

Non-Voted Ballots and Discrimination in Florida

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I) Introduction

Over and undervotes should not necessarily be presumed to be errors on the part of voters. What everyone wants to accomplish is minimize true errors without unintentionally creating other new problems. Worse, some attempts to reduce errors can even actually increase them.

For the 2000 Presidential election in Florida only a relatively small percentage of over- or under-votes can be explained by ballot design, voting machine type, or where ballots are counted. Changes in ballot designs and machine types can lower “spoiled” ballot rates --**that is, not counted because they showed either no vote for president or multiple votes--**, though restricting local options too rigidly can actually produce the opposite result. Even voting methods that do not work well on average nationally still produce remarkably low spoiled ballot rates in some jurisdictions. For these unusual jurisdictions simply requiring new voting methods could raise spoiled ballot rates if only during a transition period. There are other possible unintended consequences. If taken literally, standards that seek to reduce a “voting system’s error rate . . . as close to zero as practicable” might actually require the adoption of paper ballots that are counted by hand. Yet, hand counting paper ballots even if technically “practicable” is presumably unacceptable in heavily populated areas.

Disturbing claims of discrimination have also been raised after the 2000 Presidential Election. African American ballots were said to be spoiled at higher rates than the ballots of other groups. Representative Conyers bill notes that there is “overwhelming evidence that disparate procedures and antiquated machinery have a disproportionate racial impact.” The chair of the U.S. Civil Rights Commission called for a criminal

investigation.¹

The Rev. Jesse Jackson also charged that there was "a clear pattern of suppressing the votes of African Americans."²

The U.S. Commission on Civil Rights' Majority Report on the 2000 Presidential vote in Florida served as a main focus of these claims and presented two types of empirical evidence that African-Americans were denied the right to vote.³ The report concluded that, "The Voting Rights Act prohibits both intentional discrimination and 'results' discrimination. It is within the jurisdictional province of the Justice Department to pursue and a court of competent jurisdiction to decide whether the facts prove or disprove illegal discrimination under either standard."⁴ To reach their conclusion that discrimination had occurred, the majority examined the impact of race on spoiled (or non-voted) ballot rates as well as the impact of race on the exclusion from voter eligibility lists because of past felony criminal records. They relied on empirical work regarding non-voted ballots relies solely from cross county regressions or correlations using data from 2000 alone. The evidence that African-Americans are erroneously placed on the ineligible list at higher rates than other racial groups is based upon a simple comparison of means.

My examination of the data here demonstrates three things:

1) Cross-sectional precinct level data that was compiled by a group of newspapers lead by USA Today allows for a much more detailed examination and indeed implies that

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Brit Hume, "Special Report with Brit Hume," Fox News Network, Wednesday, June 27, 2001.

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Zev Chafets, "Florida Got Bad Rap in Vote Mess," New York Daily News, Sunday, June 10, 2001, p. 39.

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U.S. Commission on Civil Rights, Voting Irregularities in Florida During the 2000 Presidential Election, June 8, 2001
(<http://www.usccr.gov/vote2000/stdraft1/main.htm>).

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ibid.

precincts with more African-American voters have higher rates of non-voted ballots.⁵

But if spoiled ballots do indicate disenfranchisement, then the new data show that it is a mistake to view racial groups as homogenous. By a dramatic margin, the group most victimized in the Florida voting was African American Republicans. The new findings are stunning: African American Republicans who voted in Florida were in excess of 50 times more likely than the average African American to have had a ballot declared invalid because it was spoiled. Spoiled ballot rates also much higher for white Republicans than either white Democrats or African-American Democrats. (The Appendix uses the Majority Report's method and data for determining whether there is "a direct correlation between race and having one's vote discounted as a spoiled ballot" is quite sensitive to the specification used. Using their method, it is simply not possible to distinguish whether the higher spoilage rate among African-Americans is a result of them being African-American, being in counties with Democratic Election supervisors, or being in counties with African-American Election supervisors.)

2) Discussions of the non-voted ballot rates by the Commission Majority and others fail to account for which counties had high rates of non-voted ballots in the past. Once these past rates are accounted for, additional increases in the percent of voters in a county who are African-American are not related to changes in the rate that ballots are not voted. While the difference is not statistically significant, the ballot non-voting rate is slightly more positively related to the share of white voters than African-American voters.

3) The Majority Report's own evidence that African-Americans are erroneously included on the ineligible list at higher rates than other racial groups actually shows the opposite of what they think that it does. The evidence that African-Americans win a greater share of successful appeals does not account for the fact that African-Americans make up an even much greater share of the list of ineligible voters to begin with. In fact, the rate that whites are removed from the list because they were incorrectly included to begin with is almost twice the rate of African-Americans.

The evidence thus indicates that even if the commission is correct on the law (and there is some debate on that),⁶ it is difficult to accept the commission's conclusion that

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Unlike previous examinations such as those by the Caltech/MIT Voting Technology Project, this data contains detailed information not only on voting machine type but also on ballot design and where votes were counted. Their other control variables such as income and education were much more limited.

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Abigail Thernstrom and Commissioner Russell G. Redenbaugh, The Florida Election Report: Dissenting Statement, June 26, 2001 (http://www.manhattan-institute.org/html/final_dissent.htm).

discrimination was unintentional and surely not intentional, unless one believes that black democratic county election supervisors were responsible for higher non-voted ballot rates by African-American voters. The following sections will first evaluate the data on non-voted ballots and then turn to the data on African-Americans being erroneously excluded from voting due to felony criminal records.

II) Re-examining the Simple Correlations and Means

Ideally any analysis of non-voted ballots and race would directly link whether individuals in a particular group actually had non-voted ballots. Lacking that direct link, the Majority Report attempts to see whether counties or precincts with a higher percentage of African-Americans have a higher percentage of non-voted ballots. The Majority Report interprets evidence linking a higher percentage of African-Americans with a higher percentage of non-voted ballots as showing that whatever is causing ballots to be non-voted affects some fixed percentage of African-Americans who go to the polls.

The Majority Report provides many scatter plots to illustrate this correlation across precincts and counties. The problem is that all the evidence provided by the Majority Report is based on purely cross-sectional evidence. Yet, purely cross-sectional evidence suffers from well-known weaknesses in not being able to account for other factors that may explain the relationship between race and non-voted ballots.

The simplest way to account for these other factors is to examine whether certain counties had high levels of non-voted ballots even before they had high levels of African-Americans. Thus, we examine counties over time and compare the change in the racial composition of voters with the change in non-voted ballots. If African-Americans disproportionately account for non-voted ballots, the percent of African-Americans and non-voted ballots should continue to hold across elections: counties with the largest increase in the percentage of voters who are African-American should also have the largest percentage increase in non-voted ballots.

To examine this, we compared the change in county ballot spoilage rates and racial composition in the Presidential election in the 1996 and 2000 and the change in the share of voters in those elections who were in different races. The results are shown in Figures 1 through 4. Generally it is difficult to see much of any relationship. If indeed there is one, it turns out to be the opposite of what is implied by the Majority Report: there is a very small negative correlation between increases in the percent of voters who are African-American and spoilage rates (a correlation of -4 percent). And an increase in the share of white voters is associated with an increase in the non-voted ballot rate,

though none of these very simple relationships are statistically significant.⁷ Using data from the Election Data Services on the type of voting equipment used in different counties it is also possible to breakdown these figures on the basis of those counties that used the same voting machines in both the 1996 and 2000 elections. Doing so produces a set a graphs that is very similar to Figures 1 through 4 (see the Appendix).

III) Analyzing the Purely Cross-Sectional Precinct Level Data

USA Today, The Miami Herald, Florida Today and five other newspapers undertook a massive operation to identify non-voted ballots in each precinct in Florida for the 2000 presidential election.⁸ They put together a very rich cross-sectional data set. Besides the number of African-Americans, whites, Hispanics, and others who voted in each precincts, the paper further broke this relationship down by political affiliation so that it is possible to know, for example, the number of African-American Republicans and Democrats who voted by precinct. They also collected information on ballot and machine type, whether the ballots were counted centrally or at the precinct, as well as detailed census data on educational obtainment, household income, and age.

The regression estimates presented here are Poisson regressions because of the obvious count nature of this data. (Appendix Figure 1 illustrates how the distribution of non-voted ballots (both for under and over votes as well as the total) exhibits the classic shape seen for Poisson distributions.) The coefficients are reported as incident rate ratios, so coefficient values greater than one indicate the percent increase in uncounted votes from a one unit increase in exogenous variable, while values less than one indicate the opposite. For example, the coefficient for Democratic County Election Supervisors in Table 1, column 1 is 1.129 and it implies that even after accounting for all the other factors from voting methods and machines to demographics having a Democratic supervisor is associated with about a 13 percent higher non-voted ballot rate.

The regressions use all the data supplied to me on whether votes were counted

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The correlation between the change in non-voted ballots and the share of voters who are white is .09; the same correlation for Hispanics is .03; and the correlation for “other” (neither white nor African American) is -.17.

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The Majority claimed to have examined precinct level data for Miami-Dade, Duval, and Palm Beach, but no regressions were reported (<http://www.usccr.gov/vote2000/stdraft1/ltrpt.htm>).

centrally or at the precinct; the different types of voting machines and ballots used; income categories from \$15,000 to \$25,000 and up through over \$500,000; and the level of schooling by residents from high school not completed through college graduate. Additional variables were the number of males, number of females, number of absentee ballots, number of new voters, mean age, and number of people over 65. I have also combined this data with information that I had previously put together on the political affiliation and race of county election supervisors.

Even to the extent that a relationship exists between race and non-voted ballot rates, the effect is small. Column 2 in Table 1, which uses only one race related variable (the number of African-Americans in a precinct), implies that adding a thousand more African-Americans in a precinct would only increase the number of non-voted ballots by .25 percent. However, columns 3 and 4 provide some insight into what is being hidden by lumping all African-Americans together. Simply disaggregating by political registration between Republicans and Democrats produces one coefficient that is much larger and one much smaller than previously seen with the aggregate number. The estimate for African-American Republicans is so large that using columns 1 and 3 imply that 18 African-American Republicans will produce as many non-voted ballots as a 1000 randomly selected African-Americans. For columns 2 and 4, every 15 African-American Republicans produces as many non-voted ballots as a 1000 randomly selected African-Americans. While African-American are registered as Republicans at only about 1/18th the rate that they register as Democrats,⁹ the results in the first four columns imply that African-American Republicans are 54 to 66 times more likely than the average African-American to produce non-voted ballots.

Another way of saying this last result is that, for every two additional black Republicans in the average precinct, there was one additional spoiled ballot. By comparison, it took an additional 125 African-Americans (of any party affiliation) in the average precinct to produce the same result.

While illustrative, selectively including only some of the possible racial and ethnic as well as political affiliations of voters creates a problem because the presence of different groupings are likely to be correlated (either positively or negatively) across precincts and using only select groupings might falsely attribute some of the variation that is in fact associated with other groupings to only those that are included. To deal with this the rest of the regressions reported in Tables 1 and 2, as well as the file where I have tried in the brief time available to see whether the results are sensitive to inclusions of

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The data indicates that .5 percent of voters in the average precinct are African-Americans registered as Republicans versus 9 percent of voters being African-American Democrats.

varying subsets of control variables, use all the remaining information of race, ethnic grouping, and political registration that was provided to me. In order to avoid perfect collinearity with the variable measuring the number of voters in each precinct, the variable for voters of “other races registered to other parties (neither Republican or Democratic).”

Including these other groupings does reduce the size of the coefficient for African-American Republicans, but the coefficients in columns 5 and 6 of Table 1 are still substantial compared to the average effect for African-Americans, with a difference of around 50 to 55 times. The bottom third of Table 1 tests to see if the different voter groups have statistically different effects on the number of non-voted ballots. What the results show is that African-American Republicans, White Republicans, and Hispanic Republicans have much higher non-voted ballot rates than African-American Democrats and that all the differences are quite statistically significant. Only for “other races” is the reverse true, and that difference is very large and also quite statistically significant.

The regressions also allow us to examine whether Bush and Gore voters were different, and here the results are mixed, with the more complete regressions showing that Bush voters had the higher non-voted ballot rate and the other two significant results showing the same for Gore. Generally, females have a higher non-voted ballot rate than males. Higher rates were also observed for older people as well as those living in counties with Democratic and/or African-American County Election Supervisors. This last effect is quite large. Column 5 in Table 1 indicates that a county with a Democratic supervisor experiences a fourteen percent higher non-voted ballot rate and a county with African-American Democratic supervisor has a 31 percent higher rate.¹⁰

The voting methods and mechanisms are extremely important in explaining the non-voted ballot rate. Punch cards without chads are associated with higher non-voted ballots in both specifications 5 and 6, though whether paper or optical with arrows has the next highest rate depends upon the specification. Central processing has a higher rate than processing at the precinct, and either the infamous “butterfly” or the “8-2” ballots tend to be associated with more non-voted ballots. As shown in Table 3 and the raw regressions file, removing information on whether ballots are counted centrally or at precinct, the ballot type, and the machine type reduces the amount of variation in non-voted ballots explained by these regressions by 11 percentage points.¹¹ By contrast,

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There is only one African-American supervisor and that person is a Democrat.

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Cutting out these variables when fixed county effects are included has no discernable impact on the ability to explain the variation across precincts in non-voted ballots.

removing measures of race and political affiliation reduce the amount of variation explained by a little over two percentage points.

While information on educational attainment of residents and household income is important in explaining variations in non-voted ballot rates, the patterns are not easily explained by simply relying on “voter stupidity.” The results for Figure 2 vary with whether a separate variable is used to pick up average differences in non-voted ballots across counties (so-called “county fixed effects”) are included, but in both cases those who have attended some high school have higher non-voted ballot rates than those with less than a 9th grade education. Without county fixed effects, those with some college have a significantly higher non-voted ballot rate than all but those with some high school.

The relationship between household income and non-voted ballots in Figure 3 is even more puzzling. No matter what specification is used there are wide swings in the non-voted ballot rate for people at the higher income levels, with incomes from \$250,000 to \$499,000 showing unusually lower rates of non-voted ballots and those above \$500,000 showing the reverse. Indeed the non-voted ballot rate for this top income group is at least 4.6 times higher than observed for the next highest category (those between \$150,000 to \$249,999, another extremely wealthy group of households) and 15 times higher than those in households earning less than \$15,000 a year. Even over lower ranges of income it is difficult to detect any obvious pattern.

The education and household income results make it difficult to argue that non-voted ballots arise from a lack of intelligence. One possibility is that these results arise simply from differences in “tastes.” For example, the high non-voted ballot rate for African-American Republicans could simply arise because they were more conflicted than other voters in deciding whom to vote for. Similar types of conflicted views might be arising for other groups like those in households making over \$500,000 or those with some high school education.

As to ballot types and voting machines, having the candidate names listed in one column, optical machines or paper ballots that are counted by hand, as well as counting ballots at the precinct level are associated with relatively fewer non-voted ballots. Both measures of older people (the mean adult age and number of people over age 65) are strongly related to more non-voted ballots.

While a strong case can be made for the inclusion of all the variables included in the data set, there is still the issue of whether the results are dependent on any single variable or set of variables. If one is sure that all the control variables should be included in the regressions, little work is needed beyond Tables 1 and 2. However, on

the chance that some might object to the inclusion of certain variables, I have tried to briefly run specifications that first drop out one of the control variables (or closely related set of control variables) and then a second one. A closely related set of variables involves something such as the education, voting machine, ballot type variables, or gender of voters. I also tried including only one of the control variables (or closely related set of control variables) at a time. A total of 175 regressions are presented and they provide fairly consistent estimates.

While about 17 percent of the results in the accompanying file that examines the sensitivity of the results implies that African-American Democrats may be associated with more non-voted ballots, even in those relatively rare cases where the relationship is positive, the coefficient is at most about 1/10th as large as the coefficient for African-American Republicans. In every single case White Republicans have a higher non-voted ballot rate than African-American Democrats, and the difference is always statistically significant at better than the .0004 level (which means that we can reject these differences as being due to randomness at least at 4 per 10,000 level).

Finally, Table 4 shows that the non-voted ballot rate for African-American Republicans relative to Democrats is actually a couple of times larger for these heavily African-American precincts than it is for all precincts as a whole. Examining only those precincts where over 90 percent of voters are African-American and using the regressions in Table 2 shows that the difference is statistically significant at the 10 percent level for five of the six specifications. If there is something unusual that is occurring to African-American ballots in the most heavily African-American precincts, it is precisely in those precincts that the relative impact on African-American Republicans is the largest.

V) Analyzing the County Level Data for the 1992, 1996, and 2000 Presidential Elections

As noted earlier, using purely cross-sectional data faces severe limitations in accounting for differences across counties. Unfortunately, though, the panel level data limits us to using county level data. It is also unfortunate that the data for previous years does not allow us to breakdown voter data by both race and political affiliation. There are many reasons why spoilage rates differ and accounting for the 46 variables used in our analysis (or the smaller number available in the Majority Report, see appendix) leaves out many possible factors that are necessary to explain the difference in ballot spoilage rates in different counties. Using information on non-voted ballot rates during previous presidential elections allows us to examine whether changes in the racial composition of voters can explain changes in these rates. None of our results imply increasing the share of voters in any racial or ethnic group significantly increases non-voted ballot rates.

While neither the Florida Secretary of State's Office nor individual county election offices have detailed records on current county level voting operations, past information was not readily available on some variables, such as the method of voting, where the votes are tabulated, and the race of the county election supervisor.¹² Fortunately, Election Data Services provides data on the type of voting machine by county for the last three presidential elections.¹³ During 1996 and 2000, fourteen counties switched from lever machines and eleven counties switched from DataVote machines. Most the changes for the 1996 election and all of those for 2000 were towards the adoption of optical scan machines.

In the regressions shown in Table 5, I use only the percent of the voters by race and not the demographic breakdown of the general population. In place of the median income and poverty rate, I use data that I had readily available on per capita income, per capita unemployment insurance payments, and per capita income maintenance payments (welfare).¹⁴ These last three variables were only available up through 1998, so I use those values as proxies for the year 2000.¹⁵ County fixed effects are used to account for other factors that explain differences in non-voted ballot rates across counties and fixed year effects are used to pick up differences over time. (The literacy rate data could not be included as it was only available for one year, and the fixed county effects would be perfectly collinear with this variable.)¹⁶

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Telephone calls were made to all the individual county election supervisor's offices in an attempt to obtain this data.

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Election Data Services is located at 1401 K Street, NW, Suite 500, Washington, DC 20005-3417.

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The data on these income and payment values were obtained from the Regional Economic Information System (REIS). Income maintenance includes Supplemental Security Insurance (SSI), Aid to Families with Dependent Children (AFDC), and food stamps.

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Lichtman uses a similar approach.

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As a proxy for new voters who may have made mistakes because they had no previously voted, I used a variable for the change in the number of voters by race from previous elections. This proxy has definite problems since an increase in the number of

The results indicate that the percent of voters in different race or ethnic categories are rarely statistically related to ballot spoilage. In these specifications, less than 2 percent of the variation in non-voted ballots is explained by including African-American voters. The only specification that implies a statistically significant relationship between the rate of non-voted ballots and the percent of voters who are African-American is the third column, but even this result provides little support for the notion that discrimination was occurring. Because the percent of voters who are African-American in the third column is not only included by itself but also by interacting the African-American variable with whether the county election supervisor is a Republican or a Democrat, the interactions must be added together with the direct effect to determine the net effect of more African-American voters on the non-voted ballot rate in counties with Republican or Democratic supervisors. Doing this indicates that more African-American voters increases non-voted ballot rate when the election supervisors are either non-partisan or Democrats and decreases the non-voted ballot rate when they are Republicans. Each one percentage point increase in the percent of voters who are African-American results in the non-voted ballot rate rising by .43 percentage points when the election supervisor is a Democrat and falling by .15 percentage points with a Republican. The net effects for Democratic or Republican supervisors are not statistically significantly different from zero nor from each other. The F-test for the difference between these the net impact on African-American voters in counties with Republican or Democratic supervisors is significant at only the 20 percent level. Only the direct effect of the percent of voters who are African-Americans is really statistically significant and that is picking up what is happening in counties run by non-partisan election supervisors.

The last specification replaces the simple variable for the percent of voters who are African-American with that variable being interacted with the dummy variables for the type of voting machines used. Interestingly, the coefficient on the interaction for punch card machines is almost identical to the interaction for optical scan machines, and F-tests indicate that none of the different voting methods imply a different rate of non-voted ballots as the percent of voters who are African-American increases.

As for the other variables, non-partisan and Republican county election supervisors are associated with more non-voted ballots. A county that switches from a Democratic to a

voters in a particular racial category can arise because of people who are experienced voters moving from one place to another. I found no significant impact from this variable. However, I was unable to determine whether this lack of statistical significance was due to there really not being a problem arising from new voters or from problems with the measure itself. Including these variables did not alter the other findings.

non-partisan election supervisor sees its non-voted ballot rate more than double. Yet, while the average rates are higher for Republicans than Democrats, the non-voted ballot rate that does exist is more likely to be positively related to the share of voters who are African-American in Democratically controlled counties. The average non-voted ballot rate declined significantly from 1992 to 1996 and then rose very slightly in 2000. While the coefficients for optical scanners always imply a statistically significant lower rate of non-voted ballots, and three of the five coefficients are statistically significant. None of the other variables produce consistent results.

Table 6 replaces the voting share data in the first column of Table 5 with census demographic data to measure the differential impact that age, sex, and race might have on non-voted ballots.¹⁷ This breakdown was not readily available in terms of those who voted in the elections, so we use the census data as a substitute. One reason for relying on this census data is that when the percent African-American in the general population are used in place of African-Americans as a share of voters the previous regressions, we obtain results that are roughly similar in size and statistical significance.

The results in Table 6 paint a much more complicated story on the relationship between race and non-voted ballots than is discussed by the Majority Report. For five age and sex categories, an increase in the share of voters who are African-American implies more non-voted ballots. Yet, for the other five age and sex categories, the reverse is true. It is not clear what form of discrimination would imply that more African-American males between 30 and 39 increases non-voted ballots, but the reverse is true for African-American females in that age range.

While the panel data here implies that increasing the number of African-Americans in a county does not increase the non-voted ballot rate, it is still possible that African-American Republicans had non-voted ballots at much higher rates than African-American Democrats. Yet, the inability to breakdown voter data by both race and political affiliation across these different elections makes it impossible to test this hypothesis with the panel data.

V) The Evidence on Excluding Convicted Felons

The evidence on convicted felons proves the opposite of what the Majority Report claims. In their conclusion on page 37, the Majority Report states that "the chance of being placed on this list [the exclusion list] in error is greater if the voter is African-American." The evidence they provide indicates that African-Americans had a greater share of successful appeals. However, since African-Americans also constituted

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This data was obtained from the U.S. Bureau of the Census.

an even greater share of the list to begin with, whites were actually the most likely to be erroneously on the list (a 9.9 percent error rate for whites [125/1264] versus only a 5.1 percent error rate for blacks [239/4678]). The rate for Hispanics (8.7 percent [105/1208]) is also higher than for blacks. Their own table thus proves the opposite of what they claim that it shows. A greater percentage of Whites and Hispanics who were placed on the disqualifying list were originally placed there in error.

In any case, this evidence has nothing to do with whether people were in the end improperly prevented from voting, and there is no evidence presented on that point. The Majority Report's evidence only examines those who successfully appealed and says nothing about how many people of those who didn't appeal could have successfully done so.

VI) Conclusion

It is difficult to see any evidence that African-American Democrats in Florida were systematically discriminated against in terms of voting. The results clearly indicate that with respect to non-voted ballot rates the differences within races are as large as the differences between races. If one believes that African-Americans were systematically prevented from voting, it is African-American Republicans who were the most harmed. If one believes that the actions of county election supervisors played an important role in creating this problem (either by intent or carelessness), non-voted ballot rates were clearly the highest in counties with Democratic and/or African-American supervisors. As to concerns that the poor were likely to have their ballots not counted, the results decisively reject this conclusion. Not only do voters whose household incomes fall between \$15,000 and \$24,999 have a lower non-voted ballot rate than any income range below \$150,000 (with the exception of one estimate for the \$75,000 to \$99,999 range), but the group with by far the highest non-voted ballot rate are the very richest with annual household incomes over \$500,000. The panel data makes it very difficult to ascertain any systematic bias either intentional or unintentional against African-American voters.

Appendix: Using the Majority Report's County Level Data

Appendix 1 of the Commission's Majority Report lists the factors that they presumably tried to account for in their analysis of non-voted ballots. Besides the percent of registered voters who are African-American, they include information on the percent of the general population who are white, African-American, Hispanic, and minority; median income; the poverty rate; the type of voting system (optical, punch card, paper/hand, lever machine); and whether voting was tabulated at the precinct, centrally, or otherwise. While these factors are listed, there is surprisingly little discussion on why these factors rather than other variables are included. Despite repeated requests by commission member Abigail Thernstrom, no information has been provided on how exactly these different variables were included in their regression estimates.¹⁸

The statistical appendix for the Majority Report provided by Allan Lichtman also mentions that the results are unaffected by including a variable measuring "the percentage of adults in the lowest literacy category failed to diminish the relationship between race and ballot rejection or to reduce the statistical significance of the relationship" from 1992.¹⁹ While this "lowest literacy category" is not defined in the report, we assume that it is from the U.S. Department of Education's Adult Literacy Survey which defines it as those being unable to "make low-level inferences based on what they read and to compare or contrast information that can easily be found in [a] text."²⁰

Why some of these factors are important is easy to explain. For example, measures of income and poverty are roughly associated with education and therefore with the

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Two measures of education (the percentage of high school graduates and a measure of literacy) are briefly mentioned in the text of Professor Lichtman's draft report to the commission, but the data is not provided in the data appendix and the results are never reported in his own draft.

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Allan J. Lichtman, "Report on the Racial Impact of the Rejection of Ballots Cast in the 2000 Presidential Election in the State of Florida," U.S. Commission on Civil Rights, June 2001 (<http://www.usccr.gov/vote2000/stdraft1/ltrpt.htm>).

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National Center for Education Statistics, *Adult Literacy in America: A First Look at the Results of the National Adult Literacy Survey*, National Center for Education Statistics (Washington, D.C.: U.S. Government Printing Office, 1993), 18, 113.

ability to read and follow voting instructions. Literacy rates, as used by Lichtman, are a more direct measure of this, though even this is not perfect because the county data does not breakdown the rates by race. The national data indicates that 38 percent of African Americans - but only 14 percent of whites - ranked in the lowest category, so it does raise the issue of whether any race variables will be proxying for left out literacy measures. Errors in voting will also vary with the type of voting equipment and possibly where the votes are tabulated. For example, if optical readers are used and the votes are fed into a vote counter directly by the voter, it is possible for a ballot with an error to be immediately returned to and corrected by the voter.

Other factors mentioned by the Commission in its appendix are more difficult to explain. For example, why include a detailed breakdown of the share of different groups in the general population but only examine the share of voters who are African-American? There is also the issue of what has been left out. Given the Majority Report's emphasis on "intentional discrimination" (e.g., p. 37), why not try to account for those involved in the process who might have some reason for either discriminating against African-American voters or preventing such discrimination? Some obvious controls for this are the political party affiliation or race of the county election supervisor. If the suspected discrimination is occurring against African-Americans and given that African-Americans vote so heavily for Democrats, it seems doubtful that Democratic or African-American election supervisors would act in ways to increase the rate of non-voted ballots of African-Americans.

Because of these two sets of concerns we gathered data on the share of voters who are white or Hispanic and on the political affiliation and race of county election supervisors from the Florida Secretary of State's Office and individual county supervisors of elections. Section A in Appendix Table 3 contains descriptive statistics on the county data for the year 2000 obtained directly from the Majority Report's Appendix 1. Section B in Appendix Table 3 provides information on the new variables that I obtained.

Appendix Table 4 provides some preliminary information using the cross-sectional evidence that casts doubt on Republicans are responsible for the problems with non-voted ballots. Indeed, the counties with Democratic election supervisors have the highest non-voted ballot rate, with white Democrat supervisors having a higher rate than African-American Democrat supervisors. White Republican election supervisors have the lowest rate of spoiled ballots, indeed the non-voted ballot rate for white Republican supervisors is only a third of the rate of black Democratic supervisors. Comparing sections A and B in Appendix Table 4 also shows why cross-sectional analysis produces a simple correlation between race and non-voted ballots. Those counties with the highest rates of African-American voters also were more likely to have both Democratic supervisors and more spoiled ballots.

Since neither the Majority Report nor the accompanying “Draft Report” by Allan Lichtman show exactly what regressions specification they examined, we tried different specifications to replicate the commission’s results. Because the Majority Report does not reference data on literacy rates, we report the results with and without the literacy variable included. However, it was difficult to find a consistent relationship between the share of voters who are African-American and the ballot spoilage rate. We started out by using all the variables reported in their Appendix 1 and the literacy rate (see column 1 in Appendix Table 5, section A). While the coefficient on the percent of voters who are African-American was indeed positive, implying that a greater share of voters being African-American (and not just characteristics correlated with the presence of African-Americans in the community) increased the spoilage rate, the coefficient was quite statistically insignificant. The probability that the coefficient was positive was only 28 percent. Excluding the literacy rate in Section B produced an even lower level of significance. Thus using the Commission’s very own set of control variables, there is thus no real confidence that there is a positive relationship between the share of African-American voters and the ballot spoilage rate.²¹

Because the cross-sectional data might not be sufficient to disentangle the share of African-Americans in the general population from the measure of the share of voters who are African-American, column 2 in Appendix Table 5 removes the variable for the share of African-Americans in the county population. Interestingly, this specification implies that a higher share of voters being African-American actually reduces the ballot spoilage rate. Indeed, it is quite damning that any specification that accounted for something as simple as the share of the county population that is white resulted in no significant relationship between the share of voters who are African-American and the ballot spoilage rate. The specification in column 3 removes the percentage of the population that is white and is the only specification shown in Appendix Table 5 when literacy rates are included that provide statistically significant evidence consistent with the Majority Report’s claims.

Even in the specification (column 3) which implies a significant impact of the share of voters who are African-American, the variable explains very little of the overall variation in spoilage rates. Removing the share of voters who are African-American reduces the amount of variation in ballot spoilage that can be explained by the regression from 73.9 percent to 72.2 percent, a 2.3 percent reduction. By contrast, removing the variables that account for the method of voting and where the counting takes place explains 31 percent of the variation. In none of other the specifications shown in Table 5 does removing any or all of the variables that contain the share of voters who are African-American reduce the amount of the variation in non-voted

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I tested for heteroskedasticity but could not find evidence for it.

ballots that can be explained by any more than 2 percent. In the first specification that uses all of the variables provided by the Majority Report, the share of voters who are African-American explains less than two-thirds of one percent of the variation.²²

Once we found a specification that was consistent with the Majority Report's claims, we examined whether the relationship between African-American and ballot spoilage rates might really be proxying for other left-out factors. The next four specifications (columns 4 through 7) point to one clear conclusion: there exist many other factors that occur in heavily African-American counties and any of these factors could generate a high non-voted ballot rate.

For example, the largest effect we find between the share of voters who are African-American and ballot spoilage rates exists when African-Americans are county election supervisors (column 6) and a net positive effect also occurs when Democrats are county election supervisors (column 5). Because the point estimates need to be added together in evaluating the impact of the percent of voters who are African-American in counties with African-American county election supervisors, the net effect in column 6 for the percent of voters who are African-American and that variable interacted with whether the county election supervisor is African-American is just short of being statistically significant at the 10 percent level ($p=.1088$). The estimates imply that each one percent increase in the share of voters by African-Americans produces 135 percent more non-voted ballots when the county election supervisors are African-American than when they are of some other race.

The data does not allow us to distinguish which is the primary reason for the higher spoilage rate when African-American voters are relatively more prevalent, but the most statistically significant effect still appears to be whether African-Americans are voting in a county where the election supervisor is African-American. Column 7 implies that the rate of non-voting when there are more African-Americans in a county is 43 percent larger when the supervisor is African-American. If county level voting is rigged (intentionally or not) to discriminate against African-Americans voters, the empirical method used by the Majority Report implies that by far the most discriminatory counties are ones where Democrats and African-Americans control the balloting process. Unless we actually believe that Democrats and African-American officials are discriminating either intentionally or not against African-American voters, and such

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The claim in Professor Lichtman's draft report that 25 percent of the variation can be explained simply by the share of voters who are black is very misleading. It is obtained only because no other variables are included in that regression. This only makes sense if he really believes that this is the only variable that should be included in explaining the variation in ballot spoilage rates.

discrimination would make no sense, the obvious conclusion is that this approach for ferreting out discrimination is flawed.

By contrast, the estimates imply that in counties with Republican election supervisors a higher share of voters who are African-Americans actually results in a tiny reduction in the non-voted ballot rate, though the effect is never statistically significant. For each additional one percentage point of the voters living in a county with a Republican election supervisor, columns 5 and 7 imply that the non-voted ballot rate falls by between .09 and .1 percentage points (a 6 to 7 percent decline in the average rate of non-voted ballots in counties with Republican supervisors).

I also tried another specification (not shown), similar to what is reported in the fourth column, that interacted the dummies for the four different types of voting machines and whether the ballots were counted centrally with the percent of voters who are African-American. Optical scans and punch card machines implied that more African-American voters resulted in more non-voted ballots, while lever machines and paper ballots implied fewer non-voted ballots when there were more African-American voters, but none of the coefficients were statistically significant nor statistically significantly different from each other. Generally, since one would expect that the ability to discriminate against black voters should vary with the type of voting machine used, it is hard to see any relationship here that implies discrimination.

The other control variables imply that combining optical voting machines with the central counting of votes produces significantly more non-voted ballots, whereas optical votes counted at the precinct reduces spoilage. Higher poverty rates are also significantly associated with more spoilage in seven of the eight specifications, though median income is rarely statistically significant and then only when literacy rates are accounted for.

Section B of Appendix Table 5 reruns the regressions reported in Section A, but without the literacy rate variable. Lichtman's comments suggest his primary specifications did not include this variable.²³ The general pattern of results is similar to what is shown in Section A, though the results are even stronger. Columns 13, 14, and 15 imply even more clearly that whatever relationship exists between a higher percentage of voters who are African-American and more non-voted ballots is driven by African-Americans living in counties with Democratic and/or African-American election supervisors. The

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Lichtman writes: "A multiple regression analysis that controlled for the percentage of high school graduates and the percentage of adults in the lowest literacy category failed to diminish the relationship between race and ballot rejection or to reduce the statistical significance of the relationship."

net effects of the African-American voter interactions are always positive and the F-tests at the bottom of the section indicate that there is always at least one combination of these interactions that is statistically significant. By contrast, the net effect of Republican supervisors always implies that more African-American voters in those counties leads to fewer non-voted ballots.

Professor Lichtman's report, upon which the Majority bases its conclusions, makes the claim (p. 6) that: "is there some other factor which better explains this disparity in ballot rejection rates? In short the answer is no." This is indeed an important question. Yet, this section has shown that merely accounting for the data supplied in the Majority Report's appendix can reverse Lichtman's claim. In addition, this section has raised possible variables that help explain the variation in non-voted ballot rates that were never discussed in either the Majority Report or Lichtman's draft report. Any relationship between race and non-voted ballots is sensitive to the specification. Of the 16 specifications reported, only three exhibited positive relationships that were statistically significant at least at the 10 percent level, though another three specifications were significant at least at the 15 percent level. Yet, even the largest estimates imply that the percentage of African-Americans explains only two percent of the variation in non-voted ballots.

There is a long list of other factors that might help explain spoilage rates, such as voter age or gender, and these were never included in the simple regressions. It is also important to study not only the means but the distributions of different variables. Part of our reason for not going much beyond what was done in the Majority Report was to keep our results as similar to theirs as possible, though it was very easy to include variables that would eliminate any statistical significance with respect to the share of voters who were African-American. The panel data set over several presidential elections in the following section examine these issues in more detail because the larger sample allows us to more fairly make this type of detailed breakdown.

Figure 1: African Americans and Non-Voted Ballot Rate

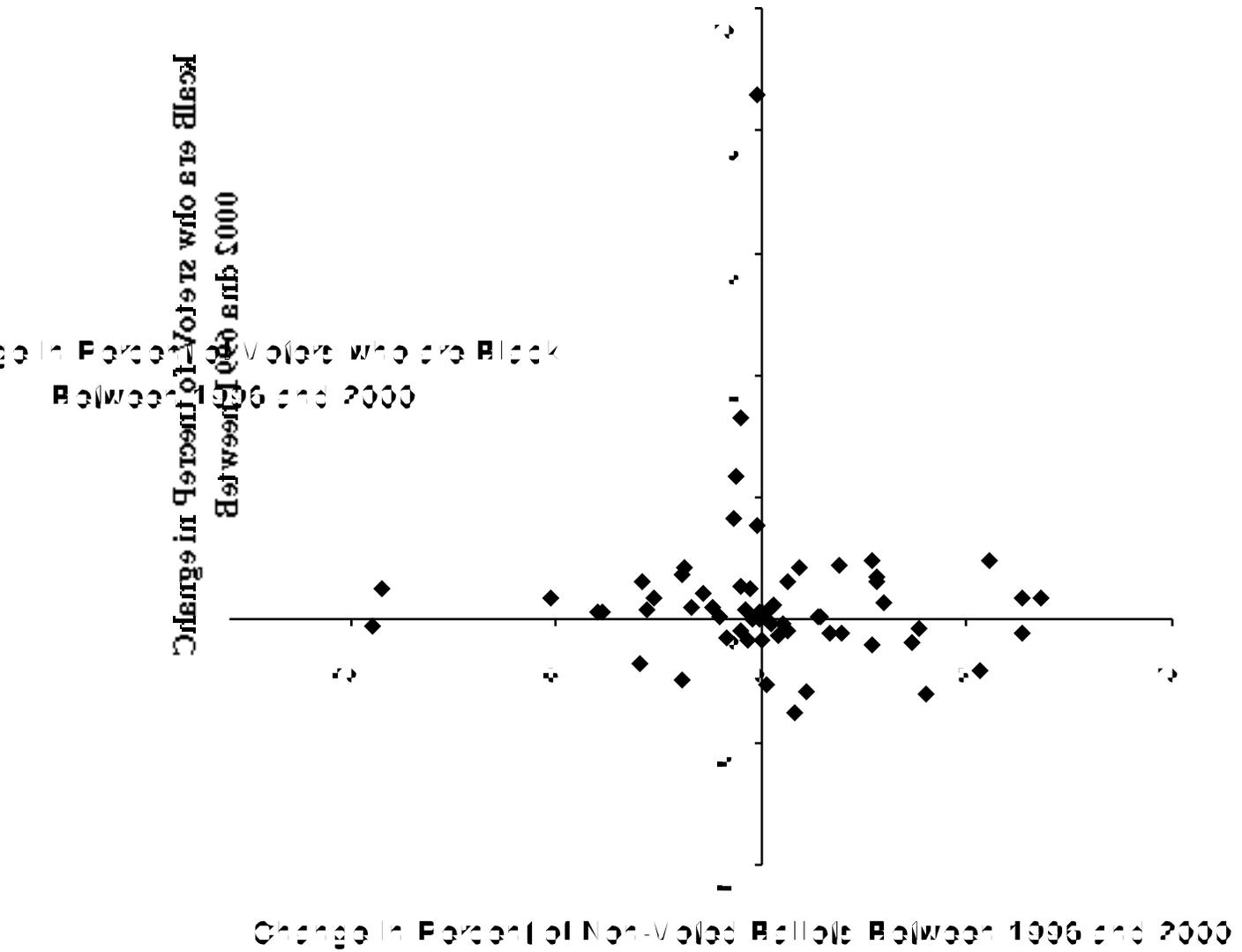


Figure 2: Whites and Non-Voted Ballot Rate

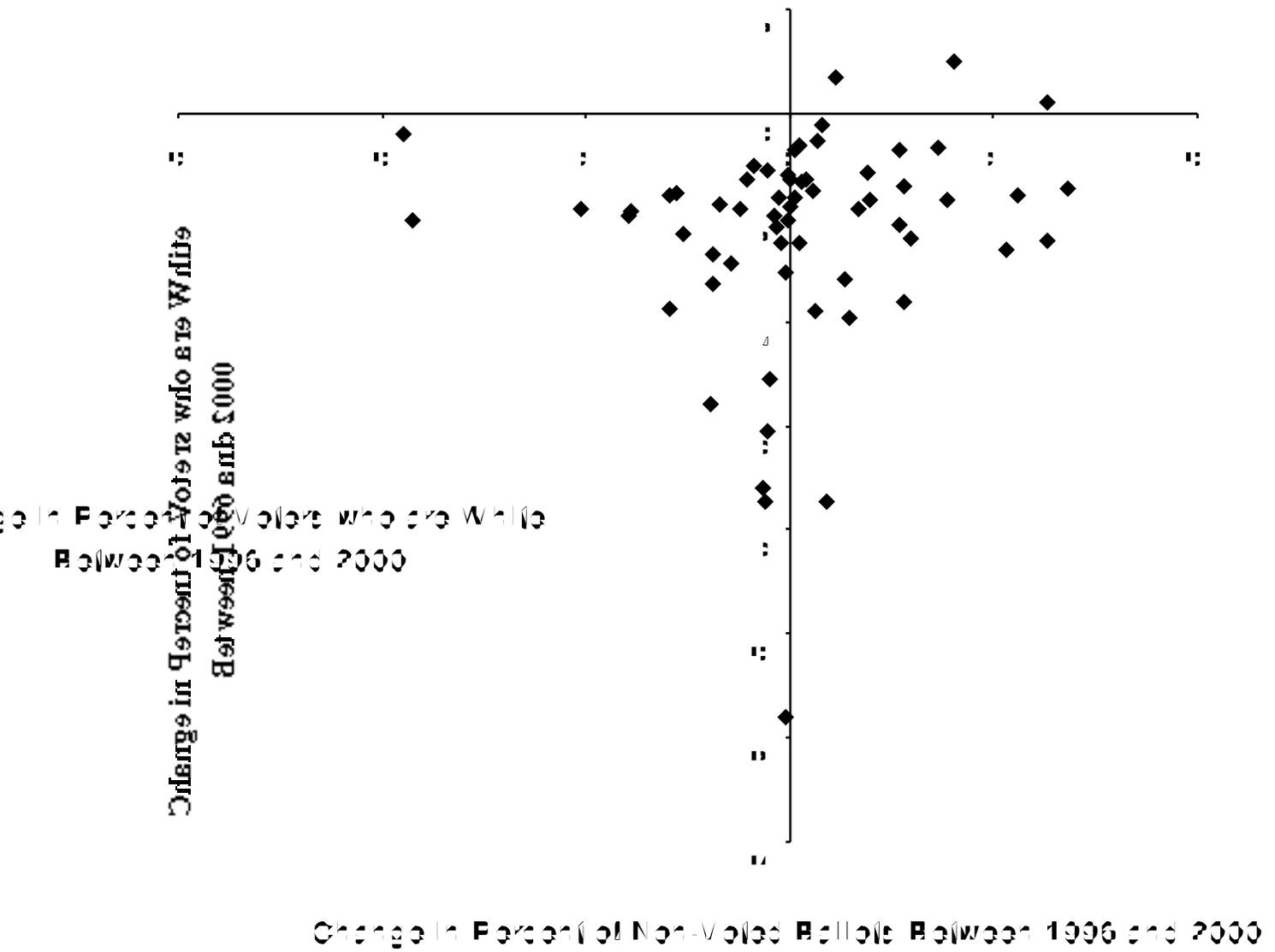


Figure 3: Hispanics and Non-Voted Ballot Rate

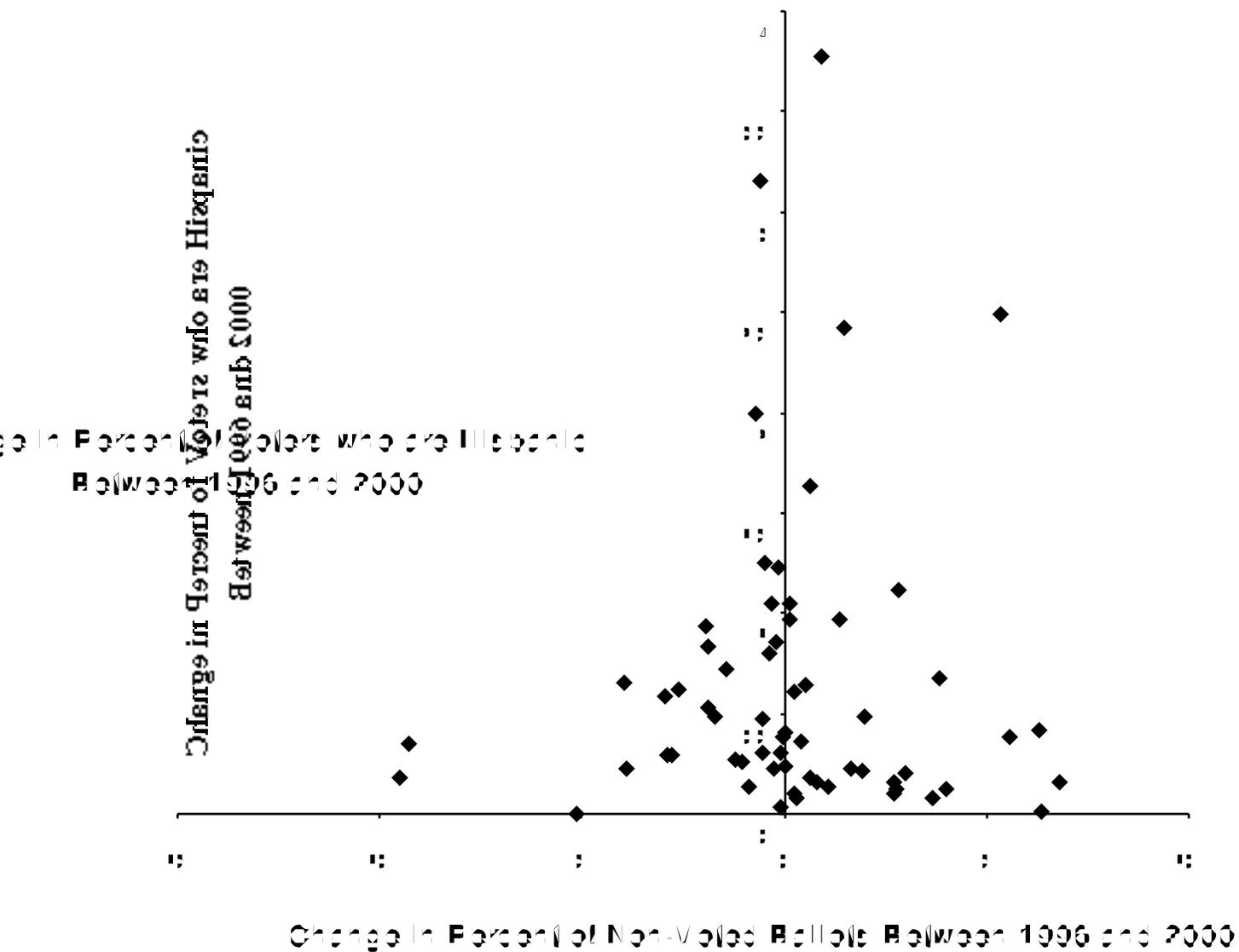
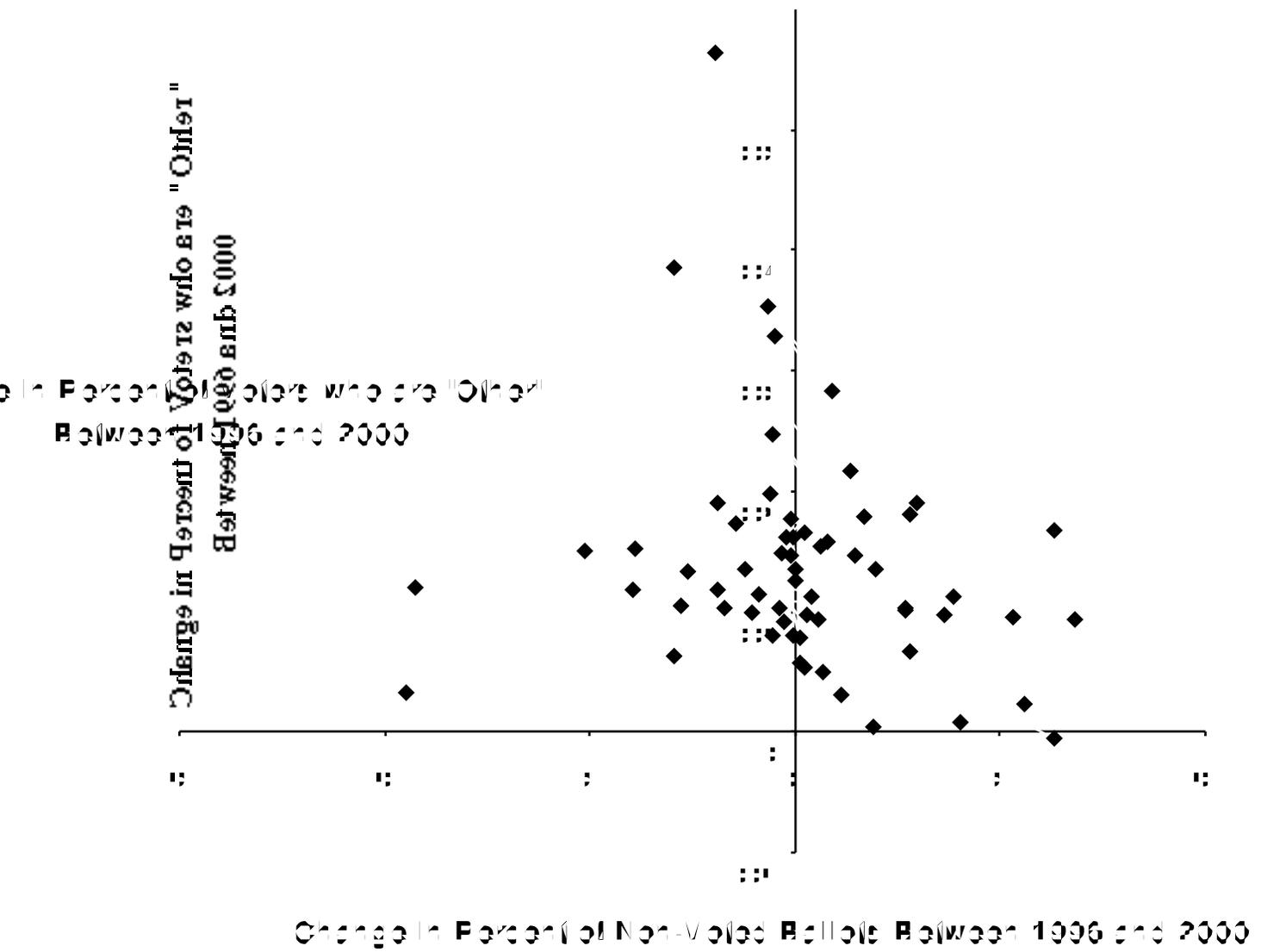
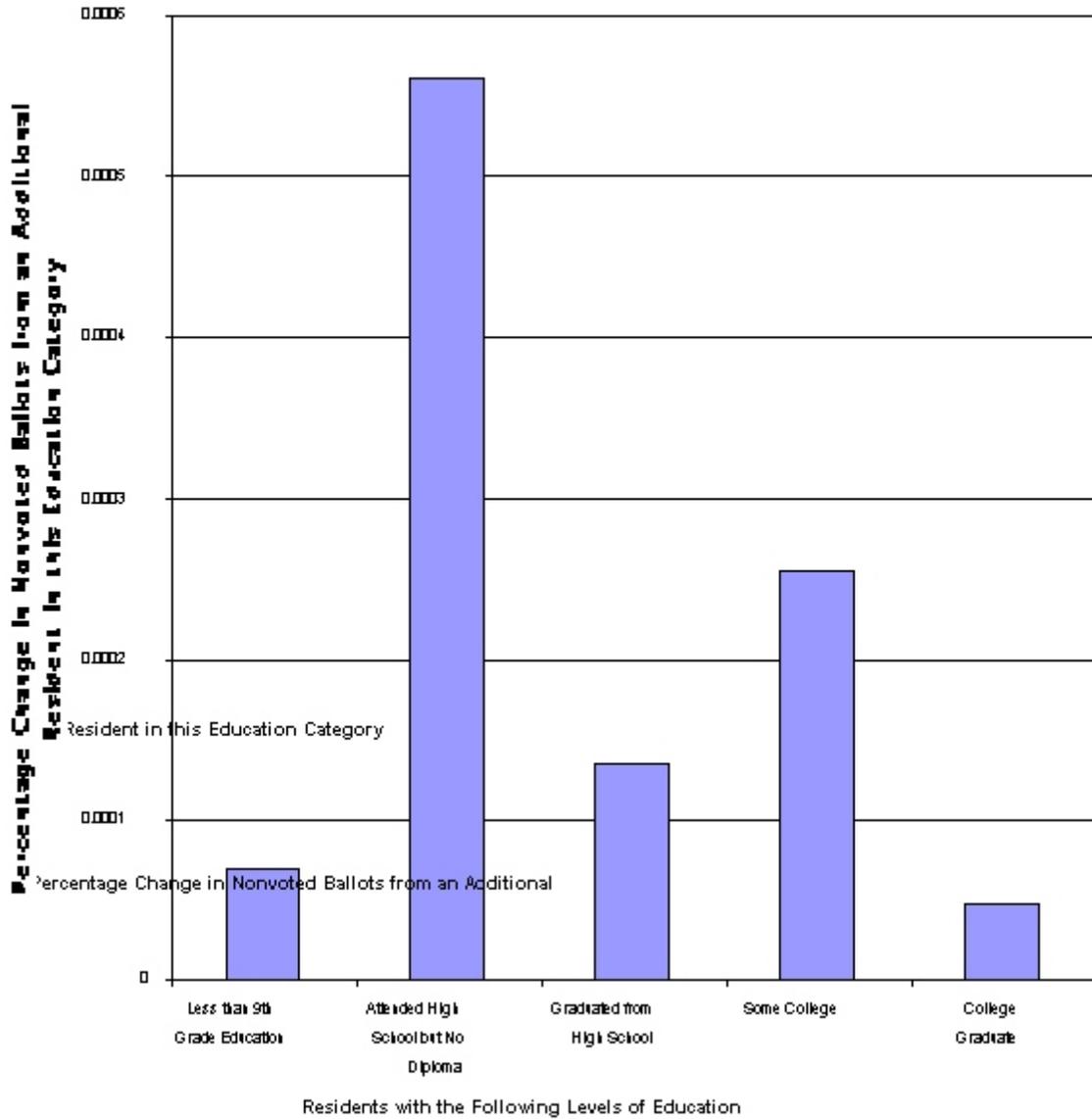


Figure 4: 90th District Voters and Non-Voted Ballot Rate



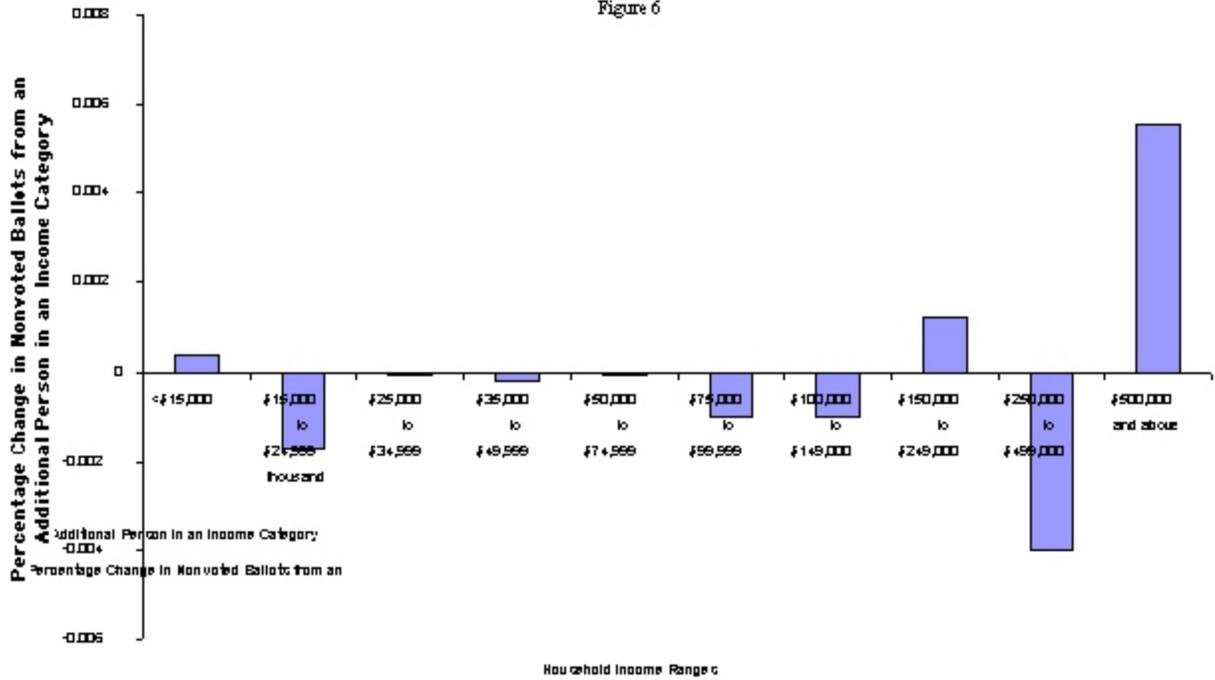
**Relationship Between Educational Attainment and Nonvoted
Ballots (Estimates Using Specification 5 in Table 1)**

Figure 5

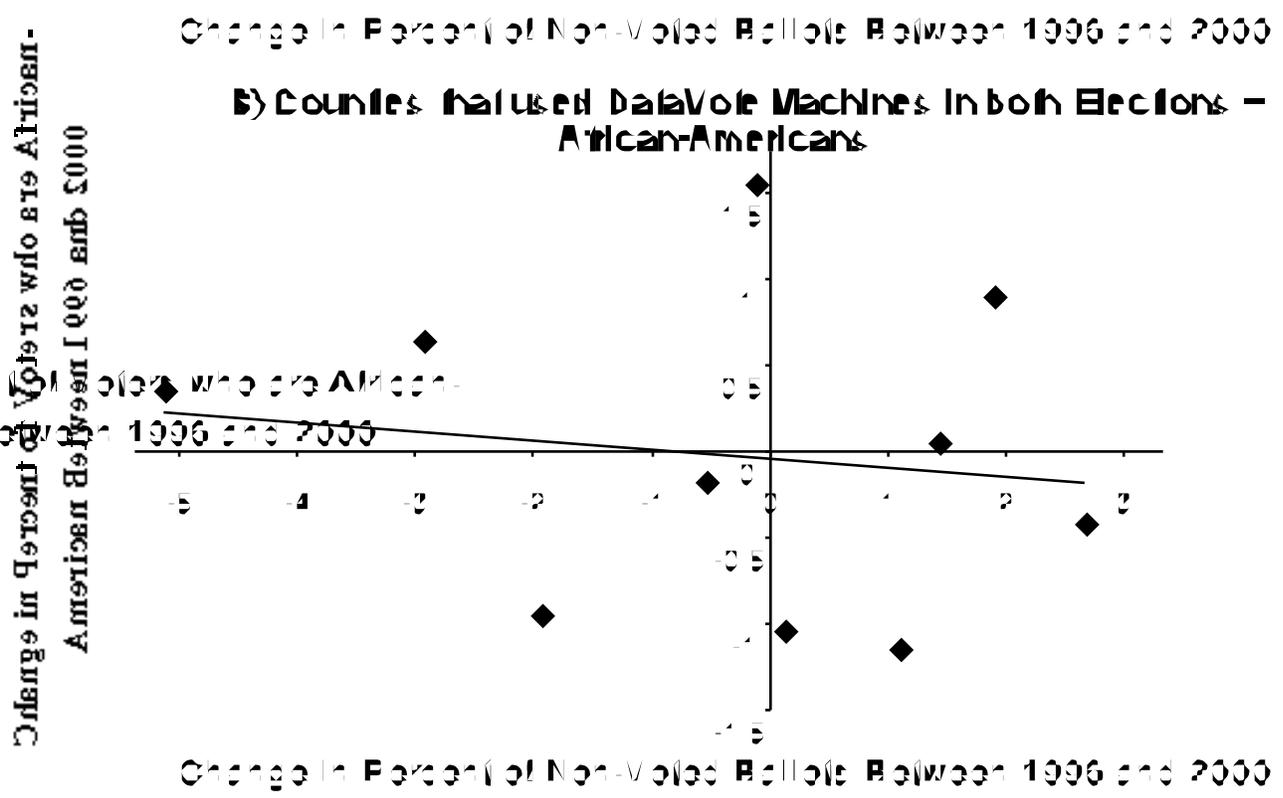
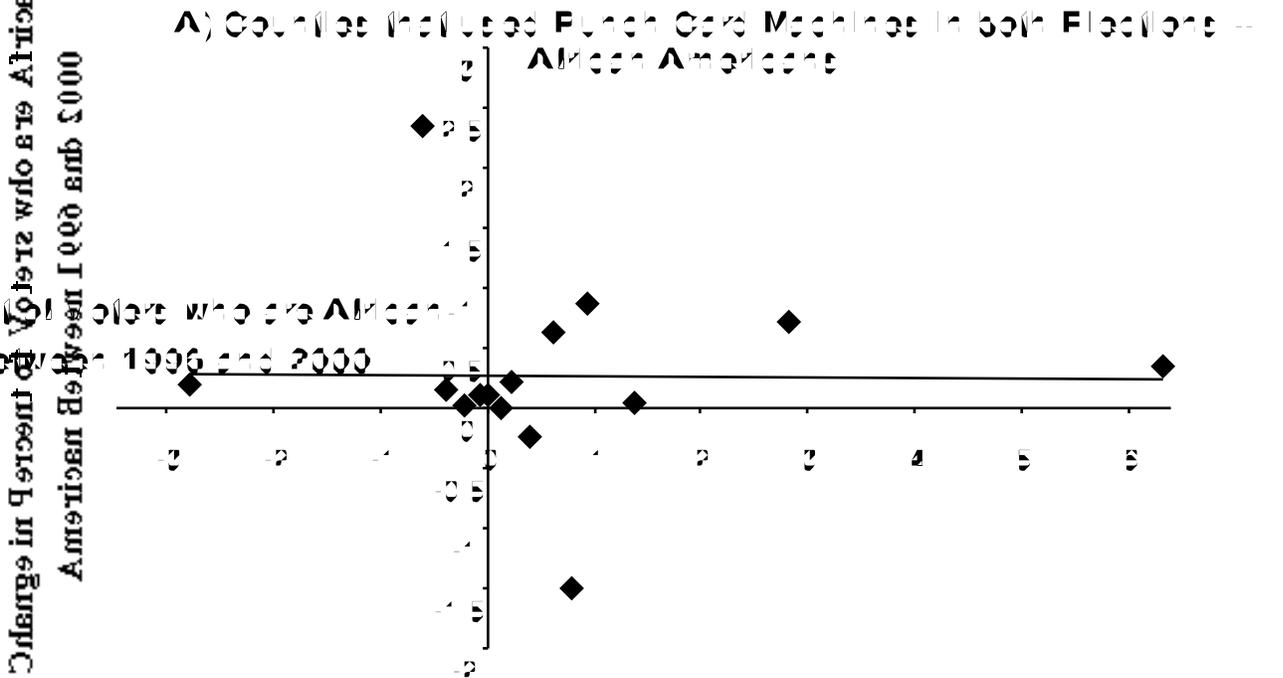


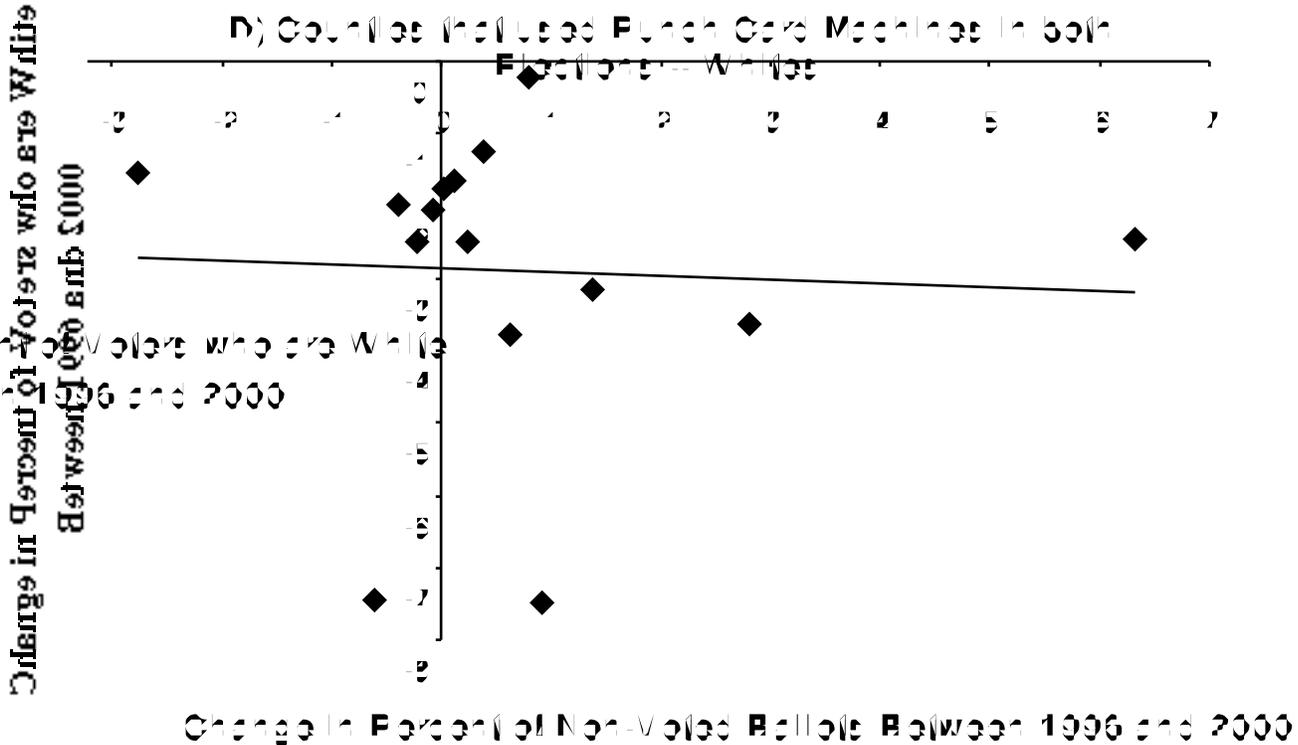
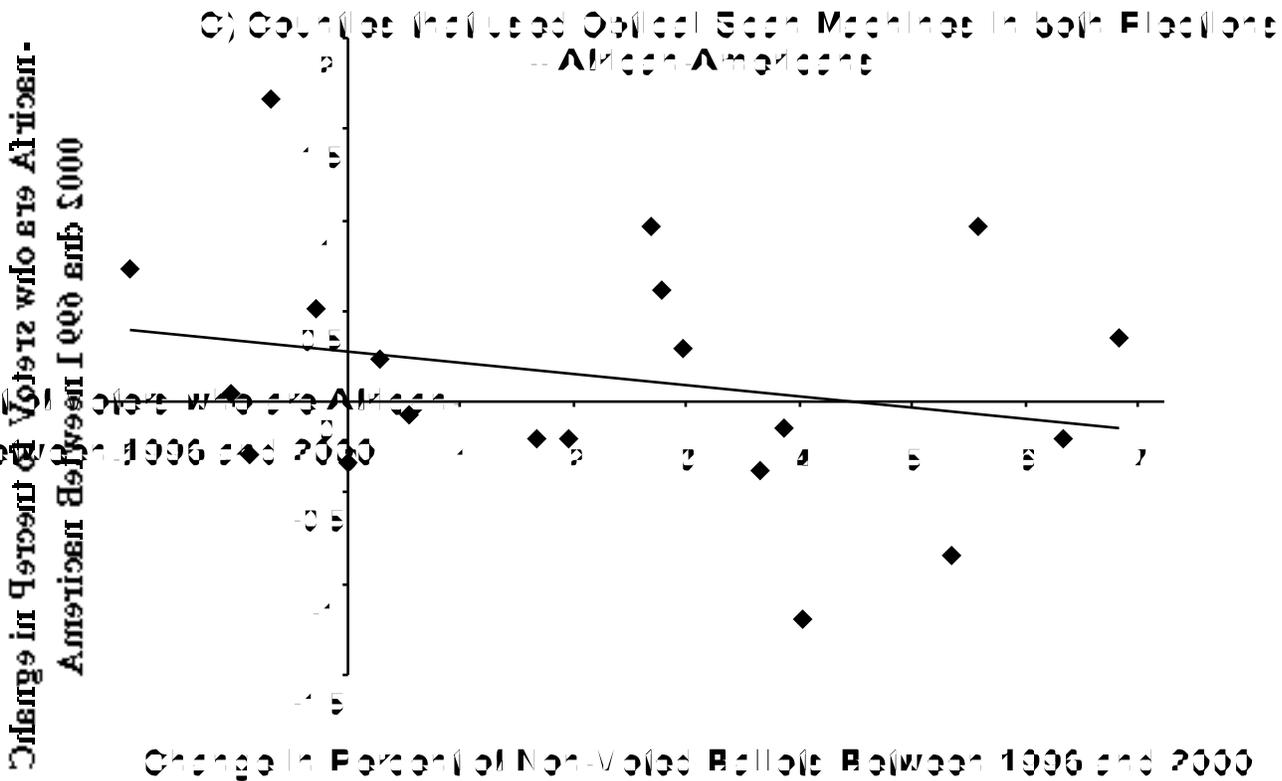
Relationship Between Income and Nonvoted Ballots
 (Estimates Using Specification 5 in Table 1)

Figure 6

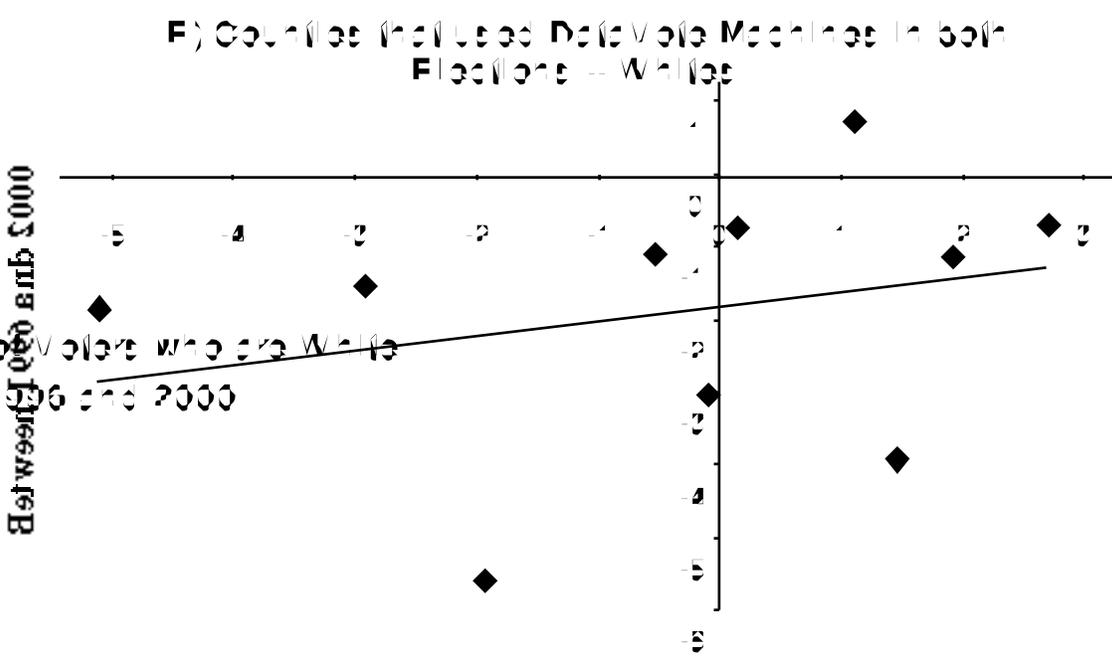


Appendix Figure 1: Examining the Relationship Between Changes in the Share of Voters for African-Americans and Whites and the Change in the Percent of Non-Voted Ballots Between 1996 and 2000 by counties that used the same voting machines in both years are included. A trend line is used to show the slope of the relationship.)



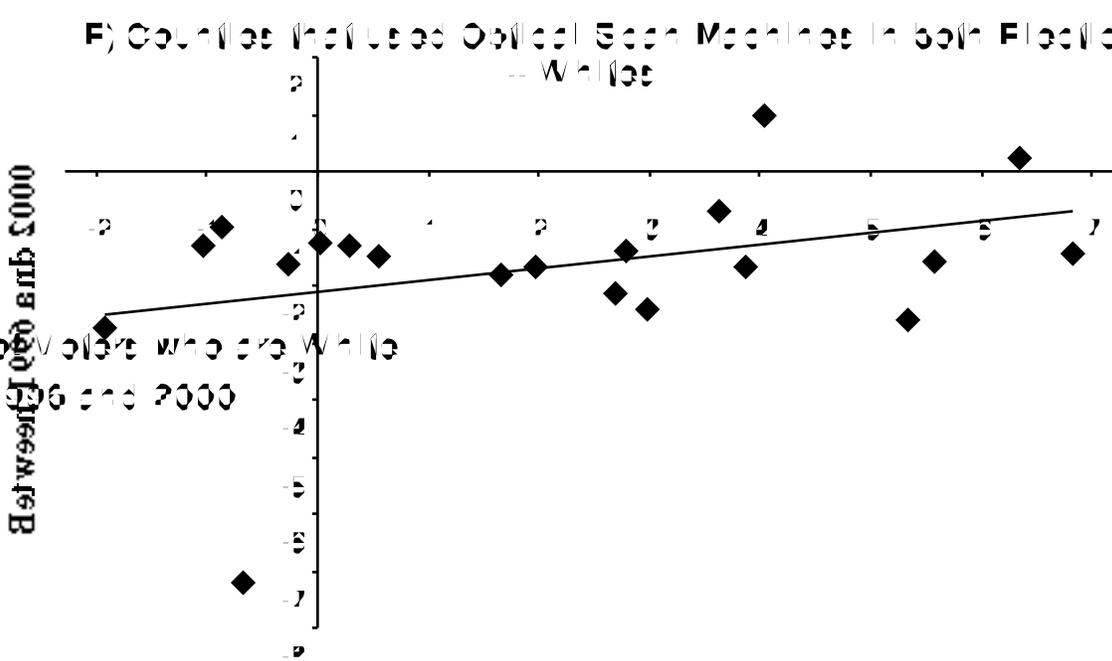


Change in Percent of Voters who are White
Between 1996 and 2000



Change in Percent of Non-Voted Ballots Between 1996 and 2000

Change in Percent of Voters who are White
Between 1996 and 2000



Change in Percent of Non-Voted Ballots Between 1996 and 2000

Distribution of Observations

Appendix Figure 2

