to put the hours into the bill to get it into a form that it could be presented to this body is what I'm saying. Now, I just want to know what you did to comply with section 2. Did you draw a district—attempt to draw a second minority district, and couldn't do it because of numbers? Or because you had to damage too many communities of interest? Or because there was not enough population in the south or in the north? What specific kept you from being able to create a second minority district? That's all I'm saying.

Representative Stefanski: I have probably drawn more maps than I ever want to draw in the rest of my life. There were a number of different versions in multiple different bills that were made. I took our population, I took the geography of the state, I took our communities of interest, I took the will of the public, the will of the legislature, and I balanced all of that with the law, and came up with something that the speaker and I believed was the best for Louisiana.

Representative W. Carter: Which one of those things that you just mentioned prevented a second minority majority district? Which one of those things—

Representative Stefanski: It is not a simple answer, as you know as well, it is a complicated process that involves a holistic view of all the elements to try to decide what works best for the state of Louisiana. It is not a one-word answer that I can give you on

> that. It's everything. You look at all these factors, and you weigh them, and you balance them with the law, and then you make a policy decision on what you believe that your attempt is the best for Louisiana.
>
> Representative W. Carter: I've heard people say, in this body, the reason why they couldn't create a second minority district was because it'd have to damage too many communities of interest, okay. And, that apparently was not the problem you had in your work with this bill.
>
> Representative Stefanski: It's a factor, it's not—In order to decide—In order to redistrict, you have to look at all of these elements, and you have to balance all of these and come up with an instrument not only that you believe is the best for Louisiana, but that also can meet the legislative process. As you know, this is a power that is vested in the legislature. The constitution says the legislature shall do this. You have been around this body for a long time. You understand what it takes for a bill to become a law. So that's an element that you balance as well. All of those elements that you have to balance to come up with something.[64]

In other words, the sponsors of HB1 were given multiple opportunities to say they tried to draft a plan with a second majority-minority district and declined to say that they had.

Similarly, on the senate side, it was unclear that there was ever any attempt to draw maps with a second majority-minority district. When questioned about the process on the senate floor, Senator Hewitt said that her team tried to produce a second majority-minority district map and couldn't, but when asked for drafts, details, or documentation about that map she was unable to provide any.[65]

Sponsors of HB1 and SB5 further argued that the Voting Rights Act did not require them to consider adding a second majority-minority district. As Senator Hewitt said:

> [T]he fact that one third of the population around the state is a minority population does not guarantee that there should be two minority districts and I think that statement in Section B clearly says that it does not provided [sic] that nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population. So it doesn't mean that you have the default is because it's a third that you have two minority districts.[66]

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[64] 21:44. "Louisiana House Session Day 15, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0218_22_Day15_20221ES_Redist. Accessed 17 Mar 2022.

[65] 2:36:42-2:37:27. "Louisiana Senate Chamber Day 6, 2022 ES1." https://senate.la.gov/s_video/videoarchive.asp?v=senate/2022/02/020822SCHAMB. Accessed 17 Mar 2022.

[66] 10:28. "Louisiana Senate and Governmental Affairs Committee." https://redist.legis.la.gov/default_video?v=senate/2022/02/020322SG. Accessed 16 Mar 2022.

Likewise, Representative Farnum said, "Yeah. I just know that the Voting Right [*sic*] Act does not guarantee that a third of six is two. I know that to be true."[67] However, that interpretation of the Voting Rights Act was disputed several times on the record. For instance, Senator Luneau said in response to Senator Hewitt:

> I interpret that to mean that the minority people are given the opportunity to elect the person they wanted, it doesn't guarantee that a minority is going to be elected. It's never intended to do that. And what this map does is just that, it doesn't guarantee that they're going to elect a minority, it guarantees that the minority will have the opportunity to elect the people that they want to elect. It gives them the right to come in and vote in who they choose to. And like I said earlier. I'm a living example of that if they don't want to elect a minority, they don't have to but it gives that segment of the population an equal opportunity to come in and elect people. You could dilute it.[68]

Representative Carter argued that under the Voting Rights Act:

> If you didn't attempt to create a district, and didn't set down why you couldn't do it, in plain English, 'this is why we couldn't do it, we had too many districts or couldn't get the population, population wasn't compact enough,' none of those things have been enumerated from that podium as a problem of complying with section 2. So, you don't violate section 2 necessarily by not creating a district, you violate section 2 by not trying to allow a protected class if they have sufficient numbers, sufficient compactness in order to elect a person of their choice to represent them.[69]

However, Senator Hewitt continued to make the claim that the Voting Rights Act did not necessitate a second majority-Black district. Senator Hewitt says that Kate McKnight, a lawyer with the law firm Baker Hostetler, told her that the map she presented complied with the Voting Rights Act, and that she has exchanged emails with her containing legal advice about compliance with the Voting Rights Act.[70]

Proponents of SB5 and HB1 also resisted adding a second majority-minority district because the current map, which was cleared by the Department of Justice in 2010, does not have one. As Representative Magee claimed:

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[67] 2:26:58. "Louisiana House and Governmental Affairs Committee, 2/10/22." https://redist.legis.la.gov/default_video?v=house/2022/feb/0210_22_HG. Accessed 16 Mar 2022.

[68] 9:28. "Louisiana Senate and Governmental Affairs Committee." https://redist.legis.la.gov/default_video?v=senate/2022/02/020322SG. Accessed 16 Mar 2022

[69] 26:39. "Louisiana House Session Day 15, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0218_22_Day15_20221ES_Redist. Accessed 17 Mar 2022.

[70] 2:39:00-2:39:45; 2:44:15. "Louisiana Senate Chamber Day 6, 2022 ES1." https://senate.la.gov/s_video/videoarchive.asp?v=senate/2022/02/020822SCHAMB. Accessed 17 Mar 2022.

> What we really have to do is just, keep what we have. And that's exactly what this map does. Yes, its malapportioned, certain districts lost, certain districts gained, but it keeps the status quo. And it's based off of the traditional lines of this body that was drawn before, that has passed legal muster, and we believe this map will also pass legal muster.[71]

When asked later to provide the basis for his claim that HB1 was legal, Representative Magee declined to cite to any particular laws or analysis, but referenced his own consideration of the legislative testimony.[72]This idea also was discussed in an exchange during a meeting of the Joint Governmental Affairs Committee:

> Representative Ivey: So my point is I don't believe based on the conversations I've had with staff and everything that, you know, obviously I think just about everywhere there's always some challenging, but I do believe that we passed muster and the Justice Department accepted our maps and so there wasn't any – I mean, obviously, there was a bigger issue.
>
> Chris Kaiser: One quick response to that though, irrespective of the Section 2 compliance. In 2010, remember Section 5, it was this pre-Shelby County and so the question whether—
>
> Representative Ivey: I wasn't here, so I couldn't remember but—
>
> Chris Kaiser: Shelby County was handed down in 2013 and Section 5 has to do with whether the Department of Justice wants to intervene in a change to election law. That's no longer what we're talking about.[73]

When this claim arose again, Michael Pernick of the NAACP LDF noted:

> Mr. Representative Farnum, if I may, I think it's important to clarify that the standard that the Department of Justice used to measure preclearance under Section 5 of the Voting Rights Act is a different standard than Section 2. There have been many maps that have been pre-cleared under Section 5 that have subsequently been struck down by federal courts under Section 2, including here in Louisiana. The Supreme Court has made very clear that they – and this is almost an exact quote that they will not equate the Section 2 vote dilution standard with the Section 5 non-retrogression standard. So, I would caution – with respect, I would caution you not to rely on DOJ preclearance in 2011 as a free

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[71] 08:34. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

[72] 10:43. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

[73] 1:26:04. "Louisiana Joint Governmental Affairs Committee, 1/20/22." https://redist.legis.la.gov/default_video?v=house/2022/jan/0120_22_JGA_BatonRouge_Redist. Accessed 16 Mar 2022.

> ticket on those maps because it's a different legal standard and we know from experience that does not necessarily mean that the maps comply with Section 2.[74]

It is not clear whether the proponents of SB5 or HB1 received advice from other attorneys about the validity of this claim.

Senator Hewitt also said that she was particularly resistant to adding a second majority-minority district because she was concerned about minority vote dilution. Senator Hewitt makes this argument in the committee hearings as well as in the floor debates:

> I do not believe, and there is too much uncertainty to convince us otherwise, that a second majority-minority district can be drawn in Louisiana that is sufficiently compact and would perform as a minority district without greatly diminishing the opportunity to elect a candidate of choice that has currently afforded the voters in Congressional District 2. By taking minority voters out of a district that is 56 percent Black VAP today and creating two underperforming districts as proposed in several other bills, we would jeopardize the current majority-minority district and this legislature would be remiss in our obligations to comply with the Voting Rights Act.[75]

Representative Stefanski also raised this point in his public comments before the Press Club:

> Certainly it is being considered, so there's a ton of dynamics in that. Number one, which I think is the most prominent in the maps that I've seen submitted to me is that, you know, are these districts effective? And what I mean by that is, you know, what's the minority population located in these districts, what is the voting age population located in these districts, what is the registration located in these districts. There's a limit to what becomes an effective district to produce the desired results. The second thing I will say is that some of these districts look very similar to districts that have been struck down in the past as racial gerrymanders. As we can remember in the—I believe it was the early 2000s they two districts, one that is commonly referred to as the Zorro district and one that is commonly referred to as the Slash district. Both those were struck down by the courts and I think its difficult to draw two majority-minority districts that are legal.[76]

Representative Ivey echoes this concern in an exchange in the House and Governmental Affairs Committee:

> Representative Ivey: . . . So, it's possible, I would imagine, to draw a map that would produce that two 50 plus 1 districts, but yet maybe a candidate wouldn't be able – maybe the minority in either district would not be able to actually elect a candidate in a choice

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[74] 1:58:40. "Louisiana House and Governmental Affairs Committee, 2/4/2022." https://redist.legis.la.gov/default_video?v=house/2022/feb/0204_22_HG. Accessed 11 Mar 2022.

[75] 28:44. "Louisiana Senate and Governmental Affairs Committee, 2/4/2022." https://redist.legis.la.gov/default_video?v=senate/2022/02/020422SG. Accessed 14 Mar 2022.

[76] 15:27. "State Rep. John Stefanski Press Club 11/22/2021." Louisiana Public Broadcasting. https://www.youtube.com/watch?v=SuquGa6rJI8 Accessed 29 Mar 2022.

> based on the traditional turnout or even it had to – you know what I'm saying? Is that a concern that y'all have had in how these additional districts are shaped?
>
> Jamison: Well, I will say it may possibly be a concern, right? But as you've heard, some of our colleagues from NAACP LDF, they've actually compared this analysis and watch these trends as well and they're very confident in their performance.[77]

Senator Hewitt made this argument again when presenting the final version of SB5:

> And in addition, I am concerned about taking a currently performing majority-minority district that's performing at about 58 percent Black voting age population, taking some of the Black voters out of that district to create a second district where you end up with two districts that are 51 percent or 51 percent Black voting age population. So there is no evidence that we have seen yet, and considerable uncertainty, as to whether both of those districts would perform as minority districts. And so you could very likely, in an attempt to create a second district, you could put the current minority district in jeopardy and end up with no minority representation whatsoever. And so again, I think the law provides some guidance on that issue, and where there is too much uncertainty about whether a second majority-minority district would perform sufficiently, the deference to the courts have been to the map drawer, and that's why I have chosen in my bill to not have a second district--minority district, to only have one but to know that that district is going to continue to perform to give the minorities an opportunity to elect the candidate of their choice. And so for those reasons, I object to this amendment.

However, there is no evidence to support the claim that the two majority-minority districts presented in any of the alternative bills would not perform with respect to allowing Black voters to elect a candidate of their choice. Senator Hewitt or other legislators who made that claim did not offer any supporting evidence or data analysis. When pressed on this point, Senator Hewitt admits that an analysis of racially polarized voting would be needed to see whether two majority-minority districts would perform, but she did not have one done:

> Obviously, what needs to be done is to have, you know, a racially polarized voting analysis done, there have been folks that have testified at the table that they have done them, I haven't seen them, I've asked for that so that we can see. You know, what you have to have in a study you have to have enough election history, enough knowledge of voter turnout, you have to be able to have enough data to be able to be statistically significant so that you can predict a trend with some certainty, and so any information. . . I've had a number of people talk to me with some interest in this and maybe some statistical information and no one has had the confidence to be able to predict with some certainty any of the trends. Again, what I keep hearing is that there is too much noise in the data, there's not enough consistency in the performance on voter turnout and other

[77] 2:33:50. "Louisiana House and Governmental Affairs Committee, 2/4/2022." https://redist.legis.la.gov/default_video?v=house/2022/feb/0204_22_HG. Accessed 11 Mar 2022.

> things in different areas to be able to model it with any confidence. And so, for lack of certainty on that, again, I think the best course of action currently is the action that I've chosen to take, is to not create the second district because I want to make sure that we're preserving the integrity of the current minority district.[78]

Senator Hewitt did not have a racially polarized voting analysis done, nor did she present documentation that anyone told her that such an analysis was impossible because of data limitations or other reasons.[79] Senator Hewitt admitted talking with Baker Hostetler about hiring consultants to conduct a racially polarized voting analysis but said that she was told that an unidentified person at Stanford University thought it was not possible to conduct the analysis.[80]

Moreover, as Ms. Jamison says above, the analyses of the plans with two majority-minority districts that were conducted by advocacy groups such as the NAACP LDF show that they reliably allow Black voters to elect candidates of their choice. What's more, interested stakeholders agree. As Representative Wilford Carter argues:

> You know that's another important point I want to make. I looked at both maps I said, they're not that much different. All you did is cut off that part of District 2 that come in in East Baton Rouge Parish and create another district by reducing District 2 numbers. And if Troy Carter don't have any problem with it, I ain't got a problem with it, okay. So, apparently, you must have satisfied him that the studies you've done would be that he would -- that district produce favorable to him. And I assume you did the same study for District 5.[81]

In other words, while Senator Hewitt claims without evidence that adding a second minority district would dilute Black voting power, members of the Black community, their elected representatives, and several statistical analyses showed time and time again on the record that it is possible to add that second district in ways that would reliably allow Black voters to elect two candidates of their choice.

Summary

This examination of the legislative debate shows that it is possible to accomplish the goals that the sponsors of HB1 and SB5 consider important, such as compactness, keeping

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[78] 2:49:08. "Louisiana Senate Chamber Day 6, 2022 ES1." https://senate.la.gov/s_video/videoarchive.asp?v=senate/2022/02/020822SCHAMB. Accessed 17 Mar 2022.

[79] 2:51:49. "Louisiana Senate Chamber Day 6, 2022 ES1." https://senate.la.gov/s_video/videoarchive.asp?v=senate/2022/02/020822SCHAMB. Accessed 17 Mar 2022.

[80] 2:55:30. "Louisiana Senate Chamber Day 6, 2022 ES1." https://senate.la.gov/s_video/videoarchive.asp?v=senate/2022/02/020822SCHAMB. Accessed 17 Mar 2022.

[81] 2:42:51. "Louisiana House and Governmental Affairs Committee, 2/10/22." https://redist.legis.la.gov/default_video?v=house/2022/feb/0210_22_HG. Accessed 16 Mar 2022.

certain parishes and communities of interest together, keeping precincts whole, and ensuring that Black voters can elect candidates of their choosing, in plans that provide for two majority-minority districts. In fact, on all of their expressed redistricting priorities, plans with two majority-minority districts performed equally or better than the plans passed by the legislature. Proponents of SB5 and HB1 provided no evidence to the contrary. These facts came up before legislators clearly and repeatedly over the months and weeks leading up to the final vote. For instance, regarding Amendment 88, Representative Gaines said:

> This bill is going to give you an opportunity to bring Louisiana in line with fairness and the Voting Rights Act. It doesn't guarantee anything it just gives us an opportunity to invoke, create fair representation for this state. This particular bill is more compact than any bill that's been presented, HB1 or SB5, it has minimal population deviation, and it prioritizes community of interest. It also has the lowest population deviation of any map that's been presented today or last week. It has the fewest number of split parishes. So this bill does all this and still enables Blacks to elect someone of their choice, someone from their community, someone who has shared values, someone who has shared interests. It still creates that opportunity."[82]

No one disputed or questioned Representative Gaines's characterization of the amendment. Amendment 88 failed anyway. Senator Fields also presented an amendment on the senate side that added a second majority-minority district while outperforming SB5 on metrics such as compactness and population deviation. It failed as well. There is nothing in the record to support the claim that adding a second majority-minority district is incompatible with other goals of the legislature.

[82] 1:12:50. "Louisiana House Session Day 9, 2022 ES1." https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2022/feb/0210_22_Day09_20221ES_Redist. Accessed 17 Mar 2022.

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Per 28 U.S. Code § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 14, 2022.

Traci Burch, Ph.D

APPENDIX 1

Traci Burch

Employment

- Associate Professor, Northwestern University Department of Political Science (2014-Present)

- Research Professor, American Bar Foundation (2007- Present)

- Assistant Professor, Northwestern University Department of Political Science (2007-2014)

Education

- *Harvard University*

Ph.D. in Government and Social Policy

Dissertation: *Punishment and Participation: How Criminal Convictions Threaten American Democracy*

Committee: Jennifer Hochschild (Chair), Sidney Verba, and Gary King

- *Princeton University*

A.B. in Politics, *magna cum laude*

Publications

- Burch, Traci. 2022. "Officer-Involved Killings and the Repression of Protest." *Urban Affairs Review.*

- Burch, Traci. 2021. "Not All Black Lives Matter: Officer-Involved Deaths and the Role of Victim Characteristics in Shaping Political Interest and Voter Turnout." *Perspectives on Politics*.

- Kay Lehman Schlozman, Philip Edward Jones, Hye Young You, Traci Burch, Sidney Verba, Henry E. Brady. 2018. "Organizations and the Democratic Representation of Interests: What Happens When Those Organizations Have No Members?" *Perspectives on Politics*.

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- Kay Lehman Schlozman, Philip Edward Jones, Hye Young You, Traci Burch, Sidney Verba, Henry E. Brady. 2015. "Louder Chorus – Same Accent: The Representation of Interests in Pressure Politics, 1981-2011." In Darren Halpin, David Lowery, Virginia Gray, eds. The Organization Ecology of Interest Communities. New York: Palgrave Macmillan.

- Burch, Traci. 2015. "Skin Color and the Criminal Justice System: Beyond Black-White Disparities in Criminal Sentencing." *Journal of Empirical Legal Studies* 12(3): 395-420.

- Burch, Traci. 2014. "The Old Jim Crow: Racial Residential Segregation and Neighborhood Imprisonment." *Law & Policy* 36(3) 223-255.

- Burch, Traci. 2014. "The Effects of Imprisonment and Community Supervision on Political Participation." Detaining Democracy Special Issue. *The Annals of the American Academy of Political and Social Science* 651 (1) 184-201.

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- Schlozman, Kay Lehman, Sidney Verba, Henry Brady, Traci Burch, and Phillip Jones. 2012. "Who Sings in the Heavenly Chorus? The Shape of the Organized Interest System." In Schlozman, Kay Lehman, Sidney Verba, and Henry Brady, The Unheavenly Chorus, Princeton: Princeton University Press.

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- Burch, Traci. 2012. "Did Disfranchisement Laws Help Elect President Bush? New Evidence on the Turnout and Party Registration of Florida's Ex-Felons." *Political Behavior* 34 (1); 1-26.

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- Hochschild, Jennifer; Vesla Weaver, and Traci Burch. 2011. "Destabilizing the American

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- Burch, Traci. 2009. "Can the New Commander-In-Chief Sustain His All Volunteer Standing Army?" *The Dubois Review on Race* 6(1).

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Grants

- Co-Principal Investigator. "Fellowship and Mentoring Program on Law and Inequality." September 1, 2020 to August 31, 2023. $349, 313. National Science Foundation.

Honors and Fellowships

- **American Political Science Association 2014 Ralph J. Bunche Award (**for Trading Democracy for Justice).

- American Political Science Association Urban Section 2014 Best Book Award (for Trading Democracy for Justice).

- American Political Science Association Law and Courts Section 2014 C. Herman Pritchett Award (for Trading Democracy for Justice).

- Research grant, Stanford University Center for Poverty and Inequality (2012).

- American Political Science Association E. E. Schattschneider Award for the best doctoral dissertation in the field of American Government (2009)

- American Political Science Association William Anderson Award for the best doctoral dissertation in the field of state and local politics, federalism, or intergovernmental relations (2008)

- American Political Science Association Urban Section Best Dissertation in Urban Politics Award (2008)
- Harvard University Robert Noxon Toppan Prize for the best dissertation in political science (2007)
- Institute for Quantitative Social Sciences Research Fellowship (2006-07)
- *European Network on Inequality* Fellowship (2005)
- Research Fellowship, The Sentencing Project (2005)
- Doctoral Fellow, Malcolm Weiner Center for Inequality and Social Policy (2004-07)

Professional Service

- APSA Law and Courts Section Best Paper Award Committee (2020-2021)
- APSA Elections, Public Opinion, and Voting Behavior Executive Committee (2020-2023)
- General Social Survey Board of Overseers (2020-2025)
- APSA Kammerer Prize Committee (2017)
- Associate Editor, *Political Behavior* (2015-2019)
- APSA Law and Courts Section, Lifetime Achievement Award Prize Committee (2014-2015)
- Law and Society Association, Kalven Prize Committee (2013-2014)
- American Political Science Association, Urban Politics Section Dissertation Prize Committee (2012-13)
- American Political Science Association, Urban Politics Section Executive Committee (2012-13)
- Law and Society Association Diversity Committee, (2012-2013)
- American Political Science Association, Urban Politics Section Program Co-Chair (2011)
- Associate Editor, *Law and Social Inquiry*
- American Political Science Association, Urban Politics Section Book Prize Committee (2009)

- Reviewer for *The American Political Science Review, Public Opinion Quarterly, American Politics Research, and Time-Sharing Experiments in the Social Sciences.*

Presentations and Invited Talks

- University of Pennsylvania. Virtual. "Voice and Representation in American Politics." April 2021.

- University of Michigan. Virtual. "Which Lives Matter? Factors Affecting Mobilization in Response to Officer-Involved Killings." February 2021.

- University of Pittsburgh. Virtual. "Policing and Participation." November 2020.

- Hamilton College Constitution Day Seminar. Virtual. "Racial Protests and the Constitution." September 2020.

- New York Fellows of the American Bar Foundation. New York, NY. "Police Shootings and Political Participation." March 2020.

- Pennsylvania State University, State College, PA. "Effect of Officer Involved Killings on Protest. November 2019.

- Princeton University. Princeton NJ. "Effects of Police Shootings on Protest among Young Blacks." November 2019.

- Missouri Fellows of the American Bar Foundation. Branson, MO. Police Shootings and Political Participation in Chicago. September 2019.

- Northwestern University. "Police Shootings and Political Participation." November, 2018.

- Princeton University. Princeton, NJ. "Police Shootings and Political Participation." September, 2018.

- University of California at Los Angeles. Los Angeles, CA. "Police Shootings and Political Participation." August, 2018.

- American Bar Association Annual Meeting. Chicago, IL. "Police Shootings and Political Participation." August 2018.

- American Bar Endowment Annual Meeting. Lexington, KY. "Effects of Police Shooting in Chicago on Political Participation." June 2018.

- Vanderbilt University. "Effects of Police Shootings in Chicago on Political Participation."

April 2018.

- Washington University in St. Louis. "Effects of Pedestrian and Auto Stops on Voter Turnout in St. Louis." February 2018.

- Fellows of the American Bar Foundation, Los Angeles. "Assaulting Democracy." January 2018.

- Northwestern University Reviving American Democracy Conference. Panel presentation. "Barriers to Voting." January 2018.

- University of Illinois at Chicago. "Effects of Police Shootings in Chicago on Political Participation." October, 2017.

- Chico State University. "Constitution Day Address: Policing and Political Participation." September, 2017.

- Fellows of the American Bar Foundation, Atlanta, Georgia. "Policing in Georgia." May 2017.

- United States Commission on Civil Rights. Testimony. "Collateral Consequences of Mass Incarceration." May 2017.

- Northwestern University Pritzker School of Law. "Effects of Police Stops of Cars and Pedestrians on Voter Turnout in St. Louis." April 2017.

- University of California at Los Angeles. Race and Ethnic Politics Workshop. "Effects of Police Stops of Cars and Pedestrians on Voter Turnout in St. Louis." March 2017.

- University of North Carolina at Chapel Hill. American Politics Workshop. "Effects of Police Stops of Cars and Pedestrians on Voter Turnout in St. Louis." February 2017.

- National Bar Association, St. Louis MO. "Political Effects of Mass Incarceration." July 2016.

- Harvard University, Edmond J. Safra Center for Ethics. Inequalities/Equalities in Cities Workshop. April 2016.

- American Political Science Association Annual Meeting. September 2015. "Responsibility for Racial Justice." Discussant.

- St. Olaf College. April 2015. "The Collateral Consequences of Mass Incarceration."

- Northwestern University. Institute for Policy Research. February 2015. "The Civic ~~Culture~~

Structure."

- Texas A&M University. Race, Ethnicity, and Politics Workshop. September 2014. "Trading Democracy for Justice."

- Columbia University Teachers College. The Suburban Promise of Brown Conference. May 2014. "Can We All Get Along, Revisited: Racial Attitudes, the Tolerance for Diversity, and the Prospects for Integration in the 21st Century."

- University of Kentucky. Reversing Trajectories: Incarceration, Violence, and Political Consequences Conference. April 2014. "Trading Democracy for Justice."

- University of Chicago. American Politics Workshop. March 2014. "How Geographic Differences in Neighborhood Civic Capacity Affect Voter Turnout."

- Kennedy School of Government, Harvard University. February 2014. "Trading Democracy for Justice.

- University of Michigan. American Politics Workshop. December 2013. "Trading Democracy for Justice."

- Yale University. American Politics and Public Policy Workshop. September 2013. "Trading Democracy for Justice."

- American Political Science Association Annual Meeting. August 2013. "The Heavenly Chorus Is Even Louder: The Growth and Changing Composition of the Washington Pressure System." With Kay Lehman Schlozman, Sidney Verba, Henry Brady, and Phillip Jones.

- National Bar Association, Miami Florida, July 2013. "The Collateral Consequences of Mass Imprisonment."

- Loyola University. American Politics Workshop. December 2012. "Mass Imprisonment and Neighborhood Voter Turnout."

- Marquette University School of Law. November 2012. "The Collateral Consequences of Mass Imprisonment."

- Yale University. Detaining Democracy Conference. November 2012. "The Effects of Imprisonment and Community Supervision on Political Participation."

- Brown University. American Politics Workshop. October 2012. "Mass Imprisonment and Neighborhood Voter Turnout."

- American Bar Association National Meeting, August 2012. "Mass Imprisonment: Consequences for Society and Politics."

- University of Madison-Wisconsin. American Politics Workshop. March 2012. "The Spatial Concentration of Imprisonment and Racial Political Inequality."

- American Political Science Association Annual Meeting. 2011. **"Theme Panel: How Can Political Science Help Us Understand the Politics of Decarceration?"**

- University of Pennsylvania. Democracy, Citizenship, and Constitutionalism Conference. April, 2011. "Vicarious Imprisonment and Neighborhood Political Inequality."

- University of Chicago School of Law. Public Laws Colloquium. Chicago, IL. November, 2010. ""The Effects of Neighborhood Incarceration Rates on Individual Political Efficacy and Perceptions of Discrimination."

- Pomona College. November, 2010. "Incarceration Nation."

- University of Washington. Surveying Social Marginality Workshop. October 2010. "Using Government Data to Study Current and Former Felons."

- American Bar Foundation, Chicago, IL, September 2010. "The Effects of Neighborhood Incarceration Rates on Individual Political Attitudes."

- Northwestern University. Chicago Area Behavior Conference. May 2010. "Trading Democracy for Justice: The Spillover Effects of Incarceration on Voter Turnout in Charlotte and Atlanta."

- Annual Meeting of the Law and Society Association, Chicago, IL, May 2010. "Neighborhood Criminal Justice Involvement and Voter Turnout in the 2008 General Election."

- Annual Meeting of the Southern Political Science Association, Atlanta, GA, January 2010. "The Art and Science of Voter Mobilization: Grassroots Perspectives on Registration and GOTV from Charlotte, Atlanta, and Chicago."

- University of Illinois at Chicago. Institute for Government and Public Affairs. November 2009. "Turnout and Party Registration among Convicted Offenders during the 2008 Presidential Election."

- Annual Meeting of the American Political Science Association, Toronto, Ontario, Canada, September 2009. "'I Wanted to Vote for History:' Turnout and Party Registration among Convicted Offenders during the 2008 Presidential Election."

- Harris School of Public Policy, University of Chicago. American Politics Workshop. December 2008. "Trading Democracy for Justice? The Spillover Effects of Imprisonment on Neighborhood Voter Participation."

- Northwestern University School of Law. Law and Political Economy Colloquium. November 2008. "Did Disfranchisement Laws Help Elect President Bush? New Evidence on the Turnout Rates and Candidate Preferences of Florida's Ex-Felons."

- University of California, Berkeley. Center for the Study of Law and Society. October 2008. "Trading Democracy for Justice? The Spillover Effects of Imprisonment on Neighborhood Voter Participation."

- Law and Society Association Annual Meeting, Montreal, Canada, May 2008. "Did Disfranchisement Laws Help Elect President Bush? New Evidence on the Turnout Rates and Candidate Preferences of Florida's Ex-Felons."

- Law and Society Association Annual Meeting, Montreal, Canada, May 2008. "Trading Democracy for Justice? The Spillover Effects of Imprisonment on Neighborhood Voter Participation."

- Midwest Political Science Association Conference, Chicago, IL, April 2007. Paper: "Concentrated Incarceration: How Neighborhood Incarceration Decreases Voter Registration."

Working Papers Under Review

- "Introduction" (with Jenn Jackson and Periloux Peay) in *Freedom Dreams: A Symposium on Abolition*. Eds. Jenn Jackson, Periloux Peay, and Traci Burch. Social Science Quarterly.

- "The Effects of Community Police Performance on Protest in Chicago" (For Symposium Honoring John Hagan)

- "How Police Departments Frame Low-Threat Victims of Officer-Involved Killings"

- Which Lives Matter?

Additional Activities

- Expert witness in *Kelvin Jones vs. Ron DeSantis, etc. et al.* (U.S. District Court for the Northern District of Florida Consolidated Case No. 4:19-cv-00).

- Expert witness in *Community Success Initiative, et al., Plaintiffs v. Timothy K. Moore* (Superior Court, Wake County, NC Case No. 19-cv-15941).

- Expert witness in *People First of Alabama v. Merrill* (U.S. District Court in Birmingham, Alabama, Case No. 2: 20-cv-00619-AKK)

- Expert witness in *Florida State Conference of the NAACP v. Lee* (U.S. District Court in the Northern District of Florida, Case No. 4:21-cv-00187-MW-MAF)

- Expert witness in *One Wisconsin Institute Inc. v. Jacobs* (U.S. District Court in the Western District of Wisconsin, Case No. 15-CV-324-JDP).

- Expert witness in *Alpha Phi Alpha Fraternity Inc., et al. v. Raffensperger* (U.S. District Court for the Northern District of Georgia, Case No. 1:21-cv-05337-SCJ)