



Ballot Integrity vs. Jim Crow Labeling: Florida's Election Law as an Example

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SUMMER 2021 INTERN, THE JAMES MADISON INSTITUTE

Recent efforts across the country to restore trust in our election systems have come under intense scrutiny, with some on the far Left even evoking the term “Jim Crow,” making a dubious claim that voter integrity laws somehow create an assault on the right to vote. Lost in the narrative is an important question – when states reform election laws, does it have a negative impact on voter turnout, particularly among ethnic groups? Florida

presents the perfect case study and illustrates through a 20-year history why the claims of those yelling “Jim Crow” are off base. Florida has deliberately sought out sound policy to promote the security of our elections while increasing access, and as a result turnout has increased across the board.

The genesis of Florida's election reform journey began on November 7, 2000. Excerpting from the recent report *Restoring*

Trust and Security in Florida Elections: From Bush v. Gore to COVID 19:

The 2000 presidential election came down to the results in Florida. Then-Vice President Al Gore and then-Governor George W. Bush each needed Florida's electoral votes to win a majority in the Electoral College and secure the presidency. The election night results showed Bush ahead of Gore by less than 1,800 votes in an election where a total of nearly six million votes had been cast. Over the weeks that followed, a series of legal and political battles occurred, ultimately culminating in the Supreme Court's ruling in *Bush v. Gore*, a ruling that continues to be debated today.

The controversies over the 2000 presidential election stemmed in part from several ambiguous and outdated provisions of Florida's election code. The code allowed the use of antiquated voting systems, contained a vague and underspecified standard for determining the validity of ballots, and provided little guidance concerning ballot design. The use of absentee ballot was heavily restricted, and provisional ballots had not yet been authorized. These and other deficiencies together contributed to one of the closest, mostly hotly contested and heavily scrutinized presidential elections in American history.¹ The 2000 election brought unprecedented national scrutiny to virtually every aspect of the state's election laws, casting their problems into stark relief.

Over the next two decades, the

state legislature overhauled its election code, adopting a variety of fundamental reforms to make the voting process more accessible and reliable; enhance protections against mistake, irregularity, confusion, and fraud; and bolster public confidence in the process. Some of these reforms were invalidated in misguided rulings by an overly aggressive federal court that approached the issue in largely partisan terms.² And a few others eliminated some of the state's election integrity protections. As a whole, however, these reforms gave Florida one of the most robust, successful electoral systems in the nation. In contrast to the chaos accompanying *Bush v. Gore*,³ Florida was able to accommodate and efficiently conduct three statewide recounts during the 2018 election cycle,⁴ as well as a safe, smooth, successful presidential election in 2020 despite the unprecedented challenges presented by COVID-19.⁵

Florida's election system has substantially expanded public participation compared to the 2000 presidential election, notwithstanding the substantial growth in the state's population over that time.

In the aftermath of the 2000 election debacle, Florida's electoral system faced unprecedented scrutiny. Since then, the state has implemented changes for each election. The 2000 election brought about the beginning of change in voter registration. In 2004, changes included the implementation of early voting and a no-witness requirement. Florida brought

about additional flexibility for voting hours in 2008, followed by creating the federal write-in absentee ballot in 2012.¹ In 2016, absentee ballots became vote-by-mail ballots, which then became imperative to the operation of the 2020 election due to the unprecedented challenges presented by COVID-19.² Mail-in ballots made the 2020 election possible. These are merely a few of Florida's electoral system changes over the last 20 years. Because of its commitment to trust, security, and accountability, Florida could accommodate and efficiently conduct three statewide recounts during the 2018 election cycle and a safe and smooth election in 2020. By 2018, Florida was noted by the *New York Times* for being “a paragon of smooth elections,” also calling it a “safe” and “straightforward” system.³ Although no election system is perfect, Florida has and will continue to serve as an example to other states when modernizing their election code.

Voter Turnout in Florida

An important element of the discussion of election reform is the question, “does it create unreasonable obstacles to specific groups attempting to cast ballots?” One would expect, given the claims of the Left regarding the implementation of state-based reforms, voter registration and turnout within specific racial or demographic groups would be hampered.

The tables below, based on data reported each election cycle by the U.S. Census Bureau, show the percentages for both registration and turnout by major demographic category. As the tables illustrate, no such suppression of either

registration or voting has taken place.

With respect to statewide voter registrations, among African Americans in the state, registration increased from 52 to 65 percent, and voter turnout among this group went from 42 to 58 percent between 2000 and 2020. The figures for Hispanic voters fared even better. Registration percentage increased from 37 percent in 2000 to 58 percent in 2020, and voter turnout went from 31 percent to 52 percent.

There have been, over the years, efforts to consolidate and reform electioneering in the U.S. Congress. These attempts have been led by both the left and the right. Recently, the Left has used the current political atmosphere to push for a comprehensive takeover of elections by the federal government. In doing so, they would create a system in which there would be zero accountability or integrity over the ballots cast.⁴ A much better approach is one that is rooted in the founding principles – that of state-based policy.

Why is state-centered policy better than anything the federal government develops? In short, because of federalism.⁵ States can individually promote voter access while restoring and building trust among their citizens, something practically impossible to accomplish on a national level.

Because Florida's changes to its own election system have proven to be successful, leading to an increase in voter turnout, it serves as an example of why state-based policies are the better option. A few factors unique to each state include geography, demographic groups, access needs, and technological infrastructure. Nobody knows a state better than its residents and

Table 1 VOTER REGISTRATION 2000-2020 • STATE OF FLORIDA

	2000	2002	2004	2006	2008	
Demographic Category	Percent Registered					
White	62.5	63.1	64.7	66.5	71.7	
African American	52.7	59.3	52.6	58.0	63.5	
Asian American	31.7	30.7	37.2	41.8	61.0	
Hispanic American	37.1	32.6	38.2	56.3	69.4	
	2010	2012	2014	2016	2018	2020
Demographic Category	Percent Registered					
White	63.8	69.4	62.2	69.0	64.2	67.7
African American	61.4	65.8	64.3	55.2	57.9	65.4
Asian American	46.7	48.4	61.5	50.3	48.2	56.4
Hispanic American	59.0	72.1	60.2	62.0	54.8	58.7

Table 2 VOTER TURNOUT 2000-2020 • STATE OF FLORIDA

	2000	2002	2004	2006	2008	
Demographic Category	Percent Voted					
White	53.8	44.1	58.4	45.5	64.8	
African American	42.3	40.4	44.5	38.7	58.5	
Asian American	22.4	19.4	33.1	23.1	53.1	
Hispanic American	31.4	18.9	34.0	31.4	61.7	
	2010	2012	2014	2016	2018	2020
Demographic Category	Percent Voted					
White	44.9	62.0	45.0	61.7	54.1	63.0
African American	41.5	57.6	44.0	50.5	47.2	58.7
Asian American	24.7	43.0	43.0	40.4	40.5	55.6
Hispanic American	41.1	62.2	36.0	54.1	44.3	52.7

its legislators. This reasoning adds to why Florida's election policy has become so successful over the last 20 years and why it will continue to promote and rely on its election policy in the future.

Moreover, a policy that serves as an example of why federal policy controlling elections is not ideal compared to state-centered policy is the For the People Act (HR1/S1).⁶ HR1/S1 is a progressive, 791-page bill that includes 60 individual pieces of legislation. It would override state voter laws and decrease the validity and importance of federalism in the U.S., and would also allow anyone to vote without proving they are who they say they are. And if passed, states *must* adhere to it. Those who are conflating voter integrity laws to Jim Crow are trying to scare individuals into supporting this "For the People Act" when, in reality, free and fair elections come from giving citizens a reason to trust the voting process, not fear it.⁷

Looking Ahead

With election reform policies being at the top of many states' legislative agendas in addition to that of the U.S. Congress,

the present landscape is fluid. Florida will continue to promote voter security and accessibility as well as a state-centered voting policy. As a result, we should continue to see upward trends in voter turnout overall, and within demographic groups. Ethical conduct and efficient regulations have proven to be on the forefront of Florida's list of importance when changing election law. Additionally, we can also anticipate others to follow the lead of Florida (as well as Georgia and Texas) by enacting positive election reforms that restore and build trust in the overall system.

Although additional reforms could improve Florida's election system further, the state has come a long way since the election of 2000. The voting system in Florida is now known nationally for its efficiency. Florida's increase in voter integrity parallel to its increase in minority ethnic group voter turnout has proven to reach the common conclusion both sides of the political spectrum are looking for: more American citizens voting. And it has done this by continuously making it easier for American citizens to vote while simultaneously supporting voter security.

REFERENCES

- 1 2011 Fla. Laws 2869, 2869-70, ch. 2011-162, § 1 (June 17, 2011; effective date July 1, 2011), codified at Fla. Stat. § 101.6952(2)-(3).
- 2 2016 Fla. Laws 392, ch. 2016-37 (Mar. 10, 2016; effective date July 1, 2016).
- 3 Editorial, Florida Becomes a Paragon of Smooth Elections, Tampa Bay Times (Nov. 9, 2020), <https://www.tampabay.com/opinion/2020/11/09/florida-becomes-a-paragon-of-smooth-elections-editorial/>
- 4 Rodney Davis, The Elections Clause: States' Primary Constitutional Authority Over Elections, H.R. Doc. No ... (2021).
- 5 See The Federalist No. 45 (James Madison).
- 6 S.1 - 117th Congress (2021-2022): For the People Act of 2021, S.1, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/senate-bill/1>.
- 7 Kay C. James, Left Labeling Election Integrity Reforms As "Jim Crow" Is a Lie and Insulting to Black People, The Heritage Foundation (Apr. 21, 2021), <https://www.heritage.org/election-integrity/commentary/left-labeling-election-integrity-reforms-jim-crow-lie-and-insulting/#MEC-Embedded-Ask>.