

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

MARY T. THOMAS, et al.,

Plaintiffs,

v.

MARCI ANDINO, et al.,

Defendants.

Case No.: 3:20-cv-01552-JMC

PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Plaintiffs Mary T. Thomas, Nea Richard, Jeremy Rutledge, Trena Walker, Dr. Brenda Williams, and the Family Unit, Inc. (collectively, “Plaintiffs”) respectfully move the Court pursuant to Rule 65 of the Federal Rules of Civil Procedure for a preliminary injunction restraining Defendants and their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from enforcing (a) the requirement that voters requesting a mail-in absentee ballot fall within a limited list of “excuses,” which does not include self-isolation due to COVID-19, S.C. Code Ann. § 7-15-320 and § 7-15-310 (the “Excuse Requirement”), and (b) the requirement that voters mailing in absentee ballots must have another adult sign as a witness on the ballot’s envelope, S.C. Code Ann. § 7-15-220 and § 7-15-420 (the “Witness Requirement,” collectively with the Excuse Requirement, the “Challenged Requirements” or “Requirements”). In support of their motion, Plaintiffs rely upon the accompanying Brief in Support of Plaintiffs’ Motion for a Preliminary Injunction, and the attached declaration and exhibits.

South Carolina and the United States are in the middle of an unprecedented health crisis. To fight the spread of COVID-19, every American has been urged by public health authorities to

socially distance themselves to try to slow the spread of the virus, including the residents of South Carolina, who have been ordered by the Governor to remain at “home or work” to prevent contagion and greater loss of life. S.C. Exec. Order 2020-21.

However, the Challenged Requirements, together and separately, force voters, including the five individual Plaintiffs, to make the unconscionable choice between protecting their health and lives (and those of their families and communities) and exercising their fundamental right to vote. The Excuse Requirement severely burdens the right to vote of any South Carolina voter who does not fit one of the listed absentee “excuses” a way to safely vote from “home or work,” as the Governor’s order instructs and as public health social distancing guidelines recommend. And it imposes an extreme burden on voters—like Plaintiffs Jeremy Rutledge and Trena Walker—who are vulnerable to severe complications from COVID-19 (*e.g.*, because they have chronic but treatable conditions like diabetes, asthma, or emphysema), but commonly vote in person and do not therefore qualify to vote absentee under South Carolina’s “physical disability” exception. *See* S.C. Code Ann. § 7-15-310.

Similarly, the Witness Requirement forces voters like Plaintiff Mary Thomas and Brenda Williams—both of whom are elderly—to break social distancing or self-quarantine guidelines in order to have someone witness and sign their absentee ballots.

If the Challenged Requirements are not enjoined, they will pose significant risks to voters seeking to exercise their right to vote in the June 9, 2020 primary election amid the current COVID-19 crisis.

Plaintiffs are therefore entitled to a preliminary injunction because they are substantially likely to succeed on the merits of their claim that the Challenged Requirements severely burden the right to vote in violation of the First and Fourteenth Amendments to the U.S. Constitution for

many thousands of South Carolinians, particularly elderly, disabled, and/or African-American voters. Plaintiffs are also likely to succeed on their claim that the Witness Requirement constitutes a *per se* illegal “test or device” under Section 201 of the Voting Rights Act of 1965. 52 U.S.C. § 10501.

Plaintiffs are also entitled to relief because they will suffer irreparable harm absent relief, and traditional legal remedies will not adequately protect their rights. Further, the harm to Plaintiffs and other voters in South Carolina outweighs any putative harm to the Defendants. Finally, the relief sought by Plaintiffs is in the public interest.

To protect the lives and rights of them and others, Plaintiffs respectfully request that the Court enter a preliminary injunction: (1) prohibiting Defendants from enforcing the Excuse Requirement, S.C. Code Ann. § 7-15-320 and § 7-15-310, to prevent any eligible voter, regardless of age or physical condition, to request, receive, and have counted an absentee ballot for the June 9 primary; (2) prohibiting Defendants from enforcing the Witness Requirement, *id.* § 7-15-220 and § 7-15-420, for all voters for the June 9 primary election; and (3) ordering Defendants to conduct a public information campaign informing South Carolina voters about the elimination of the Challenged Requirements, in coordination with city and county election officials.

Dated: April 27, 2020

Respectfully submitted,

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BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

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COVID-19 has upended our lives in previously unthinkable ways. But the fundamental right to vote must endure in extraordinary times. This case concerns two requirements that threaten the right to vote of South Carolinians in the ongoing crisis: (a) the requirement preventing voters from requesting a mail-in ballot if they fall outside a list of “excuses” that does not, at present, include self-isolation due to a pandemic (the “Excuse Requirement”), and (b) South Carolina’s witness requirement, which mandates that voters submitting mail ballots must have another individual sign as a witness on the voter’s envelope (the “Witness Requirement,” collectively with the Excuse Requirement, the “Challenged Requirements” or “Requirements”).

In this pandemic, the Challenged Requirements will put voters to an untenable choice between disenfranchisement, on the one hand, and risking their lives and the health of their communities, on the other. Indeed, the Requirements will force tens or even hundreds of thousands of voters to do precisely the opposite of what the Governor and public health officials have ordered or recommended them to do. The Governor has ordered all South Carolinians to remain at home or work unless “commuting for work, visiting family, [or] obtaining essential goods or services.”¹ Yet jointly and separately, these Requirements will compel countless South Carolina voters to venture from the safety of their homes to participate in their democracy, at serious risk to their health. Indeed, “[f]orty people in Milwaukee County may have become infected with the coronavirus as a result of participating in Wisconsin elections on April 7.” Attach. A to Cepeda Decl.² And these Requirements will pose a particularly egregious burden

¹ S.C. Exec. Order No. 2020-21 at 6 (Apr. 6, 2020) <https://governor.sc.gov/sites/default/files/Documents/Executive-Orders/2020-04-06%20eFILED%20Executive%20Order%20No.%202020-21%20-%20Stay%20at%20Home%20or%20Work%20Order.pdf>; see also Off. of Gov. McMaster, *Governor McMaster Issues “Home or Work” Order*, S.C. GOV. (Apr. 7, 2020), <https://governor.sc.gov/news/2020-04/governor-mcmaster-issues-home-or-work-order>.

² See also Teran Powell, *40 Coronavirus Cases In Milwaukee County Linked To Wisconsin Election*, Health Official Says, WUWM 89.7 MILWAUKEE’S NPR (Apr. 24, 2020), <https://www.wuwm.com/post/40-coronavirus-cases-milwaukee-county-linked-wisconsin-election-health-official-says#stream/0>.

on Black voters, whom State health officials have acknowledged are at disproportionate risk of fatal or severe illness from the disease.

Without a preliminary injunction, voters will have to choose between accepting disenfranchisement or violating the social distancing rules and recommendations that the State itself has said are critical to preserving public health. This impossible choice severely burdens the right to vote, meriting strict, or at least heightened, scrutiny, which the Challenged Requirements cannot survive. The Excuse Requirement fails because South Carolina already allows voters to vote absentee “because of injury or illness,” and the Constitution demands that election laws be read to protect the lives of voters. Moreover, Defendant Andino admits that the burden to the State of making absentee ballots available to all voters is minimal. Separately, the Witness Requirement will compel thousands of voters who live alone to break social distancing to have a third party sign their ballot while “offer[ing] no benefit” to election officials, as Defendant Andino acknowledged. And it *per se* violates the Voting Rights Act (“VRA”) as an impermissible “test or device.” Even if the Witness Requirement did have some benefit, it is not appropriately tailored to justify the fact that complying with it now puts South Carolina voters in life threatening danger. It needlessly and severely burdens the right to vote and is therefore unconstitutional.

Finally, the balance of the equities and the public interest also support a preliminary injunction. Relief will vindicate the dual public interests of ensuring all qualified voters can vote in June and protecting lives and the public health with little, if any, burden on Defendants. Absent relief, tens or even hundreds of thousands of voters will be forced to risk their health and lives to vote—or simply not vote at all. Plaintiffs therefore request the Court grant a preliminary injunction against the Challenged Requirements for the June 9 statewide primary, and for any

and all subsequent elections in South Carolina at least until such time as in-person interactions needed to comply with them no longer pose a risk to personal safety and the public health.

FACTUAL BACKGROUND

I. The COVID-19 Pandemic

The United States is now the epicenter of the global COVID-19 pandemic. As Plaintiffs' expert Dr. Arthur Reingold explains, the novel coronavirus SARS-CoV-2, causes individuals to contract COVID-19. Declaration of Dr. Arthur Reingold ¶ 7 (attached as Ex. 2). Dr. Reingold is a medical doctor, a public health expert in the area of infectious diseases and epidemiology, and the Division Head of Epidemiology and Biostatistics at the University of California, Berkeley, School of Public Health. Reingold Decl. ¶¶ 1, 3. He spent eight years at the Centers for Disease Control and Prevention ("CDC"), has directed or co-directed the CDC-funded California Emerging Infections Program for more than 25 years, and served as President of both the Society for Epidemiologic Research and the American Epidemiological Society. *Id.* ¶ 1.

COVID-19 spreads mainly from person-to-person through close contact with one another and through respiratory droplets when an infected person coughs or sneezes. Reingold Decl. ¶ 8. Medical experts are continuing to learn more about the ease with which COVID-19 spreads, including whether it is "aerosolized, such that tiny droplets containing the virus remain in the air and can be inhaled by others who come into contact with that air." *Id.*³ People infected may transmit the virus to others even without showing symptoms themselves.⁴

³ See also Elizabeth Cohen, *Experts tell White House coronavirus can spread through talking or even just breathing*, CNN (Apr. 4, 2020), <https://www.cnn.com/2020/04/02/health/aerosol-coronavirus-spread-white-house-letter/index.html>.

⁴ See, e.g., *How COVID-19 Spreads*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html> (last visited Apr. 6, 2020).

COVID-19 can cause severe consequences, including long-term illness and death. Reingold Decl. ¶ 7. Estimates from early March put the fatality rate for people infected with COVID-19 at approximately ten times higher than influenza even in a severe season and including in countries with advanced health care systems.⁵

COVID-19 threatens to infect any individual no matter their age. Reingold Decl. ¶ 7.⁶ While people of all ages have contracted and died from COVID-19, it is particularly fatal for older individuals. Reingold Decl. ¶ 7. COVID-19 also poses greater risks for people with preexisting heart and respiratory conditions including asthma and individuals with compromised immune systems. Reingold Decl. ¶ 7.⁷

II. Public Health Guidance Regarding COVID-19

No vaccine currently exists and will likely not for at least another year, at least for the public at large. Reingold Decl. ¶ 13. Public health experts have explained that social distancing measures including maintaining at least six feet of space between people (as well as consistent hygiene practices) are the only known effective measures for protecting against transmission of COVID-19. *Id.* ¶ 10.⁸ Accordingly, the South Carolina Department of Health and Environmental Control (“DHEC”) has urged social distancing by “staying home as much as

⁵See Betsy McKay, *Coronavirus vs. Flu: Which Virus is Deadlier*, WALL ST. JOURNAL (Mar. 10, 2020), <https://www.wsj.com/articles/coronavirus-vs-flu-which-virus-is-deadlier-11583856879>; see also *Castillo v. Barr*, No. 20-00605, 2020 WL 1502864, at *2 (C.D. Cal. Mar. 27, 2020) (“COVID-19 is highly contagious and has a mortality rate ten times higher than influenza.”).

⁶ See also CDC COVID-19 Response Team, *Severe Outcomes Among Patients with Coronavirus Disease 2019 (COVID-19)—United States, February 12 – March 16, 2020*, CDC Morbidity & Mortality Wkly. Rep., <https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e2.htm> (last updated Mar. 26, 2020).

⁷ See also *Groups at Higher Risk for Severe Illness*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html> (last updated Apr. 17, 2020).

⁸ See also Johns Hopkins Medicine & Lisa Lockerd Maragakis, *Coronavirus, Social and Physical Distancing and Self-Quarantine*, <https://www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus/coronavirus-social-distancing-and-self-quarantine> (last visited Apr. 26, 2020).

possible, staying at least 6 feet away from other people while in public, and avoiding gatherings with many people present.”⁹ According to DHEC, “[t]hese are the best ways to protect yourself and our communities from the spread of COVID-19.”¹⁰

The CDC has also issued guidelines concerning voting during the COVID-19 pandemic. It recommends that states “[e]ncourage voters to use voting methods that minimize direct contact with other people and reduce crowd size at polling stations[,]” including “mail-in methods of voting if allowed in the jurisdiction.”¹¹ This is because there is no evidence that SARS-CoV-2—the virus that causes COVID-19—is being spread through the mail.¹²

The medical risks of widespread in-person voting during a pandemic are increasingly clear, particularly when polling locations are crowded because the State does not make mail-in voting readily available. In Chicago, a poll worker for the March 17 primary died from COVID-19, prompting officials to send letters notifying voters, poll workers, field investigators, and cartage companies who were present at the same polling site.¹³ In Florida, two Broward County poll workers tested positive for COVID-19.¹⁴ And as noted, to date, Wisconsin officials believe

⁹ *Protect Yourself & Those Around You (COVID-19)*, DHEC, <https://www.scdhec.gov/protect-yourself-those-around-you-covid-19> (last visited Apr. 26, 2020).

¹⁰ *Id.*

¹¹ *Recommendations for Election Polling Locations: Interim guidance to prevent spread of coronavirus disease 2019*, CTRS. FOR DISEASE CONTROL & PREVENTION, (COVID-19), <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html> (last updated Mar. 27, 2020).

¹² Press Release, U.S. Postal Serv., Media Statement – COVID-19 (Apr. 2, 2020), <https://about.usps.com/newsroom/statements/usps-statement-on-coronavirus.htm> (citing guidance from World Health Organization, CDC, and Surgeon General).

¹³ Mary Ann Ahern, *Poll Worker at Chicago Voting Site Dies of Coronavirus, Election Officials Say*, NBC CHICAGO (Apr. 13, 2020), <https://www.nbcchicago.com/news/local/chicago-politics/poll-worker-at-chicago-voting-site-dies-of-coronavirus-election-officials-say/2255072/>.

¹⁴ Anthony Man, *Two Broward poll workers, including one who handled voters’ driver licenses, test positive for coronavirus*, S. FLA. SUN SENTINEL (Mar. 26, 2020), <https://www.sun-sentinel.com/coronavirus/fl-ne-broward-elections-poll-workers-coronavirus-20200326-wmg775dvjc5jis2oagxlpmlmule-story.html>.

at least “[f]orty people in Milwaukee County may have become infected as a result of participating in [] elections on April 7.”¹⁵

III. The Effect of COVID-19 in South Carolina

Governor McMaster declared a State of Emergency on March 13, 2020.¹⁶ On March 15, he closed all public schools through March 31,¹⁷ then extended that order through the end of April.¹⁸ He also postponed or rescheduled all elections scheduled on or before May 1, 2020, and delegated responsibility to the State Election Commission (SEC) to ensure that individuals could continue to register to vote.¹⁹ On March 31, he ordered an enumerated list of “non-essential” businesses closed.²⁰ He expanded that order to include retail stores on April 3.²¹

On April 6, Governor McMaster indefinitely ordered all South Carolinians to remain at home or work unless “commuting for work, visiting family, [or] obtaining essential goods or

¹⁵ Attach. A to Cepeda Decl.

¹⁶ S.C. Exec. Order No. 2020-08 (Mar. 13, 2020), [https://governor.sc.gov/sites/default/files/Documents/Executive-Orders/2020-03-13%20FILED%20Executive%20Order%20No.%202020-08%20-%20State%20of%20Emergency%20Due%20to%20Coronavirus%20\(COVID-19\).pdf](https://governor.sc.gov/sites/default/files/Documents/Executive-Orders/2020-03-13%20FILED%20Executive%20Order%20No.%202020-08%20-%20State%20of%20Emergency%20Due%20to%20Coronavirus%20(COVID-19).pdf).

¹⁷ S.C. Exec. Order No. 2020-09 §2 (Mar. 15, 2020), <https://governor.sc.gov/sites/default/files/Documents/Executive-Orders/2020-03-15%20FILED%20Executive%20Order%20No.%202020-09%20-%20Closing%20Schools%20Cancelling%20Elections%20Other%20Provisions%20Due%20to%20COVID-19.pdf>.

¹⁸ *Joint Statement from Gov. Henry McMaster, S.C. Superintendent of Education Molly Spearman*, S.C. Gov (Mar. 24, 2020), <https://governor.sc.gov/news/2020-03/joint-statement-gov-henry-mcmaster-sc-superintendent-education-molly-spearman>.

¹⁹ S.C. Exec. Order No. 2020-09 §3 (Mar. 15, 2020), <https://governor.sc.gov/sites/default/files/Documents/Executive-Orders/2020-03-15%20FILED%20Executive%20Order%20No.%202020-09%20-%20Closing%20Schools%20Cancelling%20Elections%20Other%20Provisions%20Due%20to%20COVID-19.pdf>.

²⁰ S.C. Exec. Order No. 2020-17 §1 (Mar. 31, 2020), <https://governor.sc.gov/sites/default/files/Documents/Executive-Orders/2020-03-31%20eFILED%20Executive%20Order%20No.%202020-17%20-%20Closure%20of%20Non-Essential%20Businesses.pdf>.

²¹ S.C. Exec. Order No. 2020-18 §1(C) (Apr. 3, 2020) <https://governor.sc.gov/sites/default/files/Documents/Executive-Orders/2020-04-03%20eFILED%20Executive%20Order%20No.%202020-18%20-%20Closure%20of%20Additional%20Non-Essential%20Businesses.pdf>.

services.”²² Announcing these restrictions, the Governor explained: “‘It is now time to make these recommended actions required’ . . . ‘too many people are not complying with o[u]r requests for social distancing.’”²³ He added: “This is a stay-at-home order.”²⁴ While the Governor has since modified this order to relax certain restrictions on public beach use and retail businesses,²⁵ the Home or Work order remains in effect.²⁶

As of April 25, DHEC reported over 5,253 COVID-19 diagnoses in South Carolina, resulting in 166 deaths.²⁷ The evidence suggests that community transmission of COVID-19 will persist for the next several months as season changes are “unlikely to stop transmission.”²⁸ As Dr. Reingold testifies, “transmission of the virus will continue through the population until the development and widespread use of a vaccine and/or herd immunity.” Reingold Decl. ¶ 12. Moreover, because other coronaviruses “do not appear to demonstrate seasonality of infection” and the “current virus has circulated widely in countries currently in their hot seasons,” these

²² S.C. Exec. Order No. 2020-21, *supra* note 1; *see also* Off. of Gov. McMaster, *supra* note 1.

²³ Joseph Bustos & Maayan Schechter, *Gov. McMaster toughens SC coronavirus stance, ordering state to work or ‘stay home’*, THE STATE (Apr. 6, 2020), <https://www.thestate.com/news/coronavirus/article241807571.html>.

²⁴ *Id.*

²⁵ *See* S.C. Exec. Order No. 2020-25 (Apr. 16, 2020), <https://governor.sc.gov/sites/default/files/Documents/Executive-Orders/2020-04-16%20eFILED%20Executive%20Order%20No.%202020-25%20-%20Modification%20of%20Emergency%20Restrictions%20for%20Public%20Waters%20%26%20Emergency%20Measures%20for%20Unemployment%20Claims%20%26%20Benefits.pdf>; S.C. Exec. Order No. 2020-28 (Apr. 20, 2020), <https://governor.sc.gov/sites/default/files/Documents/Executive-Orders/2020-04-20%20eFILED%20Executive%20Order%20No.%202020-28%20-%20Modification%20of%20Restrictions%20for%20Public%20Beaches%20%26%20Waters%20%26%20Incremental%20Modification%20of%20Non-Essential%20Business%20Closures.pdf>.

²⁶ *See* S.C. Exec. Order No. 2020-28, *supra* note 25.

²⁷ News Release, DHEC, South Carolina Announces Latest COVID-19 Update (Apr. 25, 2020), <https://www.scdhec.gov/news-releases/south-carolina-announces-latest-covid-19-update-april-25-2020>.

²⁸ Marc Lipsitch, Harvard T.H. Chan Sch. of Pub. Health, Ctr. for Communicable Disease Dynamics, *Seasonality of SARS-CoV-2: Will COVID-19 go away on its own in warmer weather?* <https://ccdd.hsph.harvard.edu/will-covid-19-go-away-on-its-own-in-warmer-weather/> (last visited Apr. 26, 2020).

facts “suggest that transmission of and infection with the virus may not be affected by the weather.” *Id.* ¶ 12.

State public health officials expect to see 750 cases per week through early May and total cases to grow to almost 7,000 by May 9.²⁹ As of April 20, DHEC advised it ““remain[ed] absolutely critical that everyone continues to perform the recommended activities to stop the spread.””³⁰ “[A]s new activities are allowed,” DHEC stressed, it will be “very important that people continue to practice all of the social distancing measures that have been in place and should remain in place.”³¹

IV. South Carolina’s Upcoming Elections

South Carolina originally had elections for many local races scheduled for late March and April, but Governor McMaster rescheduled all those elections to take place after May 1, 2020.³² He took those actions on his “determination that the [outbreak] poses an actual or imminent public health emergency for the State of South Carolina.”³³

South Carolina will hold statewide Democratic and Republican primaries on June 9 and primary runoffs on June 23. Absentee ballot applications for the June 9 primary must be returned to a voter’s county board of elections in person or by mail by June 5 at 5:00 p.m. S.C. Code Ann. § 7-15-330 (“[C]ompleted applications must be returned. . . before 5:00 p.m. on the

²⁹ Isabella Cueto, *Virus cases to keep rising until May, despite models showing SC past peak, DHEC says*, THE STATE (Apr. 20, 2020), <https://www.thestate.com/news/coronavirus/article242150831.html>.

³⁰ Ray Rivera, *DHEC: Reports show curve for COVID-19 cases in SC may have begun flattening; new cases reported*, LIVE 5 WCSC NEWS (Apr. 20, 2020) (quoting Dr. Linda Bell, DHEC epidemiologist), <https://www.live5news.com/2020/04/20/sc-health-officials-announce-new-cases-covid-more-virus-related-deaths/>.

³¹ *Id.*

³² Press Release, S.C. Election Comm’n, March & April Elections Postponed Due to Coronavirus (Mar. 15, 2020), <https://www.scvotes.org/taxonomy/term/1>.

³³ S.C. Exec. Order No. 2020-09 at 1 (Mar. 15, 2020), <https://governor.sc.gov/sites/default/files/Documents/Executive-Orders/2020-03-15%20FILED%20Executive%20Order%20No.%202020-09%20-%20Closing%20Schools%20Cancelling%20Elections%20Other%20Provisions%20Due%20to%20COVID-19.pdf>.

fourth day before the day of the election”). Completed ballots must be returned to the county board in person or by mail no later than 7:00 p.m. on election day.³⁴

On March 30, 2020, Defendant Marci Andino wrote various elected officials, including Governor McMaster. Attach. 2 to Cepeda Decl. (hereinafter “SEC Letter”). The SEC Letter highlighted the Commission’s “concern[] about the safe conduct of the June Primaries, November General Election and all other elections scheduled for 2020.” *Id.* at 1. In the SEC’s view, the “main issue is that [South Carolina] elections, as currently prescribed by law, require large numbers of people to congregate in one place—something that everyone is currently being asked not to do by public safety and health officials.” *Id.* It added: “a large percentage of the state’s poll managers fall into high risk categories, which would likely lead to a deficit in the number of managers needed to staff polling places.” *Id.* at 1-2.

The SEC Letter recommended various “changes to our election process” that the SEC understood were advisable “[i]n order to safely and securely conduct elections during and following the coronavirus pandemic” *Id.* at 2. Among them, the SEC explained, South Carolina should “[a]llow no excuse absentee voting,” *id.*, which it considered a “relatively simple change,” *id.* at 4. The SEC Letter also recommended “[r]emov[ing] the witness requirement on ballot return envelopes[,]” *id.*, which it explained “offers no benefit to election officials[,]” *id.* at 3.

To date, South Carolina has not implemented either recommendation.

V. South Carolina’s Absentee Ballot Excuse and Witness Requirements

South Carolina is an “excuse-required” state: only specific categories of qualified voters may vote by absentee ballot. S.C. Code Ann. § 7-15-320. Individuals who apply for an absentee

³⁴ *Absentee Voting*, S.C. Election Comm’n, <https://www.scvotes.org/absentee-voting> (last visited Apr. 26, 2020).

ballot must sign an application that declares a “reason for request,” among other information. *Id.* § 7-15-340. The election laws set out several categories of qualified voters who may vote by mail “whether or not they are absent from their county of residence on election day.” *Id.* § 7-15-320(B). That list includes “physically disabled persons[,]” *id.*, who are voters that “cannot be present in person at [their] voting place on election day” “because of injury or illness,” *id.* § 7-15-310. Neither this category nor any of the others listed in the laws “include self-isolating due to a pandemic.” SEC Letter, at 2.

Individuals may apply for an absentee ballot in person or by mail. S.C. Code Ann. § 7-15-330. Voters must sign the application and affirm an oath stating “I do swear or affirm that I am a qualified elector, that I am entitled to vote in this election, and that I will not vote again during this election. The information above is true in all respects, and I hereby apply for an absentee ballot for the reason indicated above.” *Id.* § 7-15-340. When a registrar receives an absentee ballot application and verifies that the individual properly completed the application and that they are a registered voter in the jurisdiction, the registrar mails to the individual the several items, including: (a) one of each ballot to be used in the election; (b) printed instructions for each ballot; (c) an envelope marked “Ballot Herein” to place completed ballots; and (d) a return-addressed envelope for use to return the “Ballot Herein” envelope and all ballots to the board of voter registration and elections, imprinted with an “oath of absentee ballot applicant.” *Id.* § 7-15-370.

The oath informs, among other things, that the applicant is qualified to vote in the election, has not already voted, and that the applicant received no assistance in voting that they would not have been entitled to receive had they voted in person.

To vote, the voter “must mark each ballot on which he wishes to vote,” place each in the single envelope marked “Ballot Herein,” and then place that envelope in the provided return-addressed envelope. S.C. Code Ann. § 7-15-385. The voter must return their ballot in the return-addressed envelope provided, which must be “signed and witnessed.” *Id.* § 7-15-220. Starting at 9:00 a.m. on election day, managers begin examining all return-addressed envelopes received by the county boards of election. *Id.* § 7-15-420. Managers must make sure that each oath has been properly signed and witnessed and includes the witness’s address. A ballot that has not been properly signed and witnessed or does not include the witness’s address cannot be counted. *Id.* § 7-15-420.

South Carolina law does not afford a voter notice or the opportunity to cure a ballot that is not counted because of a defective witness signature.

VI. South Carolina’s Laws Supporting Absentee Voting Election Integrity

Various South Carolina laws ensure the integrity of absentee balloting procedures. The board of voter registration and elections assigns each absentee ballot application a specific serial number, which is then memorialized in a “record book.” S.C. Code Ann. § 7-15-330. That record book is updated to reflect extensive information about the applicant, including: their name and address, the date on which the ballot and return-addressed envelope are issued, and the date on which the return-addressed envelope (containing the ballot) is received by the board. S.C. Code Ann. §§ 7-15-330, 7-15-370, 7-15-385. Only return-addressed envelopes that are received and recorded in the record book by these procedures are securely stored “in a lock box within the office of the board of voter registration and elections.” *Id.* § 7-15-385. And only ballots in the return-addressed envelopes in the lock box are counted. *Id.* § 7-15-410. Voters must attest under penalty of perjury their identity, residence, and that they will not double vote when they request their absentee ballot. *Id.* § 7-15-340. They must do so again when they sign their ballot

envelope. *Id.* § 7-15-380. Moreover, any elector or qualified watcher may challenge the absentee vote of any person whom they suspect is not a qualified voter. *See* S.C. Code Ann. §§ 7-15-420, 7-13-810, and 7-13-830.

South Carolina also has various criminal laws to prevent and punish misuse of absentee ballots. A person who fraudulently attests to the absentee ballot application by “double-voting” is guilty of a misdemeanor and subject to a fine of up to \$500 or imprisonment for up to a year. S.C. Code Ann. §§ 7-15-340, 7-25-20. They are separately guilty of “voting more than once at elections” and may be fined at the court’s discretion or imprisoned as long as three years. *Id.* § 7-25-110. Other provisions set penalties for “impersonating a voter.” *Id.* § 7-25-120. And for “swearing falsely at elections or taking oath in another’s name.” *Id.* § 7-25-150.

South Carolina is only one of eleven states with a witness or notarization requirement.³⁵ There is no indication that the absentee voting systems of the 39 other states without a witness or notarization requirement are overrun by election integrity issues.

VII. The Public Health and Disenfranchisement Consequences of the Challenged Requirements During Significant COVID-19 Transmission

A. The Excuse Requirement

Voting in person while the risk of transmission of COVID-19 persists is firmly disfavored, and the CDC strongly encourages voters to use “mail-in methods of voting” wherever allowed, among other ways to “minimize direct contact with other people and reduce

³⁵ *See* Chart, “Verifying Authenticity of Absentee/Mailed Ballots,” Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options, Nat’l Conf. of State Legislatures (Apr. 3, 2020), <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>; *cf.* Ala. Code §§ 17-9-30(b), 17-11-7, 17-11-10; Alaska Stat. § 15.20.030; La. Stat. Ann. § 18:1306(2)(a); Miss. Code Ann. §§ 23-15-627, 23-15-635, 23-15-633; Mo. Rev. Stat. §§ 115.279, 115.283, 115.295; N.C. Gen. Stat. § 163-231; Okla. Stat. tit. 26, § 14-108; 17 R.I. Gen. Laws § 17-20-23; S.C. Code Ann. §§ 7-15-220, 7-15-230; Wis. Stat. § 6.87(4)(b)(1).

crowd size at locations.”³⁶ “Polling locations are a prime area for increased transmission of SARS-CoV-2 due to the close proximity of a large number of individuals—voters, observers, poll workers—in a limited space.” Reingold Decl. ¶ 17. Moreover, polling sites are “highly likely” to cause increased infection “[d]ue to the transmission of the virus via contaminated environmental surfaces.” *Id.*

These sobering facts will severely burden any South Carolina voter who lacks an absentee “excuse” and must instead decide between voting in person or not at all.

B. The Witness Requirement

For “individuals without another person able to witness in their household, the requirement that they have someone witness their absentee ballot would place them at increased risk of exposure to and/or transmission of COVID-19.” Reingold Decl. ¶ 18. This is because coming “in close enough proximity to witness their ballot would place them at increased risk of infection,” and “would be particularly risky for those who are at a greater risk of complications and death from COVID-19.” *Id.* And for public health purposes, “to prevent increasing the scope of the outbreak of COVID-19, we must assume that anyone could be infected and infect another person.” *Id.* ¶ 11.

Yet according to 2018 American Community Survey (ACS) statistics from the Census Bureau, 14.5% of South Carolinians age 18 and older live alone. Decl. of William Cooper ¶ 6 (attached as Ex. 3). Assuming similar numbers in the 2020 November general election, over 558,826 South Carolinians will face the choice of either risking their health by voting in person or finding a witness for their absentee ballots, or not voting at all. *Id.* Like Plaintiffs, the

³⁶ Centers for Disease Control and Prevention, *Recommendations for Election Polling Locations: Interim guidance to prevent spread of coronavirus disease 2019 (COVID-19)*, <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html> (last updated Mar. 27, 2020).

Witness Requirement will force most of these individuals to decide between protecting their lives and communities or not having their ballot counted.

This severe burden on the right to vote will fall more heavily on older people, persons with disabilities, and African Americans, among others. About 222,484, or 39.8%, of all South Carolinians living alone are age 65 and older. Cooper Decl. ¶ 6. That means 24.7% of South Carolinians age 65 and older live alone. *Id.* 148,897, or 26.6%, of South Carolinians 18 and older living alone are disabled and for the subset of 65 and over living alone, 88,940, or 39.2%, are disabled. Cooper Decl. ¶ 7. For the 1.02 million African American of voting age, 170,075, or 16.7%, live alone. *Id.* ¶ 8. Indeed, 33.2% of African Americans households contain person living alone, as opposed to just 28.2% of white households. *Id.* ¶ 11(d). And 14.8% of all African-American households in South Carolina are headed by women who live alone with their children under 18 (*i.e.*, people who are not legally competent witnesses) versus just 3.9% of similar white households. Attach. A to Cooper Decl., at 29.

C. The Challenged Requirements and COVID-19's Severe *Impact on African Americans in South Carolina*

Nationally, the COVID-19 pandemic has had a particularly devastating effect on African-American communities. A CDC report published April 8, 2020, which included data from 1,482 patients hospitalized across 14 states, found that African-American patients made up 33% of those for whom race or ethnicity information was available, despite representing only 18% of the states' populations.³⁷

Plaintiffs' expert, Dr. Courtney Cogburn, an associate professor at the Columbia University School of Social Work, explains that racial disparities in serious illness and death due

³⁷ CDC Morbidity and Mortality Weekly Report, Hospitalization Rates and Characteristics of Patients Hospitalized with Laboratory-Confirmed Coronavirus Disease 2019—COVID-NET, 14 States, March 1-30, 2020 (Apr. 8, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6915e3-H.pdf>.

to COVID-19 are inextricably tied to past and present patterns of racial discrimination in healthcare, housing, and employment, not just poverty. Declaration of Dr. Courtney D. Cogburn ¶ 7-15 (attached as Ex. 4). This includes racial bias in medical care and the rationing of COVID-19 testing and care, higher rates of un-insurance and blue collar “essential” jobs, and even the increased risk of diseases, which is linked to housing segregation. *Id.* Brenda C. Murphy, current president of the South Carolina State Conference of Branches of the NAACP, explains that “empirical evidence” leads her to “strongly believe . . . that this pandemic has exposed underlying inequalities that have long existed.” Declaration of Brenda C. Murphy ¶ 10 (attached as Ex. 5).

Well-documented trends of racially disparate patterns of illness and mortality due to COVID-19 also exist in South Carolina. As of April 16, African Americans in South Carolina represented 41% of reported COVID-19 cases and 57% of related deaths³⁸ despite making up just 27% of the State’s population.³⁹

South Carolina’s long pattern of racial discrimination results in the health and socioeconomic life patterns that put African Americans at greater risk from COVID-19. For example, because of longstanding racial biases in medical care, African Americans with symptoms like cough and fever are less likely to be given one of the scarce COVID-19 tests. Cogburn Decl. ¶ 15.⁴⁰ DHEC has also recognized that African Americans are “disproportionately

³⁸ DHEC, *SC Demographic Data (COVID-19)*, <https://scdhec.gov/sc-demographic-data-covid-19> (last visited Apr. 21, 2020).

³⁹ U.S. Census Bureau, *QuickFacts South Carolina*, <https://www.census.gov/quickfacts/SC> (last visited Apr. 21, 2020).

⁴⁰ See also Rubix Life Sciences, *Health Data in the COVID-19 Crisis: How Racial Equity is Widening for Patients to Gain Access to Treatment* (Mar. 20, 2020), <https://rubixls.com/wp-content/uploads/2020/04/COVID-19-Minority-Health-Access-7-1.pdf> (Attach. C to Cepeda Decl.); see also Blake Farmer, *The Coronavirus Doesn't Discriminate, But U.S. Health Care Showing Familiar Biases*, NPR (Apr. 2, 2020), <https://www.npr.org/sections/health->

affected by [lack] of access to care,”⁴¹ and that “[u]nderlying medical conditions such as diabetes, heart disease, hypertension, obesity, and asthma might make it more likely that African Americans are admitted to the ICU or die from the disease.”⁴²

Racial discrimination in South Carolina has also resulted in socioeconomic inequalities that disadvantage African Americans. For example, in South Carolina, 24.5% of African Americans and just 15.2% of whites over age 16 work in “blue collar” service occupations—*i.e.*, jobs like grocers, nurses, or other essential workers who are forced to leave home and face increased exposure to COVID-19. Attach. A to Cooper Decl., at 13. Whereas 39.9% of white people versus only 23.1% of African Americans in South Carolina hold management or professional occupations—*i.e.*, “white collar” jobs that are much more likely to allow employees to continue to work safely at home. *Id.*

According to the ACS, in South Carolina, African Americans are also more likely to lack health insurance (11.6% of African Americans and 8.3% of white people), *id.* at 18; have a disability (among people over 65, 38.6% of black and 33.1% of white people have a disability, and, among people 18 to 64, 14.2% of African Americans and 11.6% of whites have a disability), *id.* at 7; lack a high school degree (16.1% of black and only 8.7% of white people), *id.* at 5; and live below the poverty line (in general, 21.1% of African-American and 6.4% of white households, *id.* at 19, and, among those over 65, 17.8% of African Americans over 65 versus 7.1% of whites), *id.* at 22.

[shots/2020/04/02/825730141/the-coronavirus-doesnt-discriminate-but-u-s-health-care-showing-familiar-biases](https://www.youtube.com/watch?v=Vv64tAZI_dY) (Attach. D to Cepeda Decl.).

⁴¹ SouthCarolinaETV, *Governor's Update on Coronavirus (COVID-19) | April 16, 2020*, YOUTUBE (Apr. 16, 2020), https://www.youtube.com/watch?v=Vv64tAZI_dY.

⁴² Tonya Brown, *More African Americans are dying from COVID-19 than other races in South Carolina*, 15 NEWS (Apr. 9, 2020) (quoting DHEC statement), <https://wpde.com/news/coronavirus/more-african-americans-dying-from-covid-19-in-south-carolina> (Attach. E to Cepeda Decl.).

VIII. Injuries and Irreparable Harm to Plaintiffs

Individual Plaintiffs Mary Thomas, Nea Richard, Jeremy Rutledge, Trena Walker, and Dr. Brenda Williams are South Carolina registered voters who regularly vote and wish to do so in the upcoming statewide June 9 primary. Decl. of Mary Thomas ¶ 5 (attached as Ex. 6); Decl. of Nea Richard ¶¶ 2, 5 (attached as Ex. 7); Decl. of Jeremy Rutledge ¶ 10 (attached as Ex. 8); Decl. of Trena Walker ¶ 4 (attached as Ex. 9); Decl. of Brenda Williams ¶¶ 2, 8 (attached as Ex. 10). They all, except Ms. Richard, wish to vote by absentee ballot because of the high risk of exposure to COVID-19 if they vote in person. Thomas Decl. ¶ 5; Richard Decl. ¶ 5; Rutledge Decl. ¶ 10; Walker Decl. ¶ 10; Williams Decl. ¶ 9.

Plaintiffs Rutledge and Walker usually vote in person, do not usually consider themselves unable to vote in person, and are under 65-years-old. Rutledge Decl. ¶¶ 1, 5; Walker Decl. ¶ 10. They do not believe they qualify for any of the absentee “excuses.” Rutledge Decl. ¶ 5; Walker Decl. ¶ 10. Because of the risk of COVID-19 transmission, they will be disenfranchised in the June 9 primary if the Excuse Requirement remains in place or, at a minimum, forced to make a devastating choice between their health and their right to vote. Rutledge Decl. ¶ 11; Walker Decl. ¶¶ 9-10. Plaintiffs Rutledge and Walker both have underlying medical conditions and are at severe risk of complications from COVID-19. Rutledge Decl. ¶¶ 6-7; Walker Decl. ¶¶ 6-7. Were Plaintiff Walker to qualify for an absentee ballot, she would also be disenfranchised by the Witness Requirement, as she lives with three children under the age of 12, none of whom are legally competent to witness and sign her ballot. Walker Decl. ¶¶ 2, 11.

Plaintiffs Thomas and Williams are over 65-years-old and qualify to vote by absentee ballot. Thomas Decl. ¶¶ 1, 5; Williams Decl. ¶¶ 1, 9. However, because Ms. Thomas lives alone, she would have to break social distancing guidelines to have her absentee ballot witnessed or counted to comply with the Witness Requirement. Thomas Decl. ¶¶ 6, 8. She does not intend

to do so and thus will be disenfranchised if the Witness Requirement remains in place for the June 9 primary. Thomas Decl. ¶¶ 8-9. Dr. Williams, meanwhile, currently has COVID-19 and is self-quarantining. Williams Decl. ¶¶ 8, 11. She is concerned that unnecessarily breaking quarantine to have her absentee ballot witnessed or witnessing the ballots of others, like her husband, will endanger their lives. Williams Decl. ¶¶ 9, 11. Neither Ms. Thomas or Dr. Williams intends to vote in a manner that places them or others at higher risk from COVID-19 infection or death. Thomas Decl. ¶¶ 8-9; Williams ¶¶ 9-11; *see also* Murphy Decl. ¶ 12 (describing an elderly and disabled NAACP member who also lacks access to a witness).

Plaintiff Richard intends to vote in person and serve as a poll worker on election day. Richard Decl. ¶ 5. On Election Day, she must closely interact with hundreds of voters in a manner that risks COVID-19 infection. *Id.* ¶ 6. There will not be enough time to properly sanitize voting equipment. *Id.* ¶ 9. Because the Challenged Requirements will needlessly force voters, like Plaintiffs Rutledge and Walker, to vote in person, she worries that further congestion at the polls will place her at higher risk of infection. *Id.* ¶ 7.

Plaintiff the Family Unit, Inc. is a nonpartisan, charitable organization with the mission of empowering and serving the needs of the low-income community of Sumter County, South Carolina. Williams Decl. ¶ 3. It is led by Plaintiff Dr. Brenda C. Williams. *Id.* Its constituents and members are mostly African Americans and/or low-income people with a high school education or less. *Id.* To serve its mission, the Family Unit educates and registers voters; helps eligible voters to navigate absentee voting; restores abandoned homes for working-poor families to live in; helps people find employment; volunteers with elderly people; and advocates for improved school facilities for children in Sumter County. *Id.* In recent years, the Family Unit's members and constituents have had their absentee ballots rejected because of the Witness

Requirement. *Id.* ¶ 4. The difficulties experienced by the Family Unit’s members and constituents in attempting to vote absentee under the Challenged Requirements have been magnified substantially by the COVID-19 pandemic. *Id.*

As a direct result of the Challenged Requirements, the Family Unit has had to divert its limited resources and time from its core activities to investigate, respond to, mitigate, and address the concerns of its members and constituents impacted or disenfranchised by the Challenged Requirements and Defendants’ inadequate efforts to protect voters from COVID-19 ahead of the 2020 elections. *Id.* ¶ 5. For example, after learning about the impact of the Challenged Requirements on its members and constituents, Dr. Williams requested information from county election officials, interviewed affected voters, and reviewed information about the impact of the Challenged Requirements. *Id.* ¶ 6. In absence of the Challenged Requirements, the Family Unit would not have had to engage in these activities. *Id.*

ARGUMENT

A preliminary injunction is warranted if Plaintiffs show: (1) a likelihood of success on the merits, (2) likelihood of suffering irreparable harm, (3) the balance of hardships favor them, and (4) the injunction serves the public interest. *Metro. Reg’l Info. Sys., Inc. v. Am. Home Realty Network, Inc.*, 722 F.3d 591, 595 (4th Cir. 2013) (citing *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). Here, each factor decisively favors Plaintiffs. In evaluating the burdens on voters, the Court may and should “take judicial notice of official government reports and statistics” including election and voter registration statistics and public health reports from government agencies such as the CDC and DHEC. *United States v. Cecil*, 836 F.2d 1431, 1452 (4th Cir. 1988) (internal citations omitted).

I. Plaintiffs Are Likely to Prevail on the Merits of Their Claims Against the Challenged Requirements.

Plaintiffs “need not establish a ‘certainty of success,’” just “make a clear showing” that they are likely to succeed. *Di Biase v. SPX Corp.*, 872 F.3d 224, 230 (4th Cir. 2017). They are. The First and Fourteenth Amendments do not allow a state to put voters to an unconscionable choice between protecting their health and the health of their families and communities or forfeiting their fundamental rights. The Challenged Requirements will deprive thousands of qualified citizens the right to vote or to have their vote counted. And they will do so by imposing restrictions on the franchise that are directly at odds with the Governor’s stay-at-home order and public health guidance expected to remain in place for the foreseeable future.

Under *Anderson v. Celebrezze* and *Burdick v. Takushi*, any government burden on the right to vote must be balanced against the stated government interest supporting the burden. *Burdick v. Takushi*, 504 U.S. 428, 434 (1992) (citing *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983)). The Fourth Circuit describes the framework as follows:

When facing any constitutional challenge to a state’s election laws, a court must first determine whether protected rights are severely burdened. If so, strict scrutiny applies. If not, the court must balance the character and magnitude of the burdens imposed against the extent to which the regulations advance the state’s interests in ensuring that “order, rather than chaos, is to accompany the democratic processes.”

Fusaro v. Cogan, 930 F.3d 241, 257-58 (4th Cir. 2019) (citation omitted).

Strict scrutiny is proper when the Court considers election laws that impose greater burdens on voters in the context of an emergency. Indeed, courts have recently applied strict scrutiny in challenges to ballot-access laws where “stay-at-home” orders collided with those laws to severely burden a candidate’s ability to collect enough signatures to get on the ballot.⁴³ See

⁴³ Ballot-access laws implicate “the right of qualified voters, regardless of their political persuasion, to cast their votes effectively.” *Williams v. Rhodes*, 393 U.S. 23, 30-31 (1968). In the COVID-19 pandemic, state courts have also closely scrutinized the burdens that these laws imposed on voters compelled to remain at home or under social distancing orders. See *Faulkner v. Va. Dep’t of Elections*, No. CL 20-1546, Slip Op. at 2 (Va. Cir. Ct. Mar. 25, 2020) (enjoining Virginia from enforcing 10,000 signature ballot-access requirement; citing state of emergency and stay at home order and noting “the circumstances as they exist . . . are not normal”) (Attach. F to Cepeda Decl.); see

Libertarian Party of Ill. v. Pritzker, No. 20-cv-2112, 2020 WL 1951687, at *4 (N.D. Ill. Apr. 23, 2020) (finding that the “combined effect of . . . Illinois’ stay-at-home order and the usual in-person signature requirements [posed] a nearly insurmountable hurdle”); *Esshaki v. Whitmer*, No. 20-cv-10831, 2020 WL 1910154, at *1 (E.D. Mich. Apr. 20, 2020) (noting state’s “insist[ence] on enforcing [ballot-access] requirements as if its Stay-at-Home Order . . . had no impact on the rights of candidates and the people who may wish to vote for them”).

The same has held true in non-pandemic emergencies. *See Fla. Democratic Party v. Scott*, 215 F. Supp. 3d 1250, 1257 (N.D. Fla. 2016) (holding that, because a hurricane “foreclosed the only methods of registering to vote” in the final week of registration, the statutory deadline “severe[ly] burden[ed] on the right to vote”); *Ga. Coal. for the Peoples’ Agenda, Inc. v. Deal*, 214 F. Supp. 3d 1344, 1345-46 (S.D. Ga. 2016) (similar); Order, *New Va. Majority Educ. Fund v. Va. Dep’t of Elections*, No. 16-cv-01319, Dkt. No. 10 (E.D. Va. Oct. 20, 2016) (extending registration deadline after the state’s website crashed).

Strict scrutiny applies here because the Challenged Requirements impose particularly severe burdens given the loss of life, toll of sickness from COVID-19, and the risk that violating social distancing protocols pose to Plaintiffs and their communities. Even if the Challenged Requirements ordinarily might pose a tolerable burden to a modest number of voters, it would be “nonsensical” to prioritize them over both the right to vote and people’s lives, “especially given the circumstances here.” *Fla. Democratic Party*, 215 F. Supp. 3d at 1258.

A. The First and Fourteenth Amendment require South Carolina to eliminate the Excuse Requirement under current circumstances.

1. The Excuse Requirement should be assessed under heightened

also Goldstein v. Sec’y of Commonwealth, 2020 WL 1903931, *10 (Mass. Apr. 17, 2020) (ordering the secretary to allow the submission and filing of nomination papers with electronic rather than “wet” signatures).

scrutiny because it severely burdens the rights of all South Carolinians by depriving them of the ability to safely vote in State elections.

The first step under the *Anderson-Burdick* inquiry with respect to the Excuse Requirement is for the Court to assess whether requiring South Carolinians to show up at the polls in person, in the middle of a pandemic, severely burdens the right to vote. The severity of the burden includes an analysis of the both breadth of affected people and the nature of the impact on them. *See Libertarian Party of Va. v. Judd*, 718 F.3d 308, 317 (4th Cir. 2013).

The Excuse Requirement would force tens or even hundreds of thousands of voters to choose between putting themselves and others in serious physical jeopardy and forfeiting their fundamental right to vote. This severe burden on the right to vote triggers stringent scrutiny.⁴⁴

a). *Plaintiffs are likely to succeed in demonstrating the Excuse Requirement unreasonably burdens the right to vote of all South Carolina voters who would vote in person outside of the COVID-19 pandemic.*

Plaintiffs are likely to succeed in demonstrating that the Excuse Requirement puts them, like *all* South Carolina voters who lack a clear absentee “excuse,” in an untenable position. On the one hand, the gravity of the COVID-19 threat is clear. South Carolinians are under an unprecedented order to remain at “Home or Work,” and to “take every possible precaution to avoid potential exposure to . . . COVID-19.” S.C. Exec. Order No. 2020-21, at 6. Over 5,250 of their fellow residents have tested positive and over 160 have died.⁴⁵ And no trusted model predicts that South Carolina will be in totally clear from the effects of the pandemic by June 9.

⁴⁴ Even applying a less stringent balancing test the Excuse Requirement must give way. “[W]hen a law imposes only a slight burden on the right to vote, relevant and legitimate interests of sufficient weight still must justify that burden.” *Democratic Exec. Comm. v. Lee*, 915 F.3d 1312, 1318-19 (11th Cir. 2019); *see also Norman v. Reed*, 502 U.S. 279, 288-89 (1992)). The government lacks an interest in forcing citizens to leave their homes amidst a pandemic in direct contravention of what they’ve been directed to do to protect themselves and mitigate its spread.

⁴⁵ DHEC, South Carolina Announces Latest COVID-19 Update (Apr. 25, 2020), <https://www.scdhec.gov/news-releases/south-carolina-announces-latest-covid-19-update-april-25-2020>.

On the other hand, Defendants are clear that voters need an additional “excuse” to vote by mail in the midst of the outbreak. Indeed, anyone who wishes to do so “must fall into one of 18 categories, none of which include self-isolating due to a pandemic.” SEC Letter, at 2.

The Excuse Requirement demands that voters do the opposite of what public health officials have advised all South Carolinians should do. They must leave the safety of their homes in contravention of the Governor’s Home or Work Order; congregate in person at the polls in close proximity to other people; and foreseeably touch and share various surfaces—like writing implements or voting machines or photo IDs—that persons unknown to them will touch as well. Otherwise, they forego their right to vote in their State’s elections.

The burdens on the right to vote “are severe if they go beyond the merely inconvenient.” *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 205 (2008) (Scalia, J., concurring). That is clearly the case. For individuals who routinely vote in person, including Plaintiffs Richard, Rutledge, and Walker,⁴⁶ the Excuse Requirement comes as close to fully depriving them of the franchise in this crisis as any restriction could. It forces voters to choose between two intolerable options: the very real risk of infection or disenfranchisement—and forces them to fully bear the costs of their choice. The Constitution demands that such a law survive exacting scrutiny.

b). Plaintiffs will likely succeed in demonstrating that the Excuse Requirement unreasonably burdens voters who do not qualify to vote absentee and places voters and poll workers at higher-risk of COVID-19 infections.

Plaintiffs are also exceedingly likely to successfully show that the Excuse Requirement severely burdens voters at high risk of complications from COVID-19 because of a chronic medical condition that falls short of rendering them “physically disabled persons” able to vote absentee. *See* S.C. Code Ann. § 7-15-320(B). Because contracting COVID-19 could easily

⁴⁶ *See* Rutledge Decl. ¶ 5; Walker Decl. ¶ 4.

prove fatal to these voters, the stakes of leaving their home to vote in person are even starker. The Excuse Requirement's burden on their right to vote is therefore extreme. It deserves stringent review. *See Pisano v. Strach*, 743 F.3d 927, 933 (4th Cir. 2014) (“[E]lection laws that impose a severe burden on ballot access are subject to strict scrutiny . . .”).

COVID-19 endangers all, but two distinct groups are at particularly severe risk: the elderly and people with certain underlying medical conditions. Thus, while “geriatric patients are at the greatest risk,” “[l]ikewise, those with immunologic conditions and with other pre-existing conditions, such as hypertension, certain heart conditions, lung diseases . . . diabetes mellitus, obesity, and chronic kidney disease, are at high risk of a life threatening COVID-19 illness.” Reingold Decl. ¶ 7. South Carolina already allows voters “sixty-five years of age or older” to vote absentee in all elections. S.C. Code Ann. § 7-15-320(B).

However, no similar “excuse” currently applies to thousands of voters with various health conditions causing grave risk of illness from COVID-19, but which do not routinely prevent them from being “present in person at [their] voting place on election day.” S.C. Code Ann. § 7-15-310(4). Many of the voters most in danger of illness or death are African Americans like Plaintiffs Thomas and Walker. They have no reason to vote absentee other than “self-isolating due to a pandemic,” which Defendants have advised is not a valid “excuse.” SEC Letter, at 2.

Plaintiff Jeremy Rutledge, a reverend in Charleston, is such a voter. He was diagnosed over a decade ago with systemic scleroderma, an autoimmune disease that manifests in his body by causing the tissue in his lungs to thicken dangerously. Rutledge Decl. ¶¶ 6-7. For years, he has treated his condition by taking immunosuppressant drugs, which both suppress his autoimmune system to keep him safe but put him at extremely high risk of great harm from COVID-19. *Id.* ¶ 7. As a result, Rutledge has strictly self-quarantined himself at home with his

wife and son since at least mid-March and does not anticipate that he will feel safe outside his home until a vaccine or cure for COVID-19 have been developed or found. *Id.* ¶ 8. Rutledge usually votes in person, does not consider himself “physically disabled,” and faces the prospect of not voting in the June 9 primary as a result. *Id.* ¶ 11.

Likewise, Plaintiff Trena Walker would be prevented from requesting an absentee ballot while she strictly self-quarantines, because in spite of her medical history of breast cancer and emphysema, she does not consider herself physically unable to vote in person—she is just rightly fearful that COVID-19 would have a devastating effect on her health or life. Walker Decl. ¶ 10. In rigidly following social distancing and stay-at-home recommendations, Ms. Walker has also closely followed the advice of public health officials to take precautions seriously, because of the disproportionate effect that the virus has already had on Black communities. *Id.* ¶ 8.

Finally, the Excuse Requirement requires poll workers, like Plaintiff Nea Richard, who must closely and personally interact with hundreds of voters on Election Day at heightened risk of infection. Richard Decl. ¶ 7. The Excuse Requirement needlessly, but inevitably will require thousands of voters who would otherwise vote absentee to appear in person and thus endangers the lives of Ms. Richard and hundreds of other poll workers in South Carolina. *Id.* ¶¶ 6-10.

As Dr. Reingold explains, increased absentee voting is a “much safer option” because it “substantially decrease[s] the number of people coming into proximity at polling locations and the spread [of COVID-19] via environmental surfaces.” Reingold Decl. ¶ 17.

2. The Excuse Requirement’s burden on voters is unjustified because Defendants lack an interest in putting voters at risk of COVID-19 infection and have construed a state statute to violate the fundamental rights of voters.

Because the Excuse Requirement imposes severe burdens, the Court should apply heightened review or “strictly scrutinize the state’s interest and the means . . . to achieve those

interests, to ensure that . . . requirements are ‘narrowly drawn’ . . .” *Wood v. Meadows*, 207 F.3d 708, 714 (4th Cir. 2000). The Excuse Requirement fails on this score.

Defendants cannot claim a discernible interest in compelling citizens to vote in person in the midst of a dangerous pandemic. To the contrary, Governor McMaster has required South Carolinians to remain at “home or work” unless absolutely necessary, and expects “the people of the State of South Carolina [to] do their part to slow the spread of COVID-19 . . . by remaining at home whenever possible . . .” S.C. Exec. Order No. 2020-21, at 6. And even “as new activities are allowed,” DHEC has explained that residents must “continue to practice all of the social distancing measures that have been in place and should remain in place.”⁴⁷ While the risk of contagion and bodily harm remains, Defendants cannot state an interest that “make[s] it necessary to burden the plaintiff’s rights.” *Anderson*, 460 U.S. at 789.

Nor could Defendants say that the Excuse Requirement would be “narrowly drawn” to achieve any asserted interest. The forbidding burdens that the Excuse Requirement forces on voters are particularly unjustified because the State’s laws can and should be construed to authorize all voters to vote absentee in this pandemic. South Carolina law allows all persons to vote absentee by mail if “because of injury or illness, [they] cannot be present in person at [their] voting place on election day.” S.C. Code Ann. § 7-15-310(4). In other words, South Carolina’s legislature has already seen fit to provide voters the option to cast a ballot by mail if an illness or ailment keeps them at home on Election Day. Defendants have rejected that construction, opting instead to severely burden the rights of South Carolina voters. The *Anderson-Burdick* framework allows the Court to reach this constitutional harm: “a federal court can review a state official’s interpretation of—or gloss over—state law when it is alleged to violate the United

⁴⁷ *Id.*

States Constitution.” *League of Women Voters of Fla., Inc. v. Detzner*, 314 F. Supp. 3d 1205, 1213 (N.D. Fla. 2018). The Court should “enjoin[] the state from enforcing [its] laws as a violation of the First and Fourteenth Amendments.”⁴⁸ *Id.*

In the current environment, the arbitrariness of the Excuse Requirement is clear: voters staying at home to follow social distancing measures prescribed by the Governor and other public health officials are *all* unable to vote in person “because of an illness”—namely, COVID-19. This reading is consistent with the absentee ballot laws, which “shall be liberally construed,” S.C. Code Ann. § 7-15-20, and nowhere say that a voter must personally contract an illness like COVID-19 in order to qualify for an absentee ballot.

It is also sensible. The absentee ballot laws do not say that a voter who fears they *may* have contracted an illness must still vote in person, putting countless other South Carolinians at an unacceptably high risk of contagion. And they do not, of course, say whether a voter must confirm that they either have or do not have COVID-19 to make sure they qualify “because of illness” before requesting an absentee ballot. *See* Reingold Decl. ¶ 11 (“Some individuals who are infected with the virus do not have any symptoms but can transmit the virus and/or are infectious before they develop any symptoms.”).

The Excuse Requirement need not cause widespread unconstitutional burdens on voters’ rights. Several of the remaining “excuse-required” states have construed near-identical disability or illness absentee “excuses” in ways that avoid such harm. For example, all West Virginia voters may vote absentee in forthcoming elections due to “illness, injury or other medical reason

⁴⁸ *See Obama for Am. v. Husted*, 697 F.3d 423, 431 (6th Cir. 2012) (affirming injunction of Secretary of State’s interpretation of Ohio deadlines where Secretary “construed” the law to apply “particularly high” burdens on non-military voters); *Charles H. Wesley Educ. Found v. Cox*, 324 F. Supp. 2d 1358, 1369 (N.D. Ga. 2004) (construing Secretary of State’s interpretation of state law as state policy and holding Secretary violated federal law), *aff’d* 408 F.3d 1349 (11th Cir. 2005).

which keeps me confined,” because the State now defines “medical condition” as “any threat to a person’s health posed by an epidemic, pandemic, outbreak, disease, virus, or other emergency, which creates potential harm to the public interest, peace, health, safety, or welfare of citizens or voters.” W. Va. Code R. §§ 153-53-2-153-53-3.⁴⁹ The State’s construction of law “cannot violate or alter clear statutory requirements” but rather, simply construes existing state law “in favor of enfranchisement, not disenfranchisement.” W. Va. Code R. § 153-53-1.

Similarly, in response to COVID-19, state officials in Alabama,⁵⁰ Arkansas,⁵¹ Delaware,⁵² Kentucky,⁵³ New Hampshire,⁵⁴ and Virginia⁵⁵ have interpreted their absentee voting laws to permit all eligible voters to vote absentee under certain “illness” or “disability” related excuses.

B. The Witness Requirement Severely Burdens and Violates the Constitution and Fundamental Right to Vote of People who are affected by COVID-19.

1. The Witness Requirement significantly burdens many thousands of South Carolina voters who live alone—especially voters who are older, black, or have disabilities—faced with disenfranchisement or the risk of death.

⁴⁹ W. Va. Sec’y of State Mac Warner, Admin. Law Div., Notice Of An Emergency Rule (Mar. 20, 2020), <http://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=53039&Format=PDF>.

⁵⁰ Ala. Leg. Servs. Agency, Absentee Voting During State of Emergency, 17-11-3(e) (Mar. 18, 2020), <https://www.sos.alabama.gov/sites/default/files/SOS%20Emergency%20Rule%20820-2-3-.06-.01ER.pdf>.

⁵¹ Ark. Exec. Order No. 20-08 (Mar. 20, 2020), https://governor.arkansas.gov/images/uploads/executiveOrders/EO_20-08_.pdf

⁵² Governor of Delaware, Exec. Dep’t, *Sixth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat* (Mar. 24, 2020), <https://governor.delaware.gov/wp-content/uploads/sites/24/2020/03/Sixth-Modification-to-State-of-Emergency-03242020.pdf>

⁵³ Letter of Michael G. Adams, Sec’y of State, to Andy Beshear, Governor (Apr. 23, 2020), https://governor.ky.gov/attachments/20200423_Ltr-from-Sec-of-State-Adams.pdf.

⁵⁴ Memorandum from the Sec’y of State and Att’y General to New Hampshire Election Officials re: Elections Operations During the State of Emergency 2 (Apr. 10, 2020), <https://www.governor.nh.gov/news-media/press-2020/documents/20200410-absentee-voting.pdf>.

⁵⁵ See Va. Dep’t of Elections, *Absentee Voting*, <https://www.elections.virginia.gov/casting-a-ballot/absentee-voting/> (last visited April 5, 2020).

Forcing thousands of people to put their life on the line or face disenfranchisement imposes a severe burden on the right to vote. *See, e.g., Price v. N.Y. State Bd. of Elections*, 540 F.3d 101, 107 n.8 (2d Cir. 2008) (noting for “voters who are . . . housebound” the burden of a lack of absentee voting opportunity “could be quite significant”). The Witness Requirement has the potential to require over a quarter of the electorate to make this impossible “choice.”

Under the Governor’s “Home or Work” order, individuals are required to shelter in place. Even if people do leave their homes, the state directs them to maintain at least six feet of distance from others with whom they do not live. And the CDC encourages as many voters as possible “to use voting methods that minimize direct contact with other people.”⁵⁶ These orders reflect the consensus of doctors and public health officials. As Dr. Reingold explains, “[r]equiring individuals to have someone they are not otherwise being exposed to come into close enough proximity to witness their ballot would place them at increased risk of infection.” Reingold Decl. ¶ 18. This risk is even greater for those over 65, who “are at the greatest risk of severe cases, long-term impairment, and death.” *Id.* ¶ 7. Similarly, people with “immunologic conditions,” like Plaintiff Rutledge, and those with “other pre-existing conditions,” like Plaintiff Thomas who has gout and hypertension, “are at high risk of a life-threatening COVID-19 illness.” *Id.* ¶ 17; Rutledge Decl. ¶¶ 6-7; Thomas Decl. ¶ 7.

The number of South Carolinians who will be forced to either brave the polls or break social distancing guidelines to have someone witness and sign their ballot envelope are striking. As of 2018, 14.5% of South Carolinians (*i.e.*, 558,826) 18 and older live alone. Cooper Decl.

⁵⁶ *Recommendations for Election Polling Locations: Interim guidance to prevent spread of coronavirus disease 2019 (COVID-19)*, Ctrs. for Disease Control & Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html> (last updated Mar. 27, 2020).

¶ 6. At present, South Carolina has over 3.3 million registered voters.⁵⁷ Over 620,000 South Carolinians voted in the June 2018 Democratic and Republican primaries.⁵⁸ And over 540,000 people voted in the February 29, 2020 presidential primary.⁵⁹ Applying this February 2020 figure to the 14.5% of all South Carolina adults living alone, suggests that 78,300 South Carolina voters in the 2020 presidential primary live alone. Conservatively then, because of the expected and unprecedented surge in absentee ballots, the Witness Requirement will force tens of thousands to risk their lives to vote.

Worse, the affected voters will disproportionately be members of populations at heightened risk of death or severe health complications from COVID-19. Although 14.5% of all South Carolinian adults live alone, 39.8% of those South Carolinians living alone are age 65 and older live alone. Cooper Decl. ¶ 6. About 24.7% of South Carolinians age 65 and older live alone. *Id.* ¶ 6. And 26.6% of all South Carolinians of voting age who live alone are disabled; in the subset of residents over 65 who live alone, 39.2% have a disability. *Id.* ¶ 7.

The Witness Requirement places a significantly heavier and deadlier burden on African-American voters amid the pandemic, who face much higher likelihood of death or serious complications from COVID-19. As of April 24, African Americans in South Carolina represented 43% of reported COVID-19 cases and a staggering 56% of related deaths⁶⁰ despite making up just 27% of the State's population.⁶¹ Attach. G Cepeda Decl., at 8, 14. Black South

⁵⁷ *South Carolina Voter Registration Demographics*, <https://www.scvotes.org/cgi-bin/scsec/96vr?countykey=ALL&D1=None> (last visited Apr. 21, 2020).

⁵⁸ S.C. Election Comm'n, 2018 Statewide Primaries Election Night Reporting, <https://www.enr-scvotes.org/SC/75708/Web02-state.203322/#/>.

⁵⁹ S.C. Election Comm'n, 2020 Democratic Presidential Preference Primary, Election Night Reporting, <https://www.enr-scvotes.org/SC/100517/Web02-state.242137/#/>.

⁶⁰ DHEC, *SC Demographic Data (COVID-19)*, <https://scdhec.gov/sc-demographic-data-covid-19> (last visited Apr. 25, 2020).

⁶¹ U.S. Census Bureau, *QuickFacts South Carolina*, <https://www.census.gov/quickfacts/SC> (last visited Apr. 21, 2020).

Carolínians are thus more than twice as likely to have contracted COVID-19 as white people and three times as likely to have died from it. Black people's higher rates of COVID-19 infection and death result from racial disparities in health insurance access, the higher rates of service occupations for African-American workers, which may limit their ability to work from home, and higher rates of disability. *See* Cogburn Decl. ¶ 12; Cooper Decl. at 7, 13, 18. In turn, these racial disparities come from past and present discrimination. *See* Cogburn Decl. ¶¶ 6, 7, 12.

African-American absentee voters are also more likely to have no choice but to defy social distancing guidelines in order to satisfy the Witness Requirement. Black people in South Carolina are more likely to both live alone and live as the alone adult among children under 18 (*i.e.*, legally incompetent witnesses). About 33.2% of all African-American households in the state are people living alone, as compared to 28.2% of white households. And 14.8% of all African-American households in the state are headed by women who live alone with their children versus just 3.9% of similar white households with children.

Beyond statistics, Plaintiffs show the significant barrier that the Witness Requirement imposes on voters. Plaintiff Thomas lives alone and Plaintiff Walker does not live with anyone old enough to witness her ballot. Plaintiff Williams lives with her husband, but her present COVID-19 diagnosis makes it dangerous for her to interact with him. These Plaintiffs cannot both follow public health advice and government orders to isolate and socially distance and have their vote by absentee ballot counted.

Even in normal circumstances, the Witness Requirement causes election officials to reject the ballots of a significant number of absentee voters. In the 2018 elections, 798 South Carolina voters had their absentee ballots rejected for lack of a witness signature. *See* Attach. I to Cepeda Decl. (data from 2018 Election Administration and Voting Survey). But in that election, only

80,271 people or 4.6% of all voters cast mail-in absentee ballots. *Id.*; *see also* Attach. A to Williams Decl. (incorporating correspondence from election officials and records showing that several hundred ballots were rejected because of the Witness Requirement in 2016). Absentee voting in South Carolina is expected to increase exponentially in 2020 because of COVID-19. For example, in Wisconsin's recent election—where thousands of voters waited in long, crowded lines at the polls⁶²—absentee ballot requests were still *five times higher* than in the 2016 primary.⁶³ Under present circumstances, the Witness Requirement will disenfranchise many thousands more voters than it did in 2018 or 2016.

2. The severe burdens imposed by the Witness Requirement in the context of the ongoing COVID-19 pandemic merit heightened judicial scrutiny.

The breadth and severity of the Witness Requirement's burdens merits strict scrutiny. The *Anderson-Burdick* framework requires courts to take a context-specific approach to its burden analysis. *Burdick*, 504 U.S. at 434. Strict scrutiny applies where, as here, state laws needlessly force voters to make impossible choices. *Cf. Republican Party of Ark. v. Faulkner Cty.*, 49 F.3d 1289, 1298-99 (8th Cir. 1995) (applying strict scrutiny to state requirements that political parties conduct and pay for primary elections because such provisions had the effect of

⁶² Parker Schorr, *Wisconsin's pandemic election: Long waits, face masks as voters go to polls*, THE CAP TIMES (Apr. 8, 2020), [https://madison.com/ct/news/local/govt-and-politics/wisconsin-s-pandemic-election-long-waits-facemasks-](https://madison.com/ct/news/local/govt-and-politics/wisconsin-s-pandemic-election-long-waits-facemasks-as-voters-go-to-polls/article_bfd2c391-f390-5364-8c14-a88b548fe017.html)

[as-voters-go-to-polls/article_bfd2c391-f390-5364-8c14-a88b548fe017.html](https://madison.com/ct/news/local/govt-and-politics/wisconsin-s-pandemic-election-long-waits-facemasks-as-voters-go-to-polls/article_bfd2c391-f390-5364-8c14-a88b548fe017.html); Benjamin Swasey, *Wisconsin Vote Ends As Trump Blames Governor For Long Lines*, NPR (Apr. 7, 2020 12:23 PM), <https://www.npr.org/2020/04/07/828835153/long-lines-masks-and-plexiglas-barriers-greet-wisconsin-voters-at-polls>.

⁶³ *Compare* Wisc. Election Comm'n, Absentee Ballot Report - April 7, 2020 Spring Election and Presidential Preference Primary, <https://elections.wi.gov/node/6833> (reporting over 1.28 million absentee ballots requested for April 7, 2020 primary) *with* Riley Vetterkind, *Absentee ballot requests in Wisconsin already exceed number in recent spring elections*, WISC. STATE JOURNAL (Mar. 18, 2020), https://madison.com/wsj/news/local/govt-and-politics/absentee-ballot-requests-in-wisconsin-already-exceed-number-in-recent-spring-elections/article_dfb34fc5-6aa8-5428-90c3-26c3f82a1d70.html (noting that just under 250,000 absentee ballots were requested for the spring 2016 Wisconsin primary).

forcing “many voters who wish[ed] to vote in the Republican primary to vote either in the Democratic primary or not at all”). “[T]he severity of the burden the election law imposes on the plaintiff’s rights dictates the level of scrutiny applied by the court.” *Libertarian Party*, 718 F.3d at 317 (quoting *Nader v. Brewer*, 531 F.3d 1028, 1034 (9th Cir. 2008)). A law that endangers the lives of thousands of voters demands the most exactingly level of scrutiny.

Here, Plaintiffs are “disabled from voting” because they cannot safely “go to the polls on election day” as a result of the COVID-19 crisis and stay-at-home order. *See O’Brien v. Skinner*, 414 U.S. 524, 525 (1974) (striking down an absentee ballot law as-applied to eligible voters in jail). It does not matter that the burdens imposed by the Witness Requirement result from unusual circumstances. *Cf. Libertarian Party*, 718 F.3d at 316-17 (finding that the plaintiff could challenge an election petition law even where his legal injury resulted in part from an unexpected physical injury). Even if the Witness Requirement did not ordinarily burden a large number of voters, which it does, South Carolina cannot impose it when voters cannot comply without endangering their lives and safety. *See Fla. Democratic Party*, 215 F. Supp. 3d at 1258.

3. The Witness Requirement’s severe burdens on voters far outweighs its minimal-to-nonexistent promotion of election integrity.

Because Plaintiffs and other voters face significant danger in voting under the Witness Requirement, it is subject to strict scrutiny. But, even if the Court declines to apply strict scrutiny, the burden on voters in complying with the Witness Requirement far outweighs any nominal benefits to South Carolina from enforcing the witness requirement.

The Witness Requirement does nothing to protect the integrity of an absentee ballot. As Defendant Andino wrote in the SEC Letter urging changes to the elections process in light of the ongoing pandemic: “the witness signature offers no benefit to election officials as they have no ability to verify the witness signature.” SEC Letter, at 3. In fact, South Carolina already

exempts voters in the military or living abroad from the Witness Requirement. S.C. Code Ann. § 7-15-380. Nor does South Carolina even require witnesses to identify themselves by legibly printing their name. S.C. Code Ann. § 7-15-380. The ineffectiveness of witness requirements in securing elections is exactly the reason that Congress eliminated witness signature requirements in the mail-in absentee voter registration process. S. Rep. 103-6, 1993 WL 54278, at *13 (1993).

And, even if the Witness Requirement did marginally serve some interest, South Carolina has ample other methods to police the integrity of absentee ballots, as outlined *supra* at 11-12. Given those robust attestation and verification requirements and criminal penalties, the additional step of requiring a witness signature adds no meaningful protection against fraud. And while instances of fraud are exceedingly rare,⁶⁴ an individual determined to risk the penalties can just as easily forge a witness signature as they can falsely attest when they sign their own name.

Courts have struck down election-related restrictions in similar contexts. In *Libertarian Party of Virginia v. Judd*, for example, the Fourth Circuit applied strict scrutiny to a residency restriction bearing on petition witnesses because it “impose[d] a severe burden” on First Amendment rights. 718 F.3d at 316. Even after presuming that this restriction was effective at preventing fraud, the Court held that the burden was not sufficiently tailored to justify the barrier it imposes on the plaintiffs’ constitutional rights. *Id.* at 317-18.

Similarly, in *Northeast Ohio Coalition for the Homeless v. Husted*, 837 F.3d 612 (6th Cir. 2016), the Sixth Circuit affirmed the invalidation an Ohio law that rejecting absentee ballot

⁶⁴ Even a database from the Heritage Foundation—an organization committed to “[p]reventing, deterring, and prosecuting election fraud,” <https://www.heritage.org/voterfraud>—identifies just one case of election fraud in South Carolina concerning absentee voting in the past 13 years. See The Heritage Foundation, Election Fraud Cases, https://www.heritage.org/voterfraud/search?combine=&state=SC&year=&case_type=All&fraud_type=24489 (last accessed April 26, 2020). During the same time period, approximately 16 million voters cast their ballots in South Carolina elections. See SEC, Voter Participation History (1998-2018), [https://www.scvotes.org/sites/default/files/Voter%20Participation%20History%20\(1998-2018\)_0.pdf](https://www.scvotes.org/sites/default/files/Voter%20Participation%20History%20(1998-2018)_0.pdf).

envelopes that had technical errors in the birthdate or address field. It explained that although “the burden is small for most voters, . . . none of the precise interests put forward by Ohio justifies it” including a generalized interest in “[c]ombating voter fraud.” *Id.* at 632. Because Ohio’s interest was justified by only “the ‘rare’ instances where a fraudster manages to swipe the ballot of a valid voter, forge the signature, and return the ballot” with a voter’s identifying information, a burden on even a few voters was enough to render the law unconstitutional. *Id.*

And, in *One Wisconsin*, the court held that the shortening of the early voting period was only a moderate burden because those voters still had other opportunities to early vote and “can vote using mail-in absentee voting or vote on election day.” 198 F. Supp. 3d at 933. Despite this, the Court held that the rollback violated the fundamental right to vote because the state’s asserted interests “do not justify the moderate burdens that the challenged provisions impose.” *Id.* at 934.

These cases apply with even more force here, where the burdens are significant and the State’s interest marginal (if any). The Witness Requirement cannot survive scrutiny.

4. The Witness Requirement violates the categorical prohibition on “voucher” or supporting witness requirements in Section 201 of the VRA.

Section 201 of the VRA mandates that “[n]o citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State.” 52 U.S.C. § 10501(a). Section 201 defines a “test or device” as including requiring any person to “prove his qualifications by the voucher of registered voters or members of any other class.” 52 U.S.C. § 10501(b)(4).

“All literacy tests and similar voting qualifications were abolished” by Section 201 because, “[a]lthough such tests may have been facially neutral, they were easily manipulated to keep blacks from voting.” *N.W. Austin Mun. Util. Dist. No. One v. Holder*, 557 U.S. 193, 198 (2009). Section 201 “bars certain types of voting tests and devices altogether,” and removes the

burden of demonstrating that a test or device results in discrimination. *Reno v. Bossier Par. Sch. Bd.*, 528 U.S. 320, 338 n.6 (2000).

Under the Witness Requirement, an absentee “ballot may not be counted unless the oath is properly signed and witnessed” S.C. Code Ann. § 7-15-420. Under the plain text of the VRA, it is *per se* illegal insofar as it is a “prerequisite for voting” that asks a voter to “prove his qualifications by the voucher of registered voters or members of any other class.” 52 U.S.C. § 10501(b); *see also Arcia v. Fla. Sec’y of State*, 772 F.3d 1335, 1344 (11th Cir. 2014) (“when Congress does not add any language limiting the breadth of that word, ‘any’ means all”); 52 U.S.C. § 10310(c)(1) (defining “voting” in the VRA to include “all action necessary to make a vote effective”).

The South Carolina Supreme Court has previously concluded that the Witness Requirement is justified because it has “as its purpose the assurance of the authenticity of the absentee vote” *Gregory v. S.C. Democratic Exec. Comm.*, 247 S.E.2d 439, 444 (S.C. 1978). That justification, however, cannot overcome the plain text of the VRA, which reflects Congress’s judgment that prohibited tests and devices “unduly lend themselves to discriminatory application, either conscious or unconscious.” *Oregon v. Mitchell*, 400 U.S. 112, 216 (1970) (opinion of Harlan, J.). Indeed, before the VRA, “voucher” or “witness” requirements were likewise justified as necessary to authenticate a voter’s qualifications. *See, e.g., United States v. Ward*, 349 F.2d 795, 799 (5th Cir. 1965); *United States v. Logue*, 344 F.2d 290, 291 (5th Cir. 1965). Whatever the governmental interest, the banned tests or devices are presumptively discriminatory. *See Lodge v. Buxton*, 639 F.2d 1358, 1363 (5th Cir. 1981), *aff’d sub nom. Rogers v. Lodge*, 458 U.S. 613, 625 (1982). And, although proof of a discriminatory effect is irrelevant under, the Witness Requirement’s racial impact is clear. *Supra* at 30-31.

The Witness Requirement violates the VRA because it requires absentee voters to either comply with an illegal “test or device” or have their vote discarded.

II. Plaintiffs Will Suffer Irreparable Harm Absent a Preliminary Injunction.

“Courts routinely deem restrictions on fundamental voting rights irreparable injury.” *League of Women Voters of N.C. v. North Carolina* (“*LWV*”), 769 F.3d 224, 247 (4th Cir. 2014) (collecting cases). This is because “the right of suffrage is a fundamental matter in a free and democratic society.” *Reynolds v. Sims*, 377 U.S. 533, 561-62 (1964). Further, “once the election occurs, there can be no do-over and no redress,” so the injury to “voters is real and completely irreparable if nothing is done to enjoin [the challenged] law.” *LWV*, 769 F.3d at 247.

Here, both individual Plaintiffs and the Family Unit’s members wish to vote by absentee ballot to protect their health. They face an unconscionable risk to their lives and others if they are compelled to vote in person or forced to have their absentee ballots witnessed. There “can be no injury more irreparable” than “serious, lasting illness or death.” *Thakker v. Doll*, No. 1:20-cv-480, 2020 WL 1671563, at *4 (M.D. Pa. Mar. 31, 2020). Courts have “specifically held that COVID-19 constitutes an irreparable harm that supports the grant of a TRO.” *Id.* at *7 (collecting cases). A preliminary injunction provides the only effective means for protecting Plaintiffs’ and many other South Carolinians’ constitutional rights to vote in the June primary.

The Family Unit also faces irreparable harm. A voting rights organization is “irreparably harmed when the right to vote is wrongfully denied or abridged—whether belonging to its membership or the electorate at large.” *N.C. State Conf. of NAACP v. Cooper*, No. 18-cv-1034, 2019 WL 7372980, at *24 (M.D.N.C. Dec. 31, 2019); *see also Common Cause Georgia v. Kemp*, 347 F. Supp. 3d 1270, 1295 (N.D. Ga. 2018) (finding plaintiff organization’s harm “to its organizational interests is coterminous with the harms suffered by its citizen members”);

Common Cause Ind. v. Lawson, 327 F. Supp. 3d 1139, 1154 (S.D. Ind. 2018), *aff'd* 937 F.3d 944 (7th Cir. 2019) (similar).

Further, the Challenged Requirements irreparably harm the Family Unit’s mission of ensuring that qualified citizens are registered to vote. The Family Unit will need to continue divert its limited resources from voter registration to educate its community about the Challenged Requirements. Williams Decl. ¶ 5. These harms are irreparable: “when a plaintiff loses an opportunity to register a voter, the opportunity is gone forever.” *League of Women Voters of Fla. v. Browning*, 863 F. Supp. 2d 1155, 1167 (N.D. Fla. 2012); *see also LWV*, 769 F.3d at 247; *Action NC v. Strach*, 216 F. Supp. 3d 597, 642-43 (M.D.N.C. 2016).

Finally, the harm to Plaintiffs is also imminent. All of the evidence shows that “COVID-19 will continue to transmit widely” through the June 9 primary. *See* Reingold Decl. ¶¶ 14, 16; *see also* Order on Application for Temporary Injunction, *Tex. Democratic Party v. DeBeauvoir*, No. D1-GN-001610 (Travis Cty. Dist. Ct. Apr. 17, 2020) (finding irreparable harm if all Texas voters cannot vote by mail and noting a high “risk of transmission of COVID-19” for Texas’s “July 14, 2020 Run-Off election and all subsequent elections for this year”) (Attach. H to Cepeda Decl.). And Governor McMaster has expressed his “hope” that “businesses and activities . . . may be safely resumed and conducted using personal safety precautions” “by late June,” which is well after the election. ECF No. 1, Ex 1 at 1.

III. The Balance of Equities and Public Interest Support Injunctive Relief.

The public interest “favors permitting as many qualified voters to vote as possible.” *LWV*, 769 F.3d at 247-48 (citations and internal quotation marks omitted). A “state is in no way harmed by the issuance of a preliminary injunction which prevents the state from enforcing restrictions likely to be found unconstitutional. If anything, the system is improved by such an

injunction.” *Giovani Carandola, Ltd. v. Bason*, 303 F.3d 507, 521 (4th Cir. 2002) (citation and internal quotation marks omitted). After all, “upholding constitutional rights surely serves the public interest,” of which the State is the custodian. *Id.*

Enjoining the Challenged Requirements also promotes “the public interest in . . . safeguarding public health.” *Pashby v. Delia*, 709 F.3d 307, 331 (4th Cir. 2013). “The public interest is clearly in remedying dangerous or unhealthy situations and preventing the further spread of disease.” *Diretto v. Country Inn & Suites by Carlson*, No. 16-cv-1037, 2016 WL 4400498, at *4 (E.D. Va. Aug. 18, 2016). The State recognizes this. The Governor has ordered people to stay in their homes. S.C. Exec. Order No. 2020-21, at 6. DHEC has urged social distancing by “staying home as much as possible.”⁶⁵ Per DHEC, these are the “best ways” to protect against COVID-19.⁶⁶ The CDC agrees and recommends that voters “use voting methods that minimize direct contact with other people.”⁶⁷ These public health entities’ views are entitled to considerable deference. *See Tolman v. Doe*, 988 F. Supp. 582, 586 (E.D. Va. 1997) (explaining that the CDC’s “views are relied upon by the medical profession as authoritative” and that it is “the type of public medical health officials to which courts should defer”).

Conversely, no public interest will be compromised by an injunction authorizing all South Carolina registered voters to vote absentee to prevent harm to themselves or others and the further spread of COVID-19. Strict vote integrity provisions already protect absentee voting, and the Challenged Requirements are an ineffectual method to achieve that goal, in any event.

CONCLUSION

⁶⁵ DHEC, *Protect Yourself & Those Around You (COVID-19)*, <https://www.scdhec.gov/protect-yourself-those-around-you-covid-19> (last visited Apr. 21, 2020).

⁶⁶ *Id.*

⁶⁷ Ctrs. for Disease Control & Prevention, *Recommendations for Election Polling Locations: Interim guidance to prevent spread of coronavirus disease 2019 (COVID-19)*, <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html> (last updated Mar. 27, 2020).

For the foregoing reasons, Plaintiffs respectfully request that the Court enter a preliminary injunction: (1) prohibiting Defendants from enforcing the Excuse Requirement, S.C. Code Ann. § 7-15-320 and § 7-15-310, to prevent any eligible voter, regardless of age or physical condition, to request, receive, and have counted an absentee ballot for the June 9 primary; (2) prohibiting Defendants from enforcing the Witness Requirement, S.C. Code Ann. § 7-15-220 and § 7-15-420, for all voters for South Carolina's June 9 primary; and (3) ordering Defendants to publicly inform all South Carolina voters about the elimination of the Challenged Requirements, in coordination with city and county election officials.

Dated: April 27, 2020

Respectfully submitted,

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*Motion for admission *Pro Hac Vice*
 forthcoming

EXHIBIT 1

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

MARY T. THOMAS, et al.,

Plaintiffs,

v.

MARCI ANDINO, et al.,

Defendants.

Case No.: 3:20-cv-01552-JMC

**DECLARATION OF ADRIEL I. CEPEDA DERIEUX
(pursuant to 28 U.S.C. § 1746)**

My name is Adriel I. Cepeda Derieux. I am over the age of 18 and fully competent to make this declaration. Under penalty of perjury, I declare the following based upon my personal knowledge:

1. I am attorney with the American Civil Liberties Union Foundation. I personally located and/or prepared the attached materials.
2. Attached as Attachment A is a true and current copy of an article titled “40 Coronavirus Cases In Milwaukee County Linked To Wisconsin Election, Health Official Says” published by Milwaukee, Wisconsin NPR station WUWM 89.7 FM, as accessed at <https://www.wuwm.com/post/40-coronavirus-cases-milwaukee-county-linked-wisconsin-election-health-official-says#stream/0>.
3. Attached as Attachment B is a true and correct copy of a March 30, 2020 Letter sent by Marci Andino, in her capacity as Executive Director of the South Carolina State Election Commission, to South Carolina Governor Henry McMaster and other recipients.
4. Attached as Attachment C is a true and correct copy of a report titled “COVID-19 and Minority Health Access” published by Rubix Life Sciences, as accessed at <https://rubixls.com/wp-content/uploads/2020/04/COVID-19-Minority-Health-Access-7-1.pdf>.
5. Attached as Attachment D is a true and correct copy of an article titled “The

Coronavirus Doesn't Discriminate, But U.S. Health Care Showing Familiar Biases” published by National Public Radio (NPR), as accessed at <https://www.npr.org/sections/health-shots/2020/04/02/825730141/the-coronavirus-doesnt-discriminate-but-u-s-health-care-showing-familiar-biases>.

6. Attached as Attachment E is a true and correct copy of an article titled “More African Americans are dying from COVID-19 than other races in South Carolina” published by 15 News, as accessed at <https://wpde.com/news/coronavirus/more-african-americans-dying-from-covid-19-in-south-carolina>.

7. Attached as Attachment F is a true and correct copy of a March 25, 2020 Order granting a preliminary injunction in *Faulkner v. Virginia Department of Elections*, No. CL 20-1546, in the Circuit Court for the City of Richmond.

8. Attached as Attachment G is a true and correct copy of demographic data of South Carolina COVID-19 patients published by the South Carolina Department of Health and Environmental Control (DHEC), as accessed at <https://scdhec.gov/sc-demographic-data-covid-19>.

9. Attached as Attachment H is a true and correct copy of an April 17, 2020 Order granting a temporary injunction in the case *Texas Democratic Party v. DeBeauvoir*, No. D1-GN-001610, in Travis County District Court in Texas.

10. Attached as Attachment I is a true and current copy of data from the 2018 Election Assistance Commission (EAC) Election Administration and Voting Survey reflecting data, broken down by South Carolina city and county, of the total number of mail ballots received for counting and the number rejected for lack of a witness signature. I created this table from data accessed on the EAC’s website at <https://www.eac.gov/research-and-data/datasets-codebooks-and-surveys>, using the EAVS Data Codebook and the EAVS Datasets Version 1.2 (released February 18, 2020).

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

Executed on April 27, 2020.

A handwritten signature in black ink, appearing to read 'Adriel', written over a horizontal line.

Adriel I. Cepeda Derieux

4/27/2020

40 Coronavirus Cases In Milwaukee County Linked To Wisconsin Election, Health Official Says | WUWM

40 Coronavirus Cases In Milwaukee County Linked To Wisconsin Election, Health Official Says

By [TERAN POWELL](#) • APR 24, 2020

[Share](#)[Tweet](#)[Email](#)

People line up to vote at Washington High School in the April 7 election, which took place during the coronavirus pandemic.

TERAN POWELL

Forty people in Milwaukee County may have become infected with the coronavirus as a result of participating in Wisconsin elections on April 7.

Milwaukee Health Commissioner Jeanette Kowalik says data is still being analyzed to show the connection between more people that may have contracted COVID-19 due to election activities, like being a poll worker or voting in person, earlier this month. Kowalik hopes the data will be finalized by May 1.

4/27/2020

40 Coronavirus Cases In Milwaukee County Linked To Wisconsin Election, Health Official Says | WUWM

Wisconsin's April 7 elections consisted of local races and the presidential primary. [Approximately 400,000](#) people voted in person.

>>[The Latest WUWM & NPR Coronavirus Coverage](#)

TAGS: [CORONAVIRUS](#) [ELECTION](#) [WUWM](#)

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March 30, 2020

Honorable Henry D. McMaster
Governor
State of South Carolina
State House
1100 Gervais Street
Columbia, SC 29201

Honorable Harvey Peeler, Jr.
President of the Senate
S.C. Senate
POB 142
Columbia, SC 29202

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Honorable Jay Lucas
Speaker of the House
S.C. House of Representatives
POB 11867
Columbia, SC 29202

Dear Governor McMaster, Senator Peeler and Speaker Lucas:

As the state's chief election agency, the State Election Commission (SEC) is charged by law with supervising the conduct of voter registration and elections throughout the State. This includes ensuring county boards of voter registration and elections comply with federal law, state law, and SEC policies and procedures with regards to voter registration and elections. The SEC also maintains the statewide voter registration system, approves and supports the statewide voting system, conducts a training and certification program for local election officials, conducts candidate filing, and provides a candidate tracking system. However, no provision of state law provides the SEC with emergency powers with regards to the conduct of elections.

As the coronavirus continues to spread across South Carolina and the country, we are concerned about the safe conduct of the June Primaries, November General Election and all other elections scheduled for 2020. The main issue is that our elections, as currently prescribed by law, require large numbers of people to congregate in one place – something that everyone is currently being asked not to do by public safety and health officials. Compounding the issue is the fact that a large percentage of the state's poll managers fall into high risk categories, which



Governor McMaster, Senator Peeler and Speaker Lucas
Page 2

would likely lead to a deficit in the number of managers needed to staff polling places. Furthermore, we anticipate county election officials will likely experience issues with the availability of polling places as well as securing alternative polling places. It is likely that a number of facilities (schools, churches, etc.) will decline to continue being used as a polling place.

As currently defined by state law, voters have two options for casting a ballot: 1) in person at their polling place on election day, or 2) in person or by mail absentee voting. Election day voters at the polls present their identification, sign the poll list, and cast their ballot. To cast an absentee ballot, a voter with a qualifying reason must first request, complete, and return an application for an absentee ballot. The voter will then either vote in person or receive an absentee ballot by mail.

In order to safely and securely conduct elections during and following the coronavirus pandemic, we respectfully ask that sincere consideration be given to making emergency changes to our election process. There is no single or easy solution to protecting more than three million voters and election workers during or following a pandemic. The options outlined below represent proven methods used in other states to conduct elections. Some of the options would require careful planning and implementation, while others are easier to implement in a short timeframe.

- Absentee voting
 - o Allow no excuse absentee voting
 - o Allow applications for absentee ballots to be submitted electronically
 - o Remove the witness requirement on ballot return envelopes
 - o Allow voters with disabilities to use our existing electronic ballot delivery tool
 - o Allow first responders and medical personnel to use our existing electronic ballot delivery tool
- Early voting and vote centers
- Vote by mail

Absentee Voting

As voters look for ways to safely cast a ballot, we expect voters will likely avoid polling places and seek to vote absentee by mail. To qualify to vote absentee, the voter must fall into one of 18 categories, none of which include self-isolating due to a pandemic. Removing the requirement that a voter must fall into one of these

Governor McMaster, Senator Peeler and Speaker Lucas
Page 3

categories, i.e. “no excuse” absentee voting, would open the absentee process to all South Carolinians.

To vote absentee, a voter must first request an application. Usually, the application is mailed to the voter, the voter then completes it and returns it to election officials. This process is time consuming and is not designed to accommodate large numbers of voters. Allowing voters to submit absentee ballots requests online would streamline the absentee voting process for voters and election officials. Voters would simply apply online and receive their ballot in the mail.

Absentee voting also requires voters to have another person witness their signature when returning their ballot. While election officials check the voter’s signature, the witness signature offers no benefit to election officials as they have no ability to verify the witness signature. Removing the requirement for a witness signature would remove a barrier many voters would likely encounter while in self-isolation.

Under current law, military and overseas citizens can access their ballot online through the SEC’s ballot delivery tool, mark it, print it and return it to election officials by mail, email or fax. Voters in these categories do not have to wait for their ballot to be sent to them and have additional options in returning their ballots. Like military and overseas citizens, first responders, medical personnel and voters with disabilities face unique barriers to accessing traditional voting methods. Expanding electronic ballot delivery and return to include these groups would help ensure they have access to the voting process.

Early Voting and Vote Centers

Early voting is the process by which any voter can vote during a defined period prior to election day. Early voting can take place in designated early vote centers. The goal of early voting is to relieve congestion at polling places on election day by spreading out the voting process and to increase participation by providing voters with additional voting options. Early voting is currently used in 40 states.

Vote by Mail

In most states that have enacted vote by mail, all registered voters are mailed a ballot prior to every election. The voter then mails the ballot back to election officials or drops the ballot off at a designated drop-off site. Some in-person voting locations would likely still be needed, particularly for voters who need the accessibility features of the ballot-marking devices.

Governor McMaster, Senator Peeler and Speaker Lucas
Page 4

Even before the coronavirus pandemic, elections officials were challenged with a significant increase in the number of absentee ballots. To reduce the burden, a bill (S867) was introduced to allow county election officials to begin the lengthy process of opening absentee ballots the day before the election. The bill also requires challenges of in-person absentee voters be made at the time the voter casts their ballot. These changes are designed to ensure election officials have the requisite time to process absentee ballots and deliver results on election night as voters expect. Facing an even larger increases in absentee voting due to coronavirus, the changes in this bill are now even more relevant and desperately needed. In fact, when the bill was written, the coronavirus was not a consideration, and the extra 24 hours provided to process ballots will now likely be insufficient. The bill has passed the Senate and resides in the House Election Laws Subcommittee. We ask the General Assembly to at least pass the current bill and to consider amending the bill to allow election officials to begin processing ballots even earlier.

These potential solutions to conducting safe and secure elections in the midst of a pandemic are put forth in the spirit of identifying solutions that will enable the voters of South Carolina to continue to express their will through elections. Allowing no-excuse absentee voting and online absentee requests are relatively simple changes, while implementation of early voting or vote by mail options are significantly more complicated and will require more time to implement. With that in mind, we respectfully ask that any actions under consideration be made as soon as possible so election officials have to as much time as possible to ensure South Carolina is ready for this year's elections.

Sincerely,



Marci Andino

/mba

Cc: Senator Hugh Leatherman, President Pro Tempore Emeritus
Senator A. Shane Massey, Senate Majority Leader
Senator Nikki G. Setzler, Senate Minority Leader
Senator Luke Rankin, Chairman, Senate Judiciary
Representative Thomas E. Pope, House Speaker Pro Tempore
Representative J. Gary Simrill, House Majority Leader
Representative J. Todd Rutherford, House Minority Leader
Representative Peter McCoy, Chairman, House Judiciary
Representative G. Murrell Smith, Jr., Chairman House Ways and Means

4/27/2020

Racial Bias Showing Up In Coronavirus Testing And Treatment : Shots - Health News : NPR

THE CORONAVIRUS CRISIS

The Coronavirus Doesn't Discriminate, But U.S. Health Care Showing Familiar Biases

April 2, 2020 12:37 PM ET

BLAKE FARMER

FROM

**3-Minute Listen****PLAYLIST**

While more affluent parts of Nashville have had testing sites for weeks, this drive-through testing site at Meharry Medical College, in a historically African American neighborhood, experienced weeks of delays because staff couldn't acquire the needed testing supplies and gear like masks and gloves. It finally opened March 30.

Ken Morris/Meharry Medical College

The new coronavirus doesn't discriminate. But physicians in public health and on the front lines say that in the response to the pandemic, they can already see the emergence of familiar patterns of racial and economic bias.

In one analysis, it appears doctors may be less likely to refer African Americans for testing when they show up for care with signs of infection.

The bio-tech data firm Rubix Life Sciences, based in Boston, reviewed recent billing information in several states, and found that an African American with symptoms like cough and fever was less likely to be given one of the scarce coronavirus tests.

Delays in diagnosis and treatment can be harmful, especially for racial or ethnic minority groups that

have higher rates of certain diseases, such as diabetes, high blood pressure and kidney disease. Those chronic illnesses can lead to more severe cases of COVID-19.

In Nashville, three drive-through testing centers sat empty for weeks because the city couldn't acquire the necessary testing equipment and protective gear like gloves and masks. All of them are in diverse neighborhoods. One is on the campus of [Meharry Medical College](#) — a historically black institution.

"There's no doubt that some institutions have the resources and clout to maybe get these materials faster and easier," says [Dr. James Hildreth](#), president of Meharry and an infectious disease specialist.

His medical school is located in the heart of Nashville, where there were no screening centers until this week.

Most of the testing in the region took place at walk-in clinics managed by Vanderbilt University Medical

Center, and those are primarily located in historically white areas like Belle Meade and Brentwood, Tennessee.

Hildreth says he's observed no overt bias on the part of health care workers, and doesn't suspect any.

But he says the distribution of testing sites shows a disparity in access to medical care that has long persisted.

'I pray I'm wrong'

But if anyone should be prioritized, Hildreth says it's minority communities, where people already have more risk factors like diabetes and lung disease.

"We cannot afford to not have the resources to be distributed where they need to be," he says.

"Otherwise, the virus will do great harm in some communities and less in others."

In Memphis, a heat map shows where coronavirus testing is taking place. It reveals that most screening is happening in the predominantly white and well-off suburbs, not the majority black, lower-income neighborhoods.

Rev. Earle Fisher has been warning his African American congregation that the response to the pandemic may fall along the city's usual divides.

"I pray I'm wrong," Fisher says. "I think we're about to witness an inequitable distribution of the medical resources too."

Around the nation, concentrated pockets are popping up. In Milwaukee, African Americans made up all of the city's first eight fatalities.

Wisconsin Governor Tony Evers says he wants to know why black communities seem to be hit so hard. "It's a crisis within a crisis," Evers said in a video statement.

The Centers for Disease Control and Prevention is also on the ground on the north side of Milwaukee, as well as several other hot spots, looking into the outbreak in black neighborhoods. Nationwide, it's difficult to know how minority populations are faring because the CDC isn't reporting any data on race.

A few states are releasing more demographic data, but it's incomplete. Virginia is reporting race, yet the state's report is missing that information for two-thirds of confirmed cases.

Dr. Georges Benjamin of the American Public Health Association has been pushing health officials to start monitoring race and income in the response to COVID-19.

"We want people to collect the data in an organized, professional, scientific manner and show who's getting it and who's not getting it," Benjamin says.

"Recognize that we very well may see these health inequities."

The subjectivity of symptoms

Until he's convinced otherwise, Benjamin says he assumes the usual disparities are at play.

"Experience has taught all of us that if you're poor, if you're of color, you're going to get services second," he says.

The subjectivity of coronavirus symptoms is what worries **Dr. Ebony Hilton** the most.

"The person comes in, they're complaining of chest pain, they're complaining of shortness of breath, they have a cough, I can't quantify that," she says.

Hilton is an anesthesiologist at the University of Virginia Medical Center who has been **raising concerns**.

She sees problems across the board, from the way social media is being used as a primary way of educating the public to how quickly drive-through

testing has expanded. The first requires internet connection. The second, a car.

Hilton says the country can't afford to overlook race, even during a swiftly moving pandemic.

"If you don't get a test, if you die, you're not going to be listed as dying from COVID," she says. "You're just going to be dead."

This story comes from NPR's reporting partnership with Nashville Public Radio and Kaiser Health News.

coronavirus in the u.s. racial disparities

4/27/2020

More African Americans are dying from COVID-19 than other races in South Carolina | WPDE

More African Americans are dying from COVID-19 than other races in South Carolina

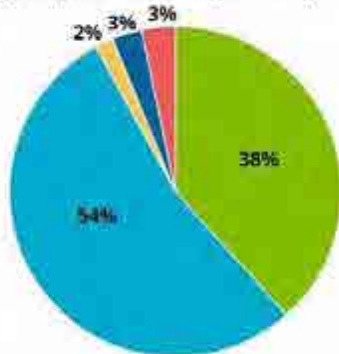
by Tonya Brown
Thursday, April 9th 2020

AA

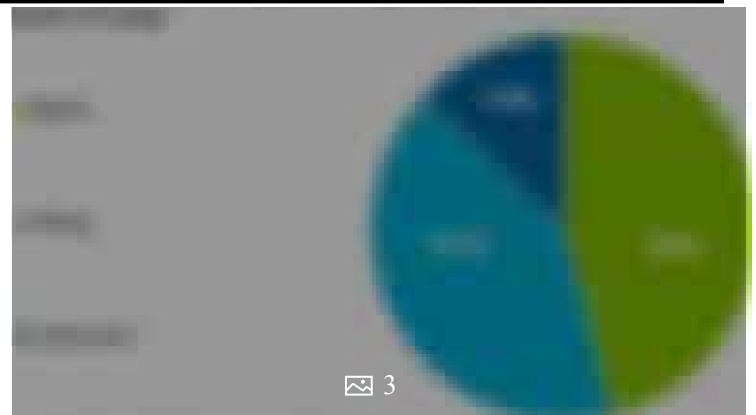


Reported COVID-19 Cases, by Reported Race (n=2053)
Percent of Cases

■ Black
■ White
■ Asian, American Indian, Alaskan Native
■ Unknown
■ Other



All data are provisional and subject to change. These data do not include information on cases currently under



Associated Press said as the coronavirus tightens its grip across the country, it is cutting a particularly devastating swath through an already vulnerable population — black Americans. (WWMT/MGN)



FLORENCE, S.C. (WPDE) — Data from the South Carolina Department of Health and Environmental Control show more African Americans are dying from [coronavirus](#) in the state.

4/27/2020

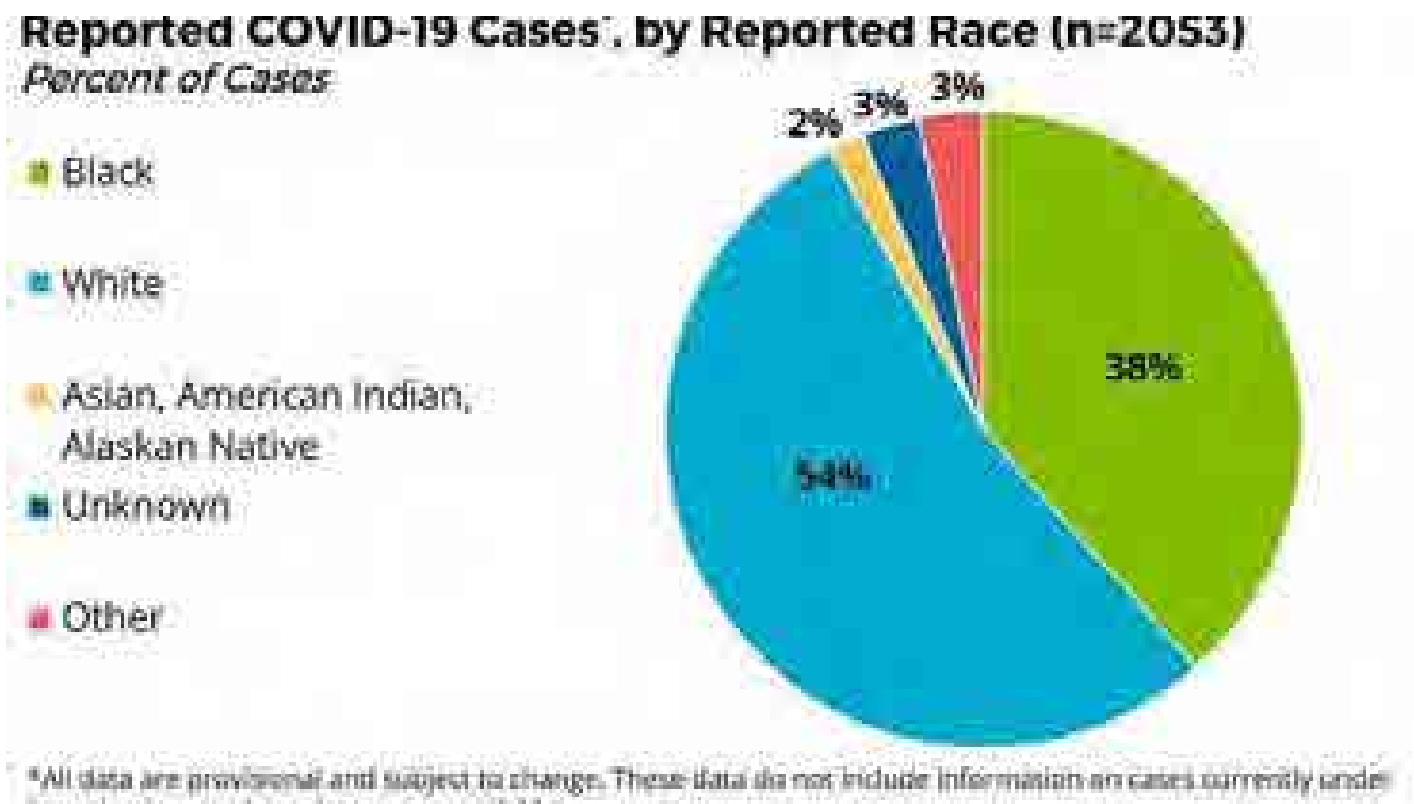
More African Americans are dying from COVID-19 than other races in South Carolina | WPDE

DHEC's most recent numbers say African Americans account for 38% of COVID-19 positive cases, but 46% of deaths from the virus in the state.

According to the most recent statistics from Census Bureau, there are a few more than 5 million people living in South Carolina. White people make up 68.5% and black people 27.1% of the population.

Marlboro County Representative Patricia Moore Henegan said the coronavirus case numbers are alarming when you look at the racial makeup of the state.

"We are at the top of individuals when it comes to this coronavirus. But, we are in the minority, not the majority of the people that are black in these areas. Yet, we have the highest cases of coronavirus. So, that's why I became very interested in knowing. You know, is anyone tracking what is going on in the state of South Carolina?" Moore Henegan said.



Reported coronavirus cases by race as of April 9, 2020. (CDC)

Moore Henegan believes the virus is impacting minority communities at higher rates, primarily because of underlying medical conditions.

"Marlboro County -- we are number one when it comes to diabetes. We are number one when it comes to people who are on kidney machines, a state of having to have kidney dialysis. We are number one when it comes to heart

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More African Americans are dying from COVID-19 than other races in South Carolina | WPDE

disease. Then I started looking at the other statistics of surrounding counties and looking at things that are going on with them, too. And they're high, too."

RELATED: 'A call-to-action moment': Data shows stark racial disparities in coronavirus deaths



Reported coronavirus-related deaths by race as of April 9, 2020. (CDC)

Moore Henegan and fellow Rep. John King co-wrote a letter to DHEC about the impacts of the deadly virus on minorities. She praised the agency for its efforts to fight the spread of the virus but raised other points.

Below is an excerpt from the letter:

"We believe it must be a DHEC priority to prevent this disturbing national trend from occurring in our state. The provisional data provided by the agency that reports African Americans already make up a disproportionate percentage of the state's COVID-19 cases, relative to the state's overall population is truly alarming. We must work quickly to find solutions to address this troubling statistic."

"That's the answer that I want. You know, this is something taking place, and tell me what are we doing. What are we doing to make sure we counteract this? Is anything going on? That's my concern," said Moore Henegan.

She also said she would like to see more testing.

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More African Americans are dying from COVID-19 than other races in South Carolina | WPDE

"I'm not blaming anyone for this virus, but I do want to make sure that we test people. We can't send people home and they die. And then come up with coronavirus, we don't know why. It may have been. It may not have been. We're not counting them in the statistics," said Moore Henegan.

Florence NAACP Branch President Jerry Keith, Jr. believes testing is part of the problem. He believes racial disparities across the state also play a role.

"Lots of these folks are uninsured. A lot of them don't have the availability of healthcare where they need to have it," Keith said.

Dr. Rami Zebian with Florence MUSC Health said the numbers are troubling, but adds that COVID-19 is a novel virus with many unanswered questions.

"We're seeing it throughout the country that African Americans are having being hit harder by this, or they are getting more percentage of deaths or complications. You know, it is unfortunate. We are learning a lot about this disease. I will tell you -- not fast enough. Everybody is struggling for information. We want to know more about it," said Dr. Zebian.

RELATED: [Outcry over racial data grows as virus slams black Americans](#)

ABC 15 reached out to DHEC in reference to Henegan's letter.

The agency sent the following statement:

South Carolina and other states across the U.S. have reported a disproportionate number of cases and deaths in African Americans. There are multiple factors that contribute to various rates of infection and death among different races and ethnicities. Underlying medical conditions such as diabetes, heart disease, hypertension, obesity, and asthma might make it more likely that African Americans are admitted to the ICU or die from the disease.

As an example of the increased prevalence of underlying health conditions in South Carolina, approximately 528,000 adults in our state have been diagnosed with diabetes. However, the prevalence of diabetes is higher among black adults (17.8%) than among white adults (12.4%) in our state.

This data is why we and the CDC are urging the elderly and people with underlying health conditions to stay home if possible, practice social distancing and wear a cloth mask if you have to go out in public, and to call a health care provider or MUSC's free telehealth service if you develop COVID-19 symptoms.

Virginia:

In the Circuit Court of the City of Richmond, John Marshall Courts Building

OMARI FAULKNER FOR VIRGINIA,
OMARI FAULKNER,

Plaintiffs,

v.

VIRGINIA DEPARTMENT OF ELECTIONS,
VIRGNIS STATE BOARD OF ELECTIONS,
ROBERT H. BRINK,
JOHN O'BANNON,
JAMILAH D. LECRUISE,
CHRISTOPHER E. PIPER,
JESSICA BOWMAN,
THE REPUBLICAN PARTY OF VIRGINIA
JACK R. WILSON

Defendants.

Case No.: CL 20-1456

ORDER

On March 25, 2020, the parties appeared, represented by Counsel via telephone conference, on Plaintiff's Emergency Motion for Preliminary Injunction. The Republican Party of Virginia and the Commonwealth Defendants have taken no position on the relief sought in the preliminary injunction. However, Gade for Virginia, Inc. filed a Motion for Intervention, which was granted, and they also filed a response opposing the relief sought in the preliminary injunction.

In Virginia, in order for a Court to grant a preliminary injunction, the party seeking the injunction must establish they would "suffer irreparable harm without the injunction, and that the party has no adequate remedy at al." *May v. R.A. Yancey Lumber Corp.*, 297 Va. 1, 17-18 (2019). Beyond this showing, "granting or denying a temporary injunction is a discretionary act arising from the court's equitable powers." *Id.* Accordingly, courts across the Commonwealth have applied a balancing test similar to that articulated federally in *Winters v. Nat'l Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Namely, courts evaluate (1) the likelihood of success on the merits,

(2) the likelihood of irreparable harm, (3) the balance of the equities, and (4) the public interest in issuing the injunction.

In evaluating the likelihood of success on the merits to this as-applied challenge to Va. Code § 24.2-521(1), we must consider the burden placed on the Plaintiff by the statute. “The right to vote is a ‘precious’ and ‘fundamental’ right.” *Florida Democratic Party v. Scott*, 215 F.Supp.3d 1250, 1256 (2016). Additionally, the “freedom to associate with others for the common advancement of political beliefs and ideas is a form of ‘orderly group activity’ protected by the First and Fourteenth Amendments. The right to associate with the political party of one’s choice is integral part of this basic constitutional freedom.” *Kusper v. Pontikes*, 414 U.S. 51, 56-57 (1973). However, because the regulation of the time, place, and manner of elections is vested with the states, a “more flexible standard” is required when evaluating those regulations. *See Burdick v. Taskushi*, 504 U.S. 428, 434 (1992). Specifically, “courts considering a challenge to state election laws ‘must weigh the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate against the *precise interests put forward by the State* as justifications for the burden imposed by its rule, taking into consideration the extent to which those interests make it necessary to burden the plaintiff’s rights.’” *Florida Democratic Party*, 215 F.Supp.3d at 1256 (quoting *Burdick*, 504 U.S. at 434). As a preliminary matter, there has been no “precise interest[] put forward by the State” in this case. *Id.*

In normal circumstances, a signature requirement in order for an individual to be placed on the ballot is a light burden. *See New York State Board of Elections v. Lopez Torres*, 552 U.S. 196 (2008); *see also Norman v. Reed*, 502 U.S. 279 (1992). However, the circumstances as they exist in the Commonwealth of Virginia and across the United States are not normal right now. On March 12, 2020, Governor Northam declared a state of emergency for the Commonwealth pursuant to Va. Code § 44-146.13 *et seq.* in response to the continued spread of COVID-19. Executive Order Number Fifty-One (Northam) (2020). This declaration was clarified by guidance issued on March 17, 2020 which prohibited the non-essential gathering of more than ten people in any one location at any time. Press Release, Office of the Governor, Governor Northam Announces New Measures to Combat COVID-19 and Support Impacted Virginians (March 17, 2020). Under these circumstances, and as applied to the Plaintiff, and necessarily to all other Republican candidates for the 2020 primary election ballot for U.S. Senate in Virginia, the burden imposed by Va. Code

§ 24.2-521(1) is significant, as it precludes them from freely associating at the highest level with the political party of their choice.

Therefore, at this time, the regulation imposed by Va. Code § 24.2-521(1) is subject to strict scrutiny in order to satisfy the constitutional analysis. Meaning that the “regulation must be narrowly drawn to advance a state interest of compelling importance.” *Norman*, 502 U.S. at 289. In their Response to the Plaintiffs’ Emergency Motion for Preliminary Injunction, the Commonwealth articulates *no precise interest* supporting the application of this regulation in this circumstance. In fact, they neither consent nor object to the relief requested by the Plaintiff. Therefore, the Court has nothing to weigh against “the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendment.” *See Florida Democratic Party*, 215 F.Supp.3d at 1256 (quoting *Burdick*, 504 U.S. at 434). Even were the Court to evaluate an interest in promoting the just and fair administration of primary elections, or providing “equal access to all citizens” as the Intervenor suggests, and assuming those interests are compelling, the regulation is not narrowly tailored to advance those interests as it does not provide for emergency circumstances, like those that currently exist.

Accordingly, the Court hereby **FINDS** that the regulation in Va. Code § 24.2-521(1) as it applies to the Plaintiff, and necessarily to all other Republican candidates for the 2020 primary election ballot for U.S. Senate in Virginia under these circumstances fails constitutional analysis under strict scrutiny. Thus, the Plaintiff has a considerable likelihood of success on the merits.

Further, this Court **FINDS** that there is a likelihood of irreparable harm to Plaintiff’s constitutional rights if his name were omitted from the ballot because of the application of Va. Code § 24.2-521(1). Further, Plaintiff would be limited in his ability to engage in political dialogue or debate at the elevated level in which he seeks to engage in such discussion. Additionally, as the Commonwealth has not articulated any interest in support of the application of Va. Code § 24.2-521(1) to Republican candidates for the 2020 primary election ballot for U.S. Senate in Virginia under these circumstances, and Plaintiff has articulated a significant interest in Va. Code § 24.2-521(1) not being applied to Republican candidates for the 2020 primary election ballot for U.S. Senate in Virginia under these circumstances, the Court **FINDS** that the balance of equities tips in favor of the Plaintiff. Furthermore, the Court **FINDS** that reasonable and educated debate among all candidates for office advances the political conversation, promoting the public interest as it does so.

Therefore, the Court **FINDS** that Plaintiff has established a likelihood of success on the merits, there is no other adequate remedy available at law, and the equities tip in favor of the Plaintiff's Emergency Motion for Preliminary Injunction. Thus, the Court **GRANTS** the Emergency Motion for Preliminary Injunction. Specifically, Plaintiff has requested the Defendants allow his qualification for the Republican Primary ballot for U.S. Senate in the Commonwealth with no fewer than a total of 3,500 valid signatures with no fewer than 100 signatures in each and every congressional district. While the Court is not qualified to articulate the number of signatures that should be required in order for an individual to appear on a ballot, the Plaintiff has articulated the above figures and the Commonwealth has not objected to those figures. Therefore, the Court accepts those numbers and thereby **ORDERS** that Defendants allow the qualification of Republican candidates for the 2020 primary election ballot for U.S. Senate in Virginia with no fewer than 3,500 valid signatures and no fewer than 100 signatures in each and every congressional district.

This Order applies to the Plaintiff, and all Republican candidates for the 2020 primary election ballot for U.S. Senate in Virginia because the burden of the statute's eligibility requirements are equally injurious to Plaintiff and all other Republican candidates for the 2020 primary election, and the State Board of Elections is tasked with aiding local election boards and registrars in obtaining "uniformity in their practices and proceedings." Va. Code § 24.2-103. The Commonwealth did not object in their pleading or at oral argument to the broader application of the Court's ruling to all other Republican candidates. However, while the interest of maintaining such uniformity in ballot access procedures is an important interest, neither the Democratic Party, nor any other party holding a 2020 primary election, was noticed or served with the Verified Complaint or any other pleadings herein. Accordingly, the interests of those parties have not been adequately represented before the Court. Thus, the Court must limit its ruling to the Plaintiff and other Republican candidates for the 2020 primary election as those are the only individual's whose interests are before the Court.

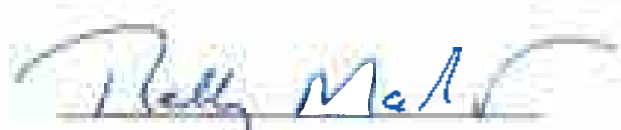
The Plaintiff's Motion for Attorneys' Fees is **CONTINUED** pending further submissions by Counsel.

Pursuant to Rule 1:13 of the Supreme Court of Virginia, the Court dispenses with the parties' endorsement of this Order. The Court **NOTES** the objections of the Intervening Party.

The Clerk is directed to forward a certified copy of this Order to the parties.

It is so **ORDERED**.

ENTER: 3 / 25 / 2020

A handwritten signature in blue ink, appearing to read "W. Reilly Marchant", written over a horizontal line.

W. Reilly Marchant, Judge

SC Demographic Data (COVID-19)

Friday, April 24, 2020, 5:25 pm

The data below will be updated every Tuesday & Friday afternoon.

Demographic information for reported COVID-19 cases and deaths may provide information on populations that are at higher risk for COVID-19 infection and death. By monitoring demographics, we can provide education and outreach to high-risk populations and identify any disparities that deserve further investigation or focus.

Recovery Rate

As of April 23, of the total positive cases of COVID-19 in South Carolina, we have symptom onset data (meaning, the date when a person first showed signs of illness) for 4,032 of those individuals. Of those individuals, 154 have unfortunately died. Our recovery rate data is based on symptom onset information, so the percentages below are based on the number of individuals we have symptom onset data for, not the total number of cases in the state.

As of April 23, 73 percent of those 3,878 individuals for which we have symptom onset data are estimated to have recovered from COVID-19, and 27 percent are estimated to remain ill.

Note: These data are provisional. The estimated percent of those who may have recovered from COVID-19 is based upon the following parameters:

Those who reported **being hospitalized** were deemed as “recovered” based upon having no reported adverse outcome reported as of > 32 days since their illness onset.

Those who reported **not being hospitalized** were deemed as “recovered” based upon having no reported adverse outcome reported as of > 14 days since their illness onset.

Those where **hospitalization status was unknown** were deemed as “recovered” based upon having no reported adverse outcome reported as of > 32 days since their illness onset.

By Cases

COVID-19 in Congregate Facilities*

Aggregate number of nursing homes, rehabilitation facilities, community residential facilities where at least one (1) COVID-19 case was identified**	56
Aggregate number of cases reported within these facilities**	435
Reported COVID-19 associated deaths in nursing homes, rehabilitation facilities, and community residential facilities**	28

*All data are provisional. Data reflects information being collected since April 3, 2020.

**Data reflects information available as of 10am on April 23, 2020.

Nursing Homes and Extended Care Facilities Impacted by COVID-19

DHEC prioritizes the identification of COVID-19 infections in congregate settings like nursing homes, assisted living facilities and extended care facilities because the spread of respiratory illnesses like COVID-19 is common in these types of facilities, and the residents who live there are at high risk for developing complications or death from COVID-19 infection.

To better inform the public about the scope of COVID-19 within these types of facilities, DHEC is providing a twice weekly [update on the names of facilities in the state that have an associated confirmed case of COVID-19](#), as well as the number of positive cases for either residents or staff members.

DHEC is continuing its partnership with nursing home facilities across the state to help them implement infection control practices that protect the residents and those who care for them from this unprecedented disease.

COVID-19 Among Healthcare Workers

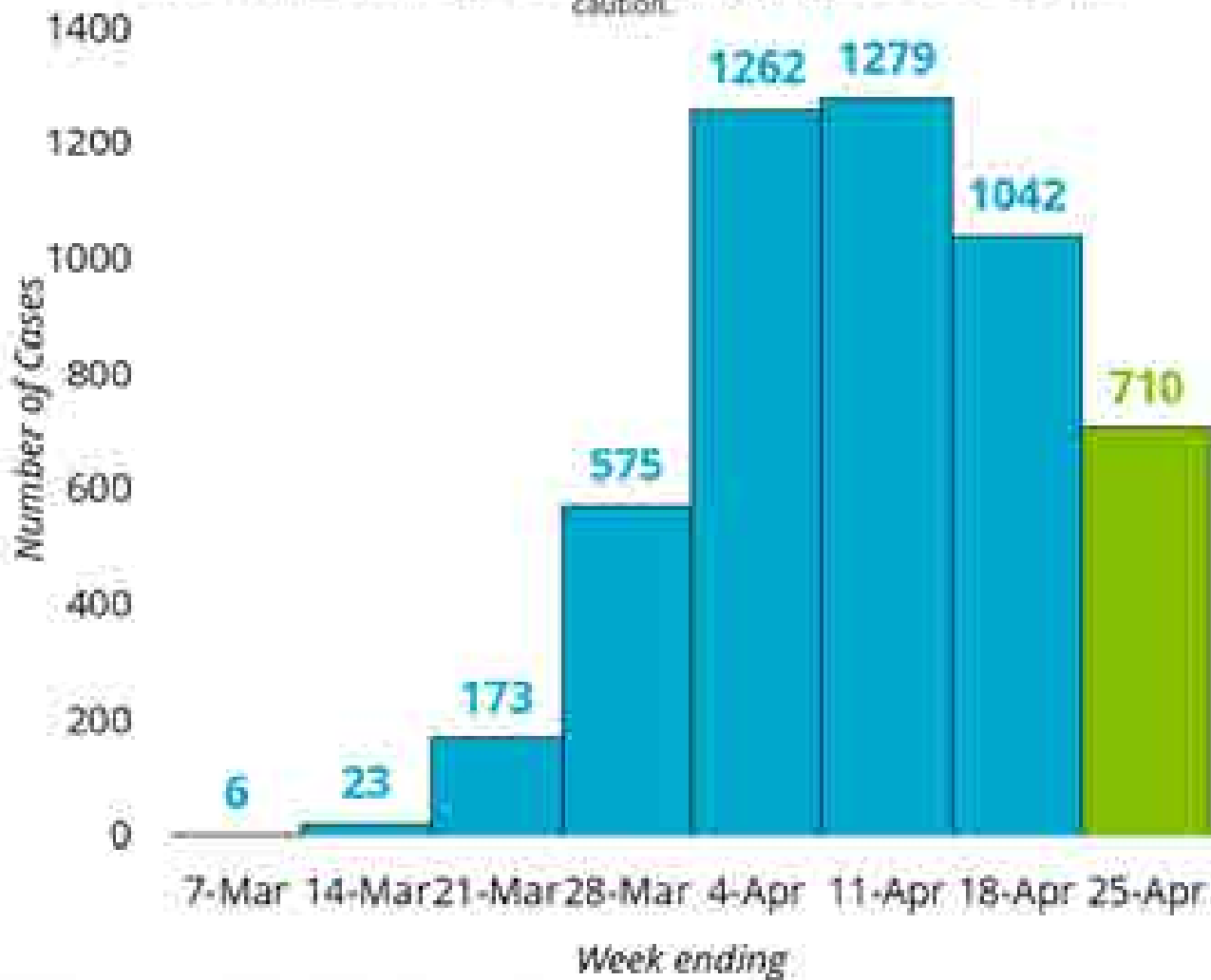
Aggregate number of COVID-19 positive healthcare workers**	378
--	-----

*All data are provisional. Data reflects information being collected since April 3, 2020.

**Data reflects information available as of 10am on April 23, 2020.

Reported COVID-19 Cases*, by Week of Report (n=5,070)

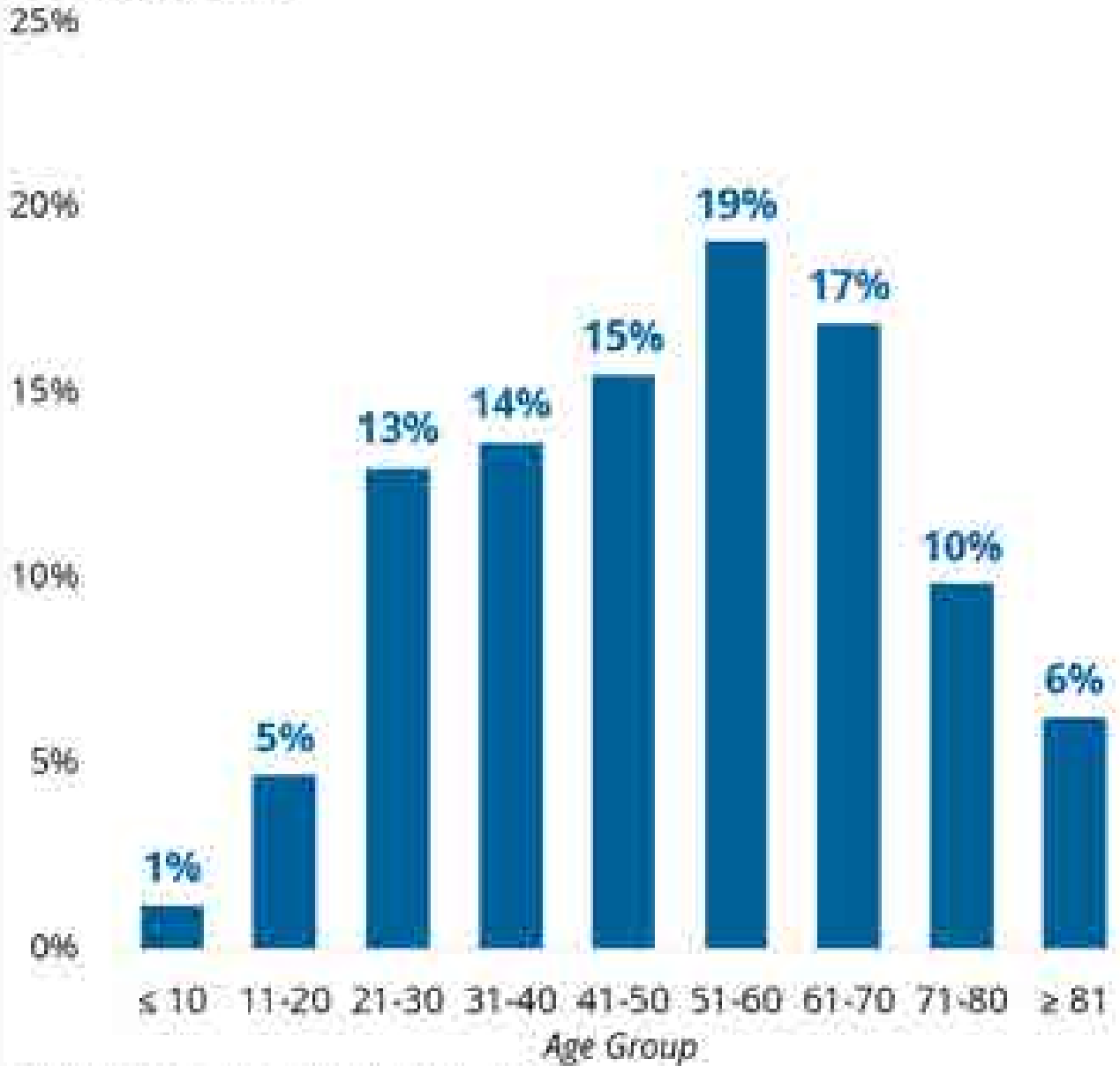
Note: Information presented are by week of report to DHEC. Data for the current week, highlighted in green, are not complete until the end of the identified reporting period. Comparison of disease activity by week should be made with caution.



*All data are provisional and subject to change.

4/27/2020

SC Demographic Data (COVID-19) | SCDHEC

Reported COVID-19 Cases*, by Age Group (n=5,070)*Percent of Cases*

*All data are provisional and subject to change.

Additional Age-Related Information Among COVID-19 Cases*

Average age	51 years of age
Median age	52 years of age
Age range	< 1 month – 102 years of age

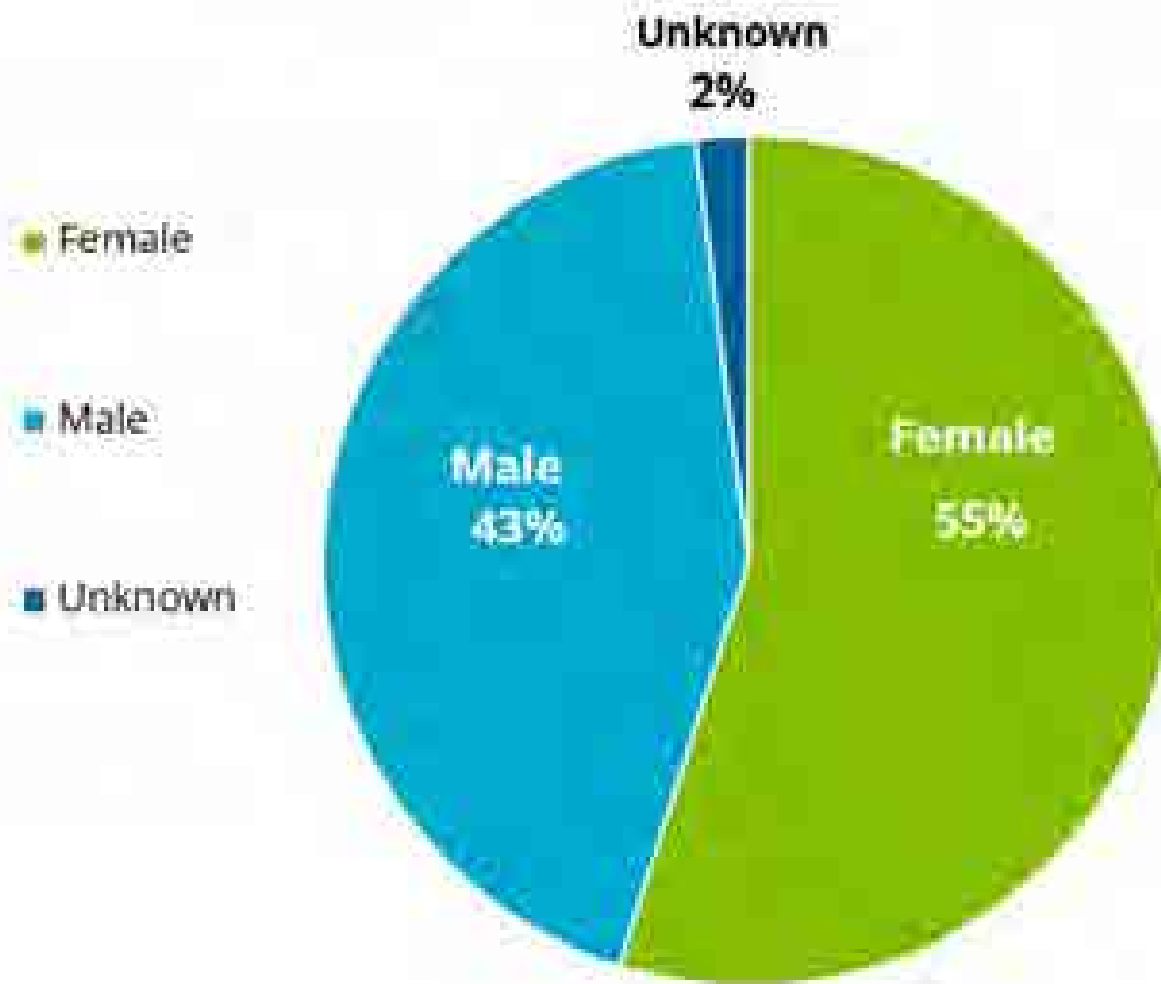
*All data are provisional and subject to change.

4/27/2020

SC Demographic Data (COVID-19) | SCDHEC

Reported COVID-19 Cases*, by Gender (n=5,070)

Percent of Cases



*All data are provisional and subject to change.

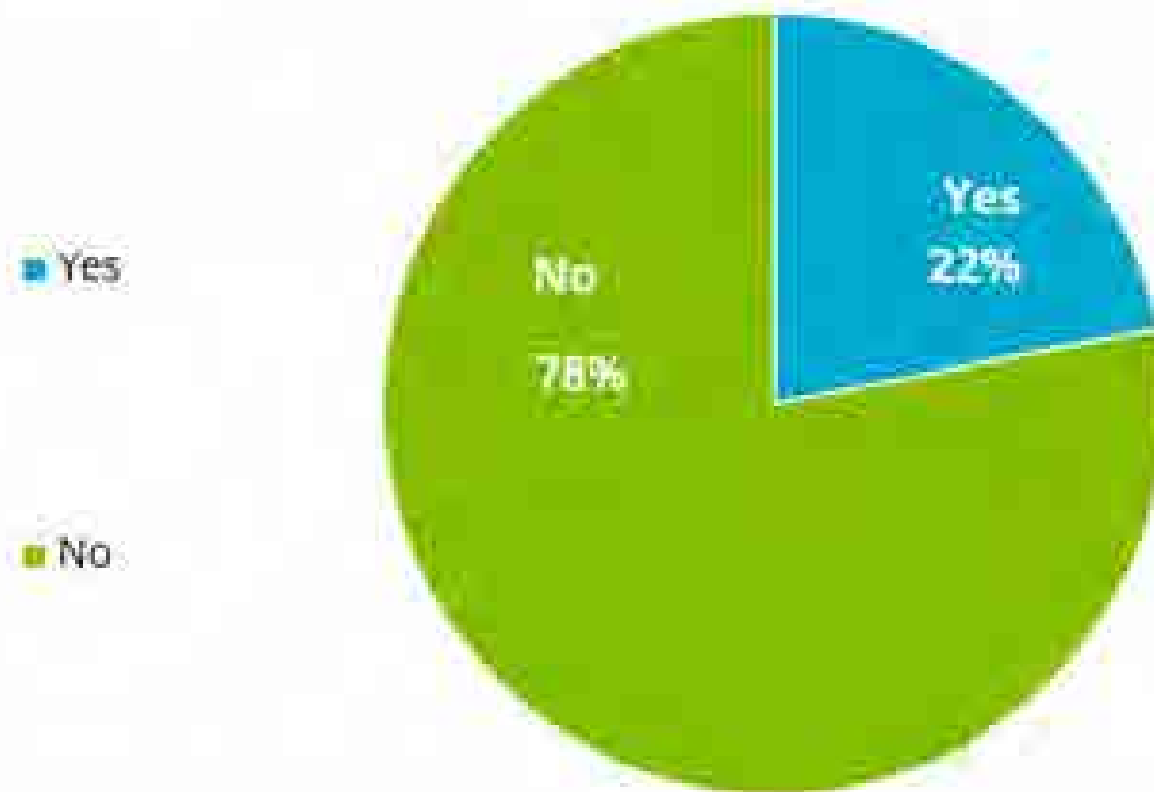
4/27/2020

SC Demographic Data (COVID-19) | SCDHEC

Hospitalization Reported at Time of Reported Illness*

(n=4,293)

Percent of Cases



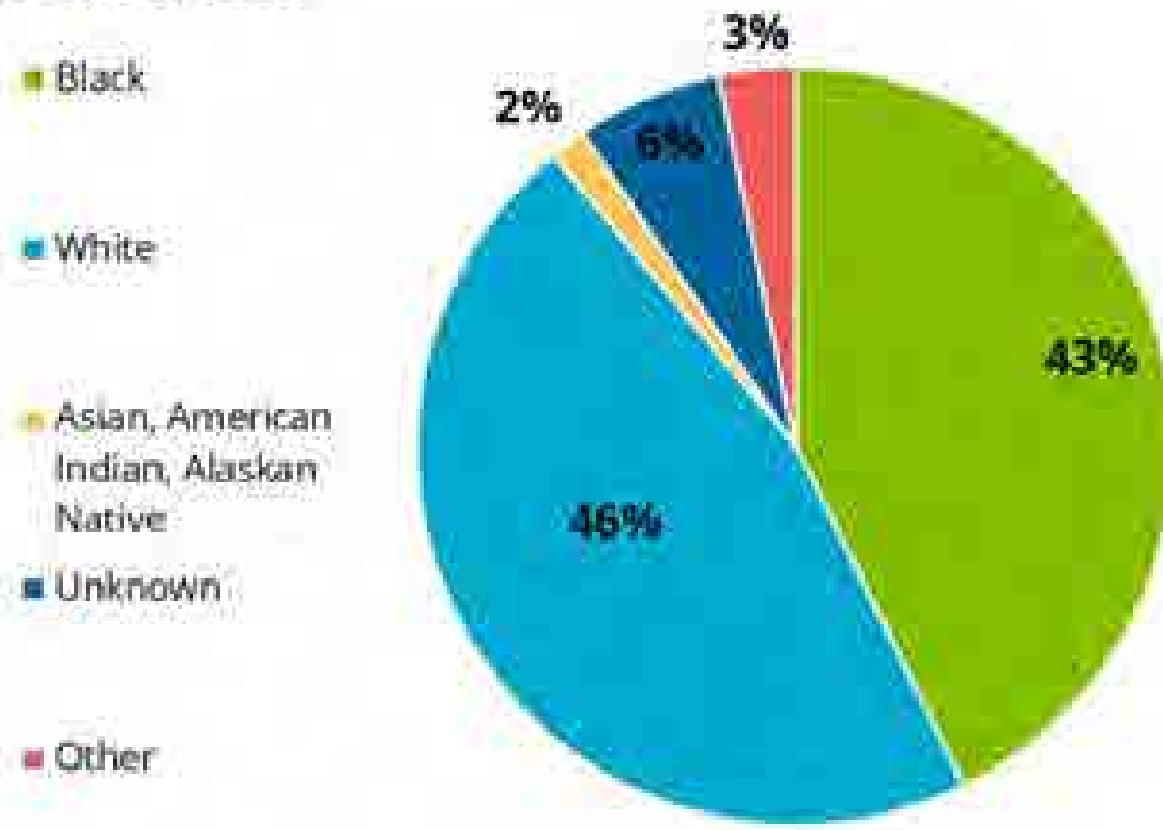
*All data are provisional and subject to change. These data do not include information on 777 cases currently under investigation or where data are unavailable.

4/27/2020

SC Demographic Data (COVID-19) | SCDHEC

Reported COVID-19 Cases*, by Reported Race (n=4,579)

Percent of Cases



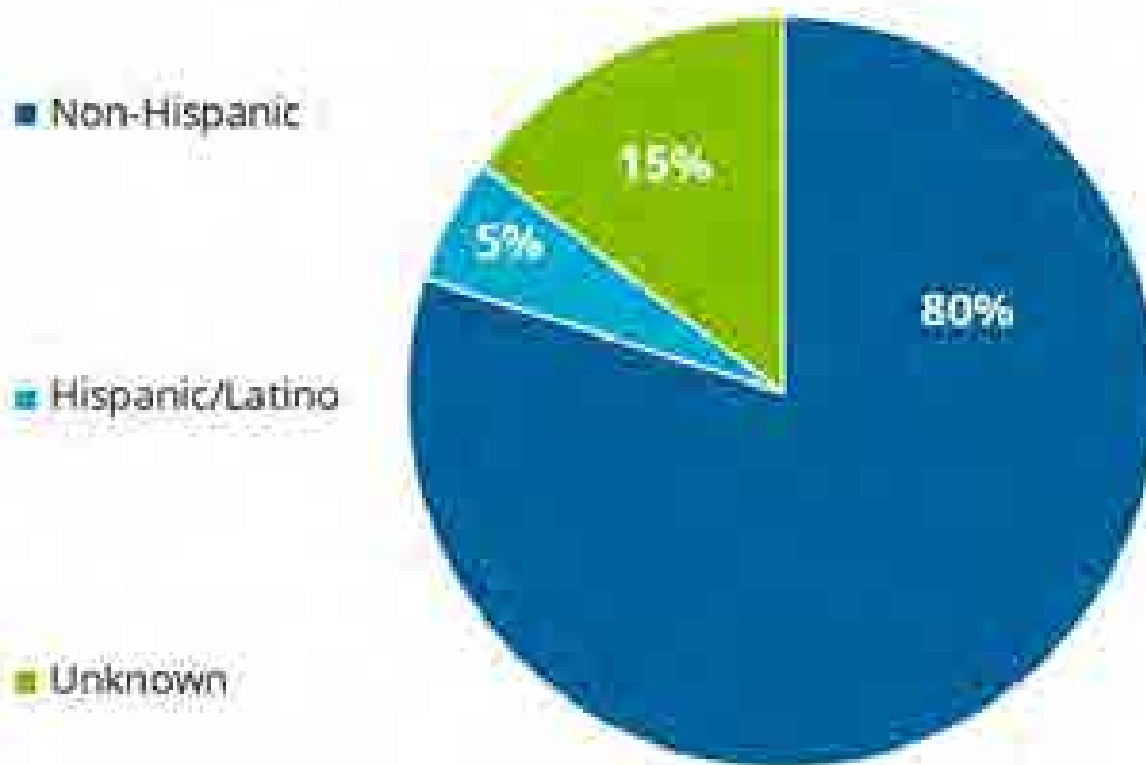
*All data are provisional and subject to change. These data do not include information on 491 cases currently under investigation or where data are unavailable.

4/27/2020

SC Demographic Data (COVID-19) | SCDHEC

Reported COVID-19 Cases*, by Reported Ethnicity (n=4,320)

Percent of Cases



*All data are provisional and subject to change. These data do not include information on 750 cases currently under investigation or where data are unavailable.

COVID-19

Testing & Projections

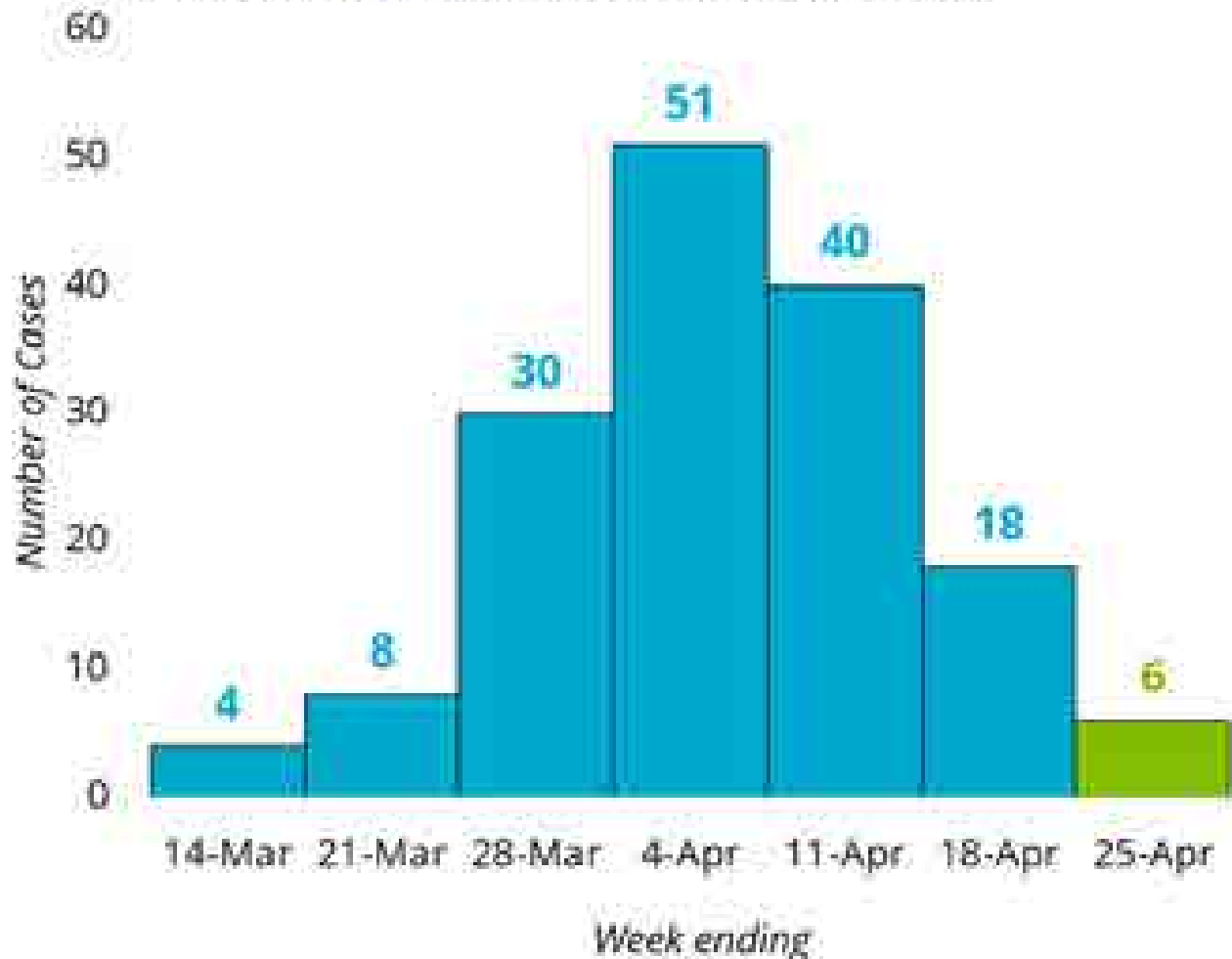
County & ZIP Code

Hospital Bed Capacity

By Deaths

Reported COVID-19 Deaths*, by Week of Report (n=157)

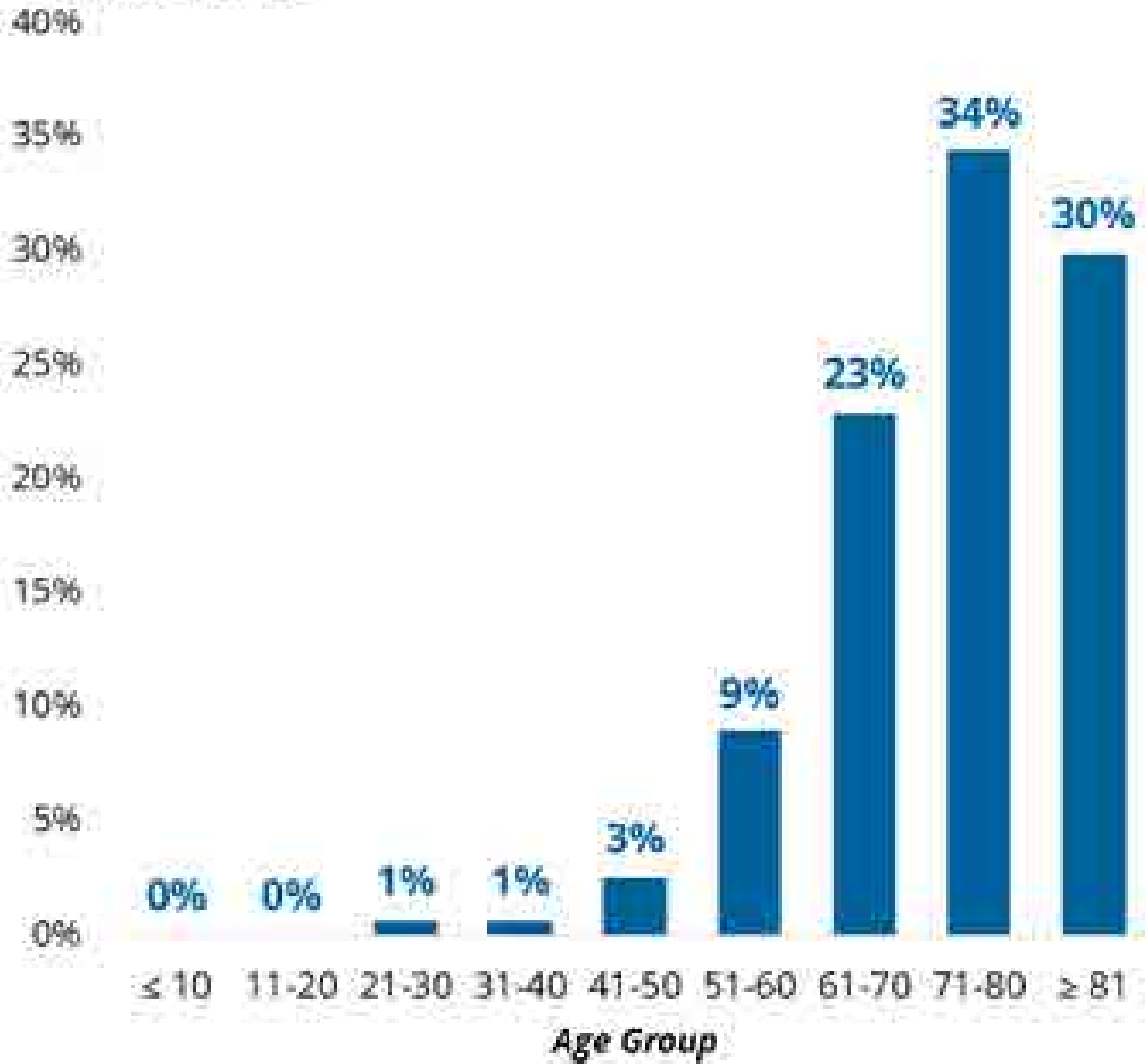
Note: Information presented are by week of report to DHEC. Data for the current week, highlighted in green, are not complete until the end of the identified reporting period. Comparisons by week should be made with caution.



*All data are provisional and subject to change. These data do not include information on cases currently under investigation or where data are unavailable.

4/27/2020

SC Demographic Data (COVID-19) | SCDHEC

Reported COVID-19 Deaths*, by Age Group (n=157)*Percent of Cases***All data are provisional and subject to change*

Additional Age-Related Information Among COVID-19 Deaths*

Average age

74 years of age

Median age

75 years of age

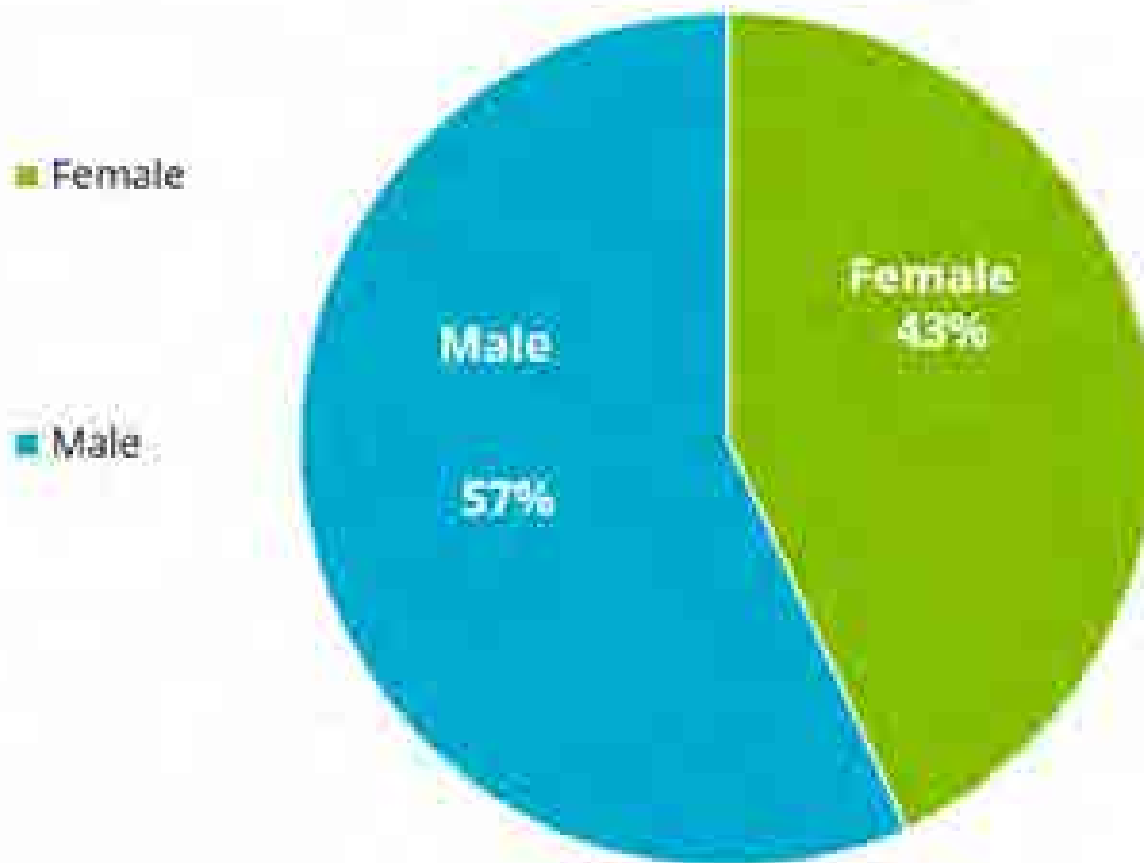
Age range

30 years of age – 101 years of age

*All data are provisional and subject to change.

Reported COVID-19 Deaths*, by Gender (n=153)

Percent of Cases



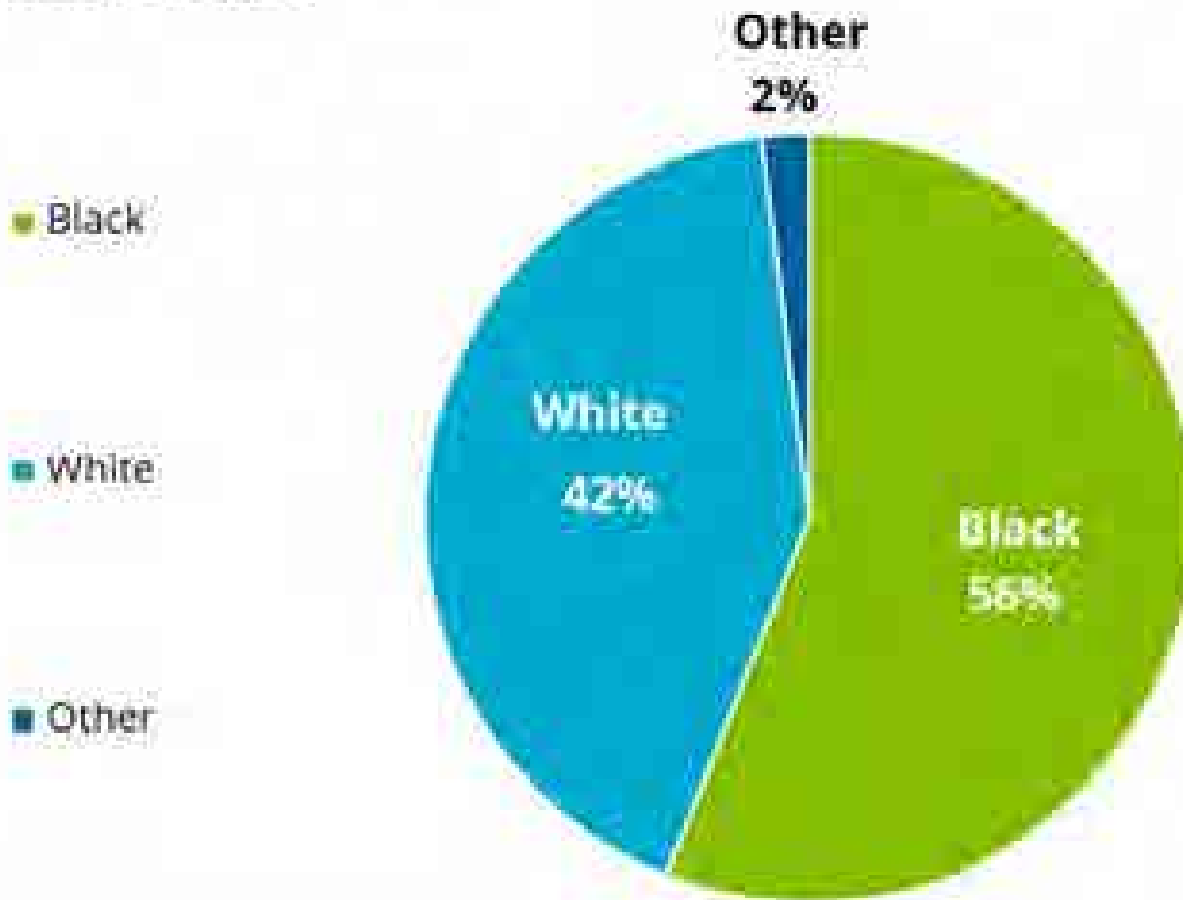
*All data are provisional and subject to change. Note: Four deaths had unknown gender at time of report.

4/27/2020

SC Demographic Data (COVID-19) | SCDHEC

Reported COVID-19 Deaths*, by Reported Race (n=148)

Percent of Cases



*All data are provisional and subject to change. Note: Nine deaths had an unknown race at time of report.

Data, analysis and visualization performed by
Population Health Data Analytics & Informatics and the Division of Acute Disease Epidemiology

No. D-1-GN-20-001610

TEXAS DEMOCRATIC PARTY, et. al	§	IN THE DISTRICT COURT
	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
and	§	
	§	
ZACHARY PRICE, LEAGUE OF	§	
WOMEN VOTERS OF TEXAS,	§	
LEAGUE OF WOMEN VOTERS	§	
AUSTIN AREA, MOVE TEXAS	§	
ACTION FUND, WORKERS DEFENSE	§	
ACTION FUND,	§	TRAVIS COUNTY, TEXAS
	§	
	§	
<i>Intervenor-Plaintiffs,</i>	§	
	§	
v.	§	
	§	
DANA DEBEAUVOIR	§	
	§	
<i>Defendant,</i>	§	
	§	
and	§	
	§	
STATE OF TEXAS	§	
	§	
<i>Intervenor.</i>	§	201st JUDICIAL DISTRICT

Order on Application for Temporary Injunctions and Plea to the Jurisdiction

On April 15, 2020, came on to be heard the Plaintiffs' and Intervenor-Plaintiffs' Applications for Temporary Injunction as well as the State of Texas' Plea to the Jurisdiction. The Court, having considered the applications and pleas along with the supporting and opposing briefing and the applicable law cited therein, evidence presented, arguments of counsel, and the pleadings on file in this case, is of the opinion:

- 1) The State of Texas' Plea to the Jurisdiction should be DENIED; and,
- 2) Plaintiffs' and Intervenor-Plaintiffs' applications for a Temporary Injunction should be GRANTED.

In addition, the Court FINDS:

- 1) Joseph Daniel Cascino and Shanda Marie Sansing are registered voters in Travis County who seek to vote by mail by claiming a disability due to the COVID-19 epidemic;
- 2) The Texas Democratic Party (TDP) is one of the two largest political parties in the United States, with members in Travis County, who are registered voters and are eligible to apply to vote by mail due to COVID-19. The TDP and its chair, Gilberto Hinojosa, are the administrators of the July 14, 2020 run-off election. The interests that the TDP and its Chair seek to protect through this suit are germane to the organization's purpose. TDP and its members are harmed by the lack of clarity in the election law at issue in this case and the probable lack of uniformity in its application throughout the State;
- 3) Intervenor-Plaintiff Zachary Price is a registered voter in Travis County who seeks to vote by mail by claiming a disability due to the COVID-19 pandemic;
- 4) Intervenor-Plaintiffs League of Women Voters of Texas, League of Women Voters Austin Area, and Workers Defense Action Fund are membership organizations with members who are registered voters throughout the State of Texas, including in Travis County, and who are eligible to vote by mail due to COVID-19 but would not otherwise be eligible to vote by mail outside of the COVID-19 pandemic. The interests that these organizations seek to protect through this suit are germane to their purpose. The organizations and their members are harmed by the lack of clarity in the election law at issue in this case and the probable lack of uniformity in its application throughout the State. Additionally, Intervenor-Plaintiffs League of Women Voters of Texas, League of Women Voters Austin Area, Workers Defense Action Fund, and Move Texas Action Fund have suffered and are suffering direct injury to their organizations from this lack of clarity and the probable lack of uniformity in its application throughout the State.
- 5) Intervenor State of Texas has stated its "strong interest in the uniform, consistent application of its election laws" while also stating that "each early-voting clerk [throughout the State] is responsible for determining whether an application to vote by mail complies with all requirements." And, the evidence reveals that the Secretary of State has advised those election officials that they "may have a need to modify certain voting procedures ... [and] may want to consider seeking a court order to authorize exceptions to the voting procedures outlined in certain chapters of the Texas Election Code."

- 6) The individual Plaintiffs and Intervenor-Plaintiffs are injured by the uncertainty in the law as to whether they are lawfully permitted to request a ballot by mail for elections in which they reasonably believe they may be at risk to contract COVID-19; absent clarity, they face either risk to their health or the threat of prosecution and having their ballots not counted and/or rejected;
- 7) COVID-19 is a global respiratory virus that poses an imminent threat of disaster, to which anyone is susceptible and which has a high risk of death to a large number of people and creates substantial risk of public exposure because of the disease's method of transmission;
- 8) The risk of transmission of COVID-19 during in-person voting is high for the July 14, 2020 Run-Off election and all subsequent elections for this year. The harm caused by transmission of COVID-19 during in-person voting on the one hand and not being able to cast a ballot that is counted on the other is imminent, irreparable, and seriously damaging;
- 9) The Run-Off Elections are scheduled to be held on July 14, 2020. Ordinarily, without adjusting other laws, Election Clerks and Election Administrators require at least 74 days to prepare for an election. 74 days from July 14, 2020 is May 1, 2020;
- 10) Plaintiffs will suffer immediate, irreparable injury without an injunction prohibiting Defendant from denying mail ballot applications based on the disability caused by COVID-19 and from rejection of mail-in ballots cast under those circumstances because they will be forced to either vote in-person and risk transmission of a deadly illness or lose their ability to vote entirely;
- 11) Tex. Elec. Code § 273.081 specifically provides, "A person who is being harmed or is in danger of being harmed by a violation or threatened violation of this code is entitled to appropriate injunctive relief to prevent the violation from continuing or occurring." Although the standard set by statute is lower than the typical standard for granting a temporary injunction, Plaintiffs' and Plaintiff Intervenor's evidence meets both standards and an injunction should issue;
- 12) The oral testimony, exhibits and witness declarations have been accepted into evidence. I have carefully viewed the testimony and reviewed the documentary evidence in making the factual findings herein;
- 13) Based on the testimony and evidence I have received, it is reasonable for voters to expect that COVID-19 will continue to be in circulation without a vaccine or herd immunity through the elections this year and that limited or statewide government imposed social distancing will likewise continue through the elections this year, especially with regard to large public gatherings as occur at polling places. Furthermore, even to the extent there is easing of social distancing, it will still be a public health risk to attend larger gatherings such as those associated with voting at polling places because without a vaccine or herd immunity, communities will remain susceptible to surges in infection rates. Moreover, the evidence shows that voters and these Plaintiffs and Intervenor-Plaintiffs are

reasonable to conclude that voting in person while the virus that causes COVID-19 is still in general circulation presents a likelihood of injuring their health, and any voters without established immunity meet the plain language definition of disability thereby entitling them to a mailed ballot under Tex. Elec. Code § 82.002.

- 14) Voters and these Plaintiffs are reasonable to worry about the legality of their applications for ballots by mail given the uncertainty created, at least in part, from the lack of clear guidance from other state leadership. Voters should not have to guess at whether they are complying with the law in requesting a mail ballot and put themselves at risk of criminal liability.
- 15) Time is of the essence and election administrators as well as the TDP must have clarity without delay so that election preparations can be made.
- 16) Plaintiffs and Intervenor-Plaintiffs are likely to prevail on the merits of at trial; and
- 17) Plaintiffs and Intervenor-Plaintiffs have no other adequate remedy at law.

It is therefore, ORDERED that the State of Texas's Plea to the Jurisdiction is denied. The State petitioned to intervene in this case. The Court has jurisdiction. The issues are ripe, the Plaintiffs and Intervenor-Plaintiffs are currently suffering and will continue to suffer injury in the absence of a Court ruling.

It is further, ORDERED that, between now and entry of final judgment in this case:

(1) Travis County Defendant and her agents, servants, employees, representatives, and all person or entities of any type whatsoever acting in concert with them or acting on their behalf are enjoined from rejecting any mail ballot applications received from registered voters who use the disability category of eligibility as a result of the COVID-19 pandemic for the reason that the applications were submitted based on the disability category;

(2) Travis County Defendant and her agents, servants, employees, representatives, and all person or entities of any type whatsoever acting in concert with them or acting on their behalf are enjoined from refusing to accept and tabulate any mail ballots received from voters who apply to vote by mail based on the disability category of eligibility as a result of the COVID-19 pandemic

for all elections affected by the pandemic for the reason that the ballots were submitted based on the disability category;

(3) Travis County Defendant and Intervenor-Defendant Texas and their agents, servants, employees, representatives, and all person or entities of any type whatsoever acting concert with them or acting on their behalf are enjoined from issuing guidance or otherwise taking actions that would prevent Counties from accepting and tabulating any mail ballots received from voters who apply to vote by mail based on the disability category of eligibility as a result of the COVID-19 pandemic for all elections affected by the pandemic for the reason that the ballots were submitted based on the disability category;

(4) Travis County Defendant and Intervenor-Defendant Texas and their agents, servants, employees, representatives, and all person or entities of any type whatsoever acting in concert with them or acting on their behalf are enjoined from issuing guidance or otherwise taking actions during all elections affected by the COVID-19 pandemic, that would prohibit individuals from submitting mail ballots based on the disability category of eligibility or that would suggest that individuals may be subject to penalty solely for doing so; and

(5) Intervenor-Defendant Texas, acting through the appropriate state agency, shall publish a copy of this Court's Order on the appropriate agency website and circulate a copy of this Court's Order to the election official(s) in every Texas County.

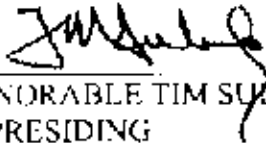
It is further ORDERED that all Parties shall appear before this Court on July 27, 2020 at 2:00 PM for a status conference on the continued propriety of this Temporary Injunction Order.

It is further ORDERED that for this Temporary Injunction Order to be effective under the law, cash bond in the amount of \$0 shall be required of the Plaintiffs and filed with the District Clerk of Travis County, Texas. The Clerk of Court shall forthwith issue a writ of Temporary

Injunction in conformity with the law and terms of this Order. Once effective, this Order shall remain in full force and effect until final Judgment in the trial on this matter.

The Court ORDERS a final trial in this matter to begin August 10, 2020 at 9:00 AM.

SIGNED April 17, 2020.



THE HONORABLE TIM SULAK
JUDGE PRESIDING

FIPSCode	Jurisdiction_Name	State_Abbr	Total Mail ballots received	Mail ballots rejected lack of witness sig
4500100000	ABBEVILLE COUNTY	SC	249	0
4500300000	AIKEN COUNTY	SC	1747	8
4500500000	ALLENDALE COUNTY	SC	556	4
4500700000	ANDERSON COUNTY	SC	1963	56
4500900000	BAMBERG COUNTY	SC	258	6
4501100000	BARNWELL COUNTY	SC	221	0
4501300000	BEAUFORT COUNTY	SC	3117	7
4501500000	BERKELEY COUNTY	SC	3699	64
4501700000	CALHOUN COUNTY	SC	238	1
4501900000	CHARLESTON COUNTY	SC	10328	0
4502100000	CHEROKEE COUNTY	SC	240	0
4502300000	CHESTER COUNTY	SC	354	0
4502500000	CHESTERFIELD COUNTY	SC	222	0
4502700000	CLARENDON COUNTY	SC	508	0
4502900000	COLLETON COUNTY	SC	475	0
4503100000	DARLINGTON COUNTY	SC	953	0
4503300000	DILLON COUNTY	SC	616	7
4503500000	DORCHESTER COUNTY	SC	2316	76
4503700000	EDGEFIELD COUNTY	SC	505	0
4503900000	FAIRFIELD COUNTY	SC	233	0
4504100000	FLORENCE COUNTY	SC	1042	8
4504300000	GEORGETOWN COUNTY	SC	999	8
4504500000	GREENVILLE COUNTY	SC	5663	3
4504700000	GREENWOOD COUNTY	SC	1228	35
4504900000	HAMPTON COUNTY	SC	773	4
4505100000	HORRY COUNTY	SC	4254	39
4505300000	JASPER COUNTY	SC	382	0
4505500000	KERSHAW COUNTY	SC	524	15
4505700000	LANCASTER COUNTY	SC	1307	35
4505900000	LAURENS COUNTY	SC	477	0
4506100000	LEE COUNTY	SC	64	0
4506300000	LEXINGTON COUNTY	SC	3797	38
4506500000	MCCORMICK COUNTY	SC	121	0
4506700000	MARION COUNTY	SC	608	28
4506900000	MARLBORO COUNTY	SC	804	2
4507100000	NEWBERRY COUNTY	SC	258	5
4507300000	OCONEE COUNTY	SC	1251	26
4507500000	ORANGEBURG COUNTY	SC	2084	59
4507700000	PICKENS COUNTY	SC	938	1
4507900000	RICHLAND COUNTY	SC	7198	109
4508100000	SALUDA COUNTY	SC	158	0
4508300000	SPARTANBURG COUNTY	SC	3318	48
4508500000	SUMTER COUNTY	SC	2065	34
4508700000	UNION COUNTY	SC	169	3
4508900000	WILLIAMSBURG COUNTY	SC	336	15
4509100000	YORK COUNTY	SC	4190	54

EXHIBIT 2

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

MARY T. THOMAS, *et al.*,

Plaintiffs,

v.

MARCI ANDINO, in her official capacity as
Executive Director of the South Carolina State
Election Commission, *et al.*,

Defendants.

Case No.: 3:30-cv-01552-JMC

DECLARATION OF DR. ARTHUR L. REINGOLD

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I am the Division Head of Epidemiology and Biostatistics at the University of California, Berkeley, School of Public Health. I have worked on the prevention and control of infectious diseases in both the United States, including eight years at the US Centers for Disease Control and Prevention (“CDC”), and with numerous developing countries around the world for over forty years. Since its inception in 1994, I have directed or co-directed the CDC-funded California Emerging Infections Program. I am a member of the Society for Epidemiologic Research and the American Epidemiological Society; an elected Fellow of the Infectious Disease Society of America and of the American Association for the Advancement of Science; and an elected member of the Institute of Medicine of the National Academy of Sciences. I was previously the President of both the Society for Epidemiologic Research and the American Epidemiological Society. I have served on the editorial boards of the journals: American Journal of Epidemiology, Epidemiology, and Global Public Health.

2. I received my A.B. in biology from the University of Chicago in 1970, and my M.D. from the University of Chicago in 1976. Among other things, I completed a residency in internal medicine and a preventative medicine residency with the CDC.

3. My career in public health has been in the area of infectious diseases and epidemiology. Following my positions at the CDC (1979–87), I joined the faculty of the School of Public Health at Berkeley as a Professor of Epidemiology (1987–present), the faculty of the Department of Epidemiology and Biostatistics at the University of California, San Francisco (“UCSF”) (1989–present), and as a Clinical Professor in the Department of Medicine at UCSF (1991–present). From 1990–94, I was the Head of the Epidemiology Program, Department of Biomedical and Environmental Health Sciences, University of California, Berkeley; from 1994–2000, I was the Head of the Division of Public Health Biology and Epidemiology, University of California, Berkeley; from 2000–18, I was the Head of the Division of Epidemiology, School of Public Health, University of California, Berkeley; from 2018 continuing through the present, I am the Head of the Division of Epidemiology and Biostatistics, School of Public Health University of California, Berkeley.

4. My research focuses on emerging and re-emerging infections in the United States and in developing countries; vaccine-preventable diseases in the United States and in developing countries; and disease surveillance, outbreak detection, and outbreak response.

5. Attached and incorporated by reference to this declaration is a copy of my curriculum vitae. (Attached here as Attachment A).

6. I am currently collaborating on research concerning SARS-CoV-2 and its incidence, and serving on SARS-CoV-2 advisory groups for multiple organizations, including UC Berkeley, the University of California system, and the City and County of San Francisco, among

others.

7. SARS-CoV-2 is a novel coronavirus that causes Coronavirus Disease 2019 (COVID-19). The virus is a respiratory virus with patients typically presenting with acute respiratory signs and symptoms, which can escalate in some patients to respiratory failure and other serious, life-threatening complications. The most common symptoms are fever, cough, and shortness of breath. Other identified symptoms include muscle aches, headaches, chest pain, diarrhea, coughing up blood, sputum production, runny nose, nausea, vomiting, sore throat, confusion, lack of senses of taste and smell, and anorexia. Due to the respiratory impacts of the disease, individuals may need to be put on oxygen, and in severe cases, patients may need to be intubated and put on a ventilator. People of every age can and have contracted COVID-19, including severe cases, but geriatric patients are at the greatest risk of severe cases, long-term impairment, and death. Likewise, those with immunologic conditions and with other pre-existing conditions, such as hypertension, certain heart conditions, lung diseases (e.g., asthma, COPD), diabetes mellitus, obesity, and chronic kidney disease, are at high risk of a life-threatening COVID-19 illness. Information available to date shows that, if infected with the SARS-CoV-2 virus, racial and ethnic minority populations, especially African-Americans, are at a substantially elevated risk of developing life-threatening COVID-19 illnesses and to die of COVID-19.

8. SARS-CoV-2 is readily spread through respiratory transmission. All people are susceptible to and capable of getting COVID-19 because of the ease with which it spreads. The virus is spread through droplet transmission; that is, when an infected individual speaks, coughs, sneezes, and the like, they expel droplets which can transmit the virus to others in their proximity. Though not yet determined, scientists are currently assessing whether the virus is aerosolized, such that tiny droplets containing the virus remain in the air and can be inhaled by others who come

into contact with that air. The virus is also known to be spread through the touching of contaminated surfaces, for example, when an infected person touches a surface with a hand they have coughed into and then another person touches that same surface before it has been disinfected and then touches their face. Each infected individual is estimated to infect two to eight others. In addition, some people are so-called “superspreaders,” who cause widespread infections.

9. Diagnostic testing for the virus is currently most often done through use of a reverse-transcriptase polymerase chain reaction (RT-PCR) test. There has not been sufficiently wide-spread and easily accessible testing throughout the United States, including in South Carolina. Serologic tests, which detect antibodies to the virus and thus indicate whether someone has already been exposed to it, are being developed but have not yet been validated or produced at scale.

10. There is not yet any FDA-approved vaccine against SARS-CoV-2, which could be used to immunize the population to the virus. As a result, the only ways to limit its spread are self-isolation, social distancing, frequent handwashing, and disinfecting surfaces. Self-isolation involves not physically interacting with those outside one’s household. Social or physical distancing is maintaining at least six feet of distance between individuals. Both of these interventions are aimed at keeping infected individuals far enough apart from other individuals so that they do not pass the virus along. Frequent handwashing and regular disinfecting of surfaces curb the spread via contaminated surfaces.

11. Transmission of SARS-CoV-2 can occur in any location where there is close proximity (less than six feet) between individuals. And because transmission of the virus can occur via environmental surfaces, there is also risk of spread of the virus at any location where multiple individuals touch surfaces. Some individuals who are infected with the virus do not have

any symptoms but can transmit the virus and/or are infectious before they develop any symptoms. This means that isolating only persons known to be infected will not stop the spread of infection. Rather, to prevent increasing the scope of the outbreak of COVID-19, we must assume that anyone could be infected and infect another person.

12. Due to the lack of adequate testing, the time lag in getting results back from laboratories, and the lengthy incubation time, we cannot yet definitely determine the full effects of stay-at-home orders and social distancing. But social distancing has worked to slow the spread of respiratory viruses generally and in places that are ahead of South Carolina and the United States in the current pandemic. There is evidence that cities and states that have implemented stay-at-home orders earlier than South Carolina are experiencing reduced transmission. Current modeling shows that social distancing and stay-at-home orders are lessening transmission. However, transmission of the virus will continue through the population until the development and widespread use of a vaccine and/or herd immunity.

13. It is unlikely that an FDA-approved vaccine will be available for approximately 12 to 18 months, and indeed may take longer than that due to the number of steps in the process of development, trial and error, scaling to clinical trials, assessing side effects, and assessing efficacy across the population at large.

14. Herd immunity occurs when a high percentage of the population become immune to an infectious disease, such that the spread is dramatically slowed, as infected persons can become dead-ends for the virus, so to speak, because they are not interacting with anyone to whom they can transmit the virus. Approximately 80-95% of a population must be immune in order to achieve herd immunity, depending on the infectiousness of the agent. In this context, an individual's immunity can come from either a vaccine or from previous infection. Herd immunity

can protect those in a population who cannot be vaccinated and for whom infection can be particularly serious. Without herd immunity, we can expect that COVID-19 will continue to transmit widely.

15. As SARS-CoV-2 is a new virus, also referred to as a novel virus, only those who have been infected and recovered are possibly immune; there is not a pre-existing population already immune to the virus. Anyone who has not yet been infected is susceptible to infection. Also, due to the virus's novelty, we do not know whether any immunity generated by previous infection lasts permanently, for a specified period, or whether reinfection is possible. As a result, herd immunity is unlikely unless and until the development and widespread use of an effective vaccine or a sufficiently high proportion of the population has been infected. Only once serologic antibody testing is widely available will we be able to determine who in the population is not susceptible to either infection or transmission based on their immunity due to earlier infection. As a result, even if transmission slows due to behavioral interventions such as social distancing and stay-at-home orders, we can expect resurgences of COVID-19, including significant community transmission, throughout 2020 and into 2021 across the United States, until the development and widespread use of a vaccine. Such resurgence is particularly likely if/when these behavioral modifications are lifted when community transmission is still continuing.

16. As SARS-CoV-2 is novel, we also cannot say definitively whether its incidence and prevalence will rise and fall based on weather / what season it is. If virus transmission and prevalence do decline over the summer months, it remains likely that they will resurge in the fall and winter. However, certain other coronaviruses—such as SARS and MERS-CoV—do not appear to demonstrate seasonality of infection. And the current virus has circulated widely in countries currently in their hot seasons. These two points suggest that transmission of and infection

with the virus may not be affected by the weather.

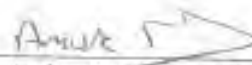
17. Due to the ease of transmission, the high risk to certain parts of the population, and the fact that the virus will continue to surge unless and until wide-spread vaccination and/or herd immunity is achieved, individuals will need to continue to take steps to prevent infection. Polling locations are a prime area for increased transmission of SARS-CoV-2 due to the close proximity of a large number of individuals—voters, observers, poll workers—in a limited space. A polling location also has a large number of common surfaces that multiple people touch: the doors, the poll books to sign in, pens, voting booths, and voting machines. Due to the transmission of the virus via contaminated environmental surfaces, polling locations are highly likely to cause increased infection. My opinion has been further confirmed by reports like the one from health officials in Milwaukee, Wisconsin, who have reported that six voters and a poll worker have been identified as having contracted SARS-CoV-2 via in-person voting in the primary election held on April 7, 2020.¹ This is one example of the risks of transmission I have described. Widespread vote-by-mail or absentee balloting would be a much safer option for public health, in light of COVID-19, as it would vastly decrease the number of individuals needing to vote in person and thus substantially decrease the number of people coming into proximity at polling locations and the spread via environmental surfaces.

18. With widespread vote by mail, however, for individuals without another person able to witness in their household, the requirement that they have someone witness their absentee ballot would place them at increased risk of exposure to and/or transmission of COVID-19. Requiring individuals to have someone they are not otherwise being exposed to come into close enough

¹ Nick Corasaniti & Reid J. Epstein, “At Least Seven in Wisconsin Contract Coronavirus During Voting,” N.Y. Times, Apr. 21, 2020.

proximity to witness their ballot would place them at increased risk of infection. This would be particularly risky for those who are at a greater risk of complications and death from COVID-19.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 21, 2020.



Dr. Arthur L. Reingold

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Thomas et al.	)	
	)	
Plaintiffs,	)	
v.	)	
	)	
Andino et al.	)	
	)	
	)	CASE NO. No 3:20-cv-01552
Defendants.	)	

DECLARATION OF WILLIAM S. COOPER

WILLIAM S. COOPER, acting in accordance with 28 U.S.C. §1746, 26(a)(2)(B), the Federal Rules of Civil Procedure, and Rules 702 and 703, the Federal Rules of Evidence, does hereby declare and say:

1. My name is William S. Cooper. I have a B.A. degree in Economics from Davidson College. As a private consultant, I currently serve as a demographic expert for the Plaintiffs.

2. I have testified at trial as an expert witness on redistricting and demographics in federal courts in about 40 voting rights cases in 16 states. My testimony in these lawsuits almost always included a review of demographics and socioeconomic characteristics for the jurisdictions at issue.

3. The attorneys for the plaintiffs asked me to review measures of socioeconomic status for African Americans and non-Hispanic Whites in South Carolina, as reported in the *1-Year 2018 American Community Survey* (2018 ACS) published by the U.S. Census Bureau.

4. According to the 2018 ACS, the citizen voting age population in South Carolina is 3,850,077, of whom 1,021,072 are single-race African-American (25.5%), 115,494 are Latino (3.0%), and 2,605,101 (67.7%) are non-Hispanic White.¹

5. According to the 2018 ACS, the 2018 voting age population of South Carolina is 3,979,718, of whom 25.7% are non-Hispanic African-American, 4.8% are Latino, and 66.1% are non-Hispanic White.² (See **Attachment B at p. 1**)

¹ Source: **Table S2901 -- CITIZEN, VOTING-AGE POPULATION BY SELECTED CHARACTERISTICS**

<https://data.census.gov/cedsci/table?q=south%20carolina%20voting%20age%20population&g=0400000US45&tid=ACSSST1Y2018.S2901&t=Age%20and%20Sex&vintage=2018>

² Source: **Table S0201 – SELECTED POPULATION PROFILE**

As of April 21, 2020, the PDF version of Table S0201 is not yet available from the Census Bureau's new website which replaced American Factfinder. Right click on any cell in the webpage source below to download an Excel compatible version of the S0201 dataset.

<https://data.census.gov/cedsci/table?q=s0201&tid=ACSSPP1Y2018.S0201&y=2018&t=400%20-%20Hispanic%20or%20Latino%20%28of%20any%20race%29%20%28200-299%29%3A451%20-%20White%20alone,%20not%20Hispanic%20or%20Latino%3A453%20-%20Black%20or%20African%20American%20alone,%20not%20Hispanic%20or%20Latino%3ARace%20and%20Ethnicity&hidePreview=true&moe=false&g=0400000US45>

6. For the 3.98 million South Carolinians of voting age, 558,826 (14.5%) live alone. Of the 899,754 persons who are 65 and over³, 222,484 (24.7%) live alone.⁴ Thus, about 39.8% of persons who live alone are over 65.

7. For South Carolinians of voting age living alone, 26.6% (148,897) are disabled.⁵ And for the subset of 65 and over living alone, 39.2% (88,940) are disabled.

8. For the 1.02 million African Americans of voting age, 170,075 (16.7%) live alone.⁶ Of the 162,697 African Americans who are 65 and over, 53,591 (32.9%) live alone.

³ Source: **Table S0101 -- AGE AND SEX**

<https://data.census.gov/cedsci/table?q=population%20by%20age&g=0400000US45&tid=ACSS1Y2018.S0101&t=Age%20and%20Sex>

⁴ Source: **Table DP02 -- SELECTED SOCIAL CHARACTERISTICS IN THE UNITED STATES**

https://data.census.gov/cedsci/table?q=south%20carolina%20single%20person%20households&g=040000US45&hidePreview=false&tid=ACSDP1Y2018.DP02&vintage=2018&layer=VT_2018_040_00_PY_D1&cid=DP02_0001E

⁵ Source: **ACS 1-Year Estimates - Public Use Microdata Sample (2018)**

[https://data.census.gov/mdat/#/search?ds=ACSPUMS1Y2018&vv=AGEP\(18:99\)&cv=RACBLK,DIS&rv=ucgid&nv=HHT\(4,6\)&wt=PWGTP&g=0400000US45](https://data.census.gov/mdat/#/search?ds=ACSPUMS1Y2018&vv=AGEP(18:99)&cv=RACBLK,DIS&rv=ucgid&nv=HHT(4,6)&wt=PWGTP&g=0400000US45)

⁶ Source: **ACS 1-Year Estimates - Public Use Microdata Sample (2018)**

[https://data.census.gov/mdat/#/search?ds=ACSPUMS1Y2018&vv=AGEP\(18:99\)&cv=RACBLK&rv=ucgid&nv=HHT\(4,6\)&wt=PWGTP&g=0400000US45](https://data.census.gov/mdat/#/search?ds=ACSPUMS1Y2018&vv=AGEP(18:99)&cv=RACBLK&rv=ucgid&nv=HHT(4,6)&wt=PWGTP&g=0400000US45)

9. In South Carolina, for voting age African Americans (incl. Hispanic Black) living alone, 27.1% (46,066) are disabled.⁷ For the subset of 65 and over living alone, 41.2% of African Americans (22,092) are disabled. For voting age Whites (incl. Hispanic White) living alone, 26.7% (101,164) are disabled.⁸ For the subset of 65 and over living alone, 38.6% of Whites (64,389) are disabled.

10. In South Carolina, African Americans and Latinos trail non-Hispanic Whites across most key indicators of socioeconomic well-being. This disparity is summarized in the charts in **Attachment A** and the table in **Attachment B**, as reported in Table S0201 from the 2018 ACS.

11. The following items specifically compare single race non-Hispanic African Americans and non-Hispanic Whites, according to the 2018 ACS:

a) Income

- About a quarter (25.4%) of African Americans in South Carolina live in poverty, compared to 10.0% of Whites. (**Attach. A at p. 22 and Attach. B at p. 7**)
- Nearly two in five (38.7%) of African-American children live in poverty, compared to 11.4% of White children. (**Attach. A at p. 22 and Attach. B at p. 7**)

⁷ Source: **ACS 1-Year Estimates - Public Use Microdata Sample (2018)**

[https://data.census.gov/mdat/#/search?ds=ACSPUMS1Y2018&vv=AGEP\(18:99\)&cv=RACBLK,DIS&rv=ucgid&nv=HHT\(4,6\)&wt=PWGTP&g=0400000US45](https://data.census.gov/mdat/#/search?ds=ACSPUMS1Y2018&vv=AGEP(18:99)&cv=RACBLK,DIS&rv=ucgid&nv=HHT(4,6)&wt=PWGTP&g=0400000US45)

⁸ Source: **ACS 1-Year Estimates - Public Use Microdata Sample (2018)**

- About two in five (43.1%) of African American female-headed households with children live below poverty, compared to a 33.0% poverty rate for White female-headed households. (**Attach. A at p. 20 and Attach. at p. 7**)
- African-American median household income is \$34,594, compared \$61,600 for White households. (**Attach. A at p. 14 and Attach. B at p. 6**)
- Per capita income disparities in South Carolina track the disparities seen in median household income. African-American per capita income is \$18,982, compared to White per capita income of \$34,663. (**Attach. A at p. 17 and Attach. B at p. 7**)
- About a quarter (24.2%) of African-American households rely on food stamps (SNAP) –nearly four times the 6.6% SNAP participation rate of White households. (**Attach. A at p. 15 and Attach. B at p. 6**)

(b) Education

- Of persons 25 years of age and over, nearly one-sixth (16.1%) of African Americans have not finished high school, compared to 8.7% of their White counterparts. (**Attach. A at p. 5 and Attach. B at p. 3**)
- At the other end of the educational scale, for ages 25 and over, 15.3% of African Americans have a bachelor's degree or higher, compared to 33.4% of Whites. (**Attach. A at p. 5 and Attach. B at p. 3**)

(c) Employment

- The Black unemployment rate (for the population over 16 (expressed as a percent of the civilian labor force) is 8.0% – compared to a 4.1% White unemployment rate. (**Attach. A at p. 11 and Attach. B at p. 5**)
- Of employed African Americans, 23.1% are in management or professional occupations, compared to the 39.9% rate of Whites. (**Attach. A at p. 13 and Attach. B at p. 5**)

(d) Household Composition

- Of all African American households, 33.2% contain persons living alone. Of all White households, 28.2% contain persons living alone. (**Attach. A at p. 28 and Attach. B. at p. 2**) ⁹
- Of all African American households, 14.8% are female-headed, with children under 18. By comparison, 3.9% of White households are female-headed with children. (**Attach. A at p. 29 and Attach. B at p. 2**)

(e) Home ownership

- About half of African-American householders (51.4%) are homeowners, while more than three-fourths of White households (77.5%) are owner-occupied. (**Attach. A at p. 21 and Attach. B at p. 8**)
- Median home value for African-American homeowners is \$106,700, compared to the \$189,800 median home value for Whites. (**Attach. A at p. 25 and Attach. B at p. 9**)

(f) Health

- Nearly two in five African Americans (38.6%) aged 65 and over have a disability, compared to 33.1% of their White cohorts. (**Attach. A at p. 7 and Attach. B at p. 4**)
- About one in nine African Americans (11.6%) has no health insurance coverage, compared to 8.3% of Whites. (**Attach. A at p. 18 and Attach. B at p. 7**)

⁹ As noted in ¶8 supra, at the individual-level, 16.7% of African Americans of voting age live alone and 32.9% of those 65 and over live alone.

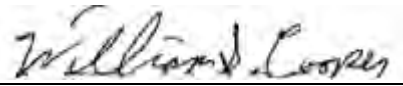
(g) Transportation/Communication

- About one in eight African-American households (13.6%) lacks access to a vehicle, while 3.5% of White households are without a vehicle. (**Attach. A at p. 23 and Attach. B at p. 8**)
- There is an 8-point Black-White gap in households with a computer, smartphone, or tablet – 84.7% versus 92.0%. (**Attach. A and Attach B. at p. 9**)
- More than one fourth (28.3%) of African American households do not have a broadband internet connection, compared to 14.9% of White households. (**Attach. A at p. 27 and Attach. B at p. 9**)

#

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on: **April 27, 2020**


WILLIAM S. COOPER

Selected Socio-Economic Data

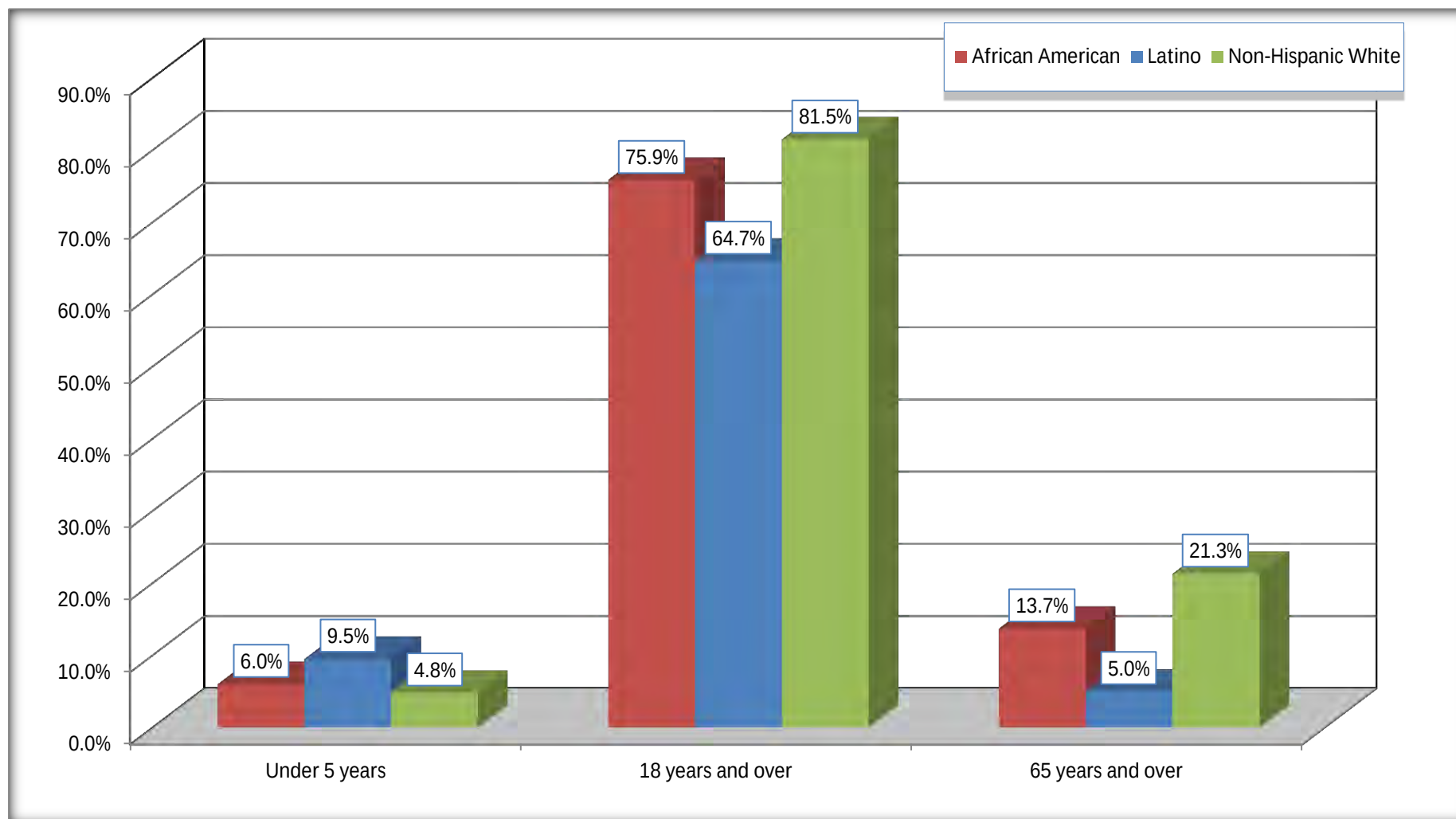
South Carolina

NH African American and Latino vis-à-vis NH White

Data Set: 2018 American Community Survey 1-Year Estimates

Population by Age

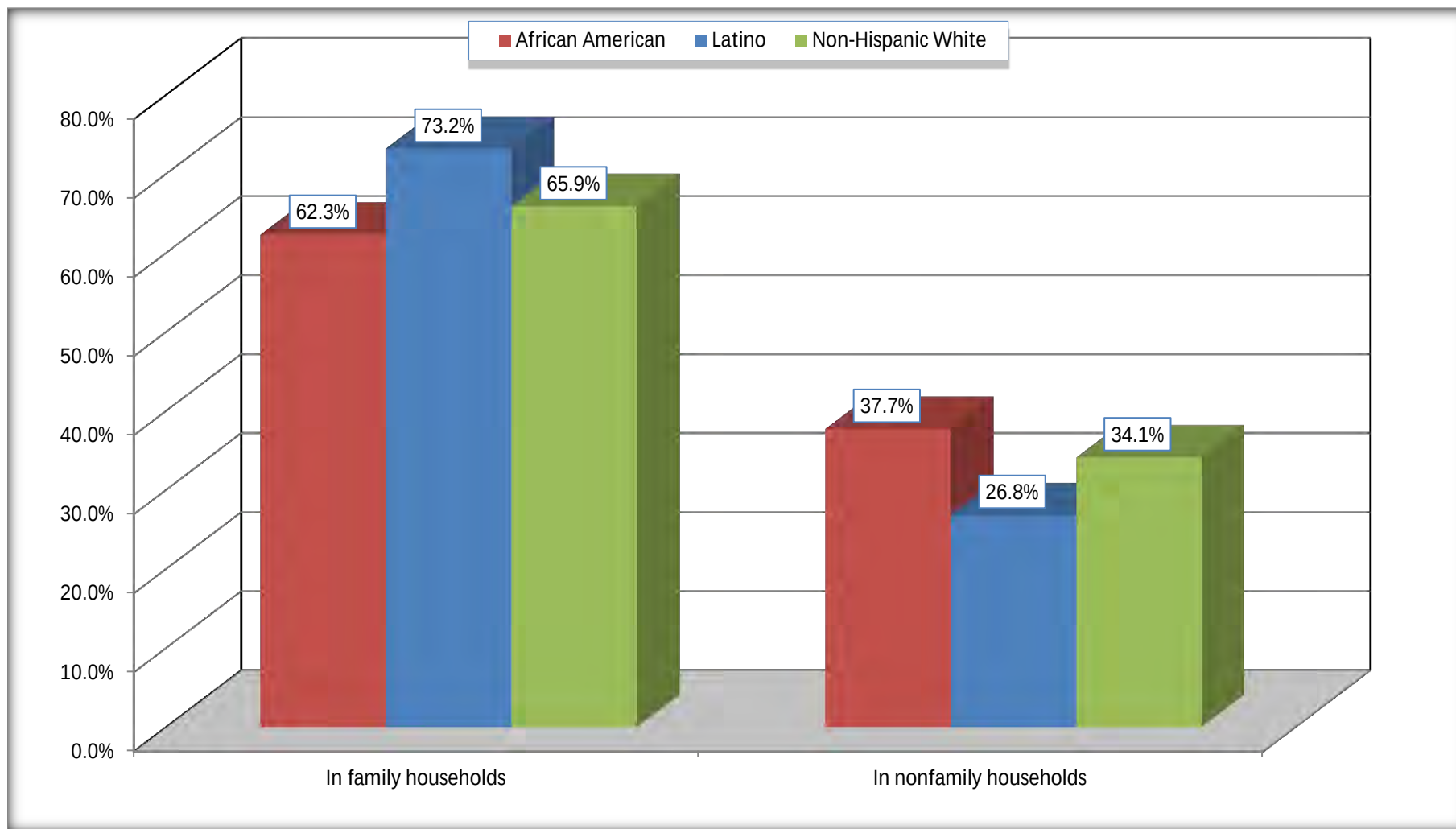
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
 Data Set: 2018 American Community Survey 1-Year Estimates

Household Type for Population in Households

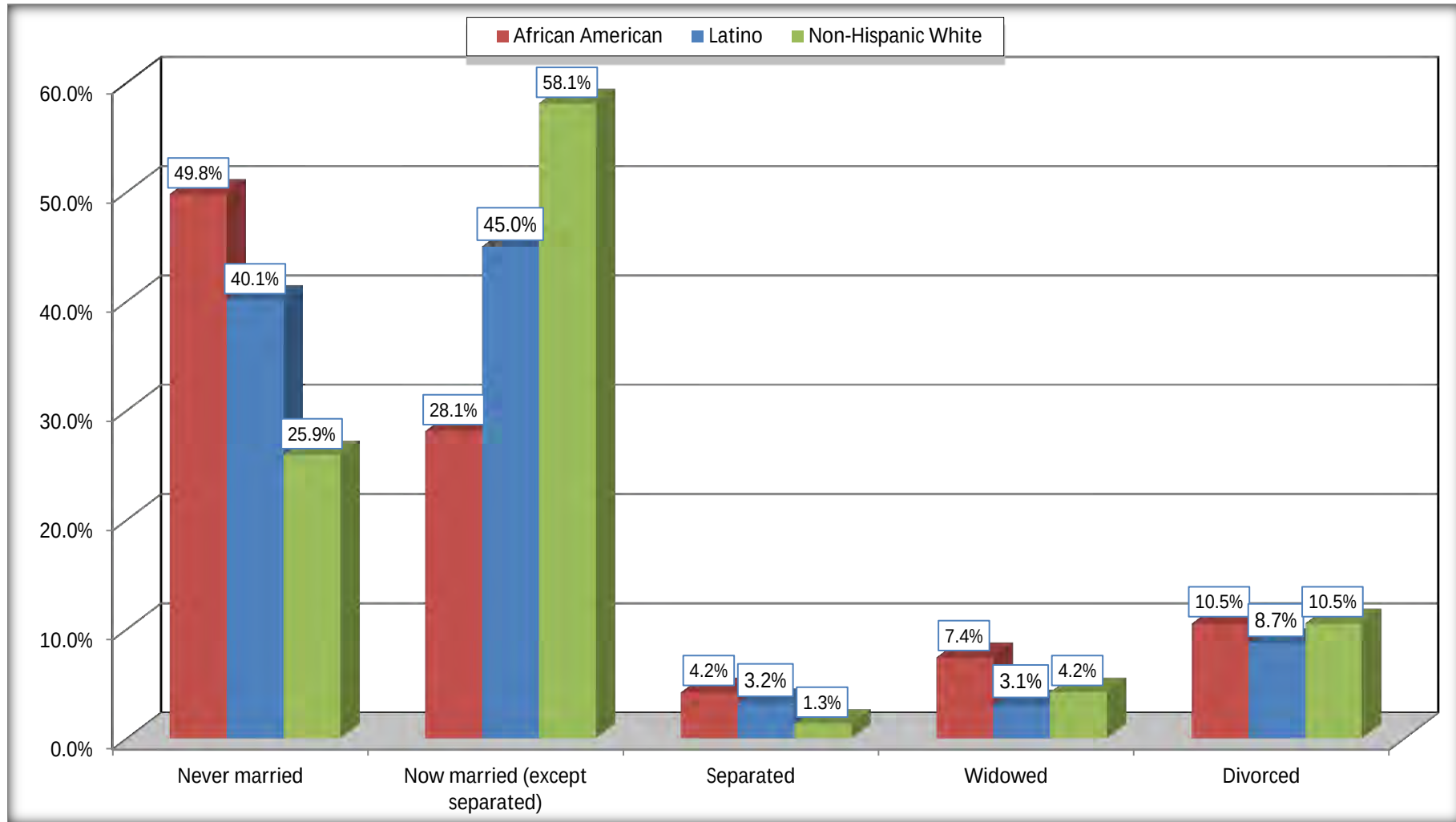
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
 Data Set: 2018 American Community Survey 1-Year Estimates

Marital Status for the Population 15 Years and Over

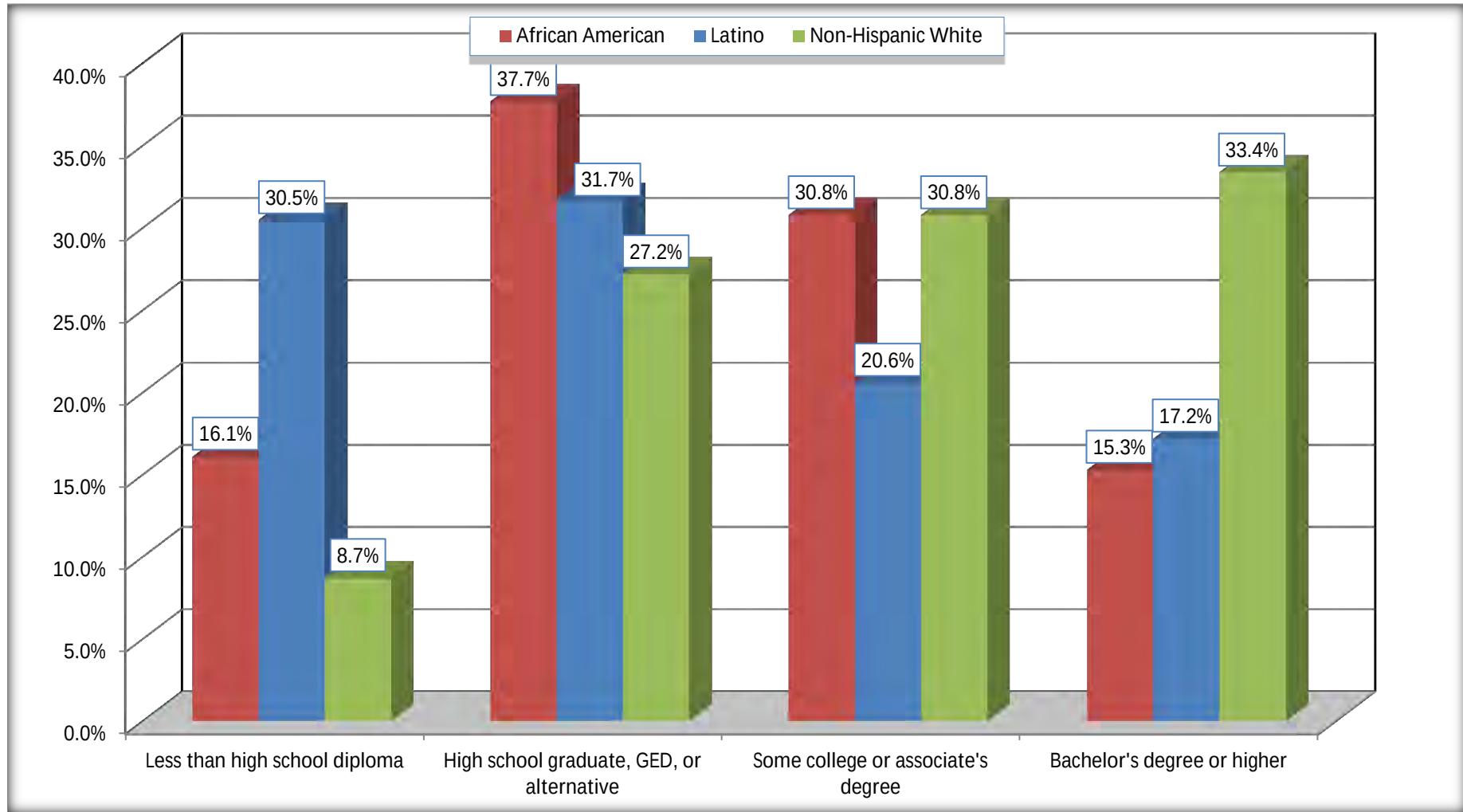
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
 Data Set: 2018 American Community Survey 1-Year Estimates

Educational Attainment for the Population 25 Years and Older

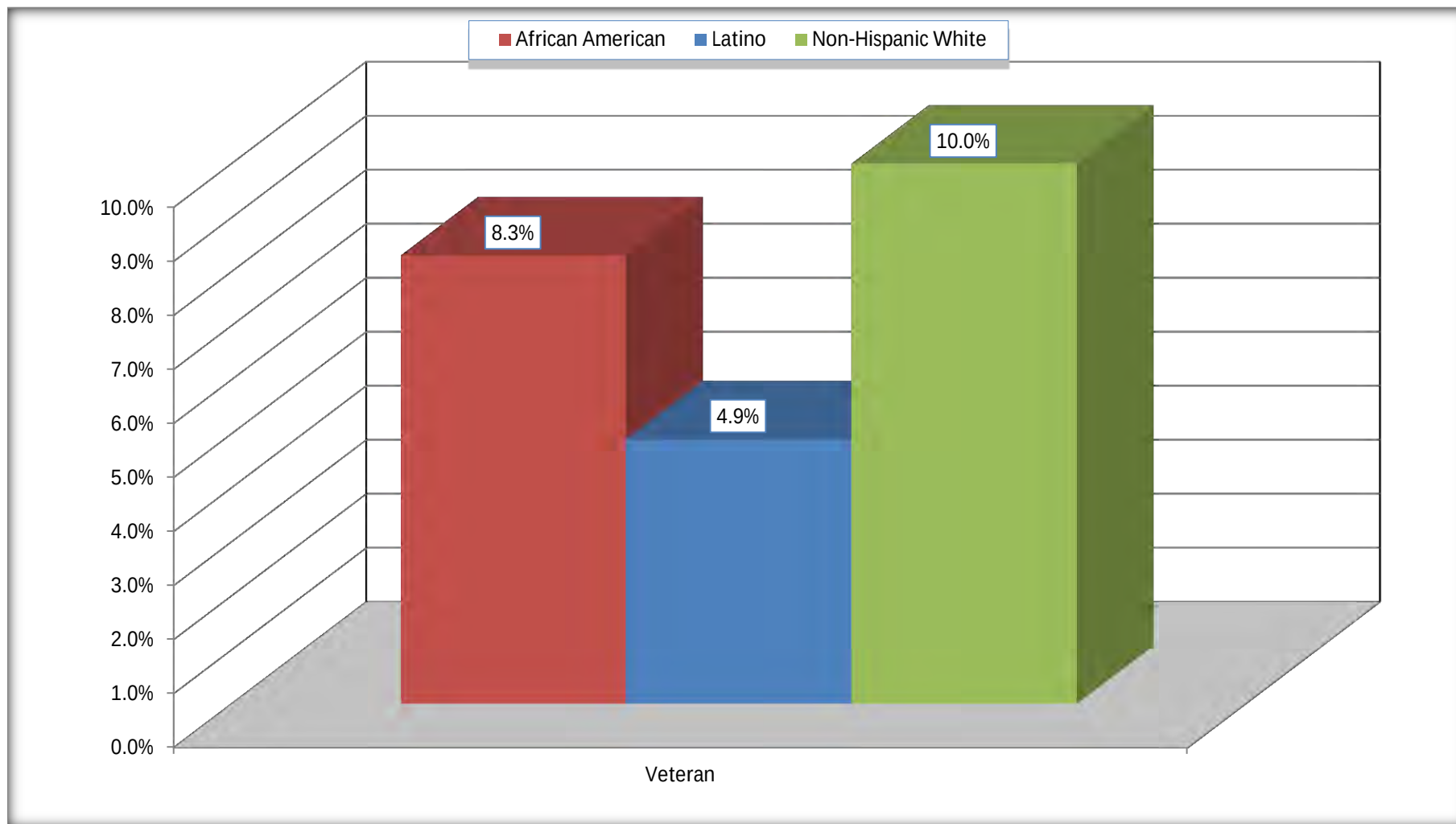
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
 Data Set: 2018 American Community Survey 1-Year Estimates

Veterans in the Civilian Population 18 Years and Over

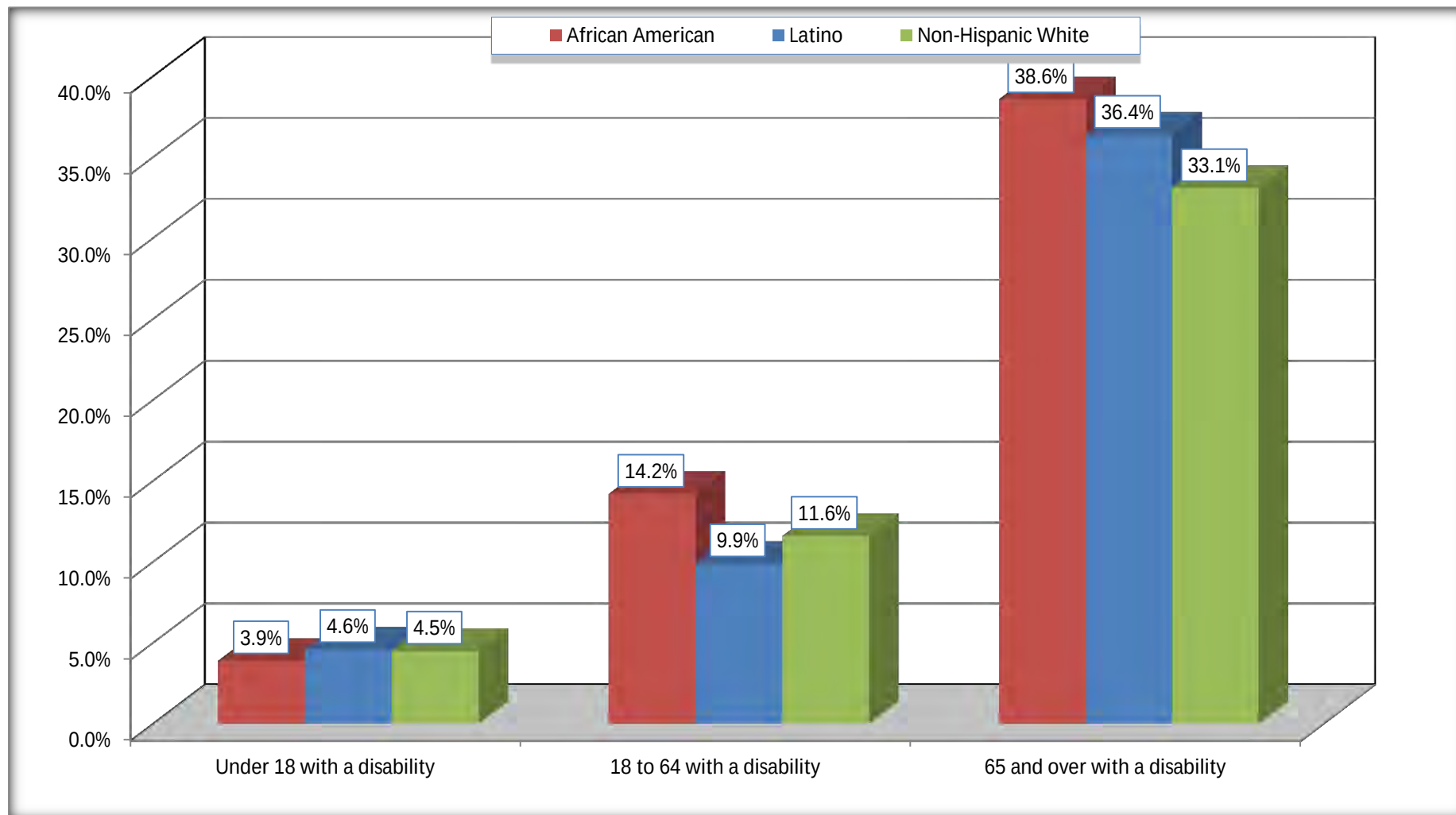
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Disability by Age -- Civilian Noninstitutionalized Population

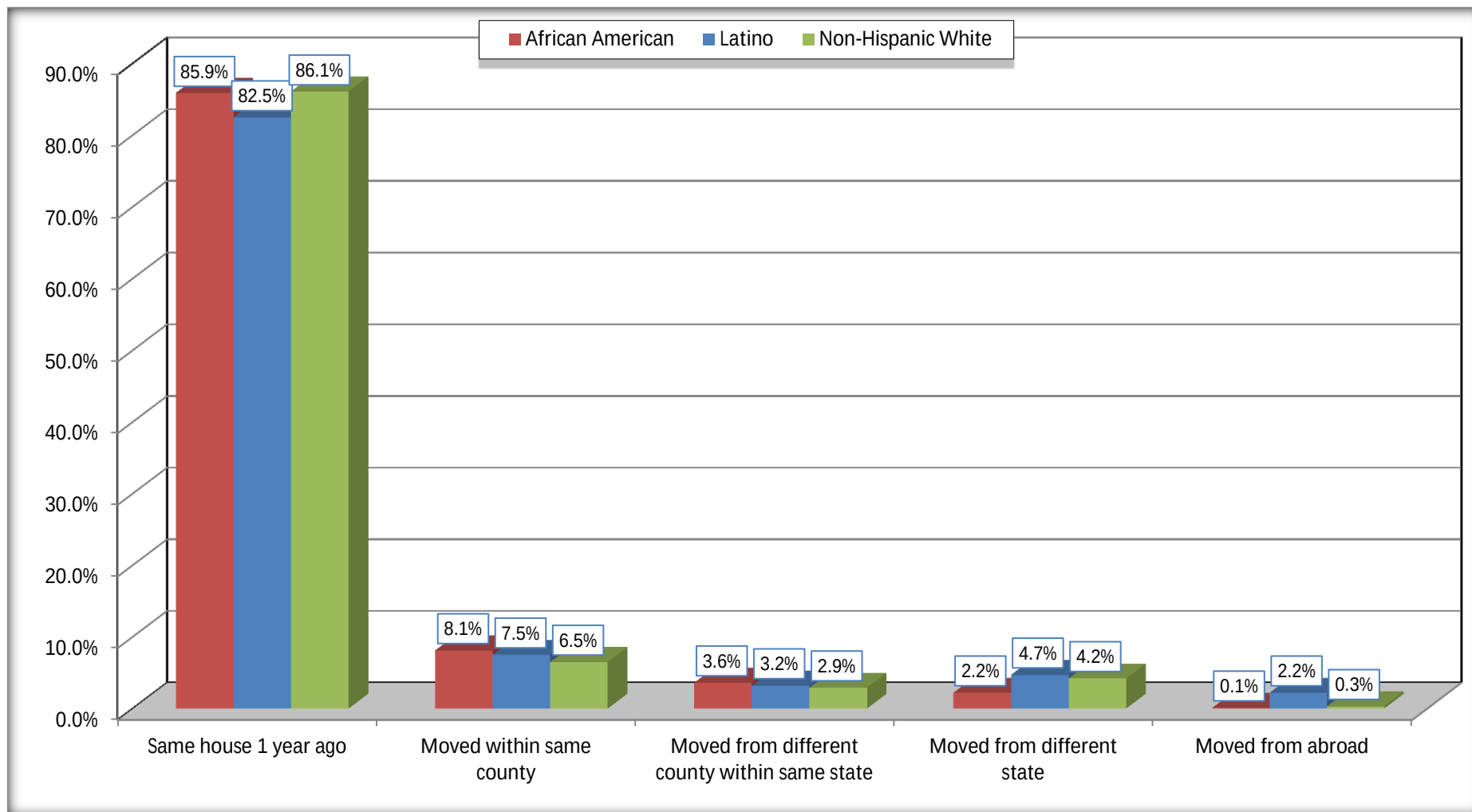
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
 Data Set: 2018 American Community Survey 1-Year Estimates

Geographical Mobility in the Past Year (Population 1 Year and Over)

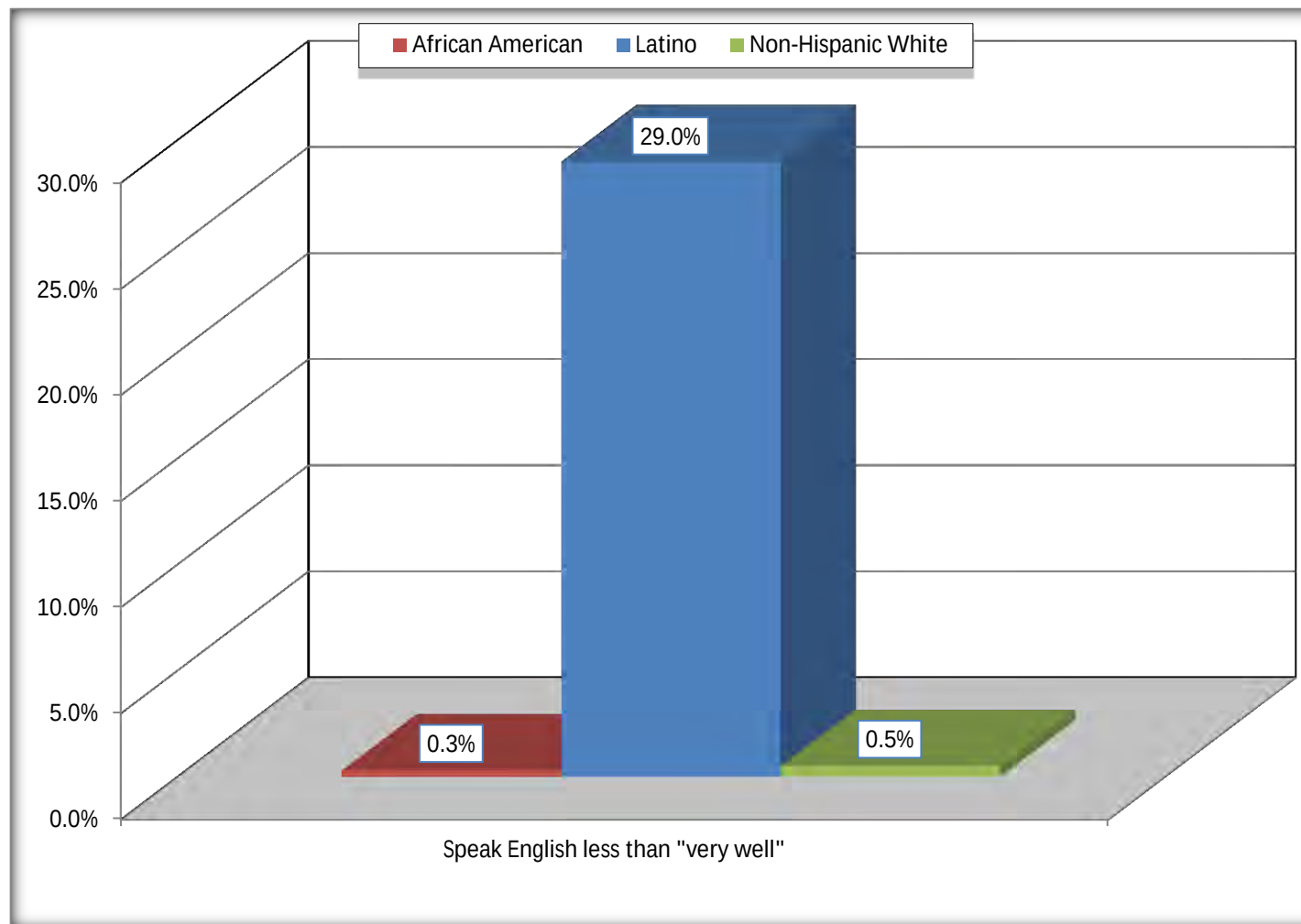
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
 Data Set: 2018 American Community Survey 1-Year Estimates

Speak English Less than "Very Well" (Population 5 Years and Over)

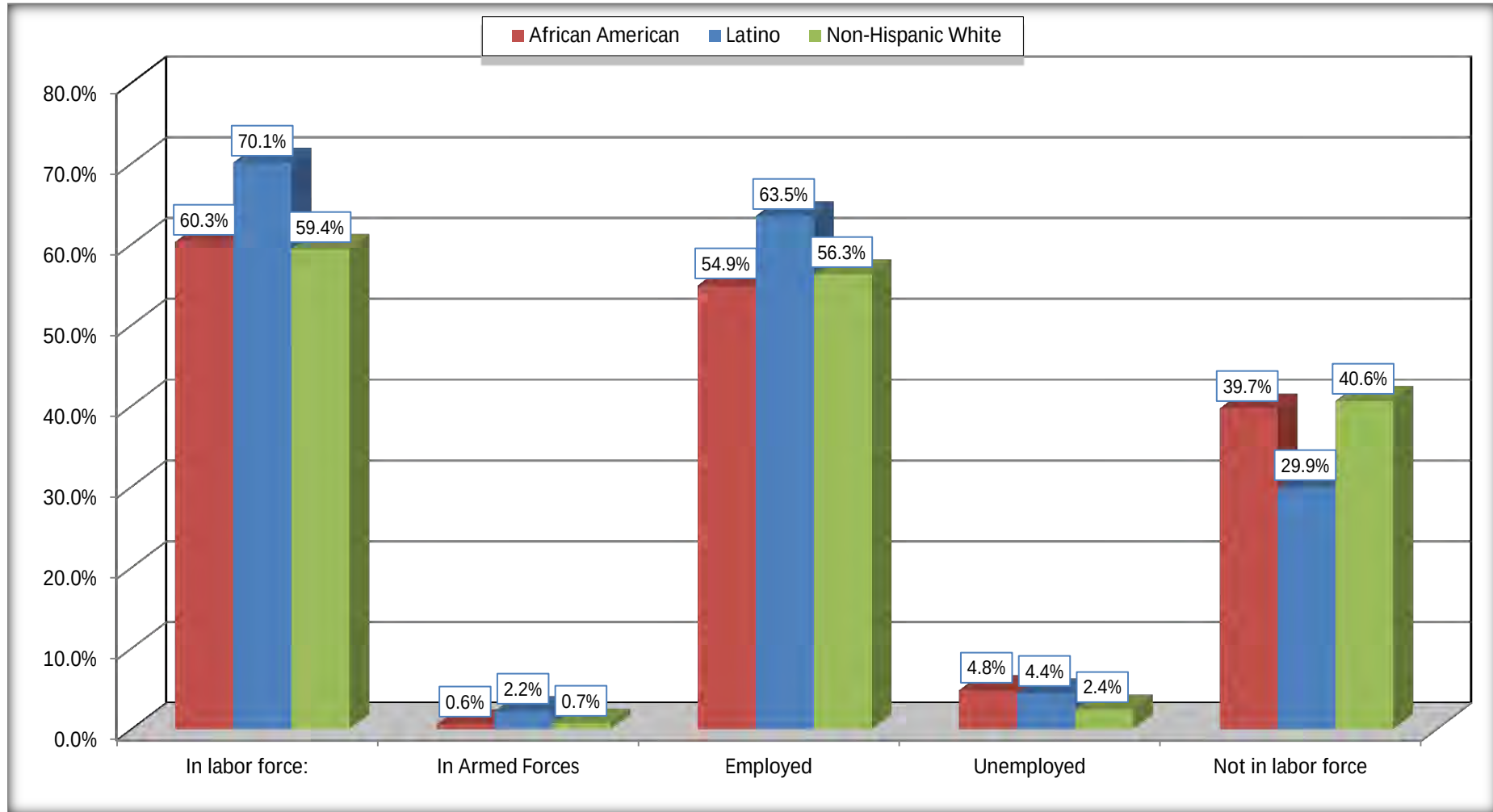
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Employment Status for the Population 16 years and over

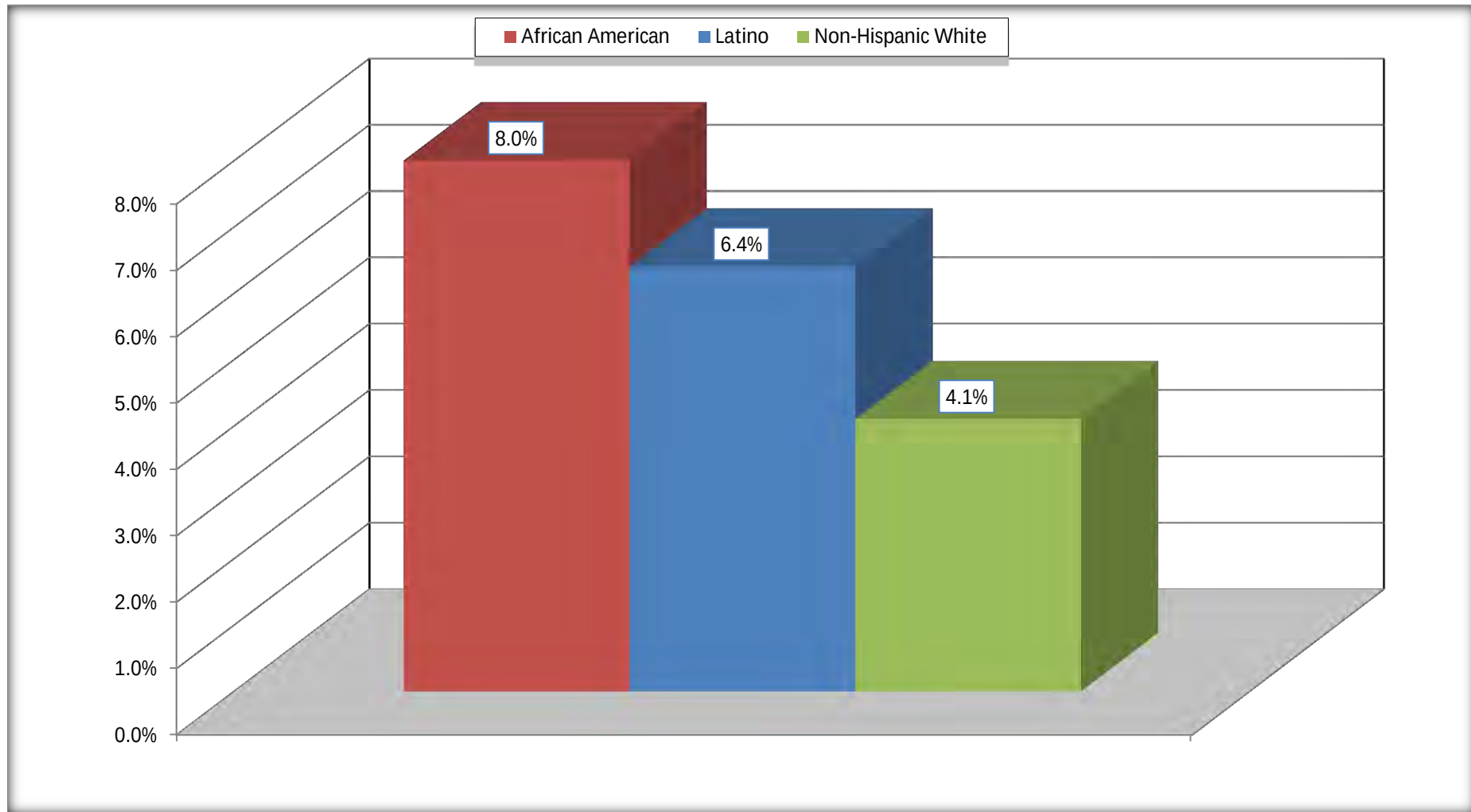
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
 Data Set: 2018 American Community Survey 1-Year Estimates

Unemployment (Civilian Labor Force -- Ages 16 and Over)

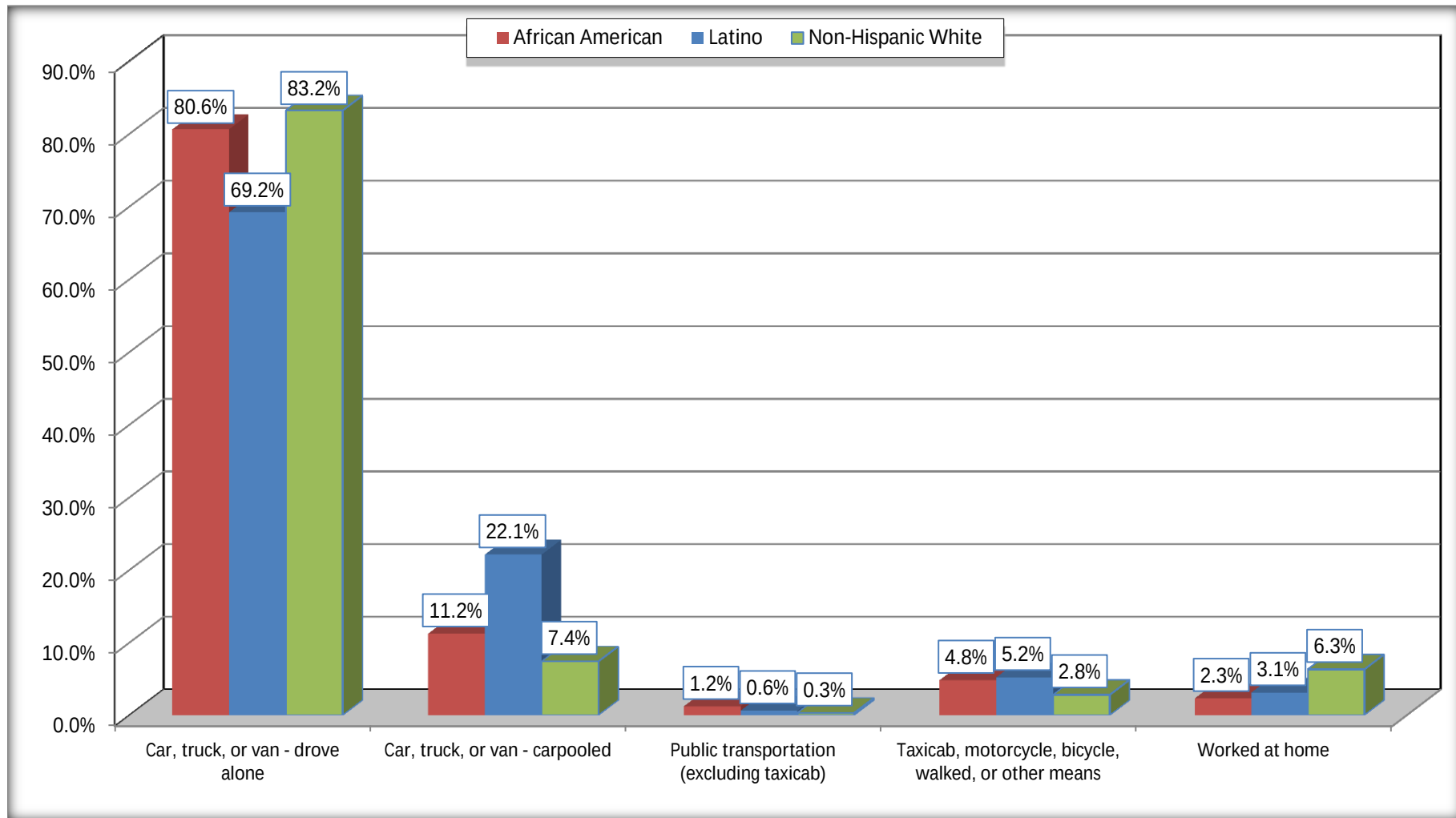
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Means of Transportation to Work (Workers 16 Years and Over)

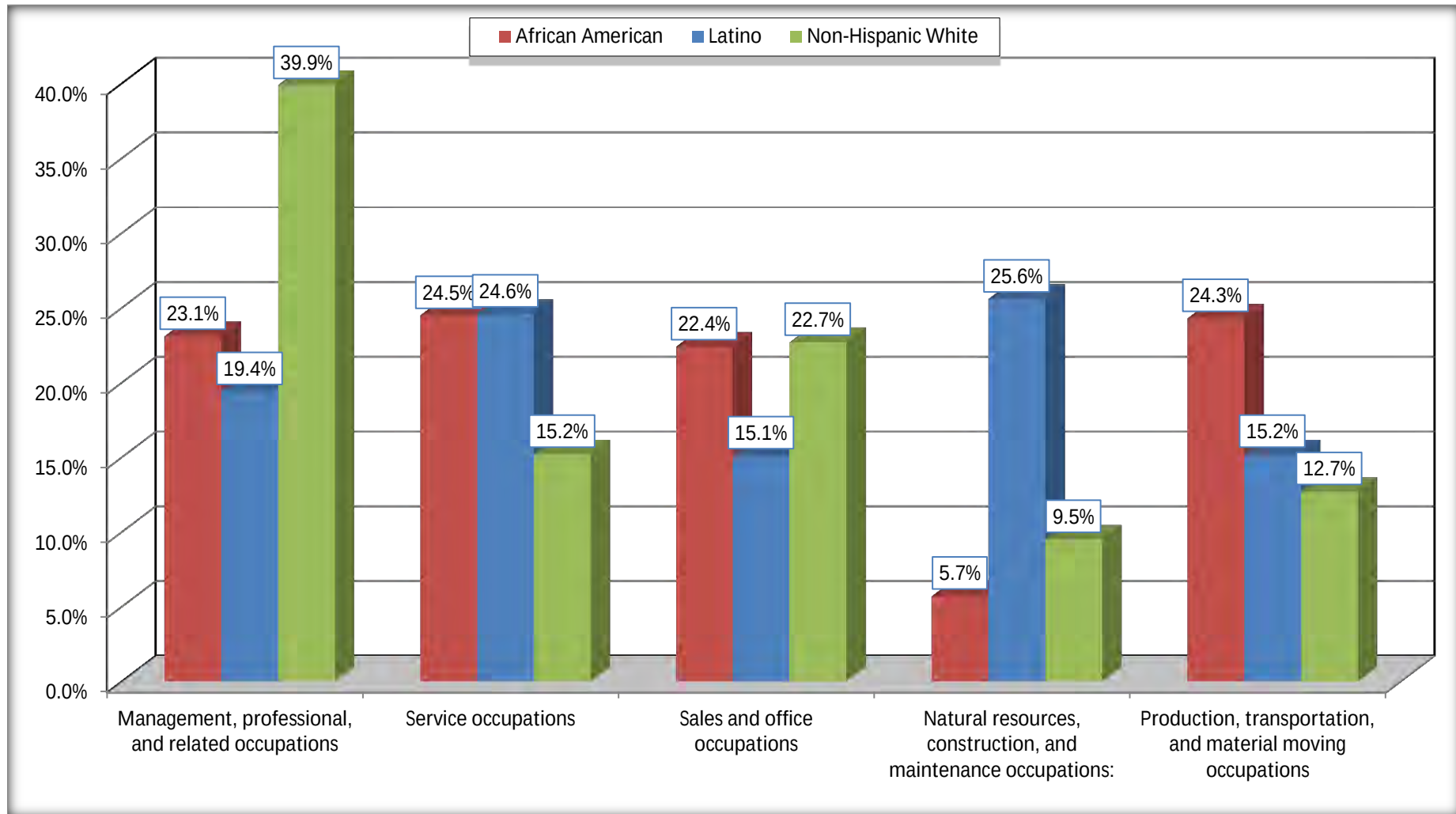
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
 Data Set: 2018 American Community Survey 1-Year Estimates

Occupation for the Civilian Employed 16 Years and Over Population

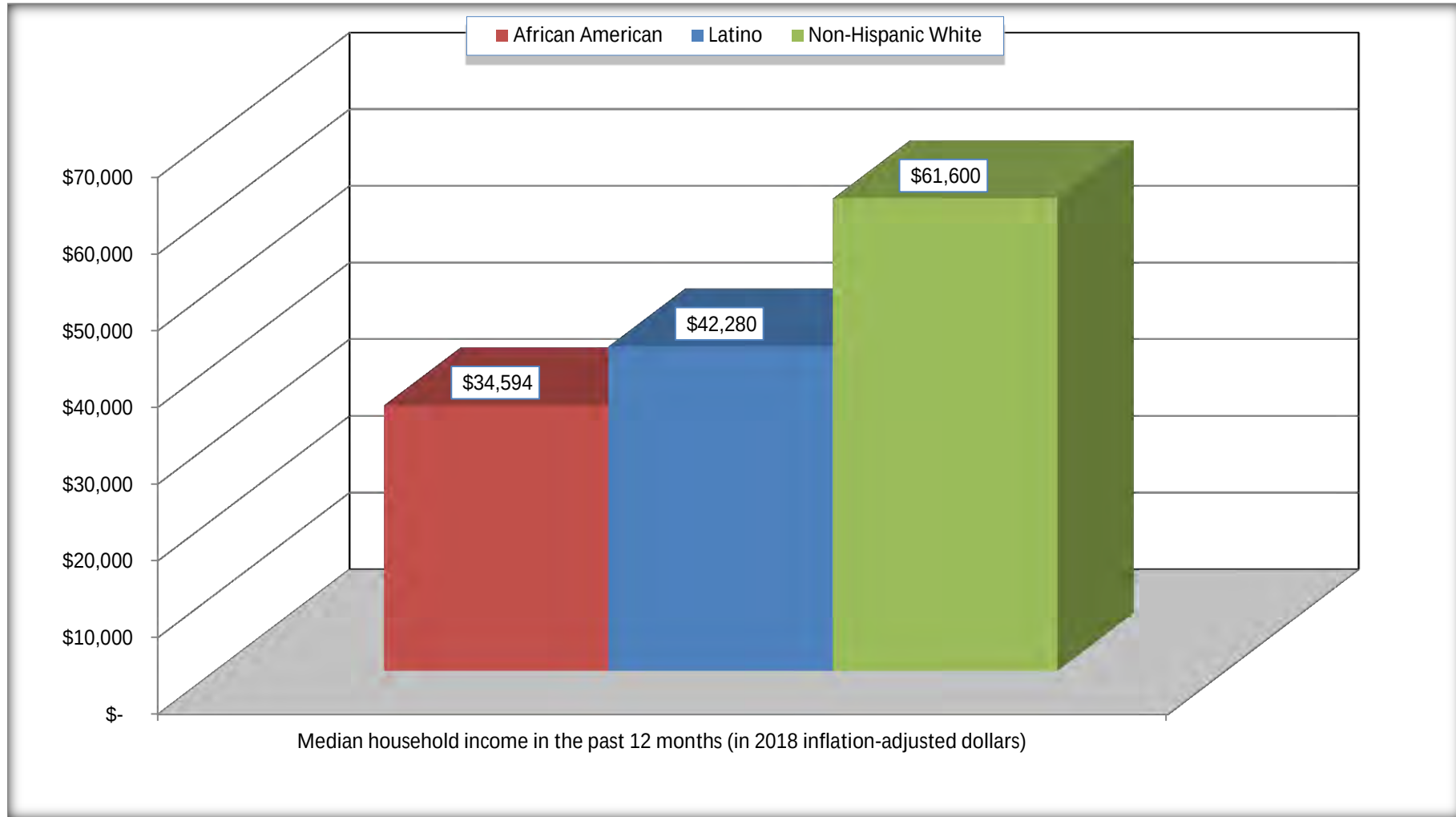
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
 Data Set: 2018 American Community Survey 1-Year Estimates

Median Household Income in the Past 12 Months

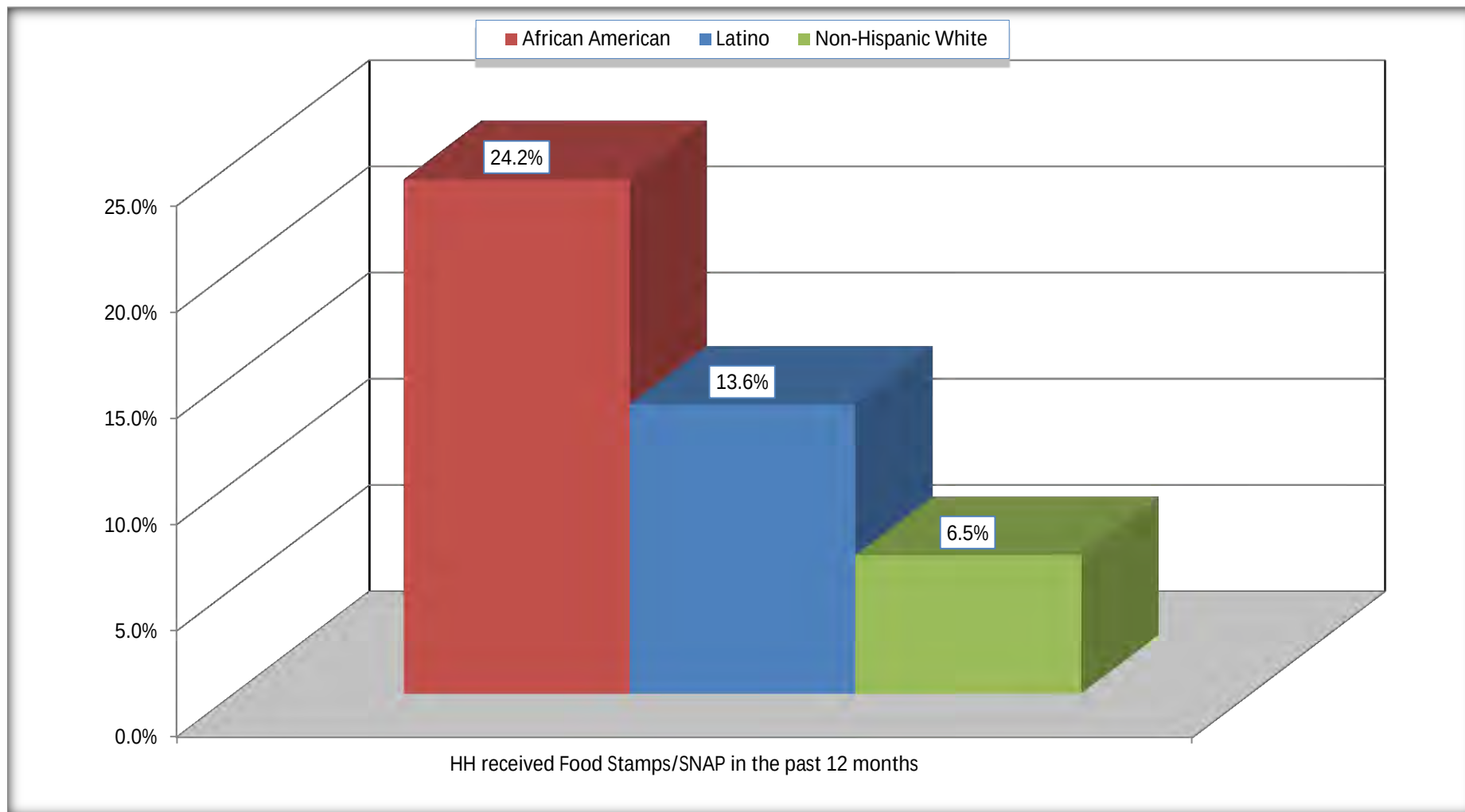
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Receipt of Food Stamps/SNAP in the Past 12 Months by Household

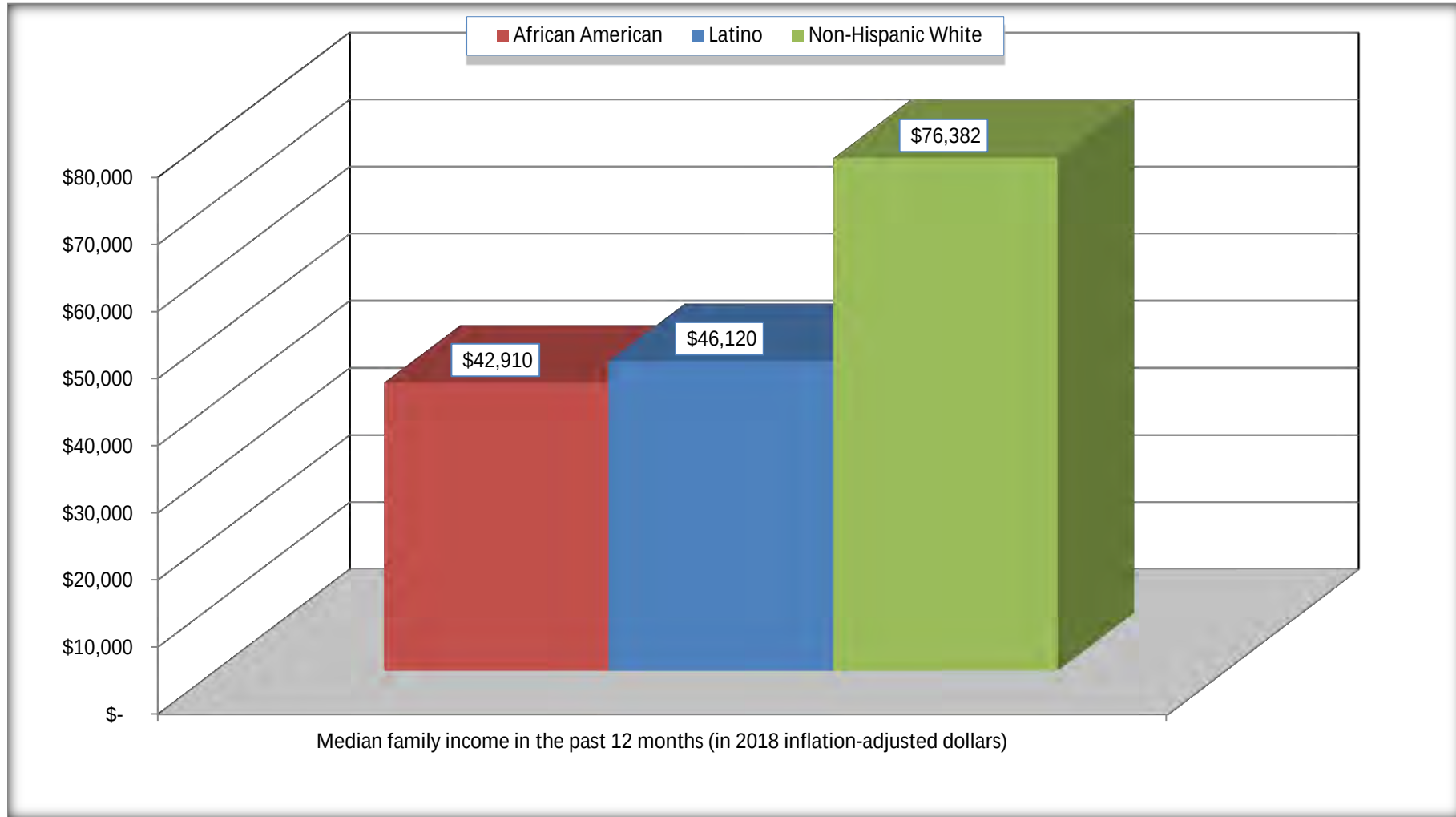
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Median Family Income in the Past 12 Months

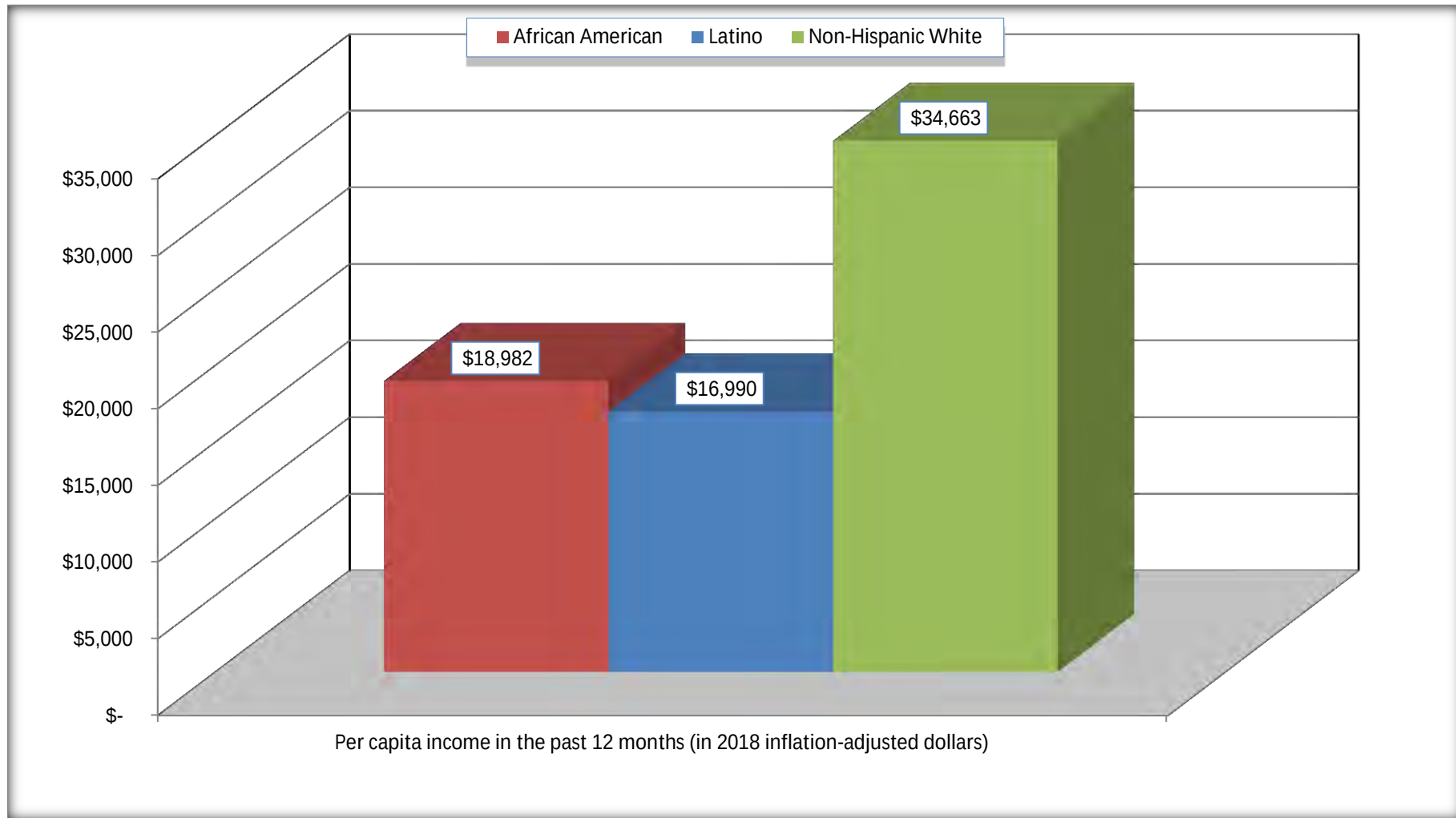
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Per capita Income in the Past 12 Months

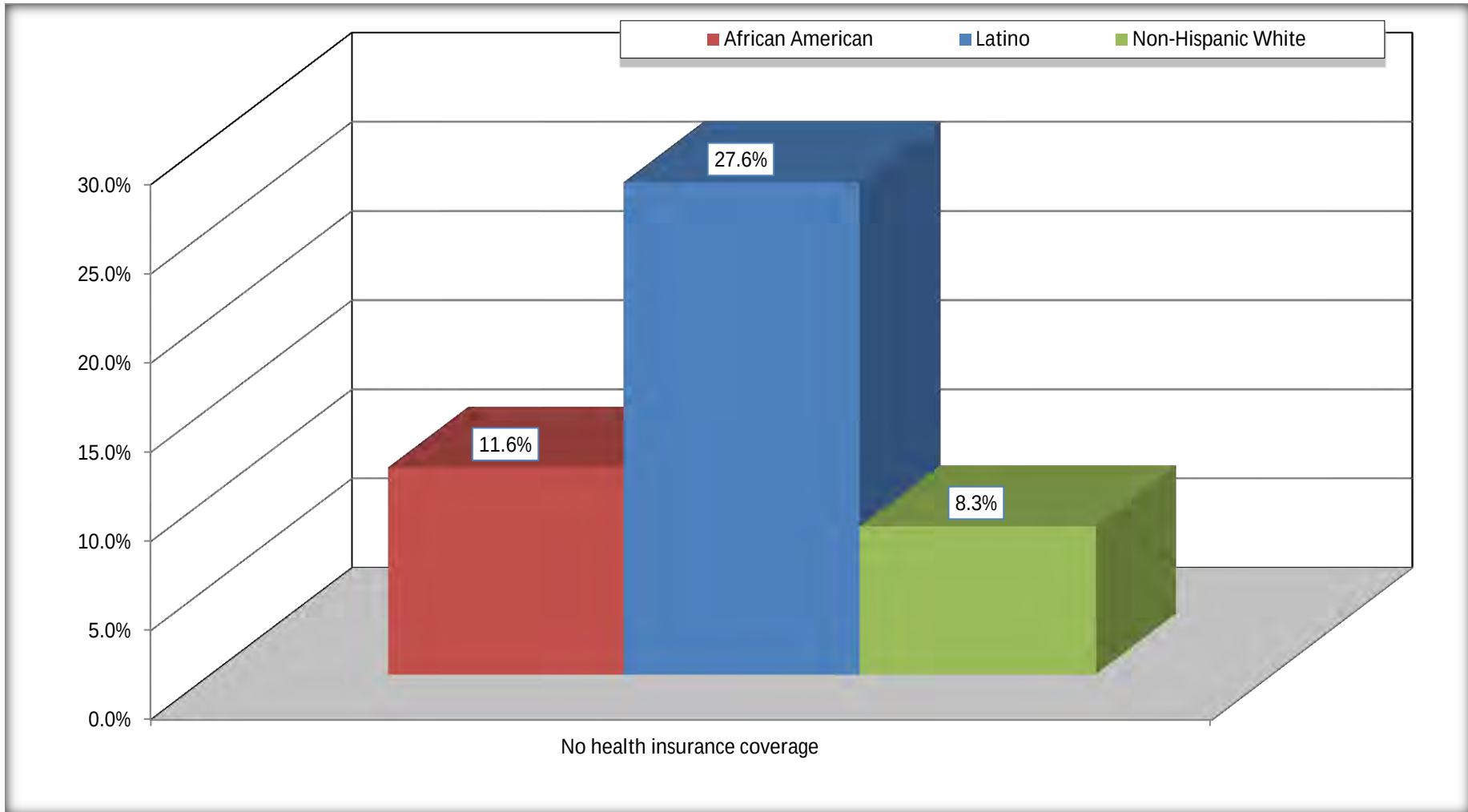
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Lack of Health Insurance Coverage -- Civilian Noninstitutionalized Population

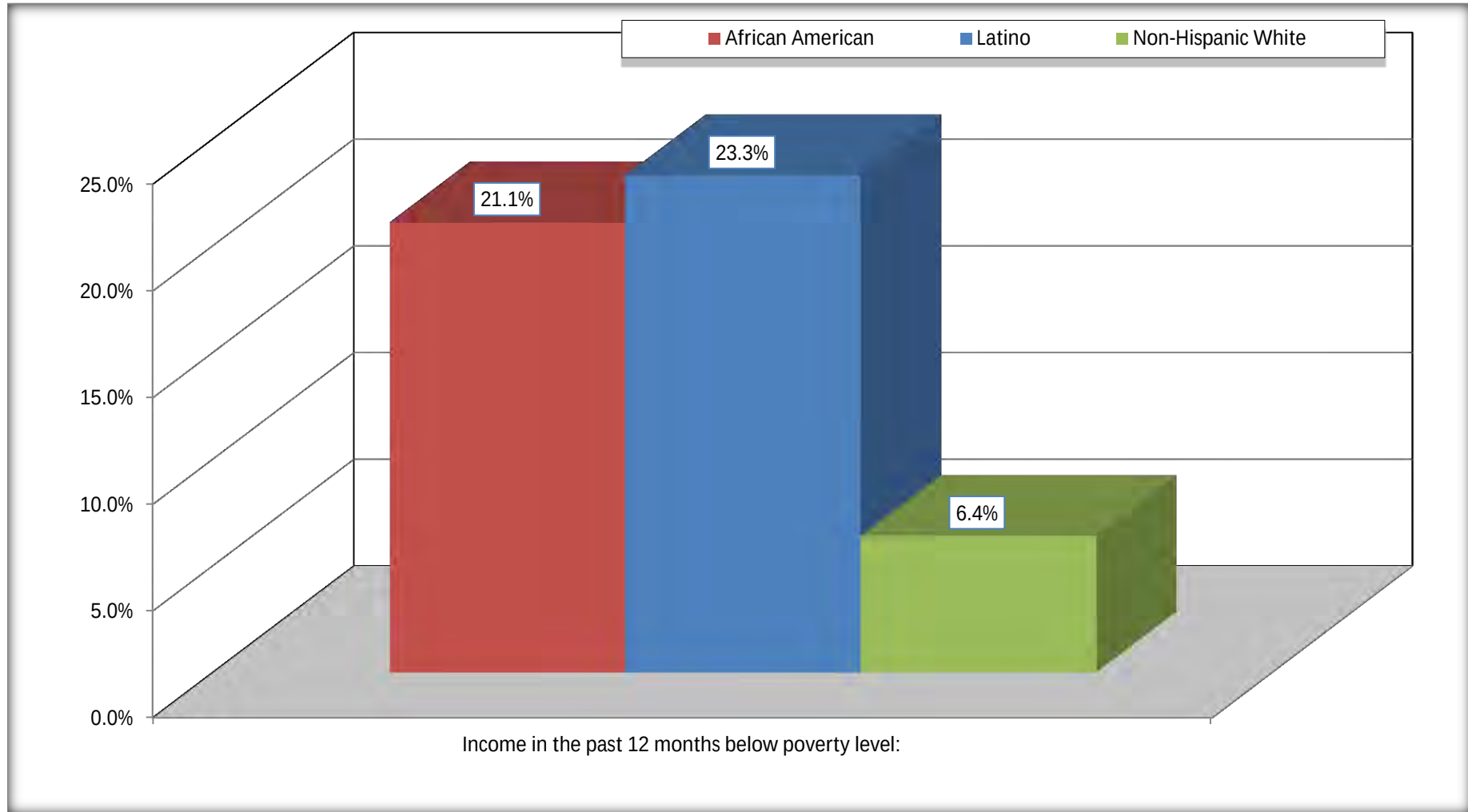
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Family Households Below Poverty in the Past 12 Months

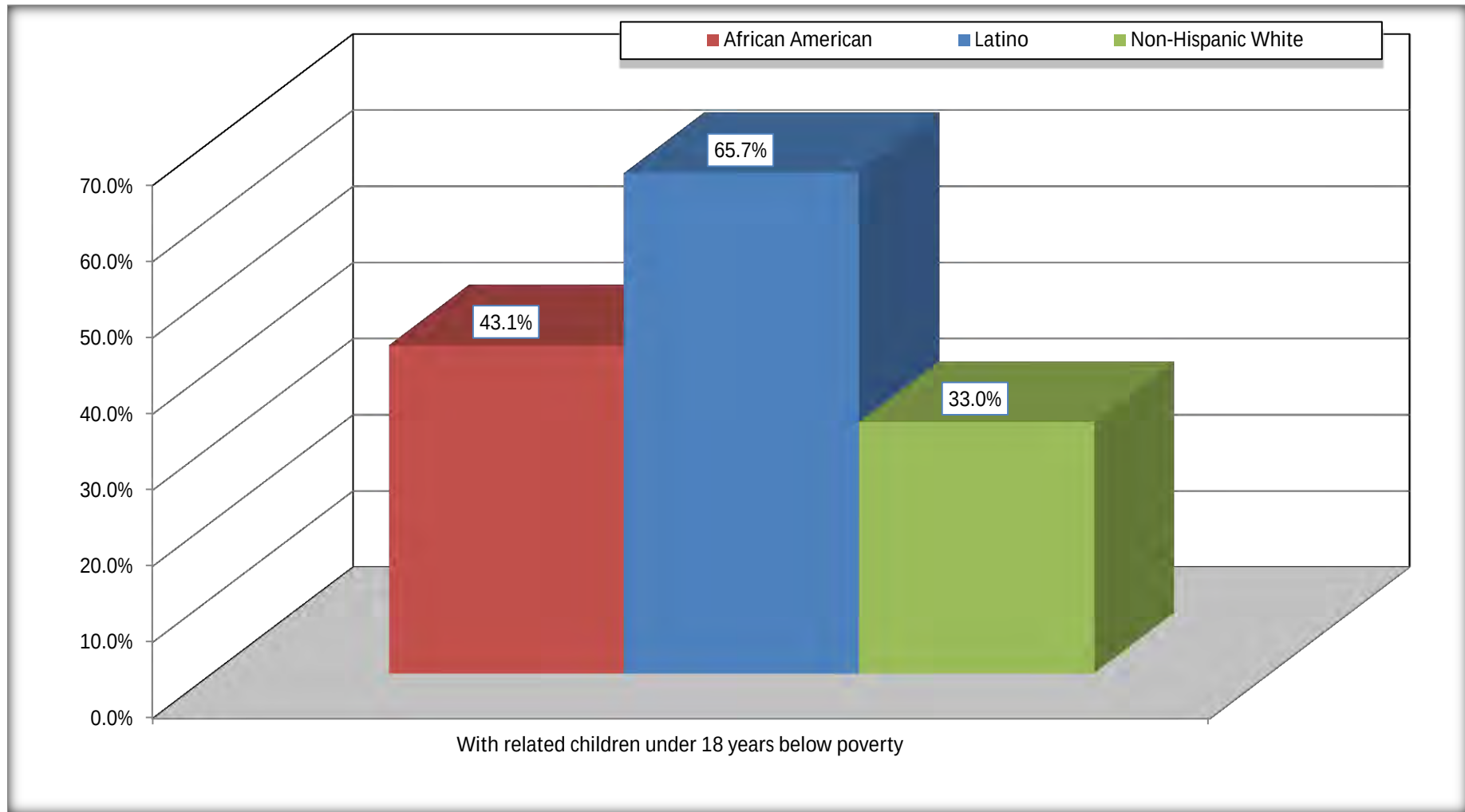
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Female-headed Households with Related Children Below Poverty in the Past 12 Months

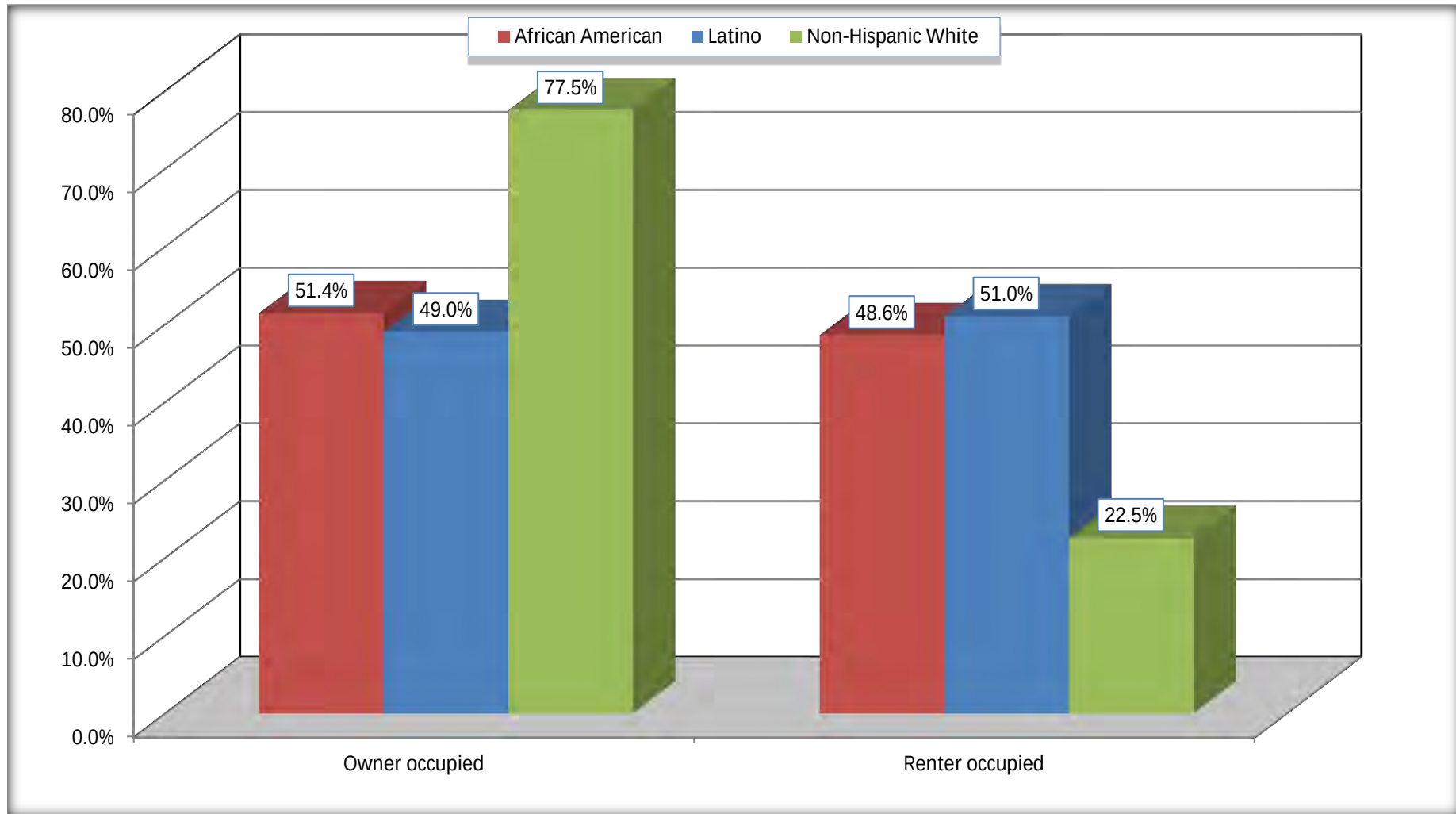
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Home Owners and Renters by Household

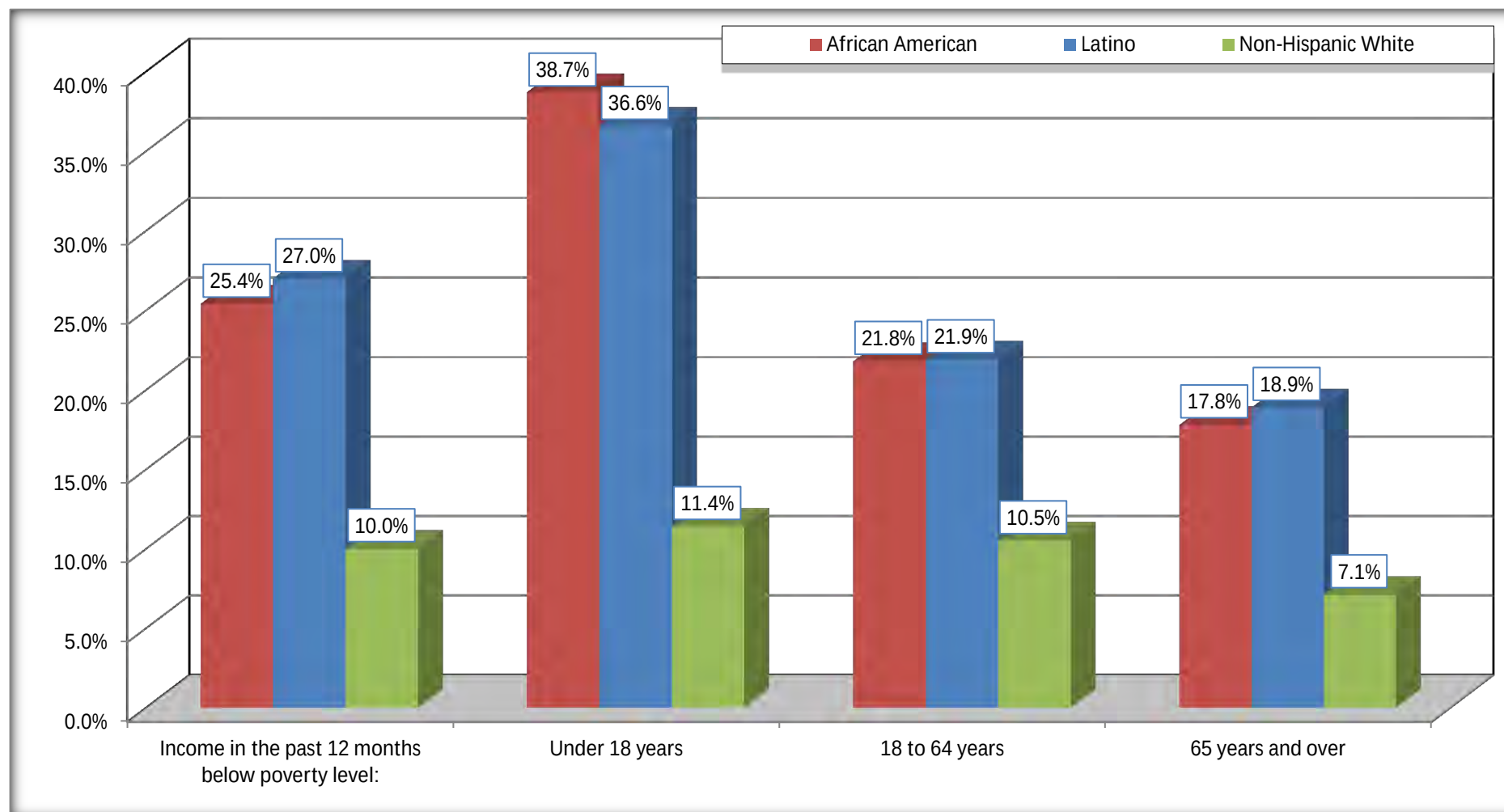
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Population Below Poverty in the Past 12 Months

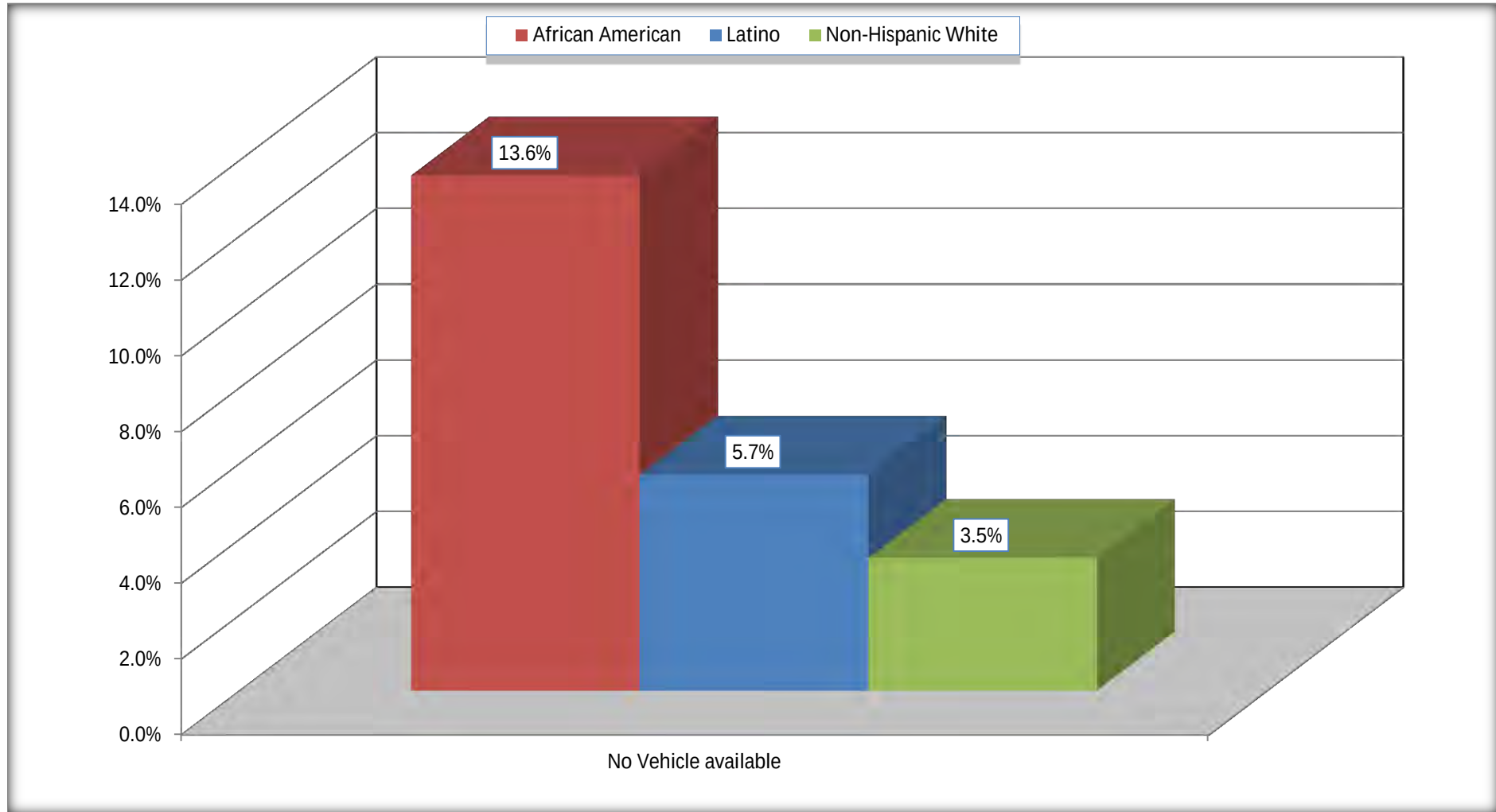
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

No Vehicles Available by Household

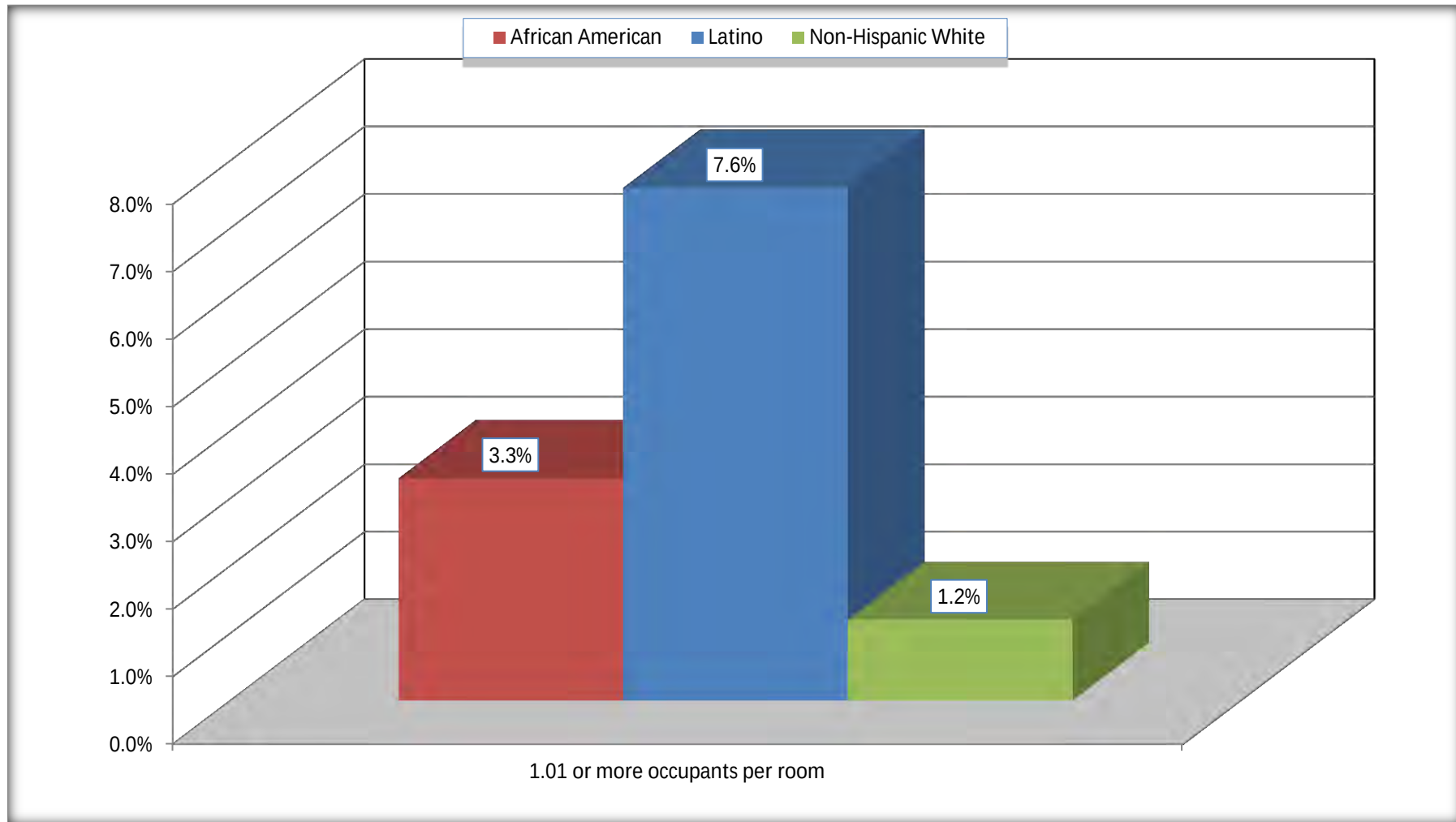
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

More than One Person per Room (Crowding) by Household

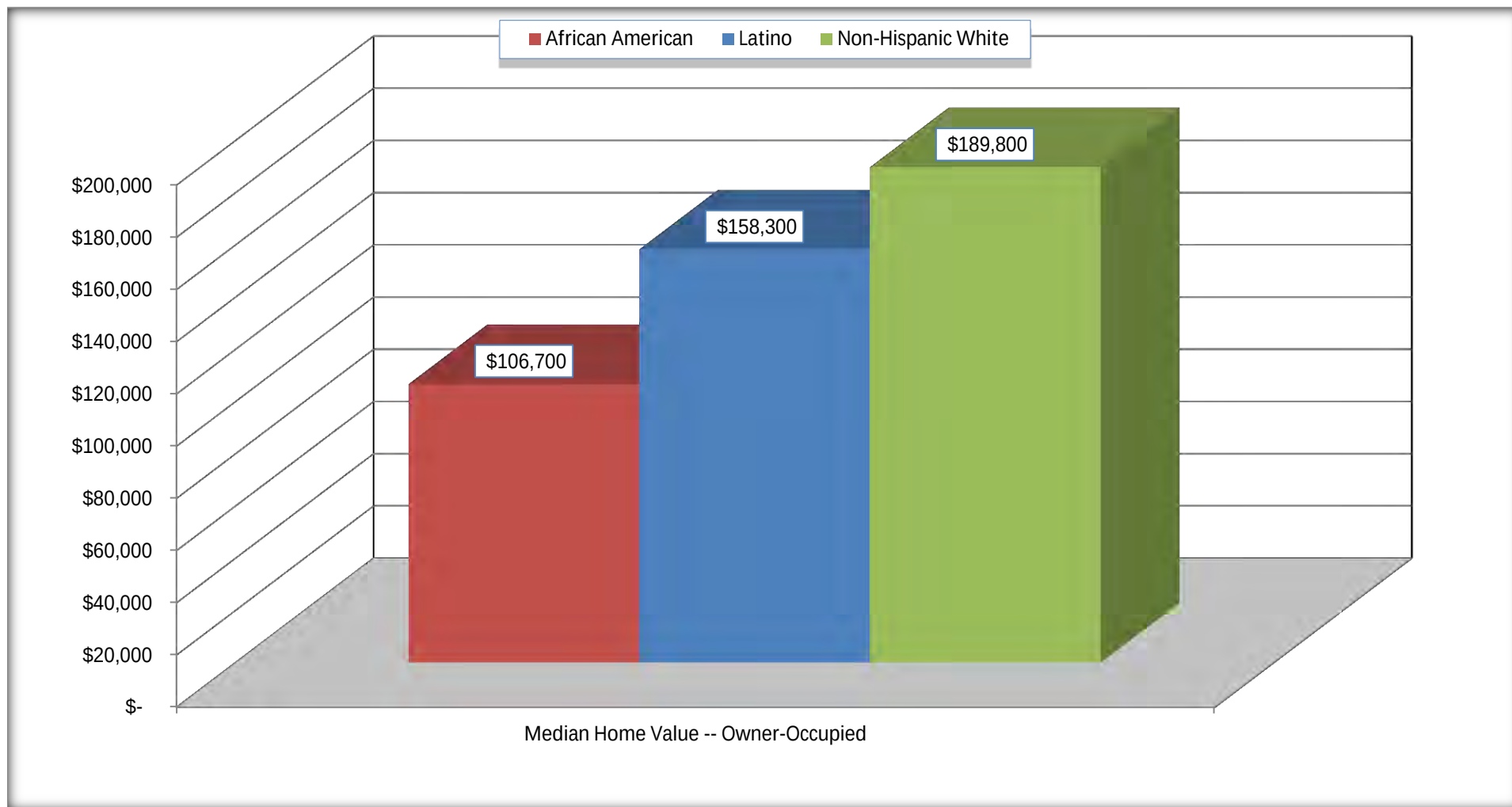
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Median Home Value -- Owner-Occupied

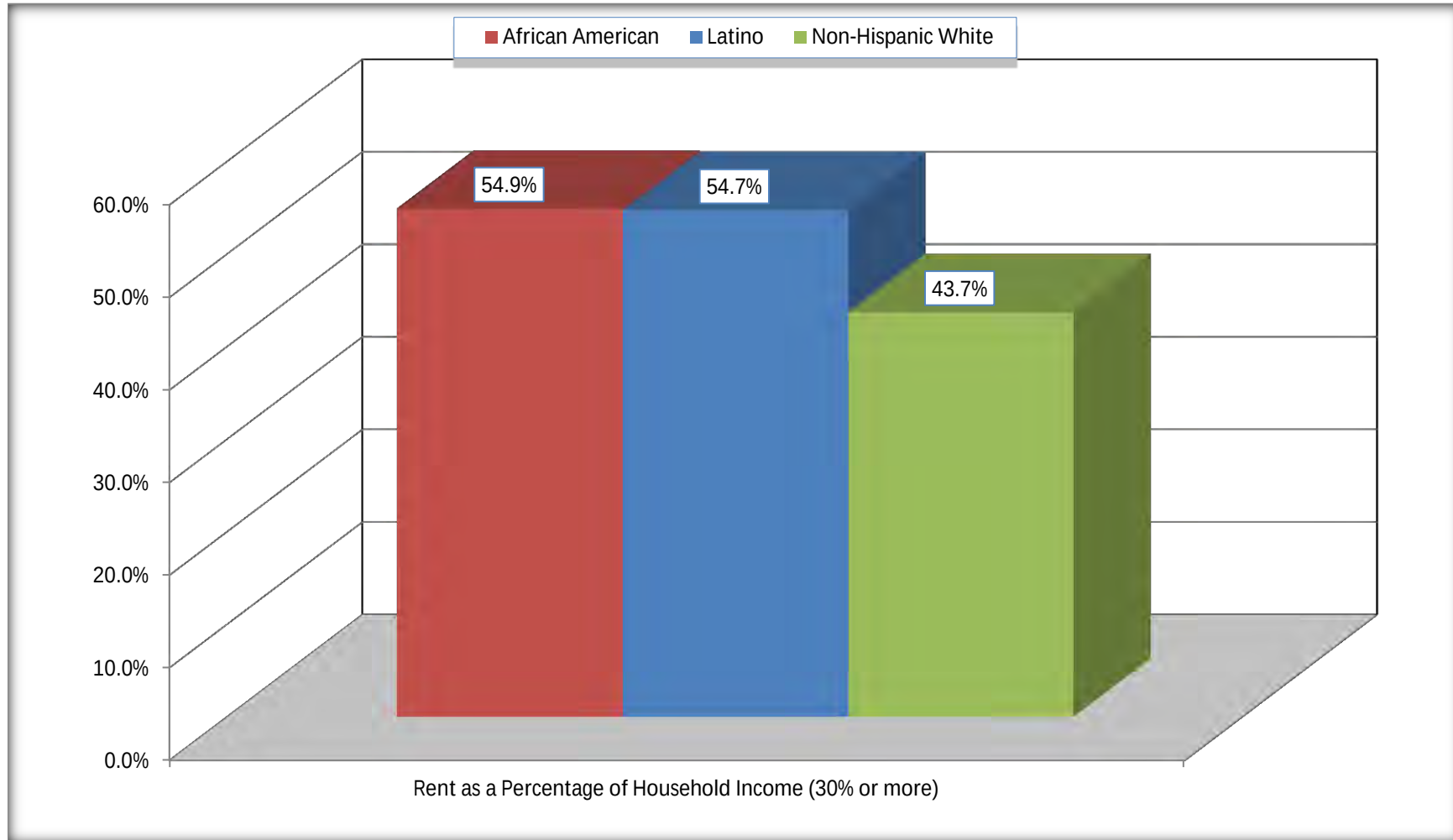
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Rent as a Percentage of Household Income (30% or more) -- Renter-Occupied

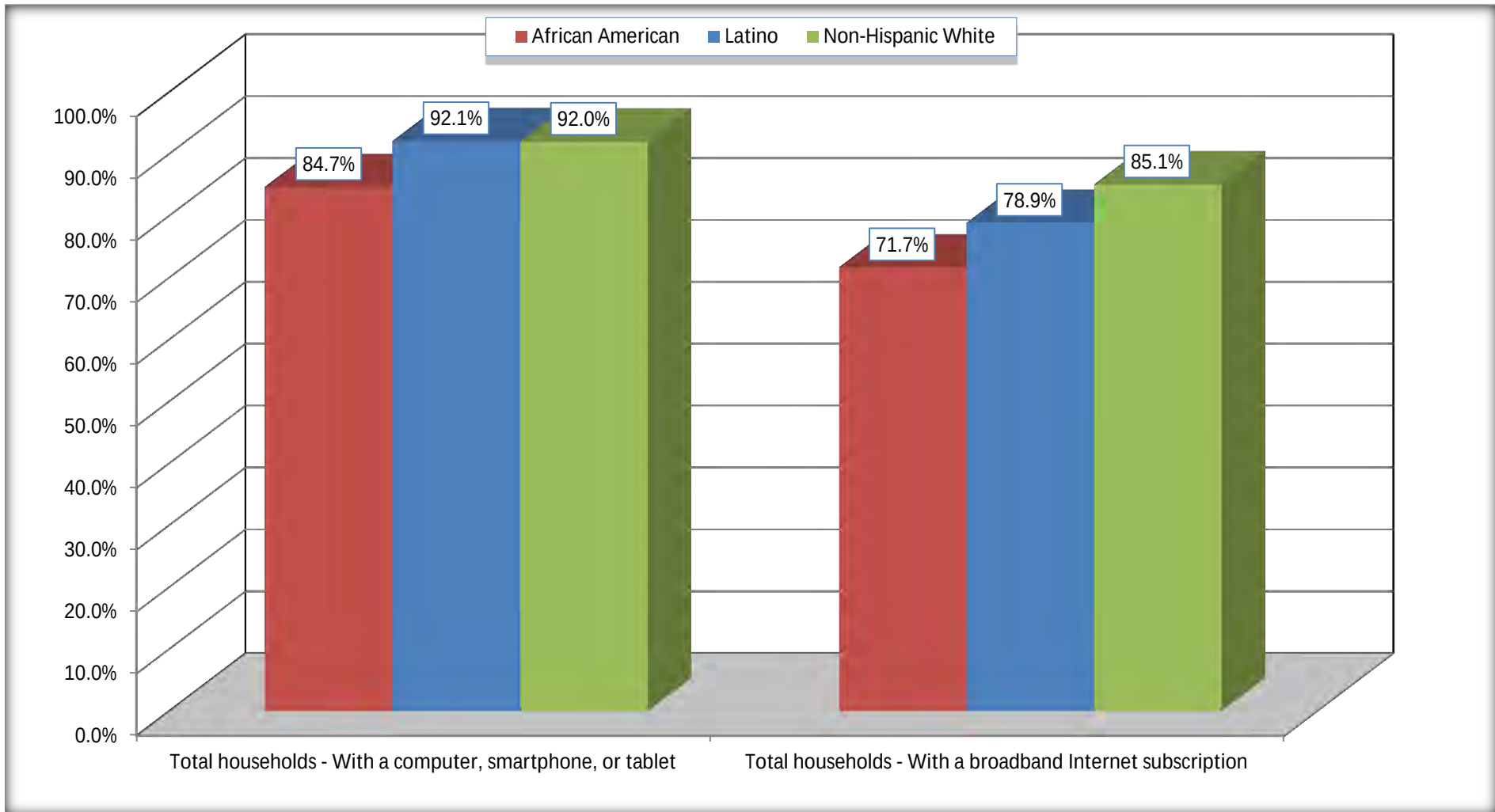
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Computers and Internet Use

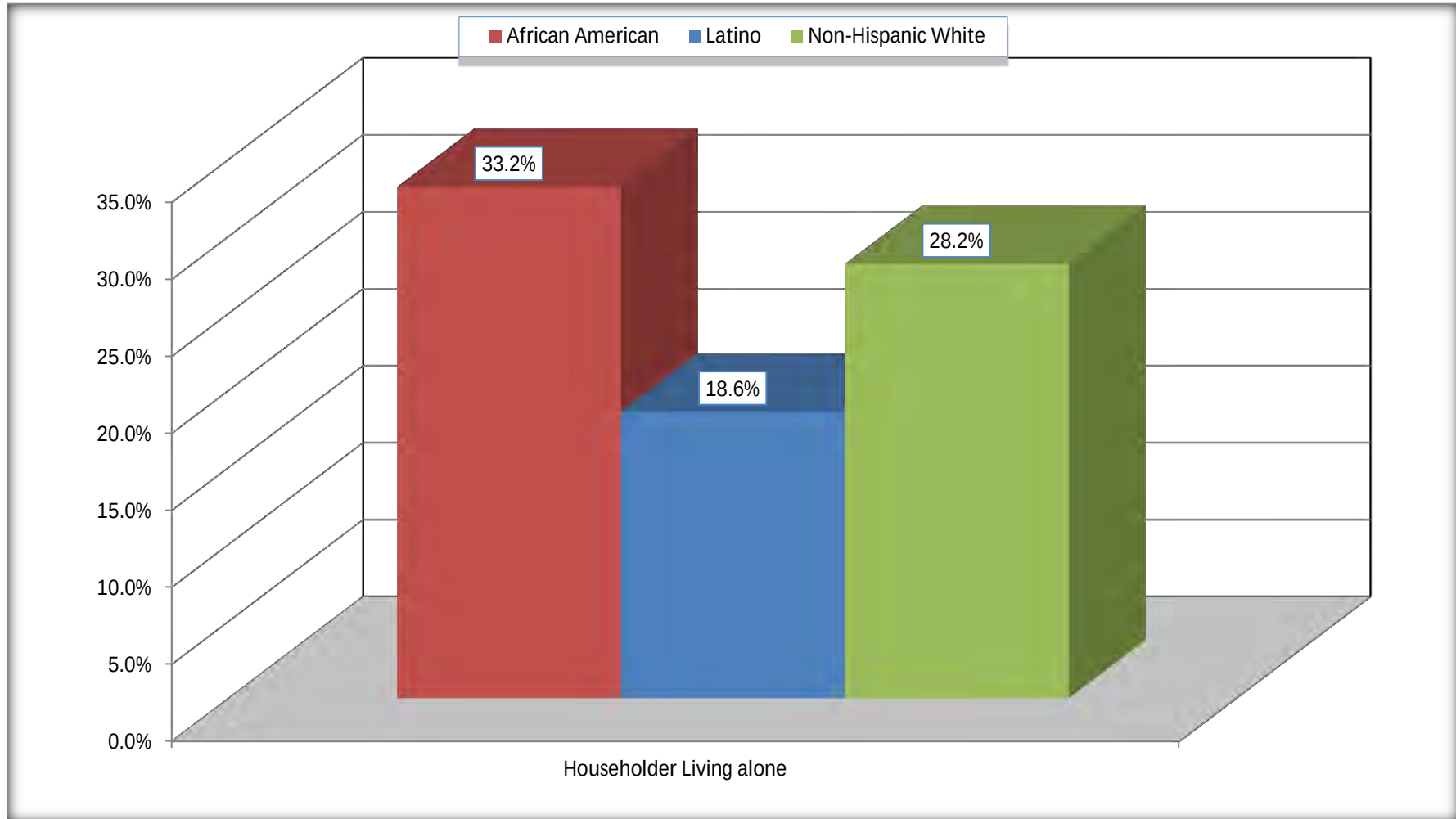
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
 Data Set: 2018 American Community Survey 1-Year Estimates

Households with Householder Living Alone

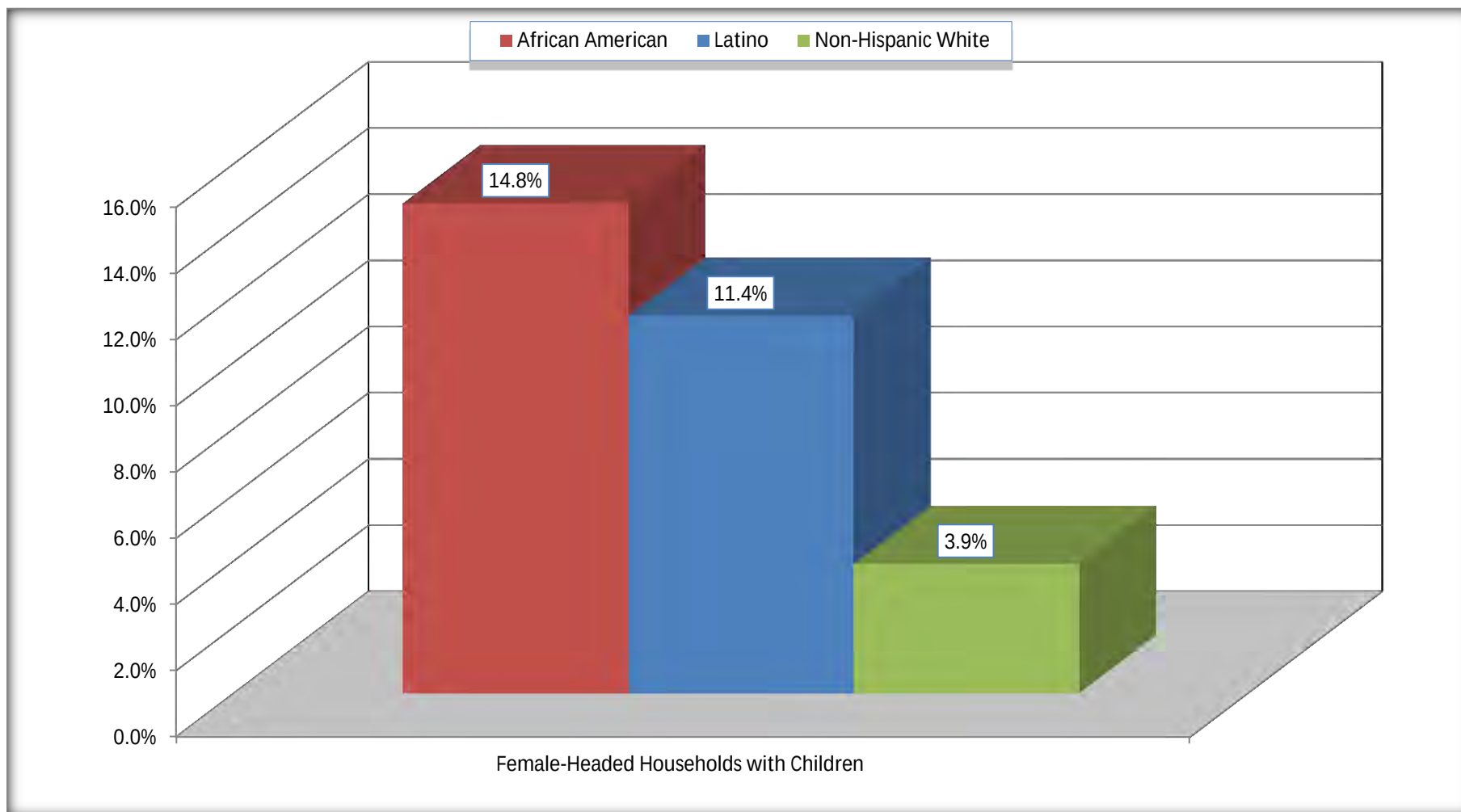
South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

Female-Headed Households with Children Under 18 (As a Percentage of all Households)

South Carolina



Source: S0201 SELECTED POPULATION PROFILE
Data Set: 2018 American Community Survey 1-Year Estimates

South Carolina

	All Persons	Black or African American alone, not	Hispanic or Latino (of any race)	White alone, not Hispanic or Latino
	Estimate	Estimate	Estimate	Estimate
TOTAL NUMBER OF RACES REPORTED				
Total population	5,084,127	1,345,077	294,502	3,229,793
One race	97.60%	100%	93.60%	100%
Two races	2.20%	(X)	5.70%	(X)
Three races	0.10%	(X)	0.60%	(X)
Four or more races	0%	(X)	0.10%	(X)
SEX AND AGE				
Total population	5,084,127	1,345,077	294,502	3,229,793
Male	48.60%	46.60%	52.40%	48.90%
Female	51.40%	53.40%	47.60%	51.10%
Under 5 years	5.70%	6%	9.50%	4.80%
5 to 17 years	16.10%	18%	25.80%	13.70%
18 to 24 years	9.60%	11.10%	12.70%	8.40%
25 to 34 years	12.90%	13.40%	14.70%	12.40%
35 to 44 years	12.30%	12.70%	17.30%	11.70%
45 to 54 years	12.50%	12.30%	9%	13.20%
55 to 64 years	13.30%	12.70%	6%	14.60%
65 to 74 years	10.90%	8.90%	3.40%	12.80%
75 years and over	6.80%	4.80%	1.60%	8.50%
Median age (years)	39.7	35.9	26.4	44.1
18 years and over	78.30%	75.90%	64.70%	81.50%
21 years and over	73.80%	70.90%	58%	77.50%
62 years and over	21.50%	17.20%	6.50%	25.50%
65 years and over	17.70%	13.70%	5%	21.30%
Under 18 years	1,104,409	323,832	104,063	599,044
Male	51.50%	51.10%	51%	51.40%
Female	48.50%	48.90%	49%	48.60%
18 years and over	3,979,718	1,021,245	190,439	2,630,749
Male	47.70%	45.20%	53.10%	48.30%
Female	52.30%	54.80%	46.90%	51.70%
18 to 34 years	1,141,718	330,058	80,511	670,956
Male	50.40%	48.40%	54.90%	50.60%
Female	49.60%	51.60%	45.10%	49.40%
35 to 64 years	1,938,246	507,133	95,111	1,273,388
Male	47.70%	44.60%	53.70%	48.60%
Female	52.30%	55.40%	46.30%	51.40%
65 years and over	899,754	184,054	14,817	686,405
Male	44.40%	41.10%	39.30%	45.50%
Female	55.60%	58.90%	60.70%	54.50%
RELATIONSHIP				
Population in households	4,948,304	1,296,971	286,056	3,158,402

South Carolina

		Black or African American alone, not	Hispanic or Latino (of any race)	White alone, not Hispanic or Latino
	All Persons Estimate	Estimate	Estimate	Estimate
Householder or spouse	57.10%	48.50%	40.40%	63.30%
Child	29.40%	34.80%	40.40%	25.40%
Other relatives	7.90%	12.10%	10.80%	5.70%
Nonrelatives	5.50%	4.60%	8.40%	5.60%
Unmarried partner	2.20%	2.20%	2.60%	2.10%
HOUSEHOLDS BY TYPE				
Households	1,927,991	494,124	76,939	1,304,391
Family households	65.30%	62.30%	73.20%	65.90%
With own children of the householder under 18 years	24.80%	24.90%	45.40%	23.30%
Married-couple family	46.50%	27.10%	47.40%	53.50%
With own children of the householder under 18 years	15.70%	7.80%	28.30%	17.60%
Female householder, no husband present, family	14.30%	29.70%	16.50%	8.50%
With own children of the householder under 18 years	7.10%	14.80%	11.40%	3.90%
Nonfamily households	34.70%	37.70%	26.80%	34.10%
Male householder	16%	16.80%	15.60%	15.70%
Living alone	12.90%	14.30%	9.60%	12.60%
Not living alone	3.10%	2.50%	6%	3.10%
Female householder	18.70%	20.90%	11.20%	18.40%
Living alone	16.10%	18.90%	9%	15.60%
Not living alone	2.60%	2%	2.10%	2.80%
Average household size	2.57	2.64	3.42	2.48
Average family size	3.18	3.44	3.88	3.03
MARITAL STATUS				
Population 15 years and over	4,165,633	1,078,642	205,133	2,735,887
Now married, except separated	46.40%	28.10%	45%	53.80%
Widowed	6.80%	7.40%	3.10%	7%
Divorced	11.20%	10.50%	8.70%	11.80%
Separated	2.70%	4.20%	3.20%	2.10%
Never married	32.90%	49.80%	40.10%	25.30%
Male 15 years and over	1,997,791	491,173	109,297	1,325,662
Now married, except separated	48.50%	32.10%	45.50%	55.10%
Widowed	3.20%	3.40%	1%	3.40%
Divorced	10.10%	9.20%	6.60%	10.80%
Separated	2.50%	3.60%	3.80%	2.10%
Never married	35.70%	51.60%	43.10%	28.60%
Female 15 years and over	2,167,842	587,469	95,836	1,410,225
Now married, except separated	44.40%	24.80%	44.40%	52.50%
Widowed	10.10%	10.70%	5.60%	10.30%
Divorced	12.30%	11.60%	11%	12.80%
Separated	2.80%	4.70%	2.40%	2.10%
Never married	30.40%	48.20%	36.60%	22.20%

South Carolina

	All Persons	Black or African American alone, not	Hispanic or Latino (of any race)	White alone, not Hispanic or Latino
	Estimate	Estimate	Estimate	Estimate
SCHOOL ENROLLMENT				
Population 3 years and over enrolled in school	1,202,171	353,932	96,497	670,403
Nursery school, preschool	5.30%	5.50%	3.80%	5.60%
Kindergarten	5.60%	5.90%	7.40%	5.10%
Elementary school (grades 1-8)	41.90%	41.90%	49.20%	40.50%
High school (grades 9-12)	21.30%	23.30%	21.40%	20.70%
College or graduate school	25.90%	23.30%	18.10%	28.10%
Male 3 years and over enrolled in school	596,545	167,598	48,492	335,341
Percent enrolled in kindergarten to grade 12	71.50%	76.70%	82%	67.70%
Percent enrolled in college or graduate school	22.70%	16.40%	14.70%	26.40%
Female 3 years and over enrolled in school	605,626	186,334	48,005	335,062
Percent enrolled in kindergarten to grade 12	66.20%	66.30%	74.10%	65%
Percent enrolled in college or graduate school	29%	29.50%	21.60%	29.80%
EDUCATIONAL ATTAINMENT				
Population 25 years and over	3,492,355	871,834	153,094	2,359,200
Less than high school diploma	11.60%	16.10%	30.50%	8.70%
High school graduate (includes equivalency)	29.90%	37.70%	31.70%	27.20%
Some college or associate's degree	30.20%	30.80%	20.60%	30.80%
Bachelor's degree	18%	9.70%	11.40%	21.10%
Graduate or professional degree	10.40%	5.60%	5.90%	12.20%
High school graduate or higher	88.40%	83.90%	69.50%	91.30%
Male, high school graduate or higher	87.20%	81.30%	67.10%	90.50%
Female, high school graduate or higher	89.60%	85.90%	72.30%	92%
Bachelor's degree or higher	28.30%	15.30%	17.20%	33.40%
Male, bachelor's degree or higher	27.80%	12.40%	14.70%	33.50%
Female, bachelor's degree or higher	28.80%	17.70%	20%	33.30%
FERTILITY				
Women 15 to 50 years	1,172,188	344,485	73,629	702,581
Women 15 to 50 years who had a birth in the past 12 months	63,951	20,273	4,724	36,226
Unmarried women 15 to 50 years who had a birth in the past 12 months	29,241	16,188	1,900	10,200
As a percent of all women with a birth in the past 12 months	45.70%	79.90%	40.20%	28.20%
RESPONSIBILITY FOR GRANDCHILDREN UNDER 18 YEARS				
Population 30 years and over	3,152,637	775,683	131,662	2,153,556
Grandparents living with grandchild(ren)	3.90%	6.80%	4.90%	2.80%
Grandparents responsible for grandchildren as a percentage of living with grai	42.20%	41.30%	29.40%	44.80%
VETERAN STATUS				
Civilian population 18 years and over	3,948,709	1,015,395	186,071	2,612,088
Civilian veteran	9.20%	8.30%	4.90%	10%
DISABILITY STATUS				
Total civilian noninstitutionalized population	4,990,240	1,309,600	286,346	3,184,441
With a disability	14.40%	15%	9.30%	14.90%

South Carolina

	All Persons	Black or African American alone, not	Hispanic or Latino (of any race)	White alone, not Hispanic or Latino
	Estimate	Estimate	Estimate	Estimate
Civilian noninstitutionalized population under 18 years	1,102,091	322,888	103,847	597,944
With a disability	4.40%	3.90%	4.60%	4.50%
Civilian noninstitutionalized population 18 to 64 years	3,006,493	808,637	167,807	1,911,984
With a disability	12.20%	14.20%	9.90%	11.60%
Civilian noninstitutionalized population 65 years and older	881,656	178,075	14,692	674,513
With a disability	34.30%	38.60%	36.40%	33.10%
RESIDENCE 1 YEAR AGO				
Population 1 year and over	5,029,034	1,330,562	289,750	3,198,855
Same house	85.70%	85.90%	82.50%	86.10%
Different house in the U.S.	13.90%	13.90%	15.40%	13.60%
Same county	7.10%	8.10%	7.50%	6.50%
Different county	6.80%	5.80%	7.90%	7.10%
Same state	3.10%	3.60%	3.20%	2.90%
Different state	3.70%	2.20%	4.70%	4.20%
Abroad	0.40%	0.10%	2.20%	0.30%
PLACE OF BIRTH, CITIZENSHIP STATUS AND YEAR OF ENTRY				
Native	4,827,362	1,331,457	181,509	3,161,511
Male	48.50%	46.50%	51.10%	48.90%
Female	51.50%	53.50%	48.90%	51.10%
Foreign born	256,765	13,620	112,993	68,282
Male	50.50%	56.40%	54.40%	46.10%
Female	49.50%	43.60%	45.60%	53.90%
Foreign born; naturalized U.S. citizen	111,188	7,302	30,165	40,086
Male	47%	58.40%	48.60%	46%
Female	53%	41.60%	51.40%	54%
Foreign born; not a U.S. citizen	145,577	6,318	82,828	28,196
Male	53.20%	54%	56.50%	46.30%
Female	46.80%	46%	43.50%	53.70%
Population born outside the United States	256,765	13,620	112,993	68,282
Entered 2010 or later	28.90%	38.90%	27.50%	20.60%
Entered 2000 to 2009	26.60%	22.20%	37.20%	16.20%
Entered before 2000	44.50%	38.80%	35.40%	63.20%
WORLD REGION OF BIRTH OF FOREIGN BORN				
Foreign-born population excluding population born at sea	256,765	13,620	112,993	68,282
Europe	18.80%	N	N	67.90%
Asia	24.90%	N	N	7.10%
Africa	3%	N	N	3%
Oceania	0.40%	N	N	1.10%
Latin America	49.10%	N	N	7.40%
Northern America	3.80%	N	N	13.40%
LANGUAGE SPOKEN AT HOME AND ABILITY TO SPEAK ENGLISH				

South Carolina

	All Persons	Black or African American alone, not	Hispanic or Latino (of any race)	White alone, not Hispanic or Latino
	Estimate	Estimate	Estimate	Estimate
Population 5 years and over	4,796,771	1,263,990	266,525	3,073,891
English only	92.60%	98.40%	30.10%	97.50%
Language other than English	7.40%	1.60%	69.90%	2.50%
Speak English less than "very well"	2.60%	0.30%	29%	0.50%
EMPLOYMENT STATUS				
Population 16 years and over	4,105,778	1,061,993	200,034	2,700,028
In labor force	60.30%	60.30%	70.10%	59.40%
Civilian labor force	59.50%	59.70%	67.90%	58.70%
Employed	56.40%	54.90%	63.50%	56.30%
Unemployed	3.10%	4.80%	4.40%	2.40%
Unemployment Rate	5.30%	8%	6.40%	4.10%
Armed Forces	0.80%	0.60%	2.20%	0.70%
Not in labor force	39.70%	39.70%	29.90%	40.60%
Females 16 years and over	2,139,047	580,149	93,487	1,391,885
In labor force	56.30%	59.80%	59.30%	54.40%
Civilian labor force	56%	59.40%	58.70%	54.30%
Employed	53%	55.10%	52.80%	51.90%
Unemployed	3.10%	4.40%	5.90%	2.40%
Unemployment Rate	5.50%	7.40%	10%	4.40%
COMMUTING TO WORK				
Workers 16 years and over	2,303,417	575,302	129,730	1,512,081
Car, truck, or van - drove alone	81.40%	80.60%	69.20%	83.20%
Car, truck, or van - carpooled	9.40%	11.20%	22.10%	7.40%
Public transportation (excluding taxicab)	0.60%	1.20%	0.60%	0.30%
Walked	2.10%	2.50%	4%	1.60%
Other means	1.50%	2.30%	1.20%	1.20%
Worked at home	5%	2.30%	3.10%	6.30%
Mean travel time to work (minutes)	25.1	25.2	26.8	25.1
OCCUPATION				
Civilian employed population 16 years and over	2,315,748	583,517	127,045	1,519,503
Management, business, science, and arts occupations	34.60%	23.10%	19.40%	39.90%
Service occupations	18.30%	24.50%	24.60%	15.20%
Sales and office occupations	22.10%	22.40%	15.10%	22.70%
Natural resources, construction, and maintenance occupations	9.30%	5.70%	25.60%	9.50%
Production, transportation, and material moving occupations	15.70%	24.30%	15.20%	12.70%
Male civilian employed population 16 years and over	1,182,781	264,069	77,709	796,688
Management, business, science, and arts occupations	29.90%	16.10%	15.60%	35.30%
Service occupations	15.50%	22.40%	19.50%	12.80%
Sales and office occupations	14.70%	13.10%	8.70%	15.60%
Natural resources, construction, and maintenance occupations	17.20%	11.60%	39.40%	17.30%
Production, transportation, and material moving occupations	22.70%	36.80%	16.80%	18.90%

South Carolina

	All Persons	Black or African American alone, not	Hispanic or Latino (of any race)	White alone, not Hispanic or Latino
	Estimate	Estimate	Estimate	Estimate
Female civilian employed population 16 years and over	1,132,967	319,448	49,336	722,815
Management, business, science, and arts occupations	39.50%	29%	25.40%	45%
Service occupations	21.20%	26.30%	32.70%	17.90%
Sales and office occupations	29.90%	30%	25.30%	30.50%
Natural resources, construction, and maintenance occupations	1%	0.90%	3.90%	0.80%
Production, transportation, and material moving occupations	8.40%	13.90%	12.70%	5.70%
INDUSTRY				
Civilian employed population 16 years and over	2,315,748	583,517	127,045	1,519,503
Agriculture, forestry, fishing and hunting, and mining	0.80%	0.60%	1.90%	0.80%
Construction	6.80%	2.90%	23%	7.10%
Manufacturing	13.40%	16%	12.30%	12.50%
Wholesale trade	2.20%	1.60%	1.70%	2.50%
Retail trade	11.80%	12%	10.10%	11.70%
Transportation and warehousing, and utilities	5.20%	6.30%	2.40%	5.10%
Information	1.50%	1.60%	1.30%	1.50%
Finance and insurance, and real estate and rental and leasing	6%	5.20%	3.80%	6.60%
Professional, scientific, and management, and administrative and waste mana	10.50%	8.70%	11.40%	11.10%
Educational services, and health care and social assistance	22%	24.60%	12.70%	21.80%
Arts, entertainment, and recreation, and accommodation and food services	10.10%	11.60%	12.10%	9.20%
Other services (except public administration)	5.10%	4.20%	5.10%	5.30%
Public administration	4.50%	4.70%	2.30%	4.60%
CLASS OF WORKER				
Civilian employed population 16 years and over	2,315,748	583,517	127,045	1,519,503
Private wage and salary workers	80%	80.20%	84.30%	79.70%
Government workers	14.40%	16.40%	9%	14%
Self-employed workers in own not incorporated business	5.40%	3.30%	6.70%	6%
Unpaid family workers	0.20%	0.10%	0%	0.30%
INCOME IN THE PAST 12 MONTHS (IN 2018 INFLATION-ADJUSTED DOLLARS)				
Households	1,927,991	494,124	76,939	1,304,391
Median household income (dollars)	52,306	34,594	42,280	61,600
With earnings	74.30%	74.90%	89.10%	72.80%
Mean earnings (dollars)	73,930	49,749	57,789	84,175
With Social Security income	36.20%	33.20%	14.10%	39.30%
Mean Social Security income (dollars)	19,423	14,750	16,023	21,047
With Supplemental Security Income	5.20%	9.20%	4.50%	3.70%
Mean Supplemental Security Income (dollars)	9,412	8,860	8,510	9,960
With cash public assistance income	1.40%	3%	1.30%	0.80%
Mean cash public assistance income (dollars)	2,595	2,278	3,629	2,905
With retirement income	21.60%	18.30%	9.50%	24%
Mean retirement income (dollars)	24,454	16,415	14,814	26,941
With Food Stamp/SNAP benefits	11.40%	24.20%	13.60%	6.50%

South Carolina

	All Persons	Black or African American alone, not	Hispanic or Latino (of any race)	White alone, not Hispanic or Latino
	Estimate	Estimate	Estimate	Estimate
Families	1,258,273	307,895	56,351	858,947
Median family income (dollars)	65,742	42,910	46,120	76,382
Married-couple family	71.20%	43.50%	64.70%	81.30%
Median income (dollars)	80,418	64,635	58,545	85,680
Male householder, no spouse present, family	6.90%	8.90%	12.90%	5.80%
Median income (dollars)	44,165	36,216	44,861	49,559
Female householder, no husband present, family	21.90%	47.60%	22.50%	12.90%
Median income (dollars)	32,589	30,232	20,134	40,236
Individuals	5,084,127	1,345,077	294,502	3,229,793
Per capita income (dollars)	28,957	18,982	16,990	34,663
With earnings for full-time, year-round workers:				
Male	930,513	197,666	61,420	640,159
Female	764,044	224,013	30,698	480,928
Mean earnings (dollars) for full-time, year-round workers:				
Male	62,752	41,377	42,989	71,214
Female	46,736	35,627	35,447	52,128
Median earnings (dollars) full-time, year-round workers:				
Male	46,080	32,338	34,183	51,926
Female	36,720	30,226	26,575	41,286
HEALTH INSURANCE COVERAGE				
Civilian noninstitutionalized population	4,990,240	1,309,600	286,346	3,184,441
With private health insurance	65.90%	52.20%	43.60%	73.70%
With public coverage	37.80%	47.50%	34.20%	34.70%
No health insurance coverage	10.50%	11.60%	27.60%	8.30%
POVERTY RATES FOR FAMILIES AND PEOPLE FOR WHOM POVERTY STATUS IS				
All families	10.80%	21.10%	23.30%	6.40%
With related children of the householder under 18 years	18%	32.30%	31%	10.20%
With related children of the householder under 5 years only	17.20%	35.40%	18.70%	9.60%
Married-couple family	4.70%	8.40%	13%	3.50%
With related children of the householder under 18 years	6%	11.60%	18.60%	3.70%
With related children of the householder under 5 years only	4.90%	14.20%	20.60%	2.40%
Female householder, no husband present, family	28.90%	31.90%	59.20%	21.90%
With related children of the householder under 18 years	40.40%	43.10%	65.70%	33%
With related children of the householder under 5 years only	42.50%	44.10%	N	42.20%
All people	15.30%	25.40%	27%	10%
Under 18 years	22.60%	38.70%	36.60%	11.40%
Related children of the householder under 18 years	22.40%	38.50%	36%	11.20%
Related children of the householder under 5 years	24.10%	43.10%	34%	11.90%
Related children of the householder 5 to 17 years	21.80%	37%	36.80%	11%
18 years and over	13.20%	21%	21.60%	9.60%
18 to 64 years	14.30%	21.80%	21.90%	10.50%

South Carolina

	All Persons	Black or African American alone, not	Hispanic or Latino (of any race)	White alone, not Hispanic or Latino
	Estimate	Estimate	Estimate	Estimate
65 years and over	9.50%	17.80%	18.90%	7.10%
People in families	12.50%	23.20%	25.20%	6.80%
Unrelated individuals 15 years and over	26.90%	34.50%	37.10%	22.90%
HOUSING TENURE				
Occupied housing units	1,927,991	494,124	76,939	1,304,391
Owner-occupied housing units	69.30%	51.40%	49%	77.50%
Renter-occupied housing units	30.70%	48.60%	51%	22.50%
Average household size of owner-occupied unit	2.59	2.68	3.39	2.53
Average household size of renter-occupied unit	2.51	2.6	3.45	2.29
UNITS IN STRUCTURE				
Occupied housing units	1,927,991	494,124	76,939	1,304,391
1-unit, detached or attached	69.20%	56.20%	54.90%	75.30%
2 to 4 units	4.50%	8.60%	5.40%	2.80%
5 or more units	10.70%	14.90%	15.30%	8.50%
Mobile home, boat, RV, van, etc.	15.50%	20.30%	24.30%	13.30%
YEAR STRUCTURE BUILT				
Occupied housing units	1,927,991	494,124	76,939	1,304,391
Built 2014 or later	5.90%	4.10%	5.30%	6.50%
Built 2010 to 2013	4.30%	3.60%	3.50%	4.70%
Built 2000 to 2009	19.30%	14.10%	22.60%	20.70%
Built 1980 to 1999	34.20%	34.40%	37.20%	34%
Built 1960 to 1979	22.90%	29.60%	21.60%	20.80%
Built 1940 to 1959	9.30%	10.60%	7.20%	9%
Built 1939 or earlier	4.10%	3.70%	2.60%	4.40%
VEHICLES AVAILABLE				
Occupied housing units	1,927,991	494,124	76,939	1,304,391
None	6.20%	13.60%	5.70%	3.50%
1 or more	93.80%	86.40%	94.30%	96.50%
HOUSE HEATING FUEL				
Occupied housing units	1,927,991	494,124	76,939	1,304,391
Gas	26.20%	18.40%	20%	29.50%
Electricity	71.70%	79.10%	78.10%	68.60%
All other fuels	1.70%	2.10%	1.50%	1.70%
No fuel used	0.30%	0.40%	0.50%	0.30%
SELECTED CHARACTERISTICS				
Occupied housing units	1,927,991	494,124	76,939	1,304,391
No telephone service available	1.50%	2.20%	1.40%	1.20%
1.01 or more occupants per room	2%	3.30%	7.60%	1.20%
SELECTED MONTHLY OWNER COSTS AS A PERCENTAGE OF HOUSEHOLD INCC				
Housing units with a mortgage (excluding units where SMOC cannot be comp	776,383	136,699	21,899	596,756
Less than 30 percent	74.40%	63.80%	72.30%	77.20%

South Carolina

		Black or African American alone, not	Hispanic or Latino (of any race)	White alone, not Hispanic or Latino
	All Persons Estimate	Estimate	Estimate	Estimate
30 percent or more	25.60%	36.20%	27.70%	22.80%
OWNER CHARACTERISTICS				
Owner-occupied housing units	1,335,486	253,822	37,716	1,010,651
Median value (dollars)	170,800	106,700	158,300	189,800
Median selected monthly owner costs with a mortgage (dollars)	1,225	1,075	1,186	1,269
Median selected monthly owner costs without a mortgage (dollars)	371	352	390	374
GROSS RENT AS A PERCENTAGE OF HOUSEHOLD INCOME IN THE PAST 12 MONTHS				
Occupied units paying rent (excluding units where GRAP cannot be computed)	524,808	211,192	36,661	259,608
Less than 30 percent	51.20%	45.10%	45.30%	56.30%
30 percent or more	48.80%	54.90%	54.70%	43.70%
GROSS RENT				
Occupied units paying rent	538,418	217,475	37,278	265,698
Median gross rent (dollars)	892	816	894	954
COMPUTERS AND INTERNET USE				
Total households	1,927,991	494,124	76,939	1,304,391
With a computer	90.30%	84.70%	92.10%	92%
With a broadband Internet subscription	81.50%	71.70%	78.90%	85.10%

EXHIBIT 4

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

MARY T. THOMAS, et al.,

Plaintiffs,

v.

MARCI ANDINO, et al.,

Defendants.

Declaration of Dr. Courtney D. Cogburn

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I am an associate professor at the Columbia University School of Social Work, faculty of the Columbia Population Research Center and a core member of the Columbia Data Science Institute. I am also a faculty affiliate of the Center on African American Politics and Society. At Columbia, I direct the Cogburn Research Group and co-Direct the Justice Equity + Technology lab. I am a member of the Interdisciplinary Association of Population Health Science, Society for Personality and Social Psychology. I have also served as an ad hoc reviewer for Social Science & Medicine, Annals of Behavioral Medicine, Ethnicity & Health, Developmental Psychology and the Journal of the American Medical Association Network Open.
2. I received my B.A. in psychology from the University of Virginia in 2001, my Master of Social Work from the University of Michigan in 2002 and my PhD in education and psychology from the University of Michigan in 2010. I also completed postdoctoral training at the Institute for Social Research in 2012 as well as the Harvard TH Chan School of Public Health and the Harvard Center for Population and Development Studies in 2014.

3. I joined the faculty of the School of Social Work at Columbia as an assistant professor (2014-2019). I held a visiting scientist position at the Harvard TH Chan School of Public Health (2014-2016). I am currently an associate professor at the Columbia University School of Social Work (2019-present), faculty of the Columbia Population Research Center (2014-present), core member of the Data Science Institute (2019-present), co-chair of the computational social science group (2019-present) and faculty affiliate of the Center for African American Politics and Society all at Columbia University.
4. My scholarship focuses on the ways we characterize the meaning and significance of racism in academic and public discourse and how these characterizations inform the ways we measure and assess the effects of racism in empirical health research. I focus specifically on structural and cultural dimensions of racism in US contexts and identifying social, structural and cultural factors that contribute to racial inequities in health and disease in US populations. In a secondary line of work, I explore applications of emerging technologies in addressing racial inequities in health.
5. Attached and incorporated by reference to this declaration is a copy of my curriculum vitae. (Attached here as Attachment A).
6. **Racial Inequities in Population Health:** Racial Discrimination and racism are the fundamental causes of racial inequities in health. As such, racial inequalities in health cannot be eliminated without directly addressing structural racism. Namely, racial inequalities across social and cultural institutions, including housing and neighborhoods, labor, credit markets, education, criminal justice, economic, health care and media systems interact to create systems of disadvantage that create pervasive adverse conditions for the health of Black

people living in the United States.¹ As a result of structural racism, the Black population in the US has a higher rate of chronic illness, co-occurring illness and tend to develop these illnesses earlier in life than Whites. This includes illnesses that pose elevated risk to the effects of COVID-19, such as diabetes, asthma, hypertension, heart disease, obesity and cancer.²

7. The relationship between structural racism and increased disease risk have been demonstrated in several different ways, I will highlight two factors, racial residential segregation and racial discrimination in medical care, which are related to racial inequities in COVID-19 infection and mortality risk in South Carolina.
8. First, racial residential segregation,¹ which was produced and maintained in South Carolina by state laws and practices, as well as by federal programs and federally supported private policies, resulted in discriminatory zoning, predatory mortgage lending and redlining (systematic denial of resources to designated areas). The systematic restriction of resources in Black communities has contributed to higher concentrations of poverty and low-quality housing, unemployment and under-employment, uninsured or underinsured (limited coverage, high co-pays and deductibles), restricted access to quality and affordable foods (greater number of fast food outlets and fewer supermarkets) as well as elevated exposures to physical and chemical environmental hazards (5 to 20 times higher in Black communities compared to White communities, even after controlling for socioeconomic factors). Each of

¹ Cogburn, CD. (2019) Culture, race and health: Implications for racial inequities and population health. *Milbank Quarterly*, 97(3); 736-761; Phelan, J.C., Link, B.G. (2015). Is racism a fundamental cause of inequalities in health? *Annual Review of Sociology*, 41; 311-30; Williams, DR, Lawrence, JA, Davis, BA (2019). Racism and health: Evidence and needed research. *Annual Review of Public Health*, 40; 105-25.

² *Assessing risk factors for severe COVID-19 illness*. Centers for Disease Control and Prevention: <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/assessing-risk-factors.html> (Apr 23, 2020)

these factors are independently critical to disease risk and outcomes, such as obesity, cancer and asthma and are more likely to co-occur in Black as opposed to White communities.

9. At least one national study suggests that eliminating residential segregation would erase Black-White differences in income, education and unemployment, which are significant predictors of health and health inequality.³ For Black people, residential segregation is also associated with risk of low birth weight and pre-term birth, later stage diagnosis of cancer, elevated mortality and lower survival rates for certain cancers and higher rates of obesity. This is attributed to a number of structural factors including, increased exposure to environmental pollutants and restricted access quality health insurance. Regardless of income, Black people are more likely to live in communities with poorer socioeconomic resources. Some data suggest that the average affluent Black household (income of \$75,000 or more) lives in poorer neighborhoods than average lower income White households (less than \$40,000). Racial bias in housing valuation is also evident such that homes in Black communities are undervalued by \$48,000 per home on average around the country. In Columbia, SC, for instance, homes in Black communities are devalued by an average of 10%, which amount to significant cumulative losses in household and community resources over time.⁴
10. Second, there is substantial evidence of racial discrimination in medical care provision (preventive care, early intervention and management of chronic disease), even after adjusting factors, such as insurance coverage.⁵ Black people compared to Whites receive inferior

³ Cutler, DM, Glaeser, EL. 1997. Are ghettos good or bad? Q.J. Econ. 112; 827-72.

⁴ Perry, AM, Rothwell, J, Harshbarger, D. The devaluation of assets in black neighborhoods: The case of residential property. <https://www.brookings.edu/research/devaluation-of-assets-in-black-neighborhoods/> (Nov. 27 2018)

⁵ Williams, DR, Rucker, TD (2000). Understanding and Addressing Racial Disparities in Health Care. *Health Care Financial Review*, 21(4), 75-90.

health services across a wide range of illnesses, health care services and treatment interventions, which is in turn associated with greater mortality for Black patients. Across nearly every type of diagnostic and Black patients are less likely to be referred for major therapeutic procedures (e.g., invasive diagnostic, therapeutic and innovative interventions for heart disease, stroke, cancer, disease prevention screenings and programming), are systematically undertreated for pain (even among children) and are more likely to be misdiagnosed when compared to White patients with similar clinical disease characteristics and accounting for medical histories, quality of health insurance and other socioeconomic factors. Racial bias in algorithms used to automate the allocation of health care to patients have also been observed, such that Black patients were less likely to be referred to programs aimed at care for complex needs even when they were equally as sick as White patients.⁶

11. **Racial Inequities in COVID-19:** Emerging data related to COVID-19 infection and mortality rates indicate a disproportionate burden of illness and death among racial and ethnic minority groups. Recent reports indicate that Black individuals who comprise approximately 21% of the population in areas included in the analysis, make up over 40% of infection-related mortality.⁷ Other estimates based on national data place the COVID-19 related mortality rate for Black people at 2-5 times greater than the rate observed for Whites. Substantial empirical evidence examining associations between race and health would suggest that the racial inequities being observed in COVID-19 are not the result of immutable differences between racial groups. Effectively addressing racial inequities in COVID-19

⁶ Obermeyer, Z., Powers, B., Vogeli, C. & Mullainathan, S. Dissecting racial bias in an algorithm used to manage the health of populations, *Science* 336, 447–453 (2019).

⁷ *Cases of Coronavirus Disease (COVID-19) in the U.S.* Centers for Disease Control. <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (Apr 26 2020)

related infection and death will require careful consideration of structures and processes that systematically disadvantage Black persons and buoy health advantages among Whites.

12. **Southern Region Estimates**⁸: Black people are generally at greater risk of COVID-19 infection and infection-related mortality and are also concentrated in the South. Nearly half of the Black US population resides in southern states, which recent regional estimates predict will ultimately experience the highest rates of death related to COVID-19 infections.
13. **South Carolina Estimates**: Early data for COVID-19 infection and mortality in South Carolina are consistent with national patterns and are highly concerning. The rate of infection and death for Black residents far exceeds their representation in the general population as well as overall levels for White citizens. Specifically, Black people living in South Carolina comprise 27% of the population but 57% of COVID-19 related deaths, making them 5 times more likely than Whites to die from the infection.⁹ The racial disparities in COVID-19 infection rates and deaths in South Carolina are among the most startling in the country. The structural factors believed to contribute most significantly to elevated risk at the national level are also evident in South Carolina, including state legislators opting out of Medicaid expansion and instead imposing work requirements that disadvantage access for the

⁸ Dixie in the crosshairs: The south is likely to have America's highest death rate from COVID-19, Eth Economist: <https://www.economist.com/graphic-detail/2020/04/25/the-south-is-likely-to-have-americas-highest-death-rate-from-covid-19?fsrc=scn/tw/te/bl/ed/dixieinthecrosshairsthesouthislikelytohaveamericashighestdeathratefromcovid19graphicdetail> (Apr 25 2020)

⁹ Fleming Smith et al., *Long-term inequities put SC minorities at higher risk for coronavirus exposure and death*, THE POST & COURIER (Apr. 15, 2020); Tonya Brown, *More African Americans are dying from COVID-19 than other races in South Carolina*, 15 NEWS (Apr. 9, 2020) <https://wpde.com/news/coronavirus/more-african-americans-dying-from-covid-19-in-south-carolina>.

underemployed¹⁰. These policy decisions are particularly harmful to health care for Black residents in South Carolina¹¹.

14. Black residents in South Carolina are also more likely than White residents to be employed in “essential roles” (e.g. manufacturing and service jobs) that increase risk of exposure and infection^{9,12}. It should also be noted that due to national shortages of personal protective equipment (PPE)¹³, individuals employed non-health essential roles may be less likely to have access to and be trained for effective use of PPE. Higher rates of chronic illness among Black South Carolina residents and lower access and quality of health care compared to Whites are also tied to structural inequities in income, employment, and exposure to environmental pollutants concentrated in Black neighborhoods.

15. **COVID-19 Testing and Ventilator Use**¹⁴⁻¹⁵: Racial bias in access to testing are also emerging and suggest that Black people are less likely than White people to be referred for testing when presenting comparable signs of infection, such as cough and fever. Racial discrimination in testing may actually contribute to an underestimation of racial inequities in infection rate and mortality for Black individuals. Current data regarding ventilator use by

¹⁰ South Carolina gets green light to impose Medicaid work requirements. National Public Radio, <https://www.npr.org/2019/12/13/787927652/south-carolina-gets-green-light-to-impose-medicaid-work-requirements> (Dec 13 2019).

¹¹ Garfield, R, Orgera, K (2020). The coverage gap: uninsured poor adults in states that do not expand Medicaid. <https://www.kff.org/medicaid/issue-brief/the-coverage-gap-uninsured-poor-adults-in-states-that-do-not-expand-medicaid/>

¹² <https://www.theguardian.com/commentisfree/2020/apr/16/black-workers-coronavirus-covid-19>

¹³ *Ventilator stockpiling and availability in the US*. Johns Hopkins Bloomberg School of Public Health, Center for Health Security. <https://www.centerforhealthsecurity.org/resources/COVID-19/COVID-19-fact-sheets/200214-VentilatorAvailability-factsheet.pdf> (Apr. 1, 2020)

¹⁴ Farmer, B. *The Coronavirus doesn't discriminate but U.S. health care showing familiar biases*. National Public Radio: <https://www.npr.org/sections/health-shots/2020/04/02/825730141/the-coronavirus-doesnt-discriminate-but-u-s-health-care-showing-familiar-biases> (Apr 2 2020)

¹⁵ *Health data in the COVID-19 crisis: How racial equity is widening for patients to gain access to treatment*: <https://rubixls.com/2020/04/01/health-data-in-the-covid-19-crisis-how-racial-equity-is-widening-for-patients-to-gain-access-to-treatment/>

race do not yet appear to be publicly available¹⁶. It is clear that the need for ventilators significantly outweighs supply, requiring medical personnel to deny life-saving care to those in need. The “save-the-most-lives” principle many for ventilator access has been called into question (and recently modified) and represents the ways in which medical decision can perpetuate racial inequities in health. Following this principle perpetuates existing inequities such that those who exhibit worse health and lower life expectancy as a result of historical and structural inequality, particularly Black people, are most likely to be denied life-saving care¹⁷⁻¹⁸. In addition to substantial evidence of racial discrimination in medical care provision, there is also evidence that in times of scarcity (perceived and actual) White people are more likely to perceive racial and ethnic minorities as less deserving of scarce resources, including life-saving efforts¹⁹⁻²⁰. The complexities surrounding these decisions in response to COVID-19 and implications for racial inequities in mortality rates will be revealed in the coming months and years. There is a precedent for concern, however, that additional racial bias will emerge in medical decisions related to the employment of life saving procedures by race.

16. **Conclusion:** Due to the factors discussed above, I conclude that Black people’s elevated risk in COVID-19 infection is tied to pre-existing and evolving inequities in structural systems and social conditions. As a result, any voting requirement requiring them to break social

¹⁷ McLane, H (2020). A disturbing medical consensus is growing. Here’s what it could mean for Black patients with coronavirus. <https://why.org/articles/a-disturbing-medical-consensus-is-growing-heres-what-it-could-mean-for-black-patients-with-coronavirus/> (Apr 10 2020).

¹⁸ Schmidt, H (2020). The way we ration ventilators is biased: Not every patient has a fair chance. <https://www.nytimes.com/2020/04/15/opinion/covid-ventilator-rationing-blacks.html> (Apr 15 2020)

¹⁹ Krosch, AR, Tyler, TR, Amodio, DM (2017). Race and recession: Effects of economic scarcity on racial discrimination. *Journal of Personality and Social Psychology*, 113(6), 892-909.

²⁰ Krosch, AR (2020). The pandemic could lead to more discrimination against Black people: <https://blogs.scientificamerican.com/voices/the-pandemic-could-lead-to-more-discrimination-against-black-people/> (Apr 23 2020).

distancing protocols would place them at higher risk for infection and also threatens public health of the Black community more broadly. We will not be able to immediately address the deeply entrenched social and structural factors contributing to the significantly elevated risk to COVID-19 related infection and mortality among Black people. We can, however, acknowledge the significance of these factors and take immediate steps to minimize exposure for groups most gravely threatened by exposure to COVID-19. This includes city and state regulation of social distancing practices to minimize exposure and spread of infection to support safe voting practices under the conditions of COVID-19.

17. I declare under penalty of perjury that the foregoing is true and correct. Executed on April 27, 2020.



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 O: 212-851-2101

Education

Ph.D. (2010)	University of Michigan, Ann Arbor, MI Combined Program in Education and Psychology
MSW (2002)	University of Michigan, Ann Arbor, MI Interpersonal Practice, Children Youth & Families in Society
BA (2001)	University of Virginia, Charlottesville, VA Psychology

Academic Appointments

2019 - Present	Associate Professor (tenure-track): Columbia University School of Social Work
2014 - 2019	Assistant Professor (tenure-track): Columbia University School of Social Work
2016 - Present	Affiliate, Columbia Data Science Institute
2014 - Present	Faculty, Columbia Population Research Center
2015 - Present	Faculty Affiliate, Center on African American Politics and Society Columbia University
2014 - 2016	Visiting Scientist, Harvard T.H. Chan School of Public Health
2012 - 2014	Robert Wood Johnson Health & Society Scholar: Harvard Center for Population and Development Studies
2012 - 2014	Research Fellow: Department of Social and Behavioral Sciences, Harvard T.H. Chan School of Public Health
2011 - 2012	NIH Postdoctoral Fellow: Institute for Social Research, University of Michigan

Grant and Gift Support

- 2019** **Oculus (Facebook)**
Award amount: \$100,000
Social Work, Emerging Technology and Media Innovation lab
Role: Co-PI
 Courtney D. Cogburn, Columbia School of Social Work,
 Desmond Patton, Columbia School of Social Work
- 2019** **Oculus (Facebook)**
Award amount: \$200,000
Data Visualization, Virtual Reality and Structural Racism project
Role: Co-PI
 Courtney D. Cogburn, Columbia School of Social Work,
 Desmond Patton, Columbia School of Social Work
- 2019** **Hearst Foundation / Brown Institute Media Innovation**
1000 Cut Journey
Award amount: \$500,000
Role: Co-PI
 Courtney D. Cogburn, Columbia School of Social Work,
 Jeremy Bailenson, Stanford University Department of Communication
- 2016 - 2017** **Brown Institute Media Innovation Magic Grant**
1000 Cut Journey from Harlem to Soho: Examining the Psychosocial and Physiological Impact of an Immersive Racism Experience in Virtual Reality
Award amount: \$250,000
Role: Co-PI
 Courtney D. Cogburn, Columbia School of Social Work, Jeremy Bailenson,
 Stanford University Department of Communication
- 2016 - 2017** **Lerner Innovation Pilot Program Grant**
Sticking to your guns: Can framing public health advocacy bridge political and social differences?
Award amount: \$20,000
Role: Co-PI
 Amy Fairchild, Mailman School of Public Health; Merlin Chowkwanyun,
 Mailman School of Public Health; Courtney D. Cogburn, Columbia School of Social Work
- 2016 -** **Columbia Population Research Center Seed Grant**
#Racism: Examining cultural racism and multiple stress responses in the context of contemporary media
Award amount: \$12,000
Role: Principal Investigator
- 2014 - 2015** **Provost's Grants Program for Junior Faculty**
Black face to Ferguson: A mixed methodological examination of media racism, media activism and health
Award amount: \$25,000
Role: Principal Investigator
- 2013 - 2014** **Robert Wood Johnson Foundation**

Mixed methodological assessment of racial and non-racial psychosocial stress exposure on HPA and ANS Stress Reactivity
Award amount: \$30,000
Role: Principal Investigator

2012 - 2013 Robert Wood Johnson Foundation
Sociocultural racial stress exposure effects on stress reactivity and executive functioning
Award amount: \$33,734
Role: Principal Investigator

2012 - 2013 National Institute on Minority Health and Health Disparities
Loan Repayment Program
Racial stress and social cognition: Measurement and implications for health and racial health disparities
Award amount: \$40,748.73

2004 - 2009 Graduate Student Retention Grant, University of Michigan
Award amount: \$3,200
Role: Co-Principal Investigator

2004 - 2009 Experiential Learning Grant, International Institute University of Michigan
Award amount: \$8,000
Role: Co-Principal Investigator

Honors and Awards

2019	Atlantic Fellows for Racial Equity (Semi Finalist)
2018	Soros Equality Fellowship, Open Society (Finalist)
2018	Los Angeles Film Festival, Official Selection: <i>1000 Cut Journey</i>
2018	New Orleans Film Festival, Official Selection: <i>1000 Cut Journey</i>
2018	Tribeca Film Festival, Official Selection Virtual Reality Arcade: <i>1000 Cut Journey</i>
2012	Robert Wood Johnson Foundation Health & Society Scholar
2011*	Science and Technology Fellowship - Executive Branch, American Academy of Arts and Science, Health Education and Human Services <i>*declined</i>
2011*	Science and Technology Fellowship - Executive Branch, American Psychological Association <i>*declined</i>
2010	National Institute of Child Health and Human Development Diversity Training Grant
2009	Rackham Predoctoral Fellowship, University of Michigan
2008	Holmes Award, University of Michigan
2008	Barbara Perry Roberson Award, University of Michigan

- 2007 Roger W. Brown Award, University of Michigan
- 2005* Ford Predoctoral Fellowship **Honorable Mention*
- 2004 Rackham Merit Fellowship, University of Michigan

Publications

- Cogburn, C.D.**, Bailenson, J.N., Ogle, E., Asher, T. & Nichols, T. (2018). 1000 cut journey. ACM SIGGRAPH (2018). Virtual, Augmented, and Mixed Reality, DOI: <https://doi.org/10.1145/3226552.3226575>
- DeVylder, J. E., Hyun-Jin, J., Fedina, L., Coleman, D., Anglin, D., **Cogburn, C.**, Link, B. & Barth, R.P. (2018). Association of exposure to police violence with prevalence of mental health symptoms among urban residents in the United States. *JAMA Open Network*, 1(7): e18495.
- DeVylder, J. E., Frey, J. J., **Cogburn, C.D.**, Wilcox, H., Sharpe, T., Oh, H.Y., Link, B. (2017). Elevated prevalence of suicide attempts among victims of physical and sexual victimization by the police in the U.S. *Journal of Urban Health e-pub ahead of print*.
- DeVylder, J. E., **Cogburn, C.D.**, Anglin, D., Smith, M., Sharpe, T., Jun, H-J, Schiffman, J., Lukens, E., Link, B. (2017). Psychotic Experiences in the Context of Police Victimization: Data from the Survey of Police-Public Encounters, *Schizophrenia Bulletin*, 43(5), 993-1001.
- Oh, H., **Cogburn, C. D.**, Anglin, D., Lukens, E. & DeVylder, J. (2016). Major racist events for psychotic experiences among Black Americans. *American Journal of Orthopsychiatry*, 86(3), 277-285.
- Lewis, T., **Cogburn, C.D.**, & Williams, D.R. (2015). Self-reported experiences of discrimination and health: Scientific advances, ongoing controversies and emerging issues. *Annual Review of Clinical Psychology*, 11(1).
- Garces, L. and **Cogburn, C. D.** (2015). Beyond declines in student body diversity: How campus-level administrators understand a prohibition on race-conscious postsecondary admissions policies. *American Educational Research Journal*, 52(5), 828-860.
- Garces, L., & **Cogburn, C. D.** (2015). *Navigating legal barriers while promoting racial diversity in higher education*. E. Frankenberg, L. Garces & M. Hopkins (Eds.), *School integration matters: Research-based strategies to advance equity*. Teachers College Press.
- Cogburn, C. D.**, Griffin, T., & Jackson, J. S. Race and mental health disparities (2013). In: Mason, P (Ed). *Encyclopedia of Race and Racism, 2nd Edition, Volume 3 (126-131)*.
- Hurd, N. M., Sellers, R. M., **Cogburn, C.D.**, Butler-Barnes, S. T., & Zimmerman, M. A. (2012). Racial identity and mental health among Black emerging adults: The moderating effects of neighborhood racial composition. *Developmental Psychology*, 49(5), 938-950.
- Brodish, A., **Cogburn, C.D.**, Fuller-Rowell, T., Peck, S., Malanchuk, O. & Eccles, J. (2011). Perceived racial discrimination as a predictor of health behaviors: The moderating role of

gender. *Journal of Race and Social Problems*, 3(1), 160-169.

Fuller-Rowell, T., **Cogburn, C.D.**, Brodish, A., Peck, S., Malanchuk, O. & Eccles, J. (2011). Racial discrimination and substance use: Longitudinal associations and identity moderators. *Journal of Behavioral Medicine*, 35(6), 581-590.

Cogburn, C.D., Chavous, T., & Griffin, T. M. (2011) School-based racial and gender discrimination among African American adolescents: Exploration variation in frequency and impact among girls and boys. *Journal of Race and Social Problems*, 3(1), 25-37.

Lun, J., Sinclair, S. & **Cogburn, C.D.** (2009). Cultural stereotypes and the self: A closer examination of implicit self-stereotyping. *Basic and Applied Social Psychology*, 31(2), 117-127.

Chavous, T., Rivas, D., Smalls, C., Griffin, T. & **Cogburn, C.D.** (2008). Gender matters, too: The influences of school racial discrimination and racial identity on academic engagement outcomes among African American adolescents. *Developmental Psychology*, 44(3), 637-654.

Chavous, T. & **Cogburn, C.D.** (2007). The superinvisible woman: The study of Black women in education. *Black Women, Gender and Families. Black Women, Gender and Families: Women's Studies and Black Studies Journal*, 1(2).

Chavous, T., Branch, L., **Cogburn, C.D.**, Griffin, T., Maddox, J., & Sellers, R. (2007). Achievement motivation among African American college students at predominantly White institutions: Risk and protective processes related to group identity and contextual experiences. F. Salili & R. Hoosain (Eds.), *Culture, Motivation and Learning: A multicultural, perspective*. Information Age Publishing.

Neblett, E., Philip, C., **Cogburn, C.D.** & Sellers, R. (2006). African American adolescents' discrimination experiences and academic achievement: Racial socialization as a cultural compensatory and protective factor. *Journal of Black Psychology*, 32(2), 1-20.

In Press

Cogburn, C. D. Culture, race and health: Implications for Racial Inequities and Population Health. *Milbank Quarterly*.

Versey, H. S., **Cogburn, C. D.**, Wilkins, C. L., & Joseph, N. Appropriated racial oppression: Implications for mental health in Whites and Blacks. *Social Science & Medicine, Online First*, 295-302.

Under Review

Cogburn, C. D., McLaughlin, K., & Kubzansky, L. #Racism: Cultural racism and physiological, psychological and behavioral stress response racism. *Social Science & Medicine*. *R&R: invited revision resubmitted

In Preparation (listed in order of planned submission)

*Graduate student

Cogburn, C. D., Jackson, J. S., & Abdou, C. Composite versus delineated measures of discrimination: How framing alters associations between racial and non-racial discrimination and depression in a

multiethnic sample. *Cultural Diversity and Ethnic Minority Psychology*. * R&R

Cogburn, C. D., Chavous, T., Frey, W.* & Deshmukh, N.* *Race-related social cognition and mental health among Black adolescents*. Target journal: *Child Development* (4.19).

Cogburn, C.D., Herrera, F*, & Bailenson, J. *Investigating implicit racial bias and embodiment among Whites experiencing racism in virtual reality*. Target journal: *Human Computer Interaction* (4.667)/*Psychological Science* (6.128)

Cogburn, C. D., Kubzansky, L., Boem, J.K., Seeman, T., Jacobs, D., Williams, D.R., & Diez-Roux, A. *Race and cardiovascular health: The role of chronic psychosocial stress, psychological framings of adversity and endocrine stress responses among Blacks and Whites in the CARDIA sample*. Target journal: *JAMA* (47.661)

Cogburn, C. D., Geller, A., Allen, A*. & Rajput, A*. National media coverage of police violence and health. Target journal: *NEJM* (79.25)/*JAMA* (47.661)

Cogburn, C. D. & Bailenson, J. Designing racism in virtual reality: A transdisciplinary approach. Target journal: TBD, Impact Factor: TBD

Invited Talks and Expert Convenings

Cogburn, C.D. (2019, May). Twitter. Faculty Advisory Session. NY, NY.

Cogburn, C.D. (2019, May). National Center for Women in Technology (NCWIT) Summit. *Culture and Racism: Using VR for Empathy and Engagement*. Nashville, TN.

Cogburn, C.D. (2019, May). Social Media Governance Initiative Inaugural Conference. The Social Justice Collaboratory: Yale Law School. Expert convening. New Haven, CT.

Cogburn, C.D. (2019, April). Washington University in St. Louis. Collaboration on Race, Inequality and Social Mobility, *Measurement and Methodology Panel*. St. Louis, MO.

Cogburn, C.D. (2019, March). Interprofessional Education Day (IPE) Keynote: Columbia University. NY, NY.

Cogburn, C.D. (2019, March). Story Movements: Center for Media & Social Impact, American University. *1000 Cut Journey: Why + What + Process*. Washington, DC.

Cogburn, C.D. (2019, March). Digital Activism Panel: CUNY Graduate Center. NY, NY.

Cogburn, C.D. (2019, March). City Block (Health and Medical Center). *Characterizing, Measuring and Undoing Racism: Implications for Racial Inequities in Health*. NY, NY.

Cogburn, C.D. (2019, January). PCMA Convening Leaders. *Experiencing Racism in VR*. Pittsburgh, PA.

Cogburn, C.D. (2019, January). Planned Parenthood. Expert meeting. NY, NY.

Cogburn, C.D. (2019, January). Research Center for Group Dynamics Speaker Series: University of Michigan. *A Culture of Racism: Conceptual and Methodological Innovations*. Ann Arbor, MI.

- Cogburn, C.D.** (2019, January). Institute for Social Research: University of Michigan. *1000 Cut Journey*. Ann Arbor, MI.
- Cogburn, C.D.** (2018, December). Planned Parenthood Headquarters. Expert meeting. Washington, DC.
- Cogburn, C.D.** (2018, November). Social Science Research Council (SSRC), Special Convening on Anticipatory Social Research. NY, NY.
- Cogburn, C.D.** (2018, November). *1000 Cut Journey*, featured speaker. Google: NY, NY.
- Cogburn, C.D.** (2018, December). World of Minds Summit: Zurich, Switzerland. Invited participant.
- Cogburn, C.D.** (2018, September). Los Angeles Film Festival: Los Angeles, CA.
- Cogburn, C.D.** (2018, September). Oculus Connect 5 (Facebook): Menlo Park, CA.
- Cogburn, C.D.** (2018, November). Virtual Identity (v-ID) Summit: Park City, UT.
- Cogburn, C.D.** (2018, November). Virtual Reality Privacy Summit: Stanford, Palo Alto, CA.
- Cogburn, C.D.** (2018, July:). The Future of Animation: AI-Generated Characters. NYC Media Lab and Samsung NEXT private event, panelist: NYC, NY.
- Cogburn, C.D.** (2018, July:). High Fidelity Fireside Chat with Philip Rosedale.
- Cogburn, C.D.** (2018, June). *Oculus VR for Good Creators Lab. Advisory Session*. Palo Alto, CA.
- Cogburn, C.D.** (2018, June). *Growing Pains: Virtual reality, documentary and a search for answers*. American Film Institute Documentary Forum. Washington, D.C.
- Cogburn, C.D.** (2018, April). *Racial Inequality in Health and Economic Outcomes (Discussant)*. 50 Years After the Kerner Commission. Institute for New Economic Thinking. The Eisenhower Foundation, Roosevelt Institute and The American Assembly Columbia University.
- Cogburn, C.D.** (2018, April). *Education and Advocacy in VR*. Tribeca Film Festival.
- Cogburn, C.D.** (2018, March). *Innovations in VR*. Games for Change XR for Change Talk and Play.
- Cogburn, C.D.** (2018, February). *Virtual Reality + Racism*. Stanford University 52nd Carlos Kelly McClatchy Symposium.
- Cogburn, C.D.** (2018, January). *Characterizing and Measuring Racism: Implications for Addressing Racial Inequities in Health*. New York Department of Health Commissioner's (Dr. Mary Bassett) Brown Bag Series.
- Cogburn, C.D.** (2017, November). Panelist: NYC Media Lab: Exploring Future Reality 2017: <https://www.youtube.com/watch?list=PLfUpyzvpGBM0mV0q5u5lEu6kHFoLYvVg&v=B3WHOjRhAss>

- Cogburn, C.D.** (2017, October). *The Culture of Racism: Exposing and Fighting Racism on Cultural Terrain*. Distinguished Diversity Scholar Award Conference: Discrimination and Social Identity Panel.
- Cogburn, C.D.** (2017, October). *Designing Racism in Virtual Reality*. Black in Design Conference: Designing Resistance, Building Coalitions. Harvard Graduate School of Design.
- Cogburn, C.D.** (2017, June). *Cultural racism and health*. Lives of Color: Race-Ethnicity and the Life Course. Pennsylvania State University, Center for Life Course and Longitudinal Studies.
- Cogburn, C.D.** (2017, June). *Virtual Reality and Racism*. TEDxRVA. Richmond, VA.
- Cogburn, C.D.** (2016, November). Keynote Address: Robert Wood Johnson Foundation Clinical Scholars Annual Meeting.
- Cogburn, C.D.** (2016, September). *Ending racism in America: Agendas from and for science*. Interdisciplinary Association for Population Health Science.
- Cogburn, C.D.** (2016, June). *Innovations in measuring racism-related stress: Implications for understanding racial disparities in stress-related disease*. Program for Research on Black Americans. Institute for Social Research. University of Michigan.
- Cogburn, C.D.** (2016, May). *Characterizing and measuring racism: Implications for addressing racial disparities in health*. Robert Wood Johnson Foundation Health & Society Scholars Annual Meeting. New Orleans.
- Cogburn, C.D.** (2016, April). *What is racism? Framing thought and innovation in measurement*. Center for Justice Working Group. Columbia University.
- Cogburn, C.D.** (2015, February). *Black health equity: Using a social lens to frame discussions on racial health disparities*. Wesleyan University.
- Cogburn, C.D.** (2015, January). *Health effects of structural racism: Using social science data in human rights advocacy*. Leitner Center for International Law and Justice at Fordham University Law School.
- Cogburn, C.D.** (2015, January). *Technology and structural discrimination*. Discussant: Technology Salon New York. Brooklyn Community Foundation.
- Cogburn, C. D.** (2014, November). *Effects of prejudice on mental and physical health*. Princeton University, Department of Psychology.
- Cogburn, C. D.** (2014, October). *Culture wars and race*. Harvard University Kennedy School of Government.
- Cogburn, C.D.** (2014, October). *The role of social scientists and data scientists in humans rights advocacy & illuminating issues of structural discrimination*. Fordham University and the International Center for Advocates Against Discrimination.
- Cogburn, C.D.** (2014, October). *Racism, stress and health: Using transdisciplinary science to tackle the grand challenge of health disparities*. Columbia University School of Social Work, Dean's Advisory Council.

Cogburn, C.D. (2014, April). *The role of race in stress and health*. Harvard University School of Public Health.

Cogburn, C.D. (2013, April). *Racism and health: Research and action*. Southern Jamaica Plain Health Center, Racial Healing Project: Boston, MA.

Conference Presentations

Cogburn, C.D. (2019, June). *Can racism experienced in VR shift racial attitudes among Whites?* SPSSI. San Diego, CA.

Cogburn, C.D. (2019, March). *Exploring racism in VR*. International Convention on Psychological Science. Paris, France.

Cogburn, C.D., Bailenson, J., Asher, T., Ogle, E & Nichols, T. (2018, August). *Experiencing racism in VR: A 1000 Cut Journey*. SIGGRAPH. Vancouver, BC.

Cogburn, C.D. (2018, August). *Exploring racism in VR*. American Sociological Association: Section on Science, Knowledge and Digital Inequality. Philadelphia: PA.

Cogburn, C.D. (2018, October). *Exploring racism in VR*. Interdisciplinary Association for Population Health Science. Washington, DC.

Cogburn, C.D. (2015, November). *Early Life Stress and Coping in African Americans: Effects of Racial Discrimination and Awareness on Adult Health*. The Gerontological Society of America Annual Meeting: Orlando, FL.

Cogburn, C.D. (2013, May). *Why does race matter for health?: Using multidimensional assessments of racism to understand health and racial health disparities*. Robert Wood Johnson Health & Society Scholars Annual Meeting: San Diego, CA.

Cogburn, C. D., Peck, S., Fuller-Rowell, T., Malanchuk, O., Brodish, A., & Eccles, J. (2013, April). "Generic" and racial stress proliferation: Effects on anxiety and anger between adolescence and early adulthood. Accepted for presentation at the Society for Research on Child Development Biennial Meeting: Seattle, WA.

Cogburn, C. D., Hurd, N., Butler-Barnes, S. & Sellers, R. (2012, March). *The mediating role of environmental mastery in explaining potential effects of racial discrimination and racial identity on depressive symptoms*. Presented at the Society for Research on Adolescence Biennial Meeting: Vancouver, CA.

Jackson, J. S., **Cogburn, C. D.,** Adou, C., Uzogara, E. (2012, January). *Stress and HPA-Axis functioning among both targets and perpetrators of prejudice*. Presented at the annual Society for Personality and Social Psychology meeting: San Diego, CA.

Cogburn, C.D., Brodish, A., Fuller-Rowell, T., Peck, S. & Malanchuk, O. (2011, February). *Racial discrimination during young adulthood: Effects on mental health and the moderating role of adaptive self-regulatory processes*. Poster presented at The Science of Research on Discrimination and Health. National Institutes of Health: Bethesda, MD.

Cogburn, C.D. (2009, April). *Cognition, behavior and affect: A model of adaptive regulatory patterns among African American adolescents*. Presented at the biennial meeting of the Society for Research in Child Development. Denver, Colorado.

Griffin, T., **Cogburn, C.D.**, Gonzalez, R. & Chavous, T. (2008, July). *Intersectionality, affirmative action and higher education: Implications for policy and discrimination*. Presented at the annual meeting of the International Society of Political Psychology, Paris, France.

Cogburn, C.D., Chavous, T. & Griffin, T. (2008, June). *Race and gender: Discrimination and identity among African American Adolescents*. Presented at the biennial convention of the Society for the Psychological Study of Social Issues. Chicago, IL.

Cogburn, C.D. (2006, April). *An introduction to psychological approaches to studying social and cultural groups*. Invited lecture for Introduction to Psychology, University of Michigan, Ann Arbor, MI.

Cogburn, C.D. & Chavous, T. (2006, April). *Academic and psychological adjustment among African American adolescents: Considering race and gender experiences in context*. Presented at the annual meeting of the American Educational Research Association. San Francisco, CA.

Cogburn, C.D. (2005, July). *Identity development amongst African American and Caribbean immigrants: A comparative framework*. Presented at the annual meeting of the Caribbean Studies Association Conference. Santo Domingo, Dominican Republic.

Cogburn, C.D., Neblett, E. & Philip, C. (2005, June). *"My mama told me": Racial socialization as a protective factor in the discrimination experiences and academic achievement of African American adolescents*. Presented at the annual meeting of the Society for Community Research in Action. Urban-Champaign, IL.

Neblett, E., Philip, C., & **Cogburn, C.D.** (2004, March). *Socialization, discrimination and achievement*. Presented at the biennial meeting for the Society for Research on Adolescence. Baltimore, MD.

Teaching Experience

Trainer, Center for Research on Learning and Teaching, University of Michigan

Instructor, Educational Psychology and Human Development

Graduate Student Instructor, Research Methods in Psychology, University of Michigan, Department of Psychology

Graduate Student Instructor, Educational Psychology, University of Michigan, Department of Psychology

Graduate Student Instructor, Introduction to Psychology, University of Michigan, Department of Psychology

Service

PROP to Advocacy Sub-Committee

Dean Search Committee

Faculty Search Committee

Demands Power Race Oppression and Privilege Sub-Committee

Curriculum Committee (Member)

Diversity Committee (Member)

Diversity Committee (Co-Chair)

Professional Affiliations

American Public Health Association

Association of Psychological Science

Society for Personality and Social Psychology

Society for Research in Child Development

Society for the Psychological Study of Social Issues

Ad-Hoc Reviewer

Annals of Behavioral Medicine

Social Science & Medicine

Developmental Psychology

Journal for Research on Adolescence

Developmental Review

Ethnicity & Health

International Journal of Psychology

Educational Psychology

EXHIBIT 5

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

MARY T. THOMAS, et al.,

Plaintiffs,

v.

MARCI ANDINO, et al.,

Defendants.

DECLARATION OF BRENDA C. MURPHY

BRENDA C. MURPHY declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am over 21 years old and competent to make this declaration.
2. I am a U.S. citizen, an African American, and a lawfully registered voter in South Carolina. I have never lost my right to vote by reason of a felony conviction or court order.
3. I was born in Ridgeway, South Carolina and currently live in Columbia, South Carolina.
4. I earned a Bachelor of Science and master's degree in Nursing from the University of South Carolina, Columbia Campus, leading to a career in nursing of more than 40 years. I served for 17 years as a member of the United States Army Reserves Nurse Corp and obtained the rank of Major. I am a retired Department of Veterans Affairs nurse and currently work part-time as adjunct faculty at South University, Columbia, South Carolina, in the Nursing Department.
5. I am a life member of the National Association for the Advancement of Colored People ("NAACP") and serve as the current president of the South Carolina State Conference of Branches of the NAACP ("South Carolina NAACP") and as a member of the Columbia Branch. My service with the NAACP began in the late 1980s in Charleston, South Carolina as a member

of the Charleston Branch. Prior to becoming the president of the South Carolina NAACP, I served as the chairperson of its Health Committee and as its Youth and College Division advisor.

6. The South Carolina NAACP is a nonpartisan, nonprofit organization. It was chartered in 1939 and now operates through a network of branches, youth councils, and college chapters located across the 46 counties of South Carolina. In total, the South Carolina NAACP is comprised of over 35 branches and several thousand individual members throughout the State.

7. The fundamental mission of the South Carolina NAACP is to seek the political, educational, social, and economic equality of rights of all persons and to eliminate race-based discrimination. The organization's primary focus is to protect the civil rights of all people, seeking equity in the areas of education, healthcare access, environmental justice, criminal justice, voting rights, political engagement, and economic sustainability.

8. To further its mission, the South Carolina NAACP advocates to ensure that the interests of the African-American community are represented on the local, state, and national legislative bodies by representatives who share the community's interests, and who will be accountable to the community. Accordingly, the South Carolina NAACP encourages and facilitates nonpartisan voter registration drives by its branches and chapters to promote civic participation.

9. The current COVID-19 pandemic is having an adverse impact on each area of the South Carolina NAACP's advocacy, affecting equal access to health, education, voting systems, economics, student success, representation of our communities, and more. The South Carolina NAACP is increasing efforts to respond to this crisis through vigilant and vocal advocacy for the policies and practices that will preserve the wellbeing of our communities. For example, we have released press statements, participated in press conferences, and directed our leadership committee

to encourage members to reach out to their elected officials to ensure that our interests are represented and rights are protected during this pandemic.

10. I strongly believe based on empirical evidence that this pandemic has exposed underlying inequalities that have long existed. It is my deep concern that without continued, concerted advocacy, our members of the South Carolina NAACP and other similarly situated persons will face some of the harshest consequences of this crisis—not only in health, but in each dimension of our civic lives.

11. I fear the Excuse Requirement and the Witness Requirement (together, the “Challenged Provisions”) will force South Carolinians, including members of the South Carolina NAACP, to make an impossible choice between protecting their health and exercising their right to vote, since under many circumstances these two options cannot coexist. The Challenged Provisions do not allow all voters with reasonable fear of contracting or spreading COVID-19 to vote by mail and require voters who do qualify to vote by mail to have someone witness their ballot. The only way for many of our members to vote—those who live alone or those who do not qualify to vote absentee, in particular—requires unsafe exposure to other people that counters the guidance of public health officials.

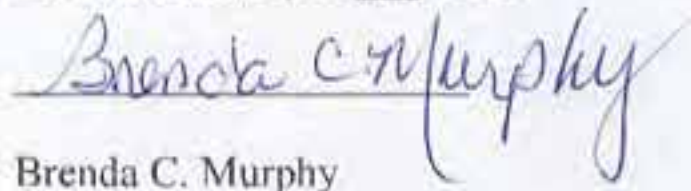
12. I know personally of members of the South Carolina NAACP who will not be able to both vote and maintain safe social distancing practices if the Challenged Provisions remain in effect. In particular, one of our members who has been practicing strict social distancing is over 80 years of age and has limited mobility. She lives only with her husband, who has been diagnosed with dementia and is therefore unable to witness an absentee ballot. Like many others in our state, the only way that she would be able to vote is by breaking quarantine at grave risk to her health and safety.

13. I am aware of documented evidence that Black South Carolinians continue to face higher rates of infection and death from COVID-19 due to the interaction of disparate healthcare access and other layers of structural inequality. I fear unnecessary interactions—at polling sites and elsewhere—will exacerbate the health risks to South Carolina's African-American community members.

14. Many of the South Carolina NAACP members are citizens and registered voters who will be directly impacted by the Challenge Provisions. If these Challenged Provisions remain in place, our members will not be able to access their full rights and our organization's mission to ensure the equal representation of our members and communities in this June's, and all, elections will be irreparably disrupted.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on: April 27, 2020

A handwritten signature in blue ink that reads "Brenda C. Murphy". The signature is written in a cursive style with a large, stylized "M".

Brenda C. Murphy

EXHIBIT 6

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

MARY T. THOMAS, et al.,

Plaintiffs,

v.

MARCI ANDINO, et al.,

Defendants.

DECLARATION OF MARY T. THOMAS

MARY T. THOMAS declares, pursuant to 28 U.S.C. § 1746, as follows:

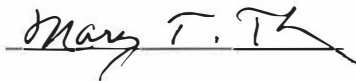
1. I am over 86 years old and competent to make this declaration.
2. I am a U.S. citizen, an African American, and lawfully registered voter in South Carolina. I have never lost my right to vote by reason of a felony conviction or court order.
3. I live alone in Charleston, South Carolina.
4. Before my retirement, I worked as a licensed public nurse (LPN) and as a clinical pastoral chaplain.
5. I have voted by way of absentee ballot in South Carolina for over twenty years due to physical disabilities and qualifying upon turning 65 years of age. I intend to vote absentee again in this year's elections, including the June primary and November general, in part, to avoid the health risks related to COVID-19.
6. To protect myself from contracting COVID-19, I have been strictly self-quarantining since approximately mid-March and have cut off all unnecessary in-person contact with others.
7. I live with numerous medical conditions, including hypertension, gout, aortic

insufficiency, and esophageal stricture. I am also partially blind. Approximately one year ago, I fell and fractured my left femur, which has involved a protracted recovery process.

8. I understand that my age and preexisting conditions put me at substantial risk of the health consequences of contracting COVID-19. I therefore do not intend to break my strict self-quarantine for any avoidable reason until the threat has completely subsided.

9. I understand that a witness signature is needed to vote by absentee ballot in South Carolina. I have no way to obtain a witness's signature on my absentee ballot without putting my health in grave danger by breaking my quarantine. If the witness requirement is not removed, I will be forced to make a devastating choice between my health and my right to vote.

I declare under penalty of perjury that the foregoing is true and correct. Executed: April 27, 2020.

A handwritten signature in cursive script, appearing to read "Mary T. Thomas", written over a horizontal line.

Mary T. Thomas

EXHIBIT 7

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

MARY T. THOMAS, et al.,

Plaintiffs,

v.

MARCI ANDINO, et al.,

Defendants.

DECLARATION OF NEA RICHARD

NEA RICHARD declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am over 22 years old and competent to make this declaration.
2. I am a U.S. citizen, an African American, and a lawfully registered voter in Cross Hill, South Carolina.
3. I am a student at Claflin University, a historically Black university in Orangeburg, South Carolina. I currently reside in Orangeburg while completing online instruction after the closure of Claflin due to COVID-19. My graduation has been delayed due to the virus until December 2020, when I will receive my undergraduate degree in African American Studies and Political Science.
4. As a student, I have served in student government and multiple extracurricular nonprofit leadership roles. For example, I registered voters through a political awareness group I founded in order to make politics more accessible to college students.
5. While in school, I have travelled two hours home to Cross Hill for each election so that I can vote in-person and serve as a poll worker. I intend to vote in person and serve as a poll worker again in Cross Hill for the 2020 state primary in June and general elections in November.

6. I believe the Excuse Requirement and the Witness Requirement (together, the “Challenged Provisions”) will force many South Carolinians who do not wish to lose their right to vote to appear in person at polling sites or otherwise interact with other people in order to cast a ballot. The Challenged Provisions do not allow all voters with reasonable fear of contracting or spreading COVID-19 to vote by mail and require voters who *do* qualify to vote by mail to have a witness sign their ballot envelop. These requirements will lead to unnecessary encounters that I fear will cause risk to both personal and public health.

7. From my seven years of experience as a poll worker, I have witnessed and experienced the many forms of close contact that poll workers and voters are forced to make at polling sites including sharing pens, handling photo IDs, and touching doors, doorframes, and voting machines. If the Challenged Provisions are not eliminated, I fear that they will result in increased congestion at in-person polling sites, which would contribute to the spread of COVID-19 and risk of my own potential infection.

8. Poll workers at my polling site are disproportionately elderly, and I anticipate that many will not be able or willing to work because of COVID-19—further exacerbating issues at polling sites. For example, my grandmother, who has served in a leadership role at our polling site and who initially inspired me to volunteer as a poll worker, will not be able to work at our precinct due to the health risks she faces from COVID-19 because of her age and prior health issues. I feel it is necessary that I serve as a poll worker this year to ensure that elder poll workers, like my grandmother, are not put at risk and voters are not left without polling site staff.

9. Hundreds of voters cast a ballot at my polling site – I would estimate 300 in most elections, and around 600 for presidential elections. On Election Day, poll worker cancellations and the added time and process of constantly cleaning and re-cleaning equipment and communal

spaces will likely result in increased congestion and delays that will make it nearly impossible to take the necessary steps to practice proper social distancing and sufficient sanitization. I have seen reports from Wisconsin where numerous people contracted COVID-19 after visiting polling sites on Election Day, and I fear South Carolina could face similar outcomes if the Challenged Provisions remain in place.

10. The elimination of the Challenged Provisions would help protect me, as well as other voters and poll workers, by significantly reducing the number of in-person voters and the concomitant increased risk of COVID-19 transmission caused by excessive congestion at polling sites.

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

Executed on: April 24, 2020

A handwritten signature in black ink, reading "Nea Richard", written over a horizontal line.

Nea Richard

EXHIBIT 8

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

JEREMY RUTLEDGE, et al.,

Plaintiffs,

v.

MARCI ANDINO, et al.,

Defendants.

DECLARATION OF JEREMY RUTLEDGE

JEREMY RUTLEDGE declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am over 49 years old and competent to make this declaration.
2. I am a U.S. citizen, a Caucasian, and lawfully registered voter in South Carolina. I have never lost my right to vote by reason of a felony conviction or court order.
3. I live with my wife and son in Mount Pleasant, South Carolina.
4. For the past eight years, I have served as the senior pastor of Circular Congregational Church in Charleston, South Carolina.
5. I routinely vote in person on Election Day and do not consider myself physically disabled. Under my interpretation of the Excuse Requirement, I do not qualify to vote absentee. I must either vote in person or forego my right to vote in South Carolina elections.
6. I am at risk of severe complications from the novel coronavirus and COVID-19 because I live with systemic scleroderma, a chronic, autoimmune disorder that affects the skin and internal organs. My condition has caused me to suffer from interstitial lung disease, which in the past has caused severe scarring (fibrosis) of my lungs.
7. I have treated my medical conditions with immunosuppressant medication for

years. These drugs help me maintain a relatively healthy, active life by preventing my immune system from dangerously causing my lung tissue to thicken, but also make me particularly vulnerable to respiratory ailments like COVID-19 and pneumonia.

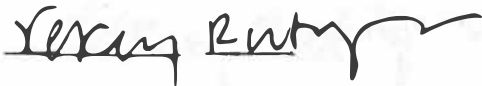
8. I have strictly self-quarantined myself at home with my wife and son since at least mid-March and do not anticipate that I will feel safe outside my home until a vaccine or cure for the novel coronavirus and COVID-19 has been developed or found.

9. In the likely event public officials ease social distancing restrictions before a vaccine or cure are available, I anticipate my family will find another place to live so that my wife and son may return to work and school while I remain self-quarantined in our family home.

10. I would vote absentee in this year's elections, including the June primary and November general, in part, to avoid the health risks related to COVID-19. However, I will have no way to obtain a witness's signature on an absentee ballot without putting myself in grave danger of severe illness.

11. If the witness requirement is not removed, I will be forced to make a devastating choice between my health and my right to vote.

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



The Rev. Dr. Jeremy Rutledge

Dated: April 23, 2020

EXHIBIT 9

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

MARY T. THOMAS, NEA RICHARD,
JEREMY RUTLEDGE, TRENA WALKER,
DR. BRENDA WILLIAMS, and THE
FAMILY UNIT, INC.,

Plaintiffs,

v.

MARCI ANDINO, in her official capacity as
Executive Director of the South Carolina
State Election Commission; JOHN WELLS,
in his official capacity as Chair of the South
Carolina State Election Commission;
CLIFFORD J. EDLER and SCOTT
MOSELEY, in their official capacities as
members of the South Carolina Election
Commission; and HENRY D. McMASTER,
in his official capacity as Governor of South
Carolina,

Defendants.

Case No.: 5:20-cv-01533-DCC-KDW

**DECLARATION OF TRENA M. WALKER
(pursuant to 28 U.S.C. § 1746)**

My name is Trena M. Walker. I am 53 years old and fully competent to make this declaration. Under penalty of perjury, I declare the following based upon my personal knowledge:

1. I currently live in Mixson Development of North Charleston, South Carolina in the 24905 zip code and am presently unemployed. I am a registered voter at my current address.
2. I live with three children, one of whom is my 11-year-old biological son. I am a full-time caregiver to another 11-year-old and an 8-year-old who are family friends whose mother is temporarily unable to care for them.

3. I have lived in South Carolina since 2000.

4. I understand that there is a statewide primary election on June 9, 2020, and I wish to vote in that primary. Voting and political participation are a core part of my values. I believe that I have voted in approximately 6 elections since 2015.

5. Since at least mid-March 2020, I have been following public health recommendations and orders from the Governor to stay at home to the best of my ability. Because I depend on periodic SSI funds, I am unable to stockpile food or supplies and have left my home when necessary to purchase food or other necessities.

6. I am practicing social distancing and staying at home not only because of public health guidance and government orders, but also because I am truly concerned about contracting COVID-19. While I understand that anyone can contract COVID-19, experience health issues from it, and potentially die from it, I believe I am at particular risk for serious complications from COVID-19 because of two underlying medical conditions.

7. I have emphysema. Treatment for that condition includes inhalers and steroids. I have been hospitalized with pneumonia three times since 2016. The hospitalization in 2018 was for double pneumonia with sepsis. I am also breast cancer survivor. I understand that the cancer treatments suppressed my immune system.

8. As an African-American woman, I am also aware of the higher rates of both contracting and experiencing serious complications and death from COVID-19 that African Americans are experiencing. This makes me particularly concerned about the virus and determined to practice social distancing.

9. I do not anticipate feeling safe leaving my home until a vaccine against COVID-19 is developed or a cure becomes available. I am also fearful that leaving my home will

become more dangerous to me if social distancing restrictions are relaxed or lifted before a vaccine or cure are available, because keeping distant from other members of the community while outside the home will only become harder.

10. I want to vote in the June 9 primary, but am afraid to go to the polls because it would make it more likely that I could contract COVID-19. I do not consider myself physically unable to vote in person and I understand that I may not be eligible for an absentee ballot. I have voted in person in recent elections, including in the recent February primary. Mail delivery in my neighborhood is to banks of boxes located in a centralized location. I cannot receive or send mail from my home.

11. I do not live with anyone of legal age who could be a witness even if I could vote by absentee ballot. Even if I could vote by absentee ballot, I would not risk having another individual witness my ballot because of the continuing transmission of COVID-19 and the serious health risks I will face if I contract it.

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

Executed on April 24, 2020


Trena M. Walker

EXHIBIT 10

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

MARY T. THOMAS, et al.,

Plaintiffs,

v.

Case No.: 3:20-cv-01552-JMC

MARCI ANDINO, et al.,

Defendants.

DECLARATION OF BRENDA C. WILLIAMS, M.D.

BRENDA C. WILLIAMS declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am over 68 years old and competent to make this declaration.
2. I am a U.S. citizen, an African-American, and a lawfully registered voter in Sumter County, South Carolina. I am also a medical doctor with an active South Carolina medical license. I graduated from the Medical College of Georgia School of Medicine. Since 1982, I have lived and worked in Sumter County with my husband who is also a medical doctor.
3. I founded and currently serve as the executive director of the Family Unit, Inc. ("Family Unit"). The Family Unit is a 501(c)(3) nonpartisan, charitable non-profit organization with the mission of empowering and serving the needs of the low-income community of Sumter County. The Family Unit's constituents and members are mostly African Americans and/or low-income people with a high school education or less. As part of its mission, the Family Unit educates and registers voters, including people who are pretrial detainees; helps eligible voters to understand and navigate the absentee voting process; restores abandoned homes and donates them to working-poor families

to live in; helps people find employment; volunteers with elderly people; and advocates for improved school facilities for children in the Sumter County area.

4. In recent years, the Family Unit's members and constituents have had their absentee ballots rejected because of the Witness Requirement. The difficulties experienced by the Family Unit's members and constituents in attempting to vote absentee under the witness and excuse requirements ("Challenged Requirements") have been magnified substantially by the COVID-19 pandemic.

5. As a direct result of the Challenged Requirements, the Family Unit has been forced to divert its extremely limited resources and time away from its core activities to investigate, respond to, mitigate, and address the concerns of its members and constituents impacted or disenfranchised by the Challenged Requirements and Defendants' inadequate efforts to protect voters from COVID-19 ahead of the 2020 elections.

6. For example, after learning about the impact of the Challenged Requirements on its members and constituents, Dr. Williams began an investigation that included requesting information from county election officials, interviewing affected voters, and reviewing information about the impact of the Challenged Requirements. Based on data provided by election officials, every year, the ballots of hundreds of voters are rejected because of the Witness Requirement. In the absence the Challenged Requirements, the Family Unit would not have had to engage in these activities.

7. In Attachment A to my declaration, I have included copies of email correspondence sent from local election officials to me. This correspondence shows

that Orangeburg County discarded 55 absentee ballots, Laurens County discarded 36 ballots, and Hampton county discarded 28 ballots in the 2016 elections because of the Witness Requirement. This correspondence also shows that some county election officials disagree with efficacy of the witness requirement. Upon information and belief, Richland County discarded 412 absentee ballots, Sumter County discarded 101 ballots and Marion County discarded 53 ballots.

8. Personally, I intend to vote in the 2020 state primary and general elections. I recently learned that I have contracted COVID-19. As a result, I am self-quarantining at home. My infection will prevent her from assisting or witnessing the absentee ballots for many of the Family Unit's members and constituents who have no one else to assist them with or witness their absentee ballots.

9. As a registered voter over age 65, I qualify for an absentee ballot. Because of my diagnosis and the need to self-quarantine, however, the witness requirement acts as a stumbling block for me and others trying to vote while practicing safe social distancing.

10. I usually assist scores of eligible absentee voters, including senior citizens and persons who are incarcerated. But, I am not able to visit the homes, nursing homes, long-term care facilities, local jail, the Sumter County Sheriff's Department Correctional Facility, senior citizens facilities, churches where I often instruct these voters on how to properly handle the Challenged Requirements. In the context of the COVID-19 pandemic, the Challenged Requirements make it nearly impossible for the Family Unit's members and constituents to cast effective absentee ballots.

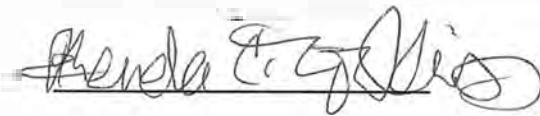
11. Even after my COVID-19 symptoms subside, I fear that, if I appear in-

person to vote or go in-person to assist the Family Unit's members and constituents in complying with the Challenged Requirements, I still may unintentionally and unknowingly infect others.

12. The fact is that the multiple steps and fine details that accompany absentee voting in South Carolina, including the Challenged Requirements, make it mandatory that the senior citizens, the marginally-educated and the pretrial inmates that I have help must have close personal contact and intense and detailed instruction, so that they are able to vote absentee. All of that work demands a mammoth effort on the part of people like myself.

13. I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct.

Dated: April 21, 2020

A handwritten signature in black ink, appearing to read "Brenda C. Williams", written over a horizontal line.

Brenda C. Williams, MD

Debra Bryant

4:17 PM (5

to me



RE: Hampton County

Good afternoon, Ms. Williams:

-

Absentee ballot return envelopes that are not witnessed are NOT counted. Exception: UOCAVA Ballots (military/overseas).

Absentee ballot return envelopes that are returned with no witness signature must be placed in their own "Attention" envelope. "Attention" envelopes are sealed, kept with election records, and never opened.

During the 2016 election year, a total of twenty-eight (28) absentee ballots were not counted due to no witness signature on the return envelope.

If a voter personally brings in his/her own ballot that is not witnessed, we assist that voter and have them sign again in our presence and we witness the return envelope.

Thank you.

Debra B. Bryant

Director

Hampton County

Board of Voter Registration & Elections

201 Jackson Avenue, West

Hampton, South Carolina 29924

Telephone: (803) 914-2082

Fax: (803) 914-2083

Email: dbryant@hamptoncountysc.org

Email: Vote.Hampton@elections.sc.gov

Shanna Proctor

10:41 AM (5

to me



Dear Directors of Voter Registration and Elections in the State of South Carolina:

Please answer the following question:

(1) What methods and or procedures are implemented by your County's Voter Registration and Elections Commission if and when an Absentee Ballot is returned, either by person or by mail, without the Return Envelope being signed by a witness? **In person, we check for signatures and ask the person to sign if the ballot belongs to them. If the ballot is being dropped off by someone else we ask them to return it to the voter for their signature or we can mail it. If by mail and we have a phone number we call the voter to notify them.**

(2) How many or what percentage of ballots were ***not counted*** in your county during the 2016 Election Year due to the lack of a second signature or "Witness Signature" on the Return Ballot Envelopes? **Less than 1% of mailed in ballots.**

Lynne West <LWEST@co.laurens.sc.us>

Nov 30,

to me



If it is returned in person, we offer to let the voter re-sign and we witness it.

If it is returned in person by an authorized rep, we offer to let the rep take the ballot back to the voter to resign and have it witnessed.

If it is mailed, we simply deposit in the ballot box and it is later put in the “not witness signature” envelope.

We had approx. 36 ballots the were not counted this time, due to not witness signature.

Debra Bryant <dbryant@hamptoncountysc.org>

Mon, Dec 5, 2

to me



All absentee ballots returned are time and date stamped. The date and time of ballot return is entered in the Voter Registration and Election Management System. Ballots returned with no witness

signature (except UOCAVA) are placed in their own "Attention" envelope. Attention envelopes are sealed, kept with election records, and never opened. These are not provisional ballots, so they are not considered at the provisional ballot hearing and are not counted.

There was a total of six ballots not witnessed that were placed in the attention envelopes for the 2016 General Election.

Thank you.

Debra

Debra Bryant, Dir.

Hampton County

Board of Voter Reg. & Elections

201 Jackson Ave., W.

Hampton, SC 29924

Telephone: (803) 914-2082

Fax: (803) 914-2083

Email: dbryant@hamptoncountysc.org

Ps. It is a legislative priority of the SCARE organization to delete that witness signature requirement.

Lynne

BOARD OF

VOTER REGISTRATION & ELECTIONS

OF LAURENS COUNTY

lynne west, director

864-984-4431

864-871-2937 cell

scVOTES.org

Hoyt

Campbell

I look forward to the day that the witness is moved.

Aurora Smalls

Voter Registration & Elections Director 

(803) 533-6213 Office

(803) 533-6215 Fax

asmalls@orangeburgcounty.org

From: Brenda Williams [mailto:familyunitinc@gmail.com]

Sent: Tuesday, November 29, 2016 12:01 AM

To: klondon; cholland; Sprince; acvote; effcoatpp; voter; catie.allison; scampbell; tgraham; vrcfield; sblackoliver; Angela Upchurch; dalford; bscott; epilot; vote; cbelangia; voterregistration; mahudson; Teresa Moody; Shanna Proctor; Joy Scharich; Absentee Ballot; dpettit; elections; Patricia Jefferson; Stan Barnhill; Lynne West; Dean; Debra Bryant; Connie Moody; Tricia Butler; Shayla; Hoyt Campbell; jeffcoatpp@bambergcounty.sc.gov

Subject: Absence of Witness Signature and the Absentee Ballot

Dear Directors of Voter Registration and Elections in the State of South Carolina:

Please answer the following questions:

(1) What methods and/or procedures are implemented by your County's Voter Registration and Election Commission if and when an Absentee Ballot is returned, either by person or by mail, with the Return Ballot Envelope being signed by a witness? *[Aurora Smalls]* If Absentee Ballot is returned by voter we ask them to present ID then ask them to sign the Return envelope in our present and we will sign as a witness. If Absentee Ballot is returned by mail we try to contact the voter and ask them to come to the office present ID and the Return Ballot Envelope in our present and we will witness the envelope. If voter don't come to the office the ballot is not counted.

(2) How many or what percentage of ballots were **not counted** in your county during the 2016 Election? *[Aurora Smalls]* the lack of a second signature or "Witness Signature" on the Return Ballot Envelopes? *[Aurora Smalls]*



Aurora Smalls - A5malls@orangeburgcounty.org

This document is

To: [Name]



Aurora Smalls

Voter Registration & Elections Director

(803) 733-6213 Office

(803) 733-6213 Fax

asmalls@orangeburgcounty.org

From: Brenda Williams [mailto:familyunitinc@gmail.com]

Sent: Tuesday, November 29, 2016 12:01 AM

To: klondon; cholland; Sprince; acvote; effcoatpp; voter; catie.allison; scampbell; tgraham; vrcfield; sblackoliver; Angela Upchurch; dalford; bscott; epilot; vote; cbelangia; voterregistration; mahudson; Teresa Moody; Shanna Proctor; Joy Scharich; Absentee Ballot; dpettit; elections; Patricia Jefferson; Stan Barnhill; Lynne West; Dean; Debra Bryant; Connie Moody; Tricia Butler; Shayla; Hoyt Campbell; jeffcoatpp@bambergcounty.sc.gov

Subject: Absence of Witness Signature and the Absentee Ballot

Dear Directors of Voter Registration and Elections in the State of South Carolina:

Please answer the following questions:

(1) What methods and/or procedures are implemented by your County's Voter Registration and Election Commission if and when an Absentee Ballot is returned, either by person or by mail, without the Return Envelope being signed by a witness? **[Aurora Smalls]** If Absentee Ballot is returned by voter we ask them to present ID then ask them to sign the Return envelope in our present and we will sign as a witness. If Absentee Ballot is returned by mail we try to contact the voter and ask them to come to the office present ID and the Return Envelope in our present and we will witness the envelope. If voter don't come to the office the ballot is not counted.

(2) How many or what percentage of ballots were **not counted** in your county during the 2016 Election due to the lack of a second signature or "Witness Signature" on the Return Ballot Envelopes? **[Aurora Smalls]**

----- Forwarded message -----

From: **Brenda Williams** <familyunitinc@gmail.com>

Date: Thu, Dec 5, 2019, 10:46 AM

Subject: Absentee Ballots Envelopes without a Witness Signature

To: klondon <klondon@abbeyvillecountysc.com>, cholland <cholland@aikencountysc.gov>, Sprince <Sprince@allendalecounty.com>, acvote <acvote@andersoncountysc.org>, effcoatpp <effcoatpp@bambergcounty.sc.gov>, voter <voter@bcgov.net>, catie.allison <catie.allison@cherokeecountysc.com>, scampbell <scampbell@charlestoncounty.org>, tgraham <tgraham@chestercounty.org>, vrcfield <vrcfield@hotmail.com>, sblackoliver <sblackoliver@clarendoncountysc.gov>, Angela Upchurch <aupchurch@colletoncounty.org>, Sedwardsvr17 <Sedwardsvr17@aol.com>, vote <vote@dorchestercounty.net>, dalford <dalford@florenceco.org>, bscott <bscott@florenceco.org>, epilot <epilot@florenceco.org>, vote <vote@georgetowncountysc.org>, cbelangia <cbelangia@greenvillecounty.org>, voterregistration <voterregistration@kershaw.sc.gov>, mahudson <mahudson@lancastercountysc.net>, Teresa Moody <tmoody@marionsc.org>, Shanna Proctor <sproctor@newberrycounty.net>, Joy Scharich <jscharich@oconeesc.com>, absentee <absentee@orangeburgcounty.org>, rcvoterapplication <rcvoterapplication@rcgov.us>, dpettit <dpettit@countyofunion.com>, elections <elections@yorkcountygov.com>, Patricia Jefferson <pjefferson@sumtercountysc.org>, Stan Barnhill <sbarnhill@leecountysc.org>, Lynne West <lwest@co.laurens.sc.us>, Dean <dcrepes@lex-co.com>, Debra Bryant <dbryant@hamptoncountysc.org>, Connie Moody <cmoody@greenwoodsc.gov>, Hoyt Campbell <hcampbell@darco.sc.com>, Tricia Butler <tbutler@edgefieldcounty.sc.gov>, Shayla <sjenkins@calhouncounty.sc.gov>, Naomi DeFrenn <ndefrenn@barnwellsc.com>

Dear Directors of Voter Registration and Elections in the State of South Carolina:

Please answer the following question:

(1) What methods and or procedures are implemented by your County's Voter Registration and Elections Commission if and when an Absentee Ballot is returned, either by person or by mail, without the Return Envelope being signed by a witness?

(2) How many or what percentage of ballots were *not counted* in your county during the 2016 Election Year due to the lack of a second signature or "Witness Signature" on the Return Ballot Envelopes?

Please expound on your responses.

Thank you for your attention to the above questions. Your cooperation in this request would be greatly appreciated.

Yours Sincerely,
Brenda C. Williams, MD
The Family Unit, Inc., a 501(c)(3), non-profit, charitable organization
2 Aubrey Circle
Sumter, South Carolina 29153
Federal ID#: 26-3342684

----- Forwarded message -----

From: **Brenda Williams** <familyunitinc@gmail.com>

Date: Mon, Nov 28, 2016, 11:49 PM

Subject: Witness Signature on Absentee Ballot Return Envelope

To: klondon <klondon@abbeyvillecountysc.com>, cholland <cholland@aikencountysc.gov>, Sprince <Sprince@allendalecounty.com>, acvote <acvote@andersoncountysc.org>, effcoatpp <effcoatpp@bambergcounty.sc.gov>, voter <voter@bcgov.net>, catie.allison <catie.allison@cherokeecountysc.com>, scampbell <scampbell@charlestoncounty.org>, tgraham <tgraham@chestercounty.org>, vrcfield <vrcfield@hotmail.com>, sblackoliver <sblackoliver@clarendoncountysc.gov>, Angela Upchurch <aupchurch@colletoncounty.org>, Sedwardsvr17 <Sedwardsvr17@aol.com>, vote <vote@dorchestercounty.net>, dalford <dalford@florenceco.org>, bscott <bscott@florenceco.org>, epilot <epilot@florenceco.org>, vote <vote@georgetowncountysc.org>, cbelangia <cbelangia@greenvillecounty.org>, voterregistration <voterregistration@kershaw.sc.gov>, mahudson <mahudson@lancastercountysc.net>, Teresa Moody <tmoody@marionsc.org>, Shanna Proctor <sproctor@newberrycounty.net>, Joy Scharich <jscharich@oconeesc.com>, absentee <absentee@orangeburgcounty.org>, rcvoterapplication <rcvoterapplication@rcgov.us>, dpettit <dpettit@countyofunion.com>, elections <elections@yorkcountygov.com>, Patricia Jefferson <pjefferson@sumtercountysc.org>, Stan Barnhill <sbarnhill@leecountysc.org>, Lynne West <lwest@co.laurens.sc.us>, Dean <dcrepes@lex-co.com>, Debra Bryant <dbryant@hamptoncountysc.org>, Connie Moody <cmoody@greenwoodsc.gov>, Hoyt Campbell <hcampbell@darco.sc.com>, Tricia Butler <tbutler@edgefieldcounty.sc.gov>, Shayla <sjenkins@calhouncounty.sc.gov>, Naomi DeFrenn <ndefrenn@barnwellsc.com>

Dear Directors of Voter Registration and Elections in the State of South Carolina:

Please answer the following question:

(1) What methods and or procedures are implemented by your County's Voter Registration and Elections Commission if and when an Absentee Ballot is returned, either by person or by mail, without the Return Envelope being signed by a witness?

(2) How many or what percentage of ballots were *not counted* in your county during the 2016 Election Year due to the lack of a second signature or "Witness Signature" on the Return Ballot Envelopes?

Please expound on your responses.

Thank you for your attention to the above questions. Your cooperation in this request would be greatly appreciated.

Yours Sincerely,
Brenda C. Williams, MD
The Family Unit, Inc., a 501(c)(3), non-profit, charitable organization
2 Aubrey Circle
Sumter, South Carolina 29153
Federal ID#: 26-3342684

----- Forwarded message -----

From: **Brenda Williams** <familyunitinc@gmail.com>

Date: Tue, Nov 29, 2016, 12:00 AM

Subject: Absence of Witness Signature and the Absentee Ballot

To: klondon <klondon@abbeyvillecountysc.com>, cholland <cholland@aikencountysc.gov>, Sprince <Sprince@allendalecounty.com>, acvote <acvote@andersoncountysc.org>, effcoatpp <effcoatpp@bambergcounty.sc.gov>, voter <voter@bcgov.net>, catie.allison <catie.allison@cherokeecountysc.com>, scampbell <scampbell@charlestoncounty.org>, tgraham <tgraham@chestercounty.org>, vrcfield <vrcfield@hotmail.com>, sblackoliver <sblackoliver@clarendoncountygov.org>, Angela Upchurch <aupchurch@colletoncounty.org>, Sedwardsvr17 <Sedwardsvr17@aol.com>, vote <vote@dorchestercounty.net>, dalford <dalford@florenceco.org>, bscott <bscott@florenceco.org>, epilot <epilot@florenceco.org>, vote <vote@georgetowncountysc.org>, cbelangia <cbelangia@greenvillecounty.org>, voterregistration <voterregistration@kershaw.sc.gov>, mahudson <mahudson@lancastercountysc.net>, Teresa Moody <tmoody@marionsc.org>, Shanna Proctor <sproctor@newberrycounty.net>, Joy Scharich <jscharich@oconeesc.com>, absentee <absentee@orangeburgcounty.org>, rcvoterapplication <rcvoterapplication@rcgov.us>, dpettit <dpettit@countyofunion.com>, elections <elections@yorkcountygov.com>, Patricia Jefferson <pjefferson@sumtercountysc.org>, Stan Barnhill <sbarnhill@leecountysc.org>, Lynne West <lwest@co.laurens.sc.us>, Dean <dcrepes@lex-co.com>, Debra Bryant <dbryant@hamptoncountysc.org>, Connie Moody <cmoody@greenwoodsc.gov>, Tricia Butler <tbutler@edgefieldcounty.sc.gov>, Shayla <sjenkins@calhouncounty.sc.gov>, Hoyt Campbell <hcampbell@darco.net>, <jeffcoatpp@bambergcounty.sc.gov>

Dear Directors of Voter Registration and Elections in the State of South Carolina:

Please answer the following questions:

(1) What methods and/or procedures are implemented by your County's Voter Registration and Elections Office and/or Commission if and when an Absentee Ballot is returned, either by person or by mail, without the Return Envelope being signed by a witness?

(2) How many or what percentage of ballots were *not counted* in your county during the 2016 Election Year due to the lack of a second signature or "Witness Signature" on the Return Ballot Envelopes?

Please expound on your responses.

Thank you for your attention to the above questions. Your cooperation in this request would be greatly appreciated.

Yours Sincerely,
Brenda C. Williams, MD
The Family Unit, Inc., a 501(c)(3), non-profit, charitable organization
2 Aubrey Circle
Sumter, South Carolina 29153
Federal ID#: 26-3342684

----- Forwarded message -----

From: **Brenda Williams** <familyunitinc@gmail.com>

Date: Thu, Dec 5, 2019, 9:06 PM

Subject: Witness Signature on Absentee Ballot Return Envelope

To: <h.campbell@dacosc.net>, <mbrack@lex-co.com>, <kroach@chesterco.org>, <amanda.walker@cherokeecountysc.com>, <jeffcoatpp@bambergcounty.sc.gov>

Dear Directors of Voter Registration and Elections in the State of South Carolina:
Please answer the following question:

(1) What methods and or procedures are implemented by your County's Voter Registration and Elections Commission if and when an Absentee Ballot is returned, either by person or by mail, without the Return Envelope being signed by a witness?

(2) How many or what percentage of ballots were *not counted* in your county during the 2016 Election Year due to the lack of a second signature or "Witness Signature" on the Return Ballot Envelopes?

Please expound on your responses.

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