

The Delray Democrat

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There Is No Such Thing As “Not Voting” So Don’t Waste Your Vote

Michael K. Cantwell

Every vote counts, but every vote *not cast* counts as well. That’s because there is no such thing as “not voting,” as David Foster Wallace explained: “you either vote by voting, or you vote by staying home and tacitly doubling the value of some Diehard’s vote.” The same applies if you vote for a third-party candidate who has no chance of winning. Until we have instant-runoff voting, that’s a vote *against* the candidate who would have been your second choice.

I learned that 42 years ago, after dismissing Jimmy Carter as “the lesser of two evils” and voting for Barry Commoner in the general election. I didn’t anticipate the devastation Reagan would unleash, using racist dog whistles to launch a four-decade-long assault on American workers. I watched Carter’s human rights presidency get supplanted by Reagan’s love affair with Central American death squads and terrorists. That’s when I resolved to always and only vote for the Democrat in the general election. In 2020, some clever wordsmith turned that strategy into the meme, “Vote Blue, No Matter Who.”

That’s why I voted for Al Gore in 2000 even though Ralph Nader was clearly the best candidate. The gap between Gore and Nader was nothing like the chasm between George W. Bush and Gore, and the danger of putting Bush in the White House was simply too great, as we subsequently learned.

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A Dangerous and Slippery Slope

Jeffrey Kash

We should be very concerned that the reversal of *Roe v. Wade* is the beginning of a slippery slope turning back the calendar and eliminating many of our rights.

You would hope that, with the demise of *Roe*, the right would be content that they won their long sought after victory. However, it may just be the beginning. Emboldened by radical Republicans in state legislatures and activist judges willing to eliminate fifty-year-old legal precedent, there is no reason to trust that other rights are safe.

If we understand the draft of the Court’s decision in *Dobbs v. Jackson Women’s Health Organization*, the basis for overturning *Roe* is that abortion is not mentioned in the Constitution. Justice Alito wrote: “The Constitution makes no reference to abortion,

and no such right is implicitly protected by any constitutional provision, including the one on which the defenders of *Roe* and *Casey* now chiefly rely — the Due Process Clause of the Fourteenth Amendment. That provision has been held to guarantee some rights that are not mentioned in the Constitution, but any such right must be “deeply rooted in this Nation’s history and tradition” and “implicit in the concept of ordered liberty.”

Couple that legal theory with the fact that some on the right oppose birth control as vehemently as they do abortion (remember that Christian advocacy groups praised President Trump when he said he would eliminate the ACA’s mandate that employers

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*You don’t need to live in Delray Beach to read or write for *The Delray Democrat*.

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If only 540 of Nader's 97,488 voters in Florida had done the same, Al Gore would have appointed the replacements for William Rehnquist and Sandra Day O'Connor, *changing the composition of the Court from 5-4 conservative to 6-3 liberal*. Instead, the three justices appointed by Reagan joined Rehnquist and Clarence Thomas to end the Florida recount and award the presidency to Bush in one of the most nakedly political and reviled decisions in Supreme Court history. *You can draw a straight line from Reagan's election to Bush's selection.*

Bush was given the opportunity not only to double the deficit and launch multi-trillion-dollar wars and violate international humanitarian laws but to appoint John Roberts (author of *Shelby County v. Holder*, the decision that gutted the Civil Rights Act) and the odious Samuel Alito (future author of *Dobbs v. Jackson Women's Health Organization*, the opinion that will overrule *Roe v. Wade*). Neither decision nor *Citizens United v. FEC* (which affirmed Bob Dylan's complaint that "money doesn't talk, it swears") would have been written had Gore been president.

Yet even after all that, even after Mitch McConnell outrageously blocked consideration of Merrick Garland to replace Scalia for the last ten months of

If what I've seen on social media is any indication, we are on our way to making the same mistake in November: a Florida committeemen boasted that if Charlie Crist is the nominee, he'll stay home and tell everyone he knows to stay home because Charlie was once a Republican. Actually, Crist was a RINO who restored voting rights to more Floridians than any other governor, including Bob Graham and Lawton Childs, and a refusal to vote for him if he is nominee is tantamount to a vote for Ron DeRacist.

Unfortunately he is surely not alone in failing to recognize that this is yet another in a long line of world-changing (and winnable) elections that we continue to lose. The "fool me once" aphorism that Bush so memorably bungled stops at "twice," but many Democrats have been fooled three times already and are working on a fourth.

Is there anyone who seriously believes that DeRacist is preferable to whoever is the Democrat? After Trump was elected, Noam Chomsky suggested that the Republican Party had become "the most dangerous organization in human history." It is hard to argue with that. No other organization, however savage and malignant – neither the Nazis under Hitler nor the Communists under Stalin or Mao – had the capacity to make vast stretches of the earth virtually uninhabitable. Donald Trump's Republican Party is well on its way to achieving that goal.

If what I've seen on social media is any indication, we are well on our way to making the same mistake in November.

Obama's presidency (an appointment that would have *flipped the Court from 5-4 conservative to 5-4 liberal*), many Democrats still missed the memo.

Instead, Donald Trump was able to pack the lower courts with swarms of Federalist Society sharks and appoint another three Torquemadas to the Supreme Court. Now the end of June will spell the end of a constitutional right granted a half-century ago in a decision that was affirmed a quarter century ago ("precedent on precedent," as Brett Kavanaugh claimed during his confirmation hearings, gulling credulous fools like Susan Collins).

In many ways, DeSantis would be even worse than Trump. He is smarter (not hard) and more vindictive (not easy) than Trump and motivated by an overweening ambition to be president.

Unless we send him packing in November, we will be seeing him at either the top or the bottom of the Republican ticket in 2024. The obvious corollary to "When We Vote, We Win" is "When We Don't Vote, We Lose." And it will not be only "we" that lose, it will be our democracy and our planet.

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Editorial Board: Michael K. Cantwell (Editor), Sandra Elaisen-Cantwell, David Kulick, Char Lane, June Neal, and Rob Resnick.

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cover workers' birth control) and it is not a stretch to see birth control as the next right in their crosshairs.

In *Griswold v. Connecticut*, 381 U.S. 479 (1965), the U.S. Supreme Court ruled that the Constitution protects the liberty of married couples to buy and use contraceptives without government restriction. The Court invalidated a Connecticut law that prohibited any person from using any drug or medical instrument that prevented conception. The Court found that the law violated the "right to marital privacy."

When considering the *Griswold* decision, keep in mind that the Constitution does not mention privacy. Two members of the Court dissented on that basis

Gay marriage, Miranda warnings, and Public Defenders are also not mentioned in the Constitution and are not deeply rooted in our history. That puts them at risk.

and said that the Court should not interfere with the law. Based on *Dobbs*, this nearly 60-year-old decision is fair game.

If a right is not mentioned in the Constitution, or is not implicitly protected by the Due Process Clause because it is "deeply rooted in this Nation's history," it could be eliminated. In addition to birth control, gay marriage, Miranda warnings, and Public Defenders are not mentioned in the Constitution and are not deeply rooted in our history. That puts them at risk.

In writing for the majority in the draft opinion of *Dobbs*, Justice Alito certainly recognized that the Court's decision was going to open the floodgates when he felt compelled to write: "To ensure that our decision is not misunderstood or mischaracterized, we emphasize that our decision concerns the constitutional right to abortion and no other right. Nothing in this opinion should be understood to cast doubt on precedent that do not concern abortion."

However, to the radical right and its activist judges, his caveat will be meaningless.

In *Obergefell v. Hodges*, the Supreme Court ruled that the fundamental right to marry is guaranteed to same-sex couples by both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The 5-4 ruling requires all fifty states, the District of Columbia, and the Insular Areas to perform and recognize the marriages of same-sex couples on the same terms and conditions as the marriages of

opposite-sex couples, with all the accompanying rights and responsibilities. However, gay marriage is not mentioned in the Constitution. Finding implicit protection in the Fourteenth Amendment may not be enough inasmuch as the criminalization of homosexuality is far more deeply rooted in our history than gay marriage.

Keep in mind that sodomy (commonly used to prosecute homosexual men) was a crime in every state until 1962 when states began adopting a penal code that removed consensual sodomy as a crime. In 1986, the Supreme Court in *Bowers v. Hardwick* upheld the constitutionality of a Georgia sodomy law criminalizing oral and anal sex in private between consenting adults. The majority opinion reasoned that the Constitution did not confer "a fundamental right to engage in homosexual sodomy". A

concurring opinion by Chief Justice Warren E. Burger cited the "ancient roots" of prohibitions against homosexual sex, quoting William Blackstone's description of homosexual sex as an "infamous crime against nature."

That decision was not overturned until 2003 in *Lawrence v. Texas*. In that case, the Court ruled that sanctions of criminal punishment for those who commit sodomy are unconstitutional. The Court reaffirmed the concept (as used in *Roe*) that the Constitution provides a "right to privacy" even though it is not explicitly enumerated. The Court based its ruling on the notions of personal autonomy to define one's own relationships and of American traditions of non-interference with private sexual decisions between consenting adults. It is easy to imagine how the rationale in *Dobbs* could be used to overturn this case founded upon the notion that there are implicit protections in the Constitution.

Justice Thomas might have to recuse himself or dissent in any attack on *Loving v. Virginia*, in which the Court ruled that laws banning interracial marriage violate the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the U.S. Constitution. It is harder to imagine this case being overruled because it is based more soundly in the Equal Protection Clause (and because of the political backlash), but the Constitution does not mention marriage and anti-miscegenation laws are deeply rooted in our nation's history.

If the right's obsession with how judges who were Public Defenders are soft on crime and grooming

children for abuse continues, *Miranda* and *Gideon v Wainwright* become potential targets.

In *Miranda v Arizona*, the Court ruled that the Fifth Amendment to the Constitution restricts prosecutors from using a person's statements made in response to interrogation in police custody as evidence at their trial unless they can show that the person was informed of the right to consult with an attorney before and during questioning, and of the right against self-incrimination before police questioning, and that the defendant not only understood these rights, but voluntarily waived them. *Miranda* was viewed by many as a radical change in American criminal law, since the Fifth Amendment was traditionally understood only to protect Americans against formal types of compulsion to confess and four Justices voted against the decision.

In Justice Harlan's dissent, he stated "nothing in the letter or the spirit of the Constitution or in the precedents squares with the heavy-handed and one-sided action that is so precipitously taken by the Court in the name of fulfilling its constitutional responsibilities." And Justice White added that the Court added a new constitutional right when it had no "factual and textual bases" in the Constitution. He wrote: "The proposition that the privilege against self-incrimination forbids in-custody interrogation without the warnings ... has no significant support in the history of the privilege or in the language of the Fifth Amendment." He added that the Court's

rule will return a killer, a rapist or other criminal to the streets and to the environment which produced him, to repeat his crime whenever it pleases him.

That language would certainly resonate with Republicans today.

In *Gideon v. Wainwright*, the Court ruled that the Sixth Amendment to the Constitution requires U.S. states to provide attorneys to criminal defendants who are unable to afford their own. The case extended the right to counsel, which had been found under the Fifth and Sixth Amendments to impose requirements on the federal government, by imposing those requirements upon the states as well. Prior to that decision, in spite of protections under the Sixth Amendment, there was no requirement for courts to appoint counsel to criminal defendants except in capital cases. The decision created the need for Public Defenders. Even Florida required Public Defenders in all of its circuits.

Warnings to suspects and the Public Defender's Office are not in the constitution and were not part of the nation's history until the 1960s when the Supreme Court made it so. Those decisions bucked the deeply rooted history of this nation. As much as they are now part of the fabric of our society, might they too be at risk?

The hubris of the radical right and their activist judges should concern us all.

2022 Membership

Char Lane

If you're not a member of the Democratic Club of Delray Beach, please consider joining. If you're already a member of the Club and haven't yet renewed, please renew for 2022.

Membership is on a calendar year basis and your dues help provide funding for operational projects, such as *The Delray Democrat*, our meetings, other working supplies and signage for our sign waving events. Meetings are the second Thursday of each month, currently via zoom but we hope to resume live meetings as soon as it's safe to do so.

Our goal is to educate people as to why they should vote Democratic and use Vote-by-Mail as a critical tool in support of this goal. We need your help with

our sign-waving, phone calling, postcard writing, canvassing and participating in other projects. We'll have to work hard to help keep our democracy intact and protect it from the manifesting lunacy.

We plan to help turn Florida BLUE by electing a Democratic governor (*to replace DeSantis*) and a Democratic U.S. Senator (*to replace Rubio*) in 2022.

Please visit our website at www.demclubofdelray.org, read current and previous issues of our newsletter *The Delray Democrat* at www.thedelraydemocrat.com and join our Facebook Group at <https://www.facebook.com/groups/992741928168620>

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DeSantis Pushes for “Open Carry” Against Record Gun Violence: “From My Cold, Dead Hands”

June Sandra Neal

If we thought Governor DeSantis couldn't be any more of a reckless ideologue . . . now he's promised to make Florida a “no carry, no permit” state before the end of his term, with his so-called “constitutional carry.” It came with a thick coat of pandering, even-for-him, when he stopped in Levy County on April 28 to announce his infrastructure funding for rural areas. Indeed. Otter Creek, population 134, got a check for nearly \$1.5 million for improved broadband expansion.

Of course, DeSantis threw in more of his fact-free criticism of President Joe Biden, and the admiring audience apparently saw no irony in the fact that the money came courtesy of President Biden's “Invest in America Act,” the nation's largest infrastructure bill in decades, or that only 32 of the 263 Republicans in Congress supported the bill or that Marco Rubio, Rick Scott, and Levy County's congressman, Neil Dunn, all voted against the bill.

The truly tragic irony was that, on the same day, we learned the latest death-by-gun statistics from the Center for Disease Control, announced by The Johns Hopkins Center for Gun Violence Solutions. “New Report Highlights U.S. 2020 Gun-Related Deaths: Highest Number Ever Recorded by CDC. Gun Homicides Increase by More Than One-Third.”

“More Americans died of gun-related injuries in 2020 than in any other year on record. The 45,222 total gun deaths in 2020 were by far the most on record, representing a 14% increase from the year before, a 25% increase from five years earlier and a 43% increase from a decade prior.” For the first time, the CDC addressed gun violence as a public health crisis.

So, what does “no training, no background check, no problem” portend? Florida currently requires a license for concealed carry. At a minimum, the applicant must be 21 years of age, unless a servicemember or an honorably discharged veteran; a citizen or meet legal residency requirements; and complete a firearms training class or equivalent. Disqualifiers include felony convictions.

But DeSantis and his fellow extremists believe it's a Second Amendment right to own a gun which therefore removes any requirement for training or government licensing. Madness.

The number of shootings in any state doesn't tell the whole story. It's the governance, and Florida already has a history of Republican incompetence and stupidity when it comes to firearms oversight.

Item. In June 2017, the Office of the Inspector General found that the FL Department of Agriculture, the agency charged with conducting background checks and issuing licenses for firearms, failed to perform those checks for a year, claiming they couldn't log in! Republican Commissioner Adam Putnam and Governor Rick Scott stayed silent. It wasn't until June 2018 that the press alerted the public. The Tampa Bay Times reported, “For more than a year, the state of Florida failed to review national background checks on tens of thousands of applications for concealed weapons permits, potentially allowing drug addicts or people with a mental illness to carry firearms in public. An investigation found no one was doing any checks because the employees couldn't log in...the lapse covered a period that included the biggest spike in permit applications in Florida history” (emphasis added).

How long might this have continued if the IG's office hadn't found out?

In contrast, the current Agriculture Commissioner and Democratic candidate for governor, Nikki Fried, has suspended 35 gun licenses held by people involved in the January 6 insurrection attack on our US Capitol. Commissioner Fried gave this exclusive statement to *The Delray Democrat*: “As a public defender, I was on the front lines, standing with those facing the stark inequalities of race, money, education, and mental health. The proliferation of guns and gun violence only exacerbated the harsh outcomes of this inequality.”

Today, I fear we are seeing the green shoots of that inequality rise again as gun violence and crime are on rise as well. We don't need cowboy policies that only intensify the violence coming from the end of a gun barrel. We need serious leadership and smart policies like a State gun registry, closing the gun show loophole, and going after so-called ghost guns.”

Item. Florida, Proud Home of the Stand Your Ground Law! Under Republican Governor Jeb

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Bush, Florida shamefully became the first state in the nation to enact a Stand Your Ground gun law. It's been a disaster. The 2020 briefing by the US Commission on Civil Rights, "Examining the Race Effects of Stand Your Ground Laws," is a scathing indictment. And it goes beyond race to how the Republicans' gun madness threatens us all.

The murder of two unarmed Black 17-year-olds by White men in Florida were central to the review. The murderer said the music from Jordan Davis' car was too loud. He shot at the car 10 times, even as it was driven away, then claimed it was self-defense. Wannabe cop George Zimmerman killed Trayvon Martin, who was unarmed and walking home after buying candy.

The Commission pointed a finger directed at Florida, noting that Zimmerman was issued a license to carry a concealed weapon even though he was arrested in 2005 on a felony for "resisting arrest with violence and battery on a law enforcement officer and was under a domestic violence restraining order." It was Florida's weak "Shall-Issue" regulation that gave Zimmerman his license to kill. (With a Shall Issue policy, the state cannot deny a gun permit if the basic requirements are met, even with concerns about the owner. "May issue" states maintain discretion.)

The Commission's findings should crush any arguments for this public endangerment. "The confluence of Stand Your Ground and concealed-carry laws is, to even the casual observer, an invitation to use deadly force. Seven years after Stand Your Ground passed in Florida, the number of concealed carry permits tripled. In 2019, Florida leads the country by far with nearly 2 million permits issued for a state population of nearly 22 million – nearly 1 in 10 Floridians carry concealed weapons. Florida is, to no one's surprise, a state that is a Shall

Issue state with regard to concealed carry weapon permits. Indeed, of the states associated with Stand Your Ground laws, almost all are Shall Issue or "No Permit" states.

Florida now has 2,692,988 active concealed weapon permits, including those held by security officers, circuit and county judges and others.

In March, Charlie Crist, another Democrat running for governor, unveiled his "Safer Florida for All" plan to address an "unacceptable level of efficiency and lethality." This includes a ban on high-capacity magazines, background checks for all firearm sales, limiting handgun purchases to once a month, mandatory reporting of lost or stolen guns and lengthening the license waiting period from 3 to 5 days. He noted he is a gun owner but "The NRA and the politicians in the pockets of the NRA should not be dictating our conversation around gun violence."

Sen. Annette Taddeo, also running in the Democratic gubernatorial primary, noted, "There is no such thing as 'Constitutional Carry, it's Permit-less Carry and it's the exact opposite of the common-sense gun reforms that we need in our country. Responsible gun owners support background checks and safety training, not ending requirements for it. All this is another desperate attempt by Governor DeSantis to be the main story on Fox & Friends this week and another example of his willingness to compromise the safety of Floridians to further his presidential ambitions."

Governor DeSantis' introduction of the NRA's "constitutional carry" right to an already lethal, gun-infested, blood-soaked society once again demonstrates that his governance is a clear and present danger and that he is unfit for office.

A Very Personal Note

June Sandra Neal

I chatted on the phone with Dawn Hochsprung in the evening of December 13, 2012 about a caterer for a wedding reception. Her daughter and my son were engaged to be married. I never spoke to her again.

Dawn was the beloved principal of Sandy Hook Elementary School. The next day, Dawn, five other educators and 20 first-graders were massacred by a crazed gunman who had access to his mother's firearms.

Our pain was insignificant compared to the searing agony of the parents, families and close friends of the victims. Still, it smashes you in the face. Sandy Hook was an important part of my life. Years before, I taught English lit and creative writing at Newtown High in Sandy Hook, and I still knew some of the families. An old friend, Rabbi Shaul Praver, conducted the service for one of the children at his nearby synagogue.

I thought this unspeakable event would be the crucible upon which people of good will would gain the power to turn the madness around. But the Republicans are hell-bent to treat firearms as casually as cell phones in the public square. It's an affront to all those we lost and all we will lose.

Icarus

Michael K. Cantwell

Remember the myth of Icarus? His father, Daedalus, fashioned wings that he affixed to their bodies, enabling the pair to flee from King Minos's maze, where they had been imprisoned. Before they began their flight, Daedalus warned Icarus not to fly too low (lest the sea weigh down his wings) or too high (lest the sun melt the wax that held his wings).

Icarus ignored his father's instructions, so exhilarated was he by his newfound power. The Greeks had a word for it, one we still use, *hubris*: "exaggerated pride or self-confidence."

Icarus flew higher and higher until the sun melted the wax on his wings and he tumbled to a watery grave. Like Icarus, DeSantis is drunk on power. He

crams through laws and doesn't care that they are unconstitutional as well as odious because he's appointed three of the seven justices on the Florida Supreme Court and Trump appointed six of the eleven judges on the Eleventh Circuit, the federal appellate court that governs Florida.

His motto—indeed the Republican credo—is adopted from Lily Tomlin's parody of Ma Bell: "we're the Republican Party. We don't care. We don't have to."

Taking on Mickey Mouse may just be a bridge too far, however. It's our job to see that it is, to see that we melt the wax on his wings.

Florida's Ludicrous Gun "Against-Registration" Law

June Sandra Neal

In Florida, there is no legal requirement to register firearms. The legislature's explanation for this stretches credulity:

790.335 Prohibition of registration of firearms; electronic records

1. The right of individuals to keep and bear arms is guaranteed under both the Second Amendment to the United States Constitution* and s. 8, Art. I of the State Constitution.
2. A list, record, or registry of legally owned firearms or law-abiding firearm owners is not a law enforcement tool and can become an instrument for profiling, harassing, or abusing law-abiding citizens based on their choice to own a firearm and exercise their Second Amendment right to keep and bear arms as guaranteed under the United States Constitution. Further, such a list, record, or registry has the potential to fall into the wrong hands and become a shopping list for thieves."

Guess we'd better re-think automobile registration, lest car thieves take an interest in our SUVs.

**Editor's Note: here is what former Chief Justice Warren Burger had to say about a personal constitutional right to bear arms: "The Gun Lobby's interpretation of the Second Amendment is one of the greatest pieces of fraud, I repeat the word fraud, on the American People by special interest groups that I have ever seen in my lifetime. The real purpose of the Second Amendment was to ensure that state armies – the militia – would be maintained for the defense of the state. The very language of the Second Amendment refutes any argument that it was intended to guarantee every citizen an unfettered right to any kind of weapon he or she desires."*

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What We're Reading

[If You're Anxious About the Climate, Try This](#), Margaret Klein Salamon, *The New York Times*: "In a 2021 global survey of 10,000 people ages 16 to 25 published in *The Lancet Planetary Health*, 56 percent said that humanity was doomed, and 45 percent said climate anxiety affected their daily lives."

[Who's to Blame](#), Adam Hochschild, *The New York Review of Books*: "Bernie Sanders, one of the few truth-speakers Ackerman finds during this dark era, said it best: 'There is a straight line from the decision to reorient US national-security strategy around terrorism after 9/11 to placing migrant children in cages on our southern border.'"

[For a Minute There, It Really Was No Child Left Behind](#), Ezra Klein, *New York Times*: "Here's the takeaway: A \$3,000-a-year child benefit would pay for itself 10 times over. These payments come back in higher long-term earnings, higher educational attainment, higher birth weights, lower neonatal mortality, better adult physical health and better adult mental health. They lead to less crime and higher tax revenues and longer life expectancy."

Worth Quoting

Mallory McMorrow: "People who are different are not the reason that our roads are in bad shape after decades of disinvestment or that health-care costs are too high or that teachers are leaving the profession. I want every child in this state to feel seen, heard, and supported, not marginalized and targeted because they are not straight, white, and Christian. We cannot let hateful people tell you otherwise, to scapegoat and deflect from the fact that they are not doing anything to fix the real issues that impact people's lives. And I know that hate will only win if people like me stand by and let it happen."

Democratic Club of Delray Beach 2022 Membership Application and Renewal

Date _____ New _____ Renewal _____

Name/names of household members _____

Address _____

Community/Condo Name _____

E-mail Address _____ Phone number _____

(E-mail addresses are shared with the Palm Beach County Democratic Party so our members will be kept abreast of the latest County Democratic Activity. If you do not wish to receive this information, please initial here _____ and we will not share your E-mail address.).

Preferred method of contact: E-mail _____ Phone _____ Text _____

Send newsletter by: E-mail _____ Hand delivery _____

I/we are in South Florida from _____ to _____ each year or are a permanent resident _____.

Payment: Individual \$25 _____ Household \$35 _____ Donation _____

Please make checks payable to Democratic Club of Delray Beach and mail to P.O. Box 8224, Delray Beach, FL 33484. Thank you and welcome to our Club.

