

The Honorable Robert S. Lasnik
The Honorable David G. Estudillo
The Honorable Lawrence Van Dyke

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

BENANCIO GARCIA III,

Plaintiff,

v.

STEVEN HOBBS, in his official capacity
as Secretary of State of Washington, and
STATE OF WASHINGTON,

Defendants.

NO. 3:22-cv-5152-RSL-DGE-LJCV

DECLARATION OF
ANDREW HUGHES IN SUPPORT
OF STATE OF WASHINGTON'S
RESPONSE TO PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT

NOTE FOR MOTION CALENDAR:
MARCH 31, 2023

ANDREW HUGHES, hereby declare the following:

1. I am an Assistant Attorney General with the Office of the Attorney General of Washington, representing Defendant State of Washington, in the above captioned matter. The following statement are based on my own personal knowledge and the records and files in this case.

2. Attached hereto as Exhibit A is a true and correct copy of the Partial Consent Decree entered in *Glatt v. City of Pasco*, No. 4:16-CV-05108-LRS, ECF No. 16 (E.D. Wash. Sep. 2, 2016).

1 3. Attached hereto as Exhibit B is a true and correct copy of the Memorandum
2 Opinion and Order entered in *Glatt v. City of Pasco*, No. 4:16-CV-05108-LRS, ECF No. 40
3 (E.D. Wash. Jan. 27, 2017).

4 4. Attached hereto as Exhibit C is a true and correct copy of the Complaint filed
5 in *Aguilar. v. Yakima County*, No. 20-2-0018019 (Kittitas Cnty. Super. Ct.).

6 5. Attached hereto as Exhibit D is a true and correct copy of excerpts of the
7 Declaration of Annabelle Harless in Support of Plaintiffs' Motion to Approve Settlement and
8 Enter Final Judgment filed in *Aguilar. v. Yakima County*, No. 20-2-0018019 (Kittitas Cnty.
9 Super. Ct.).

10 6. Attached hereto as Exhibit E is a true and correct copy of the Order Approving
11 Settlement and Entering Final Judgment entered in *Aguilar. v. Yakima County*, No. 20-2-
12 0018019 (Kittitas Cnty. Super. Ct. Oct. 29, 2021).

13 7. Attached hereto as Exhibit F is a true and correct copy of an email string
14 between Ali O'Neil and Kenneth Fockele, which includes an October 21, 2021 press release
15 sent on behalf of Brady Walkinshaw.

16 8. Attached hereto as Exhibit G is a true and correct copy of a September 24, 2021
17 email from Adam Hall to Brady Walkinshaw, among others.

18 9. Attached hereto as Exhibit H is a true and correct copy of a September 28, 2021
19 email from Dominique Meyers to April Sims, with an attachment.

20 10. Attached hereto as Exhibit I is a true and correct copy of a March 25, 2021
21 email string between Osta Davis and April Sims.

22 11. Attached hereto as Exhibit J is a true and correct copy of a January 2020 report
23 from MGGG entitled *Analysis of county commission elections in Yakima County, WA*.

24 12. Attached hereto as Exhibit K is a true and correct copy of a report by Dr. Matt
25 Barreto dated February 6, 2013.

26

1 13. Attached hereto as Exhibit L is a true and correct copy of an October 15, 2021
2 report by Dr. Matt Barreto entitled *Assessment of Voting Patterns in Central/Eastern*
3 *Washington and Review of Federal Voting Rights Act, Section 2 Issues*.

4 14. Attached hereto as Exhibit M is a true and correct copy of an October 25, 2021
5 press release sent on behalf of Brady Walkinshaw.

6 15. Attached hereto as Exhibit N is a true and correct copy of a November 13, 2021
7 email string between April Sims and Paul Graves, among others.

8 16. Attached hereto as Exhibit O is a true and correct copy of a November 11, 2021
9 email string between Paul Graves and April Sims, among others.

10 17. Attached hereto as Exhibit P is a true and correct copy of the Supreme Court of
11 Washington's Order Regarding the Washington State Redistricting Commission's Letter to the
12 Supreme Court on November 16, 2021 and the Commission Chair's November 21, 2021,
13 Declaration, Order No. 25700-B-676 (Dec. 3, 2021).

14 18. Attached hereto as Exhibit Q is a true and correct copy of the Sworn Declaration
15 of Sarah Augustine, Chair of the Washington State Redistricting Commission, filed in the
16 Washington Supreme Court in response to Order Regarding the Washington State Redistricting
17 Commission's Letter to the Supreme Court on November 16, 2021.

18 19. Attached hereto as Exhibit R is a true and correct copy of the expert report of
19 Dr. John Alford from *Soto Palmer v. Hobbs*, No. 22-cv-05035-RSL (W.D. Wash.).

20 20. Attached hereto as Exhibit S is a true and correct copy of Dr. Loren
21 Collingwood from *Soto Palmer v. Hobbs*.

22 21. Attached hereto as Exhibit T is a true and correct copy of Dr. Mark Owens from
23 *Soto Palmer v. Hobbs*.

24 22. Attached hereto as Exhibit U is a true and correct copy of a June 24, 2021 email
25 string between Joe Fain and Paul Campos.
26

1 I declare under penalty of perjury under the laws of the State of Washington and the
2 United States of America that the foregoing is true and correct.

3 DATED this 27th day of March, 2023 in Seattle, Washington.
4

5 s/ Andrew R.W. Hughes
6 ANDREW R.W. HUGHES, WSBA No. 49515
7 Assistant Attorney General
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DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 27th day of March, 2023 at Seattle, Washington

s/ Andrew R.W. Hughes
ANDREW R.W. HUGHES, WSBA No. 49515
Assistant Attorney General

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Exhibit A

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

BERTHA ARANDA GLATT,

Plaintiff,

v.

CITY OF PASCO, *et al.*,

Defendants.

No. 4:16-CV-05108-LRS

PARTIAL CONSENT DECREE

PARTIAL CONSENT DECREE

A Complaint has been filed by the above Plaintiff alleging that the current at-large method of electing members of the Pasco City Council violates Section 2 of the Federal Voting Right Act by diluting the electoral power of Pasco’s Latino voters and thereby depriving Latinos of an opportunity to fully participate in the political process and to elect candidates of their choice to the Pasco City Council.

FACTUAL STIPULATION – LIABILITY

The above-named Plaintiff and Defendants stipulate and agree as follows:

Background

1. Defendant City of Pasco, Washington, is a municipal corporation organized under the laws of the State of Washington as an optional-code city subject to Chapter 35A of the Revised Code of Washington. Defendants Rebecca

1 Francik, Robert Hoffmann, Thomas Larsen, Saul Martinez, Matthew Watkins, and
2 Al Yenney, are current members of the Pasco City Council. The City Council has
3 statutory authority to set voting districts subject to the state law. The City
4 Councilmembers are each sued in their official capacity only.

6 2. The Pasco City Council consists of seven (7) City Councilmembers
7 serving staggered four-year terms. The next municipal election will be in
8 November 2017, at which time four (4) seats on the Pasco City Council will be up
9 for election.

11 3. Five (5) City Councilmembers are currently nominated in a non-
12 partisan, top-two primary in five (5) territorial election districts. For territorial
13 election districts, only a resident of that voting district may be a candidate for, or
14 hold office as, a Councilmember of that district, and only voters of the district may
15 vote at the primary election to nominate candidates for the City Councilmember
16 for that district. Candidates for the two (2) at-large City Council positions are
17 determined at the primary election in a non-partisan, top-two primary by residents
18 of the entire City of Pasco.

22 4. During the general election, voters of the entire City vote to elect a
23 Councilmember for each of the respective territorial election districts, as well as
24 the two at-large Council positions (*i.e.*, all Councilmembers are elected on an at-
25 large basis).

1 5. The City has, within the last legislative session, sought a change to the
2 State law to allow for district-based voting. In the absence of a change in the State
3 law, the City, and in anticipation of the 2015 municipal election cycle, sought to
4 amend Pasco Municipal Code (PMC) 1.10.010 to provide for district-based
5 elections. The City requested that the Franklin County Auditor implement district-
6 based voting. The Auditor responded to Pasco’s request in a letter dated April 17,
7 2015, claiming that because implementing a district-based election system would
8 violate Wash. Rev. Code 35A.12.180, the Auditor was unable to conduct an
9 election under Pasco’s proposed district-based election system.
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13 6. On May 4, 2015, the Pasco City Council enacted Resolution No. 3635
14 declaring its intent to pursue a district-based election system for City
15 Councilmembers, and further declaring its continuing intent to provide equal
16 voting opportunities for all of its citizens, and to provide equitable and proportional
17 representation.
18

19
20 7. At the behest of the City of Pasco, Washington State Senator Pam
21 Roach submitted a request to the Washington State Attorney General regarding the
22 authority of cities subject to RCW 35A.12.180 (which includes the City of Pasco)
23 to change their own election systems. On January 28, 2016, the Washington State
24 Attorney General rendered an Opinion which noted that:
25

26 Thus, RCW 35A.12.180 specifically denies to code cities the authority
27 to restrict voting by ward at the general election. Therefore, a local
28 ordinance that provided for general elections by ward would conflict
with RCW 35A.12.180 and be preempted by state law. (Attorney

1 General Opinion at pg. 5.) In sum, Code cities in Washington that
2 believe they may be in violation of the VRA face difficult decisions
3 and potential legal risk regardless of what course they choose.
(Attorney General Opinion at pg. 10).

4 **Violation of Section 2 of the Federal Voting Rights Act**

5
6 8. This action is for the enforcement of Section 2 of the Federal Voting
7 Rights Act, which provides in part as follows:

8 (a) No voting qualification or prerequisite to voting or standard,
9 practice, or procedure shall be imposed or applied by any State or
10 political subdivision in a manner which results in a denial or
11 abridgement of the right of any citizen of the United States to vote on
12 account of race or color, or in contravention of the guarantees set forth
13 in Section 1973b(f)(2) of this title, as provided in subsection (b) of
this section.

14 (b) A violation of subsection (a) of this section is established if,
15 based on the totality of circumstances, it is shown that the political
16 processes leading to nomination or election in the State or political
17 subdivision are not equally open to participation by members of a
18 class of citizens protected by subsection (a) of this section in that its
19 members have less opportunity than other members of the electorate
20 to participate in the political process and to elect representatives of
21 their choice. The extent to which members of a protected class have
22 been elected to office in the State or political subdivision is one
23 circumstance which may be considered: Provided, That nothing in this
24 section establishes a right to have members of a protected class
25 elected in numbers equal to their proportion in the population.

26 9. The Federal Voting Rights Act is designed to “help effectuate the
27 Fifteenth Amendment’s guarantee that no citizen’s right to vote shall be denied or
28 abridged . . . on account of race, color, or previous condition of servitude.”
Voinovich v. Quilter, 507 U.S. 146, 152 (1993).

1 10. A violation of the Voting Rights Act occurs when, based upon the
2 totality of the circumstances, the challenged electoral process is “not equally open
3 to participation by members of a [racial minority group] in that its members have
4 less opportunity than other members of the electorate to participate in the political
5 process and to elect representatives of their choice.” 42 U.S.C. § 1973(b).
6
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8 11. The City of Pasco is an optional municipal code city subject to Wash.
9 Rev. Code 35A.12.180, the pertinent portion of which states as follow:
10

11 Wards shall be redrawn as provided in chapter 29.76 RCW. Wards
12 shall be used as follows: (1) Only a resident of the ward may be a
13 candidate for, or hold office as, a councilmember of the ward; and (2)
14 only voters of the ward may vote at a primary to nominate candidates
15 for a councilmember of the ward. Voters of the entire city may vote at
16 the general election to elect a councilmember of a ward, unless the
17 city had prior to January 1, 1994, limited the voting in the general
18 election for any or all council positions to only voters residing within
19 the ward associated with the council positions. If a city had so limited
20 the voting in the general election to only voters residing within the
21 ward, then the city shall be authorized to continue to do so.

22 12. Due to voting trends, the result of the statutorily mandated at-large
23 election has been non-Latino dominance in electing City Council members.
24 Pasco’s large Latino population is sufficiently numerous and compact to form a
25 majority in at least one single-member district, is political cohesive, and the non-
26 Latino majority votes sufficiently as a block to defeat a Latino preferred candidate.
27 *See Thornburg v. Gingles*, 478 U.S. 30 (1986).
28

 13. As this court held in *Montes v. Yakima*, “state law must sometimes
yield to afford an effective remedy under the Voting Rights Act. The Supremacy

1 Clause requires that state law be abrogated where doing so is necessary to remedy
2 a violation of the Voting Rights Act.” *Montes v. Yakima*, No. 12-CV-3108-TOR,
3 Final Injunction and Remedial Districting Plan, ECF No. 143 (Feb. 17, 2015)
4 (citing *Arizona v. Inter Tribal Council of Ariz. Inc.*, 133 S. Ct. 2247, 2256 (2013)).
5 “Federal legislation so far as it extends and conflicts with the regulations of the
6 State, necessarily supersedes them.” *Ex Parte Siebold*, 100 U.S. 371, 384 (1879).
7 Thus, “[i]n remedial situations under Section 2 where state laws are necessarily
8 abrogated, the Supremacy Clause appropriately works to suspend those laws
9 because they are an unavoidable obstacle to the vindication of the federal right.”
10 *Large v. Fremont Cnty.*, 670 F.3d 1133, 1145 (10th Cir. 2012).

14 14. As such, a number of federal courts have invalidated at-large election
15 systems and approved or given full deference to remedial plans that include single-
16 member districts, even when the adoption of such a plan conflicted with state law.
17 See, e.g., *United States vs. City of Euclid*, 580 F. Supp. 2d 584 (E.D. Ohio 2008);
18 *Tallahassee Branch of NAACP v. Leon County*, 827 F.2d 1436, 1437 (11th Cir.
19 1987), cert. denied, 488 U.S. 960; *United States v. Osceola County*, 474 F. Supp.
20 2d 1254 (M.D. Fla 2006). Similarly here, this Court is specifically authorized to
21 order an election system that conflicts with state law in order to fully remedy the
22 City’s Voting Rights Act violation.
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26 15. Since the implementation of Pasco’s current election system in 1978,
27 the population of the City of Pasco has grown dramatically. During that period,
28

1 there has been a substantial increase in the number of Latino residents. Today,
2 Latino residents are estimated to be approximately half of the City's population.
3
4 The Latino population in the City of Pasco is sufficiently numerous and
5 geographically compact to constitute a majority of the citizen voting age
6 population in at least one election district.
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8 16. Latinos in the City of Pasco are a politically unified group that votes
9 cohesively as a bloc. In contests between Latino and non-Latino candidates for the
10 City Council, statistical analyses show that Latino voters consistently vote for
11 Latino candidates.
12

13 17. The majority of voters in Pasco are white and have historically
14 engaged in bloc voting favoring non-Latino candidates.
15

16 18. There is a pattern of racially polarized voting in the City of Pasco City
17 Council elections. The voting patterns and the presently mandated at-large general
18 election of all City Council candidates make it very difficult for the Latino
19 community to elect candidates of their choice. Although other minority candidates
20 have been elected to the City Council, as a result of racially-polarized bloc voting,
21 no Latino candidate has ever won an opposed election to the Pasco City Council.
22
23 The first Latina to serve on the City Council was Luisa Torres. She was appointed
24 to the Council in 1989. Luisa ran for election in 1989 but was defeated by a non-
25 Latino candidate. The only other Latino to serve on the City Council was also first
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1 appointed to the City Council, Saul Martinez. He subsequently ran unopposed,
2 which enabled him to retain his seat.

3
4 19. In 2015, six Latinos ran for two positions on City Council. Despite
5 strong support of Latino voters, the two Latinas who survived the primary election
6 were both defeated in the November 2015 general election.

7
8 20. While there is no evidence of any discriminatory motive or intent by
9 the non-Latino population in exercising their own rights to vote, such intent is not
10 necessary to a violation of Section 2 of the Voting Rights Act. There is no
11 evidence that non-Latinos are deliberately conspiring to outvote Latinos.

12
13 21. The Latino population in the City of Pasco is sufficiently numerous
14 and geographically compact to constitute a majority of the citizen voting age
15 population in at least one election district.

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17 22. Under the Senate Factors or “the totality of the circumstances”
18 analysis, there is sufficient evidence of disparities to show inequality in
19 opportunities between the white and Latino populations and that the existing at-
20 large election system for the Pasco City Council has excluded Latinos from
21 meaningfully participating in the political process and diluted their vote such that
22 Latinos are unable to elect candidates of their choice to the City Council. Thus, the
23 election system by which Pasco elects its City Councilmembers, which is
24 mandated by state statute, and voting trends in Pasco results in a violation Section
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28 2 of the Voting Rights Act.

1 23. It is in the best interest of the residents of the City of Pasco to enter
2 into this Partial Consent Decree, thus avoiding protracted, costly, and potentially
3 divisive litigation. Defendants have the authority to settle litigation in good faith
4 for further expenditure of public funds and defense thereof is not likely to be in the
5 interest of the public.
6

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8 NOW, THEREFORE, based upon the stipulated evidence presented in this
9 case and as memorialized above, IT IS HEREBY, ORDERED, ADJUDGED,
10 AND DECREED that:
11

12 1. This Court has jurisdiction over these actions pursuant to 42 U.S.C.
13 1973 and 28 U.S.C. 1345.
14

15 2. Under the Supremacy Clause of Article VI of the Constitution of the
16 United States this Court has the power to impose a remedy otherwise contrary to
17 applicable state statutes. This Court also has the authority to approve a settlement
18 or issue a consent decree that abrogates or modifies state law if doing so is
19 necessary to remedy a violation of Section 2 of the Voting Rights Act. *Perkins v.*
20 *City of Chicago Heights*, 47 F.3d 212, 216 (7th Cir. 1995).
21

22 3. Wash. Rev. Code 35A.12.180 mandates that Pasco elect its City
23 Councilmembers in at-large elections. Due to voting trends in Pasco, the City's
24 current election system dilutes the Latino population's voting power in violation of
25 Section 2 of the Voting Rights Act.
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1 4. In order to remedy the City of Pasco’s Section 2 violation, the City
2 must adopt a new election system. Implementation of the new election system will
3 necessarily abrogate Washington State law, but must do so only as much as
4 necessary to remedy the Section 2 violation. *Large*, 670 F.3d at 1145 (“[I]n
5 remedial situations under Section 2 where State laws are necessarily abrogated, the
6 supremacy clause appropriately works to suspend those laws because they are an
7 *unavoidable obstacle* to the vindication of the Federal right.”).

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10 5. Defendants admit that, due to voting trends, Pasco’s current election
11 system results in unlawful dilution of the Latino population’s vote in violation of
12 Section 2 of the Voting Rights Act. As such, a new election system must be
13 imposed. Pasco does not have the authority to affirmatively change its election
14 system because Wash. Rev. Code 35A.12.180 bars such alterations. However, this
15 Court has the authority to impose an election system that remedies that violation.

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18 6. The Court reviewed the Parties’ stipulation of facts as reflected in this
19 Partial Consent Decree, and finds that the stipulations are sufficient to support
20 finding that Pasco’s current City Council election system unlawfully dilutes the
21 Latino population’s vote in violation of Section 2 of the Voting Rights Act, 42
22 U.S.C. § 1973.

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25 7. Except as inconsistent with or specifically altered by the terms of this
26 Partial Consent Decree or any subsequent orders from this Court, all state laws
27 shall continue to govern elections for the City Council of the City of Pasco.

1 8. Defendants, and their officers, agents, and successors in office, and all
2 persons acting in concert with them, are enjoined from administering,
3 implementing, or conducting future elections for the Pasco City Council under the
4 current at-large election method or any other election method that violates Section
5 2 of the Voting Rights Act.
6

7
8 9. The Court reserves jurisdiction of this matter to determine and impose
9 the appropriate election system to remedy the current violation of Section 2 of the
10 Voting Rights Act.
11

12 10. It is further ordered, that to provide for effective opportunities for full
13 participation in the 2017 municipal election cycle, the Parties shall, in good faith
14 efforts, meet and confer no later than September 15, 2016 to determine whether the
15 Parties can agree upon a remedial option for compliance with Section 2 of the
16 Voting Rights Act. If the Parties cannot reach agreement, the Parties shall each
17 submit their proposed remedial districting plans to the Court on or before October
18 15, 2016. The Parties shall respond to the proposed remedial plans on or before
19 November 1, 2016. The Parties shall present a reply regarding the proposed
20 remedial plans by November 15, 2016. A hearing before this Court on the
21 proposed remedial redistricting plans may be set by the Court.
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25 11. No attorney fees or costs are awarded for this liability phase of the
26 case or work performed by Plaintiff prior to the filing of the Complaint; however,
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1 the Court reserves the award of reasonable attorney fees and costs for the remedial
2 phase of this case.

3
4 ENTERED THIS 2nd day of September, 2016.

5
6 ***Lonny R. Suko***

7
8 _____
9 LONNY R. SUKO
10 SENIOR U.S. DISTRICT COURT JUDGE

11 Presented by:

12 /s/Leland B. Kerr

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17 *Attorneys for Plaintiff, Bertha Aranda Glatt*

Exhibit B

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

BERTHA ARANDA GLATT,
Plaintiff,
v.
CITY OF PASCO, *et al.*,
Defendants.

Case No. 4:16-CV-05108-LRS
MEMORANDUM OPINION AND
ORDER

I. INTRODUCTION

On August 4, 2016, Plaintiff, Brenda Glatt, filed a Complaint against the City of Pasco and its City Council members in their official capacities alleging that the City’s “at large election method of electing Pasco City Council members violates Section 2 of the Voting Rights Act... 52 U.S.C. § 10301.” (ECF No. 1 at 9). Section 2 of the Voting Rights Act (VRA) prohibits the imposition of a “voting qualification or prerequisite to voting or standard, practice, or procedure...which results in a denial or abridgement of the right of any citizen...to vote on account of race or color.” 52 U.S.C. § 10301(a). A violation of § 2 is established if, “based on the totality of circumstances,” the challenged electoral process is “not equally open to participation by members of a [racial minority group] in that its members have less opportunity than other members of the electorate to participate in the political process and to

1 elect representatives of their choice.” 52 U.S.C. § 10301(b). The essence of a § 2
2 claim, as set forth in seminal case *Thornburg v. Gingles*, 478 U.S. 30 (1986), is “that
3 a certain electoral law, practice, or structure interacts with social and historical
4 conditions to cause an inequality in the opportunities enjoyed by [minority] and
5 [majority] voters to elect their preferred representatives.” 478 U.S. at 47.

6
7 On September 2, 2016, the court approved entry of the parties’ Partial Consent
8 Decree wherein Pasco admitted liability and consented to the court’s finding that the
9 City’s existing at-large method of electing all its members to the Pasco City Council
10 violated § 2 of the VRA by diluting the electoral power of Pasco’s Latino voters.
11 (ECF No. 16 at 10). The Partial Consent Decree fully resolves the issue of liability.
12 The court enjoined the Defendants from conducting future elections under that
13 system “or any other election method that violates Section 2 of the Voting Rights
14 Act.” (ECF No. 16 at 12). The Partial Consent Decree did not mandate a particular
15 remedy.
16

17 Now pending are the parties’ proposed remedial plans (filed as cross-motions at
18 ECF Nos. 21, 25) after they failed to reach agreement on this aspect of the case. On
19 December 7, 2016, the court held oral argument. Present on behalf of Plaintiff were
20 Brendan Monahan, Emily Chiang, La Rond Baker, Gregory Landis, and Cristin
21 Aragon. Present on behalf of Defendants, City of Pasco were John Safarli, Leland
22 Kerr, and Casey Bruner.
23
24

1 The parties' motions are supported by declarations, reports, and data of highly
2 experienced demographic and redistricting experts: Richard L. Engstrom, Ph.D.
3 (ECF Nos. 23, 29); William S. Cooper (ECF Nos. 24, 28, 32); and Peter A. Morrison,
4 Ph.D. (ECF No. 26, Ex. 13; ECF Nos. 33, Exs. 1 and 2).

5
6 There are three electoral formats commonly used by municipal governments in
7 the United States: at-large systems, single-member district systems, and "mixed" or
8 "hybrid" systems. *See Goosby v. Town Bd. of Town of Hempstead, N.Y.*, 981 F.Supp.
9 751, 757 (E.D.N.Y. 1997). "In an at-large system, all members of the legislative
10 body are elected from a district that includes all members of the electorate. In a
11 single-member district system, the legislators are elected from compact, contiguous
12 and essentially equipopulous districts. In a mixed system, some members of the
13 legislature are elected from single-member districts, while other members, usually a
14 smaller number, are elected at large. In a typical mixed system, the districts cover
15 the entire municipality. Thus, each voter is represented both by one or more
16 legislators elected from a district and one or more legislators elected at large." *Id.*

17
18 In this case, the Pasco City Council has adopted a "mixed" or "hybrid" 6-1
19 remedial plan redrawing its voting districts and utilizing a scheme in which six
20 members are elected from districts and a single position is elected at-large. The
21 primary issue is whether the remedial plan is legally acceptable. If it is, the parties
22 agree deference is owed to the Pasco City Council's legislative judgment. If it is
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24

1 not, Pasco concedes the court has authority to judicially impose Plaintiff’s proposal
2 with seven single-member geographic residency districts. This Memorandum
3 Opinion and Order approves the City’s remedial plan, directs its implementation,
4 and denies the Plaintiff’s request for permanent injunction, but retains jurisdiction.
5

6 **II. BACKGROUND**

7 As with all cases under the Voting Rights Act, this one is driven by the facts. The
8 City of Pasco has conceded that its current City Council election scheme violates §
9 2. The key factual conclusions supporting the court’s finding of liability are
10 contained in the Partial Consent Decree. (ECF No. 16). Because of their length, the
11 stipulated facts and findings in the Partial Consent Decree are incorporated by
12 reference.
13

14 The parties have decided that the public interest is best served by efforts to settle
15 this litigation thus avoiding “protracted, costly, and potentially divisive litigation.”
16 (ECF No. 16 at ¶ 23). The experience of courts applying the Voting Rights Act
17 confirms that it is one the most difficult and intricate responsibilities a district court
18 will confront. *See e.g., Patino v. City of Pasadena*, 2017 WL 68467 (S.D.Tex. Jan.
19 6, 2017) (after rulings on motions to dismiss and for summary judgment, district
20 court held a 7-day trial involving 16 witnesses and 468 exhibits resulting in a 111-
21 page decision). The parties’ experts largely rely on the same sources of data, with
22 the exception that the Defendants’ expert, Mr. Morrison, has also supplied analysis
23
24

1 based upon recently obtained data from the Franklin County Auditor's Office.¹ (ECF
2 No. 33, Ex. 1). The experts' methodologies differ and variances in their data exists,
3 however these differences are not material to the court's decision. No party has
4 requested a trial or evidentiary hearing on the facts.

5 **A. Pasco's Demographics**

6 **1. Latino Population**

7
8 The City of Pasco, is located in south central Washington and is one of three
9 cities that make up the Tri-Cities region. Its geography encompasses approximately
10 38.7 square miles. (ECF No. 28 at 2). Pasco's population nearly doubled between
11 2000 and 2010. (ECF No. 24 at 4). Its adjusted population based on the 2010
12 decennial U.S. Census is 62,452. *Id.* More recent population estimates of the
13 Washington Office of Financial Management indicate the population is 70,560.
14 (ECF No. 24 at 6). According to the 2010 Census, the City is 54.02%² Latino and
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16
17

18 ¹ Plaintiff objects to this data on the sole basis that it was submitted for the first
19 time along with Defendants' Reply. (ECF No. 34). The court declines to strike the
20 data or that portion of the Reply relying upon this new information absent evidence
21 of prejudice.

22 ² Defendants' expert indicates more recent estimations of the Latino share of the
23 total population include 45.02% (based upon the 5-year 2010-2014 American
24

1 40.44% non-Hispanic White. (ECF No. 24 at 5). The 2010 Census data adjusted
2 for annexations estimates that Pasco has a population under age 18 that is 66.47%
3 Latino and 25.48% non-Hispanic White. (ECF No. 24 at 5).

4 Mr. Morrison estimates Pasco’s Spanish-surnamed voter registration is 31.8% as
5 of October 2016. (ECF No. 33, Ex 1 at 3, ¶9; Ex. 2 at 4-5). This statistic is an
6 estimate of Latino registered voters in Pasco.
7

8 **2. Citywide Latino Citizen Voting-Age Population**

9 The American Community Survey (“ACS”), produced by the U.S. Census
10 Bureau, provides two estimates of the Latino citizen voting-age population
11 (“LCVAP”) (residents that are legally able to vote) in Pasco. The first is based upon
12 a five-year survey for 2010-2015 and the second is based on the one-year survey for
13 2015. The one-year estimate accounts for Pasco’s city limits as of 2015. (ECF No.
14 33, Ex. 1 at 2). The estimates for LCVAP are 31.9% of the citywide eligible voter
15 population (5-year estimate), 32.09% (5-year estimate adjusted), and 38.5% (2015
16 1-year estimate). The 2015 estimate is most current and includes recent annexations,
17 however, the five-year estimate (which does not take into account the 2014 and 2015
18 annexations) is more statistically reliable.
19

20
21
22 Community Survey estimate) and 49.7% (the 2015 1-year American Community
23 Survey estimate). (ECF No. 24 at 7, ¶¶21-22).
24

1 Given that a significant portion of the City’s population is Latino and young,
2 trends show and experts forecast the LCVAP to increase in the coming years. (ECF
3 No. 33, Ex. at 2). Mr. Morrison predicts the LCVAP is likely to exceed 40% by
4 2021. *Id.*

5 **B. Pasco’s 5-2 Method of Electing its City Council**

6 Pasco is a non-charter code city with a council-manager form of government.
7 (ECF No. 25 at 3). The Mayor and Mayor Pro Tempore are chosen by
8 councilmembers. (ECF No. 25 at 5). While the Mayor presides over Council
9 meetings, the role is “for ceremonial purposes.” *Id.* (quoting Wash.Rev.Code §
10 35A.13.030).
11

12 The Pasco City Council consists of seven members. When the last City Council
13 election was held, the City was utilizing an at-large, numbered “place system” for
14 electing councilmembers to serve staggered four-year terms. (ECF No. 31 at 10).
15 Five of the seven positions (identified as Positions 1 through 5) were tied to
16 geographical residency districts. Candidates for Positions 1 through 5 were required
17 to reside in their respective geographical residency districts. In the August primary,
18 voters narrowed the field of candidates for the district in which they resided. The top
19 two candidates in each district proceeded in the general election, which was
20 conducted at-large and the candidate receiving a majority of votes won. Positions 6
21 and 7 were both at-large positions, in that voters citywide narrowed the field of
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1 candidates for each seat in the primary and then voted for one of two candidates for
2 each position in the general election. Washington state law requires that “all voters
3 of a code city be permitted to vote in each city council race at the general election.”
4 Wash. AGO 2016 NO. 1 (Wash.A.G.), 2016 WL 439289 (Jan. 28, 2016)(discussing
5 Wash.Rev.Code §35A.12.180).³ The key features of Pasco’s election scheme were
6 the combination of: 1) a numbered place system; 2) a top two primary system; and
7 3) at-large general elections for every seat with a majority vote rule. *See* ECF No.
8 23 at ¶ 10.

9
10 In 2015, Plaintiff Brenda Glatt, a Latina, was a candidate for Pasco City Council
11 at-large Position 6. In the general election, she was defeated decisively by non-
12 Latino candidate Matt Watkins despite her strong support from Latino voters. (ECF
13

14
15 ³ The statute provides that voters of the “entire city may vote at the general election
16 to elect a councilmember” of a district, “unless the city had prior to January 1, 1994,
17 limited the voting in the general election” to voters residing in the district.
18 Wash.Rev.Code §35A.12.180. The role the Supremacy Clause of Article VI of the
19 U.S. Constitution plays herein is acknowledged by the parties and this court. *See*
20 *Cleveland Cnty. Ass'n for Gov't by the People v. Cleveland Cnty. Bd. of Comm'rs*,
21 142 F.3d 468, 477 (D.C.Cir.1998) (per curiam) (“[I]f a violation of federal law
22 necessitates a remedy barred by state law, the state law must give way; if no such
23 violation exists, principles of federalism dictate that state law governs.”).

1 No. 23 at ¶ 20).

2 The next municipal election will be in November 2017, at which time four (4) of
3 the seats on the Pasco City Council are presently up for election.

4 **C. Pasco’s Efforts Toward Election Change**

5 Four years ago a Voting Rights Act case was filed against the city of Yakima,
6 Washington, a town of 91,000, just 80 miles from Pasco. As in this case, the
7 complaint contended the city’s at-large electoral system of electing city
8 councilmembers violated § 2. In August 2014, judgment was entered in favor of
9 Plaintiffs. *Montes v. City of Yakima*, 40 F.Supp.3d 1377 (E.D.Wash., Aug. 22, 2014).
10

11 The record evidences that since 2014, Pasco has been responsive to the concern
12 that its election system had a disproportionate impact on the Latino vote. In 2014,
13 Pasco hired a demographer. In March 2015, the City Council modified its district
14 boundaries to provide 2 majority-minority districts “with the goal of providing for
15 equal voting opportunity for all citizens” (ECF No. 26, Ex. 2 at 1). In May 2015,
16 the City Council enacted Resolution No. 3635 declaring its intent to pursue a district-
17 based election system and further declaring its continuing intent to provide equal
18 voting opportunities for all its citizens, and to provide equitable and proportional
19 representation. (ECF No. 16 at ¶ 6)(ECF No. 26, Exs. 4-5). However, state law
20 mandating at-large general elections put the City in the proverbial position between
21 a rock and a hard spot. This position was confirmed in the State Attorney General’s
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23
24

1 Office response to the City’s query about the legality of modifying the at-large
2 election scheme to avoid a violation of § 2. (ECF No. 26, Ex. 10); Wash. AGO 2016
3 NO. 1 (Wash.A.G.), 2016 WL 439289 (Jan. 28, 2016) (“code cities in
4 Washington...face difficult decisions and potential legal risk regardless of what
5 course they choose...Either course of action, whether to adhere to state law or to
6 depart from it, may be subject to challenge in court.”). Pasco continued to seek
7 change by helping draft legislation (Senate Bill 6129) which would have allowed
8 Pasco to avoid the restrictions of Wash.Rev.Code §35A.12.180. (ECF No. 25 at 9)
9 The mayor testified before the state senate in favor of the bill, but the bill did not
10 pass. *Id.* at 9-10.

11
12 Months prior to filing this lawsuit, the American Civil Liberties Union (ACLU)
13 of Washington notified Pasco that it believed its election system violated federal
14 law. Pasco began consulting with the ACLU. The City felt the lawsuit was
15 necessary “as the only available means to bring the force of federal law to remedy
16 the problem that exists as a result of state law.” (ECF No. 26, Ex. 10 at 2).

17
18 As stated in the Partial Consent Decree, “there is no evidence of any
19 discriminatory motive or intent by the non-Latino population in exercising their own
20 rights to vote.” (ECF No. 16 at 8, ¶ 20). There is no evidence in the record of a
21 history of official discrimination against Latinos.

22
23 **D. Partial Consent Decree Stipulations**

1 The Partial Consent Decree includes key concessions establishing the three
2 *Gingles* preconditions for a violation of § 2, which are: (1) the minority group is
3 sufficiently large and geographically compact to constitute a majority in a single-
4 member district, (2) the minority group is politically cohesive, and (3) the majority
5 group votes sufficiently as a bloc⁴ to enable it, in the absence of special
6 circumstances, “usually to defeat the minority's preferred candidate.” *Thornburg v.*
7 *Gingles*, 478 U.S. 30, 50–51 (1986). Specifically, the Partial Consent Decree states:

9 (12)...Pasco’s large Latino population is sufficiently numerous and compact to
10 form a majority in at least one single-member district, is political[ly] cohesive,
11 and the non-Latino majority votes sufficiently as a block to defeat a Latino
12 preferred candidate.

....

12 (17) The majority of voters in Pasco are white and have historically engaged in
13 bloc voting favoring non-Latino candidates....

13 (18) There is a pattern of racially polarized voting in the City of Pasco City
14 Council elections. The voting patterns and the presently mandated at-large
15 general election of all City Council candidates make it very difficult for the
16 Latino community to elect candidates of their choice. Although other minority
17 candidates have been elected to the City Council, as a result of racially polarized
18 bloc voting, no Latino candidate has ever won an opposed election to the Pasco
19 City Council. The first Latina to serve on the City Council was Luisa Torres. She
20 was appointed to the Council in 1989. Luisa ran for election in 1989 but was
21 defeated by a non-Latina candidate. The only other Latino to serve on the City
22 Council was also first appointed to the City Council, Saul Martinez. He
23 subsequently ran unopposed, which enabled him to retain his seat.

(19) In 2015, six Latinos ran for two positions on [the] City Council. Despite
24 strong support of Latino voters, the two Latinas who survived the primary

⁴ Racially polarized voting means “a consistent relationship between [the] race of
the voter and the way in which the voter votes.” *Gingles*, 478 U.S. at 53 n. 21
(internal citations and quotations omitted).

1 election were both defeated in the November 2015 general election.

2 (ECF No. 16 at 5-8).

3 In conceding liability, Pasco also concedes there is “sufficient evidence” to
4 conclude that “based on the totality of circumstances,” the challenged electoral
5 process impermissibly impairs the minority group's ability to elect representatives
6 of its choice. *Gingles*, 478 U.S. at 44–45; *see also Ruiz v. City of Santa Maria*, 160
7 F.3d 543, 550 (9th Cir. 1998) (adopting the *Gingles* two-step analysis). Specifically,
8 the Partial Consent Decree states as follows:
9

10 (22)...[T]here is sufficient evidence of disparities to show inequality in
11 opportunities between the white and Latino populations and that the existing at-
12 large election system for the Pasco City Council has excluded Latinos from
13 meaningfully participating in the political process and diluted their vote such that
14 Latinos are unable to elect candidates of their choice to the City Council...In
15 order to remedy the City of Pasco’s Section 2 violation, the City must adopt a
16 new election system.

17 (ECF No. 16 at 8).

18 **E. Council Approval of 6-1 Hybrid Single-Member/At-Large Plan**

19 After entry of the Partial Consent Decree, the City Council held public
20 hearings to evaluate three alternative systems for future elections including
21 alternatives with two, one, and no at-large positions. (ECF No. 26, Ex. 10). On
22 September 19, 2016, the Council voted in favor of an election system comprised of
23 six districts and one at-large seat. (ECF No. 21). On October 10, 2016, the Council
24 approved Ordinance No. 4315 creating the “6-1” redistricting plan. (ECF No. 26,

1 Ex. 10). Under this plan, six of the councilmembers would be elected by the voters
2 in each of the City’s six “single-member districts” (“SMD”); a seventh seat would
3 be elected at-large. The geographic residency districts divide the entire territory
4 within Pasco city limits into six instead of five geographic districts. Three districts
5 (Districts 1, 2 and 6) are majority-minority districts in which Latinos constitute more
6 than 50% of that district’s eligible and registered voters. (ECF No. 26, Ex. 13 at 2;
7 ECF No. 33 at 5; ECF No. 33, Ex. 1 at 4). The new district boundaries align with
8 58 out of 67 existing precincts. (ECF No. 33, Ex. 2 at 4). The City’s map and “Table
9 1” of demographic data (based upon the 2010-2014 5-year ACS estimates) are
10 reproduced in Appendix A attached to this decision.
11

12 The Latino share of eligible voters based upon figures from the 2010-2014 5-
13 year ACS estimate for Position 1 was 54.0%; Position 2, 52.3%; Position 3, 27.3%;
14 Position 4, 23.6%; Position 5, 13.0%; and Position 6, 56.0%. (ECF No. 26, Ex. 13
15 at 5). The parties agree that the City’s plan provides three majority-minority
16 “opportunity” districts (Positions 1, 2, and 6), and at least one district in which
17 Latinos are not a majority but have a Latino voting age population exceeding 25%.
18

19 The court notes that Plaintiff has not had the opportunity to respond or offer
20 their own expert analysis of Mr. Morrison’s statistical analysis of current registered
21 voters by District contained in “Table 2” at ECF No. 33, Ex. 1, based upon 2016
22 data from the Franklin County Auditor’s Office. (ECF No. 33, Ex. 1)(Morrison First
23
24

1 Supplemental Report). Mr. Morrison estimates the Latino share of registered voters
2 district-wide are: Position 1 (58.5%); Position 2 (61.6%); Position 3 (41.4%);
3 Position 4 (40.9%); Position 5 (38.2%); Position 6 (61.7%). *Id.*

4 The City Council's Ordinance states that this alternative was preferred over
5 other proposals due to: 1) "its providing three Latino citizen-voter-age majority
6 districts, the same number as possible under the ACLU's preferred seven district
7 plan;" 2) "the plan providing greater opportunities for voters to influence the number
8 of elections for members of the City Council and for voters to have the opportunity
9 to run for seats on the City Council"; and 3) "the possibility of greater continuity of
10 government and ease in implementation." (ECF No. 26, Ex. 10 at 2). There is no
11 evidence that the adoption of this plan was motivated by racial animus.
12

13 **F. Plaintiff's Proposed 7-0 Plan**

14 Plaintiff opposes the plan passed by Pasco and proposes an alternative
15 dividing the City into seven single-member residency districts and no at-large
16 position. The Plaintiff's map and table of demographic data is reproduced in
17 Appendix B attached to this Order. Like the City's plan, Plaintiff's plan also
18 provides three majority-minority districts and one district, in which the LCVAP
19 exceeds 25%, which Plaintiff characterizes as an "influence district."
20
21

22 **III. LEGAL STANDARDS**

23 The vote is one of the most critical features of a representative democracy and
24

1 therefore one of our most fundamental rights. *See Reynolds v. Sims*, 377 U.S. 533,
2 562 (1964) (describing the right to exercise the franchise in a free and unimpaired
3 manner as “preservative of other basic civil and political rights”). Although great
4 progress has been made, “voting discrimination still exists; no one doubts that,” and
5 § 2 of the Voting Rights Act remains a crucial “permanent, nationwide ban,” *Shelby*
6 *Cnty. v. Holder*, 133 S.Ct. 2612, 2619 (2013), on “even the most subtle forms of
7 discrimination,” *Chisom v. Roemer*, 501 U.S. 380, 406 (1991) (Scalia, J., dissenting).
8 Federal courts have a vital role in protecting the right “to participate equally in the
9 political process.” *Gingles*, 478 U.S. at 80. Though vital, this role is limited. The
10 following key principles guide the court’s analysis and decision.

11
12 **A. General Remedial Powers under the VRA and the Complete and Full
13 Remedy Standard**

14 Where, as here, a violation of § 2 has been established, “courts should make an
15 affirmative effort to fashion an appropriate remedy for that violation.” *Monroe v.*
16 *City of Woodville, Mississippi*, 819 F.2d 507, 511 n. 2 (5th Cir.1987) (per curiam),
17 *cert. denied*, 484 U.S. 1042 (1988); *Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1022
18 (8th Cir. 2006)(the district court's “first and foremost obligation...is to correct the
19 Section 2 violation.”). The legislative history of the VRA states:

21 The basic principle of equity that the remedy fashioned must be commensurate
22 with the right that has been violated provides adequate assurance, without
23 disturbing the prior case law or prescribing in the statute mechanistic rules for
24 formulating remedies in cases which necessarily depend upon widely varied
proof and local circumstances. The court should exercise its traditional equitable

1 powers to fashion the relief so that it completely remedies the prior dilution of
2 minority voting strength and fully provides equal opportunity for minority
citizens to participate and to elect candidates of their choice.

3 S.Rep. No. 417 at 31, 97th Cong., 2d Sess. 44, reprinted in 1982 U.S.Code Cong. &
4 Admin.News at 208 (footnote omitted). In sum, “the [district] court has not merely
5 the power but the duty to render a decree which will so far as possible eliminate the
6 discriminatory effects of the past as well as bar like discrimination in the future.”
7 *Ketchum v. Byrne*, 740 F.2d 1398, 1412 (7th Cir.1984) (quoting *Louisiana v. United*
8 *States*, 380 U.S. 145, 154 (1965)), cert. denied sub nom. *City Council v. Ketchum*,
9 471 U.S. 1135 (1985); see also, *Dillard v. Crenshaw Cnty.*, 831 F.2d 246, 252 (11th
10 Cir.1987)(A court “cannot authorize an element of an election proposal that will not
11 with certitude completely remedy the Section 2 violation.”).

12
13
14 A complete § 2 remedy does not mean that a remedial plan must guarantee
15 electoral success for Latinos. The plan must provide “a genuine opportunity ‘to
16 exercise an electoral power that is commensurate with its population.’” *U.S. v.*
17 *Village of Port Chester*, 704 F.Supp.2d 411, 449 (S.D.N.Y. 2010) (quoting *LULAC*
18 *v. Perry*, 548 U.S. 399, 428 (2006)); see also *Johnson v. De Grandy*, 512 U.S. 997,
19 1014 n.11 (1994) (“[T]he ultimate right of § 2 is equality of opportunity, not a
20 guarantee of electoral success for minority-preferred candidates of whatever race.”);
21 *Bone Shirt*, 461 F.3d at 1023 (“The defendants' argument that the remedial plan must
22 provide some sort of guarantee that Indian-preferred candidates will be elected is
23
24

1 not persuasive; all that is required is that the remedy afford Native-Americans a
2 realistic opportunity to elect representatives of their choice.”).

3 Any proposal to remedy a § 2 violation must itself conform to § 2. *United States*
4 *v. Dallas Cnty. Comm'n*, 850 F.2d 1433, 1437 (11th Cir. 1988), *cert. denied*, 490
5 U.S. 1030 (1990). A remedy “should be sufficiently tailored to the circumstances
6 giving rise to the § 2 violation.” *Id.*

7
8 A remedy for a § 2 violation must not itself be enacted with the discriminatory
9 intent of diluting the Latino vote. *Dillard v. Crenshaw Cnty., Ala.*, 831 F.2d 246,
10 249 (11th Cir. 1987); *Edge v. Sumter Cnty. School Dist.*, 775 F.2d 1509, 1510 (11th
11 Cir. 1985). There is no evidence the at-large election scheme here was conceived
12 as a tool of racial discrimination.⁵ *C.f., Patino v. City of Pasadena*, 2017 WL 68467
13 (S.D.Tex., January 6, 2017).

14 **B. Judicial Deference**

15
16 Where the Pasco City Council has exercised its political and policy judgment in
17 preparing and passing the Ordinance behind Defendants’ remedial scheme, the
18 proposal is properly characterized as a “legislative” plan. *See e.g., Wise v. Lipscomb*,

19
20 ⁵ Although proof of discriminatory intent is not dispositive, when it exists, it is not
21 irrelevant in assessing the totality of the circumstances. Plaintiff’s contention that
22 intent is “irrelevant” here acknowledges that there is no “concrete evidence” of
23 discriminatory intent at play in this case. (ECF No. 31 at 10).

1 437 U.S. 535, 538 (1978) (upholding system as a valid legislatively enacted plan,
2 despite the absence of an express grant of legislative power to the City Council to
3 change the election system); *Jenkins v. City of Pensacola*, 638 F.2d 1249, 1252 (5th
4 Cir. 1981)(conceding that on balance, the plan was “better viewed as a legislative
5 plan” rather than court-ordered, where the plan, which called for seven single-
6 member districts and three at-large districts, was formally adopted by ordinance after
7 liability was established and the court directed the parties to submit proposals).
8 Plaintiff makes no argument to the contrary.

10 Federal courts are reluctant to interfere with legislative decisions of governing
11 bodies especially when they concern issues as sensitive as those regarding who
12 votes, how they vote, and what districts they vote in. The Supreme Court has
13 cautioned that “redistricting and reapportioning legislative bodies is a legislative task
14 which the federal courts should make every effort not to pre-empt.” *Wise v.*
15 *Lipscomb*, 437 U.S. 535, 539 (1978) (plurality) (White, J.); *see also, Connor v.*
16 *Finch*, 431 U.S. 407, 414–15 (1977); *Chapman v. Meier*, 420 U.S. 1, 27 (1975);
17 *White v. Weiser*, 412 U.S. 783, 794–95 (1973); *Upham v. Seamon*, 456 U.S. 37, 39
18 (1982).

21 The role of the court in fashioning a remedy for a violation of the Constitution
22 was delineated by the Supreme Court in *Wise v. Lipscomb*, where the court said “it
23 is ... appropriate, whenever practicable, to afford a reasonable opportunity for the
24

1 legislature to meet constitutional requirements by adopting a substitute measure
2 rather than for the federal court to devise and order into effect its own plan.” *Wise*,
3 437 U.S. at 540; *see also United States v. Brown*, 561 F.3d 420, 435 (5th Cir. 2009)
4 (“[A]t least in redistricting cases, district courts must offer governing bodies the first
5 pass at devising a remedy.”). This court’s role is similar in fashioning a remedy for
6 a violation of the Voting Rights Act. Where a legislative body proposes a plan which
7 completely remedies the § 2 violation and is not unconstitutional or otherwise illegal,
8 then that plan “will ... be the governing law,” even if it is not the plan the court would
9 have chosen. *Wise*, 437 U.S. at 540; *see also, Upham v. Seamon*, 456 U.S. 37, 39
10 (1982)(“a court must defer to legislative judgments on reapportionment as much as
11 possible”); *Perry v. Perez*, 132 S.Ct. 934, 941 (2012)(the legislative plan “serves as
12 a starting point for the district court.”); *Williams v. City of Texarkana, Ark.*, 32 F.3d
13 1265, 1268 (8th Cir. 1994)(“If an appropriate legislative body offers a remedial plan,
14 the court must defer to the proposed plan unless the plan does not completely remedy
15 the violation or the proposed plan itself constitutes a section two violation.”);
16 *Seastrunk v. Burns*, 772 F.2d 143, 151 (5th Cir. 1985)(“Thus, even where a legislative
17 choice of policy is perceived to have been unwise, or simply not the optimum choice,
18 absent a choice that is either unconstitutional or otherwise illegal under federal law,
19 federal courts must defer to that legislative judgment.”); *McGhee v. Granville Cnty.*,
20 *N.C.*, 860 F.2d 110, 115 (4th Cir. 1988) (“[A] reviewing court must ... accord great
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1 deference to legislative judgments about the exact nature and scope of the proposed
2 remedy...”); *Dickinson v. Indiana State Election Bd.*, 933 F.2d 497, 501 n. 5 (7th Cir.
3 1991) (the court “must, wherever practicable, afford the jurisdiction an opportunity
4 to remedy the violation first, ... with deference afforded the jurisdiction's plan if it
5 provides a full, legally acceptable remedy.... But if the jurisdiction fails to remedy
6 completely the violation or if a proposed remedial plan itself constitutes a § 2
7 violation, the court must itself take measures to remedy the violation.”); *Tallahassee*
8 *Branch of NAACP v. Leon Cnty., Fla.*, 827 F.2d 1436, 1438 (11th Cir. 1987)
9 (“[F]ederal courts must defer to the judgment of a state legislative body in the area
10 of reapportionment. Principles of federalism and common sense mandate deference
11 to a plan which has been legislatively enacted.”).

12
13
14 Plaintiff suggests the applicable legal standard in this case is the more stringent
15 one where “[t]he Supreme Court has directed the use of single-member districts to
16 remedy Section 2 violations unless there are compelling reasons not to use them.”⁶
17 (ECF No. 21 at 8-9)(*quoting Montes v. City of Yakima*, 2015 WL 11120964, at *9
18 (E.D.Wash. 2015)). However, the broad reach of the Voting Rights Act supports a
19

20 ⁶ The quoted reference from *Montes*, in its entirety, reads as follows: “*When a*
21 *district court is required to fashion a remedy*, the Supreme Court has directed the
22 use of single-member districts unless there are compelling reasons not to use
23 them.” 2015 WL 11120964, at *9 (E.D.Wash. 2015)(emphasis added).
24

1 broad view of permissible remedies. To be clear, the Supreme Court has not
2 mandated single-member districts in all instances. It has stated “a *court drawn plan*
3 should prefer single member districts over multi-member districts, absent persuasive
4 justification to the contrary.” *Wise v. Lipscomb*, 437 U.S. 535, 540 (1978)(emphasis
5 added). Supreme Court precedent does not dictate remedial preferences for
6 legislative bodies; it requires deference to them so long as they meet the special
7 standards that are applicable.
8

9 **C. Preemption of State Law**

10 In reviewing a remedial plan, “a district court should not preempt the legislative
11 task nor intrude upon state policy any more than necessary.” *Upham v. Seamon*, 456
12 U.S. 37, 41–42 (1982) (per curiam) (*quoting White v. Weiser*, 412 U.S. 783, 794–
13 795 (1973)). This consideration is relevant here, where, state law proscribes at-large
14 general elections. Accordingly, a legislative remedy entitled to deference must not
15 *unnecessarily* conflict with this legislative judgment of the state of Washington. *See*
16 *e.g., Large v. Fremont Cnty., Wyo.*, 670 F.3d 1133 (10th Cir. 2012)(emphasis
17 added)(affirming rejection of deference to locally-devised plan where County’s
18 desired plan unnecessarily conflicted with Wyoming state law).
19

20 **D. Totality of the Circumstances**

21 As stated above, the court must consider whether Defendants’ remedial plan is
22 legally unacceptable because it fails to remedy the particular dilution violation or
23
24

1 violates anew constitutional or statutory voting rights. This evaluation requires the
2 court to consider “the totality of circumstances,” 52 U.S.C. § 10301(b), through “a
3 searching practical evaluation of the past and present reality and on a functional view
4 of the political process.” *Gingles*, 478 U.S. at 45 (internal quotations and citation
5 omitted). The typical factors which may be probative of a violation of § 2 are:

- 6 (1) “the extent of any history of official discrimination in the state or political
7 subdivision that touched the right of the members of the minority group to
8 register, to vote, or otherwise to participate in the democratic process;”
- 9 (2) “the extent to which voting in the elections of the state or political
10 subdivision is racially polarized;”
- 11 (3) “the extent to which the state or political subdivision has used unusually
12 large election districts, majority vote requirements, anti-single shot
13 provisions, or other voting practices or procedures that may enhance the
14 opportunity for discrimination against the minority group;”
- 15 (4) “if there is a candidate slating process, whether the members of the
16 minority group have been denied access to that process;”
- 17 (5) “the extent to which members of the minority group in the state or political
18 subdivision bear the effects of discrimination in such areas as education,
19 employment and health, which hinder their ability to participate
20 effectively in the political process;”
- 21 (6) “whether political campaigns have been characterized by overt or subtle
22 racial appeals;”
- 23 (7) “the extent to which members of the minority group have been elected to
24 public office in the jurisdiction;”
- 25 (8) “whether there is a significant lack of responsiveness on the part of elected
26 officials to the particularized needs of the members of the minority group;”
27 and
- 28 (9) “whether the policy underlying the state or political subdivision's use of
29 such voting qualification, prerequisite to voting, or standard, practice or
30 procedure is tenuous.”

Gingles, 478 U.S. 30, 45 (1986) (quoting Senate Judiciary Committee’s Majority

1 Report contained in bill amending Voting Rights Act).

2 The most relevant of the so-called “Senate Factors” in the liability phase of this
3 litigation were the second and third factors. Where the enacted remedial plan has
4 not been utilized and there is no history by which to analyze the scheme, a
5 mechanical review of these factors does not aid the court in determining whether the
6 proposed plan meets the requirements of § 2. *Hines v. Mayor and Town Council of*
7 *Ahoskie*, 998 F.2d 1266, 1272 (4th Cir. 1993). The pertinent factors are addressed in
8 the Analysis, Section IV, below.

10 **E. At-Large Plans are not Per Se Illegal**

11 Both parties acknowledge that at-large plans are not per se unlawful. *Gingles*,
12 478 U.S. at 46 (“[E]lectoral devices, such as at-large elections, may not be
13 considered per se violative of § 2. Plaintiffs must demonstrate that, under the totality
14 of the circumstances, the devices result in unequal access to the electoral process.”).
15 “At-large procedures that are discriminatory in the context of one election scheme
16 are not necessarily discriminatory under another scheme.” *U.S. v. Dallas Cnty.*
17 *Comm’n, Dallas Cnty., Ala.*, 850 F.2d 1433, 1438-39 (11th Cir. 1988) (citation and
18 quotations omitted).

20 **IV. ANALYSIS – REMEDIAL PLAN**

21 The gravamen of the § 2 violation herein is that the Pasco City Council has until
22 now operated under an at-large “place system” for electing *all seven* City Council
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1 seats in a place where the voices of minority voters in a racially polarized electorate
2 have been drowned out by the will of majority voters. The City’s enacted remedy is
3 the court’s starting point.

4 The court begins with a look at how political life in Pasco would structurally
5 differ under the City’s hybrid 6-1 remedial plan. First, Pasco’s plan provides Latinos
6 with “rough proportionality” in their voting influence, in that it provides for three
7 majority-minority districts, instead of the former two. *See Johnson v. De Grandy*,
8 512 U.S. 997, 1019 (1994)(describing majority-minority districts as remedial
9 devices relying upon a “quintessentially race-conscious calculus aptly described as
10 the ‘politics of second best.’”). Next, whereas run-off primaries (district-based for 5
11 position) combined with at-large elections previously determined all *seven* positions,
12 the 6-1 plan provides for six single-member district-based general elections, instead
13 of none. As before, Position 7 remains at-large, untied to any district and elected by
14 the citywide population. Pasco residents would have the opportunity to run or vote
15 for just two positions on the Council, instead of all seven under the former election
16 scheme, or just one under Plaintiff’s proposal. Thus, the new election scheme retains
17 its use of numbered positions, a top-two primary, and majority vote general
18 elections, but limits their application to specifically drawn districts for all but one
19 seat.
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23 The court’s task is to determine whether, under the totality of the circumstances
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1 present in Pasco, this combination of single district elections and a single at-large
2 position, viewed as a whole (and not simply focusing on the one at-large seat), offers
3 a complete remedy and provides undiluted opportunity for Latino citizens to
4 participate in the political process and to elect candidates of their choice.

5 The Defendants contend the City's 6-1 hybrid plan complies with the law and
6 was the result of a policy judgment, not an arbitrary choice or any intent to continue
7 discriminative past practices. The only aspect of the City's plan Plaintiff contests is
8 its at-large component for Position 7. Plaintiff contends the total elimination of any
9 at-large component in the election system is necessary to "completely" and "fully"
10 remedy the § 2 violation. In Plaintiff's view, the retention of any at-large seat puts
11 that seat currently "functionally off-limits" to Latino voters, ECF No. 27 at 6,
12 whereas her proposed single-member plan would "provide Latinos with *immediate*
13 *influence*" in a fourth district. (ECF No. 31 at 2).

14 The nature of Plaintiff's challenge to Pasco's remedy expands upon its challenge
15 to the former election scheme. Whereas Plaintiff contended the former at-large
16 election scheme impeded the ability of Latino voters to elect representatives of their
17 choice, i.e. their ability to *determine* city council elections, Plaintiff's argument now
18 includes the contention that the remedy is unlawful because the citywide post
19 impairs Latinos' ability to *influence* the outcome of the single position on the
20 Council. This type of "influence dilution" claim is addressed in the totality of
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1 circumstances analysis that follows.

2 **A. Proportionality**

3 Defendants emphasize that the City’s remedial plan has reconfigured the
4 residency districts to achieve “rough proportionality,” where Latinos are a majority
5 of the registered and eligible voting populations in three districts (or 42.85% of the
6 total seats). This is a higher proportion than the Latino share of the citywide voting
7 age population, 38.5%. The Supreme Court has noted that “[p]roportionality’ as
8 the term is used [in the totality of circumstances analysis] links the number of
9 majority-minority voting districts to minority members' share of the relevant
10 population.” *Johnson v. De Grandy*, 512 U.S. 997, 1014 n.11 (1994).
11 Proportionality has evolved from relevant evidence for liability determinations in §
12 2 cases, to a convenient, frequently used redistricting tool aimed to redress vote
13 dilution. Both proposals before the court recognize the creation of three majority-
14 minority districts provides Latinos with a realistic opportunity to elect
15 representatives of their choice. This is “obviously an indication that minority voters
16 have an equal opportunity, in spite of racial polarization, ‘to participate in the
17 political process and elect representatives of their choice.’” *De Grandy*, 512 U.S. at
18 1020.

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22 Nevertheless, the Supreme Court has admonished that while proportionality is
23 always a relevant factor in the totality of the circumstances inquiry, the court is not
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1 to place undue emphasis on it. *LULAC v. Perry*, 548 U.S. 399, 436 (2006). This is
2 because there is no general requirement that all remedies include rough
3 proportionality (although the facts may dictate it, as they do here), proportionality
4 may not be used as a safe harbor, and it is “not to be pursued at the cost of fracturing
5 effective coalitional districts.” *Covington v. North Carolina*, 316 F.R.D. 117, 133
6 (M.D.N.C. Aug. 11, 2016)(appeal pending); *see also*, *U.S. v. Euclid City School Bd*,
7 632 F.Supp.2d 740, 753 (N.D. Ohio 2009) (rejecting assertion that a remedy must
8 result in roughly proportional representation, as “[s]uch a contention confuses the
9 use of proportionality as one tool through which a reviewing court determines the
10 possible existence of vote dilution on the one hand, with a guarantee of proportional
11 representation on the other ... [t]he former is common sense, the latter is prohibited
12 by statute.”).

13
14
15 The degree of value assigned to proportionality may vary with the facts.
16 Undoubtedly, Pasco has considered its neighbor’s experience in devising a remedy
17 with proportionality in this case. In *Montes v. City of Yakima*, the mechanism
18 diluting the Latino vote was identical to that in this case: a numbered place system
19 with an at-large “city-wide majority takes all election” for all seven city council
20 seats. 2015 WL 11120964, *2 (E.D.Wash. 2015). The City of Yakima had proposed
21 a remedial electoral system that would include five single-member district positions
22 and two at-large positions. *Id.* at *2. Under the proposal, the two at-large positions
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1 would be filled in a single election by way of “limited voting” and without a primary.
2 “Instead, each candidate who filed for office would appear on a single-ballot at the
3 general election,” and “each voter in the City would cast a single vote for any of the
4 candidates listed.” *Id.* The two candidates garnering the most votes would be
5 elected. *Id.* The court concluded the City’s proposal was not entitled to deference
6 as it was neither “effective” nor a “full” remedy for several reasons. First, Yakima’s
7 proposal posed unnecessary conflicts with state law mandating primaries. *Id.* at *5-
8 *7. Second, it failed to provide rough proportionality.⁷ *Id.* at *8. These facts
9 distinguish this case from *Montes* and other cases⁸ Plaintiff cites in a significant way.
10
11

12 ⁷ The *Montes* decision explains that Yakima had asserted the Latino citizen voting
13 age population in Yakima was 22.97%, which meant “Latinos should,
14 mathematically, hold 1.6 seats [on the seven member council] to be proportional to
15 their share of the CVAP.” *Montes*, 2015 WL 11120964, *8. The city’s plan only
16 provided one majority-minority district. *Id.* The court concluded the City’s plan
17 failed to accord proportionality because “Defendants’ proposal only gives the Latino
18 population an opportunity to attain one of the seven seats.” *Id.* The court concluded
19 proportionality was a “significant indicator of whether an electoral plan provides an
20 adequate remedy...” *Id.*

21 ⁸ Rough proportionality was also absent in both of the rejected legislated hybrid
22 proposals in *Harvell v. Blytheville Sch. Dist. No. 5*, 126 F.3d 1038 (8th Cir. 1997)
23 and *U.S. v. Osceola Cnty, Fla*, 474 F.Supp.2d 1254, 1256 (M.D. Fla. 2006).
24

1 This factor favors Pasco’s remedy; however, the analysis must proceed because
2 proportionality is not the end-all be-all test for the remedy of a violation of § 2.

3 **B. Racial Polarization**

4 It has been stipulated and this court has found that voting in Pasco evidences
5 racial polarization. In § 2 cases, racially polarized voting simply means that “the
6 race of voters correlates with the selection of a certain candidate or candidates; that
7 is, it refers to the situation where different races (or minority language groups) vote
8 in blocs for different candidates.” *Gingles*, 478 U.S. at 62. It “is the *difference*
9 between choices made by [minorities] and whites – not the reasons for that
10 difference” *Id.* at 63.
11

12 The court rejects Plaintiff’s invitation to hold that the findings on liability,
13 including the existence of racially polarized voting, automatically dictates the
14 eradication of all at-large seats for the Pasco City Council. *See* ECF No. 21 at 10.
15 None of the cases cited by Plaintiff support such a bright-line rule. Such an
16 interpretation would eliminate either court or legislative discretion and simply wrap
17 municipalities and “United States District Judges in a ‘single-member strait jacket.’”
18 *Paige v. Gray*, 437 F.Supp. 137, 171 (M.D.Ga. 1977); *see also, U.S. v. Marengo*
19 *Cnty. Comm’n*, 643 F.Supp. 232 (S.D.Ala. 1986), *aff’d*, 811 F.2d 610 (11th
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1 Cir.1987)(stating this interpretation “would annihilate a court’s ability to examine
2 on an ad hoc basis the totality of the circumstances presented and thereby to fashion
3 an equitable remedy which does not intrude upon state policy more than necessary
4 to meet the specific constitutional violations involved.”).

5 The impressive body of voting rights jurisprudence confirms that relief against
6 racially polarized bloc voting can utilize a hybrid election scheme without violating
7 § 2. See e.g., *Solomon v. Liberty Cnty. Comm’rs*, 221 F.3d 1218, 1225 (11th Cir.
8 2000)(en banc)(finding no clear error in district court’s decision holding that
9 county’s use of at-large election scheme did not violate § 2, despite high degree of
10 racially polarized voting and “vestiges of official discrimination” in the county);
11 *Tallahassee Branch of NAACP v. Leon Cnty., Fla.*, 827 F.2d 1436 (11th Cir. 1987),
12 *cert. denied*, 488 U.S. 960 (1988) (affirming deference to legislatively adopted
13 mixed plan consisting of five single-member districts and two at large); *Calderon v.*
14 *Ross*, 584 F.2d 66 (5th Cir. 1978), *modified on rehearing*, 589 F.2d 909 (1979)
15 (approving 5-2 plan); *Paige v. Gray*, 473 F.Supp. 137, 158 (M.D.Ga.
16 1977)(approving court-devised 6-1 hybrid remedial plan for city commissioners of
17 the city of Albany, Georgia, allowing retention of a single at-large position slotted
18 for the mayor); *U.S. v. Euclid City School Bd.*, 632 F.Supp.2d. 740 (N.D.Ohio
19 2009)(approving city school board’s limited voting proposal and retention of at-large
20 elections as remedy for § 2 violation); *U.S. v. City of Euclid*, 523 F.Supp.2d 641
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1 (N.D.Ohio 2007)(remedying the §2 violation by replacing multi-seat at-large contest
2 with hybrid 8-1 remedial plan providing eight single-member districts while
3 retaining at-large council president position) ; *N.A.A.C.P. v. Kershaw Cnty., S.C.*,
4 838 F.Supp. 237 (D.S.C. 1993)(accepting hybrid remedial plan arising out of at-
5 large method of electing members of city council with six single member districts
6 and at-large election of chair of county council); *East Jefferson Coalition for*
7 *Leadership and Development v. Parish of Jefferson*, 703 F.Supp. 28 (E.D.La.
8 1989)(approving 7-member council with six single-district members and one at-
9 large member was sufficient to give voters a “realistic ability to influence the
10 outcome of...elections,” despite the fact none of the single-member districts created
11 by the defendants' plan had a majority of African-Americans); *James v. City of*
12 *Sarasota, Fla.*, 611 F.Supp. 25 (M.D. Fla. 1985) (approving mixed plan submitted
13 by city with two commissioners elected at-large by plurality vote); *N.A.A.C.P. v.*
14 *City of Statesville, N.C.*, 606 F. Supp. 569 (W.D.N.C. 1985) (approving jointly
15 proposed replacement for at-large method of election with hybrid 6-2 plan,
16 combining six district and two at-large voting methods); *Vecinos DeBarrio Uno et*
17 *al., v. City of Holyoke et al*, 960 F.Supp. 515 (D.Mass. 1997)(holding that totality of
18 circumstances established that city’s hybrid ward and at-large voting system for city
19 council did not deny Hispanics meaningful access on account of race and
20 recognizing favorable policy underlying at-large component insuring representation
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1 on behalf of the community as a whole).

2 Though legally and statistically significant evidence of racial bloc voting exists
3 in this case, voting is rarely, completely polarized. Dr. Engstrom analyzed eight
4 primary and general election City Council contests from 2005, 2009, and 2015, the
5 last three election cycles that presented voters with a choice between or among
6 Latino and non-Latino candidates. (ECF No. 23 at ¶ 6). Racially polarized bloc
7 voting existed in five of the contests, where Hispanic candidates received support
8 from an estimated 58.3% to 86% of Latino voters compared to only 7.1% to 39.5%
9 of non-Latino voters. Racially polarized voting occurred in *both* the district-based
10 primaries and in the 2015 at-large general elections.

11
12 Five futile elections is enough to establish legally significant evidence of racially
13 polarized voting in Pasco. However, minority cohesion and polarized voting was
14 not present in the three contests in 2005. For example, that year, Joe Cruz was the
15 Latino candidate for at-large Position 7. In the primary, he received 48.2% of the
16 Latino and 33.7% of the non-Latino vote. He lost the general election by just 53
17 votes, and received an estimated 40.7% of the Latino vote and 49.7% of the non-
18 Latino vote. (ECF No. 23 at ¶¶ 23-24). Other election evidence that non-Latino
19 voters are willing to support Latino candidates exists, including in the 2015 primary
20 election, where Latino candidates received 39.5% of the non-Latino vote. (ECF No.
21 23, Table).

1 Though isolated election observations do not undermine § 2 liability, the
2 evidence pertaining to polarization involves patterns that are not consistently
3 extreme (such as 90% favoring one candidate and 90% favoring another). The
4 evidence also does not suggest there are insurmountable barriers to coalition
5 building. Expert evidence on citywide and district crossover voting is somewhat
6 sparse,⁹ however, at oral argument both parties acknowledged crossover voting and
7 the potential for coalition building exists.
8

9 The evidence that voting in Pasco tends to be racially polarized, the degree of
10 political cohesion, and the evidence of crossover voting factor into the court's
11 totality of the circumstances analysis and decision.
12

13 **C. Compact vs. At-large; Size of the District and Influence**

14 In both Defendants' and Plaintiff's plans, Latinos are in the minority in four out
15 of seven positions and their "political fortunes remain tied to the interests of other
16 voters."¹⁰ *Hall v. Virginia*, 385 F.3d 421, 431 (4th Cir. 2004). Plaintiff contends the
17

18 ⁹ Defendants' expert does indicate that the rationale for the 6-1 plan includes that
19 "current and anticipated future numbers assure Latinos across the city the increasing
20 prospect of forming useful coalitions with non-Latino voters to elect a fourth favored
21 candidate of choice." (ECF No. 26, Ex. 3 at ¶ 11).

22 ¹⁰ The court notes that in the three districts where Latinos are not a majority, the
23 Latino voter demographics are not insignificant fractions. *See Appendix A*. Using
24

1 “one difference” between the two proposals is that the City’s at-large position denies
2 Latinos the “meaningful opportunity to win election now” (ECF No. 31 at 9) whereas
3 a compact district would provide for the “immediate removal of dilutive effect.”
4 (ECF No. 31 at 7). If Plaintiff’s argument is that the very existence of one at-large
5 position will enable the white majority voters of Pasco to control four Council seats
6 instead of three, this proposition is akin to arguing Latino votes will be diluted unless
7 their effect is maximized. But the law does not require such a result. Dilution cannot
8 be inferred from the mere failure to guarantee minority voters maximum political
9 influence. *Johnson v. De Grandy*, 512 U.S. 997, 1017 (1994). Nothing in the Voting
10 Rights Act requires maximizing possible voting strength.
11

12 Indeed, there are no legal benchmarks for this court to compare and determine
13 how much influence a minority group should have. Even if having a smaller
14 residency district could increase a minority group's influence, it is difficult to discern
15 when an at-large component causes legal injury by diluting the minority group's
16 influence and when the minority group is merely seeking more influence than is
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19 _____
20 the 2010-2014 5-year ACS estimates, which do not account for Pasco’s city limits,
21 Defendants’ expert estimates the LCVAP as: 27.3% (District 3); 23.6% (District 4);
22 and 13.0% (District 5)). Defendants estimates the current percentage of Latino
23 registered voters (based upon 2016 data) for these districts are: 41.4% (District 3),
24 40.9% (District 4), and 38.2% (District 5), (ECF No. 33, Ex. 1)

1 legally guaranteed. The Supreme Court has repeatedly avoided ruling on the
2 viability of influence dilution claims.

3 The goal of § 2 is not to guarantee success at the polls for minority-preferred
4 candidates but to provide assurances of fairness in the electoral process. *De Grandy*,
5 512 U.S. at 1014; *see also, Nevett v. Sides*, 571 F.2d 209, 236 (5th Cir. 1978) (“the
6 equality involved is the equal opportunity to elect representatives. It is an effective
7 equality, although not a guarantee of equality of result after all, the right to vote was
8 protected, not the right to vote for the winning candidate.”). The guarantee of § 2 is
9 that a minority group will not be denied, on account of race or color, the ability “to
10 elect its candidate of choice on an equal basis with other voters.” *Voinovich v.*
11 *Quilter*, 507 U.S. 146, 153 (1993). As a result, the question here is not whether the
12 Latino-preferred candidate will be elected to the at-large position, but whether the
13 at-large component would give Latinos less opportunity than others in the electorate
14 to form a majority and participate in the political process.

17 A minority group that is too small to form a majority may be able to join with
18 other voters to elect a candidate it supports. However, such groups will be obliged
19 “to pull, haul, and trade to find common political ground” with other voters in the
20 district. *De Grandy*, 512 U.S. at 1020. At this moment in time, this dynamic exists
21 in both Pasco’s at-large position and Plaintiff’s proposed “influence district”
22 (Position 5), where the Latino population is in the minority. Whereas, the citywide
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1 Latino share of registered voting population is approximately 30% (*compare* ECF
2 No. 21-2 at 3 (29.81%) with ECF No. 33-1 at 4 (31.8%)), the LCVAP in Plaintiff’s
3 proposed residency district is estimated to be 27.25%, which Plaintiff concedes is at
4 least “comparable” (ECF No. 31 at 8) to the citywide statistic. Based upon trends
5 showing an ever increasing Latino voting age population, both parties predict these
6 levels of influence increasing and shifting over the next decade. The court cannot
7 and need not decide which seat (Defendants’ Position 7 or Plaintiff’s Position 5) will
8 most quickly accommodate favorable change for Latinos in Pasco.

10 Plaintiff contends more difficult coalition-building, socioeconomics and cost are
11 the reasons Latinos do not “have an opportunity to influence or win elections...in an
12 at-large setting.” (ECF No. 31 at 8). A socioeconomic disparity between Latinos
13 and non-Latinos exists in Pasco. (ECF No. 24, Ex. B). This disparity also presents
14 itself geographically “between predominantly Latino east Pasco and predominantly
15 White west Pasco.” (ECF No. 24 at 21, ¶59).

17 Plaintiff’s expert Mr. Cooper opines that “the geographic and socio-economic
18 divide would disadvantage campaign funding and get-out-the vote efforts for Latino
19 candidates in an at-large election compared to an election in a geographically smaller
20 and less populous single-member district.” (ECF No. 24 at 21, ¶ 60). *See also*, ECF
21 No. 27 at 10-11, ECF No. 28 at ¶ 19. These contentions are commonly made in
22 voting rights cases. Generally speaking, many features of our political system, such
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24

1 as majority vote requirements and the high costs of campaigning, combined with
2 socio-economic disparities, often affect access to the political process.

3 Socioeconomic disparities alone do not show that minorities do not have equal
4 access to the political process. *Veasey v. Abbott*, 830 F.3d 216, 275 (5th Cir. 2016).
5 Evidence that might suggest socioeconomic disparities impede electoral
6 participation include reduced levels of voter registration, lower voter turnout among
7 minority voters, costly campaign financial expenditures for at-large elections,
8 evidence of minorities being discouraged from running for office because of the cost
9 of an at-large campaign, or evidence minority voters are hindered in registering,
10 casting ballots, qualifying to run, and campaigning for public office. The parties
11 have not offered this evidence. Instead, the record suggests that Latinos have run
12 for political office in Pasco and, as Plaintiff indicates, "...the Latino
13 community...has repeatedly *produced and supported* candidates for office." (ECF
14 No. 21 at 3 (emphasis added)). This does not suggest a lack of access to the political
15 process. Though socioeconomic impediments no doubt exist, the court finds there
16 is an insufficient basis to conclude that socio-economics and cost would be
17 significant impediments to Latino participation in the single at-large election
18 provided for in the City's remedial plan.
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22 As for the potential for coalition building, there is plenty of room for
23 disagreement. Plaintiff contends coalitions are more likely to occur and to assist
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1 Latino voting strength in a compact district where voters are “more likely to find
2 common ground” because “they share common interests driven by geography: their
3 children attend the same schools and play in the same parks they use the same
4 libraries and roads, and they walk under the same streetlights.” (ECF No. 31 at 8).
5 However, critics of pure district-based election forms cite the fact they can produce
6 a balkanizing effect, splintering communities and having the unintended effect of
7 increasing racial divides. The Supreme Court has warned about these social and
8 political costs of dividing communities along racial lines in the name of improving
9 electoral systems. *See, e.g., Shaw v. Reno*, 509 U.S. 630, 657 (1993) (observing that
10 “[r]acial gerrymandering, even for remedial purposes, may balkanize us into
11 competing racial factions; it threatens to carry us further from the goal of a political
12 system in which race no longer matters...”). Considering the shape of Plaintiff’s
13 District 5 (Appendix B and ECF No. 24 at 13), it is reasonable to question how the
14 shape and size of that geographic unit would encourage a greater sense of cohesion
15 or shared identity over that of the city at-large. *See discussion*, Lani Guinier, Groups,
16 Representation, and Race-Conscious Districting: A Case of the Emperor's Clothes,
17 71 TEX. L.REV. 1589, 1603 (1993).

20 Defendants counter that the proposed single at-large position is “the next-best
21 electoral opportunity” for Latinos in Pasco. They contend the inclusion of the at-
22 large district: 1) provides “city-wide representation and accountability”; 2) avoids
23

1 the “political ‘balkanization’ that can occur in exclusively single-member district
2 cities and provide greater city-wide unity”; 3) gives “candidates the option to run for
3 one of two seats”; 4) “double[s] the number of times a given citizen could vote for
4 representation on the council”; 5) gives “Latinos who reside in non-majority-
5 minority districts an eventual opportunity to elect their candidate of choice, whereas
6 Latinos in an exclusively SMD plan may never have that opportunity if they reside
7 in a non-majority-minority district”; and 6) provides “more flexibility to address the
8 City’s changing demographics during periods in between redistricting.” (ECF No.
9 30 at 7-8). Defendants’ expert also explains that “[s]cholarly studies suggest that
10 these new prospects – three ‘opportunity districts’ plus a fourth citywide ‘influence’
11 opportunity – might energize Latinos to register and turn out to vote in future
12 elections” as competitiveness has been shown to be “among the strongest correlations
13 of voter turnout.” (ECF No. 26, Ex. 13 at ¶ 12).

14
15
16 These competing contentions are an inescapable part of redistricting
17 controversies. While vote dilution is a comparative inquiry, the court must be
18 cautious not “pre-empt” the legislative task. *Wise v. Lipscomb*, 437 U.S. 535, 539
19 (1978) (plurality) (White, J.). The essence of Plaintiff’s attack on the single at-large
20 position is that it fails to maximize Latino influence for purposes of forging an
21 advantageous coalition. *Given the facts herein*, most importantly the redesign of the
22 election scheme for the other six districts, the court is not persuaded that the size or
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1 at-large nature of Position 7 adversely affects Latino potential to form a majority any
2 more or less than a seventh compact district would.

3 **D. Majority Vote Requirement and Anti-single Shot Provisions**

4 Dr. Engstrom identifies the majority vote requirement and inability to engage in
5 “bullet” or “single shot” voting¹¹ as “two features of the at-large arrangement which
6 enhance the ability of a majority of voters to dilute the votes of the Latino minority
7 in Pasco.” (ECF No. 23 at ¶ 10). These features persist in both proposals whether
8 the election is district-based or includes an at-large component. However, the
9 dilutive effects of these features are minimized where there is only a single at-large
10 position, compared to an at-large election for every seat (the arrangement Dr.
11 Engstrom was referring to in his report). In a majority rule system there will always
12 be an inherent disadvantage to the minority struggling for political power.
13
14

15 **E. Tiebreaks**

16 Plaintiff contends the problem with the retention of an at-large position is
17

18 ¹¹ With single-shot voting, “a group of voters can cast[] one vote, if they wish, for
19 the candidate favored by the group, and not cast[] any of their remaining votes for
20 any other candidate. By withholding their remaining votes from the candidates
21 competing with their preferred choice, minority voters have a better chance to
22 finish among the top...candidates and win one of the...seats.” (ECF No. 23 at ¶
23 26).
24

1 compounded by the fact that geographic districts are evenly split between three
2 majority-Latino and three majority-White districts. Plaintiff speculates that with this
3 even split, the at-large position will become a “critical” “swing vote” or “decisive
4 vote” on issues “on which the two populations are divided.” (ECF No. 27 at 11-12).

5 This court is unwilling to make a speculative assessment on the outcome of political
6 events based upon the odd number of seats and number of majority-minority
7 districts, especially considering the court’s analysis is focused upon ensuring
8 opportunity, not control. There is no evidence that any member of the City Council,
9 including the selected mayor, has more power or authority than any other member.

10 Unlike in the case cited by Plaintiff, *Harper v. City of Chicago Heights*, 223 F.3d
11 593, 600 (7th Cir. 2000), the position of mayor is not slotted for the at-large position
12 and there is no evidence of the frequent needed for a tie-breaking vote. Nor can the
13 court anticipate there will be tie votes where there is no evidence suggesting that
14 elected officials are unresponsive to the needs of the minority community or that
15 representatives are politically unresponsive to Latino voter interests. Here, there
16 simply is no risk of the “*unacceptable* gravitation of power” to any single position.

17 *Dillard v. Crenshaw Cnty.*, 831 F.2d 246 (11th Cir. 1987)(emphasis added)(rejecting
18 at-large chairperson position on the Council given the possibility of an unacceptable
19 gravitation of enhanced power to the position and ultimately agreeing upon a rotation
20 feature).
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1 **F. Policy**

2 Policy considerations certainly counsel restraint in this case.

3 There is no evidence that the policy behind Pasco’s remedial plan is tenuous. The
4 court has carefully considered the stated rationale underlying the legislative
5 provision for the City’s plan, to wit: 1) “its providing three Latino citizen-voter-age
6 majority districts, the same number as possible under the ACLU’s preferred seven
7 district plan;” 2) “the plan providing greater opportunities for voters to influence the
8 number of elections for members of the City Council and for voters to have the
9 opportunity to run for seats on the City Council”; and 3) “the possibility of greater
10 continuity of government and ease in implementation.” (ECF No. 26, Ex. 10 at 2).
11 There is no basis for this court to question the reasonableness of these stated interests
12 and indeed, these are considerations that one would expect to give guidance in a
13 remedial election scheme.
14
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16 Municipal election systems with at least one at-large component are extremely
17 common nationwide and used in nearly all of Washington’s code cities for their city
18 councils. (ECF No. 25 at 22, n. 20, citing [http://mrsc.org/getdoc/c86e1df6-57ae-
19 407e-ac6a-be4d0f0b28c1/Council-Election-by-Wards-or-Districts.aspx](http://mrsc.org/getdoc/c86e1df6-57ae-407e-ac6a-be4d0f0b28c1/Council-Election-by-Wards-or-Districts.aspx)). State law,
20 as it applies to Pasco, expresses a clear preference for at-large city councilmember
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1 elections. The flexibility in election forms that many other states¹² have long
2 accorded their municipalities, supports the obvious fact that one form does not suit
3 all. Each form has possible advantages and disadvantages. *See City of Tucson v.*
4 *State*, 229 Ariz. 172, 174 (2012) (Arizona Supreme Court recognizing that “although
5 at-large members are responsible to electors in the entire city, this may diminish
6 attention to the interests of particular neighborhoods or groups; district-based
7 elections, in contrast, assure representation from different geographic areas but may
8 elevate particular interests over citywide ones.”). The fact Washington State has
9 maintained laws imposing an at-large electoral scheme on municipalities is a factor
10 this court considers in the calculus here. *Houston Lawyers Ass’n v. Attorney General*
11 *of Texas*, 501 U.S. 419, 426-427 (1991)(“[T]he State’s interest in maintaining an
12 electoral system...is a legitimate factor to be considered by courts among the totality
13 of circumstances...”).

16 **G. Totality of the Circumstances**

17 Changes in an election system invariably bring about results that cannot be
18 predicted with any degree of accuracy. When placed in the position of reviewing a
19 legislatively enacted remedial plan which has yet to be locally tested, the court must
20

21 ¹² *See e.g.*, Ariz.Rev.Statutes §§ 9–232.04, 9–273 (allowing non-charter cities and
22 towns to choose between at-large and district-based council elections); Fla. Stat., §
23 124.011.

1 be wary of making predictions, involving itself unnecessarily in political judgments,
2 or directing unnecessary change. All precedent cautions judicial restraint in this area.

3 Vote dilution cases are circumstantial evidence cases often challenging at-large
4 voting schemes. While case law offers some direction, it is nearly impossible to
5 locate analogous cases when the test is so heavily fact-driven. For this reason, the
6 court is unable to “follow in the footsteps of” the six representative cases Plaintiff
7 suggests. They are all inapposite because they involved different legal standards
8 applicable to judicially ordered plans,¹³ or involved legislative proposals lacking
9 proportionality,¹⁴ or occurred in places with significantly more deplorable histories
10 of “open and unabashed” discrimination in all areas including the voting laws
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16 ¹³ See e.g., *U.S. v. Dallas Cnty Comm’n, Dallas Cnty., Ala*, 850 F.2d 1433, 1438-39
17 (11th Cir. 1988) (judicially created plan imposed remedy creating five single-
18 member districts, including one “swing” district, where there was strong evidence
19 African American candidates would not be able to compete for an at-large seat);
20 *Chapman v. Meier*, 420 U.S. 1 (1975) (striking down court-ordered reapportionment
21 that had a total deviation of 20.14%).

22 ¹⁴ *Montes v. City of Yakima*, 2015 WL 11120965 (E.D.Wash. 2015); *U.S. v. Osceola*
23 *Cnty, Fla*, 474 F.Supp.2d 1254, 1256 (M.D. Fla. 2006).
24

1 themselves, economics and social life.¹⁵ Even in the case of *Williams v. City of*
2 *Texarkana, Ark.*, 861 F.Supp. 771 (W.D.Ark. 1993), where it was agreed the remedy
3 would be judicially imposed, the court did *not* hold that the City’s proposed 6-1 plan
4 was unlawful or would not remedy the Voting Rights Act violation. 861 F.Supp. at
5 772 (W.D.Ark. 1993)(deciding the 7-0 plan was the plan “more prudent” because it
6 presented the “greatest potential for” proportionate representation and “less potential
7 for provoking continuing dispute, which would not be in the best interests of the
8 citizens...”); *see also, Williams v. City of Texarkana, Ark*, 32 F.3d 1265 (8th Cir.
9 1994)(leaving validity of the 6-1 plan, chosen by the electorate after the court
10 imposed the 7-0 plan, for future determination of the district court should a challenge
11 be mounted).

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14 The case law illustrates the fact there is no single “correct” way to design a
15 government; sometimes there are competing interests which can’t be reconciled;
16 there is no clear formula as to how much voting strength an individual citizen should
17 have; and it is not the role of the court to “calibrate democracy in the vain search for
18 an optimum solution.” *Evenwel v. Abbott*, 136 S.Ct. 1120, 1140 (2016). The “full”
19 and “complete” remedy standard is not a standard that lends itself to application with
20

21
22 ¹⁵ *Dillard v. Crenshaw Cnty.*, 649 F.Supp. 289 (M.D.AL. 1986)(class action lawsuit
23 involving challenge to at-large systems in nine counties).

1 mathematical exactitude.

2 In reviewing Pasco’s remedial plan the court has considered on one side of the
3 scale lies a history of not a single Latino ever having electoral success in a contested
4 Council election, the presence of racially polarized elections, and a socio-economic
5 divide. On the other side of the scale is proportionality, the absence of discriminatory
6 voting practices and intent, viable policies underlying the 6-1 plan, the participation
7 of Latinos in elections, crossover voting, demographics in a state of flux, and
8 officials’ responsiveness. The court concludes the totality of the circumstances,
9 judged by the record before this court, make it possible to reconcile the retention of
10 a single at-large seat. Under Pasco’s remedial plan, Latinos possess an equal
11 opportunity to elect representatives and to participate in the political process, which
12 was previously denied to them under the all at-large election scheme.
13
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15 The City’s plan complies with the “full and complete” remedy standard and does
16 not violate the Constitution or Voting Rights Act anew. Accordingly, the court defers
17 to the City’s plan.

18 V. IMPLEMENTATION

19 The Pasco City Council did not vote on how the proposal should be
20 implemented, leaving this decision to the court. The court orders immediate
21 implementation and orders that every seat be up for election in 2017, with four
22 positions (Positions 1, 3, 4 and 6) elected to a 4-year term, and for this election only,
23
24

1 3 positions (Positions 2, 5 and 7) elected to a 2-year term of office. Prompt
2 implementation is required for an effective remedy. This was recognized by the
3 parties in the Partial Consent Decree and briefing schedule in this case. This option
4 assures citizens will have their voices heard now.

5 **VI. INJUNCTION**

6 Plaintiff has proposed that the court order that the “City of Pasco is permanently
7 enjoined from administering, implementing or conducting any future elections for
8 the Pasco City Council in which members of the City Council are elected on an at-
9 large basis, whether in a primary, general, or special election.” The court denies
10 this request. Future redistricting shall be done in a manner that complies with the
11 terms and intent of this Judgment and the Partial Consent Decree entered on
12 September 2, 2016, and otherwise complies with the provisions and requirements of
13 the Voting Rights Act, 52 U.S.C. § 10301 et seq.
14

15 **VII. CONCLUSION**

16 The task before the court is not one it has taken lightly. These issues do not
17 lend themselves to easy analysis and no court has devised a formula to resolve the
18 question of where the ideal solution lies for Pasco. Complicating the analysis, the
19 facts are in a constant state of change. Legislative apportionment is an issue which
20 justifies ongoing evaluation and adjustment by the executive and legislative
21 branches of government, if necessary. Washington state law makes these
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1 adjustments more difficult and less likely to occur voluntarily. For some concerns,
2 a judicial remedy is absent and “relief must come through an aroused popular
3 conscience that sears the conscience of the people’s representatives.” *Baker v. Carr*,
4 369 U.S. 186, 269 (1962).

5 As a final note, the court commends the parties and the ACLU for their
6 collaboration prior to and subsequent to the filing of this lawsuit. Through their
7 sincere cooperation, most importantly, this case has been decided in time to
8 effectuate change before the next election.

9
10 **ACCORDINGLY, IT IS HEREBY FINALLY ADJUDGED AND**
11 **ORDERED:**

12 1. Plaintiff’s Motion for Entry of Plaintiff’s Proposed Remedial Plan (**ECF**
13 **No. 21**) is **DENIED**. Defendants’ Motion for Entry of Proposed Remedial Plan and
14 Final Injunction (**ECF No. 25**) is **GRANTED**.

15
16 2. The court herein approves, as a remedy for the § 2 violation, the City’s
17 remedial plan and the map reproduced in Appendix A.

18 3. The City of Pasco is ordered to take all steps necessary to implement the
19 plan in order to place all seven positions up for election in 2017 and thereafter,
20 provided, however, that the City may revise the districts based on annexations,
21 deannexations, and population changes reflected in the decennial census and at
22 appropriate times in the future when necessary to conform to the law.
23
24

1 4. In order to preserve the current staggered election plan for members of the
2 City Council, Positions 1, 3, 4 and 6 will be elected for a four-year term. Positions
3 2 and 5 and the at-large seat (Position 7) will be initially elected to two-year terms
4 and thereafter to four-year terms.

5 5. This decision and separately entered Judgment is binding upon all parties
6 and their successors. Future redistricting shall be done in a manner that complies
7 with the terms and intent of this Order and the Partial Consent Decree entered
8 September 2, 2016, and complies with the Voting Rights Act.

9
10 6. Without affecting the finality of this final decision and its associated
11 Judgment, the court retains jurisdiction of this cause through 45 days after the
12 certification of the 2017 general election for the purpose of enforcing its orders, and
13 if necessary, for the disposition of any remaining unresolved issues.
14

15 The District Court Executive is hereby directed to enter this Order, enter
16 Judgment accordingly, and provide copies to counsel.

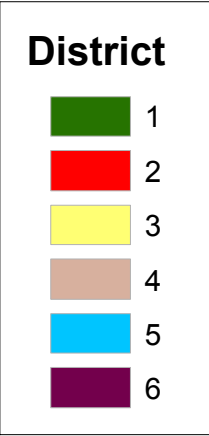
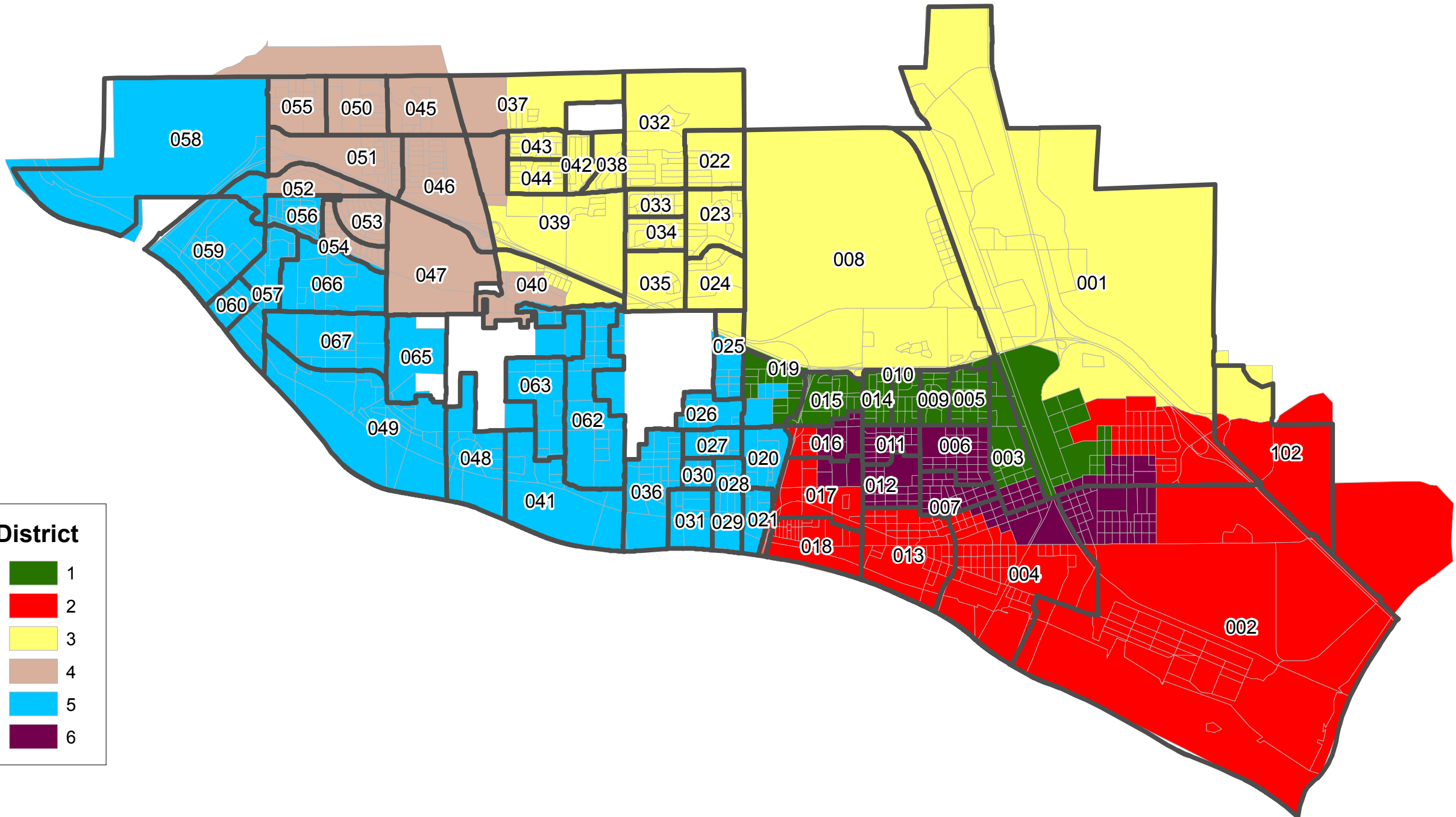
17 DATED THIS 27th day of January, 2017.

18 *s/Lonny R. Suko*

19 _____
20 LONNY R. SUKO
21 SENIOR U.S. DISTRICT COURT JUDGE

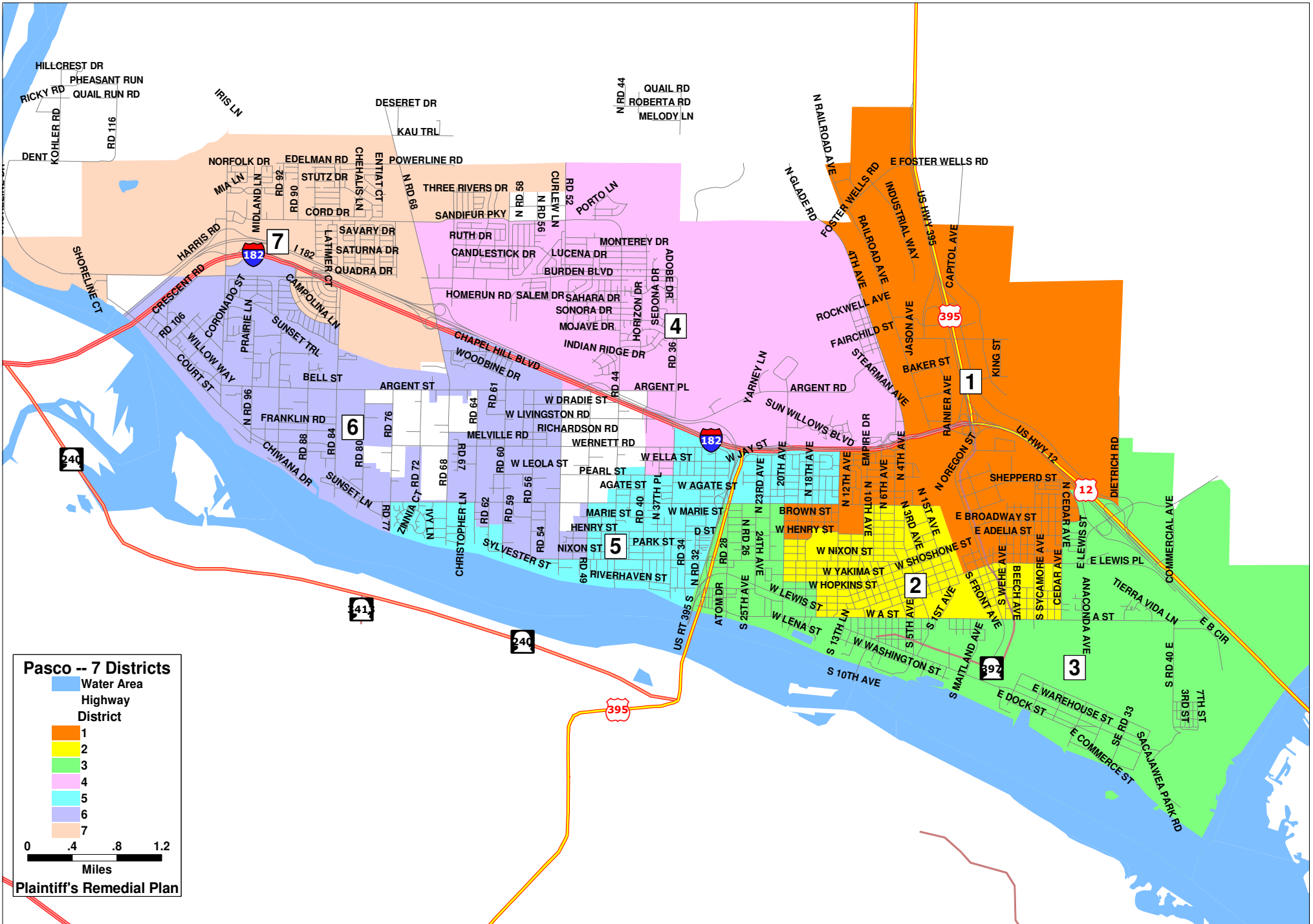
APPENDIX A

City's Proposed Plan



Plan M8				
District	Total CVAP (2010-14)	Hispanic CVAP	Total Pop (2010)	% Hispanic CVAP
1	3,148	1,701	10,048	54.0%
2	3,488	1,825	10,009	52.3%
3	7,828	2,136	10,532	27.3%
4	6,535	1,542	10,062	23.6%
5	7,744	1,007	11,003	13.0%
6	3,998	2,239	10,798	56.0%
Total	32,742	10,450	62,452	31.9%
<i>Total deviation from ideal:</i>				9.55%
Note: Equalizes 2010 population (census enumerated) within 2016 city limits.				

APPENDIX B



Population Summary Report

Pasco City Council --Plaintiff's Remedial Plan -- 7 districts

District	Population	Deviation	% Deviation	Latino	% Latino	NH White	% NH White	% Latino of all citizens
1	8724	-198	-2.22%	7292	83.59%	1074	12.31%	74.86%
2	8865	-57	-0.64%	7289	82.22%	1214	13.69%	72.78%
3	8587	-335	-3.75%	7161	83.39%	1195	13.92%	69.99%
4	9026	104	1.17%	2495	27.64%	5936	65.77%	30.88%
5	8980	58	0.65%	4697	52.31%	3816	42.49%	46.11%
6	9102	180	2.02%	2175	23.90%	6291	69.12%	19.85%
7	9168	246	2.76%	2626	28.64%	5731	62.51%	31.05%
Total	62452			33735	54.02%	25257	40.44%	45.02%

Ideal district size = 8,922

Total Deviation 6.51%

District	18+_Pop	18+ Latino	% 18+ Latino	18+ NH White	% 18+ NH White	% Latino CVAP	% Latino of Registered Voters
1	5165	4062	78.64%	859	16.63%	54.78%	65.76%
2	5596	4301	76.86%	1013	18.10%	56.29%	65.33%
3	5187	4031	77.71%	995	19.18%	54.08%	61.73%
4	6090	1403	23.04%	4318	70.90%	27.37%	19.25%
5	6108	2661	43.57%	3091	50.61%	28.98%	27.25%
6	6365	1242	19.51%	4703	73.89%	14.24%	15.45%
7	6047	1483	24.52%	4043	66.86%	24.04%	20.36%
Total	40558	19183	47.30%	19022	46.90%	32.02%	29.81%

Note:

(1)% LCVAP calculated by disaggregating 2010-2014 ACS block group estimates for 18+ citizen Hispanics and Non-Hispanics to 2010 census blocks.

(3) Surname match of registered voters as of Nov. 30, 2015

Exhibit C

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SUPERIOR COURT OF WASHINGTON FOR KITTITAS COUNTY

EVANGELINA AGUILAR, SUSAN SOTO PALMER, ROGELIO MONTES, CANDY GUTIÉRREZ, and ONEAMERICA, a Washington nonprofit corporation,

Plaintiffs,

v.

YAKIMA COUNTY, a Washington municipal entity, VICKI BAKER, NORM CHILDRESS, RON ANDERSON, in their official capacities as members of the Yakima County Board of Commissioners,

Defendants.

No.

COMPLAINT FOR INJUNCTIVE RELIEF UNDER THE WASHINGTON VOTING RIGHTS ACT

I. INTRODUCTION

1.1 This action challenges the at-large electoral system used by Yakima County to elect members of its Board of Yakima County Commissioners (“the Commission”). The current at-large system dilutes the votes of Latino voters in Yakima County, denying them equal opportunity to elect candidates of their choice to the Commission in violation of the Washington Voting Rights Act (“WVRA” or “the Act”), RCW 29A.92.¹

1.2 The Latino community makes up almost half of Yakima County and one-third of its citizen voting age population (“CVAP”). Yet only one Latino candidate has ever won a seat on the three-member Commission, and candidates supported by the Latino community are

¹ This Complaint uses the terms “Latino” and “Hispanic” interchangeably to refer to individuals who self-identify as Latino or Hispanic.

1 routinely defeated in races for political office in Yakima County. These disparities exist because
2 Yakima County maintains an at-large electoral system in which voters of the entire county
3 choose every member of the Commission by plurality vote. Because elections in Yakima County
4 exhibit polarized voting along racial lines, candidates backed by the Latino community rarely get
5 enough countywide support to win even a single seat on the Commission. Meanwhile, candidates
6 preferred by white voters, who rarely support Latino-backed candidates, often win every seat. As
7 a result, Latino voters are deprived of their equal right to elect candidates of their choice as
8 guaranteed by the WVRA.

9 II. PARTIES

10 2.1 Plaintiffs EVANGELINA “BENGIE” AGUILAR, SUSAN SOTO PALMER,
11 ROGELIO MONTES and CANDY “DULCE” GUTIÉRREZ are Latino registered voters who
12 reside in Yakima County.

13 2.2 Plaintiff Aguilar served on the Sunnyside City Council from 2001–2005. She ran
14 for reelection to that seat in 2005 but was not elected. In 2018, she ran for State Senate District
15 15, which includes a part of Yakima County, but was not elected.

16 2.3 Plaintiff Palmer ran for Yakima County Commission District 3 in 2018 but was
17 not elected. In 2016, she ran for State House District 14, which includes a part of Yakima
18 County, but was not elected.

19 2.4 Plaintiff Montes ran to represent District 2 on the Yakima City Council in 2011
20 but did not advance to the at-large general election. In 2018, he ran again to represent District 2
21 but withdrew his candidacy.

22 2.5 Plaintiff Gutiérrez was elected to represent District 1 on the Yakima City Council
23 in 2015 after a federal district court ordered the City of Yakima to discontinue at-large elections.
24 She served in that position for one term and did not seek reelection.

25 2.6 Plaintiff ONEAMERICA is a Washington nonprofit organization whose members
26 include Latino registered voters who reside in Yakima County. Securing fair representation of
27 the Latino community in Yakima County government is directly related to OneAmerica’s

1 mission to advance “fundamental principles of democracy and justice at the local, state, and
2 national levels by building power within immigrant communities in collaboration with key
3 allies.” OneAmerica works to achieve its mission in part by advocating for voting rights reforms
4 and increasing civic engagement and turnout among voters in immigrant and refugee
5 communities, including Latino voters, through voter registration drives, voter education, and
6 developing candidates for appointed and elected office. Electoral systems that systematically
7 disadvantage the Latino community create a drain on OneAmerica’s organizational resources by
8 requiring dedication of greater time and funds to these civic engagement efforts. OneAmerica’s
9 voter registration and outreach activities and their candidate development efforts require
10 additional funds to be effective when Yakima County’s electoral system unfairly dilutes the
11 Latino vote.

12 2.7 Defendant YAKIMA COUNTY (“the County”) is a Washington municipal
13 corporation and a political subdivision within the meaning of and subject to the requirements of
14 the WVRA. *See* RCW 29A.92.010. The County maintains an electoral system in which the three
15 members of the Commission are nominated in a district-based top-two primary and then elected
16 in an at-large general election.

17 2.8 Defendants VICKI BAKER, RON ANDERSON, and NORM CHILDRESS
18 (collectively “the Commissioners”) are the current members of the Commission. The
19 Commission has the authority to change the County’s electoral system to remedy a violation of
20 the WVRA. The Commissioners are each sued in their official capacity only.

21 III. JURISDICTION AND VENUE

22 3.1 This Court has subject matter jurisdiction over this Complaint because
23 Washington state courts have jurisdiction over claims brought under the WVRA, RCW 29A.92.

24 3.2 Venue is proper in Kittitas County pursuant to RCW 29A.92.090 and RCW
25 36.01.050(2).

1 **IV. FACTS**

2 **A. The Yakima County Commission**

3 4.1 The Commission is the governing body of Yakima County and is composed of
4 three commissioners. Each commissioner represents one of three geographic districts and must
5 live in the district they represent.

6 4.2 The County uses a district-based top-two primary and an at-large general election
7 system to elect commissioners. This means that candidates are first nominated in a primary
8 election by voters of their district. The top two vote-getters in each district advance to the general
9 election. In the general election, voters *of the entire county* select the winner in each district.

10 4.3 County commissioners are elected to serve staggered four-year terms.
11 Commission elections therefore take place every two years. The most recent election for a
12 Commission seat (District 3) was held on November 6, 2018. The election for the other two
13 Commission seats (Districts 1 and 2) will be held on November 3, 2020.

14 4.4 As the County’s legislative authority, the Commission is responsible for the
15 overall administration of County government, including adoption of annual budgets, enactment
16 of ordinances, and appointments to advisory boards and commissions. The Commission oversees
17 programs and services related to public health, environmental protection, housing, public works,
18 and other matters that affect the interests and well-being of Latino residents.

19 **B. Yakima County Demographics**

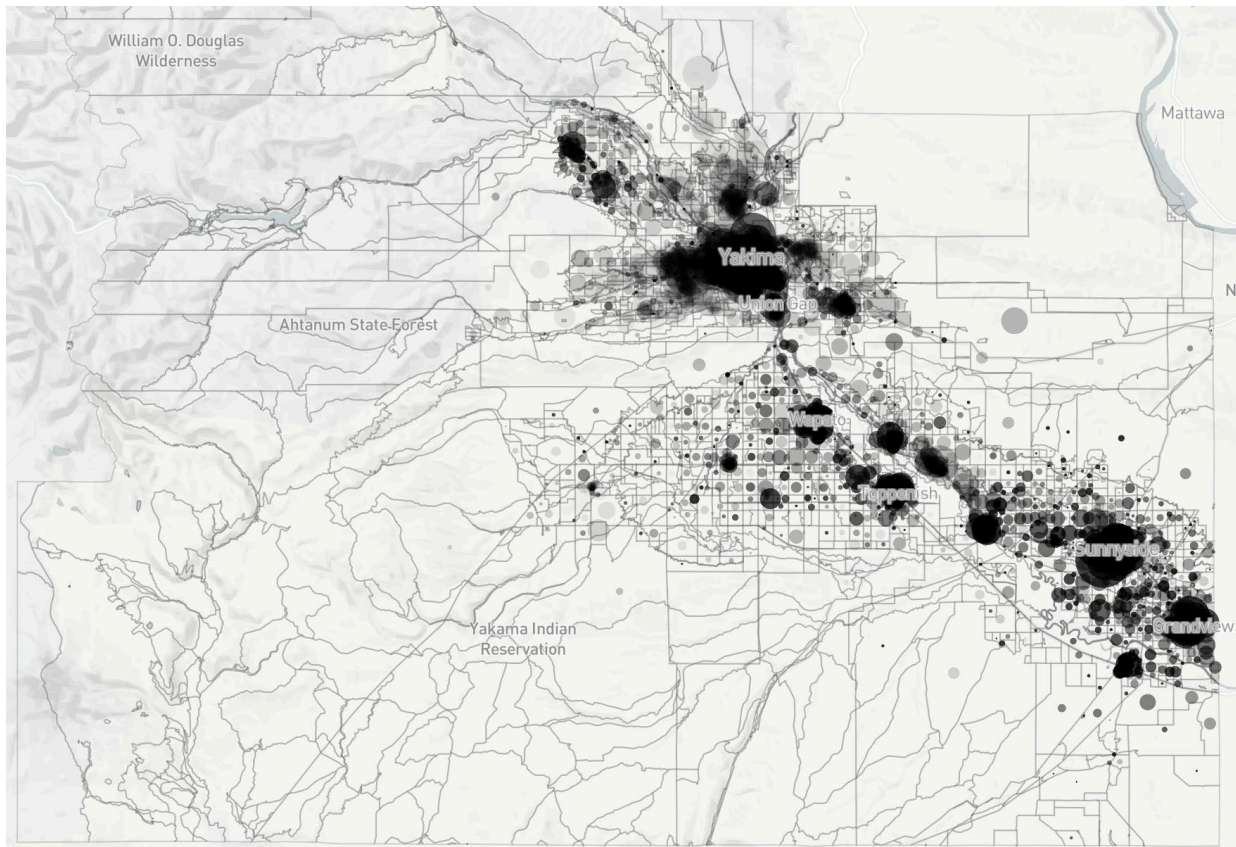
20 4.5 According to the 2010 Census, Yakima County had a total population of 243,231.
21 According to the Census Bureau’s 2014–2018 American Community Survey 5-Year Estimates
22 (“2014–2018 ACS”), which are the most recent five-year estimates available, the total population
23 was 249,325.

24 4.6 Yakima County’s Latino population is the largest in the state and has grown in the
25 last three decades, from 24% of the total population in 1990 to 48.9% percent according to the
26 2014–2018 ACS. Over the same period, the share of non-Hispanic white residents declined, from
27 70% in 1990 to 43.8% as of the 2014–2018 ACS. According to the 2014–2018 ACS, Native

1 American residents make up 3.6% of the County population and represent the County’s next
2 largest ethno-racial group.

3 4.7 Latino residents make up a smaller but sizeable share of the County’s voting age
4 and eligible voting population. The 2014–2018 ACS estimates a total voting age population
5 (“VAP”) of 174,900 for Yakima County, of whom 41.9% were Latino and 51% were non-
6 Hispanic white. And the 2014–2018 ACS estimates that the County has a total CVAP of
7 144,660, of whom 30.7% are Latino and 61.3% are non-Hispanic white.

8 4.8 Latino residents live throughout Yakima County with heavier concentrations in
9 Yakima City and Sunnyside. The following map² shows the geographic distribution of the Latino
10 community in Yakima County. The size of the Latino population in each block is represented by
11 a proportionally sized semi-transparent circle.



26
27 ² This map was created on Districtr, a public mapping interface, by clicking “Data Layers” and “Show Demographics,” and then selecting the variable “Hispanic population” displayed as “sized circles.” See DISTRICTR, <http://www.districtr.org/edit>.

1 **C. The Washington Voting Rights Act**

2 4.9 In 2018, the Washington Voting Rights Act was enacted to “promote equal voting
3 opportunity in certain political subdivisions.” 2018 Wash. Sess. Law Ch. 113 (codified at RCW
4 29A.92). The legislature found that “electoral systems that deny race, color, or language minority
5 groups an equal opportunity to elect candidates of their choice are inconsistent with the right to
6 free and equal elections” guaranteed by the Washington State Constitution. RCW 29A.92.005.

7 4.10 The WVRA therefore prohibits political subdivisions from maintaining any
8 “method of electing the governing body of a political subdivision . . . that impairs the ability of
9 members of a protected class or classes to have an equal opportunity to elect candidates of their
10 choice as a result of the dilution or abridgment of the rights of voters who are members of a
11 protected class or classes.” RCW 29A.92.020.

12 4.11 A violation of the WVRA is established if (a) elections in the political subdivision
13 exhibit polarized voting and (b) members of a protected class or classes do not have an equal
14 opportunity to elect candidates of their choice as a result of the dilution or abridgment of their
15 rights. RCW 29A.92.030.

16 **D. Elections in Yakima County Exhibit Polarized Voting**

17 4.12 Elections in Yakima County exhibit polarized voting along racial lines.

18 4.13 Polarized voting occurs when members of different racial or ethnic groups prefer
19 different candidates. Yakima County elections are racially polarized because there is a
20 significant difference in the candidates preferred by Latino voters and the candidates preferred
21 by white voters.

22 4.14 Latino voters in Yakima County are politically cohesive and consistently vote as a
23 bloc for common candidates of choice. Latino voters’ candidates of choice are rarely elected,
24 however, because white voters frequently vote as a bloc to defeat Latino voters’ candidates of
25 choice.

26 4.15 Polarized voting occurs regularly in elections for the Yakima County
27 Commission. For example, in the 2018 election for District 3 County Commissioner, Latina

1 candidate Plaintiff Palmer had the support of 75% of Latino voters but only 25% of white voters.
2 White voters overwhelmingly preferred and voted as a bloc to elect Plaintiff Palmer's white
3 opponent. Similarly, in the 2016 election for District 2 County Commissioner, Latina candidate
4 Debra Manjarrez had the support of 72% of Latinos but only 38% of white voters. White voters
5 overwhelmingly supported and voted as a bloc to elect Ms. Manjarrez's white opponent.

6 4.16 Polarized voting pervades all elections in Yakima County and is not limited to
7 elections in which at least one Latino candidate runs.

8 4.17 There is also evidence of polarized voting among Yakima County voters in
9 elections for state, city, and other government offices, as well as in ballot measures and other
10 electoral choices that affect the rights and privileges of Latino residents.

11 4.18 Indeed, in *Montes v. City of Yakima*, 40 F. Supp. 3d 1377, 1407, 1410 (E.D.
12 Wash. 2014), a federal court found that there could be "no serious dispute that voting in Yakima
13 is racially polarized" and that "the non-Latino majority in Yakima routinely suffocates the voting
14 preferences of the Latino minority," citing nine local and state elections in which Latino voters in
15 Yakima overwhelmingly preferred the same electoral outcome only to be defeated by a white
16 majority. In that case, two Latino voters (including Plaintiff Montes of this lawsuit) successfully
17 challenged the City of Yakima's at-large system for City Council elections under Section 2 of
18 the federal Voting Rights Act of 1965.

19 4.19 In the 2018 election for State Senate District 15, over 71% of Latino voters
20 backed candidate Plaintiff Aguilar, but she was defeated because white voters overwhelmingly
21 bloc voted for Jim Honeyford, the white incumbent and current senator.

22 4.20 In the 2016 election for State House District 14, candidate Plaintiff Palmer won
23 more than 84% of the Latino vote, but she won only 16% of the white vote. White voters instead
24 voted as a bloc to overwhelmingly support her victorious white opponent.

25 4.21 In the 2012 non-partisan election for a seat on the Washington Supreme Court, the
26 Latino candidate Steven González won statewide with 58% of the vote against the only other
27 candidate Bruce Danielson, who is white. But in Yakima County, Mr. González lost, with 58%

1 support from Latino voters but only 28% support from white voters. Experts attribute
2 Mr. González’s poor showing in Yakima to his Latino surname.

3 4.22 In a 2011 City of Yakima ballot measure election, a staggering 98.2% of Latino
4 voters supported Proposition 1, which would have replaced the at-large electoral system for City
5 Council elections with a district-based system. *Montes*, 40 F. Supp. 3d at 1403. But only 38.4%
6 of non-Latino voters voted in favor of Proposition 1, which failed by a wide margin, with only
7 41.5% in favor and 58.5% opposed. *Id.*

8 4.23 In the 2009 at-large general election for two Yakima City Council positions,
9 Latino candidates Sonia Rodriguez (Position 5) and Benjamin Soria (Position 7) each received
10 an estimated 93% of Latino votes but lost by wide margins because of low support and bloc
11 voting among non-Latino voters. *Id.* at 1402-03.

12 **E. Yakima County’s At-Large Electoral System Dilutes the Voting Rights of Latinos**
13 **and Denies Latinos an Equal Opportunity to Elect Candidates of their Choice**

14 4.24 Yakima County’s at-large system for electing candidates to the Commission
15 dilutes the votes of Latino voters and denies them equal opportunity to elect candidates of their
16 choice because the majority white voting population is consistently able to defeat Latino-
17 preferred candidates.

18 4.25 As long recognized by the U.S. Supreme Court, at-large systems, like that in
19 Yakima County, create a grave risk of diluting minority voting rights. *See Thornburg v. Gingles*,
20 478 U.S. 30, 47 (1986) (“This court has long recognized that . . . at-large voting schemes may
21 operate to minimize or cancel out the voting strength of [minority members of] the voting
22 population.”) (internal quotation marks omitted). This is because where “minority and majority
23 voters consistently prefer different candidates, the majority, by virtue of its numerical
24 superiority, will regularly defeat the choices of minority voters.” *Id.* at 48. The dilutive effect of
25 at-large systems is even more pronounced when candidates must run for specific seats on
26 staggered terms because such features “prevent[] a cohesive political group from concentrating
27 on a single candidate.” *Rogers v. Lodge*, 458 U.S. 613, 627 (1982).

1 4.26 As a result of Yakima County’s at-large election system, the Latino community’s
2 candidates of choice have rarely been elected to political office in the County. Upon information
3 and belief, only one Latino candidate has *ever* been elected to the Commission. At least three
4 Latino candidates have run for positions on the Commission in the past five years, but none has
5 prevailed despite overwhelming support among Latino voters.

6 4.27 Election outcomes under the City of Yakima’s prior at-large election system also
7 provide strong evidence of the dilutive effect of at-large election systems on Latino voters in
8 Yakima County. Not a single Latino candidate had ever been elected to the Yakima City Council
9 under the City’s prior at-large electoral system. Sonia Rodriguez was the first Latina appointed
10 to the City Council in 2008, but she then lost to a white candidate in the 2009 election, even with
11 the advantage of incumbency. And although three Latina candidates were elected to the City
12 Council in 2015, those wins came only after the City lost the *Montes* lawsuit and replaced its at-
13 large voting system with a district-based system. *See Montes*, 40 F. Supp. 3d at 1377.

14 4.28 Several other factors indicate the dilutive and discriminatory effects of Yakima
15 County’s at-large electoral system.

16 4.29 The overall history of racial and ethnic relations between the Latino and white
17 communities in Yakima County has been described as “contentious and combative.”³ These
18 tensions between the white and Latino communities persist to the present day.⁴ As one media
19 outlet has observed, “cultural conflicts” in Yakima are “apparent in public where Latinos and
20 non-Latinos gather at different parks and many businesses, and on the Internet, where forums
21 and comment boards for local audiences can often be loaded with xenophobic vitriol.”⁵

22
23
24 ³ *See* Luis Ricardo Fraga, *Ethnicity and Race in Yakima, WA*, Expert Report Submitted on Behalf of
Plaintiffs in *Montes v. City of Yakima* No. 12-cv-3108 (E.D. Wash.) (Feb. 22, 2013), at 7–11.

25 ⁴ *See id.* (citing public commentary in the Yakima Herald-Republic throughout 2010–2011 demonstrating
26 that “racial tensions between Whites and Hispanics persist in the Yakima Valley”).

27 ⁵ Mike Faulk, *Yakima’s Cultural Divide*, YAKIMA HERALD (Oct. 16, 2015),
[http://www.yakimaherald.com/news/elections/yakima_city_council/yakima-s-cultural-
divide/article_590c92b47416-11e5-949e-dbf62c92960.html](http://www.yakimaherald.com/news/elections/yakima_city_council/yakima-s-cultural-divide/article_590c92b47416-11e5-949e-dbf62c92960.html).

1 4.30 Latino residents in Yakima County also endure the widespread effects of past and
2 present discrimination in areas such as employment, health care, and education, which impact
3 their ability to engage in the political process.

4 4.31 According to the 2014–2018 ACS, Latino residents in Yakima County are about
5 half as likely to have a high school diploma as white Yakima County residents. Only 5% of
6 Latino students in Yakima County go on to obtain a bachelor’s degree or higher, as compared to
7 23% of white students. Nearly a quarter of Latino residents in Yakima County live below the
8 poverty line, as compared to only 11% percent of white residents. In the City of Yakima, “57%
9 of Latino adults do not have health insurance, in comparison to only 18% of their white
10 counterparts,” and “the rate of homeownership among Latinos is less than half than that among
11 their white counterparts.” *Montes*, 40 F. Supp. at 1413.

12 4.32 Latino residents in Yakima County also disproportionately bear the harmful
13 effects of environmental contamination. According to the U.S. Environmental Protection
14 Agency, Latino residents in the Lower Yakima Valley experienced many years of unsafe nitrate
15 levels in drinking wells, with the most severe nitrate levels near local dairies. In 2015, a federal
16 consent decree required dairies to take some precautions to avoid contamination, but many
17 Yakima County residents must continue to drink bottled water. Five years later, many wells still
18 have nitrate levels exceeding the federal limit by five or ten times, and areas of the Yakima
19 Valley are among the most environmentally hazardous in the state. Yet Yakima County officials
20 have refused to take the necessary legislative and enforcement actions to ensure Latino residents
21 have access to clean water.

22 4.33 The current COVID-19 pandemic also throws into sharp relief the persistent and
23 dangerous inequities Yakima Latino residents face. As of June 2020, Yakima County had the
24 highest rate of COVID-19 infections on the west coast, and the effects have fallen
25 disproportionately on the Latino population. Latino residents account for over two-thirds of the
26 positive COVID-19 cases in the County because of the high rate of infection among mostly
27 Latino agricultural workers. Yet the Yakima Health District, which is overseen by the County

1 Commission, spends less per capita on health than any other county in Washington, and did not
2 issue a directive requiring residents and workers to wear face coverings until June 3, 2020.

3 4.34 At-large election systems and polarized voting have resulted in limited
4 representation of and outright indifference to the Latino community’s interests on the County
5 Commission, including but not limited to a lack of public investment in infrastructure in Latino
6 neighborhoods and services that are most frequently used by Latino residents.

7 4.35 Many public materials produced by Yakima County are not translated into
8 Spanish and are inaccessible to Spanish-speakers, who are disproportionately Latino.

9 4.36 Yakima County also maintains electoral devices and voting practices and
10 procedures that enhance the dilutive effects of at-large elections. For example, the County’s
11 requirement that candidates run for specific Commission seats in staggered elections enhances
12 the dilutive effect of its at-large system by making it harder for Latino voters to effectively
13 coalesce around a preferred candidate. The County has also maintained voting procedures that
14 directly suppress the Latino vote. Indeed, for several years after the passage of the Voting Rights
15 Act of 1965, the County administered literacy tests to Latino voters despite directives from the
16 state attorney general to end the practice. And, as recently as 2004, the U.S Department of
17 Justice sued Yakima County for failing to provide Spanish-language voting materials and voter
18 assistance as required by Section 203 of the federal Voting Rights Act. At least until the adoption
19 of a consent decree in that case, Yakima County denied equal access to election information to
20 Spanish-speaking voters, enhancing the dilutive effects of its at-large system.

21 4.37 Latino candidates for public office are frequently subject to racist appeals in
22 political campaigns and racist statements by members of the public while conducting campaign
23 activities. For example, while campaigning for Yakima City Council, a resident yelled at
24 Plaintiff Gutiérrez: “Go back to Mexico!” While campaigning for Gabriel Muñoz during his
25 2014 campaign for State Senate District 15, a constituent told Plaintiff Palmer that he himself
26 was a racist and therefore would not vote for Mr. Muñoz. In that same race, Mr. Muñoz ran
27 against a sitting incumbent who is known for referring to Latino people and other racial minority

1 groups as “colored” and for stating that “people of color are more likely poor” and are therefore
2 “more likely to commit crimes.”

3 **V. CAUSE OF ACTION: WASHINGTON VOTING RIGHTS ACT**

4 5.1 Plaintiffs repeat, replead, and incorporate by reference, as though fully set forth in
5 this paragraph, all the allegations of this Complaint.

6 5.2 A violation of the WVRA is established when elections in a political subdivision
7 exhibit polarized voting and members of a protected class do not have equal opportunity to elect
8 candidates of their choice as a result of vote dilution or abridgement.

9 5.3 Elections in Yakima County exhibit polarized voting along racial lines.

10 5.4 Latino voters in Yakima County are members of a protected class and do not have
11 equal opportunity to elect candidates of their choice because the County’s at-large electoral
12 system illegally dilutes Latino votes.

13 5.5 On January 15, 2020, Plaintiffs properly notified Yakima County by letter that the
14 County was in likely violation of the WVRA and that Plaintiffs intended to challenge the
15 County’s at-large electoral system unless the County adopted an appropriate remedy. RCW
16 29A.92.060.

17 5.6 Plaintiffs worked with the County in good faith to implement a remedy pursuant
18 to RCW 29A.92.070.

19 5.7 180 days have elapsed since Plaintiffs notified the County of its WVRA violation,
20 and the County has not obtained a court order stating that it has adopted a remedy that complies
21 with RCW 29A.92.020. *See* RCW 29A.92.080. Therefore, as registered voters who reside in
22 Yakima County and an organization with members who are registered voters who reside in
23 Yakima County, Plaintiffs have a right to file this suit and the suit is timely.

24 5.8 Plaintiffs are therefore entitled to the remedies available under the WVRA.

25 **VI. REQUEST FOR RELIEF**

26 WHEREFORE, Plaintiffs respectfully request that the Court:
27

1 6.1 Declare that Yakima County’s at-large electoral system to elect members to the
2 County Commission violates the WVRA, RCW 29A.92.020;

3 6.2 Enjoin Defendants, their agents and successors in office, and all persons acting in
4 concert with, or as an agent of, any Defendants in this action from administering, implementing,
5 or conducting any future elections in Yakima County under the current at-large electoral system;

6 6.3 Order the implementation of an electoral system for the County Commission that
7 complies with RCW 29A.92.020 and other provisions of the WVRA;

8 6.4 Order that all future elections in Yakima County comply with the WVRA;

9 6.5 Grant Plaintiffs’ attorneys’ fees, costs, and litigation expenses pursuant to
10 29A.92.130; and

11 6.6 Grant any other relief that the Court may deem just and equitable.

12
13 Dated this 13th day of July, 2020.

Respectfully submitted,

14
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Tel: (202) 560-0590
rgreenwood@campaignlegal.org

/s/Tiffany Cartwright
Tiffany M. Cartwright, WSBA #43564
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Attorneys for Plaintiffs

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amulji@campaignlegal.org

27 * Motions for admission *pro hac vice*

1 forthcoming
^ Licensed in C.A. only; supervision by Danielle
2 Lang, a member of the D.C. Bar

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Exhibit D

FILED
21 Oct 21 PM03:46
KITTTITAS COUNTY
SUPERIOR COURT CLERK

SUPERIOR COURT OF WASHINGTON FOR KITTTITAS COUNTY

EVANGELINA AGUILAR, SUSAN SOTO
PALMER, ROGELIO MONTES, CANDY
GUTIERREZ, and ONE AMERICA, a
Washington nonprofit corporation,

Plaintiffs,

v.

YAKIMA COUNTY, a Washington municipal
entity; AMANDA MCKINNEY, LADON
LINDE, and RON ANDERSON, in their
official capacities as members of the Yakima
County Board of Commissioners,

Defendants.

No. 20-2.00180-19

DECLARATION OF ANNABELLE
HARLESS IN SUPPORT OF PLAINTIFFS'
MOTION TO APPROVE SETTLEMENT
AND ENTER FINAL JUDGMENT

I, Annabelle Harless, declare as follows:

1. I am one of the attorneys representing Plaintiffs Evangelina Aguilar, Susan Soto Palmer, Rogelio Montes, Candy Gutierrez, and OneAmerica in this action. I am over the age of 18 and competent to testify as to the matters set forth in this affidavit based upon my own personal knowledge.
2. A true and correct copy of the parties' fully executed CR2A agreement (settlement agreement) in the above-captioned case is attached hereto as Exhibit 1.
3. A true and correct copy of the remedial district plan for the Yakima County Board of Commissioners incorporated into the parties' settlement agreement ("Map 3") is attached hereto as Exhibit 2.

- 1 4. A true and correct copy of the Block Assignment File for Map 3 is attached hereto as
2 Exhibit 3. The Block Assignment File provides a list of the Census Blocks assigned to each
3 of the three districts in Map 3. The parties also submitted a true and correct copy of the
4 native version of this file to the Court via email.
- 5 5. A true and correct copy of the Precinct Assignment File for Map 3 is attached hereto as
6 Exhibit 4. The Precinct Assignment File provides a list of the precincts assigned to each of
7 the three districts in Map 3. The parties also submitted a true and correct copy of the native
8 version of this file to the Court via email.
- 9 6. A placeholder exhibit for the Shapefile (.geojson file extension) for Map 3 is attached
10 hereto as Exhibit 5. A shapefile, commonly used in redistricting and geospatial analysis, is
11 a vector data file that contains the geometric location information for Map 3 and its district
12 boundaries. A true and correct copy of the native version of the shapefile for Map 3 was
13 submitted to the Court via email.
- 14 7. The native files provided to the Court via email may be used to view the proposed map in
15 the “Dave’s Redistricting” application, a free online tool available at
16 <https://davesredistricting.org>.

17
18 I declare under penalty of perjury under the laws of the State of Washington that the
19 foregoing is true and correct.

20 DATED this 21st day of October, 2021.

21 /s/ Annabelle Harless
22 Annabelle E. Harless*
23 CAMPAIGN LEGAL CENTER
24 55 W. Monroe Ste., Ste. 1925
25 Chicago, IL 60603
26 Tel: (312) 312-2885
27 aharless@campaignlegal.org
Attorney for Plaintiffs

* admitted *pro hac vice*

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury according to the laws of the United States and the State of Washington that on this date I caused to be served in the manner noted below a copy of this document entitled **Declaration of Annabelle Harless in Support of Motion to Approve Settlement and Enter Final Judgment** on the following individual(s):

Attorneys for Defendants:

Floyd, Pflueger & Ringer, P.S.
Francis S. Floyd, WSBA No. 10642
Brittany C. Ward, WSBA No. 51355
200 W. Thomas St. Ste. 500
Seattle, WA 98119
Telephone: (206) 441-4455
Fax: (206) 441-8484
Email: ffloyd@floyd-ringer.com
bward@floyd-ringer.com

And to: skatinas@floyd-ringer.com

- Via Facsimile
- Via First Class Mail
- Via Email
- Via Messenger
- Via Overnight Delivery

DATED this 21st day of October, 2021, at Seattle, Washington.

/s/Chris Bascom
Chris Bascom, Legal Assistant

SUPERIOR COURT OF WASHINGTON FOR KITTITAS COUNTY

EVANGELINA AGUILAR, SUSAN SOTO
PALMER, ROGELIO MONTES, CANDY
GUTIERREZ, and ONEAMERICA, a
Washington nonprofit corporation,

Plaintiffs,

v.

YAKIMA COUNTY, a Washington municipal
entity, AMANDA MCKINNEY, LADON
LINDE, RON ANDERSON, in their official
capacities as members of the Yakima County
Board of Commissioners,

Defendants.

No. 20-2.00180-19

MOTION TO APPROVE SETTLEMENT
AND ENTER FINAL JUDGMENT

EXHIBIT 1

Parties' Fully Executed CR2A Agreement

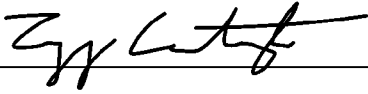
Evangelina Aguilar et al. v. Yakima County et al., Case No. 20-2.00180-19

CR2A Agreement

Plaintiffs Evangelina Aguilar, Susan Soto Palmer, Rogelio Montes, Candy Gutierrez, and OneAmerica, and defendants Yakima County, Amanda McKinney, LaDon Linde, and Ron Anderson, by and through their attorneys, hereby agree to the following pursuant to Washington Superior Court Civil Rule 2A. Although the parties anticipate potentially executing further documents to effect the terms of this settlement and formalize the agreement, this writing nonetheless constitutes a full and complete agreement between the parties in settlement of this action. Through the signatures of their counsel below, the parties recognize that this is a legally enforceable settlement agreement under the court rules, applicable statutes, and contract law.

1. On January 15, 2020, the above-named plaintiffs provided a notice letter pursuant to RCW 29A.92.060 to Yakima County alleging that the current electoral system for the Yakima County Commission violates the Washington Voting Rights Act.
2. On July 13, 2020, the above-named plaintiffs filed suit in Kittitas County Superior Court pursuant to RCW 29A.92.080 under the above-captioned case number.
3. The parties stipulate that there is sufficient evidence from which the court could find a violation of the Washington Voting Rights Act and that the court should order a remedy that satisfies RCW 29A.92.020.
4. The parties agree to work in good faith to present a joint proposed remedy to the court consisting of single-member districts that are substantially similar to the illustrative map provided by plaintiffs' counsel to defense counsel on the evening of August 29, 2021 ("Map 3") and incorporated into this agreement as Exhibit A.
5. The parties will work in good faith to adopt a final map materially the same as Map 3 following review of the illustrative map by the parties' respective demographers and receipt of applicable 2020 census data.
6. Should the parties be unable to reach agreement on a map to present as a joint proposed remedy, each party will submit a proposed map and accompanying briefing to the court for decision. Any proposed map shall be materially the same as Map 3.
7. The parties agree that the proposed remedy will also include the following terms:
 - a. The commissioner representing each district must run in a district-based nonpartisan blanket primary and district-based top-two runoff general;
 - b. Each candidate for county commissioner must reside in the district in which they are running for a county commissioner's seat;

- c. The remedial map will take effect for the 2022 election cycle;
 - d. All three commissioner seats will stand for election in 2022 with the remedial map in place;
 - e. Following the 2022 election cycle, District 1 will stand for election in 2026 and every four years thereafter, and Districts 2 and 3 will stand for election in 2024 and every four years thereafter.
8. The parties agree that plaintiffs are prevailing parties for the purpose of an award of fees pursuant to RCW 29A.92.130 and that the amount of reasonable fees and costs will be determined by the court.
9. The parties agree that the proposed remedy will be submitted to the court no later than 15 days following the County's receipt of the necessary 2020 census data.
10. The parties agree that Kittitas County Superior Court Judge Candace Hooper will retain jurisdiction over any disputes arising from the settlement agreement.



Tiffany Cartwright, MacDonald Hoague & Bayless

Counsel for Plaintiffs



Francis Floyd, Floyd Pflueger & Ringer

Counsel for Defendants

Exhibit E



FILED

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KITTITAS COUNTY
SUPERIOR COURT CLERK

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SUPERIOR COURT OF WASHINGTON FOR KITTITAS COUNTY

EVANGELINA AGUILAR, SUSAN SOTO
PALMER, ROGELIO MONTES, CANDY
GUTIERREZ, and ONEAMERICA, a
Washington nonprofit corporation,

Plaintiffs,

v

YAKIMA COUNTY, a Washington municipal
entity, AMANDA MCKINNEY, LADON
LINDE, RON ANDERSON, in their official
capacities as members of the Yakima County
Board of Commissioners,

Defendants.

No 20-2.00180-19

~~PROPOSED~~ ORDER APPROVING
SETTLEMENT AND ENTERING
JUDGMENT

Having considered Plaintiffs' Motion to Approve Settlement and Enter Remedy, the Court's previous orders, the hearing held in this case on October 29, 2021, and the file in this case, the Court hereby approves the settlement agreement between the parties, and ORDERS and ADJUDGES as follows

1 There is sufficient evidence from which the Court could find that the at-large system of electing Yakima County Commissioners violates the Washington Voting Rights Act.

2. To remedy this violation, Yakima County will adopt a district-based system of election for both primary and general elections for seats on the Yakima County Board of Commissioners. Each candidate for county commission under the district-based system must reside in the district in which they are running for a county commissioner's seat.

3 Yakima County will adopt the district map attached hereto as Exhibits 1-5 to the Harless Declaration. This map will first take effect in the 2022 electoral cycle.

[PROPOSED] ORDER APPROVING SETTLEMENT AND
ENTERING JUDGMENT - 1

MACDONALD HOAGUE & BAYLESS
705 Second Avenue, Suite 1500
Seattle, Washington 98104
Tel 206.622.1604 Fax 206.343.3961

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4 All three district seats for the Yakima County Board of Commissioners will stand for election under the new remedial map in the 2022 election cycle.

5 Following the 2022 election cycle, District 1 will stand for election in 2026 and every four years thereafter, and Districts 2 and 3 will stand for election in 2024 and every four years thereafter

6 This remedy complies with Washington's constitutional and statutory standards for districting and will provide the Latino community with an equal opportunity to elect their candidate(s) of choice to the Yakima County Board of Commissioners, thereby satisfying the Washington Voting Rights Act. RCW 29A.92.020 The remedial map also complies with Section 2 of the Federal Voting Rights Act. 52 U.S.C. §10301

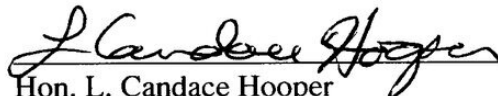
6 The Court shall retain jurisdiction over any disputes arising from the settlement agreement.

7 The Plaintiffs are prevailing parties for the purposes of an award of fees pursuant to RCW 29A.92.130 Plaintiffs shall submit their fee petition to the Court within 10 days of entry of this order and judgment.

8 The forgoing constitutes final judgment in this case. A supplemental judgment will be entered for any award of reasonable attorneys' fees and costs.

IT IS SO ORDERED

DATED this 29 day of October, 2021


Hon. L. Candace Hooper
Kittitas County Superior Court Judge

PRESENTED BY,

/s/ Tiffany Cartwright
Tiffany M. Cartwright, WSBA #43564
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13 amulji@campaignlegal.org

14 Attorneys for Plaintiffs

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Exhibit F

From: O'Neil, Ali <Ali.O'Neil@leg.wa.gov>
Sent: Thursday, October 21, 2021 12:51 PM EDT
To: Fockele, Kenneth <Kenneth.Fockele@leg.wa.gov>; Walkinshaw, Brady <Brady.Walkinshaw@redistricting.wa.gov>
Subject: RE: RELEASE: New analysis shows final Washington state legislative map must include a VRA-compliant district in the Yakima Valley

Thanks Ken! Hope you're doing well!

--
Ali O'Neil



From: Fockele, Kenneth <Kenneth.Fockele@leg.wa.gov>
Sent: Thursday, October 21, 2021 8:25 AM
To: Walkinshaw, Brady <Brady.Walkinshaw@redistricting.wa.gov>
Cc: O'Neil, Ali <Ali.O'Neil@leg.wa.gov>
Subject: RE: RELEASE: New analysis shows final Washington state legislative map must include a VRA-compliant district in the Yakima Valley

Nice! Reminds me of an op-ed by Matt Barreto from a few years back: <https://www.seattletimes.com/opinion/op-ed-steve-gonzalez-campaign-shows-that-race-still-matters/>.

Ken

Kenneth Fockele
Communications
[Senate Democratic Caucus](#)
C: 678-316-6799

From: O'Neil, Ali <Ali.O'Neil@leg.wa.gov> **On Behalf Of** Walkinshaw, Brady
Sent: Thursday, October 21, 2021 7:18 AM
Subject: RELEASE: New analysis shows final Washington state legislative map must include a VRA-compliant district in the Yakima Valley

New definitive analysis by UCLA Voting Rights Expert: final Washington state legislative plan must include VRA-compliant district in the Yakima Valley

Commissioner Walkinshaw: guaranteeing voting rights for Latino community "is mission critical to me"

WASHINGTON – The Senate Democratic Caucus today [released analysis](#) from [Dr. Matt A. Barreto](#), Political Science & Chicana/o Studies and Faculty Director of the UCLA Voting Rights Project, that demonstrates a requirement under the federal Voting Rights Act to draw a majority-Hispanic/Latino district in the Yakima Valley.

Section 2 of the federal Voting Rights Act specifically prohibits vote dilution for historically underrepresented racial, ethnic, and language minority groups. This protection was the foundation of successful lawsuits brought against the City of Yakima in 2012 and Pasco in 2016.

[Dr. Barreto's analysis](#) found that to comply with federal law, the legislative map adopted by the Washington State Redistricting Commission must include a majority-Hispanic district based on Citizen Voting Age Population (not total or voting age population) that also has the demonstrated ability to allow Latino voters to elect candidates of their choice to the Washington State Legislature.

In his analysis, Dr. Barreto included two examples of a VRA-compliant 14th legislative district in the Yakima Valley. The first maximizes Latino CVAP but does not leave the Yakama Nation reservation intact. The second includes the entire Yakama Reservation within its boundaries, which has been requested by the Yakama Nation and overwhelmingly supported in public comment, while still surpassing the 50% Hispanic CVAP threshold.

While this is the first time Washington state legislative redistricting is subject to the federal Voting Rights Act, this law has protected the voting rights of Black, Hispanic/Latino, Native, and Asian voters across the country from California to Georgia since 1965.

Commissioner Brady Piñero Walkinshaw issued the statement below on the analysis:

"For a decade, Latinos in the Yakima Valley have voted for candidates of their choice but because of the way that the lines have been drawn, the political choices of those voters have not been reflected in their elected representatives. That's why we have heard repeatedly throughout this redistricting process from the public that Latino communities must be kept together and allowed to elect candidates of their choice. Dr. Barreto's analysis confirms that not only is this possible, but it is required under federal law.

"As the first Latino state redistricting commissioner, it is mission critical to me that the maps we put forward guarantee the voting rights of this historically underrepresented and marginalized community. There can be no doubt that the final map we approve in November complies with the federal VRA. That's why Commissioner Sims and I will be releasing new statewide legislative maps early next week that both incorporate public feedback we've received in the last few weeks and

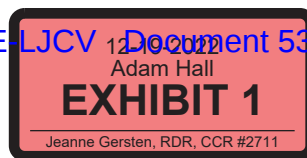
include a VRA-compliant 14th district in the Yakima Valley. We encourage our Republican colleagues to do the same.”

Statement from David Morales, a Yakima lawyer and former member of the state Commission on Hispanic Affairs:

“The map created by Dr. Barreto shows that it is eminently possible to achieve a map that empowers Latino voters today and keeps the Yakama Nation in a single district. As I’ve said before, the federal Voting Rights Act will require the creation of a VRA-compliant district this year, and by taking this step the commission can avoid an inevitable legal battle. I want to thank Dr. Barreto for moving this important discussion forward.”

##

Exhibit G



From: Hall, Adam
Sent: Friday, September 24, 2021 9:21 AM PDT
To: Brady Walkinshaw
CC: O'Neil, Ali; Adam Bartz; Bridges, Matt
Subject: Talking points on Republican legislative proposals (Yakima Valley)

- In 2011, the Washington State Redistricting Commission approved a legislative map that created the first majority-minority district in state history. The 15th legislative district was drawn to include **60 percent** nonwhite residents, **55 percent** of whom were Hispanic, empowering a historically marginalized community in Eastern Washington.
- Since 2011, both the [Yakima City Council](#) and [County Commission](#) have been sued over their form of government. Community members successfully argued that Hispanic/Latino communities were denied an equal opportunity to elect candidates of the choice, which is a violation of the state and federal Voting Rights Act. Plaintiffs in both cases established that these communities exhibited racially polarized voting, a key element (prongs 2 and 3 below) for determining whether a majority-minority district ***must*** be drawn.
- This means that whereas in 2011 the commission was **able to** draw a majority-minority district, there is a strong chance our commission will likely be **required to** draw one under federal law and the failure to do so will result in a lawsuit striking down that map.
- Both the Republican maps proposed last Tuesday “crack” the Latino population in the Yakima Valley among the 14th, 15th, and 16th legislative districts, which is both a diminishment of political power for this community as compared to the current map and potentially violates the federal requirement to draw a majority-minority district based on the citizen voting population (CVAP). The best Republican district between the two maps is remains 55 percent Latino by voting age population (a metric that is usually higher than CVAP), even though the overall Latino population countywide has increased from [41](#) to [51](#) percent since 2011. Since Latino voter turnout in the region has been historically lower, these proposal give the appearance of meeting this requirement, but actually fails to provide a historically marginalized community with an equal opportunity to to do elect the candidate of their choice.
- Alternatively, the Senate Democratic Caucus map does the following:
 - Clearly establishes a majority-minority district (the 14th LD) which clearly meets the criteria under the federal voting rights act.
 - Ensures that the Senate seat for the district into which this community is drawn stands for election during the presidential cycle, which saw far higher voter participation in the last 10 years.
 - Combines this community with the Yakama Nation into a single district, which was requested by advocates for both groups.
- Factors under *Gingles v. Thorburg* to determine whether there is a requirement to draw a majority-minority district by citizen voting age population:
 - **The racial or language minority group "sufficiently large and geographically compact to constitute a majority in a [single-member district](#)";**

- The minority group is "politically cohesive" (meaning its members tend to vote similarly); and
- The "majority votes sufficiently as a bloc to enable it ... usually to defeat the minority's preferred candidate.

Adam Hall

Senior Policy & Redistricting Counsel | Washington State Senate Democratic Caucus

Committees: Law & Justice | State Government & Elections

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Gender Pronouns: He/him/his



Exhibit H

Spencer, Aminta

From: Meyers, Dominique
Sent: Tuesday, September 28, 2021 5:36 PM
To: Sims, April
Subject: DRAFT Messaging Doc 9-23-21.docx
Attachments: DRAFT Messaging Doc 9-23-21.docx

Okay, updated doc with VRA talking points from Alec, along with background you can use too. I added talking points for the shape of the 14th as well, this is at the end of the doc. Let me know if you think you need a few more ideas for this issue. Dom



TOP LINE: My map does the following:

- Protecting fair and effective representation
- Maintaining and creating communities of interest
- Respecting Tribal sovereignty and the government-to-government relationship with Tribal partners
- Centering and engaging communities that have been historically underrepresented

Q: What is the Democratic performance of your map?

- Depends on how you calculate Democratic performance, and I can tell you what Commissioner Graves did, doesn't make a lot of sense, and I assume folks would agree.
- I can't image using the most polarizing and highest turn-out election, one with a twice-impeached president, would be considered a fair or reasonable baseline to even start a conversation around competitiveness.
- Population growth in the state was most concentrated in democratic areas of the state, that's what the numbers show, so to assume you can split/cut and divide that population in a way that respects the charge of the commission and increase republican leaning districts doesn't add up.
- I understand the tough situation the republican commissioners are in, it's obvious in Commissioner Graves map, he felt the need to protect republican incumbents seeing that 16 House Ds find themselves in a new district but only one republican, but to protect incumbents AND increase republican districts in a state with a faster growing democratic population ultimately throws away the other requirements in the law.
 - Alternative: The Republican Commissioners are in a tough situation, they obviously worked to protect republicans while redistricting 16 House Ds to create districts that split communities based on their skewed definition of competitive. That is not competition that is incumbent protection. They are in the tougher position; they have to defend some pretty hard things in their maps.
- We need to draw maps that are convenient, contiguous, and compact.
- We need to draw maps that keep communities together when possible and we need to draw a map that incorporates as much of the public comment as practicable.
- I don't see how the Republican maps met those other charges, when I have staff telling me they each have districts that are likely not even contiguous, which is required by the constitution.
- Look I read the Seattle Times article by Westneat - 18% of the voters identify as republican so to create a map that advantages republicans by breaking up communities and putting Bainbridge Island in one of the King county district in Seattle, its clear community voices were overlooked.
- If the only goal is to create what Commission Graves define as competitive districts, you have to break apart communities of interest, and from my perspective ignore the charge of the commission.

- Look the statute requires we encourage electoral competition not create politically *competitive* districts; most competitive race last cycle was two Ds in the 5th.
 - We have to accept competition does not mean D against R, case in point the 5th district last Nov.
- What is important...voters in every district have **fair representation** regardless of party.

Q: How does your map impact communities?

- Do my best to keep communities of interests together,
- If we adopted the Rs maps, we would split communities and displace more Ds than common sense would deem acceptable.
- Continuity of representation can be good, for communities, when representation in their community is fair.

Q: What metrics did you use for performance?

- I don't think it's fair to base legislative performance on state-wide races, especially 2020, let's be real that is not a normal election year, so using it makes no sense, but I do understand that thinking about the general performance of democrats or republicans over the past few election cycles needs to be considered, and I also know that looking at the current electorate, democratic performance fluctuates around 56%-57%.
- Our charge is to "encourage electoral competition", not create competitive partisan districts, and specifically for legislative races so I'm more inclined to look at legislative performance over state-wide performance. Everyone knows, including Com Graves that legislative races down-ballot receive less votes than state-wide races, and we need to encourage electoral competition for LDs not for the state overall.

Q: How can you finish by the 15th?

- Yes, I know it seems like we are far apart, but we have a job to-do.
- We can do it, but all of us need to listen to public input and follow the charge, not just focus on one goal – especially when the actual goal in the law isn't what my colleagues are talking about.
- At the end of the day, the people will be represented, I hope at the end of the day the four of us can reach an agreement that is best for the people of WA, but if we can't then the court will.
- I'm unwilling to abandon the charge in the constitution/statute or my values that I brought to this process.

VRA questions:

- There's a two-step analysis under the VRA to determine if a majority-minority district should be drawn.
 - First, **is there statistical evidence of racially polarized voting?** To answer this question, we would look at past elections to determine whether white people vote

differently than latinx people. This has already been done for us in previous court cases, and the answer is definitively yes.

- Then, **is it possible to draw a majority-minority district that could statistically elect a minority candidate?** Obviously the answer here is “yes” because both D maps did so.
- With both of these conditions satisfied, the VRA requires that we draw a majority latinx district, the way Sims and Walkinshaw did. Experts will argue about whether the legal requirement is 50%+1 latinx or some more substantial majority, but I don’t think we need to wade into that debate in our talking points since the D commissioners drew compliant districts and the R’s did not.

VRA Talking points

- Given the well-established history of racially polarized voting in the Yakima valley, the VRA **requires** that we give latinx voters a meaningful voice in their local elections.
- Sims and Walkinshaw maps both create majority latinx districts, as required by the VRA. Neither Republican map does so.
- Failure to comply with the VRA will certainly result in a lawsuit, and the remedy will likely involve the court drawing a VRA-compliant district in Yakima County.
- The law requires (and our democratic values demand) that we draw a majority latinx district.
- **OPTION 1:** Does doing this create a unique looking 14th district, sure, and I weighed that, but in the end complying with the law is more important than the shape of a district
 - **OPTION 2:** I understand the unique shape this creates in the 14th but currently the 14th extends from Yakama county, down to the river and over to Clark, this district does the same, but excludes the Tribe and pulls in some population from Benton to balance that out.

Exhibit I

From: [Sims, April](#)
To: [Davis, Osta](#)
Subject: Re: A couple of things
Date: Thursday, March 25, 2021 7:59:22 PM

Thank you Osta, love the idea of Dr Barreto doing an analysis for the commission! Let's talk about how best to engage One America!

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From: Davis, Osta <Osta.Davis@leg.wa.gov>
Sent: Thursday, March 25, 2021 12:51:01 PM
To: Sims, April <April.Sims@redistricting.wa.gov>
Subject: A couple of things

Hi April,

A couple of items I came across when researching redistricting stuff:

1. It looks like in 2020 OneAmerica commissioned a group in Boston to do some in-depth analysis about racially polarized voting in the Yakima city council races. It was interesting that Pramila mentioned that OneAmerica isn't engaging in redistricting this year since I'd think that they could build a pretty strong case for majority latinx districts in E. Washington and they've invested so much energy in this region. Do you think it would be helpful for me or someone to reach out to OneAmerica or MGGG Labs that developed the report? The information is available online here: <https://mggg.org/uploads/Yakima.pdf>; and <https://districtr.org/yakima>
2. Similarly, I came across the work of Dr. Matt Barreto who is a former UW professor who now works at UCLA. He has done some really interesting work on racially polarized voting across the state. I believe that the California Redistricting Commission had retained him to do a voting rights district analysis for their commission. I'm not sure if our budget would allow for this sort of thing, but I might put it on Sarah's radar if that makes sense. Here's Dr. Barreto's work: http://mattbarreto.com/papers/polarized_voting_wa.pdf

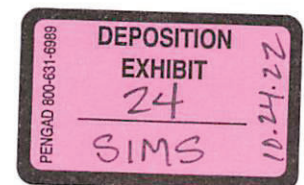


Exhibit J

MGGG, January 2020

Analysis of county commission elections in Yakima County, WA



Introduction

At first glance, Yakima County seems to already be districted to facilitate minority opportunity to elect candidates of choice. There are three districts; District 1 is mostly White, but District 2 has a slight POC majority, including about 40% Hispanic VAP and an additional 8% Native VAP, while District 3 is 55% Hispanic by VAP.

This is undercut by an unusual—and very problematic—system of electing County Commissioners. Each district is represented by a Commissioner. The primary election is conducted by a *district-wide* "jungle primary," in which any number of candidates may run and the top two vote-getters advance to the general election without regard to party affiliation. (In fact, candidates with the "prefers Republican" label predominate over all others in Yakima, and this is even true for Hispanic candidates.) But the *entire county*, and not just the district, then votes to choose a winner between the two finalists. This indicates that the system itself negates any advantage of districting, nullifying the minorities' opportunity to elect.

This is a report by the MGGG Redistricting Lab, based at Tisch College of Civic Life within Tufts University. Below, we give racial polarization findings using King's ecological inference in the County Commission races (i.e., with endogenous data) as well as selected legislative and statewide (exogenous) races.¹ We find that Yakima has a clear pattern of racial polarization, with strong Gingles 2 and 3 findings. In particular, we find strong cohesion between Hispanic and Native voters in their support of Hispanic candidates, while White voters block these candidates of choice for the minority coalition from ever reaching office.

MGGG has developed a tool called Districtr to allow members of the public to draw and study districting plans, focusing attention on the possibilities facing redistricters. We have built a customized Districtr module to allow you to experiment with district design in Yakima. You can access it at [this link](#).

Finally, we consider below several possible remedies for the exclusion of candidates of choice for minority voters in Yakima's county commission, including several ways to draw majority-minority districts in a 3-district system. We find that **ranked choice voting**, rather than the use of majority-minority districts, is likely to provide the most effective and long-lasting opportunity for Hispanic and Native voters to elect their candidates of choice.

¹ For instance, the State Supreme Court primary in 2012, had a highly qualified Hispanic candidate (Gonzalez) against a non-Hispanic White candidate widely considered to be unqualified (Danielson).

MGGG, January 2020

Yakima County RPV

These data come from the 2010 decennial Census and the 2013-17 American Community Survey (ACS).

BASIC STATS

Total population 243,231 with a VAP of 169,193 (Census) and CVAP of 143,265 (ACS)

District 1: 80,920, District 2: 80,275, District 3: 82,036

Hispanic pct of pop. - County: 45%, District 1: 25.6%, District 2: 46.4, District 3: 62.8%

Hispanic pct of VAP - County: 37.5%, District 1: 19.9%, District 2: 39.5%, District 3: 55.1%

Hispanic pct CVAP - County: 29.6%, District 1: 15.1%, District 2: 31.4%, District 3: 46.1%

Native pct of pop. - County: 3.7%, District 1: 1.0%, District 2: 9.1%, District 3: 1.2%

Native pct of VAP - County: 3.6%, District 1: 1.0%, District 2: 8.2%, District 3: 1.3%

Native pct of CVAP - County: 4.3%, District 1: 1.2%, District 2: 10%, District 3: 2.1%

Note that Hispanic means Hispanic of any race, and Native means non-Hispanic American Indian/Native American. This means you can add our Hispanic and Native counts to get a correct total for residents who identified as Hispanic and/or Native.

Most of the other residents are White (below, this means non-Hispanic White).

ELECTIONS INVESTIGATED (17)

County Commission District 1 primary - 2016 (12,456 votes)

County Commission District 2 primary - 2016 (7093 votes) *Debra Manjarrez

County Commission District 3 primary - 2018 (9583 votes) *Susan Soto Palmer, Jose Trevino

County Commission District 1 general - 2016 (67,197 votes)

County Commission District 2 general - 2016 (67,283 votes) *Debra Manjarrez

County Commission District 3 general - 2018 (67,927 votes) *Susan Soto Palmer

State Supreme Court Seat 8 primary - 2012 (25,627 votes) *Steve Gonzalez

State House District 15-2 primary - 2012 (14,308 votes) *Pablo Gonzalez

State Senate District 15 primary - 2018 (18,051 votes) *Bengie Aguilar

State House District 14-1 primary - 2016 (14,776 votes) *Susan Soto Palmer

State House District 15-2 general - 2012 (35,966 votes) *Pablo Gonzalez

State Senate District 15 general - 2018 (33,536 votes) *Bengie Aguilar

State House District 14-1 general - 2016 (36,764 votes) *Susan Soto Palmer

Lieutenant Governor primary - 2016 (27,716 votes) *Javier Figueroa

Lieutenant Governor general - 2016 (75,950 votes)

U.S. Senate general 2016 - (78,461 votes)

Governor general 2016 - (78,212 votes)

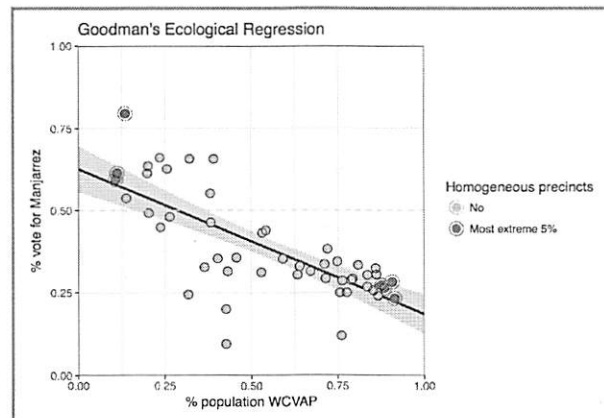
MGGG, January 2020

FINDINGS WITH RESPECT TO CITIZEN VOTING AGE POPULATION

election	Hispanic candidate	est. NH White support	est. Hispanic support	est. Native support	outcome
CCD2 primary 2016	D.Manjarrez (4 cand)	19.3%	60.9%	85.5%	Advance
CCD2 general 2016	D.Manjarrez (2 cand)	37.1%	69%	84.5%	Loss
CCD3 primary 2018	S.Soto Palmer (7 cand)	11.4%	44.8%	0%	Advance
CCD3 general 2018	S.Soto Palmer (2 cand)	24%	73.3%	95.9%	Loss
SSC8 primary 2012	S.Gonzalez (2 cand)	26.8%	60%	29%	Loss in county, Win statewide
SH15-2 primary 2012	P.Gonzalez (2 cand)	18.8%	50.5%	24%	Advance
SH15-2 general 2012	P.Gonzalez (2 cand)	18.4%	66.1%	95.9%	Loss
SS15 primary 2018	B.Aguilar (2 cand)	20%	57.1%	32%	Advance
SS15 general 2018	B.Aguilar (2 cand)	21.7%	68.2%	90.5%	Loss
SH14-1 primary 2016	S.Soto Palmer (2 cand)	18.5%	78.1%	21.3%	Advance
SH14-1 general 2016	S.Soto Palmer (2 cand)	17.3%	82.7%	75%	Loss

Table 2: EI 2x2 runs for Yakima County. White support is computed via named candidate vs all other candidates / White vs non-White voter. (Similar for Hispanic and Native.) Important note: general election calculations are county-wide.

- Green: 95% confidence intervals are not disjoint, but ecological regression indicates support for result. See regression plot below, showing that higher minority share of citizen voting age population correlates clearly with share of Manjarrez support by precinct.
- Gray: 95% confidence intervals are not disjoint, and ecological regression does not corroborate the result, so this result should not be used. Sample size was too small.



MGGG, January 2020

Possible Remedies - Districts

Using randomized algorithms called Markov chains (github.com/mggg/GerryChain) that generate tens of thousands of legally compliant districting plans out of census blocks, we proposed several demonstration plans to consider. Below, we will write HVAP for Hispanic share of Voting Age Population, NVAP for Native VAP, and WVAP for White VAP. Likewise, HCVAP stands for Hispanic share of CVAP, and NCVAP and WCVAP are similar.

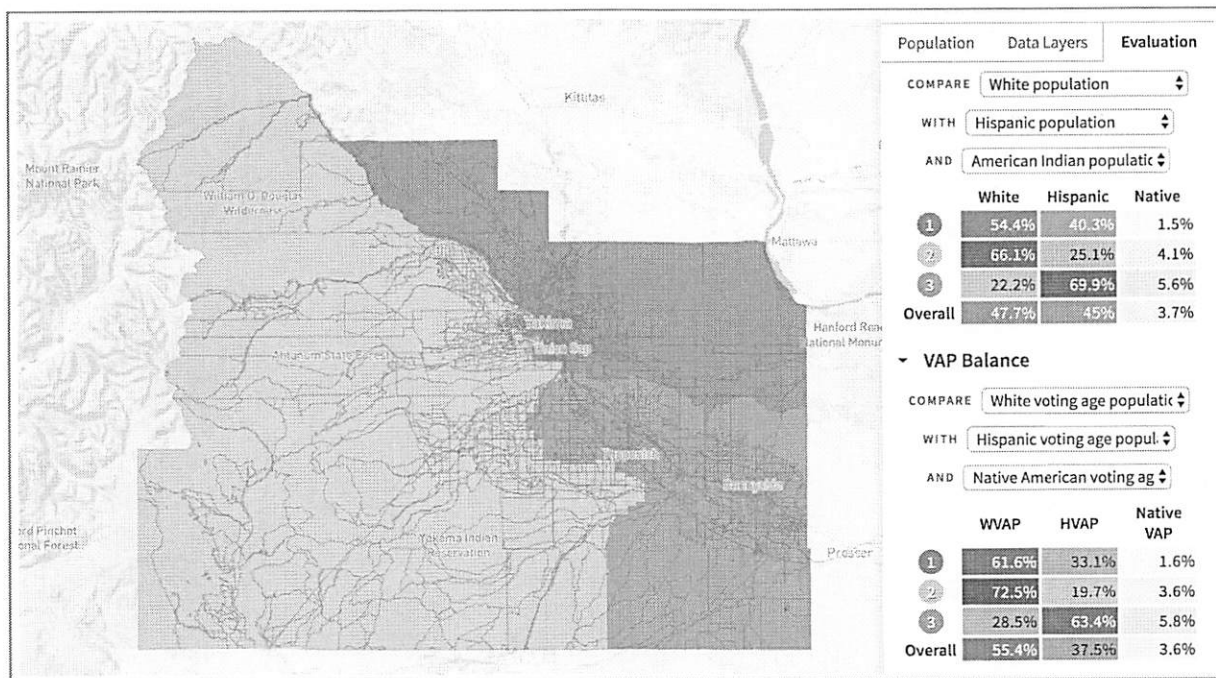
Current majority-minority district: 55.1% HVAP, 1.3% NVAP / 46.1% HCVAP, 2.1% NCVAP

Plan A majority-minority district: 63.4% HVAP, 5.8% NVAP / 53.6% HCVAP, 7.5% NCVAP

Plan B majority-minority district: 62.8% HVAP, 6.2% NVAP / 53.2% HCVAP, 8.1% NCVAP

Plan C majority-minority district: 60.2% HVAP, 4.0% NVAP / 50.9% HCVAP, 4.9% NCVAP

All three plans have top-to-bottom (Census) population deviation under 2% of ideal, which is better than the current enacted plan (2.17%). Plan C has a second district with reasonably high minority share. These three demonstration plans are also more compact than the current plan, as measured by cut edges. Plan A is shown below.



Plan A. District 3 has 53.6% HCVAP and 7.5% NCVAP.

We have thousands of demonstration plans available on request for 3 districts, or for larger commission sizes.

MGGG, January 2020

Possible Remedies - Ranked Choice

To assess the outcomes under a possible move to ranked choice voting, we built a stochastic model and devised eight different scenarios of voter behavior. In all cases, we assume that for a k -seat commission, there will be k Hispanic and k White candidates running. We then vary voter behavior as follows. (Illustrated for $k=3$ but easily generalized to other magnitudes.)

Model runs: 100 runs of 10,000 voters using one of the standard Single Transferable Vote mechanisms (weighted Gregory method), coded in python. Average outcomes reported below.

Voting Scenario	3 seat commission	5 seat commission	7 seat commission	9 seat commission
total polarization, unanimous order	1 out of 3	2 out of 5	3 out of 7	3 out of 9
total polarization, non-white vary order of non-white	1 out of 3	2 out of 5	3 out of 7	3 out of 9
total polarization, all vary order	1 out of 3	2 out of 5	3 out of 7	3 out of 9
total polarization, white vary order	1 out of 3	2 out of 5	3 out of 7	3 out of 9
crossover, unanimous order	1 out of 3	2 out of 5	3 out of 7	4 out of 9
crossover, non-white vary order of non-white	1 out of 3	2 out of 5	3 out of 7	4 out of 9
crossover, all vary order	1 out of 3	1.81 out of 5	2 out of 7	3 out of 9
crossover, white vary order	1 out of 3	1 out of 5	2 out of 7	2.93 out of 9

Total polarization: all White voters vote WWWHHH and non-White voters vote HHHWWW.

Crossover: EI estimates from general elections (see above) are used to estimate rate of crossover voting: White voters vote 80% W and 20% crossover; Hispanic voters vote 70% H and 30% crossover; Native voters vote 80% H and 20% crossover; Other voters vote 70% H and 30% crossover. A crossover ballot alternates HWHWHW or WHWHWH.

Unanimous order: White candidates always ranked W1W2W3, Hispanic H1H2H3. This simulates community agreement or coordination about which are the preferred candidates.

Vary order of non-white: H1H2H3 equally likely to H2H1H3, H1H3H2, etc. Each voter orders the candidates randomly. This simulates vote-splitting among Hispanic candidates by non-White voters.

Vary order: same random order for White candidates.

Recall that about one-third of Yakima County CVAP is Hispanic and/or Native. We find that all ranked choice voting setups tend to do a good job securing minority representation at rates close to, and sometimes exceeding, that share of CVAP.

For model details and code, please visit our [github repo](#).

MGGG, January 2020

Comparison of Remedy Options

3x1 plurality - The traditional remedy would be to draw three districts, giving one of them a high share of Hispanic and Native voters. But even the most favorable plan (such as Plan A above) will produce a Hispanic and/or Native majority district that is not certain to be sufficient to elect a candidate of choice with current polarization patterns. (For instance, the projected vote margin for a generic Hispanic-preferred vs White-preferred candidate roughly 52-48. This is very close.)

1x3 STV - An alternative would be to move to a system of ranked choice voting, where each voter would be able to give their preference ranking for all of the candidates for county commission. Under every scenario we considered and in every one of thousands of model runs, 1 out of 3 commissioners would be a candidate of choice for Hispanic and Native voters.

1xM STV - If the commission size were enlarged to M seats (with $M=5,7$, or 9), results were more variable, but most outcomes were at or above one-third representation on the commission for minority candidates of choice.

On balance, we find strong evidence that **county-wide ranked choice voting** by a standard system such as single transferable vote (STV) is the most likely to provide minority opportunity to elect candidates of choice. In addition, it requires no line-drawing, and it is stable to population shifts over time.

We welcome questions to contact@mggg.org about the methods or findings in this report.

Exhibit K

Defining Racially Polarized Voting

- ▶ Racially polarized voting exists when voters of different racial or ethnic groups exhibit very different candidate preferences in an election.
- ▶ It means simply that voters of different groups are voting in opposite directions, rather than in a coalition.
- ▶ RPV does not mean voters are racist, it only measures the outcomes of voting patterns and determines whether patterns exist based on race/ethnicity

Analysis by: Professor Matt A. Barreto, University of Washington

1

Defining Racially Polarized Voting

- ▶ Bottom line: minority voters are voting one way, and non-minority voters are voting another way
- ▶ But because White voters are more numerous in the at-large system, minority voters systematically lose.
- ▶ The analysis is about the individual voters within a jurisdiction. It does not imply that the governing body or appointed officials are acting in a racially discriminatory fashion. Even if a governing body is well intentioned, the individual voters across the county may behave in a way that blocks minority representation.

Analysis by: Professor Matt A. Barreto, University of Washington

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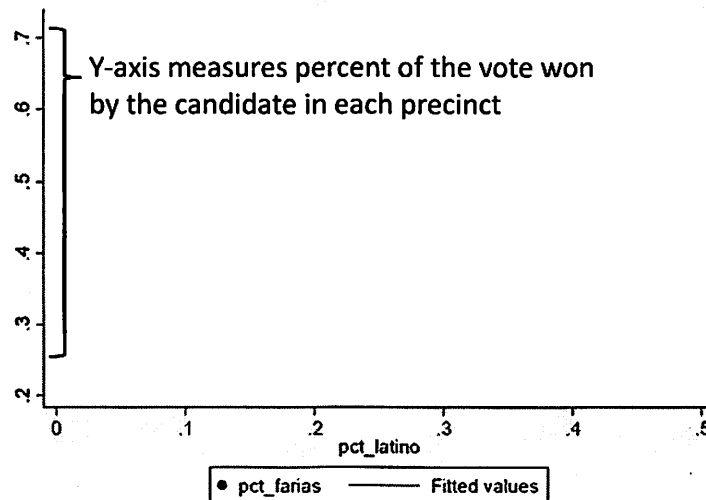
Defining Racially Polarized Voting

- ▶ RPV can vary in degree of intensity, and it can be easily measured and quantified using statistical analysis that has been accepted by the courts.
- ▶ We now have very good data collection methods that can tell us electoral preferences precinct by precinct. And because we also have very detailed demographic data that goes precinct by precinct, we can determine with confidence how certain constituencies are voting.
- ▶ Harvard Prof. Gary King has developed a technique called "Ecological Inference" which has been accepted by state and federal courts as a reliable method

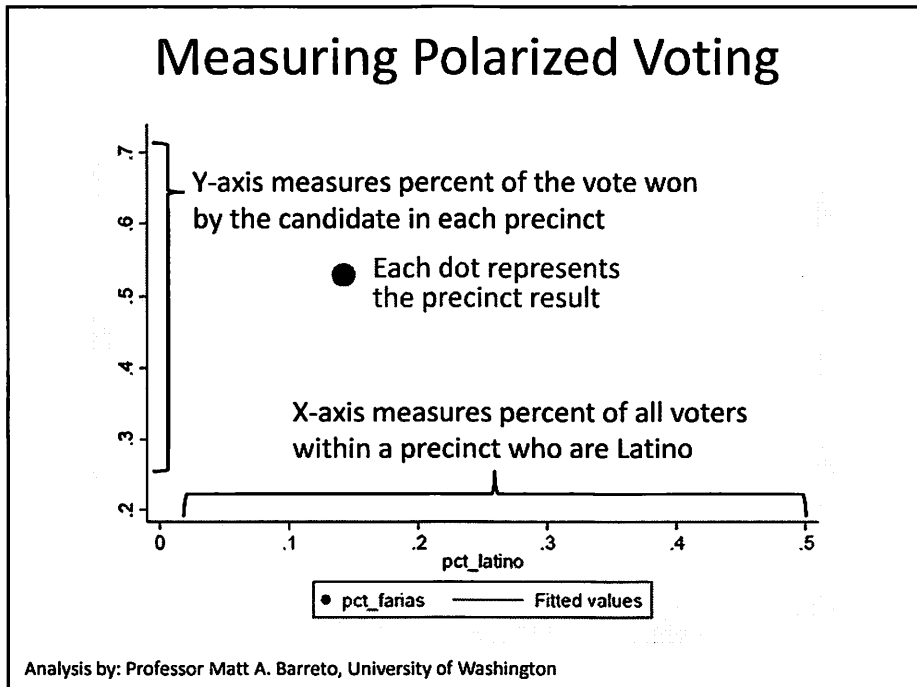
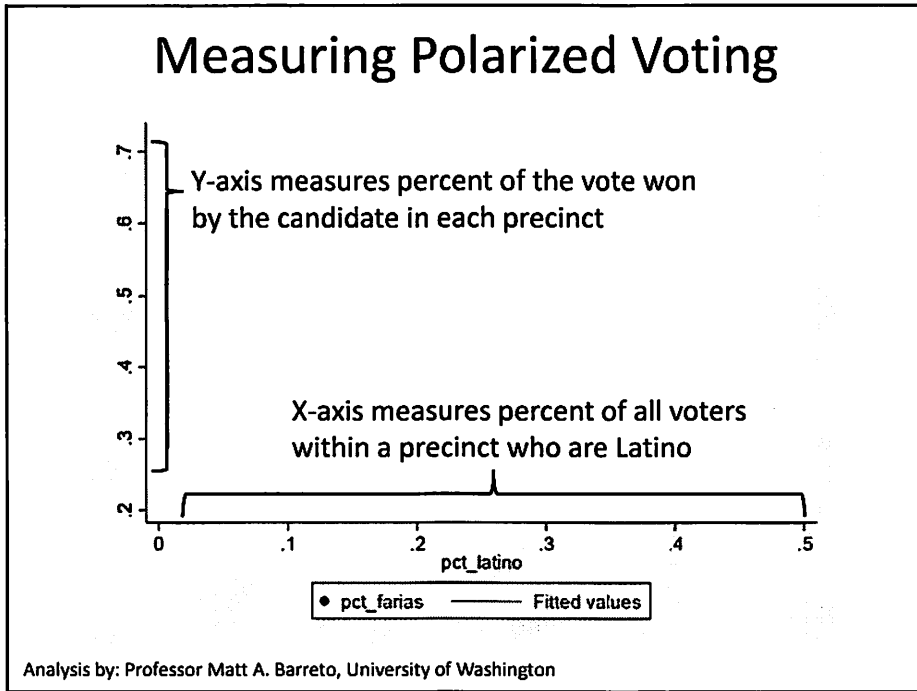
Analysis by: Professor Matt A. Barreto, University of Washington

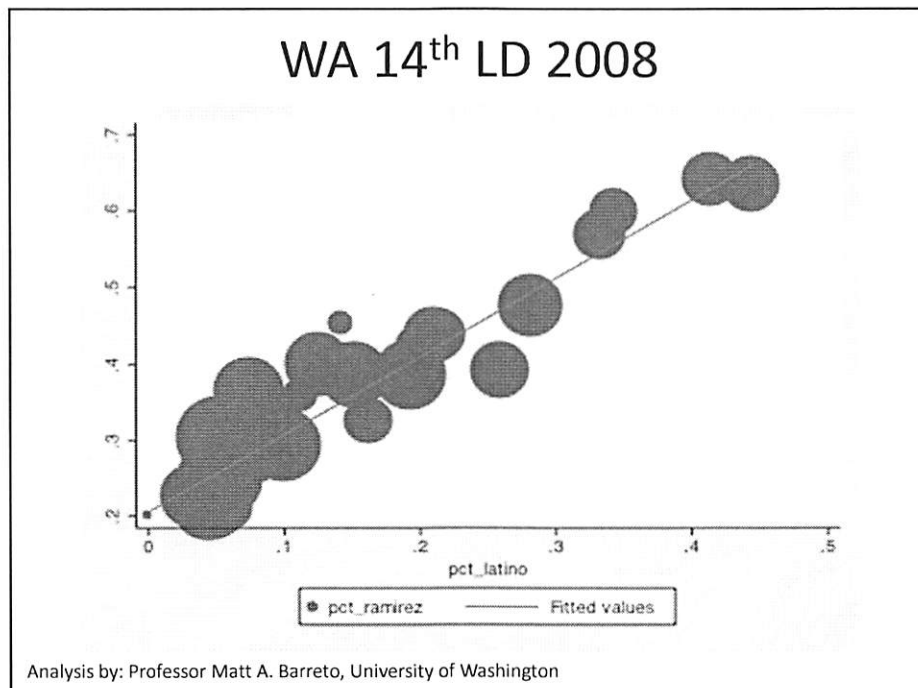
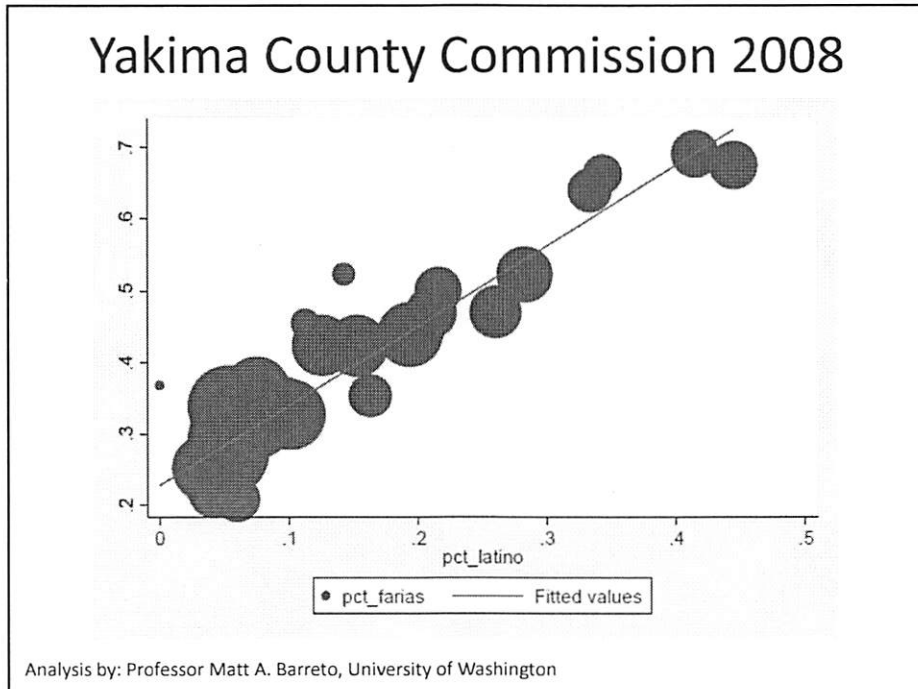
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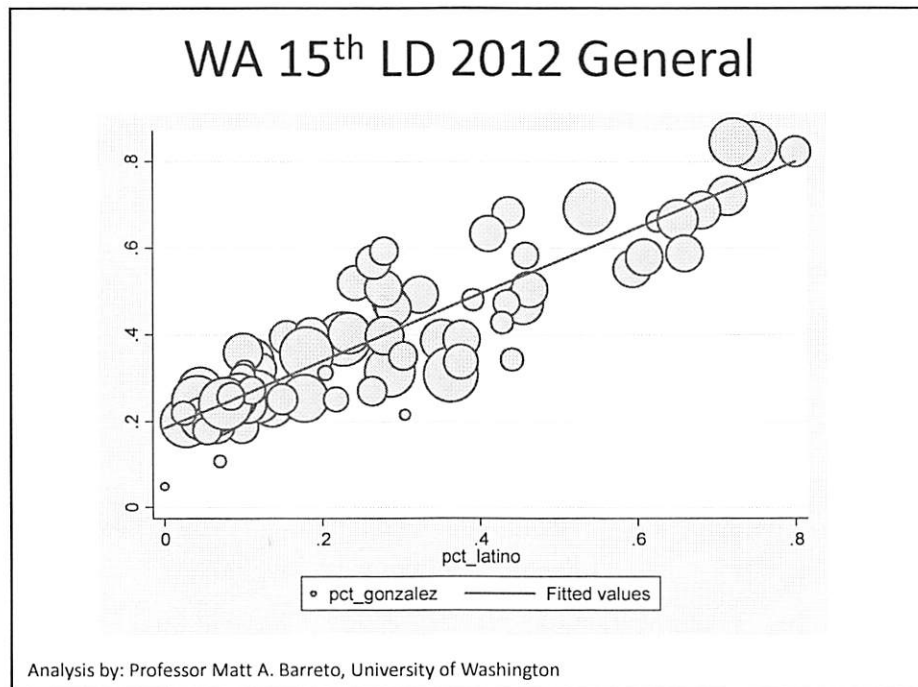
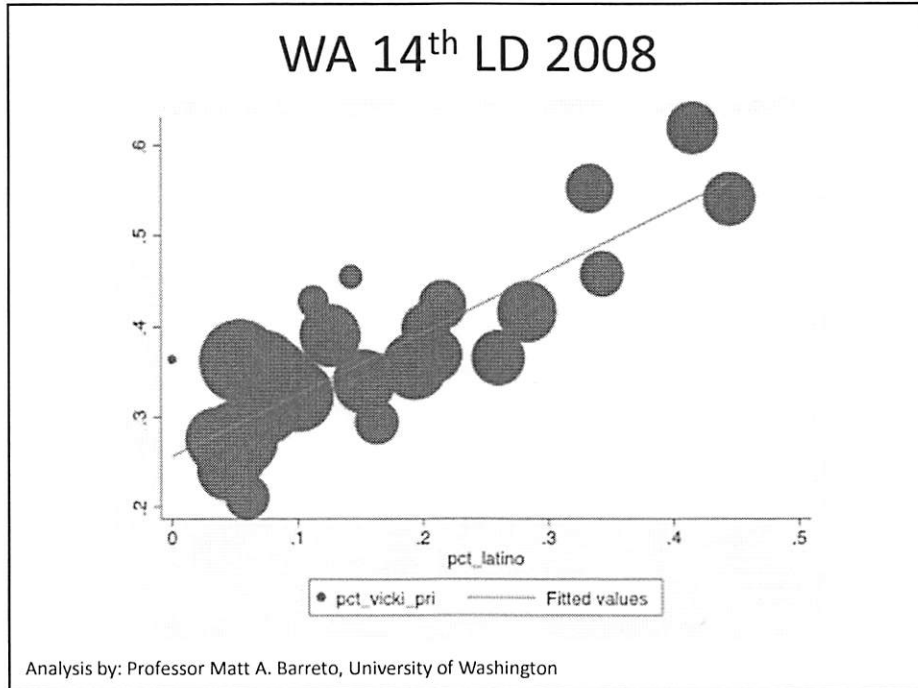
Measuring Polarized Voting

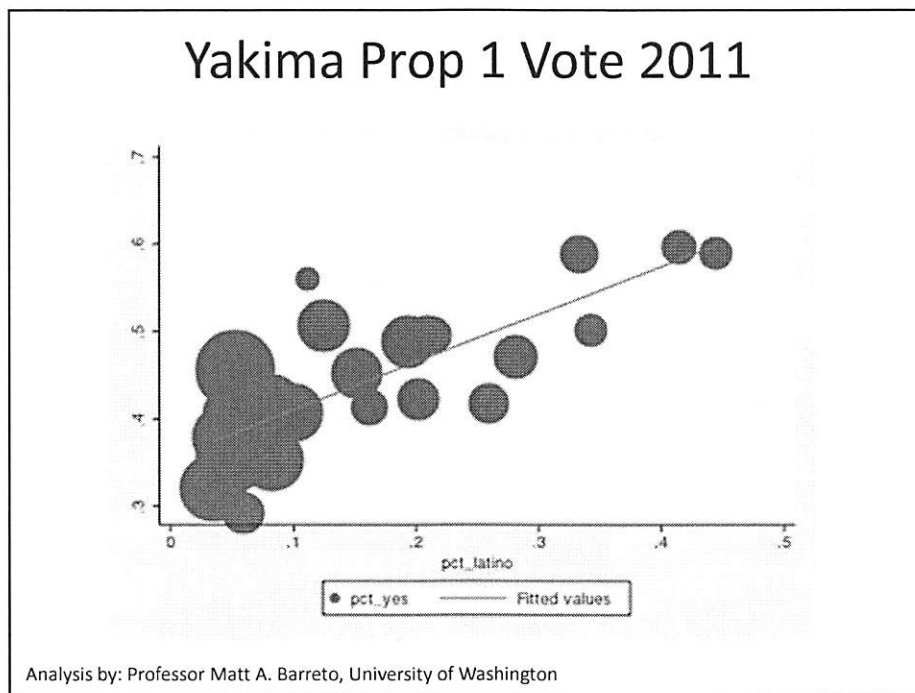


Analysis by: Professor Matt A. Barreto, University of Washington



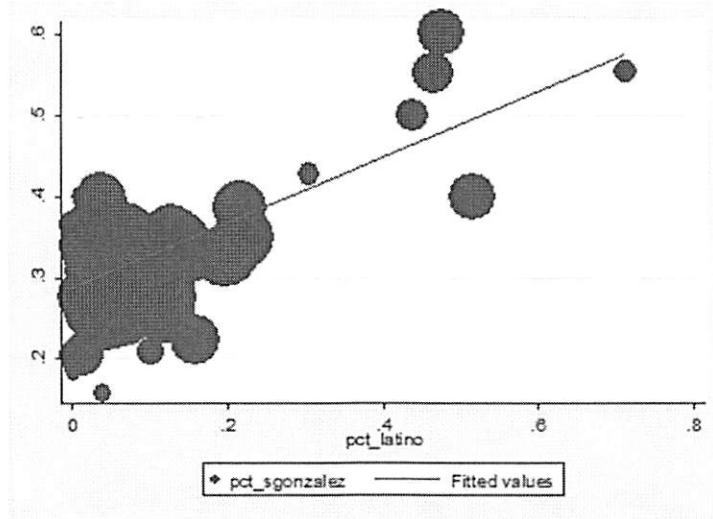






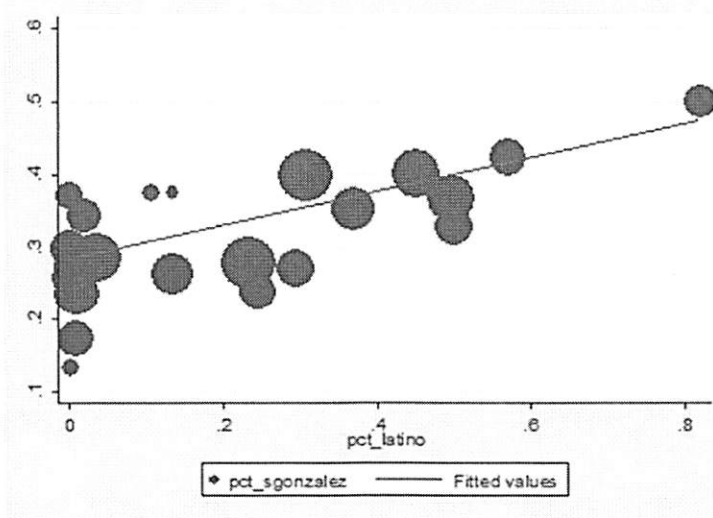
Examples beyond Yakima

Grant County Sup Ct Primary 2012

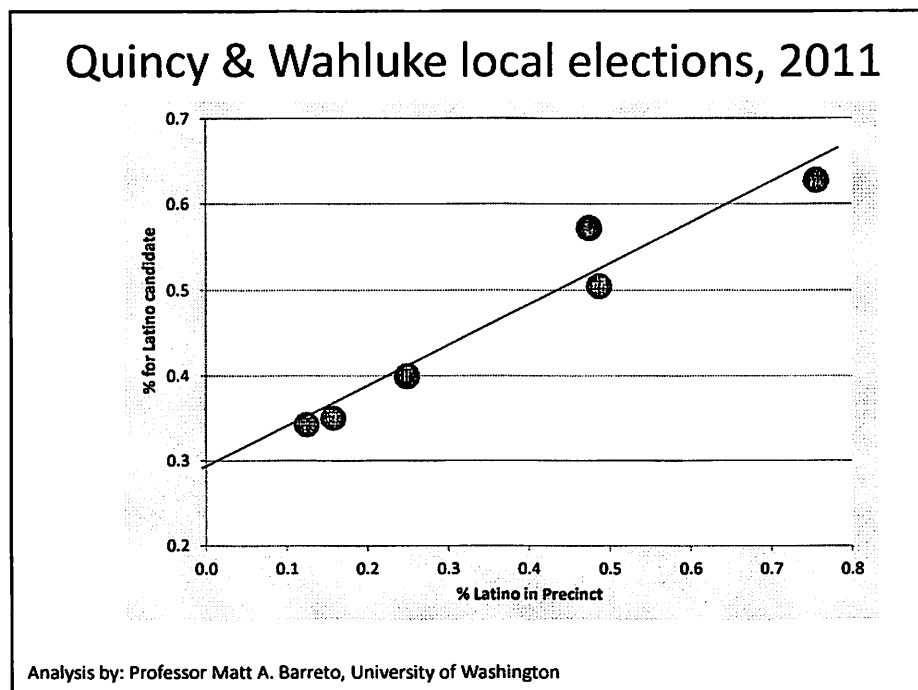
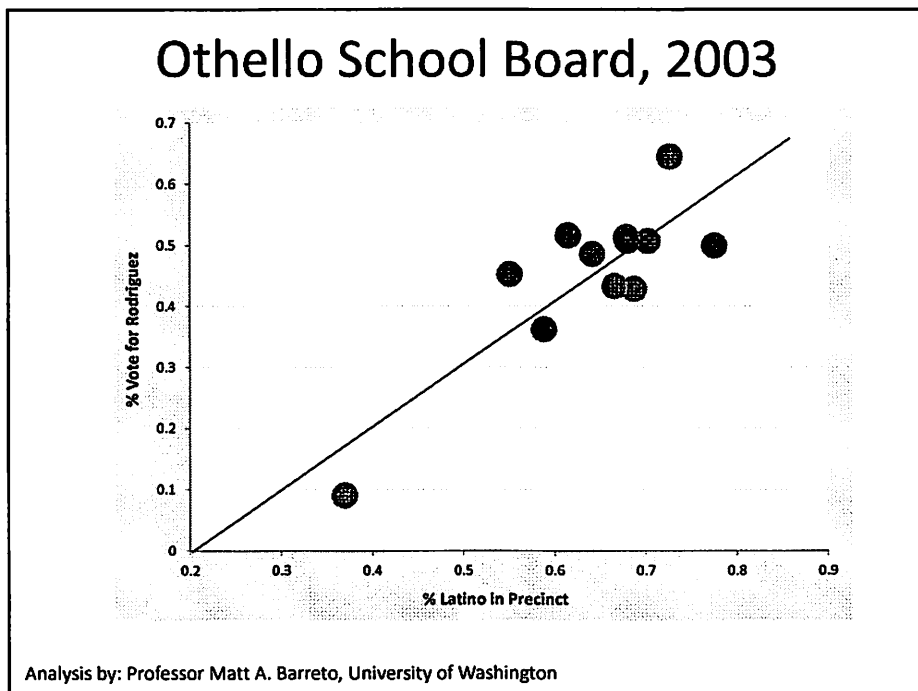


Analysis by: Professor Matt A. Barreto, University of Washington

Adams County Sup Ct Primary 2012



Analysis by: Professor Matt A. Barreto, University of Washington



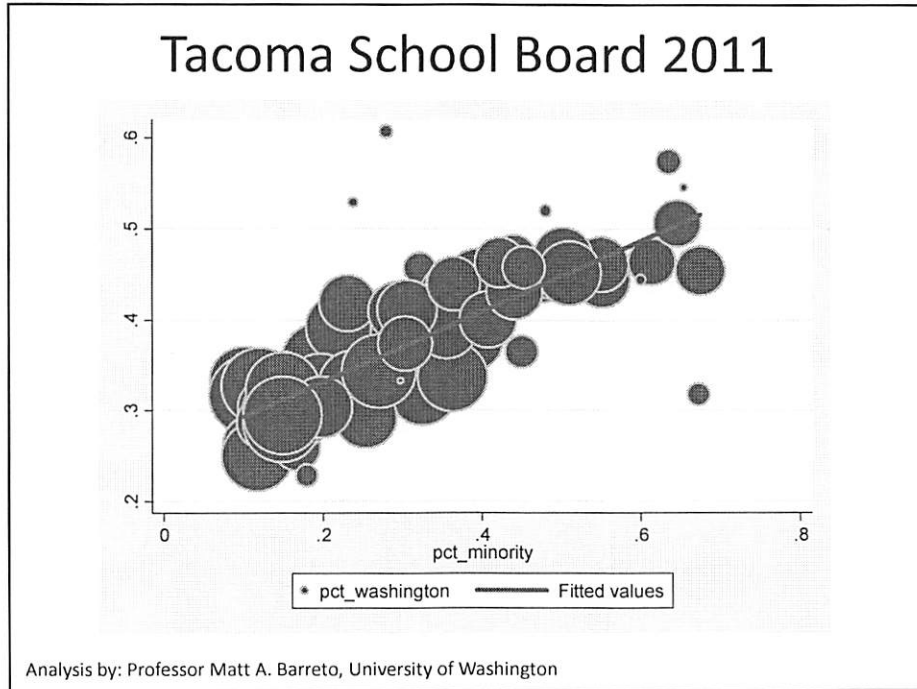



Exhibit L



October 15, 2021

**ASSESSMENT OF VOTING PATTERNS IN
CENTRAL / EASTERN WASHINGTON AND
REVIEW OF FEDERAL VOTING RIGHTS ACT,
SECTION 2 ISSUES**

Dr. Matt Barreto, UCLA Political Science & Chicana/o Studies
Faculty Director of the UCLA Voting Rights Project
matt@uclavrp.org 909.489.2955



1

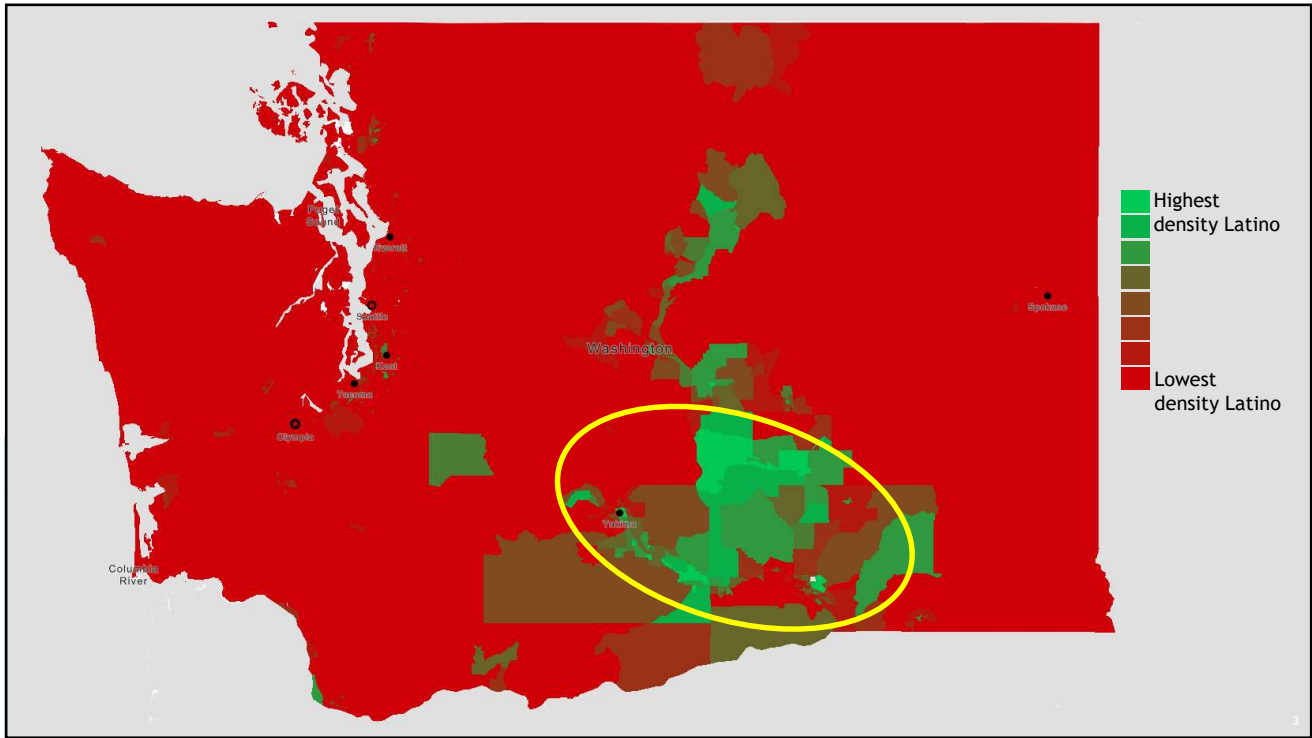
Current Landscape in Washington

- Washington state Latino population surpassed 1 Million in 2020, now stands at 1,059,213, 12th largest of any state

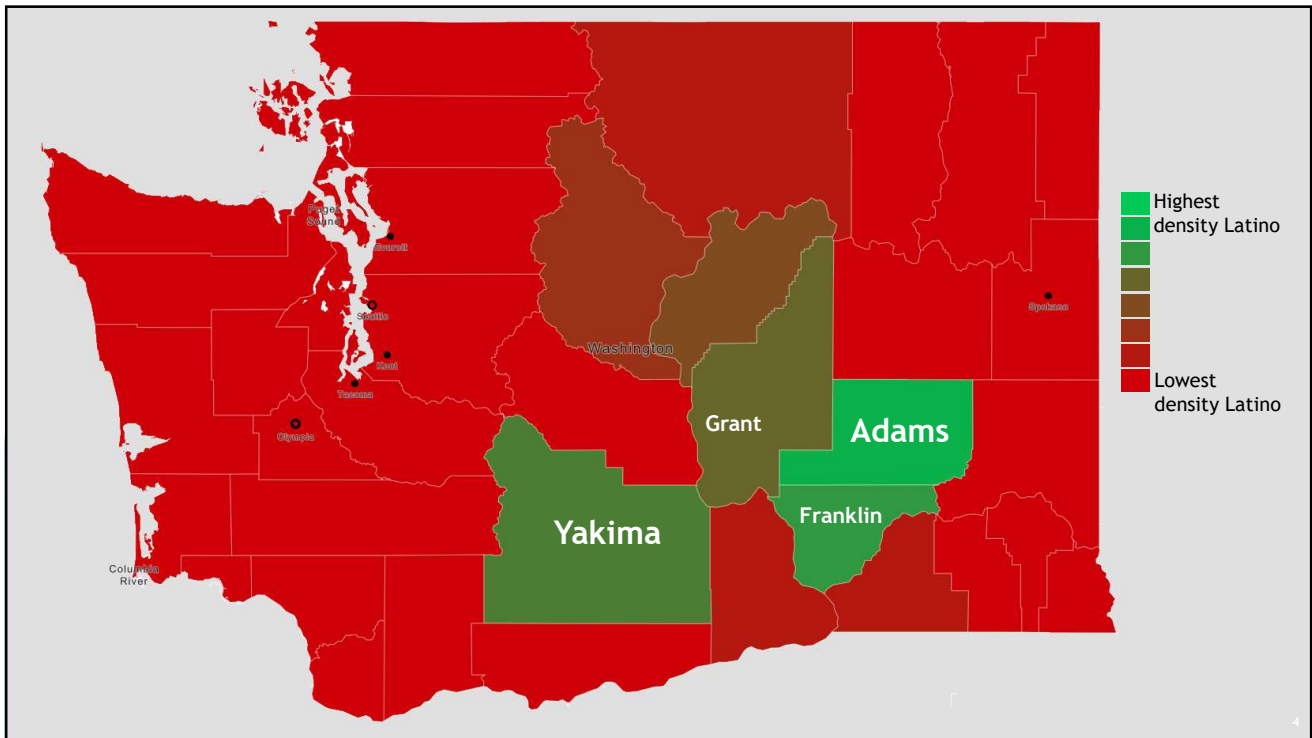
	2010	2020	Growth
Total	6,724,540	7,705,281	980,741 (14.5%)
Latino	755,790	1,059,213	303,423 (40.1%)
Non-Latino	5,900,00	6,700,000	677,318 (11.3%)

- The growth has been especially large in the Yakima Valley region and is quite concentrated

2



3



4

Section 2 of the Federal VRA

- Section 2 - Prohibits discrimination in any voting standard, practice, or procedure that results in the denial or abridgement of the right of any citizen to vote on account of race, color, or membership in a language minority group.
- Section 2 applies nationwide
- *Montes v. Yakima*, 2014 created majority-Latino districts in city of Yakima

5

5

Section 2 of the Federal VRA

Section 2(b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: *Provided*, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

6

6

Section 2 of the Federal VRA

Section 2(b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its **members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice**. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: *Provided*, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

7

7

Section 2 of the Federal VRA

- Specifically, the VRA Section 2 prohibits districting plans that use racial gerrymandering to dilute minority rights to meaningful opportunity to elect candidates of choice
- Has been used by Black, Latino, AAPI, Native American, White plaintiffs to challenge districting schemes that draw lines in a way that “pack” or “crack” their population
- Goal is to find the right balance and create fair and equitable districts, and successfully defend the plans against legal challenges

8

8

The Gingles Test: Factor 1

- Minority group sufficiently large and geographically compact
 - Decennial Census
 - Census ACS 1-year or 5-year for CVAP
 - Voter file analysis
 - Spanish or Asian surname
 - New advancement in BISG

9

The Gingles Test: Factors 2 - 3

- Minority voters are politically cohesive in supporting their candidate of choice
- Majority votes in a bloc to usually defeat minority's preferred candidate
- This requires an analysis of voting patterns by race/ethnicity
 - Question the courts will ask us to answer is: Is there evidence of "racially polarized voting"?

10

Defining Racially Polarized Voting

- Racially polarized voting exists when voters of different racial or ethnic groups exhibit very different candidate preferences in an election.
- It means simply that voters of different groups are voting in polar opposite directions, rather than in a coalition.
- RPV does not necessarily mean voters are racist, it only measures the outcomes of voting patterns and determines whether patterns exist based on race/ethnicity

11

11

Defining Racially Polarized Voting

- Bottom line: minority voters are voting one way, and majority voters are voting another way
- But because majority voters are more numerous in the district, minority voters systematically lose.
- The analysis is about the individual voters within a jurisdiction. Even if a governing body is well intentioned, the individual voters across the county may behave in a way that blocks minority representation.

12

12

Measuring Racially Polarized Voting

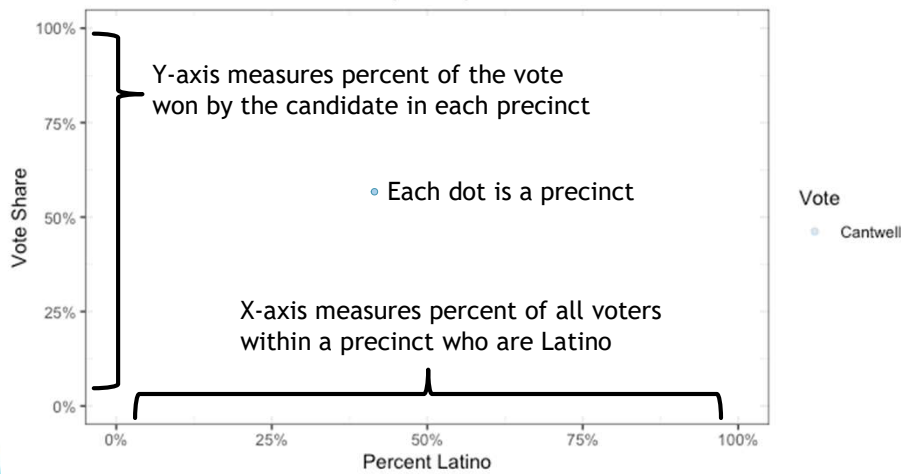
- RPV can vary in degree of intensity, and it can be measured and quantified using statistical analysis that has been accepted by the courts.
- Your vote is secret - so how do we understand voting patterns by race and ethnicity?
- We have developed improved ecological inference techniques to use precinct-level vote results and racial demographics (Barreto, Collingwood, Garcia-Rios & Oskooii, 2016, 2019)

13

13

Measuring Racially Polarized Voting

2012 General, Cantwell - 5 WA Counties
Sorted by Percent Latino within each Precinct
(n=569)

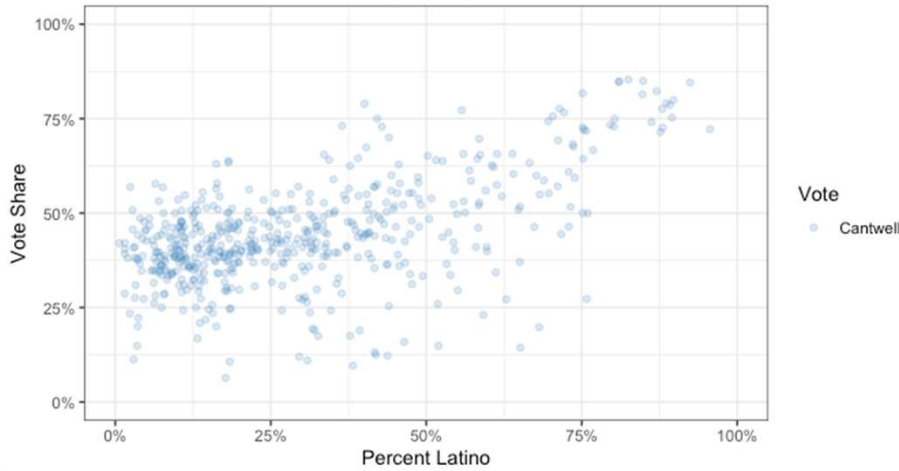


14

14

Measuring Racially Polarized Voting

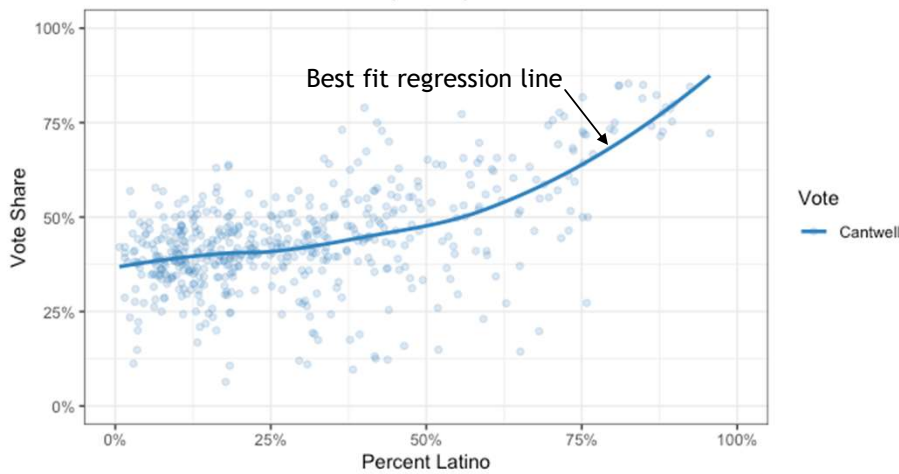
2012 General, Cantwell - 5 WA Counties
Sorted by Percent Latino within each Precinct
(n=569)



15

Measuring Racially Polarized Voting

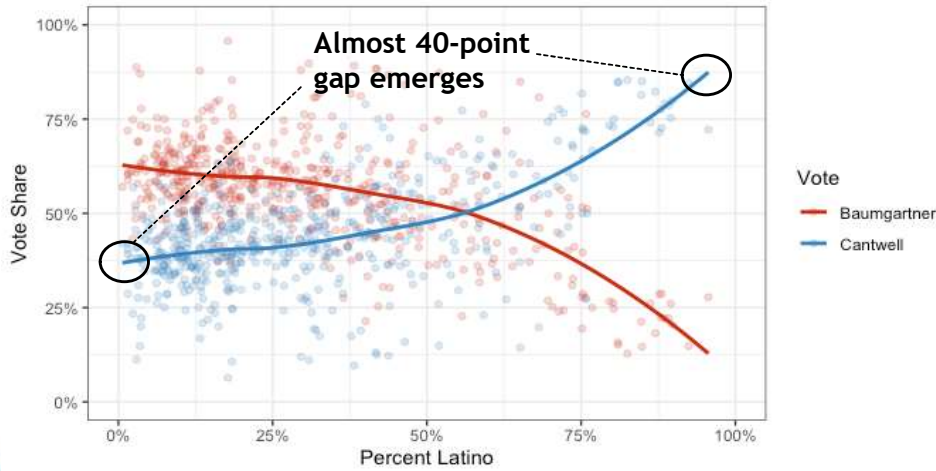
2012 General, Cantwell - 5 WA Counties
Sorted by Percent Latino within each Precinct
(n=569)



16

Measuring Racially Polarized Voting

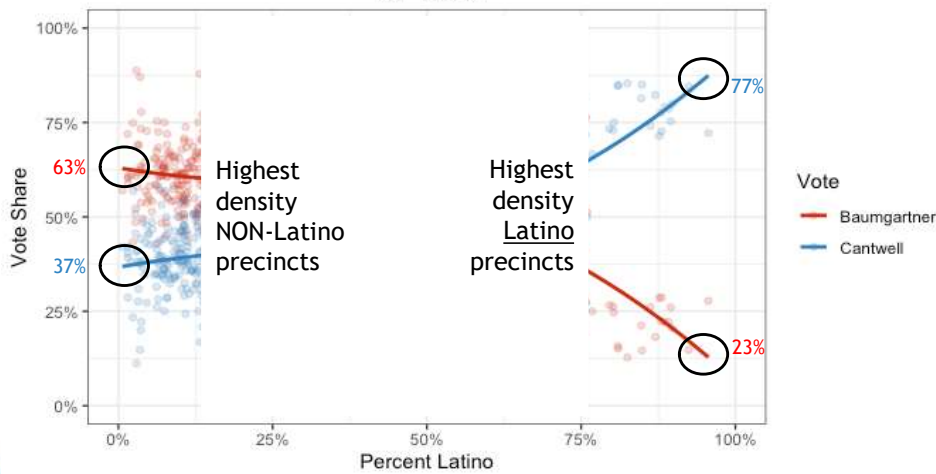
2012 General, Baumgartner v Cantwell - 5 WA Counties
Sorted by Percent Latino within each Precinct
(n=1138)



17

Measuring Racially Polarized Voting

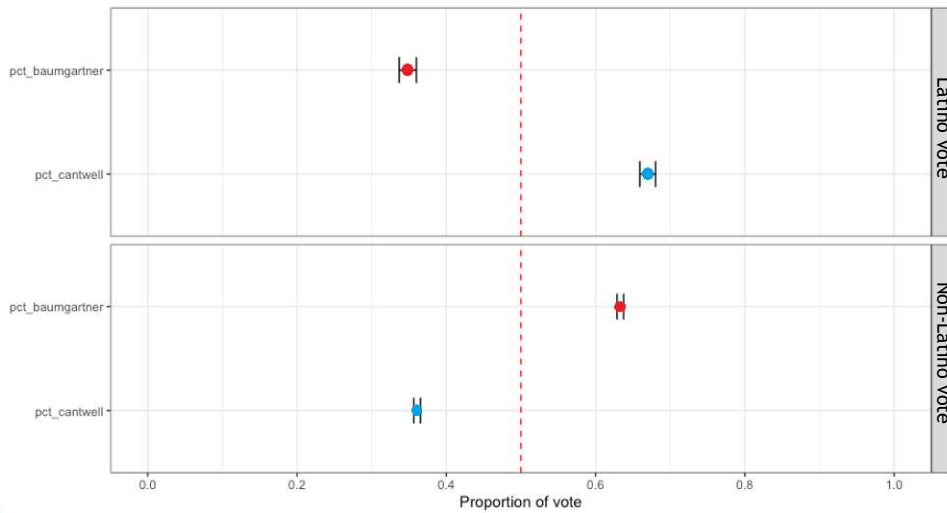
2012 General, Baumgartner v Cantwell - 5 WA Counties
Sorted by Percent Latino within each Precinct
(n=1138)



18

Measuring Racially Polarized Voting

2012 General, Baumgartner v. Cantwell - 5 WA Counties

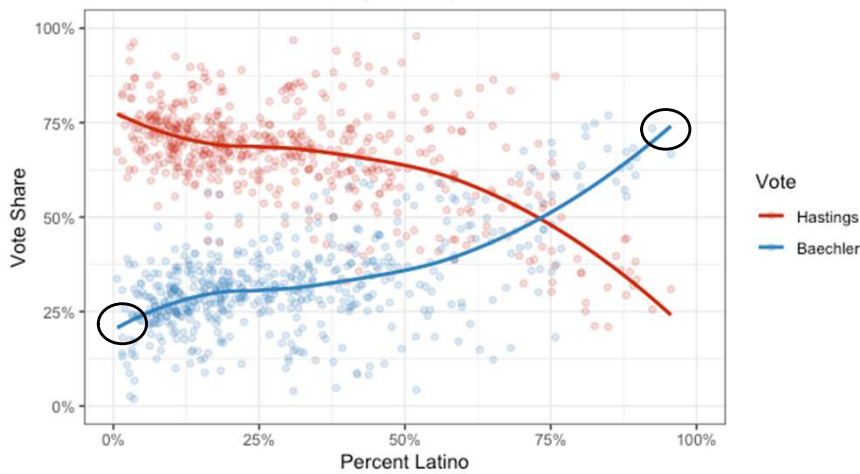


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19

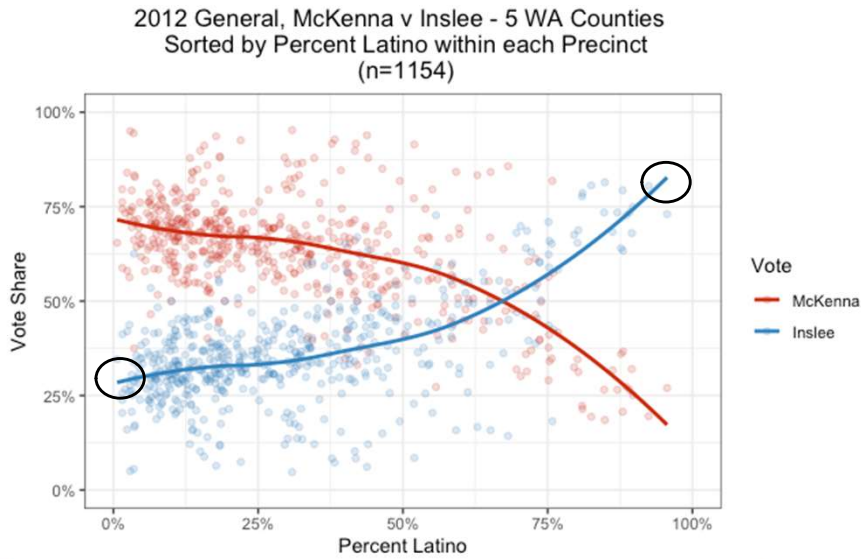
Voting Patterns in Yakima Valley Region: 2012

2012 General, Hastings v Baechler - 5 WA Counties
Sorted by Percent Latino within each Precinct
(n=1146)



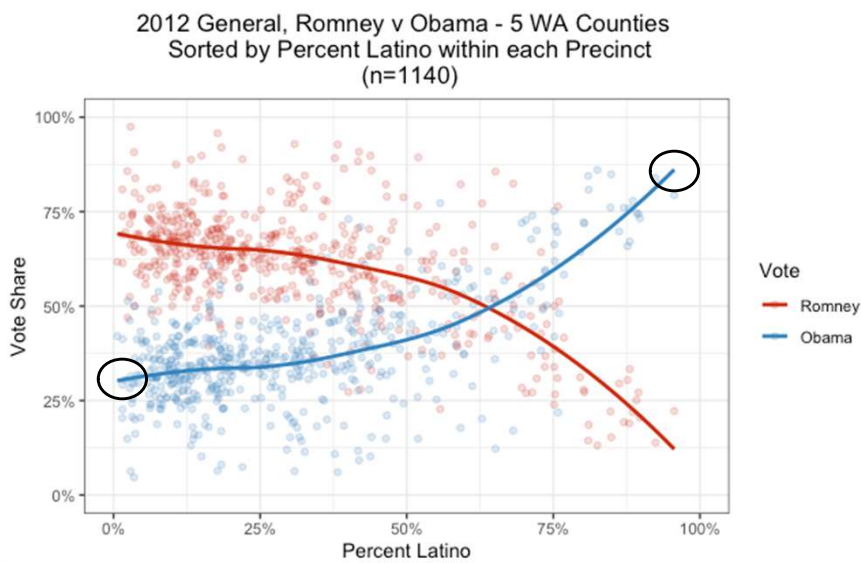
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Voting Patterns in Yakima Valley Region: 2012



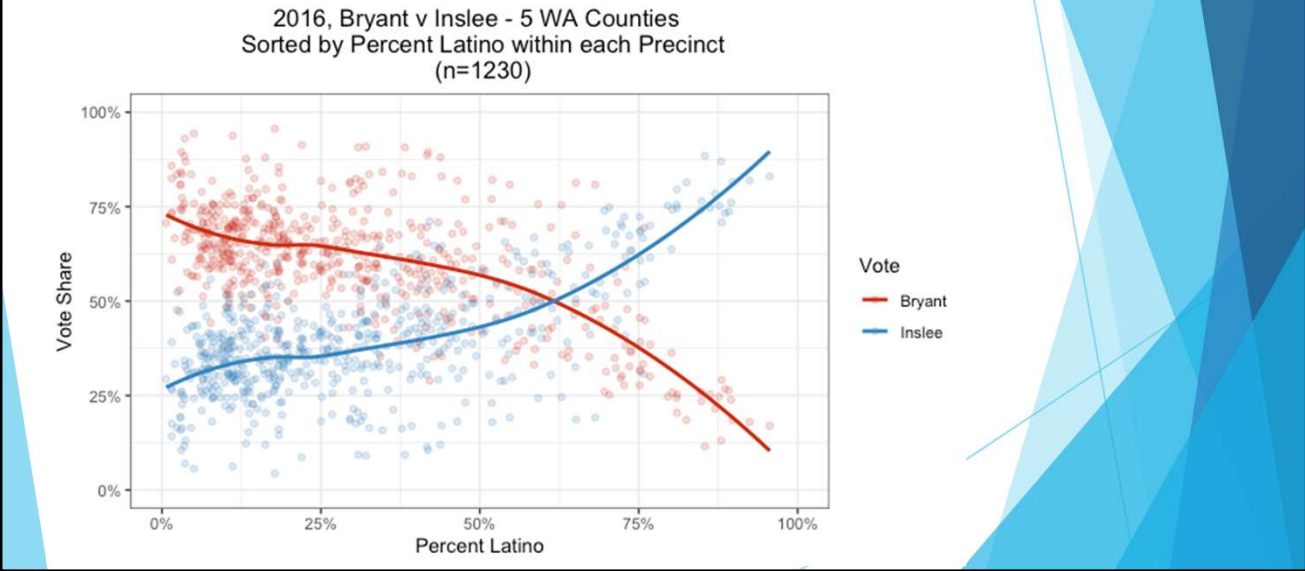
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Voting Patterns in Yakima Valley Region: 2012



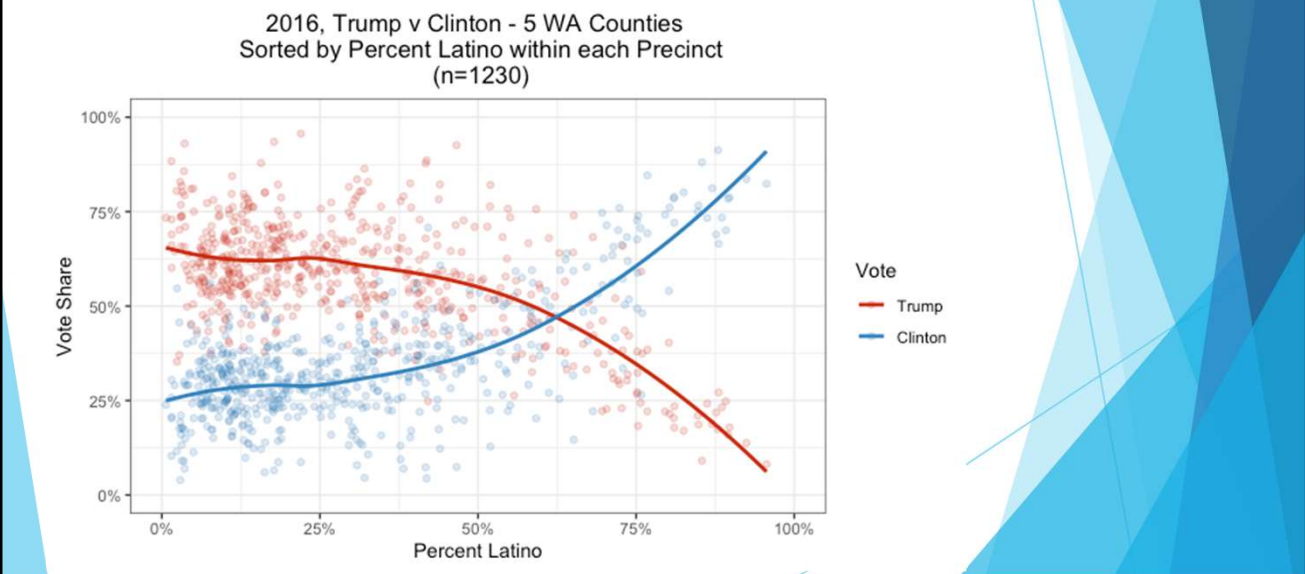
22

Voting Patterns in Yakima Valley Region: 2016



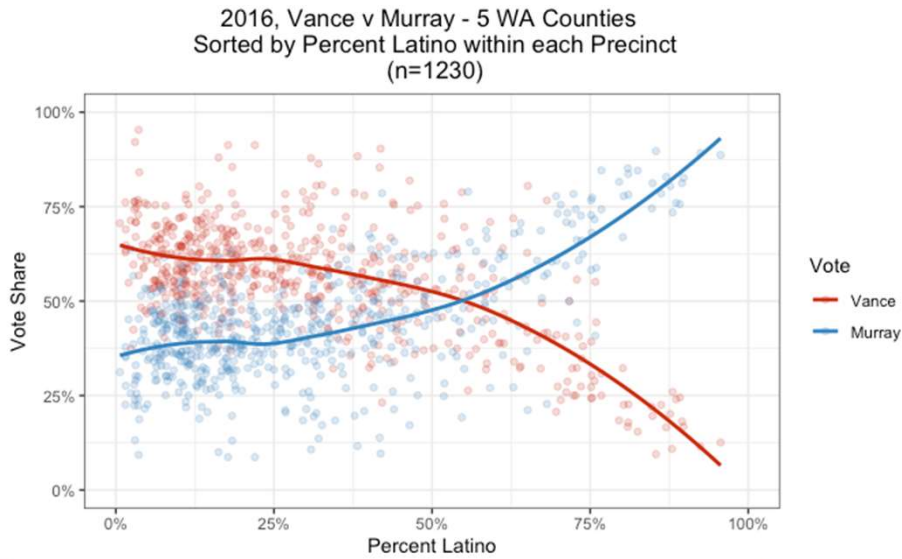
23

Voting Patterns in Yakima Valley Region: 2016



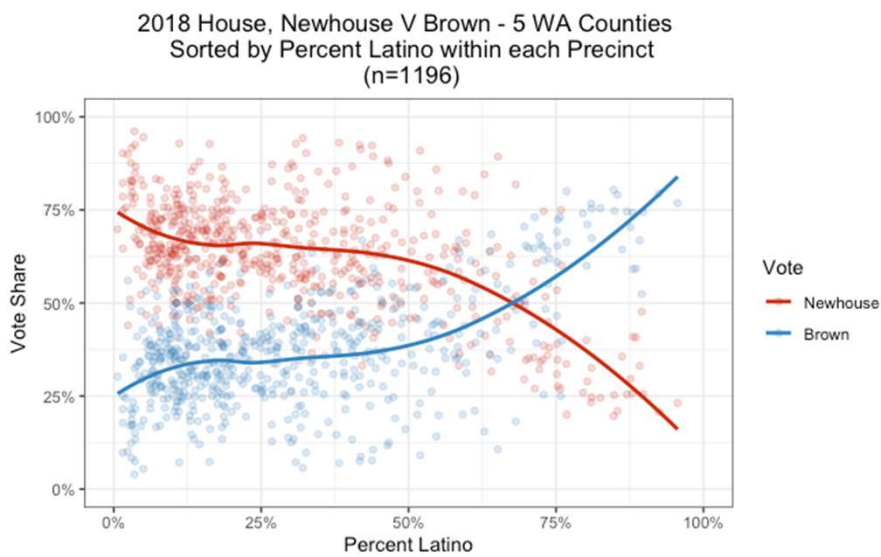
24

Voting Patterns in Yakima Valley Region: 2016



25

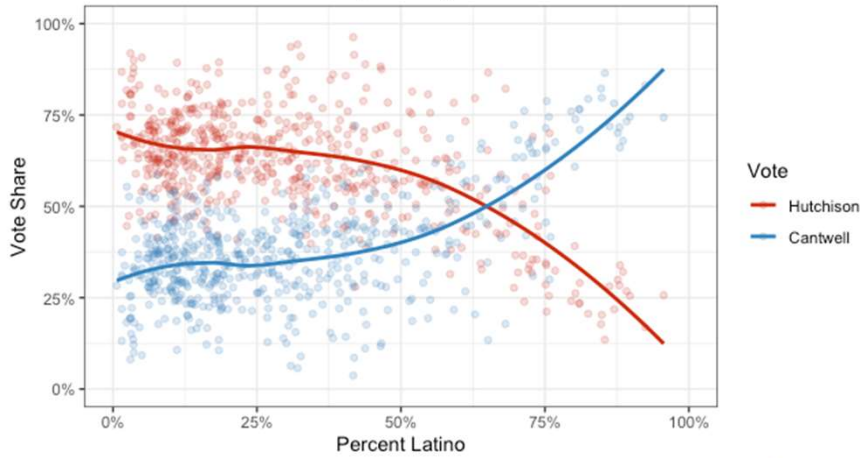
Voting Patterns in Yakima Valley Region: 2018



26

Voting Patterns in Yakima Valley Region: 2018

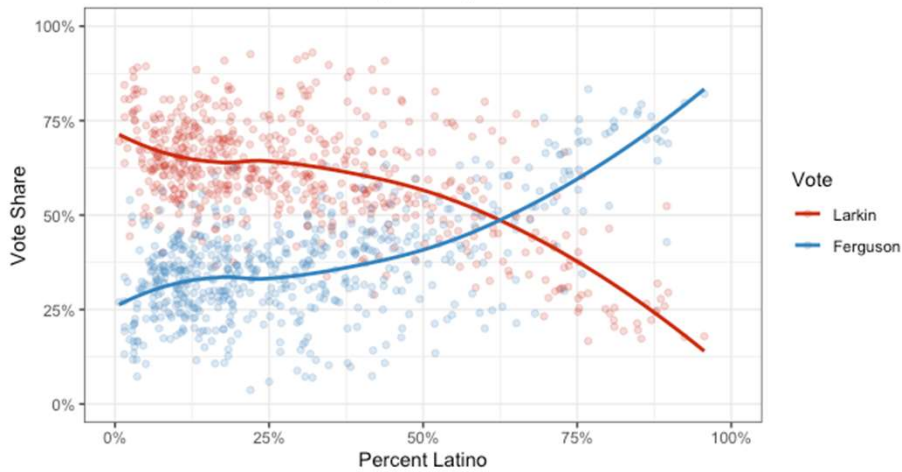
2018 Senate, Cantwell V Hutchison - 5 WA Counties
Sorted by Percent Latino within each Precinct
(n=1188)



27

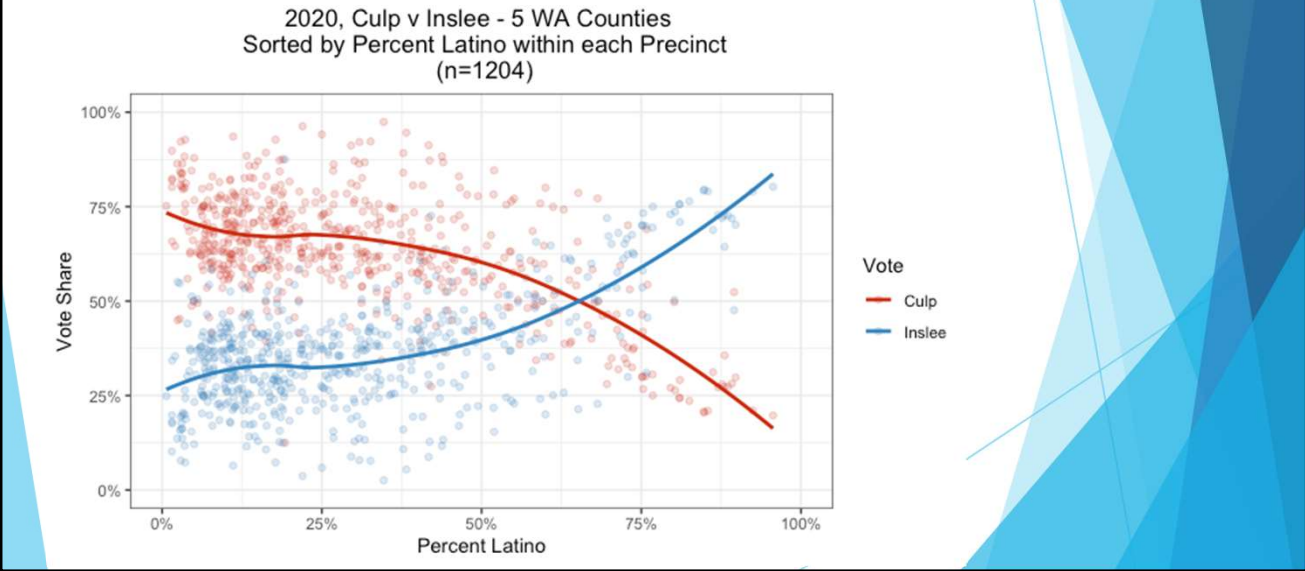
Voting Patterns in Yakima Valley Region: 2020

2020, Larkin v Ferguson - 5 WA Counties
Sorted by Percent Latino within each Precinct
(n=1204)



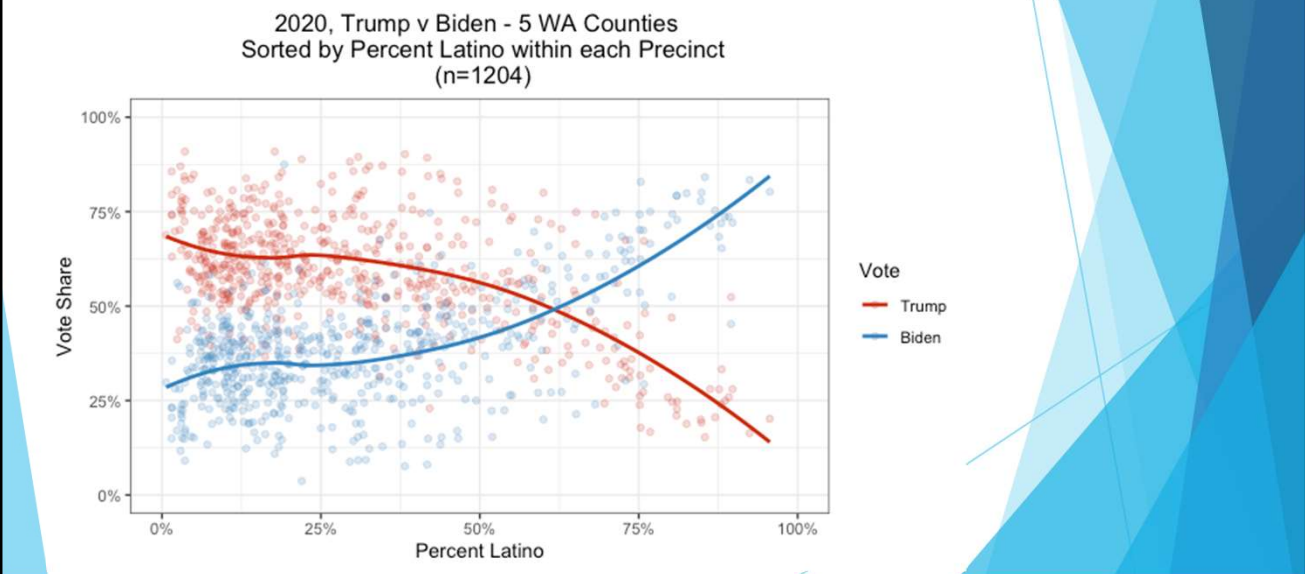
28

Voting Patterns in Yakima Valley Region: 2020



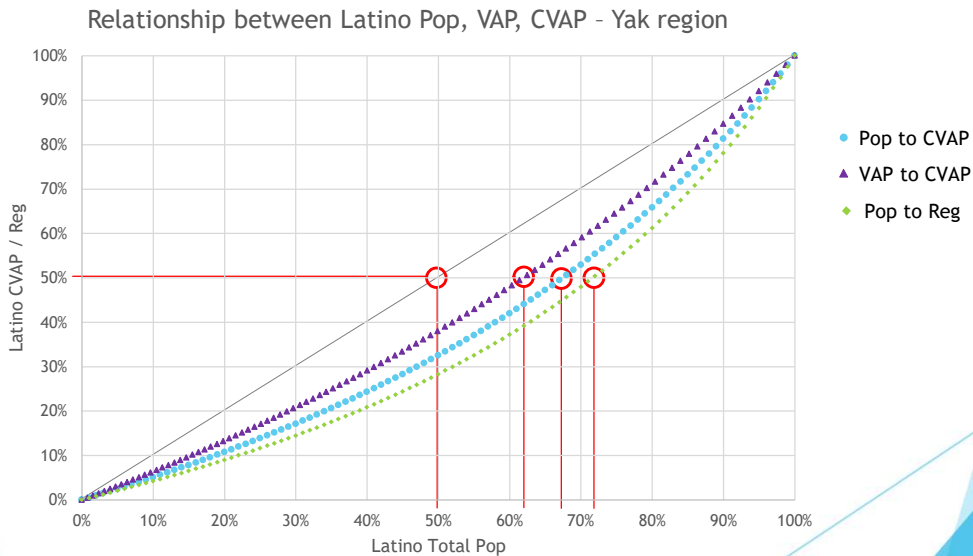
29

Voting Patterns in Yakima Valley Region: 2020



30

Comparing Latino Pop, VAP, CVAP & Reg



31

31

Evaluating Different Maps

- Prior evidence is crystal clear - you have a strong finding of racially polarized voting in this 5-county region
 - Federal Court agreed in *Montes* lawsuit 2014, State Court agreed in WVRA Yakima County settlement in 2021
- Question for maps are the following:
 1. Is it possible to create a majority-CVAP Latino district in the Yakima Valley region?
 2. Do the proposed maps dilute or crack Latino voting strength?
 3. Do the proposed maps “perform” to allow election of Latino candidates of choice, or will Latino-favored candidates lose?
 4. What is the strongest Latino performing map that is VRA-compliant and not dilutive?

32

32

Evaluating Different Maps

- Commissioner Graves' 9.21 proposal
 - <https://washington.mydistricting.com/legdistricting/comments/plan/1185/15>
 - Text-book “cracking” of Latino population into 3 districts (14, 15, 16)
 - Latino Total Pop: 14th = 37% / 15th = 54% / 16th = 41%
 - Latino CVAP: 14th = 22% / 15th = 34% / 16th = 23%

- Commissioner Fain's 9.21 proposal
 - <https://washington.mydistricting.com/legdistricting/comments/plan/1186/15>
 - Obvious racial gerrymander/cracking, likely an “intent” finding
 - Text-book “cracking” of Latino population into 4 districts (13, 14, 15, 16)
 - Latino Total Pop: 13th = 33% / 14th = 23% / 15th = 55% / 16th = 42%
 - Latino CVAP: 13th = 16% / 14th = 13% / 15th = 34% / 16th = 23%

33

33

Evaluating Different Maps

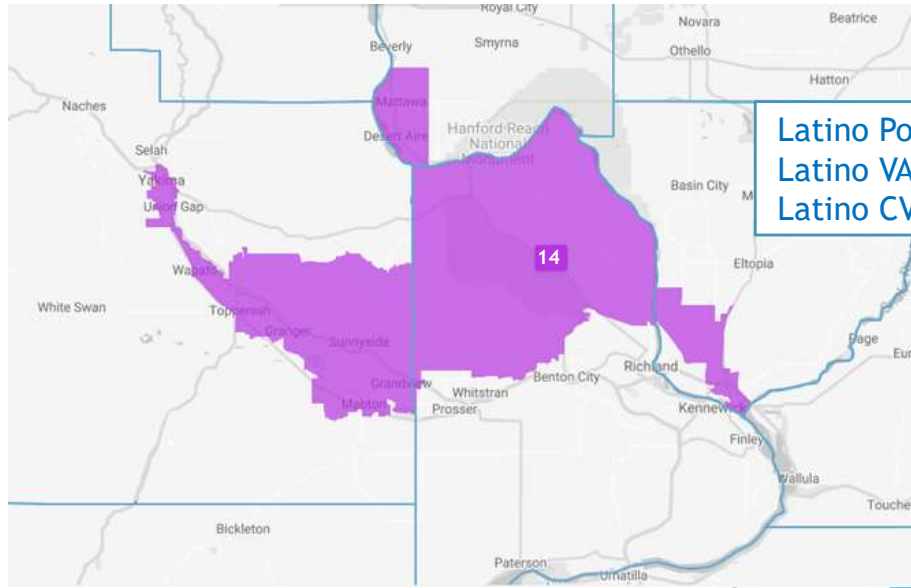
- Commissioner Sims' 9.21 proposal
 - <https://washington.mydistricting.com/legdistricting/comments/plan/1182/15>
 - Latino Total Pop: 15th = 65% / 16th = 48%
 - Latino CVAP: 15th = 45% / 16th = 28%
 - TODAY Latino CVAP: 15th = 47.6%

- Commissioner Walkinshaw's 9.21 proposal
 - <https://washington.mydistricting.com/legdistricting/comments/plan/1183/15>
 - Latino Total Pop: 14th = 61% / 15th = 34%
 - Latino CVAP: 14th = 40% / 15th = 16%
 - TODAY Latino CVAP: 14th = 43.2%

34

34

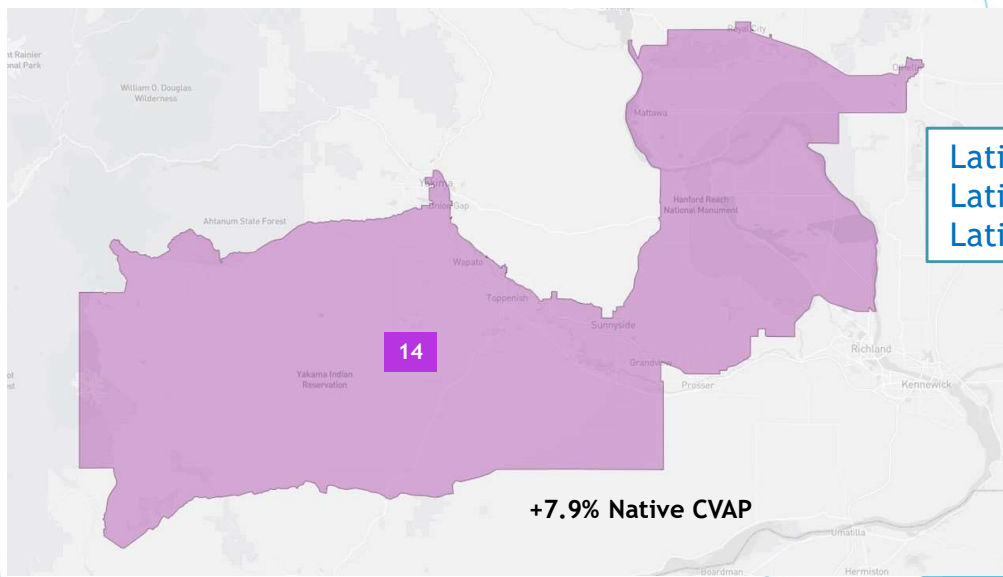
VRA Compliant Option-1: Yakima-Columbia River Valley



Latino Pop 76%
Latino VAP 71%
Latino CVAP 60%

35

VRA Compliant Option-2: Yakama Reservation



Latino Pop 70%
Latino VAP 66%
Latino CVAP 52%

+7.9% Native CVAP

36

Evaluating Different Maps

District Plan	Latino Pop	Latino CVAP '19	Latino CVAP now	Predict Dem	Predict Rep	Biden '20 margin
Graves	54	34	35.9	38	62	-8,925
Fain	55	34	36.1	43	57	-2,833
Sims	65	45	47.6	50	50	4,607
Walkinshaw	61	40	43.2	52	48	6,299
Yak-Rez	70	52	54.5	54	45	8,104
Yak-Col Riv	76	58	60.4	59	40	11,375

* Partisan scores based on Campaign Legal Center election analysis and reconstituted precincts into proposed districts by Dr. Barreto

37

37

THANK YOU

Dr. Matt Barreto, UCLA Political Science & Chicana/o Studies
Faculty Director of the UCLA Voting Rights Project

matt@uclavrp.org 909.489.2955

38

Exhibit M

From: [O'Neil, Ali](#) on behalf of [Walkinshaw, Brady](#)
Subject: RELEASE: Commissioner Walkinshaw Releases New VRA-Compliant Legislative District Map
Date: Monday, October 25, 2021 4:09:55 PM
Attachments: [Analysis of 9.21 Commissioner Proposed Leg Maps.pdf](#)

Following New Analysis, Commissioner Walkinshaw Releases New Legislative Map Compliant with Voting Rights Act

Commissioner Walkinshaw Encourages All Four Commissioners to Release VRA-Compliant Maps

WASHINGTON – Today, SDC appointee Commissioner Brady Piñero Walkinshaw [released an updated proposal](#) for Washington’s new legislative district map. This new map follows definitive [analysis](#) released last week that the final adopted map must include a majority-Hispanic district in the Yakima Valley or face a likely successful lawsuit in federal court for non-compliance with the federal Voting Rights Act (VRA).

[Commissioner Walkinshaw’s new map](#) includes a VRA-compliant 14th Legislative District centered in the Yakima Valley in accordance with analysis provided by Dr. Matt A. Barreto, Faculty Director of the UCLA Voting Rights Project. In addition to being majority-Hispanic by Citizen Voting Age Population (CVAP), this district must have the demonstrated ability to allow Latino voters to elect their candidates of choice to the Washington State Legislature.

This map incorporates public feedback received at the [October 5th Public Outreach Meeting](#), where more than 100 members of the public testified about their communities, as well as the hundreds of comments received in the last month since the September 21st map release. Commissioner Walkinshaw’s map also increases the number of majority-minority districts from 8 to 10 (by Voting Age Population) and reduces the number of split cities and counties, in accordance with [our state’s redistricting statute](#). See below for a more detailed list of changes.

Commissioner Walkinshaw released the following statement:

“Last week’s analysis revealing the impacts of the Voting Rights Act on our state legislative map was eye-opening – and I am proud to release a new map today that follows our state’s redistricting criteria, keeps communities together, responds to public feedback, and undoubtedly complies with federal law. This new map not only respects the will of the voters in the Yakima Valley but also will avoid a costly legal challenge.

“Now that we have this information, we as commissioners should not consider legislative district maps that don’t comply with the VRA. It is irresponsible to the historically underrepresented communities in the Yakima Valley to entertain any proposals that undermine their rights under federal law, and irresponsible to the people of Washington state to do anything that might leave the state so blatantly vulnerable to litigation. I look forward to seeing new proposals from all commissioners so that negotiations can continue, and progress can be made.”

Both Democratic commissioners minimized city splits and population deviation in their 9/21

proposals (see attached analysis for details). Commissioner Walkinshaw's map released today even further reduces city splits, population deviation, and county splits. It also increases the number of single county LDs and majority-minority LDs (by VAP).

This new proposal:

1. Has a VRA-compliant majority-Hispanic 14th legislative district in the Yakima Valley that includes the entire Yakama Nation reservation.
2. Adds two new majority-minority LDs by VAP, to reach a total of 10 across the map (14, 37, 33, 30, 11, 9, 45, 29, 47, and 41).
 - a. The two new additions are the 45th (East King County) and the 9th (Eastern WA)
 - b. The 21st and 28th are both above 40% POC in this proposal. While reducing city and county splits and being responsive to public comment in these areas, this map also creates opportunities for even more districts to become majority-minority in the near future.
3. Unites majority-minority cities of Burien, Redmond, and Pasco (which were split in Walkinshaw's initial proposed map).
4. Adds Skyway to the 37th with Southeast Seattle, per public comment.
5. Keeps the Nooksack and Lummi tribes together in same LD, as they have requested. This configuration also creates a compact Bellingham/suburban Whatcom district as supported by public comment, while keeping the more rural areas in Whatcom and Skagit together in the 40th.
6. Puts San Juan County back in the 40th, per public comment.
7. No longer splits the Methow Valley community. Most of Okanogan county is in the 12th LD with Chelan and Douglas Counties. The split in the Colville Reservation is maintained as the current boundary, as they have requested.
8. Returns Vashon Island to the 34th with West Seattle, per public comment.
9. Unites Mason county and reduces multi-county LDs in the Kitsap peninsula.
10. Puts Gig Harbor back in the 26th and moves the 27th back east of the Tacoma Narrows.
11. Moves the 49th LD south and east, so that it includes more of Vancouver and no longer includes Salmon Creek, Mount Vista, or Barberton. The eastern border with the 17th is now I-205, per public comment. The 17th now also includes the entire cities of Camas and Washougal.
12. Puts the West Central neighborhood of Spokane into the 3rd LD, per public comment.

- 13. Keeps together cities in the Snoqualmie Valley, per public comment and tribal consultation with the Snoqualmie Indian Tribe.
- 14. Unites Whitman county.
- 15. Unifies South Thurston communities, in particular Tenino, Yelm, and Rainier.

	Walkinshaw 9/21 Proposal	Walkinshaw 10/25 Proposal	Comparison
Cities Split	20	19	-1
Whole Counties	19	20	1
Split Counties	20	19	-1
Single County LDs	27	29	2
Majority Minority VAP LDs	8	10	2
Population Deviation	23	14	-9

For reference, attached is an analysis of all four commissioner-proposed maps that were released on September 21st.

###

Exhibit N



From: Brady Walkinshaw <brady.walkinshaw@gmail.com>
Sent: Saturday, November 13, 2021 12:25 PM EST
To: April Sims <asims@wslc.org>
Subject: Fwd: Map proposal

Sent from my iPhone

Begin forwarded message:

From: "O'Neil, Ali" <Ali.O'Neil@leg.wa.gov>
Date: November 13, 2021 at 9:13:57 AM PST
To: Brady Walkinshaw <Brady.Walkinshaw@gmail.com>
Subject: RE: Map proposal

Here it is in dave's: <https://davesredistricting.org/maps#viewmap::5ae4b5ed-d37c-4cbe-96bf-67892dd9075d>

--
Ali O'Neil

From: Sims, April <April.Sims@redistricting.wa.gov>
Sent: Saturday, November 13, 2021 8:56 AM
To: Brady Walkinshaw <brady.walkinshaw@gmail.com>; O'Neil, Ali <Ali.O'Neil@leg.wa.gov>
Subject: Fwd: Map proposal

Get [Outlook for iOS](#)

From: Grose, Anton <Anton.Grose@leg.wa.gov>
Sent: Saturday, November 13, 2021 8:50:36 AM
To: Graves, Paul <Paul.Graves@redistricting.wa.gov>; Sims, April <April.Sims@redistricting.wa.gov>
Cc: Davis, Osta <Osta.Davis@leg.wa.gov>; Meyers, Dominique <Dominique.Meyers@leg.wa.gov>
Subject: RE: Map proposal

Good Morning All,

I have sent Osta the EZIP file for the proposal described below. If anyone else would like a copy please let me know.

Anton Grose
Redistricting Analyst
House Republican Caucus
Anton.Grose@leg.wa.gov

From: Graves, Paul <Paul.Graves@redistricting.wa.gov>
Sent: Saturday, November 13, 2021 8:48 AM
To: Sims, April <April.Sims@redistricting.wa.gov>
Cc: Grose, Anton <Anton.Grose@leg.wa.gov>; Davis, Osta <Osta.Davis@leg.wa.gov>; Meyers, Dominique <Dominique.Meyers@leg.wa.gov>
Subject: Re: Map proposal

Sorry, two quick corrections (we're moving pretty quickly over here): we made the CVAP district the 15th rather than the 14th for ease of incumbents, and it's not the just-below-2019-CVAP you proposed, but instead it's at just over 50% CVAP.

Paul Graves
Sent from my phone

On Nov 13, 2021, at 8:42 AM, Graves, Paul <Paul.Graves@redistricting.wa.gov> wrote:

?
Good morning,

Anton is going to send an EZIP file of our proposal in just a minute. As discussed yesterday, it:

- Starts with the 14th as you proposed it most recently. That involves a 3 point shift in partisan performance, and in exchange the map makes the 47th just 0.36% better for republicans.
- Five of the seven current swing or lean districts (26, 10, 42, 44, and 28) see their partisan performance stay within 0.1% of status quo using the treasurer's race number.
- Whichever way the 24th grows, its partisan performance will change. So this map makes it 0.5% better for republicans, and makes the 17th 0.45% better for democrats.

This map also works to keep as many incumbents in their current districts. Here are the members who would be districted out, and there may be some flex in these joints, especially with members in safe districts:

FirstName	LastName	Current LD	Draft LD
Shelley	Kloba	1	45
Bob	Hasegawa	11	37
Noel	Frame	36	46
Steve	Bergquist	11	5
Roger	Goodman	45	48
Ann	Rivers	18	20
Jeremie	Dufault	15	14
Vicki	Kraft	17	18

Joe has seen this map but he still needs to see his chart and has not officially joined this map.

See you soon.

-->

Exhibit O



From: [Grose, Anton](#)
To: [Graves, Paul](#); [Sims, April](#)
Cc: [Davis, Osta](#); [Meyers, Dominique](#)
Subject: RE: New map proposal
Date: Thursday, November 11, 2021 11:01:55 AM

Good Morning April,

I have sent the EZIP file to both Osta`s and Dom`s Teams accounts (the file was to large to attach to this email). If you have any questions on the specifics feel free to reach out.

Anton Grose

Redistricting Analyst

House Republican Caucus

Anton.Grose@leg.wa.gov

From: Graves, Paul <Paul.Graeves@redistricting.wa.gov>
Sent: Thursday, November 11, 2021 10:48 AM
To: Sims, April <April.Sims@redistricting.wa.gov>
Cc: Grose, Anton <Anton.Grose@leg.wa.gov>; Davis, Osta <Osta.Davis@leg.wa.gov>; Meyers, Dominique <Dominique.Meyers@leg.wa.gov>
Subject: New map proposal

Hi April,

Anton is sending over our next map offer shortly. Highlights below, and looking forward to talking at 1:

- The 14th here is ever so slightly more Republican here than your last proposal, but is still firmly swing. It is majority Hispanic CVAP.
- As we've discussed, that is a huge shift, with many resulting challenges in Central and Eastern Washington. I understand from our talks Monday and yesterday that you agree such a big shift should result in something given in exchange, but that applying points to other districts is not a framework you are interested in. My biggest question to you then: what do you think a fair exchange is for this 14th?
- My proposal here for that 14th is Republican improvement in 47, 24, and 28. That improvement in 47, as I texted yesterday, necessarily eats into Republican performance in 5, moving 5 to safe D and necessitating 38 being in the discussion. This 38, accordingly, both does good by communities of interest (uniting Tulalip and all of Marysville, for example), and pegs it close to current 5th partisan performance.
- As I made clear yesterday, a 50/50 10th would be two points worse for Republicans. We can work toward that, if you'd like, but it would require concessions in other swings.
- To that end, this map takes the three districts with true split delegations (42, 10, 26), and keeps

them the same as they are now, performance-wise.

Again, looking forward to talking at 1, and I will be especially interested to hear from you what you think a fair price is for this 14th. I will also be interested to hear how your talks with Brady are going. Ideally, we would be sending proposals from here on out that have the support of each partisan dyad, but perhaps Brady might not be agreeable to that, which could present some challenges as we work toward three votes for a map.

Exhibit P

FILED
SUPREME COURT
STATE OF WASHINGTON
DECEMBER 3, 2021
BY ERIN L. LENNON
CLERK

THE SUPREME COURT OF WASHINGTON

ORDER REGARDING THE WASHINGTON)
STATE REDISTRICTING COMMISSION’S)
LETTER TO THE SUPREME COURT ON)
NOVEMBER 16, 2021 AND THE)
COMMISSION CHAIR’S NOVEMBER 21,)
2021, DECLARATION)
_____)

ORDER

NO. 25700-B-676

THIS MATTER came before the court on November 16, 2021 when Sarah Augustine, the chair of the Washington State Redistricting Commission (Commission), sent a letter to Chief Justice Steven C. González of the Washington Supreme Court stating that the Commission was unable to adopt a redistricting plan by the midnight deadline of November 15, 2021 and was ceding responsibility for redistricting to the court. The chair submitted with her letter to the chief justice what she described as a full redistricting plan, consisting of a resolution signed by all four commissioners approving the plan, a signed letter transmitting the plan to the majority and minority leaders of the Washington State Senate and House of Representatives, and maps and legal descriptions of the new congressional and legislative districts. Chair Augustine also stated that all of the commissioners hoped the court would give due consideration to the full plan and maps the Commission had approved.

Given the unprecedented nature of the chair’s letter, the court asked her to provide a sworn declaration that included a detailed timeline of the events on November 15 and 16 relevant to the Commission’s compliance with the deadlines in article II, section 43 of the Washington State Constitution and RCW 44.05.100. Chair Augustine submitted her declaration on November 22,

Page 2
25700-B-676

2021. The declaration states that the Commission consulted with the Tribes; held 17 public outreach meetings and 22 regular business meetings; received more than 2,750 comments on draft maps or the 2010 maps; received live testimony from more than 400 people; and received over 3,000 e-mails, website comments, letters, and voicemails. At the beginning of the Commission's November 15, 2021 meeting, it appears that the composition of only legislative districts 28, 44, and 47 remained in dispute. This dispute was resolved before midnight on November 15, 2021. That night, at 11:59:28 p.m., the Commission voted unanimously to approve a congressional redistricting plan, and, at 11:59:47 p.m., voted unanimously to approve a legislative redistricting plan. Taken together, the chair's sworn declaration and the minutes of the Commission's November 15, 2021 meeting establish that the Commission approved both redistricting plans by the constitutional deadline established in article II, section 43 of the Washington State Constitution.

The chair's sworn declaration also establishes that at 12:00:08 a.m. on November 16, 2021, the Commission voted to approve a formal resolution adopting the redistricting plan. That resolution was substantially identical to a resolution considered at the Commission's October 18, 2021 meeting. The declaration also establishes that at 12:01:21 a.m., the Commission voted to approve a letter transmitting the plan to the majority and minority leaders of the Washington State Senate and House of Representatives, and that at 12:13 a.m., that letter and the resolution were e-mailed to the secretary of the Senate and the chief clerk of the House of Representatives. Although the Commission met the constitutional deadline to adopt a redistricting plan, the chair's sworn declaration establishes that the Commission failed to transmit that redistricting plan to the legislature by the statutory deadline set forth in RCW 44.05.100(1).

This court's role in matters of constitutional and statutory interpretation is to effectuate the purpose of the law. Under article II, section 43 of the Washington Constitution and chapter 44.05 RCW, the Commission is the entity charged with the primary constitutional and statutory obligation to adopt congressional and legislative district maps in Washington State after considering all relevant and appropriate information, including public comment. The essential purpose of article II, subsection 43(6) and RCW 44.05.100(4) is to create a process for the Commission to timely complete its work. Redistricting raises largely political questions best addressed in the first instance by commissioners appointed by the legislative caucuses where negotiation and compromise is necessary for agreement. The timing of the completion of redistricting is important because the legislature has an opportunity to amend the redistricting plans and some local districting decisions, such as local precinct boundaries, must be made in light of the finalized plan. Indeed, article II, subsection 43(6) was amended in 2016 to move the Commission's deadline for completing redistricting from January 1 to November 15 in order to allow adequate time for the steps that must follow.

The court accepts the facts attested to by the chair of the Commission as accurate. After reviewing the submissions and considering the constitutional and statutory framework as a whole, we conclude it is not necessary for the court to assume responsibility for adoption of redistricting maps under the present circumstances. By voting to approve congressional and legislative redistricting plans before the end of the day on November 15, 2021, the Commission complied with its obligation under article II, subsection 43(6) of the Washington Constitution to "complete redistricting" by that date, and it substantially complied with the essential purpose of RCW 44.05.100 to approve and transmit a plan to the legislature by that date. This is not a situation in which the Supreme Court must step in because the Commission has failed to agree on a plan it

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believes complies with state and federal requirements. The court concludes that the primary purpose of achieving a timely redistricting plan would be impeded, not advanced, by rejecting the Commission's completed work.

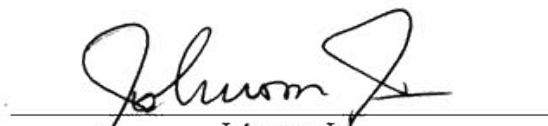
The court has not evaluated and does not render any opinion on the plan's compliance with any statutory and constitutional requirements other than the November 15 deadline.

NOW, THEREFORE, it is hereby ORDERED:

That the Supreme Court declines to exercise its authority under article II, subsection 43(6) and chapter 44.05 RCW to adopt a redistricting plan because it concludes that the plan adopted by the Washington State Redistricting Commission met the constitutional deadline and substantially complied with the statutory deadline to transmit the matter to the legislature. Accordingly, the Washington State Redistricting Commission shall complete any remaining tasks necessary to complete its work so that the process for finalizing the redistricting plan set forth in article II, section 43 and chapter 44.05 RCW may proceed.

DATED at Olympia, Washington this 3rd day of December, 2021.


González, C.J.


Johnson, J.


Gordon McCloud, J.

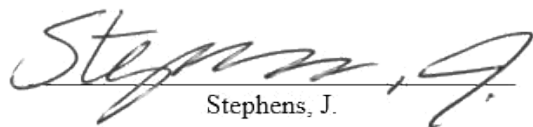

Madsen, J.


Yu, J.


Owens, J.


Montoya-Lewis, J.

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Stephens, J.

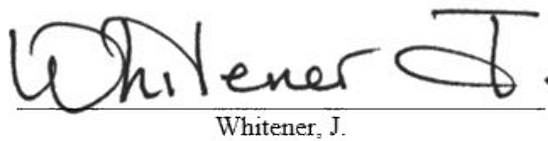

Whitener, J.

Exhibit Q

NO. 25700-B-675

SUPREME COURT OF THE STATE OF WASHINGTON

ORDER REGARDING THE
WASHINGTON STATE
REDISTRICTING
COMMISSION'S LETTER TO
THE SUPREME COURT ON
NOVEMBER 16, 2021.

SWORN
DECLARATION OF
SARAH AUGUSTINE,
CHAIR OF THE
WASHINGTON
STATE
REDISTRICTING
COMMISSION

I, Sarah Augustine, declare as follows:

1. I am over eighteen years of age and competent to testify as to the matters herein, and I make this declaration based on my personal knowledge. I serve as Chair of the Washington State Redistricting Commission, a position I have held since February 5, 2021.
2. I submit this declaration in response to the Court's Order of November 18, 2021, requesting a detailed timeline of the events of November 15, 2021, and November 16, 2021, relevant to the Commission's compliance with its constitutional and statutory obligations.

3. Regretfully, the Commission failed to deliver redistricting plans to the Legislature by the statutory deadline of 11:59 p.m. on Monday, November 15, 2021. I sent a letter to this Court on Tuesday, November 16, handing over the work of the Commission and humbly requesting that it be given this Court's consideration, since it was based on a bipartisan consensus and historic level of public input.

4. Between public commentary at the Commission's 17 public outreach meetings and 22 regular business meetings, more than 400 state residents delivered live public testimony about maps or about the Commission's process. Commissioners received more than 2,750 comments on their draft maps or on the 2010 redistricting maps. The Commission received more than 3,000 emails, website comments, letters, and voicemails. The public created 1,300 maps, of which 12 were formally submitted as third-party maps. And after adopting the first-ever Tribal Consultation Policy for a redistricting commission, commissioners and staff communicated with individual Tribes to

learn about their interests in the redistricting process. I am proud of this historic level of public involvement.

5. I am also proud of the bipartisan nature of the Commission's work. Washington is unique among states in that I, as the Commission-appointed nonpartisan chair, do not vote on the plan. Rather, the four legislatively-appointed Commissioners must come to a bipartisan agreement to adopt a plan. I am thankful for the work, mutual respect, and dedication of all four Commissioners.

6. I will provide a short explanation of the Commission and caucus staff referred to in the remainder of my declaration. The Commission employs its own non-partisan staff, including Executive Director Lisa McLean and others under her supervision. I also refer below to caucus staff. These are individuals who are not employed by the Commission and over whom I have no authority. Rather, they are affiliated with the House and Senate Democratic and Republican Caucuses and assisted the voting Commissioners in their roles. Caucus staff

were responsible for creating maps based on the Commissioners' instructions. I did not have any role in creating the maps and did not see the maps until they were uploaded onto the Commission's website on November 16. My knowledge of events occurring subsequent to the Commission's November 15 meeting comes from my communications with Commission staff, who were in turn communicating with caucus staff as these tasks were completed.

7. As part of the Commission's redistricting work, the Commission licensed redistricting software called EDGE Professional Desktop Redistricting as the primary tool for the formal creation of final maps and associated data. Caucus staff also used Dave's Redistricting, which is public access districting software, for the creation of preliminary maps. With the caveat that this is not my area of expertise or responsibility, it is my understanding that the Commission used EDGE for final maps because it had more capability, such as exportation to shapefile

format and other granular analyses, while Dave's was a quicker and more accessible tool.

8. The Commission held a regular business meeting on November 15, 2021, which was the date on which the statutory deadline fell for transmitting the plan to the Legislature. The meeting began at 7:00 p.m.

9. At 11:59:28 p.m., the Commission voted to approve a congressional districting plan. It is my understanding that the congressional districting plan that the Commission voted to approve constituted a final agreement resolving all areas of dispute.

10. At 11:59:47 p.m., the Commission voted to approve a legislative districting plan. It is my understanding that the legislative districting plan that the Commission voted to approve constituted a final agreement resolving all areas of dispute. My understanding is that when the meeting began at 7:00 p.m., there were three outstanding issues of dispute: the composition of

legislative districts 28, 44, and 47. The Commission's vote on the final agreement resolved these outstanding issues.

11. At 12:00:08 a.m., the Commission voted to approve a formal resolution adopting the redistricting plan. The Commission had previously discussed the resolution at public meetings on September 20, 2021, at which Commissioners discussed and proposed changes to the wording of a draft resolution, and on October 18, 2021, at which Commissioners discussed an updated version of the resolution substantially identical to the version approved on November 15, except that the November 15 version included designations of electronic files referenced in the text. At the October 18 meeting, the Commissioners had no objections to the updated language, but agreed that they would reserve final approval until the meeting on November 15. The resolution was signed by myself prior to transmittal and was also signed by the voting Commissioners at the following times: by Paul Graves at 11:51 p.m., by Joe Fain at

11:59 p.m., by April Sims at 12:02 a.m., and by Brady Piñero Walkinshaw at 12:04 a.m.

12. At 12:01:21 a.m., the Commission voted to approve a transmittal letter, which is the cover letter to the Senate and House Majority and Minority Leaders enclosing the Commission's redistricting plan. The Commission had previously discussed the transmittal letter at a public meeting on September 20, 2021. The letter approved on November 15 was modified from the draft discussed on September 20 in accordance with the Commission's discussion of equivalent language in the resolution at the September 20 and October 18 public meetings. The letter was signed by myself prior to transmittal and was also signed by the voting Commissioners at the following times: by Paul Graves at 11:52 p.m., by Joe Fain at 12:01 p.m., by April Sims at 12:01 a.m., and by Brady Piñero Walkinshaw at 12:11 a.m.

13. At 12:01:36 a.m., I adjourned the meeting.

14. At 12:13 a.m. on Tuesday, November 16, 2021, the Commission's Executive Director, Lisa McLean, transmitted by email the transmittal letter and resolution to the Secretary of the Senate and the Chief Clerk of the House.

15. Ms. McLean's email did not attach final maps, or the written legal description of each district, because the maps had not yet been finalized at that time.

16. It is my understanding that, after the public meeting ended, caucus staff finalized the congressional district map in accordance with the Commissioners' agreement, which included converting it from Dave's Redistricting to the EDGE software. At 4:37 a.m. on November 16, caucus staff sent the congressional map as an EDGE file to the Commission's Geographic Information Systems (GIS) Analyst, Executive Director, and Public Outreach Coordinator. The GIS Analyst created text descriptions of each district on the basis of this data. That process was completed, and the GIS Analyst sent the map and data to the Commission's web developer, at 5:46 a.m. on November 16. My

understanding is that Commission staff then posted the congressional map on the Commission's website for a short period of time, but took the map down and instead waited to upload both the congressional and legislative maps simultaneously when both were ready.

17. It is my understanding that, after the public meeting ended, caucus staff finalized the legislative district map to conform to the Commission's agreement, which involved finalizing the boundaries of the three districts referenced in paragraph 10. During this process, caucus staff took a short break to rest. Caucus staff sent the completed map as a Dave's Redistricting export to the Commission's GIS Analyst at 4:01 p.m. on November 16, but there were technical errors with the data transfer requiring caucus staff to resend the map at 6:36 p.m. in the EDGE format. The GIS Analyst created text descriptions of each district on the basis of this data. The GIS analyst then sent the map and data to the Commission's web developer at 8:29 p.m. on November 16.

18. At 8:34 p.m. on November 16, Ms. McLean transmitted to this Court, via email, my letter to Chief Justice González, the transmittal letter to legislative leaders, the resolution, the congressional and legislative maps and associated data, and text descriptions of the districts.

19. At approximately 9:15 p.m. on November 16, Commission staff uploaded the legislative and congressional maps to the Commission's website, along with Shapefiles. These maps are available at: <https://www.redistricting.wa.gov/final-maps>.

20. To the best of my knowledge, no negotiation occurred between the Commissioners after our meeting was adjourned. My understanding is that caucus staff were empowered to implement the technical tasks remaining in accordance with the plans approved by the Commissioners.

I swear under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct and of my

own knowledge, and that I executed this declaration at Yakima,
Washington on November 21, 2021.

A handwritten signature in cursive script, reading "Sarah Augustine", enclosed within a rectangular box.

Sarah Augustine, Chair
Washington State
Redistricting Commission

Exhibit R

The Honorable Robert S. Lasnik

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

SUSAN SOTO PALMER, et al.

Plaintiffs,

v.

STEVEN HOBBS, in his official capacity
as Secretary of State of Washington, and
the STATE OF WASHINGTON,

Defendants,

and

JOSE TREVINO, ISMAEL G. CAMPOS,
and State Representative ALEX YBARRA,

Intervenor-Defendants.

NO. 3:22-cv-5035-RSL

EXPERT REPORT OF
DR. JOHN R. ALFORD, PhD

EXPERT REPORT OF DR. JOHN R. ALFORD, PhD

NOVEMBER 2, 2022

Expert Report

John Alford

November 2, 2022

Scope of Inquiry

I have been retained by the State of Washington as an expert to provide analysis related to the evidence of racially polarized voting in *Soto Palmer v. Hobbs*, No. 3:22-cv-05035-RSL (W.D. Wash)— a Voting Rights Act challenge related to the current legislative districts in Washington State. Specifically, I have been asked to respond to the expert reports from Plaintiffs’ expert, Dr. Loren Collingwood, in this case.¹ My rate of compensation in this matter is \$500 per hour.

Qualifications

I am a tenured full professor of political science at Rice University. In my over thirty years at Rice, I have taught courses on redistricting, elections, political representation, voting behavior and statistical methods at both the undergraduate and graduate level. I am the author of numerous scholarly works on political behavior. These works have appeared in academic journals such as the *American Journal of Political Science*, *Journal of Politics*, *Science*, *Annual Review of Political Science*, *Legislative Studies Quarterly*, *Annals of the American Academy of Political and Social Science*, *Political Psychology*, and *Political Research Quarterly*.

Over the last thirty years, I have worked with numerous local and state governments on districting plans and on Voting Rights Act issues. I have previously provided expert reports and/or testified as an expert witness in voting rights and statistical issues in a variety of court cases, working for the U.S. Attorney in the Southern District of Texas, the Texas Attorney General, a U.S. Congressman, and various cities and school districts across the state.

¹ For purposes of this report, I have reviewed Dr. Collingwood’s expert report dated August 3, 2022. I understand that Dr. Collingwood may submit a revised report, pursuant to the case schedule entered by this Court on August 14, 2022. Dkt. No. 92. In the event Dr. Collingwood’s revised report differs materially from his prior report, I reserve the right to supplement this report. I also reviewed Dr. Collingwood’s expert declarations submitted in support of the Plaintiffs’ Motion for a Preliminary Injunction. Dkt. 38-25 (filed February 25, 2022) and Dkt. 54-2 (filed March 25, 2022).

In the 2000 round of redistricting, I was retained as an expert to provide advice to the Texas Attorney General in his role as Chair of the Legislative Redistricting Board. I subsequently served as the expert for the State of Texas in the state and federal litigation involving the 2000s, 2010s and 2020s rounds of redistricting for U.S. Congress, the Texas Senate, the Texas House of Representatives, and the Texas State Board of Education.

I have also worked as an expert on redistricting and voting rights cases in Louisiana, New Mexico, Mississippi, Wisconsin, Florida, Georgia, Michigan, New York, Arkansas, Kansas, Washington, Pennsylvania, and Alabama.

The details of my academic background, including all publications in the last ten years, and work as an expert, including all cases in which I have testified by deposition or at trial in the last four years, are covered in the attached CV (Appendix 1).

Data and Sources

In preparing my report, I have reviewed the February 25, 2022, and March 25, 2022, declarations of Plaintiffs' expert Dr. Loren Collingwood, as well as the August 3, 2022, expert report from Dr. Collingwood. I have also relied for my report on the analysis, the associated documentation, and the data provided to date by Dr. Collingwood, as well as election results from the Washington Secretary of State's website (<https://www.sos.wa.gov/elections/research/>) and census demographic data from the Redistricting Data Hub (<https://redistrictingdatahub.org/>).

Focus of Analysis

Dr. Collingwood's declarations and report contend that Latino voters in the Yakima Valley meet each of the three *Gingles* preconditions—that is, (1) they are “sufficiently large and

geographically compact to constitute a majority in a single-member [voting] district”; (2) they are “politically cohesive”; and (3) “the white majority votes sufficiently as a bloc to enable it ... usually to defeat [Latinos’] preferred candidate.” *Thornburg v. Gingles*, 478 U.S. 30, 50–51 (1986).

The first *Gingles* prong seems to be met here as evidenced by the fact that the Hispanic Citizen Voting Age Population (HCVAP) exceeds 50%, both in the current Legislative District 15 as enacted, and in the alternative demonstrative configurations, in the form of three alternative versions of Legislative District 14 discussed in Prof. Collingwood’s August 3, 2022 report. According to Table 4 (page 26) of Prof. Collingwood’s report (reproduced below as Figure 1), enacted Legislative District 15 has a 51.5% Hispanic CVAP. The Alternative 1 demonstrative version of Legislative District 14 has a Hispanic CVAP of 52.5%, the Alternative 2 demonstrative version of Legislative District 14 has a Hispanic CVAP of 53.6%, and the Alternative 3 demonstrative version of Legislative District 14 has a Hispanic CVAP of 50.2%. Further, the visual appearance of both enacted Legislative District 15 and the three alternative demonstrative version of Legislative District 14 does not suggest that any of these are highly irregular in shape, and this is borne out by the summary indicators for compactness included in Dr. Collingwood’s Table 4, including population deviations and county-district, district-county, and precinct splits. The remaining second and third *Gingles* prongs are addressed in the election analysis section below.

Figure 1: Table 4 of Dr. Collingwood's August 4, 2022 report

Statistic	Enacted	Alt 1	Alt 2	Alt 3
Population	157253	157247	157269	157223
Pop. Dev.	-0.0001	0	0.0001	-0.0002
WCVAP20	43.2	37	35.7	40.1
LCVAP20	51.5	52.5	53.6	50.2
District Reock	0.3226	0.2142	0.1766	0.3312
District Polsby	0.2372	0.2131	0.1812	0.3168
Map Reock	0.3993	0.3883	0.3918	0.395
Map Polsby	0.3204	0.3119	0.3114	0.3189
County-District	1.61	1.56	1.6	1.61
District-County	1.25	1.21	1.25	1.25
Precinct Splits	284	279	280	280

Election Analysis

Dr. Collingwood and I both rely on the statistical technique of Ecological Inference (EI), developed originally by Professor Gary King.² EI is a more efficient technique intended specifically to improve on ecological regression (ER), the analysis technique previously used in VRA lawsuits to assess voter cohesion and polarization. In a nutshell, traditional ecological regression is a mathematical technique for estimating the single best fitting straight line that could be drawn to describe the relationship between two variables in a scatter plot. Applied to voting rights cases, the logic of ecological regression analysis is to determine to what degree, if any, the vote for a candidate increases in a linear fashion as the concentration of voters of a given ethnicity in the precincts increases. In contrast, King's EI procedure utilizes a method of bounds analysis, combined with a more traditional statistical method, to improve on standard ecological regression. While the details are mathematically complex, the differences mostly center on utilizing deterministic bounds information contained in individual precinct results that would not be exploited in ecological regression. In addition, EI relaxes the linear constraint that a traditional ecological regression analysis would

² King, Gary. (1997). *A Solution to the Ecological Inference Problem*. Princeton Univ. Press.

impose on the pattern across precincts. This combination in EI of relaxing some assumptions and utilizing more information typically yields a more efficient estimation of cohesion and polarization when compared to standard ecological regression.

In its original form, King's EI could only be used to estimate voter support when there were two racial groups (e.g., White and Black) and two candidates, hence the label '2 x 2 EI' often applied to the original form. Often there are more than two racial groups (e.g., White, Black, and Latino), or more than two possible vote choices (including the common situation that arises when relying on eligible voter population demographics such as Census Voting Age Population (VAP) or Citizen Voting Age Population (CVAP), where in addition to including the two (or more) candidate choices one must also include a 'no vote' choice to properly model the portion of the voter eligible population that either didn't turn out for the election or did not vote in the specific contest of interest. To accommodate these situations, one would have to run an independent 2 x 2 EI analysis for each race of interest and for each candidate of interest (and for the no voting category), an approach suggested by King and labeled the 'iterative' approach to 'R x C' (Rows by Columns) estimation.³

Shortly after suggesting the iterative method, King published a more advanced theoretical approach to R x C estimation using a Multinomial-Dirichlet Bayesian technique. A fully Bayesian implementation of this approach was viewed by King and his coauthors as computationally impractical, given that it could take as long as a week or more to run a single model on the computers available at that time, and they provided instead an implementation that relied on nonlinear least-

³ In practice, this would involve simulating a two-race analysis by comparing the racial group of interest against a "dummy" group comprising the combination of all the other races. So instead of comparing the Black population against the White population (as one would do if there were actually only two races of interest), one would compare the Black population against the combination of the White and Latino population. Then, because one is interested in each race individually (and not interested in, for example, how the combined White and Latino population voted), one would compare the White population against the Black and Latino population. Finally, one would compare the Latino population against the White and Black population.

squares.⁴ Finally, in 2007 Lau and colleagues, taking advantage of advancements in computing technology, implemented the fully Bayesian estimation procedure outline by King, et al and provided a software module called “eiPack” that included the module ‘ei.MD.bayes’ that allowed for the estimation of the true Bayesian approach.⁵ This is the implementation of EI R x C used here and in Dr. Collingwood’s R x C analysis.

I began my analysis with an attempt to replicate selected results of the Ecological Inference (EI) analysis provided by Prof. Collingwood in his report in this case. To do so, I relied on data (provided in his disclosure) that he used to produce the EI estimates included in his report. The programming and execution of the EI (RxC) routines for this replication were performed by Dr. Randy Stevenson under my direction and control. The replication results for all of the 2020 contests are provided below in a summary format below in Table 1 (for Hispanic and non-Hispanic based on BISG), Table 2 (for Hispanic and non-Hispanic based on Voting Age Population), and Table 3 (for Hispanic and non-Hispanic White based on BISG). The full details of the results from the replication analysis for the 2020 contests in these tables are attached below as Appendix 2.

⁴ See Rosen, Jiang, King, and Tanner., *Bayesian and Frequentist Inference for Ecological Inference: The R x C Case*, 55 STATISTICA NEERLANDICA 134 (2001).

⁵ See Lau, Olivia, Ryan T. Moore, and Michael Kellermann. "eiPack: Ecological Inference and Higher-Dimension Data Management," R News, vol.7, no. 2 (October 2007).

Table 1: EI Analysis of 2020 Elections (Hispanic and non-Hispanic based on BISG)

Election	Office	Party	Candidate	Hispanic Support for Candidate	Low 95% CI	High 95% CI	Non-Hispanic Support for Candidate	Low 95% CI	High 95% CI
General	President	Dem	Biden	76.7%	73.7%	79.4%	32.7%	32.0%	33.3%
		Rep	Trump	23.3%	20.6%	26.3%	67.3%	66.7%	68.0%
	Governor	Dem	Inslee	73.5%	70.4%	76.4%	29.8%	29.1%	30.5%
		Rep	Culp	26.5%	23.6%	29.6%	70.3%	69.5%	71.0%
	AG	Dem	Ferguson	76.5%	73.7%	79.2%	31.0%	30.4%	31.7%
		Rep	Larkin	23.5%	20.8%	26.3%	69.0%	68.3%	69.6%
	Treasurer	Dem	Pellicciotti	75.0%	72.2%	77.8%	27.1%	26.4%	27.8%
		Rep	Davidson	25.0%	22.2%	27.8%	72.9%	72.2%	73.6%
	Auditor	Dem	McCarthy	75.5%	72.4%	78.3%	32.7%	32.1%	33.5%
		Rep	Leyba	24.5%	21.7%	27.6%	67.3%	66.5%	67.9%
	LD13 pos 1	Dem	Castaneda	70.4%	59.8%	80.1%	16.7%	14.6%	19.0%
		Rep	Dent	29.6%	19.9%	40.2%	83.3%	81.0%	85.4%
	SSC seat 3	Non-Partisan	Montoya-Lewis	73.5%	71.3%	75.9%	38.2%	37.6%	38.7%
		Non-Partisan	Larson	26.5%	24.1%	28.7%	61.8%	61.3%	62.4%
	Franklin CC D2	Non-Partisan	Mullen	11.5%	7.1%	16.8%	78.3%	76.1%	80.1%
		Non-Partisan	Peralta	88.5%	83.2%	92.9%	21.7%	19.9%	23.9%
	SPI	Non-Partisan	Espinoza	67.6%	65.5%	69.6%	50.0%	49.5%	50.5%
		Non-Partisan	Reykdal	32.4%	30.4%	34.5%	50.0%	49.5%	50.5%
Primary	LD13 pos 1	Dem	Castaneda	45.3%	35.7%	54.9%	13.2%	11.3%	15.2%
		Dem	Malan	9.7%	5.5%	13.6%	1.7%	1.0%	2.6%
		Rep	Dent	45.0%	35.6%	55.0%	85.0%	83.0%	87.0%

Table 2: EI Analysis of 2020 Elections (Hispanic and non-Hispanic based on Voting Age Population)

Election	Office	Party	Candidate	Hispanic Support for Candidate	Low 95% CI	High 95% CI	Non-Hispanic Support for Candidate	Low 95% CI	High 95% CI
General	President	Dem	Biden	84.4%	80.4%	88.0%	35.4%	34.6%	36.2%
		Rep	Trump	15.6%	12.0%	19.6%	64.6%	63.8%	65.4%
	Governor	Dem	Inslee	78.8%	73.9%	83.2%	32.7%	31.9%	33.5%
		Rep	Culp	21.2%	16.8%	26.1%	67.3%	66.5%	68.1%
	AG	Dem	Ferguson	81.5%	76.9%	85.7%	34.2%	33.4%	35.1%
		Rep	Larkin	18.5%	14.3%	23.1%	65.8%	64.9%	66.6%
	Treasurer	Dem	Pellicciotti	82.6%	78.1%	86.4%	30.1%	29.3%	31.0%
		Rep	Davidson	17.4%	13.6%	21.9%	69.9%	69.0%	70.7%
	Auditor	Dem	McCarthy	82.6%	77.6%	86.5%	35.6%	34.8%	36.4%
		Rep	Leyba	17.4%	13.5%	22.4%	64.4%	63.6%	65.2%
	LD13 pos 1	Dem	Castaneda	74.7%	54.9%	89.8%	18.3%	14.8%	21.6%
		Rep	Dent	25.3%	10.2%	45.1%	81.7%	78.4%	85.2%
	SSC seat 3	Non-Partisan	Montoya-Lewis	82.3%	77.7%	86.5%	40.1%	39.4%	40.9%
		Non-Partisan	Larson	17.7%	13.5%	22.3%	59.9%	59.1%	60.6%
	Franklin CC D2	Non-Partisan	Mullen	18.2%	10.2%	28.7%	65.9%	63.4%	68.8%
		Non-Partisan	Peralta	81.8%	71.3%	89.8%	34.1%	31.2%	36.6%
	SPI	Non-Partisan	Espinoza	78.2%	72.5%	83.1%	50.2%	49.6%	51.0%
		Non-Partisan	Reykdal	21.8%	16.9%	27.5%	49.8%	49.0%	50.4%
Primary	LD13 pos 1	Dem	Castaneda	52.3%	33.1%	69.9%	14.6%	11.9%	16.9%
		Dem	Malan	13.2%	7.0%	20.8%	1.9%	1.2%	2.6%
		Rep	Dent	34.5%	16.5%	55.9%	83.5%	81.1%	86.2%

Table 3: EI Analysis of 2020 Elections (Hispanic and non-Hispanic White based on BISG)

Election	Office	Party	Candidate	Hispanic Support for Candidate	Low 95% CI	High 95% CI	White Support for Candidate	Low 95% CI	High 95% CI
General	President	Dem	Biden	72.1%	69.5%	74.6%	26.7%	26.0%	27.5%
		Rep	Trump	27.9%	25.4%	30.5%	73.3%	72.5%	74.0%
	Governor	Dem	Inslee	68.6%	66.0%	71.2%	23.6%	22.8%	24.4%
		Rep	Culp	31.4%	28.8%	34.0%	76.4%	75.6%	77.2%
	AG	Dem	Ferguson	71.9%	69.4%	74.6%	24.9%	24.2%	25.7%
		Rep	Larkin	28.1%	25.4%	30.6%	75.1%	74.3%	75.8%
	Treasurer	Dem	Pellicciotti	70.1%	67.7%	72.5%	20.8%	20.0%	21.5%
		Rep	Davidson	29.9%	27.5%	32.3%	79.2%	78.5%	80.0%
	Auditor	Dem	McCarthy	70.9%	68.3%	73.3%	26.7%	26.0%	27.5%
		Rep	Leyba	29.1%	26.7%	31.7%	73.3%	72.5%	74.0%
	LD13 pos 1	Dem	Castaneda	71.2%	60.6%	80.9%	12.4%	9.7%	15.7%
		Rep	Dent	28.8%	19.1%	39.4%	87.6%	84.3%	90.3%
	SSC seat 3	Non-Partisan	Montoya-Lewis	69.4%	67.1%	71.7%	33.0%	32.3%	33.8%
		Non-Partisan	Larson	30.6%	28.3%	32.9%	67.0%	66.2%	67.7%
	Franklin CC D2	Non-Partisan	Mullen	17.5%	12.7%	22.6%	85.4%	82.6%	87.7%
		Non-Partisan	Peralta	82.5%	77.4%	87.3%	14.6%	12.3%	17.4%
	SPI	Non-Partisan	Espinoza	68.8%	66.7%	71.0%	51.3%	50.4%	52.3%
		Non-Partisan	Reykdal	31.2%	29.0%	33.3%	48.7%	47.7%	49.6%
Primary	LD13 pos 1	Dem	Castaneda	46.0%	36.2%	55.2%	10.4%	8.0%	12.9%
		Dem	Malan	6.7%	3.9%	9.9%	0.8%	0.5%	1.2%
		Rep	Dent	47.2%	38.0%	57.1%	88.8%	86.3%	91.2%

Taken as a whole, the replication results for the elections matched very closely with the estimates reported by Prof. Collingwood, with only the slight variation that one would expect given the inherent variability associated with EI estimation. Given that there were no substantive differences across the reported results (comparing Dr. Collingwood's EI and RxC results), or the replication results, and to make it clear that to the extent that I disagree with Dr. Collingwood it is not on the basis of any difference in the numerical results of our analysis, I have relied for this report primarily on the EI estimates provided by Dr. Collingwood in his report.

Ethnically Polarized Voting Analysis

Dr. Collingwood provides the results of his polarized voting analysis across two methods (EI and RxC) and separately for elections that include a Spanish-surname candidate and those that don't.

This yields four graphical displays of his results (Figures 3, 4, 5 and 6 on pages 14-18). In order to facilitate comparison across all of these contests I have provided these results below in table format using the ‘results’ files provided by Prof. Collingwood in his disclosures. The table format also allows for the inclusion of Prof. Collingwood’s estimated confidence intervals as reported in his disclosure. I have reproduced these results relying where possible on Prof. Collingwood’s RxC analysis⁶, as it is generally accepted as perhaps more appropriate and certainly no worse than the older, iterative EI approach. In any case, this is not a significant choice here, because as Prof. Collingwood notes “both approaches produce very similar estimates” (page 13), an observation borne out by comparing his Figure 3 to his Figure 5, or his Figure 4 to his Figure 6.

Table 4 below combines Prof. Collingwood’s RxC estimates for all Democrat-versus-Republican contests, regardless of whether there was a Spanish-surname candidate in the contest. The only addition to the elections analyzed by Prof. Collingwood is the 2020 State Auditor contest, in which the Republican candidate was Christopher Leyba. Leyba is a Spanish surname according to the Census list.

⁶ In his reports Dr. Collingwood provides his EI results in the form of figures. He also provided these same results in table format with his disclosure materials. The tables here that reproduce Dr. Collingwood’s EI results are based on those disclosed tabular results, all the contests that appear in his ‘ei’ figures were also included in his disclosed tabular results files, but some of the election contests were not included in the disclosed RxC results files. Consequently, the tables below utilize Dr. Collingwood’s RxC results whenever available and report his ‘ei’ results only where the RxC results were not available in tabular form. This is indicated in the tables here in the first column labeled ‘Model’.

Table 4: Collingwood EI Results

Model	Jurisdiction	Election	Year	Contest	Candidate	Spanish-surname?	Candidate Party	Estimate of Hispanic Voter Support	Conf. Interval	Estimate of non-Hispanic White Voter Support	Conf. Interval
rx	Statewide	General	2020	President	Trump	No	Rep	29.46	(24.65 to 36.09)	70.99	(66.65 to 72.78)
rx	Statewide	General	2020	President	Biden	No	Dem	70.54	(63.91 to 75.35)	29.01	(27.22 to 33.35)
rx	Statewide	General	2020	Governor	Culp	No	Rep	32.13	(28.27 to 39.7)	74.74	(69.84 to 76.5)
rx	Statewide	General	2020	Governor	Inslee	No	Dem	67.87	(60.3 to 71.73)	25.26	(23.5 to 30.16)
rx	Statewide	General	2020	Attorney General	Larkin	No	Rep	27.23	(25.24 to 28.91)	74.62	(74.03 to 75.21)
rx	Statewide	General	2020	Attorney General	Ferguson	No	Dem	72.77	(71.09 to 74.76)	25.38	(24.79 to 25.97)
rx	Statewide	General	2020	Treasurer	Davidson	No	Rep	29.49	(27.92 to 31.28)	78.82	(78.24 to 79.41)
rx	Statewide	General	2020	Treasurer	Pellicciotti	No	Dem	70.51	(68.72 to 72.08)	21.18	(20.59 to 21.76)
rx	Statewide	General	2018	US Senate	Hutchinson	No	Rep	27.03	(23.96 to 30.21)	73.95	(73.18 to 74.68)
rx	Statewide	General	2018	US Senate	Cantwell	No	Dem	72.97	(69.79 to 76.03)	26.05	(25.32 to 26.82)
rx	CD 4	General	2018	D-4 US Rep	Newhouse	No	Rep	31.71	(28.64 to 35.12)	74.53	(73.78 to 75.21)
rx	CD 4	General	2018	D-4 US Rep	Brown	No	Dem	68.29	(64.88 to 71.36)	25.47	(24.79 to 26.22)
rx	Statewide	General	2016	President	Trump	No	Rep	22.28	(20 to 25.04)	70.85	(70.14 to 71.54)
rx	Statewide	General	2016	President	Clinton	No	Dem	73.05	(70.15 to 75.34)	22.52	(21.74 to 23.28)
ei	Statewide	General	2016	Governor	Bryant	No	Rep	24.81	(22.04 to 27.66)	73.23	(72.48 to 73.94)
ei	Statewide	General	2016	Governor	Inslee	No	Dem	75.19	(72.34 to 77.96)	26.77	(26.06 to 27.52)
ei	Statewide	General	2016	US Senate	Vance	No	Rep	20.73	(17.93 to 23.63)	68.41	(67.58 to 69.14)
ei	Statewide	General	2016	US Senate	Murray	No	Dem	79.27	(76.37 to 82.07)	31.59	(30.86 to 32.42)
ei	LD 13	Primary	2020	LD-13 St House Pos 1	Dent	No	Rep	36.23	(27.33 to 46.29)	83.39	(81.28 to 85.03)
ei	LD 13	Primary	2020	LD-13 St House Pos 1	Castaneda	Yes	Dem	57.05	(48.92 to 64.99)	10.16	(8.54 to 11.74)
ei	LD13 (Grant)	General	2020	LD13 Pos 1 (Grant)	Dent	No	Rep	26.32	(21.15 to 31.28)	87.18	(85.27 to 88.87)
ei	LD13 (Grant)	General	2020	LD13 Pos 1 (Grant)	Castaneda	Yes	Dem	74.62	(70.38 to 79.43)	12.84	(11.21 to 14.86)
ei	Franklin	General	2020	Franklin D2	Mullen	No	Rep	11.86	(9.4 to 14.45)	86.27	(84.33 to 87.81)
ei	Franklin	General	2020	Franklin D2	Peralta	Yes	Dem	88.12	(86.19 to 90.06)	13.51	(11.91 to 14.87)
ei	Yakima	General	2018	Yakima D3	Childress	No	Rep	16.92	(13.86 to 19.74)	76.56	(76.42 to 76.67)
ei	Yakima	General	2018	Yakima D3	Soto Palmer	Yes	Dem	82.95	(80.1 to 85.83)	23.42	(23.35 to 23.53)
rx	LD 15	General	2018	LD 15 State Senate	Honeyford	No	Rep	22.18	(17.97 to 26.7)	81.8	(79.37 to 84.04)
rx	LD 15	General	2018	LD 15 State Senate	Aguilar	Yes	Dem	77.82	(73.3 to 82.03)	18.2	(15.96 to 20.63)
ei	LD14 (Yakima)	General	2016	LD14 Pos 1 (Yak)	Johnson	No	Rep	12.22	(9.52 to 15.13)	83.26	(82.67 to 84.02)
ei	LD14 (Yakima)	General	2016	LD14 Pos 1 (Yak)	Sotopalmer	Yes	Dem	87.82	(85.05 to 89.9)	16.44	(15.52 to 17.08)
rx	LD 15	General	2014	LD 15 State Senate	Honeyford	No	Rep	34.03	(29.21 to 39.21)	86.65	(84.37 to 88.43)
rx	LD 15	General	2014	LD 15 State Senate	Munoz	Yes	Dem	65.97	(60.79 to 70.79)	13.35	(11.57 to 15.63)
rx	LD 15	General	2014	LD 15 State Rep	Taylor	No	Rep	32.51	(29.7 to 35.11)	85.34	(84.39 to 86.36)
rx	LD 15	General	2014	LD 15 State Rep	Martinez Chavez	Yes	Dem	67.49	(64.89 to 70.3)	14.66	(13.64 to 15.61)
?	LD 15	General	2012	LD 15 State Rep	Taylor	No	Rep	10.95	(9.65 to 12.23)	84.61	(83.8 to 85.48)
?	LD 15	General	2012	LD 15 State Rep	Gonzales	Yes	Dem	89.05	(87.77 to 90.35)	15.39	(14.52 to 16.2)
rx	LD 15	Primary	2012	LD-15 Rep Pos 2	Taylor	No	Rep	20.71	(13.1 to 30.65)	73.34	(71.34 to 75.14)
rx	LD 15	Primary	2012	LD-15 Rep Pos 2	Gonzales	Yes	Dem	75.97	(63.79 to 83.89)	15.94	(14.03 to 17.93)
This contest was not included in the Collingwood report and the EI results for it are from my analysis											
rx	Statewide	General	2020	State Auditor	Leyba	Yes	Rep	29.10	(26.7 to 31.7)	73.30	(72.5 to 74.0)
rx	Statewide	General	2020	State Auditor	McCarthy	No	Dem	70.90	(68.3 to 73.3)	26.70	(26.0 to 27.5)

An examination of Table 4 shows that in elections with partisan candidate information on the ballot, non-Spanish surname Democratic candidates draw moderately cohesive support from Hispanic voters over Republican candidates, and the same is true for Spanish surname Democratic candidates. Likewise, non-Spanish surname Democratic candidates draw little support from White

voters, and the same is true for non-Spanish surname Democratic candidates. These are the same elections and the same results summarized in Prof. Collingwood's Figure 4 (page 15 of the August 3, 2022 report). He characterizes these results as being "exceedingly consistent with the ecological inference approach presented above and show high levels of racially polarized voting between Latino and white voters in the 5-County area" (page 15). The one additional contest added here and not included in Prof. Collingwood's report is the 2020 State Auditor contest, where the Republican candidate has a Spanish surname. That contest reinforces the general pattern of partisan, rather than ethnic, polarization. The level of estimated Hispanic voter support for Leyba, at 29.1% is very similar to the levels of Hispanic voter support for the non-Spanish surname Republican candidates on the same ballot. Likewise, the level of Anglo voter support for Leyba, at 73.3%, is very similar to the levels of Anglo voter support for the non-Spanish surname Republican candidates on the same ballot.

Table 5 below includes all the same election contests as Table 4 above but includes only the Democratic candidates to facilitate comparison (this makes the table easier to scan and does not remove any crucial information as the results for the Republican candidate in a given contest are essentially the inverse of the results for the Democratic candidate, except in the limited case of the two primary elections). In addition, the elections in Table 5 are separated by the ethnicity of the Democratic candidate. In addition, Table 5 separates Spanish surname Democratic candidates from non-Spanish surname Democratic candidates to allow for an easy comparison of these two contexts. The overall results suggest strong evidence of different voting patterns by Hispanic and non-Hispanic voters relative to the party affiliation of a candidate, regardless of whether the Democratic candidate has a Spanish surname or not. However, there is also a modest tendency toward slightly greater support, about 7 percentage points, among Hispanic voters for Spanish surname Democratic candidates over non-Spanish surname Democratic candidates. Similarly, there is a corresponding

modest tendency for Anglo voters to be less supportive, about minus 10 percentage points, of Spanish surname Democratic candidates, relative to non-Spanish surname Democratic candidates. Thus, it appears that partisan cohesion accounts for the bulk of the differences in ethnic voting patterns in these elections, but that there is also a small but consistent increase in the level of polarization when the Democratic candidate has a Spanish surname.

Table 5: Collingwood EI Results – Democratic Candidates Only

Model	Jurisdiction	Election	Year	Contest	Candidate	Spanish-surname?	Candidate Party	Estimate of Hispanic Voter Support	Conf. Interval	Estimate of non-Hispanic White Voter Support	Conf. Interval
rx	Statewide	General	2020	President	Biden	No	Dem	70.54	(63.91 to 75.35)	29.01	(27.22 to 33.35)
rx	Statewide	General	2020	Governor	Inslee	No	Dem	67.87	(60.3 to 71.73)	25.26	(23.5 to 30.16)
rx	Statewide	General	2020	Attorney General	Ferguson	No	Dem	72.77	(71.09 to 74.76)	25.38	(24.79 to 25.97)
rx	Statewide	General	2020	Treasurer	Pellicciotti	No	Dem	70.51	(68.72 to 72.08)	21.18	(20.59 to 21.76)
rx	Statewide	General	2018	US Senate	Cantwell	No	Dem	72.97	(69.79 to 76.03)	26.05	(25.32 to 26.82)
rx	CD 4	General	2018	D-4 US Rep	Brown	No	Dem	68.29	(64.88 to 71.36)	25.47	(24.79 to 26.22)
rx	Statewide	General	2016	President	Clinton	No	Dem	73.05	(70.15 to 75.34)	22.52	(21.74 to 23.28)
ei	Statewide	General	2016	Governor	Inslee	No	Dem	75.19	(72.34 to 77.96)	26.77	(26.06 to 27.52)
ei	Statewide	General	2016	US Senate	Murray	No	Dem	79.27	(76.37 to 82.07)	31.59	(30.86 to 32.42)
					General Election Average			72.27		25.91	
ei	LD 13	Primary	2020	LD-13 St House Pos 1	Castaneda	Yes	Dem	57.05	(48.92 to 64.99)	10.16	(8.54 to 11.74)
ei	LD13 (Grant)	General	2020	LD13 Pos 1 (Grant)	Castaneda	Yes	Dem	74.62	(70.38 to 79.43)	12.84	(11.21 to 14.86)
ei	Franklin	General	2020	Franklin D2	Peralta	Yes	Dem	88.12	(86.19 to 90.06)	13.51	(11.91 to 14.87)
ei	Yakima	General	2018	Yakima D3	Soto Palmer	Yes	Dem	82.95	(80.1 to 85.83)	23.42	(23.35 to 23.53)
rx	LD 15	General	2018	LD 15 State Senate	Aguilar	Yes	Dem	77.82	(73.3 to 82.03)	18.2	(15.96 to 20.63)
ei	LD14 (Yakima)	General	2016	LD14 Pos 1 (Yak)	Sotopalmer	Yes	Dem	87.82	(85.05 to 89.9)	16.44	(15.52 to 17.08)
rx	LD 15	General	2014	LD 15 State Senate	Munoz	Yes	Dem	65.97	(60.79 to 70.79)	13.35	(11.57 to 15.63)
rx	LD 15	General	2014	LD 15 State Rep	Martinez Chavez	Yes	Dem	67.49	(64.89 to 70.3)	14.66	(13.64 to 15.61)
?	LD 15	General	2012	LD 15 State Rep	Gonzales	Yes	Dem	89.05	(87.77 to 90.35)	15.39	(14.52 to 16.2)
rx	LD 15	Primary	2012	LD-15 Rep Pos 2	Gonzales	Yes	Dem	75.97	(63.79 to 83.89)	15.94	(14.03 to 17.93)
					General Election Average			79.23		15.98	
					Difference between Spanish Surname and non-Spanish Surname Averages			6.96		-9.94	

Table 6 below reproduces Prof. Collingwood's RxC estimates for the remaining four elections with Spanish-surname candidates included in his Figures 5 and 6 (pages 17-18 of the August 3, 2022 report). This includes three non-partisan contests (where the political party preference of the candidates was not indicated on the ballot), as well as the one partisan contest where party was indicated on the ballot, but both candidates shared the same party (Republican). These

contests provide additional insight into the role of candidate ethnicity in voting behavior, as the role of candidate party is minimized.

The results indicate that absent a party cue on the ballot, Hispanic voters continue to show moderately cohesive support for candidates, with an average support of 73 percent, only six percentage points below their average support for Democratic Spanish surname candidates (79%).

In contrast, the behavior of non-Hispanic Whites is noticeably different here. The average support provided by non-Hispanic White voters to Hispanic candidates in these contests is 43 percent, a level well above the average 15 percent support for Democratic Hispanic candidates that we see in the two-party partisan contests in Table 2. In two of the four contests the votes of non-Hispanic Whites are clearly not cohesive, splitting essentially 50/50 between the Hispanic candidate and the Anglo candidate, something never even approached in partisan contested election in Table 2. Prof. Collingwood seems to agree, as he treats these two contests as ones in which Racially Polarized Voting is not present.⁷ In the other two contests Anglo voters provide support for the Hispanic candidate in the mid-thirty percent range, well above the average 15 percent support for Democratic Hispanic candidates that we in the two-party partisan contests in Table 2. Also note that according to the performance analysis that Prof. Collingwood reports in his Figure 11 (page 25), the preferred candidate of Spanish-surname voters, Montoya-Lewis, would have won the 2020 State Supreme Court Place 3 contest within the boundaries of enacted Legislative District 15, as would presumably both Espinoza and Gonzalez. Thus, at a minimum, the preferred candidate of Spanish-surname voters would have prevailed in enacted Legislative District 15 in three of these four contests. Likewise, the average 57 percent support provided by non-Hispanic White voters to Hispanic

⁷ These are the two statewide contests that Prof. Collingwood is referring to as contests he excluded from his Figure 11 performance analysis because “RPV is not present” (footnote 14 on page 19).

candidates in these contests is too low, even at a very minimal 60% threshold, to qualify as cohesive opposition to the Hispanic preferred candidates in these elections.

Table 6: Collingwood EI Results – Non-Party Contested Only

Model	Jurisdiction	Election	Year	Contest	Candidate	Spanish-surname?	Candidate Party	Estimate of Hispanic Voter Support	Conf. Interval	Estimate of non-Hispanic White Voter Support	Conf. Interval
ei	Statewide	General	2020	State Sup. Ct. 3	Larson	No	NP	26.01	(24.21 to 27.77)	65.49	(65.02 to 66.01)
ei	Statewide	General	2020	State Sup. Ct. 3	Montoya-Lewis	Yes	NP	73.82	(72.25 to 75.21)	34.21	(33.76 to 34.81)
ei	Statewide	General	2020	Sup Pub. Inst.	Reykdal	No	NP	32.08	(31.35 to 32.71)	49.82	(49.26 to 50.2)
ei	Statewide	General	2020	Sup Pub. Inst.	Espinoza	Yes	NP	67.82	(67.15 to 68.5)	49.57	(49.32 to 49.79)
ei	Statewide	General	2018	State Sup. Ct. 8	Choi	No	NP	24.38	(22.65 to 26.31)	48.99	(48.46 to 49.52)
ei	Statewide	General	2018	State Sup. Ct. 8	Gonzalez	Yes	NP	75.42	(73.82 to 77.69)	50.97	(50.54 to 51.48)
ei	Yakima	General	2016	Yakima D2	Anderson	No	Rep	26.23	(24.76 to 27.31)	62.35	(61.52 to 62.99)
ei	Yakima	General	2016	Yakima D2	Manjarrez	Yes	Rep	73.78	(72.3 to 75.3)	37.62	(36.98 to 38.17)
					Spanish-surname Candidate Average			72.71		43.09	

Performance Analysis

Table 7 below reproduces in Table format the performance analysis results provided by Dr. Collingwood in his Figure 11 (page 25 of his August 3, 2022 report). Based on the data he provides, enacted Legislative District 15 is clearly a highly competitive district. The preferred candidate of Spanish-surnamed voters prevails in three of the ten contests, and two others are very close. Shifting less than a percentage point of the votes would reverse the result in both the 2016 Governor’s contest and the 2020 Attorney General’s contest. This indicates that enacted Legislative District 15 is a highly competitive district that can elect Hispanic candidates of choices, but that tilts slightly Republican overall, and will likely elect a Republican more often than a Democrat. However, the margin is small, and suggests that a very modest shift in the Democrat makeup of the district—including, potentially, through continued growth of the Hispanic population in the district—could

result in a district that would be expected to elect the Hispanic candidate of choice as often as not. In contrast, the three alternative demonstration districts are much less competitive and tilt decidedly Democratic (especially Alternatives 1 and 2). All move well beyond a district that is as likely as not to elect the Hispanic candidate of choice (the Democrat), as these are districts that based on Prof. Collingwood's performance analysis would be expected to always (10 out of 10 for Alternatives 1 and 2) or almost always (9 out of 10 for alternative 3) elect a Democrat.

Table 7: Collingwood Performance Analysis

Year	Contest	Candidate	Party	LD 15	Margin	Atl 1	Margin	Alt 2	Margin	Alt 3	Margin
2020	Treasurer	Pellicciotti	Dem	46.7	-6.6	56	12.1	56.5	13	52.5	5.1
2020	Treasurer	Davidson	Rep	53.3		43.9		43.5		47.4	
2020	State Sup. Ct. 3	Montoya	NP	51.1	2.5	58.4	17	58.2	16.6	55.1	10.4
2020	State Sup. Ct. 3	Larson	NP	48.6		41.4		41.6		44.7	
2020	President	Biden	Dem	48.9	0.2	57.9	19.3	58.5	19.4	54.6	11.7
2020	President	Trump	Rep	48.7		38.6		39.1		42.9	
2020	Governor	Inslee	Dem	47.3	-5.1	56.4	13.1	57	14.2	53	6.2
2020	Governor	Culp	Rep	52.4		43.3		42.8		46.8	
2020	Attorney General	Ferguson	Dem	49.4	-1.1	58.6	17.3	59	18.1	55.2	10.6
2020	Attorney General	Larkin	Rep	50.5		41.3		40.9		44.6	
2018	US Senate	Cantwell	Dem	46.4	-7.2	55.7	11.4	56.1	12.2	51.3	2.6
2018	US Senate	Hutchinson	Rep	53.6		44.3		43.9		48.7	
2018	D-4 US Rep	Brown	Dem	44.3	-11.4	55	10	54.1	8.2	49.2	-1.6
2018	D-4 US Rep	Newhouse	Rep	55.7		45		45.9		50.8	
2016	US Senate	Murray	Dem	53.8	7.6	62.7	25.4	62.9	25.8	58.8	17.6
2016	US Senate	Vance	Rep	46.2		37.3		37.1		41.2	
2016	President	Clinton	Dem	46.3	-1.7	55	15.6	55.7	17	51.3	8.2
2016	President	Trump	Rep	48		39.4		38.7		43.1	
2016	Governor	Inslee	Dem	49.8	-0.4	58.7	17.4	58.8	17.6	55.1	10.2
2016	Governor	Bryant	Rep	50.2		41.3		41.2		44.9	
			Average Margin		-2.32		15.86		16.21		8.1

Summary Conclusions

As noted above, there does not seem to be any dispute as to *Gingles* 1. Both the enacted and demonstrative districts are majority adult citizen Hispanic. For *Gingles* 2, the level of Spanish-surname voter cohesion is stable in the 70 percent range across election types, suggesting consistent

moderate cohesion. For *Gingles* 3, the picture is more mixed. In partisan contested elections non-Hispanic White voters demonstrate cohesive opposition to Democratic candidates, and their opposition is modestly elevated when those Democratic candidates are also Hispanic. However, in contests without a party cue, non-Hispanic White voters do not exhibit cohesive opposition to Hispanic candidates, and these contests do not exhibit ethnically polarized voting. Finally, the performance evaluation performed by Prof. Collingwood indicates that candidates preferred by Hispanic voters can prevail in enacted Legislative District 15, albeit not as often as they would fail to be elected. Given the highly competitive partisan balance in the election contests it seems likely that a very modest change could shift the district to one equally likely to elect the Hispanic candidate of choice.

November 2, 2022

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

John R. Alford, Ph.D.

Appendix 1

CV

John R. Alford

Curriculum Vitae

November 2022

Dept. of Political Science
Rice University - MS-24
P.O. Box 1892
Houston, Texas 77251-1892
713-348-3364
jra@rice.edu

Employment:

Professor, Rice University, 2015 to present.
Associate Professor, Rice University, 1985-2015.
Assistant Professor, University of Georgia, 1981-1985.
Instructor, Oakland University, 1980-1981.
Teaching-Research Fellow, University of Iowa, 1977-1980.
Research Associate, Institute for Urban Studies, Houston, Texas, 1976-1977.

Education:

Ph.D., University of Iowa, Political Science, 1981.
M.A., University of Iowa, Political Science, 1980.
M.P.A., University of Houston, Public Administration, 1977.
B.S., University of Houston, Political Science, 1975.

Books:

Predisposed: Liberals, Conservatives, and the Biology of Political Differences. New York: Routledge, 2013. Co-authors, John R. Hibbing and Kevin B. Smith.

Articles:

“Political Orientations Vary with Detection of Androstenone,” with Amanda Friesen, Michael Gruszczynski, and Kevin B. Smith. **Politics and the Life Sciences**. (Spring, 2020).

“Intuitive ethics and political orientations: Testing moral foundations as a theory of political ideology.” with Kevin Smith, John Hibbing, Nicholas Martin, and Peter Hatemi. **American Journal of Political Science**. (April, 2017).

“The Genetic and Environmental Foundations of Political, Psychological, Social, and Economic Behaviors: A Panel Study of Twins and Families.” with Peter Hatemi, Kevin Smith, and John Hibbing. **Twin Research and Human Genetics**. (May, 2015.)

“Liberals and conservatives: Non-convertible currencies.” with John R. Hibbing and Kevin B. Smith. **Behavioral and Brain Sciences** (January, 2015).

“Non-Political Images Evoke Neural Predictors Of Political Ideology.” with Woo-Young Ahn, Kenneth T. Kishida, Xiaosi Gu, Terry Lohrenz, Ann Harvey, Kevin Smith, Gideon Yaffe, John Hibbing, Peter Dayan, P. Read Montague. **Current Biology**. (November, 2014).

“Cortisol and Politics: Variance in Voting Behavior is Predicted by Baseline Cortisol Levels.” with Jeffrey French, Kevin Smith, Adam Guck, Andrew Birnie, and John Hibbing. **Physiology & Behavior**. (June, 2014).

“Differences in Negativity Bias Underlie Variations in Political Ideology.” with Kevin B. Smith and John R. Hibbing. **Behavioral and Brain Sciences**. (June, 2014).

“Negativity bias and political preferences: A response to commentators Response.” with Kevin B. Smith and John R. Hibbing. **Behavioral and Brain Sciences**. (June, 2014).

“Genetic and Environmental Transmission of Political Orientations.” with Carolyn L. Funk, Matthew Hibbing, Kevin B. Smith, Nicholas R. Eaton, Robert F. Krueger, Lindon J. Eaves, John R. Hibbing. **Political Psychology**, (December, 2013).

“Biology, Ideology, and Epistemology: How Do We Know Political Attitudes Are Inherited and Why Should We Care?” with Kevin Smith, Peter K. Hatemi, Lindon J. Eaves, Carolyn Funk, and John R. Hibbing. **American Journal of Political Science**. (January, 2012)

“Disgust Sensitivity and the Neurophysiology of Left-Right Political Orientations.” with Kevin Smith, John Hibbing, Douglas Oxley, and Matthew Hibbing, **PlosONE**, (October, 2011).

“Linking Genetics and Political Attitudes: Re-Conceptualizing Political Ideology.” with Kevin Smith, John Hibbing, Douglas Oxley, and Matthew Hibbing, **Political Psychology**, (June, 2011).

“The Politics of Mate Choice.” with Peter Hatemi, John R. Hibbing, Nicholas Martin and Lindon Eaves, **Journal of Politics**, (March, 2011).

“Not by Twins Alone: Using the Extended Twin Family Design to Investigate the Genetic Basis of Political Beliefs” with Peter Hatemi, John Hibbing, Sarah Medland, Matthew Keller, Kevin Smith, Nicholas Martin, and Lindon Eaves, **American Journal of Political Science**, (July, 2010).

“The Ultimate Source of Political Opinions: Genes and the Environment” with John R. Hibbing in **Understanding Public Opinion**, 3rd Edition eds. Barbara Norrander and Clyde Wilcox, Washington D.C.: CQ Press, (2010).

“Is There a ‘Party’ in your Genes” with Peter Hatemi, John R. Hibbing, Nicholas Martin and Lindon Eaves, **Political Research Quarterly**, (September, 2009).

“Twin Studies, Molecular Genetics, Politics, and Tolerance: A Response to Beckwith and Morris” with John R. Hibbing and Cary Funk, **Perspectives on Politics**, (December, 2008). This is a solicited response to a critique of our 2005 APSR article “Are Political Orientations Genetically Transmitted?”

“Political Attitudes Vary with Physiological Traits” with Douglas R. Oxley, Kevin B. Smith, Matthew V. Hibbing, Jennifer L. Miller, Mario Scalora, Peter K. Hatemi, and John R. Hibbing, **Science**, (September 19, 2008).

“The New Empirical Biopolitics” with John R. Hibbing, **Annual Review of Political Science**, (June, 2008).

“Beyond Liberals and Conservatives to Political Genotypes and Phenotypes” with John R. Hibbing and Cary Funk, **Perspectives on Politics**, (June, 2008). This is a solicited response to a critique of our 2005 APSR article “Are Political Orientations Genetically Transmitted?”

“Personal, Interpersonal, and Political Temperaments” with John R. Hibbing, **Annals of the American Academy of Political and Social Science**, (November, 2007).

“Is Politics in our Genes?” with John R. Hibbing, **Tidsskriftet Politik**, (February, 2007).

“Biology and Rational Choice” with John R. Hibbing, **The Political Economist**, (Fall, 2005)

“Are Political Orientations Genetically Transmitted?” with John R. Hibbing and Carolyn Funk, **American Political Science Review**, (May, 2005). (The main findings table from this article has been reprinted in two college level text books - Psychology, 9th ed. and Invitation to Psychology 4th ed. both by Wade and Tavris, Prentice Hall, 2007).

“The Origin of Politics: An Evolutionary Theory of Political Behavior” with John R. Hibbing, **Perspectives on Politics**, (December, 2004).

“Accepting Authoritative Decisions: Humans as Wary Cooperators” with John R. Hibbing, **American Journal of Political Science**, (January, 2004).

“Electoral Convergence of the Two Houses of Congress” with John R. Hibbing, in **The Exceptional Senate**, ed. Bruce Oppenheimer, Columbus: Ohio State University Press, (2002).

“We’re All in this Together: The Decline of Trust in Government, 1958-1996.” in **What is it About Government that Americans Dislike?**, eds. John Hibbing and Beth Theiss-Morse, Cambridge: Cambridge University Press, (2001).

“The 2000 Census and the New Redistricting,” **Texas State Bar Association School Law Section Newsletter**, (July, 2000).

“Overdraft: The Political Cost of Congressional Malfeasance” with Holly Teeters, Dan Ward, and Rick Wilson, **Journal of Politics** (August, 1994).

"Personal and Partisan Advantage in U.S. Congressional Elections, 1846-1990" with David W. Brady, in **Congress Reconsidered** 5th edition, eds. Larry Dodd and Bruce Oppenheimer, CQ Press, (1993).

"The 1990 Congressional Election Results and the Fallacy that They Embodied an Anti-Incumbent Mood" with John R. Hibbing, **PS** 25 (June, 1992).

"Constituency Population and Representation in the United States Senate" with John R. Hibbing. **Legislative Studies Quarterly**, (November, 1990).

"Editors' Introduction: Electing the U.S. Senate" with Bruce I. Oppenheimer. **Legislative Studies Quarterly**, (November, 1990).

"Personal and Partisan Advantage in U.S. Congressional Elections, 1846-1990" with David W. Brady, in **Congress Reconsidered** 4th edition, eds. Larry Dodd and Bruce Oppenheimer, CQ Press, (1988). Reprinted in *The Congress of the United States, 1789-1989*, ed. Joel Silby, Carlson Publishing Inc., (1991), and in *The Quest for Office*, eds. Wayne and Wilcox, St. Martins Press, (1991).

"Can Government Regulate Fertility? An Assessment of Pro-natalist Policy in Eastern Europe" with Jerome Legge. **The Western Political Quarterly** (December, 1986).

"Partisanship and Voting" with James Campbell, Mary Munro, and Bruce Campbell, in **Research in Micropolitics. Volume 1 - Voting Behavior**. Samuel Long, ed. JAI Press, (1986).

"Economic Conditions and Individual Vote in the Federal Republic of Germany" with Jerome S. Legge. **Journal of Politics** (November, 1984).

"Television Markets and Congressional Elections" with James Campbell and Keith Henry. **Legislative Studies Quarterly** (November, 1984).

"Economic Conditions and the Forgotten Side of Congress: A Foray into U.S. Senate Elections" with John R. Hibbing, **British Journal of Political Science** (October, 1982).

"Increased Incumbency Advantage in the House" with John R. Hibbing, **Journal of Politics** (November, 1981). Reprinted in *The Congress of the United States, 1789-1989*, Carlson Publishing Inc., (1991).

"The Electoral Impact of Economic Conditions: Who is Held Responsible?" with John R. Hibbing, **American Journal of Political Science** (August, 1981).

"Comment on Increased Incumbency Advantage" with John R. Hibbing, Refereed communication: **American Political Science Review** (March, 1981).

"Can Government Regulate Safety? The Coal Mine Example" with Michael Lewis-Beck, **American Political Science Review** (September, 1980).

Awards and Honors:

CQ Press Award - 1988, honoring the outstanding paper in legislative politics presented at the 1987 Annual Meeting of the American Political Science Association. Awarded for "The Demise of the Upper House and the Rise of the Senate: Electoral Responsiveness in the United States Senate" with John Hibbing.

Research Grants:

National Science Foundation, 2009-2011, "Identifying the Biological Influences on Political Temperaments", with John Hibbing, Kevin Smith, Kim Espy, Nicolas Martin and Read Montague. This is a collaborative project involving Rice, University of Nebraska, Baylor College of Medicine, and Queensland Institute for Medical Research.

National Science Foundation, 2007-2010, "Genes and Politics: Providing the Necessary Data", with John Hibbing, Kevin Smith, and Lindon Eaves. This is a collaborative project involving Rice, University of Nebraska, Virginia Commonwealth University, and the University of Minnesota.

National Science Foundation, 2007-2010, "Investigating the Genetic Basis of Economic Behavior", with John Hibbing and Kevin Smith. This is a collaborative project involving Rice, University of Nebraska, Virginia Commonwealth University, and the Queensland Institute of Medical Research.

Rice University Faculty Initiatives Fund, 2007-2009, "The Biological Substrates of Political Behavior". This is in assistance of a collaborative project involving Rice, Baylor College of Medicine, Queensland Institute of Medical Research, University of Nebraska, Virginia Commonwealth University, and the University of Minnesota.

National Science Foundation, 2004-2006, "Decision-Making on Behalf of Others", with John Hibbing. This is a collaborative project involving Rice and the University of Nebraska.

National Science Foundation, 2001-2002, dissertation grant for Kevin Arceneaux, "Doctoral Dissertation Research in Political Science: Voting Behavior in the Context of U.S. Federalism."

National Science Foundation, 2000-2001, dissertation grant for Stacy Ulbig, "Doctoral Dissertation Research in Political Science: Sub-national Contextual Influences on Political Trust."

National Science Foundation, 1999-2000, dissertation grant for Richard Engstrom, "Doctoral Dissertation Research in Political Science: Electoral District Structure and Political Behavior."

Rice University Research Grant, 1985, Recent Trends in British Parliamentary Elections.

Faculty Research Grants Program, University of Georgia, Summer, 1982. Impact of Media Structure on Congressional Elections, with James Campbell.

Papers Presented:

"The Physiological Basis of Political Temperaments" 6th European Consortium for Political Research General Conference, Reykjavik, Iceland (2011), with Kevin Smith, and John Hibbing.

"Identifying the Biological Influences on Political Temperaments" National Science Foundation Annual Human Social Dynamics Meeting (2010), with John Hibbing, Kimberly Espy, Nicholas Martin, Read Montague, and Kevin B. Smith.

"Political Orientations May Be Related to Detection of the Odor of Androstenone" Annual meeting of the Midwest Political Science Association, Chicago, IL (2010), with Kevin Smith, Amanda Balzer, Michael Gruszczynski, Carly M. Jacobs, and John Hibbing.

"Toward a Modern View of Political Man: Genetic and Environmental Transmission of Political Orientations from Attitude Intensity to Political Participation" Annual meeting of the American Political Science Association, Washington, DC (2010), with Carolyn Funk, Kevin Smith, and John Hibbing.

"Genetic and Environmental Transmission of Political Involvement from Attitude Intensity to Political Participation" Annual meeting of the International Society for Political Psychology, San Francisco, CA (2010), with Carolyn Funk, Kevin Smith, and John Hibbing.

"Are Violations of the EEA Relevant to Political Attitudes and Behaviors?" Annual meeting of the Midwest Political Science Association, Chicago, IL (2010), with Kevin Smith, and John Hibbing.

"The Neural Basis of Representation" Annual meeting of the American Political Science Association, Toronto, Canada (2009), with John Hibbing.

“Genetic and Environmental Transmission of Value Orientations” Annual meeting of the American Political Science Association, Toronto, Canada (2009), with Carolyn Funk, Kevin Smith, Matthew Hibbing, Pete Hatemi, Robert Krueger, Lindon Eaves, and John Hibbing.

“The Genetic Heritability of Political Orientations: A New Twin Study of Political Attitudes” Annual Meeting of the International Society for Political Psychology, Dublin, Ireland (2009), with John Hibbing, Cary Funk, Kevin Smith, and Peter K Hatemi.

“The Heritability of Value Orientations” Annual meeting of the Behavior Genetics Association, Minneapolis, MN (2009), with Kevin Smith, John Hibbing, Carolyn Funk, Robert Krueger, Peter Hatemi, and Lindon Eaves.

“The Ick Factor: Disgust Sensitivity as a Predictor of Political Attitudes” Annual meeting of the Midwest Political Science Association, Chicago, IL (2009), with Kevin Smith, Douglas Oxley Matthew Hibbing, and John Hibbing.

“The Ideological Animal: The Origins and Implications of Ideology” Annual meeting of the American Political Science Association, Boston, MA (2008), with Kevin Smith, Matthew Hibbing, Douglas Oxley, and John Hibbing.

“The Physiological Differences of Liberals and Conservatives” Annual meeting of the Midwest Political Science Association, Chicago, IL (2008), with Kevin Smith, Douglas Oxley, and John Hibbing.

“Looking for Political Genes: The Influence of Serotonin on Political and Social Values” Annual meeting of the Midwest Political Science Association, Chicago, IL (2008), with Peter Hatemi, Sarah Medland, John Hibbing, and Nicholas Martin.

“Not by Twins Alone: Using the Extended Twin Family Design to Investigate the Genetic Basis of Political Beliefs” Annual meeting of the American Political Science Association, Chicago, IL (2007), with Peter Hatemi, John Hibbing, Matthew Keller, Nicholas Martin, Sarah Medland, and Lindon Eaves.

“Factorial Association: A generalization of the Fulker between-within model to the multivariate case” Annual meeting of the Behavior Genetics Association, Amsterdam, The Netherlands (2007), with Sarah Medland, Peter Hatemi, John Hibbing, William Coventry, Nicholas Martin, and Michael Neale.

“Not by Twins Alone: Using the Extended Twin Family Design to Investigate the Genetic Basis of Political Beliefs” Annual meeting of the Midwest Political Science Association, Chicago, IL (2007), with Peter Hatemi, John Hibbing, Nicholas Martin, and Lindon Eaves.

“Getting from Genes to Politics: The Connecting Role of Emotion-Reading Capability” Annual Meeting of the International Society for Political Psychology, Portland, OR, (2007.), with John Hibbing.

“The Neurological Basis of Representative Democracy.” Hendricks Conference on Political Behavior, Lincoln, NE (2006), with John Hibbing.

“The Neural Basis of Representative Democracy” Annual meeting of the American Political Science Association, Philadelphia, PA (2006), with John Hibbing.

“How are Political Orientations Genetically Transmitted? A Research Agenda” Annual meeting of the Midwest Political Science Association, Chicago Illinois (2006), with John Hibbing.

"The Politics of Mate Choice" Annual meeting of the Southern Political Science Association, Atlanta, GA (2006), with John Hibbing.

"The Challenge Evolutionary Biology Poses for Rational Choice" Annual meeting of the American Political Science Association, Washington, DC (2005), with John Hibbing and Kevin Smith.

"Decision Making on Behalf of Others" Annual meeting of the American Political Science Association, Washington, DC (2005), with John Hibbing.

"The Source of Political Attitudes and Behavior: Assessing Genetic and Environmental Contributions" Annual meeting of the Midwest Political Science Association, Chicago Illinois (2005), with John Hibbing and Carolyn Funk.

"The Source of Political Attitudes and Behavior: Assessing Genetic and Environmental Contributions" Annual meeting of the American Political Science Association, Chicago Illinois (2004), with John Hibbing and Carolyn Funk.

"Accepting Authoritative Decisions: Humans as Wary Cooperators" Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (2002), with John Hibbing

"Can We Trust the NES Trust Measure?" Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (2001), with Stacy Ulbig.

"The Impact of Organizational Structure on the Production of Social Capital Among Group Members" Annual Meeting of the Southern Political Science Association, Atlanta, Georgia (2000), with Allison Rinden.

"Isolating the Origins of Incumbency Advantage: An Analysis of House Primaries, 1956-1998" Annual Meeting of the Southern Political Science Association, Atlanta, Georgia (2000), with Kevin Arceneaux.

"The Electorally Indistinct Senate," Norman Thomas Conference on Senate Exceptionalism, Vanderbilt University; Nashville, Tennessee; October (1999), with John R. Hibbing.

"Interest Group Participation and Social Capital" Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (1999), with Allison Rinden.

"We're All in this Together: The Decline of Trust in Government, 1958-1996." The Hendricks Symposium, University of Nebraska, Lincoln. (1998)

"Constituency Population and Representation in the United States Senate," Electing the Senate; Houston, Texas; December (1989), with John R. Hibbing.

"The Disparate Electoral Security of House and Senate Incumbents," American Political Science Association Annual Meetings; Atlanta, Georgia; September (1989), with John R. Hibbing.

"Partisan and Incumbent Advantage in House Elections," Annual Meeting of the Southern Political Science Association (1987), with David W. Brady.

"Personal and Party Advantage in U.S. House Elections, 1846-1986" with David W. Brady, 1987 Social Science History Association Meetings.

"The Demise of the Upper House and the Rise of the Senate: Electoral Responsiveness in the United States Senate" with John Hibbing, 1987 Annual Meeting of the American Political Science Association.

"A Comparative Analysis of Economic Voting" with Jerome Legge, 1985 Annual Meeting of the American Political Science Association.

"An Analysis of Economic Conditions and the Individual Vote in Great Britain, 1964-1979" with Jerome Legge, 1985 Annual Meeting of the Western Political Science Association.

"Can Government Regulate Fertility? An Assessment of Pro-natalist Policy in Eastern Europe" with Jerome Legge, 1985 Annual Meeting of the Southwestern Social Science Association.

"Economic Conditions and the Individual Vote in the Federal Republic of Germany" with Jerome S. Legge, 1984 Annual Meeting of the Southern Political Science Association.

"The Conditions Required for Economic Issue Voting" with John R. Hibbing, 1984 Annual Meeting of the Midwest Political Science Association.

"Incumbency Advantage in Senate Elections," 1983 Annual Meeting of the Midwest Political Science Association.

"Television Markets and Congressional Elections: The Impact of Market/District Congruence" with James Campbell and Keith Henry, 1982 Annual Meeting of the Southern Political Science Association.

"Economic Conditions and Senate Elections" with John R. Hibbing, 1982 Annual Meeting of the Midwest Political Science Association. "Pocketbook Voting: Economic Conditions and Individual Level Voting," 1982 Annual Meeting of the American Political Science Association.

"Increased Incumbency Advantage in the House," with John R. Hibbing, 1981 Annual Meeting of the Midwest Political Science Association.

Other Conference Participation:

Roundtable Participant – Closing Round-table on Biopolitics; 2016 UC Merced Conference on Bio-Politics and Political Psychology, Merced, CA.

Roundtable Participant “Genes, Brains, and Core Political Orientations” 2008 Annual Meeting of the Southwestern Political Science Association, Las Vegas.

Roundtable Participant “Politics in the Laboratory” 2007 Annual Meeting of the Southern Political Science Association, New Orleans.

Short Course Lecturer, "What Neuroscience has to Offer Political Science" 2006 Annual Meeting of the American Political Science Association.

Panel chair and discussant, "Neuro-scientific Advances in the Study of Political Science" 2006 Annual Meeting of the American Political Science Association.

Presentation, "The Twin Study Approach to Assessing Genetic Influences on Political Behavior" Rice Conference on New Methods for Understanding Political Behavior, 2005.

Panel discussant, "The Political Consequences of Redistricting," 2002 Annual Meeting of the American Political Science Association.

Panel discussant, "Race and Redistricting," 1999 Annual Meeting of the Midwest Political Science Association.

Invited participant, "Roundtable on Public Dissatisfaction with American Political Institutions", 1998 Annual Meeting of the Southwestern Social Science Association.

Presentation, "Redistricting in the '90s," Texas Economic and Demographic Association, 1997.

Panel chair, "Congressional Elections," 1992 Annual Meeting of the Southern Political Science Association.

Panel discussant, "Incumbency and Congressional Elections," 1992 Annual Meeting of the American Political Science Association.

Panel chair, "Issues in Legislative Elections," 1991 Annual Meeting of the Midwest Political Science Association.

Panel chair, "Economic Attitudes and Public Policy in Europe," 1990 Annual Meeting of the Southern Political Science Association

Panel discussant, "Retrospective Voting in U.S. Elections," 1990 Annual Meeting of the Midwest Political Science Association.

Co-convener, with Bruce Oppenheimer, of Electing the Senate, a national conference on the NES 1988 Senate Election Study. Funded by the Rice Institute for Policy Analysis, the University of Houston Center for Public Policy, and the National Science Foundation, Houston, Texas, December, 1989.

Invited participant, Understanding Congress: A Bicentennial Research Conference, Washington, D.C., February, 1989.

Invited participant--Hendricks Symposium on the United States Senate, University of Nebraska, Lincoln, Nebraska, October, 1988

Invited participant--Conference on the History of Congress, Stanford University, Stanford, California, June, 1988.

Invited participant, "Roundtable on Partisan Realignment in the 1980's", 1987 Annual Meeting of the Southern Political Science Association.

Professional Activities:

Other Universities:

Invited Speaker, Annual Lecture, Psi Kappa -the Psychology Club at Houston Community College, 2018.

Invited Speaker, Annual Allman Family Lecture, Dedman College Interdisciplinary Institute, Southern Methodist University, 2016.

Invited Speaker, Annual Lecture, Psi Sigma Alpha – Political Science Dept., Oklahoma State University, 2015.

Invited Lecturer, Department of Political Science, Vanderbilt University, 2014.

Invited Speaker, Annual Lecture, Psi Kappa -the Psychology Club at Houston Community College, 2014.

Invited Speaker, Graduate Student Colloquium, Department of Political Science, University of New Mexico, 2013.

Invited Keynote Speaker, Political Science Alumni Evening, University of Houston, 2013.

Invited Lecturer, Biology and Politics Masters Seminar (John Geer and David Bader), Department of Political Science and Biology Department, Vanderbilt University, 2010.

Invited Lecturer, Biology and Politics Senior Seminar (John Geer and David Bader), Department of Political Science and Biology Department, Vanderbilt University, 2008.

Visiting Fellow, the Hoover Institution, Stanford University, 2007.

Invited Speaker, Joint Political Psychology Graduate Seminar, University of Minnesota, 2007.

Invited Speaker, Department of Political Science, Vanderbilt University, 2006.

Member:

Editorial Board, Journal of Politics, 2007-2008.

Planning Committee for the National Election Studies' Senate Election Study, 1990-92.

Nominations Committee, Social Science History Association, 1988

Reviewer for:

American Journal of Political Science

American Political Science Review

American Politics Research

American Politics Quarterly

American Psychologist

American Sociological Review

Canadian Journal of Political Science

Comparative Politics

Electoral Studies

Evolution and Human Behavior

International Studies Quarterly

Journal of Politics
Journal of Urban Affairs
Legislative Studies Quarterly
National Science Foundation
PLoS ONE
Policy Studies Review
Political Behavior
Political Communication
Political Psychology
Political Research Quarterly
Public Opinion Quarterly
Science
Security Studies
Social Forces
Social Science Quarterly
Western Political Quarterly

University Service:

Member, University Senate, 2021-2023.

Member, University Parking Committee, 2016-2022.

Member, University Benefits Committee, 2013-2016.

Internship Director for the Department of Political Science, 2004-2018.

Member, University Council, 2012-2013.

Invited Speaker, Rice Classroom Connect, 2016.

Invited Speaker, Glasscock School, 2016.

Invited Speaker, Rice Alumni Association, Austin, 2016.

Invited Speaker, Rice Alumni Association, New York City, 2016.

Invited Speaker, Rice TEDxRiceU , 2013.

Invited Speaker, Rice Alumni Association, Atlanta, 2011.

Lecturer, Advanced Topics in AP Psychology, Rice University AP Summer Institute, 2009.

Scientia Lecture Series: "Politics in Our Genes: The Biology of Ideology" 2008

Invited Speaker, Rice Alumni Association, Seattle, San Francisco and Los Angeles, 2008.

Invited Speaker, Rice Alumni Association, Austin, Chicago and Washington, DC, 2006.

Invited Speaker, Rice Alumni Association, Dallas and New York, 2005.

Director: Rice University Behavioral Research Lab and Social Science Computing Lab, 2005-2006.

University Official Representative to the Inter-university Consortium for Political and Social Research, 1989-2012.

Director: Rice University Social Science Computing Lab, 1989-2004.

Member, Rice University Information Technology Access and Security Committee, 2001-2002

Rice University Committee on Computers, Member, 1988-1992, 1995-1996; Chair, 1996-1998, Co-chair, 1999.

Acting Chairman, Rice Institute for Policy Analysis, 1991-1992.

Divisional Member of the John W. Gardner Dissertation Award Selection Committee, 1998

Social Science Representative to the Educational Sub-committee of the Computer Planning Committee, 1989-1990.

Director of Graduate Admissions, Department of Political Science, Rice University, 1986-1988.

Co-director, Mellon Workshop: Southern Politics, May, 1988.

Guest Lecturer, Mellon Workshop: The U.S. Congress in Historical Perspective, May, 1987 and 1988.

Faculty Associate, Hanszen College, Rice University, 1987-1990.

Director, Political Data Analysis Center, University of Georgia, 1982-1985.

External Consulting:

Expert Witness, LULAC, et al. v. Abbott, et al., Voto Latino, et al. v. Scott, et al., Mexican American Legislative Caucus, et al. v. Texas, et al., Texas NAACP v. Abbott, et al., Fair Maps Texas, et al. v. Abbott, et al., US v. Texas, et al. (consolidated cases) challenges to Texas Congressional, State Senate, State House, and State Board of Education districting, 2022.

Expert Witness, Robinson/Galmon v. Ardoin, (Louisiana), racially polarized voting analysis, 2022.

Expert Witness, Christian Ministerial Alliance et al v. Arkansas, racially polarized voting analysis, 2022.

Expert Witness, Johnson v. Wisconsin Elections Commission, 2022.

Expert Witness, Rivera, et al. v. Schwab, Alonzo, et al. v. Schwab, Frick, et al. v. Schwab, (consolidated cases) challenge to Kansas congressional map, 2022.

Expert Witness, Grant v. Raffensperger, challenge to Georgia congressional map, 2022

Expert Witness, Brooks et al. v. Abbot, challenge to State Senate District 10, 2022.

Expert Witness, Elizondo v. Spring Branch ISD, 2022.

Expert Witness, Portugal v. Franklin County, et al., challenge to Franklin County, Washington at large County Commissioner's election system, 2022.

Consulting Expert, Gressman Math/Science Petitioners, Pennsylvania Congressional redistricting, 2022.

Consultant, Houston Community College – evaluation of election impact for redrawing of college board election districts, 2022.

Consultant, Lone Star College – evaluation of election impact for redrawing of college board election districts, 2022.

Consultant, Killeen ISD – evaluation of election impact for redrawing of school board election districts, 2022.

Consultant, Houston ISD – evaluation of election impact for redrawing of school board election districts, 2022.

Consultant, Brazosport ISD – evaluation of election impact for redrawing of school board election districts, 2022.

Consultant, Dallas ISD – evaluation of election impact for redrawing of school board election districts, 2022.

Consultant, Lancaster ISD – redrawing of all school board member election districts including demographic analysis and redrawing of election districts, 2021.

Consultant, City of Baytown – redrawing of all city council member election districts including demographic analysis and redrawing of election districts, 2021.

Consultant, Goose Creek ISD – redrawing of all board member election districts including demographic analysis and redrawing of election districts, 2021.

Expert Witness, Bruni et al. v. State of Texas, straight ticket voting analysis, 2020.

Consulting Expert, Sarasota County, VRA challenge to district map, 2020.

Expert Witness, Kumar v. Frisco ISD, TX, racially polarized voting analysis, 2019.

Expert Witness, Vaughan v. Lewisville ISD, TX, racially polarized voting analysis, 2019.

Expert Witness, Johnson v. Ardoin, (Louisiana), racially polarized voting analysis, 2019.

Expert Witness, Flores et al. v. Town of Islip, NY, racially polarized voting analysis, 2018.

Expert Witness, Tyson v. Richardson ISD, racially polarized voting analysis, 2018.

Expert Witness, Dwight v. State of Georgia, racially polarized voting analysis, 2018.

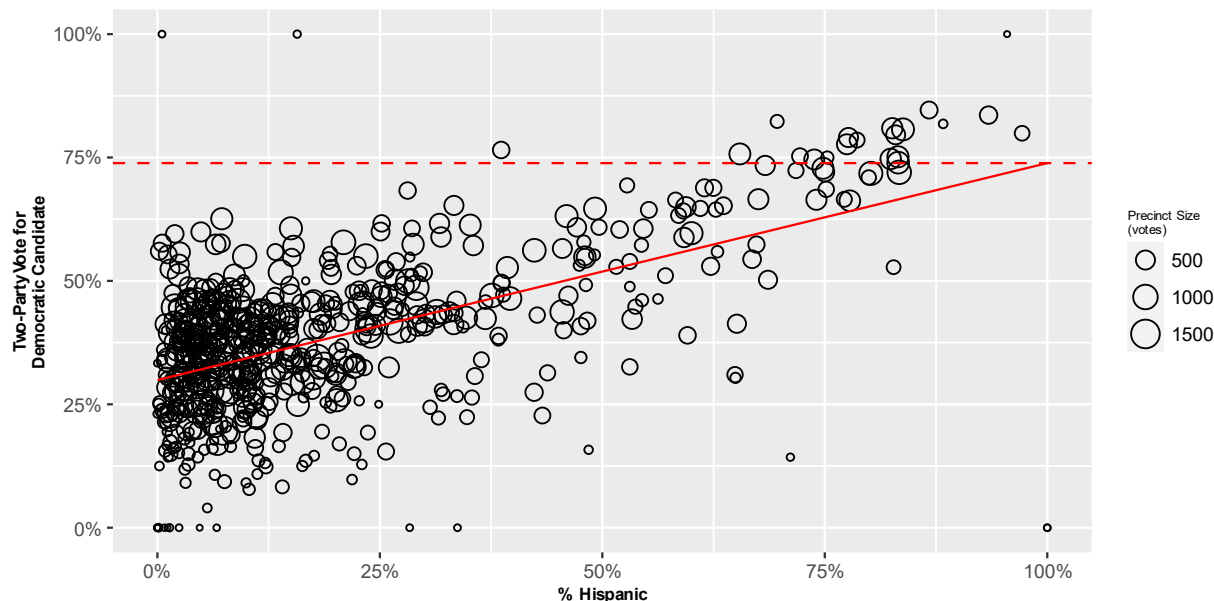
Expert Witness, NAACP v. East Ramapo Central School District, racially polarized voting analysis, 2018.

Expert Witness, Georgia NAACP v. State of Georgia, racially polarized voting analysis, 2018.

Appendix 2

Detailed Replication Results for 2020 Contests

2020 General Election: President



- Red line is the regression line
- Red dotted line is the Goodman Regression (ER) estimate of Hispanic Support for the Democratic candidate in a hypothetical precinct that was 100% Hispanic.

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (BISG)

Party	Candidate	Hispanic Support for Candidate		Non-Hispanic Support for Candidate			
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI	High 95% CI	
Dem	Biden	76.7%	73.7%	79.4%	32.7%	32.0%	33.3%
Rep	Trump	23.3%	20.6%	26.3%	67.3%	66.7%	68.0%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (VAP)

Party	Candidate	Hispanic Support for Candidate		Non-Hispanic Support for Candidate			
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI	High 95% CI	
Dem	Biden	84.4%	80.4%	88.0%	35.4%	34.6%	36.2%
Rep	Trump	15.6%	12.0%	19.6%	64.6%	63.8%	65.4%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/White/Other Voters (BISG)

Party	Candidate	Hispanic Support for Candidate		White Support for Candidate			
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI	High 95% CI	
Dem	Biden	72.1%	69.5%	74.6%	26.7%	26.0%	27.5%
Rep	Trump	27.9%	25.4%	30.5%	73.3%	72.5%	74.0%

Collingwood Ecological Inference Estimates of Voter Support (ei*)

Party	Candidate	Hispanic Support for Candidate		Non-Hispanic White Support for Candidate			
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI	High 95% CI	
Dem	Biden	76.4%	73.9%	78.6%	25.7%	25.1%	26.2%
Rep	Trump	21.4%	19.5%	23.4%	70.9%	70.1%	71.4%

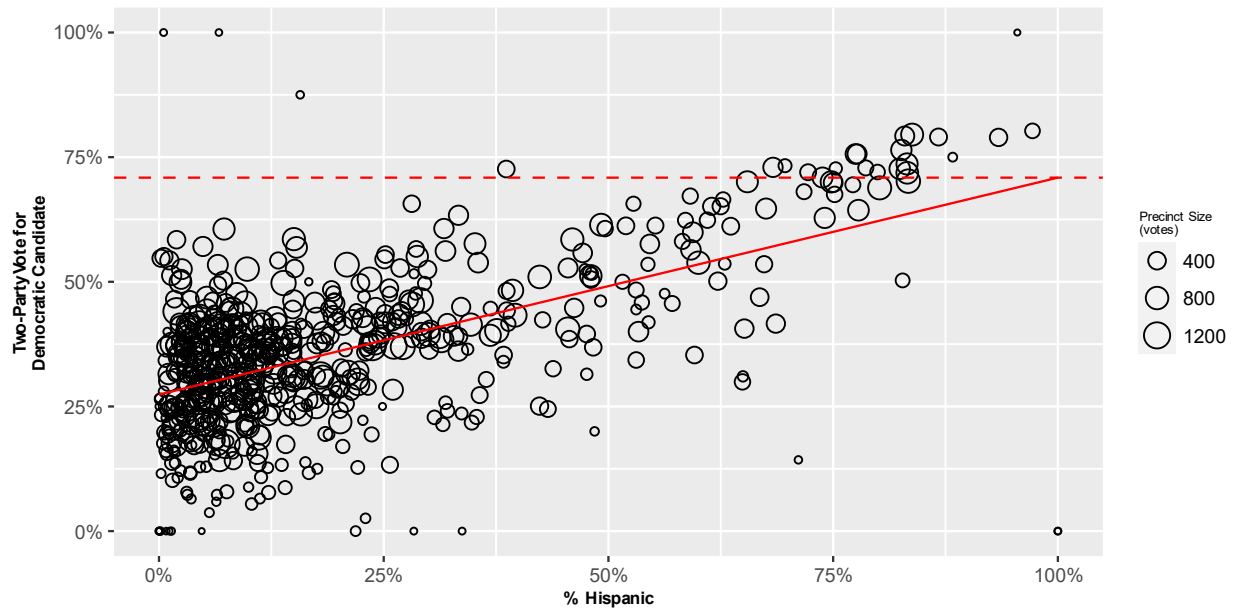
*These results were reported under the label "ei," but the report is not clear on the exact statistical model this refers to and plaintiffs declined to provide the code used to produce the results.

Collingwood Ecological Inference Estimates of Voter Support (rxc*)

Party	Candidate	Hispanic Support for Candidate		Non-Hispanic White Support for Candidate			
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI	High 95% CI	
Dem	Biden	70.5%	63.9%	75.4%	29.0%	27.2%	33.4%
Rep	Trump	29.5%	24.7%	36.1%	71.0%	66.7%	72.8%

*These results were reported under the label "rxc," but the report is not clear on the exact statistical model this refers to and plaintiffs declined to provide the code used to produce the results.

2020 General Election: Governor



- Red line is the regression line
- Red dotted line is the Goodman Regression (ER) estimate of Hispanic Support for the Democratic candidate in a hypothetical precinct that was 100% Hispanic.

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model) Hispanic/Non-Hispanic Voters (BISG)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic Support for Candidate		
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI		
Dem	Inslee	73.5%	70.40%	76.43%	29.75%	29.05%	30.47%
Rep	Culp	26.5%	23.57%	29.60%	70.25%	69.53%	70.95%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model) Hispanic/Non-Hispanic Voters (VAP)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic Support for Candidate		
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI		
Dem	Inslee	78.8%	73.9%	83.2%	32.7%	31.9%	33.5%
Rep	Culp	21.2%	16.8%	26.1%	67.3%	66.5%	68.1%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model) Hispanic/White/Other Voters (BISG)

Party	Candidate	Hispanic Support for Candidate			White Support for Candidate		
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI		
Dem	Inslee	68.6%	66.0%	71.2%	23.6%	22.8%	24.4%
Rep	Culp	31.4%	28.8%	34.0%	76.4%	75.6%	77.2%

Collingwood Ecological Inference Estimates of Voter Support (ei*)

Party	Candidate	Hispanic Support for Candidate		Non-Hispanic White Support for Candidate			
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI	High 95% CI	
Dem	Inslee	74.5%	72.2%	76.6%	23.8%	23.0%	24.8%
Rep	Culp	25.2%	22.7%	27.5%	75.8%	74.8%	76.7%

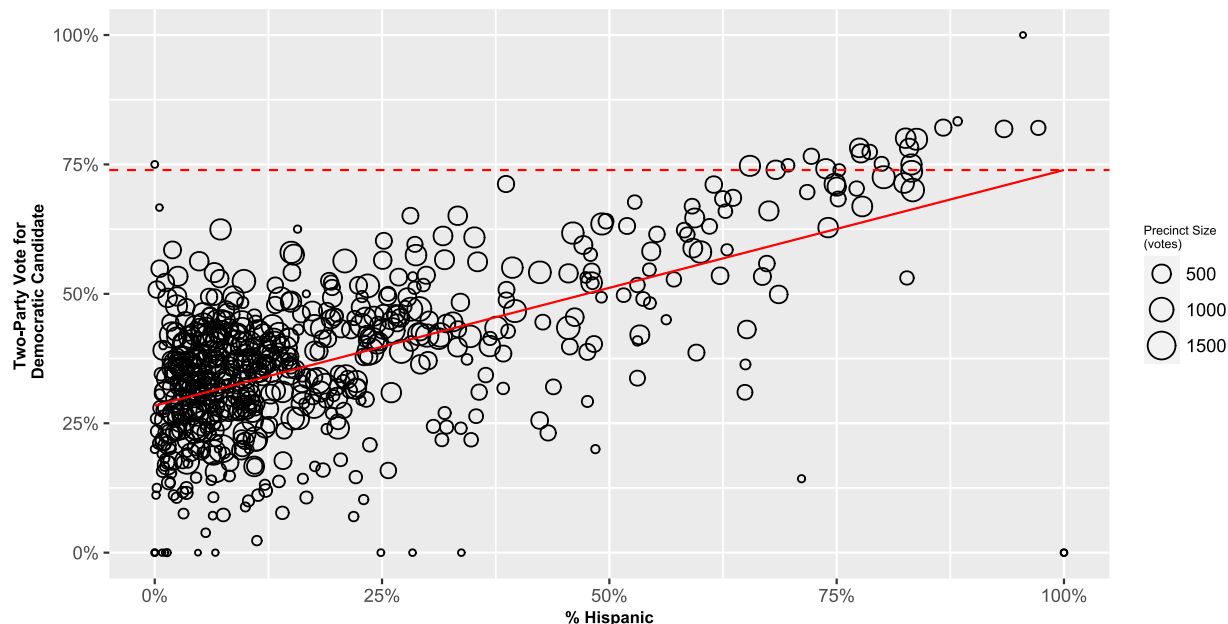
*These results were reported under the label "ei," but the report is not clear on the exact statistical model this refers to and plaintiffs declined to provide the code used to produce the results.

Collingwood Ecological Inference Estimates of Voter Support (rxc*)

Party	Candidate	Hispanic Support for Candidate		Non-Hispanic White Support for Candidate			
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI	High 95% CI	
Dem	Inslee	67.9%	60.3%	71.7%	25.3%	23.5%	30.2%
Rep	Culp	32.1%	28.3%	39.7%	74.7%	69.8%	76.5%

*These results were reported under the label "rxc," but the report is not clear on the exact statistical model this refers to and plaintiffs declined to provide the code used to produce the results.

2020 General Election: Attorney General



- Red line is the regression line
- Red dotted line is the Goodman Regression (ER) estimate of Hispanic Support for the Democratic candidate in a hypothetical precinct that was 100% Hispanic.

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (BISG)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic Support for Candidate		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Dem	Ferguson	76.5%	73.69%	79.17%	31.04%	30.40%	31.70%
Rep	Larkin	23.5%	20.83%	26.31%	68.96%	68.30%	69.60%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (VAP)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic Support for Candidate		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Dem	Ferguson	81.5%	76.9%	85.7%	34.2%	33.4%	35.1%
Rep	Larkin	18.5%	14.3%	23.1%	65.8%	64.9%	66.6%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/White/Other Voters (BISG)

Party	Candidate	Hispanic Support for Candidate			White Support for Candidate		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Dem	Ferguson	71.9%	69.4%	74.6%	24.9%	24.2%	25.7%
Rep	Larkin	28.1%	25.4%	30.6%	75.1%	74.3%	75.8%

Collingwood Ecological Inference Estimates of Voter Support (ei*)

Party	Candidate	Hispanic Support for Candidate		Non-Hispanic White Support for Candidate			
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI	High 95% CI	
Dem	Ferguson	78.2%	76.0%	79.8%	24.8%	24.1%	25.5%
Rep	Larkin	21.8%	20.1%	24.2%	75.1%	74.4%	75.8%

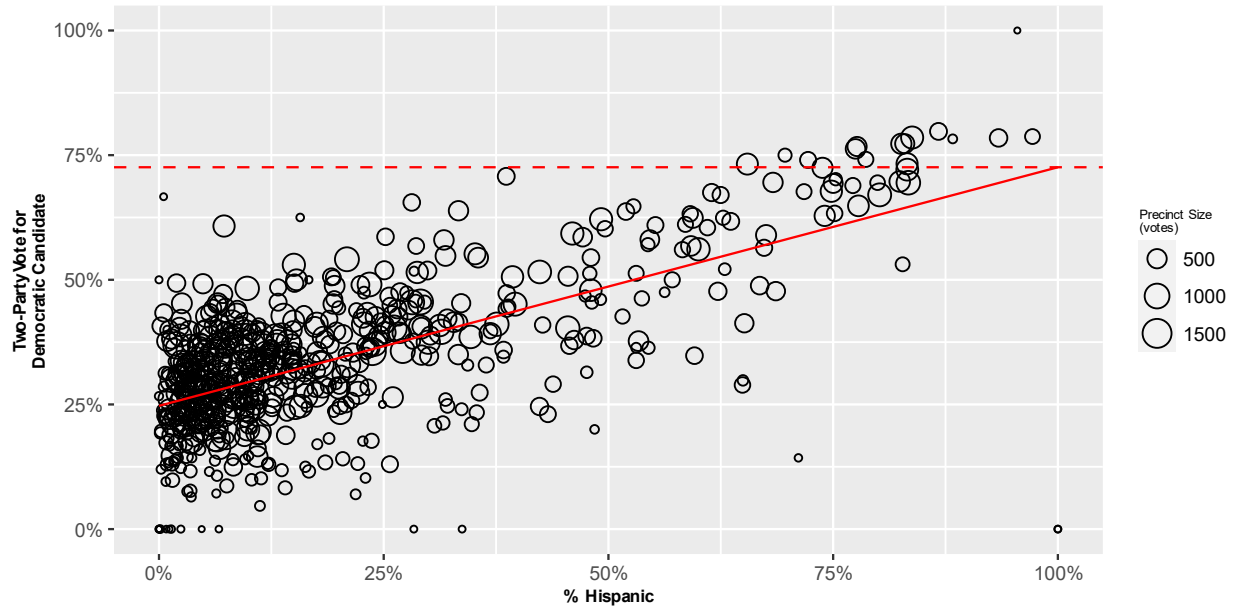
*These results were reported under the label "ei," but the report is not clear on the exact statistical model this refers to and plaintiffs declined to provide the code used to produce the results.

Collingwood Ecological Inference Estimates of Voter Support (rxc*)

Party	Candidate	Hispanic Support for Candidate		Non-Hispanic White Support for Candidate			
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI	High 95% CI	
Dem	Ferguson	72.8%	71.1%	74.8%	25.4%	24.8%	26%
Rep	Larkin	27.2%	25.2%	28.9%	74.6%	74.0%	75.2%

*These results were reported under the label "rxc," but the report is not clear on the exact statistical model this refers to and plaintiffs declined to provide the code used to produce the results.

2020 General Election: Treasurer



- Red line is the regression line
- Red dotted line is the Goodman Regression (ER) estimate of Hispanic Support for the Democratic candidate in a hypothetical precinct that was 100% Hispanic.

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (BISG)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic Support for Candidate		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Dem	Pellicciotti	75.0%	72.2%	77.8%	27.1%	26.4%	27.8%
Rep	Davidson	25.0%	22.2%	27.8%	72.9%	72.2%	73.6%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (VAP)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic Support for Candidate		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Dem	Pellicciotti	82.6%	78.1%	86.4%	30.1%	29.3%	31.0%
Rep	Davidson	17.4%	13.6%	21.9%	69.9%	69.0%	70.7%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/White/Other Voters (BISG)

Party	Candidate	Hispanic Support for Candidate			White Support for Candidate		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Dem	Pellicciotti	70.1%	67.7%	72.5%	20.8%	20.0%	21.5%
Rep	Davidson	29.9%	27.5%	32.3%	79.2%	78.5%	80.0%

Collingwood Ecological Inference Estimates of Voter Support (ei*)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic White Support for Candidate		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Dem	Pellicciotti	76.5%	74.4%	77.9%	20.9%	20.2%	21.7%
Rep	Davidson	23.5%	21.7%	25.0%	79.1%	78.6%	79.8%

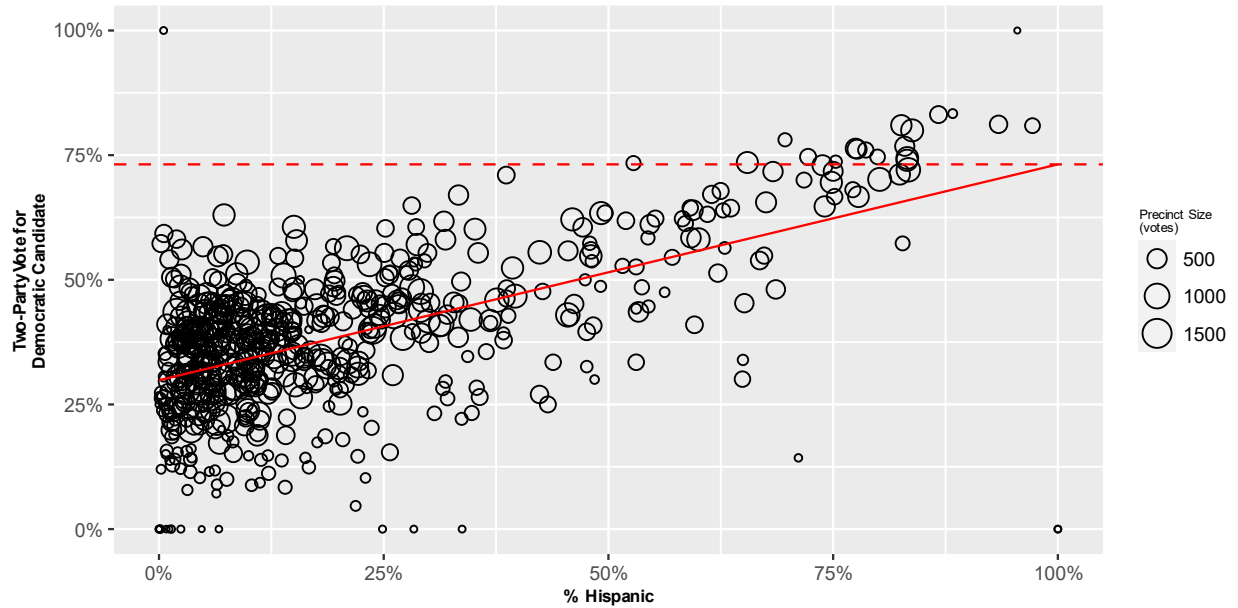
*These results were reported under the label "ei," but the report is not clear on the exact statistical model this refers to and plaintiffs declined to provide the code used to produce the results.

Collingwood Ecological Inference Estimates of Voter Support (rxc*)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic White Support for Candidate		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Dem	Pellicciotti	70.5%	68.7%	72.1%	21.2%	20.6%	21.8%
Rep	Davidson	29.5%	27.9%	31.3%	78.8%	78.2%	79.4%

*These results were reported under the label "rxc," but the report is not clear on the exact statistical model this refers to and plaintiffs declined to provide the code used to produce the results.

2020 General Election: State Auditor



- Red line is the regression line
- Red dotted line is the Goodman Regression (ER) estimate of Hispanic Support for the Democratic candidate in a hypothetical precinct that was 100% Hispanic.

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (BISG)

Party	Candidate	Hispanic Support for Candidate	Low 95% CI	High 95% CI	Non-Hispanic Support for Candidate	Low 95% CI	High 95% CI
Dem	McCarthy	75.5%	72.4%	78.3%	32.7%	32.1%	33.5%
Rep	Leyba	24.5%	21.7%	27.6%	67.3%	66.5%	67.9%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (VAP)

Party	Candidate	Hispanic Support for Candidate	Low 95% CI	High 95% CI	Non-Hispanic Support for Candidate	Low 95% CI	High 95% CI
Dem	McCarthy	82.6%	77.6%	86.5%	35.6%	34.8%	36.4%
Rep	Leyba	17.4%	13.5%	22.4%	64.4%	63.6%	65.2%

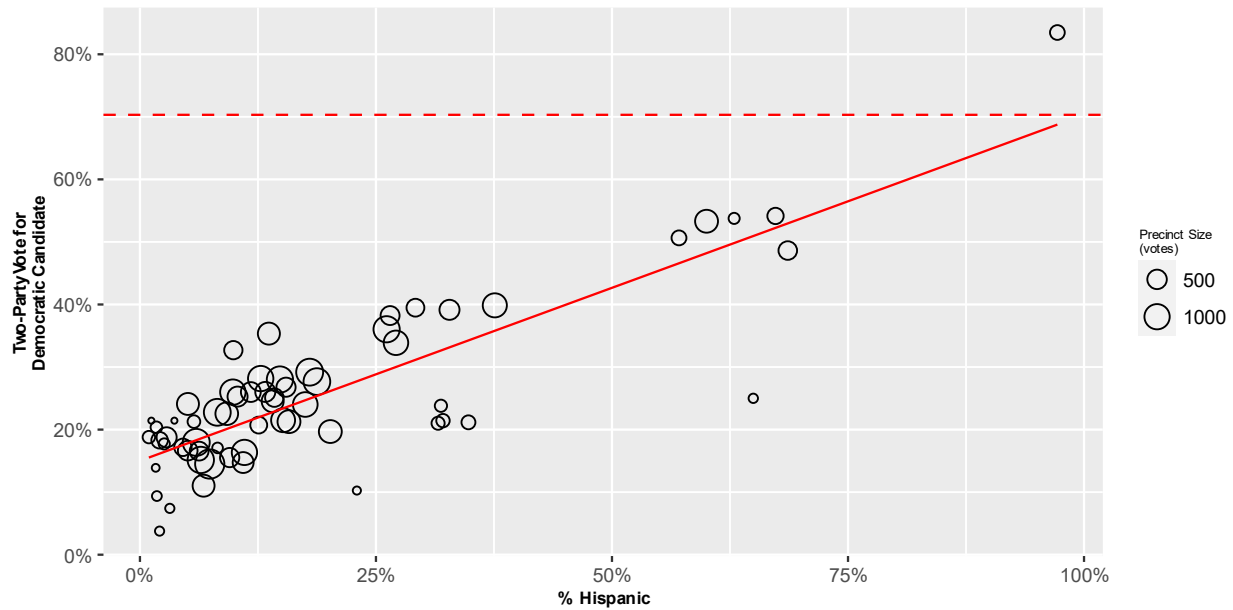
Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/White/Other Voters (BISG)

Party	Candidate	Hispanic Support for Candidate	Low 95% CI	High 95% CI	White Support for Candidate	Low 95% CI	High 95% CI
Dem	McCarthy	70.9%	68.3%	73.3%	26.7%	26.0%	27.5%
Rep	Leyba	29.1%	26.7%	31.7%	73.3%	72.5%	74.0%

Note: Collingwood did not provide estimates for this contest

2020 General Election: LD13 Pos 1



- Red line is the regression line
- Red dotted line is the Goodman Regression (ER) estimate of Hispanic Support for the Democratic candidate in a hypothetical precinct that was 100% Hispanic.

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model) Hispanic/Non-Hispanic Voters (BISG)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic Support for Candidate		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Dem	Castaneda	70.4%	59.8%	80.1%	16.7%	14.6%	19.0%
Rep	Dent	29.6%	19.9%	40.2%	83.3%	81.0%	85.4%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model) Hispanic/Non-Hispanic Voters (VAP)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic Support for Candidate		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Dem	Castaneda	74.7%	54.9%	89.8%	18.3%	14.8%	21.6%
Rep	Dent	25.3%	10.2%	45.1%	81.7%	78.4%	85.2%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model) Hispanic/White/Other Voters (BISG)

Party	Candidate	Hispanic Support for Candidate			White Support for Candidate		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Dem	Castaneda	71.2%	60.6%	80.9%	12.4%	9.7%	15.7%
Rep	Dent	28.8%	19.1%	39.4%	87.6%	84.3%	90.3%

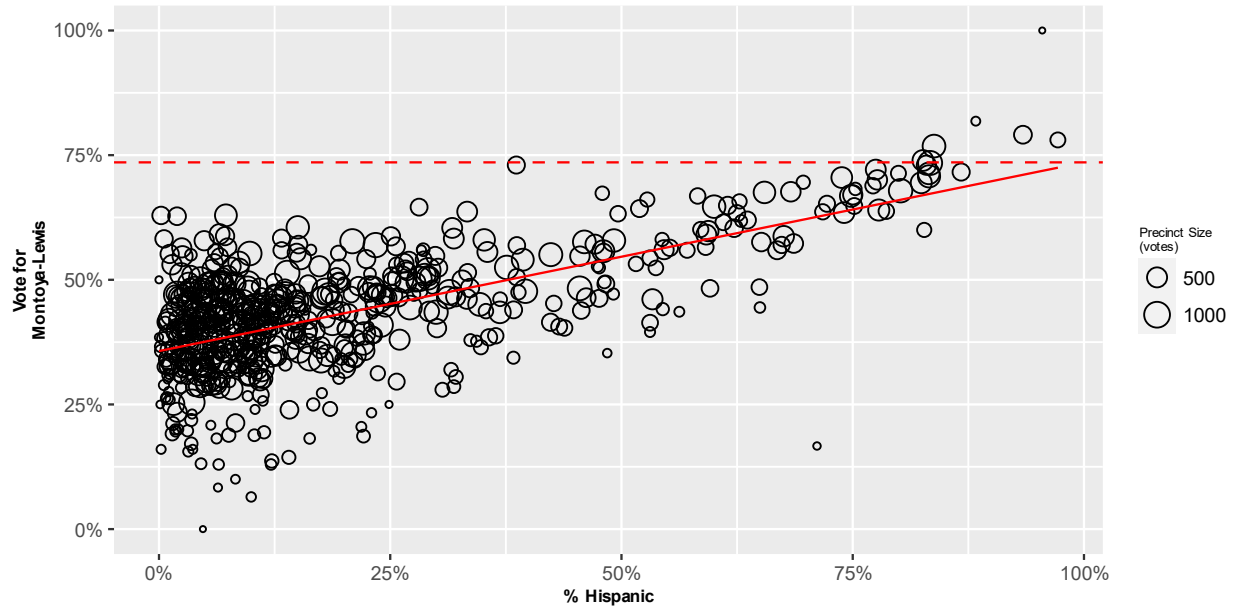
Collingwood Ecological Inference Estimates of Voter Support (ei*)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic White Support for Candidate		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Dem	Castaneda	74.6%	70.4%	79.4%	12.8%	11.2%	14.9%
Rep	Dent	26.3%	21.2%	31.3%	87.2%	85.3%	88.9%

*These results were reported under the label "ei," but the report is not clear on the exact statistical model this refers to and plaintiffs declined to provide the code used to produce the results.

Note that Collingwood did not report "rxc" results for this contest

2020 General Election: State Supreme Court, Seat 3



- Red line is the regression line
- Red dotted line is the Goodman Regression (ER) estimate of Hispanic Support for the Democratic candidate in a hypothetical precinct that was 100% Hispanic.

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (BISG)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic Support for Candidate		
		Candidate	Low 95% CI	High 95% CI	Candidate	Low 95% CI	High 95% CI
Non-Partisan	Montoya-Lewis	73.5%	71.3%	75.9%	38.2%	37.6%	38.7%
Non-Partisan	Larson	26.5%	24.1%	28.7%	61.8%	61.3%	62.4%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (VAP)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic Support for Candidate		
		Candidate	Low 95% CI	High 95% CI	Candidate	Low 95% CI	High 95% CI
Non-Partisan	Montoya-Lewis	82.3%	77.7%	86.5%	40.1%	39.4%	40.9%
Non-Partisan	Larson	17.7%	13.5%	22.3%	59.9%	59.1%	60.6%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/White/Other Voters (BISG)

Party	Candidate	Hispanic Support for Candidate			White Support for Candidate		
		Candidate	Low 95% CI	High 95% CI	Candidate	Low 95% CI	High 95% CI
Non-Partisan	Montoya-Lewis	69.4%	67.1%	71.7%	33.0%	32.3%	33.8%
Non-Partisan	Larson	30.6%	28.3%	32.9%	67.0%	66.2%	67.7%

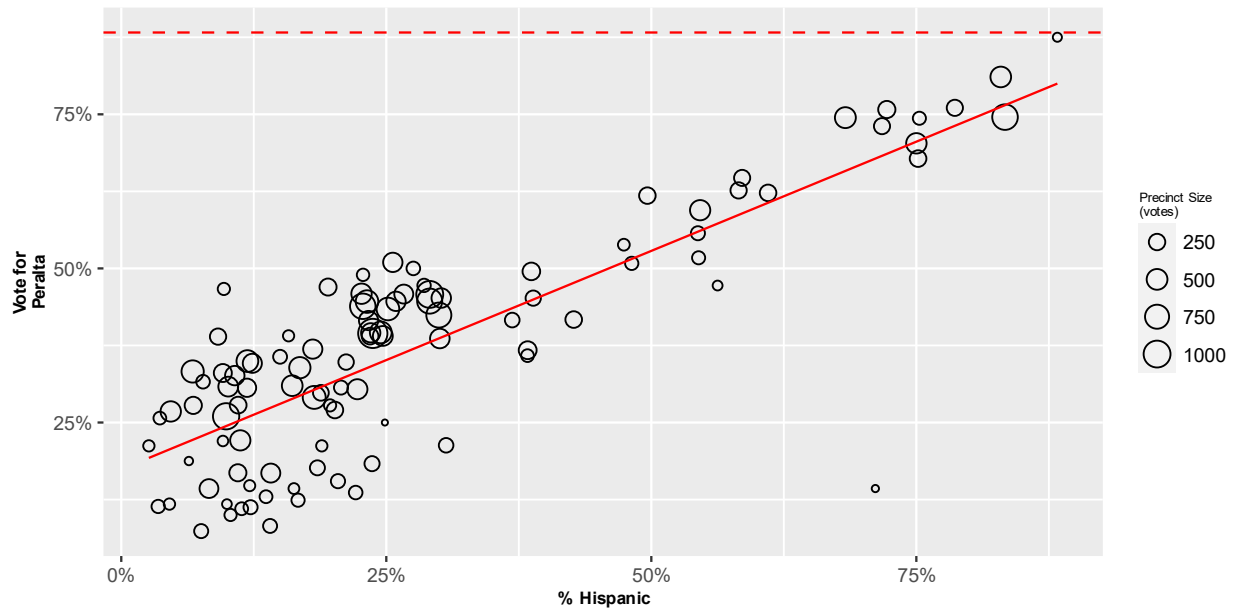
Collingwood Ecological Inference Estimates of Voter Support (ei*)

Party	Candidate	Hispanic			Non-Hispanic White		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Non-Partisan	Montoya-Lewis	73.8%	72.3%	75.2%	34.2%	33.8%	34.8%
Non-Partisan	Larson	26.0%	24.2%	27.8%	65.5%	65.0%	66.0%

*These results were reported under the label "ei," but the report is not clear on the exact statistical model this refers to and plaintiffs declined to provide the code used to produce the results.

Note that Collingwood did not report "rxc" results for this contest

2020 General Election: Franklin County Comm., D2



- Red line is the regression line
- Red dotted line is the Goodman Regression (ER) estimate of Hispanic Support for the Democratic candidate in a hypothetical precinct that was 100% Hispanic.

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (BISG)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic Support for Candidate		
		Support	Low 95% CI	High 95% CI	Support	Low 95% CI	High 95% CI
Non-Partisan	Mullen	11.5%	7.1%	16.8%	78.3%	76.1%	80.1%
Non-Partisan	Peralta	88.5%	83.2%	92.9%	21.7%	19.9%	23.9%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (VAP)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic Support for Candidate		
		Support	Low 95% CI	High 95% CI	Support	Low 95% CI	High 95% CI
Non-Partisan	Mullen	18.2%	10.2%	28.7%	65.9%	63.4%	68.8%
Non-Partisan	Peralta	81.8%	71.3%	89.8%	34.1%	31.2%	36.6%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/White/Other Voters (BISG)

Party	Candidate	Hispanic Support for Candidate			White Support for Candidate		
		Support	Low 95% CI	High 95% CI	Support	Low 95% CI	High 95% CI
Non-Partisan	Mullen	17.5%	12.7%	22.6%	85.4%	82.6%	87.7%
Non-Partisan	Peralta	82.5%	77.4%	87.3%	14.6%	12.3%	17.4%

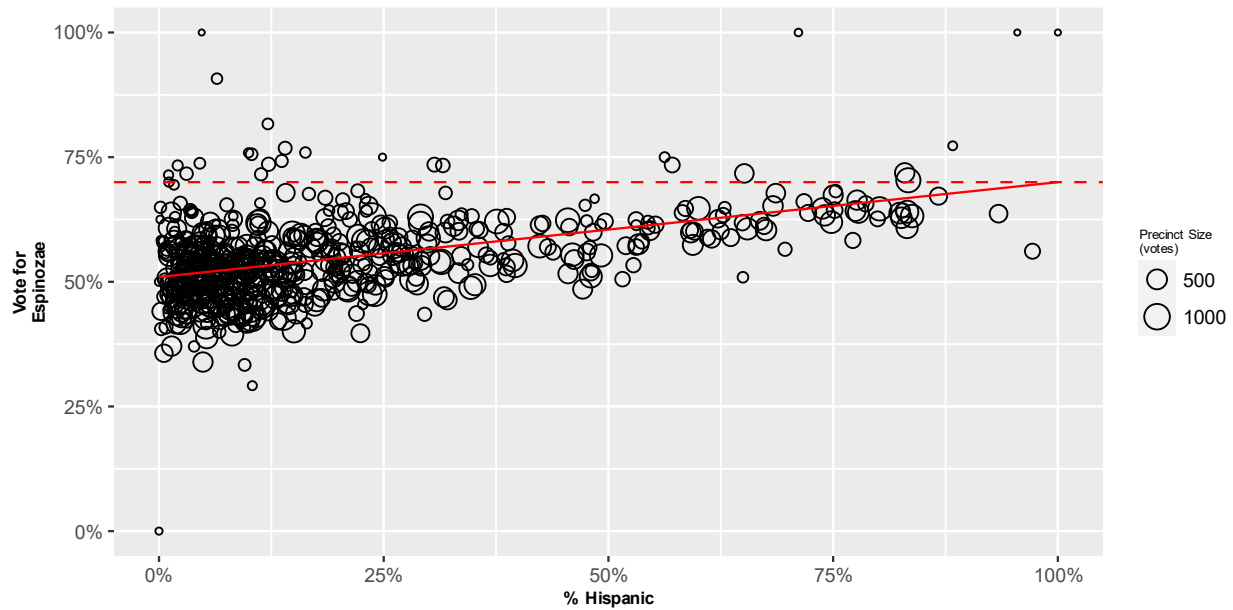
Collingwood Ecological Inference Estimates of Voter Support (ei*)

Party	Candidate	Hispanic			Non-Hispanic		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Non-Partisan	Mullen	11.9%	9.4%	14.5%	86.3%	84.3%	87.8%
Non-Partisan	Peralta	88.1%	86.2%	90.1%	13.5%	11.9%	14.9%

*These results were reported under the label “ei,” but the report is not clear on the exact statistical model this refers to and plaintiffs declined to provide the code used to produce the results.

Note that Collingwood did not report “rxc” results for this contest

2020 General Election: Superintendent of Public Instruction



- Red line is the regression line
- Red dotted line is the Goodman Regression (ER) estimate of Hispanic Support for the Democratic candidate in a hypothetical precinct that was 100% Hispanic.

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (BISG)

Party	Candidate	Hispanic Support for Candidate		Non-Hispanic Support for Candidate			
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI		
Non-Partisan	Espinoza	67.6%	65.53%	69.59%	49.97%	49.46%	50.48%
Non-Partisan	Reykdal	32.4%	30.41%	34.47%	50.03%	49.52%	50.54%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (VAP)

Party	Candidate	Hispanic Support for Candidate		Non-Hispanic Support for Candidate			
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI		
Non-Partisan	Espinoza	78.2%	72.5%	83.1%	50.2%	49.6%	51.0%
Non-Partisan	Reykdal	21.8%	16.9%	27.5%	49.8%	49.0%	50.4%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/White/Other Voters (BISG)

Party	Candidate	Hispanic Support for Candidate		White Support for Candidate			
		Low 95% CI	High 95% CI	Low 95% CI	High 95% CI		
Non-Partisan	Espinoza	68.8%	66.7%	71.0%	51.3%	50.4%	52.3%
Non-Partisan	Reykdal	31.2%	29.0%	33.3%	48.7%	47.7%	49.6%

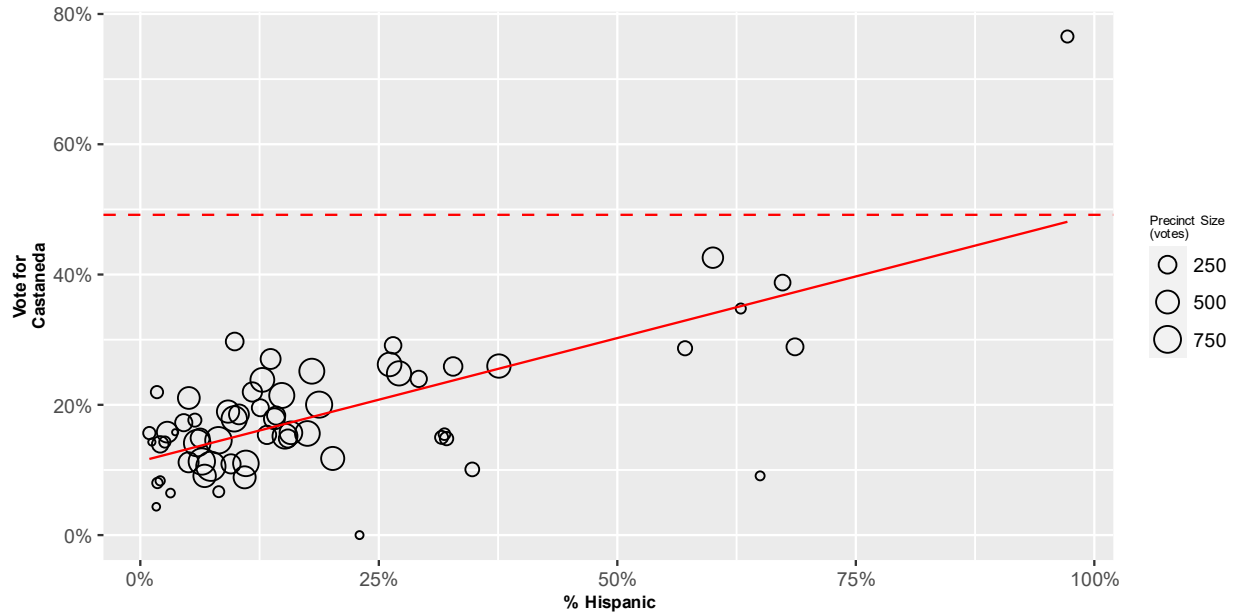
Collingwood Ecological Inference Estimates of Voter Support (ei*)

Party	Candidate	Hispanic			Non-Hispanic		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Non-Partisan	Espinoza	67.8%	67.2%	68.5%	49.6%	49.3%	49.8%
Non-Partisan	Reykdal	32.1%	31.4%	32.7%	49.8%	49.3%	50.2%

*These results were reported under the label "ei," but the report is not clear on the exact statistical model this refers to and plaintiffs declined to provide the code used to produce the results.

Note that Collingwood did not report "rxc" results for this contest

2020 Primary Election: LD13 Pos 1



- Red line is the regression line
- Red dotted line is the Goodman Regression (ER) estimate of Hispanic Support for the Democratic candidate in a hypothetical precinct that was 100% Hispanic.

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (BISG)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic Support for Candidate		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Dem	Castaneda	45.3%	35.65%	54.85%	13.23%	11.26%	15.20%
Dem	Malan	9.7%	5.53%	13.60%	1.73%	0.96%	2.58%
Rep	Dent	45.0%	35.56%	55.00%	85.04%	83.01%	86.98%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)

Hispanic/Non-Hispanic Voters (VAP)

Party	Candidate	Hispanic Support for Candidate			Non-Hispanic Support for Candidate		
		Support for Candidate	Low 95% CI	High 95% CI	Support for Candidate	Low 95% CI	High 95% CI
Dem	Castaneda	52.3%	33.1%	69.9%	14.6%	11.9%	16.9%
Dem	Malan	13.2%	7.0%	20.8%	1.9%	1.2%	2.6%
Rep	Dent	34.5%	16.5%	55.9%	83.5%	81.1%	86.2%

Alford Ecological Inference Estimates of Voter Support (Multinomial Dirichlet Model)
Hispanic/White/Other Voters (BISG)

Party	Candidate	Hispanic Support for Candidate	Low 95% CI	High 95% CI	White Support for Candidate	Low 95% CI	High 95% CI
Dem	Castaneda	46.0%	36.2%	55.2%	10.4%	8.0%	12.9%
Dem	Malan	6.7%	3.9%	9.9%	0.8%	0.5%	1.2%
Rep	Dent	47.2%	38.0%	57.1%	88.8%	86.3%	91.2%

Collingwood Ecological Inference Estimates of Voter Support (ei*)

Party	Candidate	Hispanic Support for Candidate	Low 95% CI	High 95% CI	White Support for Candidate	Low 95% CI	High 95% CI
Dem	Castaneda	57.0%	48.9%	65.0%	10.2%	8.5%	11.7%
Dem	Malan	-	-	-	-	-	-
Rep	Dent	36.2%	27.3%	46.3%	83.4%	81.3%	85.0%

*These results were reported under the label "ei," but the report is not clear on the exact statistical model this refers to and plaintiffs declined to provide the code used to produce the results. Collingwood did not report results for Malan.

Exhibit S

Expert Report of Dr. Loren Collingwood

Loren Collingwood

2022-11-02

Executive Summary

I have been retained by plaintiffs as an expert and have been asked to analyze whether there is racially polarized voting (RPV) in the Yakima Valley and surrounding areas; to analyze demographic data and examine maps proposed or drafted during the 2021 redistricting process, the Enacted Plan, and Plaintiffs' demonstrative plans; and to conduct electoral performance analyses for a number of plans.

RPV refers to a sustained pattern of voting decisions where race or ethnicity determines electoral outcomes in whole or in part. RPV occurs when white voters cast ballots for the same set of candidates and minority voters cast ballots for a different set of candidates. Specifically, in order to determine the extent of RPV, I was asked to examine whether Latino voters in the Yakima Valley and surrounding areas are politically cohesive and whether white voters vote sufficiently as a bloc to usually prevent Latino voters from electing their candidates of choice.¹

Across 25 elections in and around the Yakima Valley and surrounding areas, featuring statewide elections, state legislative elections, and county elections, several involving Latino candidates, I find very clear patterns of RPV between Anglo and Latino voters in 23 out of 25 (92%) contests. I describe the methods I used to examine RPV and findings in further detail below in my report.

I also conducted what is referred to as a performance analysis (or reconstituted elections analysis). An electoral performance analysis reconstructs previous election results based on new district boundaries to assess whether a minority-preferred or white preferred candidate is most likely to win in different district configurations (i.e., a newly adopted legislative district vs. a demonstrative plan). I only examined previous elections held in jurisdictions (i.e., statewide) that can cover the new enacted map or Plaintiffs' demonstrative plans because district boundaries change from one redistricting cycle to the next. I conducted a performance analysis for Legislative District 15 (LD 15) in the Enacted Plan, as well as three demonstratives for Legislative District 14 (LD 14) provided by Plaintiffs.

¹ Throughout the report I refer to white, Anglo, and non-Hispanic white voters interchangeably. I refer to Latino and Hispanic voters interchangeably.

Additionally, I analyzed redistricting criteria, like compactness, of the LD 15 Enacted and LD 14 demonstrative district plans. Across all criteria, the Demonstrative plans perform comparatively to the Enacted plan. I also reviewed a timeline of the draft maps from the Washington State Redistricting Commission. The timeline shows that several of the maps considered by the Commission would have produced a district in the Yakima Valley that would very likely provide Latino voters the ability to elect legislative candidates of choice.

Moreover, I conducted a voter turnout analysis by race/ethnicity. The results show that white voters gain a turnout advantage in off years (i.e., 2018) vs. in presidential years (i.e., 2020). Thus, the labeling of the district as LD 15 vs. LD 14 reduces Latino voters' ability to elect a candidate of choice. I also analyzed the precincts with large Latino populations that the Commission included in Adams and Grant Counties and those it excluded in Yakima County and find that the included precincts have lower Latino voter registration and disproportionately whiter electorates (relative to voter registration) than the excluded Yakima County precincts.

Based on my analysis, I conclude the following:

- RPV between white and Latino voters is present in 23 of 25 elections I analyzed across 5 election cycles.
- I analyzed votes in elections spanning the whole region as well as elections in specific parts of the region, including county district offices and relevant parts of legislative districts. The results are consistent: RPV is present.
- Latino voters are politically cohesive. Latino voters consistently vote as a group for the same candidates, regularly casting ballots between 75-80% for the Democratic candidate in the partisan contests I analyzed. Meanwhile, a similar share of white voters consistently cast ballots for the Republican candidate.
- I also analyzed a variety of contests featuring Spanish-surname candidates. Latino voters consistently vote as a group for the same candidates, regularly casting ballots between 65-90% for the Spanish-surname candidate. Meanwhile, a similar share of white voters consistently cast ballots for the non-Spanish-surname candidate.
- In the enacted Legislative District 15, white voters voted with sufficient cohesion to defeat the minority-preferred candidate in 7 out of 10 contests that I analyzed, for a block rate of 70%.² Thus, I conclude that white voters usually defeat Latino voters' candidates of choice.

² Between my initial declaration and the drafting of this report, I updated my methodology for evaluating split precincts. I discuss the approach at length further into the report. The result is that one contest, the presidential 2020, switched from narrowly preferring Trump to narrowly preferring Biden. My updated approach produces almost identical performance results as those observed in Dave's Redistricting software – a free online

- In Plaintiffs' Demonstrative Map 1, Latino voters' preferred candidate prevailed in 10 of 10 contests that I analyzed.
- In Plaintiffs' Demonstrative Map 2, Latino voters' preferred candidate prevailed in 10 of 10 contests that I analyzed.
- In Plaintiffs' Demonstrative map 3; Latino voters' preferred candidate prevailed in 9 of 10 contests that I analyzed.
- Plaintiffs' demonstrative maps perform similarly on redistricting criteria as compared to the enacted map, including on compactness scores, contiguity, population deviation, and county and precinct splits. All three of Plaintiffs' demonstrative maps contain a Legislative District 14 with over 50% Latino Citizen Voting Age Population (CVAP).
- A review of the Commission timeline shows that several of the maps considered by the Commission would have produced a district in the region that would very likely provide Latino voters the ability to elect legislative candidates of choice. Instead, the Commission chose a district that maximally reduces Latinos' ability to elect candidates of choice.
- Anglo voters vote at higher rates than Latino voters in both the 2020 and 2018 general elections. However, the voter turnout gap between the two groups widens in 2018 (when LD 15 would be up for election) relative to 2020 (when LD 14 would be up). Further, the Commission failed to include several high-density Latino precincts into the plan, instead opting to include precincts with fewer Latinos who also vote at a lower rate.

My opinions are based on the following data sources: Washington State general election precinct returns from 2012-2020; individual-level voter file data produced from the Secretary of State's (SoS) office capturing voters who cast ballots in the 2012, 2014, 2016, 2018, and 2020 general elections; the 2012 and 2020 individual voter file capturing voting in those years' primary elections; 2010 and 2020 US Census block data; the 2010 Census surname database; the shape files for the Enacted Plan; and geojson, block assignment, or shape files for the Commission's draft maps and Plaintiffs' demonstrative maps provided by Plaintiffs' counsel. My opinions are also based upon my general expertise and experience. My work is ongoing in this matter, and my opinions are based on the information available to me as of the date of this report. I reserve the right to supplement or amend my findings based on additional information.

I am being compensated at a rate of \$400/hour. My compensation is not contingent on the opinions expressed in this report, on my testimony, or on the outcome of this case.

database analysts used to evaluate redistricting plans. The very minor change does not alter my overall opinions.

The rest of the report explains my methods and presents my results, including: 1) a review of the method I used to estimate precinct racial demographics; 2) a list of the elections analyzed, 3) 5-County RPV analysis using statewide contests and one congressional contest; 4) Spanish-surname candidate analysis; 5) electoral performance analysis of both enacted and alternative maps; 6) compactness and district characteristics analysis; 7) analysis of the redistricting commission's timeline; and 8) voter turnout analysis by race.

Background and Qualifications

I am an associate professor of political science at the University of New Mexico. Previously, I was an associate professor of political science and co-director of civic engagement at the Center for Social Innovation at the University of California, Riverside. I have published two books with *Oxford University Press*, 39 peer-reviewed journal articles, and nearly a dozen book chapters focusing on sanctuary cities, race/ethnic politics, election administration, and RPV. I received a Ph.D. in political science with a concentration in political methodology and applied statistics from the University of Washington in 2012 and a B.A. in psychology from the California State University, Chico, in 2002. I have attached my curriculum vitae, which includes an up-to-date list of publications, as Exhibit 1 to this report.

In between obtaining my B.A. and Ph.D., I spent 3-4 years working in private consulting for the survey research firm Greenberg Quinlan Rosner Research in Washington, D.C. I also founded the research firm Collingwood Research, which focuses primarily on the statistical and demographic analysis of political data for a wide array of clients, and lead redistricting, map-drawing, and demographic analysis for the Inland Empire Funding Alliance in Southern California. I was the redistricting consultant for the West Contra Costa Unified School District's independent redistricting commission in California, where I was charged with drawing court-ordered single-member districts. I am contracted with the Roswell, NM, Independent School District to draw single member districts.

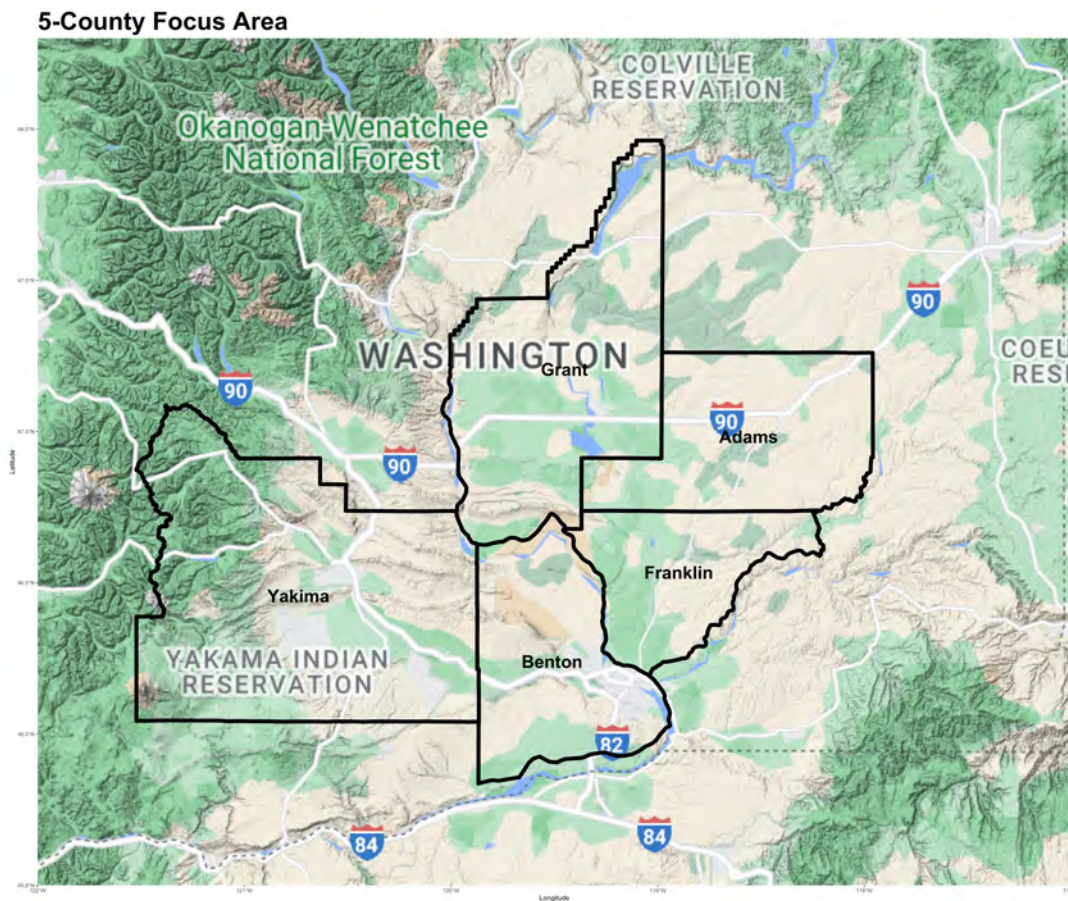
I served as a testifying expert for the plaintiff in the Voting Rights Act Section 2 case *NAACP v. East Ramapo Central School District*, No. 17 Civ. 8943 (S.D.N.Y.), on which I worked from 2018 to 2020. In that case, I used the statistical software eiCompare and WRU to implement Bayesian Improved Surname Geocoding (BISG) to identify the racial/ethnic demographics of voters and estimate candidate preference by race using ecological data. I am the quantitative expert in *LULAC v. Pate* (Iowa), 2021, and have filed an expert report in that case. I am the BISG expert in *LULAC Texas et al. v. John Scott et al.*, No. 1:21-cv-0786-XR, 2022. I filed two reports and have been deposed in that case. I was the RPV expert for the plaintiff in *East St. Louis Branch NAACP, et al. v. Illinois State Board of Elections, et al.*, and filed two reports in that case. I was the Senate Factors expert for plaintiff in *Pendergrass v. Raffensperger* (N.D. Ga. 2021), and filed a report in that case. I served as the RPV expert for plaintiff in *Johnson, et al. v. WEC, et al.*, No. 2021AP1450-OA, and filed three reports in that case. I was the RPV expert for plaintiff in *Faith Rivera, et al. v. Scott Schwab and Michael Abbott*. I filed a report, was deposed, and testified at trial in that case. I served as the RPV expert for the intervenor in *Walen and Henderson v. Burgum and Jaeger*, No 1:22-cv-00031-PDW-CRH, where I filed a report and testified at trial. I am the RPV expert in *Lower Brule Sioux Tribe v. Lyman County*, where I filed a report and testified at trial.

I. Racially Polarized Voting

RPV occurs when minority voters regularly vote for one candidate or set of candidates, and white voters regularly vote for another candidate or set of candidates. The favored candidate of minority voters is called a “candidate of choice.” To assess RPV in the present case, we test whether Hispanic voters back the same candidate and whether Anglo voters favor a different candidate.

As a general rule, RPV scholars turn to precinct vote returns and estimates of racial demographics in the same geolocation to assess the presence or absence of RPV. I analyze multiple elections across five election years (2012, 2014, 2016, 2018, and 2020) to determine whether a pattern of RPV is present in the Yakima Valley region and surrounding areas and within specific electoral districts (i.e., previous legislative district 15). I look at these five years of elections because Secretary Hobbs provided historical voter files for those same years, which is my source of demographic voting data, and because these years feature Latino or Spanish-surname candidates.

RPV does not necessarily mean voters are racist or intend to discriminate. However, in situations where RPV is present, majority voters may often be able to block minority voters from electing candidates of choice by voting as a broadly unified bloc against minority voters’ preferred candidate. At issue in this report, however, is whether the enacted state legislative map dilutes Latino voters’ votes in and around Legislative District 15 in the Enacted Plan. Figure 1 highlights the specific counties in which I conduct an RPV analysis: Adams, Benton, Franklin, Grant, and Yakima.

Figure 1. Yakima Valley and surrounding areas, WA 5-County Focus Area.

A. Racially Polarized Voting Estimation Approach

To determine if RPV exists in different geographic areas, it is generally necessary to infer individual level voting behavior from aggregate data – a problem called ecological inference. The analysis attempts to observe how groups of voters (i.e., Latinos or non-Hispanic whites) voted in a particular election based on precinct vote returns and the demographic composition of the people who live in those precincts.

There are several methods for analyzing whether RPV exists: homogeneous precinct analysis (i.e., taking the vote average across high density white precincts vs. high density Hispanic precincts), ecological regression (ER), ecological inference (EI), and ecological inference Rows by Columns (RxC). In this report, I rely on the ecological inference (EI) and the Rows by Column (RxC) methods to assess whether voting is racially polarized, using functions in the *eiCompare* R package (Collingwood et al. 2020). I focus my attention on the two top-of-the-ticket candidates in each contest. I present vote-choice estimates for Latino and non-Hispanic white voters.

My assessment is based on 21 general election contests and four primary contests using two different types of statistical analyses, each producing vote choice by race. The results of

my analysis show that RPV between Latino and non-Hispanic white voters is clearly present in 23 of the 25 contests I analyzed (92%).

B. List of General Elections Analyzed

Tables 1 and 2 list the 21 general and four primary elections I analyzed, with columns indicating year, contest, type (general or primary), whether the contest is partisan, Democratic and Republican candidate names in the context of partisan contests, Spanish-surname and non-Spanish surname in the case of non-partisan contests, and whether RPV is present. I focus on contests between 2012-2020 because those are the years for which I have historical voter file data that I use to generate precinct demographic estimates and because these are the most probative elections. I analyze the statewide contests subset to the 5-county region, but in some of the local contests I only analyze the results in one county (i.e., county supervisor). In my discussion of the results, I note the geography subsets explicitly.

Table 1. List of partisan contests analyzed, between 2012-2020.

Year	Contest	Type	Partisan	DemCandidate	GOPCandidate	RPV
2020	President	General	YES	Biden	Trump	YES
2020	Governor	General	YES	Inslee	Culp	YES
2020	Attorney General	General	YES	Ferguson	Larkin	YES
2020	Treasurer	General	YES	Pellicciotti	Davidson	YES
2018	U.S. Senate	General	YES	Cantwell	Hutchinson	YES
2018	U.S. Rep D4	General	YES	Brown	Newhouse	YES
2018	LD 15 State Senate	General	YES	Aguilar	Honeyford	YES
2016	U.S. Senate	General	YES	Murray	Vance	YES
2016	President	General	YES	Clinton	Trump	YES
2016	Governor	General	YES	Inslee	Bryant	YES
2012	LD 15 Position 2	Primary	YES	Gonzalez	Taylor	YES
2012	LD 15 State Rep.	General	YES	Gonzalez	Taylor	YES
2014	LD-15 State Senate	Primary	YES	Munoz	Honeyford	YES
2014	LD-15 position 2	Primary	YES	Martinez-Chavez	Taylor	YES
2014	LD 15 State Senate	General	YES	Munoz	Honeyford	YES
2014	LD 15 State Rep.	General	YES	Martinez-Chavez	Taylor	YES
2016	LD-14 Position 1	General	YES	Soto Palmer	Johnson	YES
2020	LD-13 Position 1	Primary	YES	Castaneda Diaz	Dent	YES
2020	LD 13 Position 1	General	YES	Castaneda Diaz	Dent	YES

Table 2. List of non-partisan contests analyzed, between 2012-2020.

Year	Contest	Partisan	SpanishSurname	NonSpanishSurname	RPV
2020	Franklin County Commish D2	NO	Peralta	Mullin	YES
2020	State Supreme Court, Seat 3	NO	Montoya-Lewis	Larson	YES
2020	Sup. of Public Instruction	NO	Espinoza	Reykdal	NO
2018	State Supreme Court, Seat 8	NO	Gonzalez	Choi	NO
2018	Yakima County Board D3	NO	Soto Palmer	Childress	YES
2016	Yakima County Board D2	NO	Manjarrez	Anderson	YES

C. Data Preparation

To conduct the RPV analysis, I gathered precinct election returns from the Washington Secretary of State election results website³ and the Redistricting Data Hub.⁴ I also downloaded precinct shape files from the Secretary of State's website,⁵ and the Redistricting Commission's website.

Beginning with the precinct vote returns, for each election contest I analyze, I divide each candidate's vote by the total number of votes in that election, as well as the total number of estimated voters in that precinct. For example, in a precinct with 1,000 voters, if Biden scored 800 votes and Trump 200, I produce a Percent Biden value of 0.8 (80%) and a Percent Trump value of 0.2 (20%). However, my approach also lets me capture possible voter drop off for different election contests. Thus, while 1000 people might have voted in the presidential contest, maybe just 850 cast ballots for another contest in the same election year. Thus, I further account for no vote in these down-ballot races. In the statistical model, I then weight each precinct by its total vote size to account for variation in precinct population size.

Next, I generate the demographic statistics of each voting precinct. Analysts can generate precinct demographics in a variety of ways all containing some degree of estimation. One common approach is to use citizen voting age population (CVAP) data from the American Community Survey (ACS) 5-year estimates. The ACS is a roughly 2% sample of all American households per year. Thus, by stacking the ACS across five years, a mid-point estimate captures roughly 10% of American households. The advantage of the ACS over the U.S. Census is that it is ongoing instead of only every 10 years, and the ACS includes questions about citizenship status. This latter advantage is crucial in estimating Latino voting since

³ <https://www.sos.wa.gov/elections/research/election-results-and-voters-pamphlets.aspx>

⁴ <https://redistrictingdatahub.org/state/washington/>

⁵ <https://www.sos.wa.gov/elections/research/precinct-shapefiles.aspx>

many U.S. Latinos are not citizens and thus using voting age population as a demographic indicator can vastly over-estimate the size of the Latino electorate.

Using ACS data requires statisticians to estimate precinct demographics using spatial interpolation methods from block group to the precinct. This is because precinct lines and block groups do not overlap completely and/or are not nested.

Another method is to gather voter file data, which provides information about who actually voted in each election and in which precinct each voter lives. Because both the vote return data and the voter file contain precinct information, this method of precinct demographic composition does not suffer from the spatial interpolation challenge posed with ACS or Census demographic data. In some states, each voter's race is listed as a column in the voter file; however, this is not the case in Washington. Therefore, in order to generate an estimate of a precinct's racial demographics, I estimate each voter's racial distribution then aggregate all voters' racial distributions within a precinct together. I opt for this latter approach because it provides greater demographic composition precision – especially in the context of lower turnout primary elections. When estimating RPV across groups who vary significantly in population size and voter turnout (as is the case between whites and Latinos here, as I will show in the report's section on voter turnout), greater precision in who voted enables a more precise vote choice estimate by racial group.

To generate my demographic estimates, I gathered voter file data from the Secretary of State for general election years 2012, 2014, 2016, 2018, and 2020, and for the 2012, 2014, and 2020 August primaries. The files include all registered voters recorded shortly after that fall's general election (or the primary). The file includes first name, surname, address, and a column recording the date of each individual voter's last recorded vote. I subset each file to the relevant 5-county region, and further subset to people who cast a ballot in each general election contest. I then geocoded these data using Geocodio to extract each unique household's latitude and longitude (coordinates).⁶ Geocodio is a leading geocoding service that interfaces with various statistical software programs for relatively straightforward individual record geocoding. Experts in my field can select a variety of geocoders (e.g., Geocodio, Google, Opencage). I have used all these services and they produce highly similar results.

I then forward geocoded these lat/long coordinates into the appropriate Census blocks, using 2010 blocks for 2012 and 2014, and 2020 blocks for 2016-2020. This entails a geospatial points-to-polygons approach where I locate each coordinate in its appropriate Census block by overlaying a spatial points layer onto a spatial polygons layer. This process adds the 13-digit Census block FIPS code to each record, which I need to conduct Bayesian Improved Surname Geocoding (BISG) – which is a straightforward method for

⁶ <https://www.geocod.io/>

probabilistically estimating an individual's race based on surname and neighborhood racial composition.⁷

The data now contain all the ingredients necessary to use the BISG algorithm to estimate individual-level race probabilities, including: surname, residential address, latitude, longitude, county, precinct, and vote history.

BISG is a widely used and reliable method researchers use to estimate individual-level race prediction. The California Secretary of State uses the method to help them better understanding voter turnout by race, and the Washington State Auditor's office recently used the approach in a performance audit. Furthermore, BISG uses publicly available data (publicly available lists of voters in this case, and Census block population counts) to transparently estimate individual-level race estimation. At a very basic level, for each voter in the voter file, the BISG formula combines information about that voter's surname and where that voter lives. We can do this because many surnames are indicative of race. This is especially the case for people with Spanish surnames. For instance, a surname such as Hernandez is much more likely to be held by a person of Hispanic descent, whereas a surname like Collingwood is more likely to be held by a non-Hispanic white person. The 2010 Census tabulated the racial distribution of all surnames occurring at least 100 times in the United States, and thus, this surname list serves as one data point as to each voter's race probability.⁸

The second bit of information draws on where each voter lives. I locate each voter within a Census block, which is the smallest geographic unit in which the Census provides demographic counts. Thus, if that same voter with the Hernandez surname lives in a block that is 97% Hispanic, the probability of them being Hispanic will increase. However, if that same voter with the surname Hernandez lives in a block that is just 25% Hispanic, then the probability that they are Hispanic will decrease. The BISG formula will provide five probabilities for each voter: the probability they are non-Hispanic white, Black, Hispanic, Asian/Pacific Islander, or Race Other.

Of the files I received from the Secretary of State's office, I rely on eight files of registered voters containing information on who voted (and who did not vote) in the last general election – or in the last primary election. Each file contains all registered voters in the state as of the date listed, and is the first file to list vote history for the previous relevant election. Thus, the 2016 file captures individual level behavior for the 2016 general election; the 2018 file captures individual level behavior for the 2018 general election; and the 2020 file captures individual level behavior for the 2020 general election. I gather the historical voter file closed to each date because it best captures what the electorate looked like at the time. It is not sufficient, for instance, to gather the latest Washington registered voter file,

⁷ Later in the report I conduct a voter turnout analysis on 2020 and 2018 general election registrants. For this part, I geocoded and performed BISG for all registered voters in the 5-county region.

⁸ https://www.census.gov/topics/population/genealogy/data/2010_surnames.html

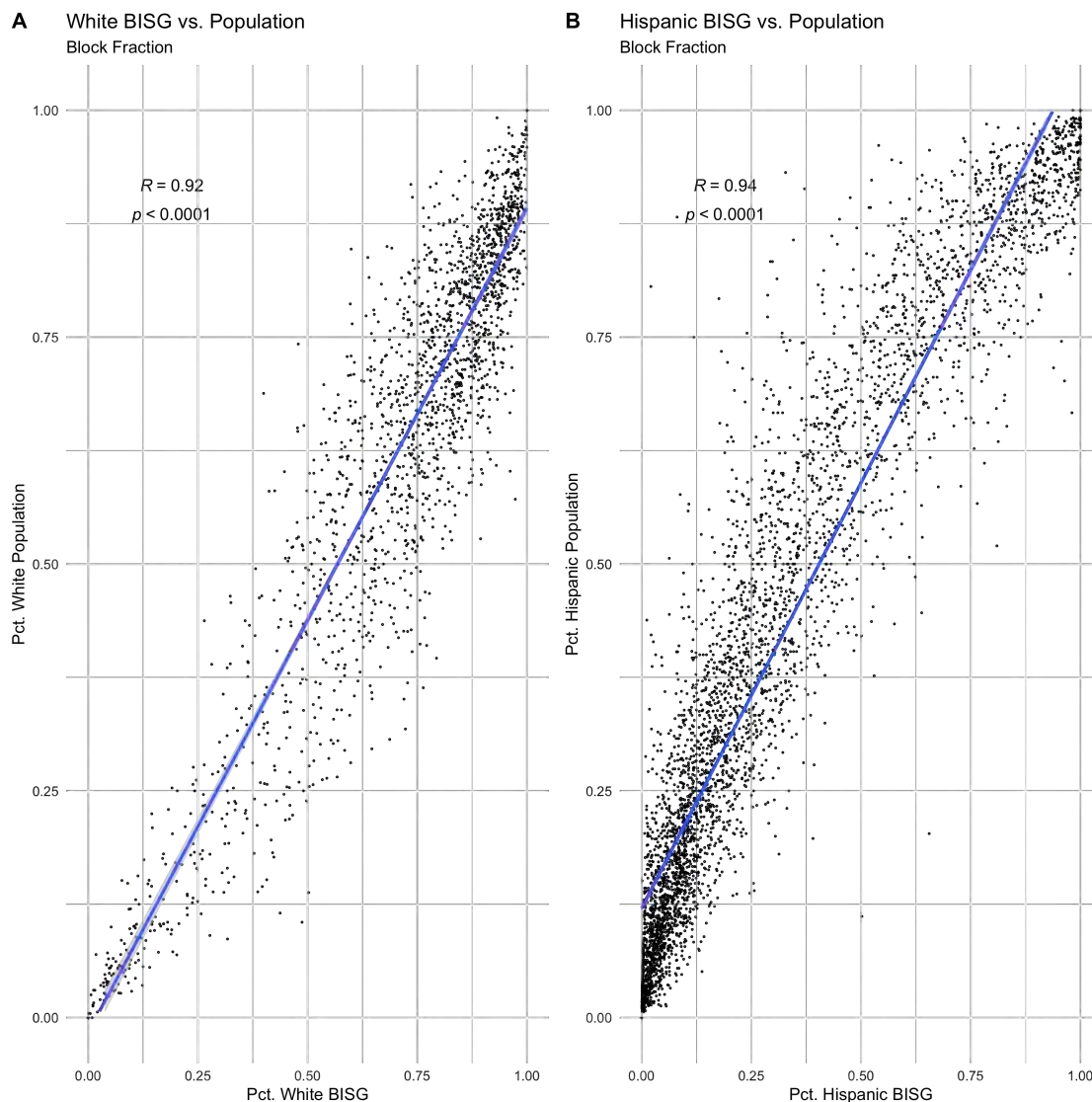
then subset to people who cast ballots in the requisite elections because people have since moved within and outside of the state, and within and outside of the various focus counties.

I use the `bigR` package (Decker-Frain and Sachdeva 2021) – an extension of the `eiCompare` software suite—to estimate the race probability of all voters because I can use 2020 Census population data rather than 2010 Census counts. I also attach these Census counts onto each individual voter record so that I can validate BISG prediction accuracy. I loaded either 2010 or 2020 Census block level population estimates into my statistical software using the U.S. Census data file known as P.L. 94-171 data, which the U.S. Census Bureau created from the 2010 and 2020 Census data. These files contain population (i.e., demographic) counts for all Census blocks in the United States. The P.L. 94-171 data is the main dataset used in redistricting every 10 years. If, for instance, we want to know how many people live in Block X we must turn to the P.L. data for the answer. Because I am only interested in Washington voters, I narrow the P.L. data to Washington.

Using the P.L. 94-171 data, I develop block-level demographic counts for non-Hispanic single race white, Hispanic, non-Hispanic single race AAPI (Asian American Pacific Islander), non-Hispanic single race Black, and race other. These counts are then sent into the BISG algorithm and used as the geographic probability side of the BISG formula.

By way of validation, I aggregated the 2020 voter file with BISG probabilities attached by race to the Census Block by summing each racial group's probability. We should observe a robust positive relationship between BISG and population data at the aggregate level. To apply this to the subject data set, I calculated the percentage of individuals from each racial group per block and did the same at the population level. Figure 2 plots out the relationship between percent race by BISG and percent race by population (for non-Hispanic white and Hispanic). The correlation for the two ethno-racial population groups hovers between 0.92-0.94, the regression line (blue) is positive and statistically significant. This result indicates that the BISG formula worked correctly in this case and as we would expect, with a high correlation.

Figure 2. BISG vs. population scatterplots at the block level by classified non-Hispanic white and Hispanic voters.



To enter the surname race probabilities, the BISG package incorporates the 2010 U.S. Census surname database. This database includes race probabilities for the same five racial categories of every name occurring in the United States at least 100 times. Names that are uncommon are imputed to the surname racial probability average. With these two bits of information, the BISG method uses Bayes' Theorem to produce a race estimate for the five aforementioned racial groups for every voter. The BISG Bayes formula in the Appendix provides the details of the formula.

The final step is to aggregate each racial probability to the precinct then join with the election data using unique county precinct identifiers. For example, in a precinct with 1,000 2020 voters, each voter will have a probability between 0-1 for white, Black, Hispanic,

AAPI, and other. For instance, there might be a Collingwood who lives in a block within this precinct. BISG might assign this voter a 0.917 probability of being white, a 0.059 probability of being Black, a 0.006 probability of being Hispanic, a 0.002 of being Asian, and a 0.015 probability of being race: other. To generate the percentage of voters in the precinct that are Hispanic, for instance, I sum each voters' probability of being Hispanic then divide by 1,000. That percentage is then my racial Hispanic demographic estimate in that precinct.

Finally, and as noted, I opt for the BISG method as my source of demographic input into the ecological model instead of using voting age population (VAP) or CVAP counts for reasons of turnout variation by race. According to U.S. Census estimates, 77% of eligible whites in Washington State cast ballots in 2020 general election, whereas 54% of eligible Hispanics cast ballots in the same election.⁹ In the United States as a whole, 53.7% of citizen voting age Hispanics reported to have voted in the 2020 general election. Meanwhile, 70.9% of citizen voting age non-Hispanic whites reported to have voted in the same election. Further, as my turnout analysis later in the report demonstrates, this turnout gap between white and Hispanic voters grows further in off-year midterm elections. Thus, by relying on VAP or CVAP as my demographic input, I would not be able to account for this gap in racial turnout as cleanly.

D. Racially Polarized Voting

Once all the precinct data are cleaned and joined, for each contest, I subset the precincts to the appropriate geographic unit – either all five counties in the case of statewide contests and legislative seats fully contained in the 5-county region, or relevant portions of legislative seats within the region. I use two methods to estimate racially polarized voting between non-Hispanic whites and Latinos: 1) Ecological Inference (EI); and 2) Rows by Columns (RxC). These are two of the commonly used and reliable methods to estimate vote choice by race using precinct data. Both approaches produce very similar estimates: Out of the 25 contests, both methods produce RPV in 23 contests for a rate of more than 92%.

Figure 3 presents the EI results of the contests that do not feature Spanish-surname candidates. The colored bar and number represent the point estimate – the most likely vote estimate given the underlying data. The little black bars represent the statistical uncertainty inherent in the model, in this case the 95% confidence or credible interval. In short, with the confidence interval, we can be 95% confident that the true vote estimate lies somewhere in between the low and high point represented by the error bar. The top row presents the RPV results for the 2020 Treasurer contest. Column one reports results for the Democratic candidate, Column 2 results for the Republican candidate.

⁹ <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html>

For example, EI estimates that in the 2020 Treasurer contest, Latino voters preferred Pellicciotti (77% - 23%) whereas white voters preferred Davidson (79% - 21%). In the 2020 presidential election, EI estimates that 78% of Latino voters backed Biden, whereas just 27% of whites did so. Turning to Column 2, the pattern is reversed with just 22% of Latinos backing Trump and 73% of whites backing Trump. These results are consistent with a pattern of racially polarized voting.

The gubernatorial contest (Row 3) reveals a similar pattern of RPV: 75% of Latino voters backed Inslee, whereas just 24% of white voters did so. Instead, white voters gave 76% of their support to Culp, whereas just 25% of Latinos did. A similar pattern emerges for attorney general: Bob Ferguson notched 79% of the Latino vote but just 25% of the white vote. Instead, white voters backed Larkin with 75% of their vote, and Latinos voted 21% for Larkin. Again, these results demonstrate racially polarized voting.

The 2018 statewide contests show once again a similar pattern: About 80% of Latino voters backed Senator Cantwell in her re-election contest against Hutchinson. White voters, however, preferred Hutchinson with about 74% of their vote. The Congressional District 4 contest also shows significant racial polarization: 78% of Latinos backed Brown, whereas 74.3% of white voters backed the Republican Newhouse.

Finally, the 2016 statewide contests subset to the 5-county region reveals strong Latino support for the Democratic candidates of Murray for U.S. Senate (84%), Clinton for U.S. President (79%), and Inslee for Governor (82%). White voters, however, backed the Republican candidate, respectively, 69% for Vance, 71% for Trump, and 73% for Bryant.

Figure 3. Racially Polarized Voting assessment in statewide contests subset to the Yakima Valley 5-county region: Adams, Benton, Franklin, Grant, Yakima. Ecological Inference (EI) method.

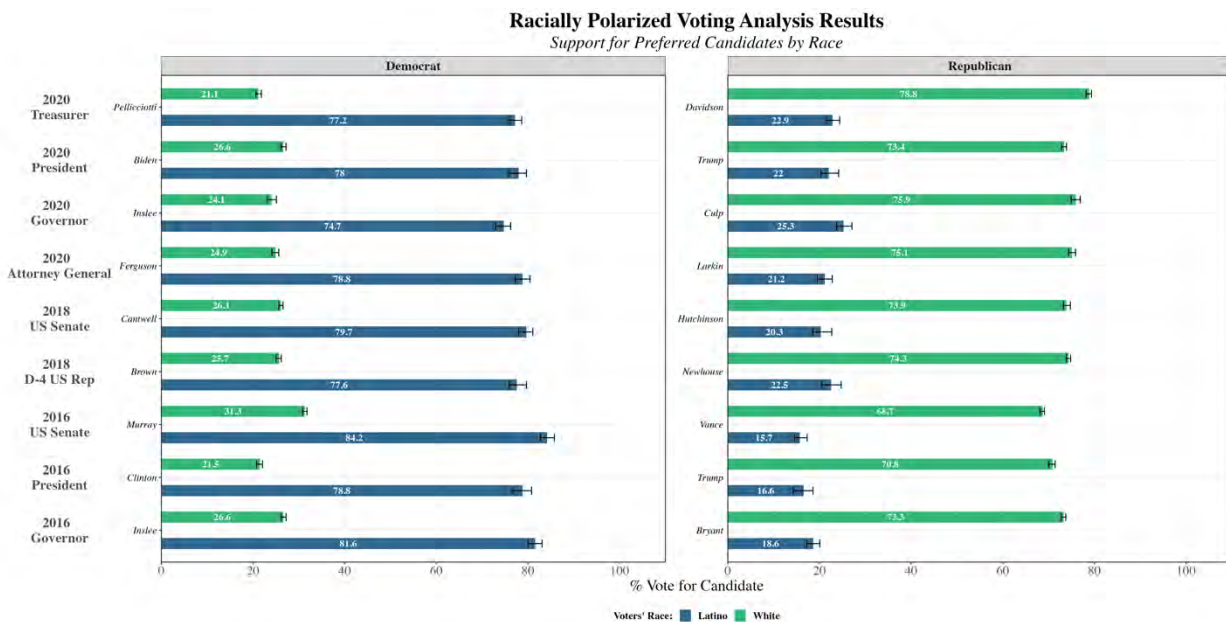
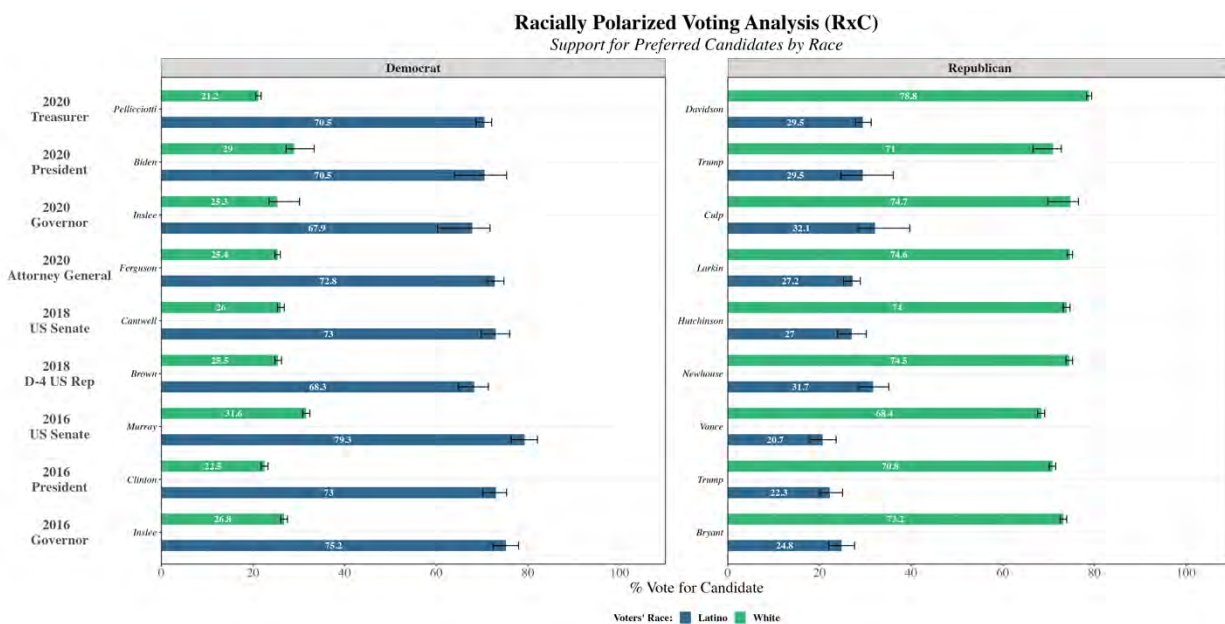


Figure 4 presents the same contests but analyzed with the RxC method. In the model, I incorporated variables for “other candidates” (often a smattering of candidates or write-ins achieving maybe 2% of the vote), no votes, and a catch-all “race other.” For presentation, I only show the white and Latino estimates for the top two candidates. The results are exceedingly consistent with the ecological inference approach presented above and show high levels of racially polarized voting between Latino and white voters in the 5-County area.

Figure 4. Racially Polarized Voting assessment in statewide contests subset to the Yakima Valley 5-county region: Adams, Benton, Franklin, Grant, Yakima. Rows by Columns (RxC) method.



I then analyzed 16 contests featuring Spanish-surname candidates. Each of these candidates are Latino except for Manjarrez (Yakima County District 2), who is married to a Latino individual thereby taking his surname. Because we know that voters often proxy ethnicity based on surname (Barreto 2010), I include that candidate as well. Four of these contests are primary contests which are denoted “primary” in the left-hand contest label.

RPV exists in 14 of these 16 contests, with Latino voters strongly backing the Spanish-surname candidate in each contest. In just one contest do white voters also back the Spanish-surname candidate (Gonzalez in the 2018 non-partisan State Supreme Court Seat 8). However, in the 2018 state supreme court election, neither candidate was white, and the challenger (Choi) was not considered to be a serious challenger due to Choi’s lack of fundraising, lack of endorsements, late start in campaigning, and a prior lawsuit where the Attorney General sued him for not making required campaign disclosures.¹⁰ In the 2020

¹⁰ For example, see <https://www.spokesman.com/stories/2018/sep/17/two-of-three-incumbents-unchallenged-in-state-supr/>

Superintendent of Public Instruction election, whites nearly evenly split their vote. Specifically, in the 2020 contest for Superintendent of Public Instruction, 67.8% of Latinos backed the Latino candidate Espinoza, whereas 49.6% of whites did so.

Analyzing the elections with Spanish surname candidates, in the 2020 State Supreme Court Position 3 contest, 73% of Latinos backed Montoya, whereas Anglos preferred Larson by a margin of 66%. In the 2020 Legislative District 13 Position 1, 70% of Latino voters supported Castañeda Diaz whereas white voters backed Dent with 87% of their vote.¹¹ The 2020 Legislative District Position 1 primary produced fairly similar RPV results: 89% of white voters backed Dent, with 61% of Latino voters backing Castañeda Diaz. Note how the primary contest has larger statistical uncertainty (observed by the wider confidence bands) due to lower turnout which has the statistical effect of reducing the size of the Latino population across the precinct distribution.

In the 2020 Franklin County District 2 contest, Latino voters supported Peralta by a margin of 89%, with only 11% for Mullen. Anglo voters, however, backed Mullen by a margin of 87%, with only 13% for Peralta.

Turning next to three 2018 contests, I analyzed Yakima County District 3, State Supreme Court Position 8, and State Senate Legislative District 15. In Yakima D3, 83% of Latino voters backed Soto Palmer, whereas 77% of non-Hispanic white voters backed Childress. In the State Supreme Court contest, 75% of Latino voters preferred Gonzalez, but so did 51% of Anglo voters (see additional analysis above). Finally, in the State Senate 15 contest, Latinos preferred Aguilar (81%), whereas Anglos preferred Honeyford (82%).

In 2016, I analyzed Yakima County District 2, where 74% of Latino voters supported Manjarrez while 62% of whites preferred Anderson. In Legislative District 14 Position 1 (Yakima County only), 88% of Latino voters preferred Soto Palmer, but 83% of white voters preferred Johnson.

I analyzed four 2014 contests and two 2012 contests. In the 2014 State Senate District 15 primary election contest, Munoz received 69% of Latino support, whereas Honeyford attracted 86% of white support. In the 2014 State Representative District 15 primary election, Martinez Chavez notched 79% of the Latino vote, whereas the white vote preferred Taylor with 88%.

In the 2014 State Senate District 15 general election contest, Munoz received 65% of Latino support, whereas Honeyford attracted 86% of white support. In 2014 State Representative District 15 general election, Martinez Chavez notched 68% of the Latino vote, whereas the white vote preferred Taylor with 85%.

Finally, in the 2012 State Representative District 15 contest, Gonzalez received 89% of the Latino vote, whereas Taylor scored 85% of the white vote. In the primary that same year,

¹¹ In this analysis I include only precincts located in Grant County, because that region is included is part of the 2021 enacted and/or plaintiff's demonstrative map.

RPV is present between the same candidates: Latino voters supported Gonzalez (92%) while Anglo voters supported Taylor (85%).

Together, these results show that Latino voters at high levels prefer the same candidates for political office, and white voters consistently prefer different candidates. Further, white voters are politically cohesive with one another and vote as a bloc against the Latino preferred candidates, leading to the defeat of the Latino candidates of choice, at least within the subset 5-county area.

Figure 5. Racially Polarized Voting assessment in contests featuring Spanish-surname candidates. Ecological Inference (EI) method.

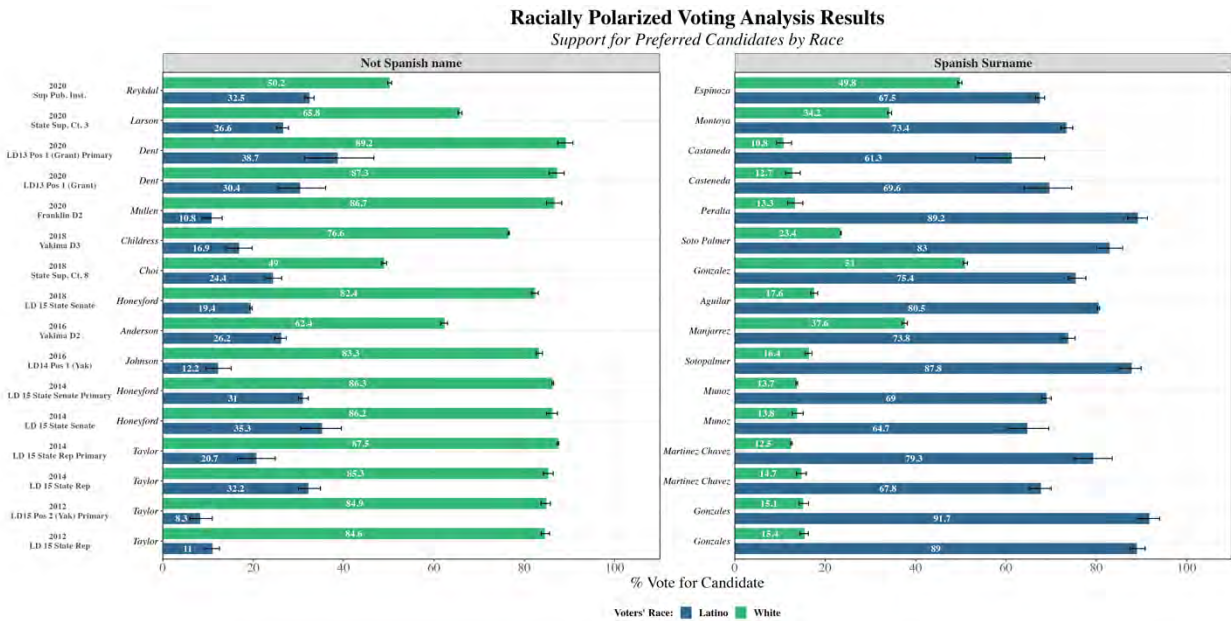
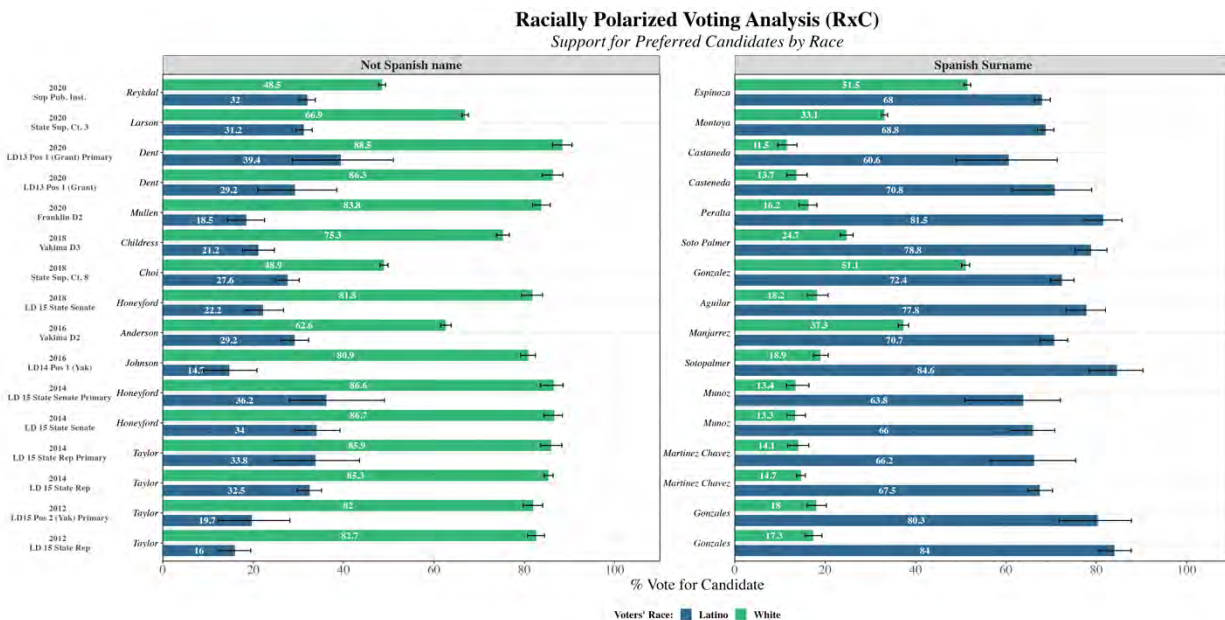


Figure 6 presents the RxC estimates. The results are consistent with the EI model, and show that a high level of RPV is present in 14 of the 16 contests considered.

Figure 6. Racially Polarized Voting assessment in contests featuring Spanish-surname candidates. Rows by Columns (RxC) method.



E. Performance Analysis of Enacted Plan vs. Plaintiffs’ Demonstrative Plans

I was also asked to determine whether the white majority usually blocks Latino voters from electing candidates of choice. I assess this in two ways.

First, I assess whether the white- or Latino-preferred candidates win in the aforementioned Spanish-surname local contests. If the white-preferred candidate wins that means that white voters are blocking Latino voters’ ability to elect candidates of choice. However, if on average, Latino voters’ preferred candidate usually wins, that means white block voting is not present. I conduct this analysis for the local contests that cover only part of the jurisdiction.

Table 3 lists the results. For each row, I present the election year, the contest, the type (primary or general), whether the contest is partisan, the Spanish-surname candidate and their vote percent, the non-Spanish-surname candidate and their vote percent, and whether white voters blocked the Latino-preferred candidate. In every single contest, white voters voted as a bloc to defeat the Latino-preferred candidate, providing strong evidence for Gingles III.

Table 3. List of legislative or county/local elections featuring contests with Spanish Surnames, between 2012-2020, candidate vote totals, and whether White voters blocked the Latino-preferred candidate from winning.

Year	Contest	Type	Partisan	SpanishSur	PercentSp	NonSpanishSur	PercentNsp	Blocked
2020	LD-13 Position 1	Primary	YES	Castaneda Diaz	22.81	Dent	74.35	Yes
2020	LD 13 Position 1	General	YES	Castaneda Diaz	28.57	Dent	71.33	Yes
2020	Franklin Commish D2	General	NO	Peralta	40.79	Mullen	59.07	Yes
2018	LD 15 State Senate	General	YES	Aguilar	39.41	Honeyford	60.59	Yes
2018	Yakima Board D3	General	NO	Soto Palmer	40.29	Childress	59.71	Yes
2016	LD-14 Position 1	General	YES	Soto Palmer	33.95	Johnson	66.05	Yes
2016	Yakima Board D2	General	NO	Manjarrez	48.22	Anderson	51.78	Yes
2014	LD-15 State Senate	Primary	YES	Munoz	24.49	Honeyford	75.51	Yes
2014	LD-15 position 2	Primary	YES	Martinez-Chavez	24.67	Taylor	75.33	Yes
2014	LD 15 State Senate	General	YES	Munoz	27.24	Honeyford	72.76	Yes
2014	LD 15 State Rep.	General	YES	Martinez-Chavez	27.59	Taylor	72.41	Yes
2012	LD 15 Position 2	Primary	YES	Gonzalez	38.92	Taylor	61.08	Yes
2012	LD 15 State Rep.	General	YES	Gonzalez	29.97	Taylor	70.03	Yes

Second, I examine whether the minority-preferred candidate wins in contests featuring racially polarized voting in statewide/exogenous elections subset to the enacted LD 15 and to several demonstrative plans. Specifically, I test whether majority-bloc voting is sufficient to prevent minority voters from electing their candidate of choice by analyzing whether alternative district maps can be drawn that are more likely to result in minority voters electing their preferred candidates of choice than under the enacted district map.

To do so, I conducted electoral performance analyses on Legislative District 15 in the Enacted Plan, as well as a set of demonstrative alternative plans provided to me by counsel for the Plaintiffs. An electoral performance analysis reconstructs previous election results based on new district boundaries to assess whether a minority or white preferred candidate is most likely to win in a given jurisdiction under consideration (i.e., a newly adopted legislative district).

This type of inquiry informs a RPV analysis in districts that have not yet had elections because it tests whether different plans would provide a more equal ability for minority voters to participate in the electoral process and to elect candidates of choice. Thus, the performance analysis shows that a remedy is possible.

I gathered precinct results across the same set of statewide elections (and the 4th congressional district) in which I conducted my RPV assessment.¹² To examine how a candidate performs in the enacted District 15, I then subset the precincts to only those falling within the new District 15 boundary. I use the same method to assess Plaintiffs' demonstrative districts with different boundaries.

This approach often results in a generally small number of precincts being split across district boundaries, leaving the choice as to whether to allocate all votes in that precinct to

¹² Note, I do not include the two statewide contests in which RPV is not present because blocking is not possible in those instances.

District 15, none, or some. This concern is resolved by taking an additional step with regard to precincts that are split across district boundaries. I overlaid the voting tabulation district (vtd) polygon shape file with the 2020 block polygon shape file and join population-level data including voting age population (VAP). Because blocks are fully nested inside vtDs in this instance, I can make adjustments to precinct vote totals by weighting split precinct votes by total voting age population. In precincts that split between districts, I take blocks on the one side of the district boundary to estimate the share of the VAP that is inside/outside of the district.¹³ This helps to improve the vote estimate.

As a point of comparison, one way to address this issue may be to turn to geographic distribution instead of population distribution. For example, a precinct might be geographically split 50-50 between a hypothetical District 4 and District 8. If there are 100 votes in the precinct, I could assign 50 votes to the part of the precinct in the district, and divide all candidate votes in half. If Trump had received 70 of the precinct's initial 100 votes, and Biden 30, I would assign Trump 35 votes (70×0.5) and Biden 15 (30×0.5) totaling 50 votes.

A more appropriate method is to take account of where the population lives within the precinct by using blocks – a much smaller and more compact geographic unit. Each block contains a tally for voting age population (VAP); therefore, I can sum the VAP for all blocks for the part of the precinct falling inside of District 4, and for the part of the precinct outside of D4. This method more adequately accounts for population distribution within the precinct instead of relying on geographic area alone. It could be the case that 70% of the VAP resides in the part of the precinct falling into D4, and 30% in a neighboring district. So instead of multiplying the initial 100 votes by 0.5, for District 4, I multiply the precinct's initial 100 votes by 0.7. In this scenario, Trump would receive 49 of the 70 votes and Biden 21 votes. While the candidate vote share ratio might be the same the Trump net differential moves from plus 20 (35-15) to plus 28 (49-21).

Once I have accounted for split precincts, I combine all precincts and their candidate votes together. For each contest, I then sum votes for candidate 1 and candidate 2, respectively, and divide by total votes cast. I replicate this procedure for the enacted and three Plaintiff demonstratives maps.

Summary of Electoral Performance Results

This section presents electoral performance plots showing comparisons between the Enacted Plan (Legislative District 15) and the three demonstrative plans Plaintiffs provided for an alternative Legislative District 14. The question I am examining is whether the enacted plan and alternative demonstrative plans provide Latino voters a greater ability to elect candidates of choice in the Yakima Valley and surrounding areas.

¹³ <https://www.census.gov/cgi-bin/geo/shapefiles/index.php?year=2020&layergroup=Blocks+%282020%29>;
<https://redistrictingdatahub.org/dataset/washington-block-pl-94171-2020/>

I found that the enacted LD 15 does not provide Latino voters in the district an equal opportunity to elect candidates of choice, while the Plaintiffs illustrative maps do provide Latino voters with an ability to elect such candidates.

To determine the competitiveness of the district, I examined eight elections subset to the district boundaries. The maps of the district boundaries I analyzed are shown below in Figures 7 - 10.

Figure 7. Enacted Washington House Legislative District 15.

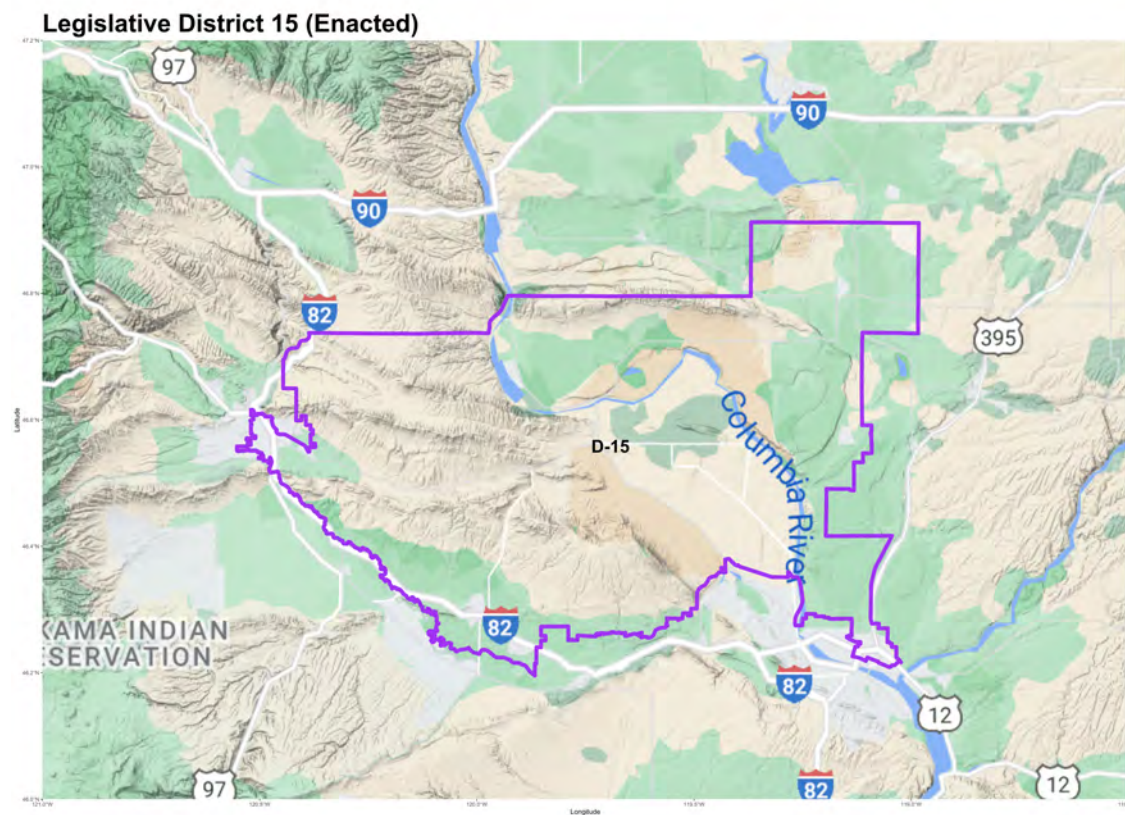


Figure 8. Washington House Legislative District 14, Plaintiffs' Demonstrative 1.

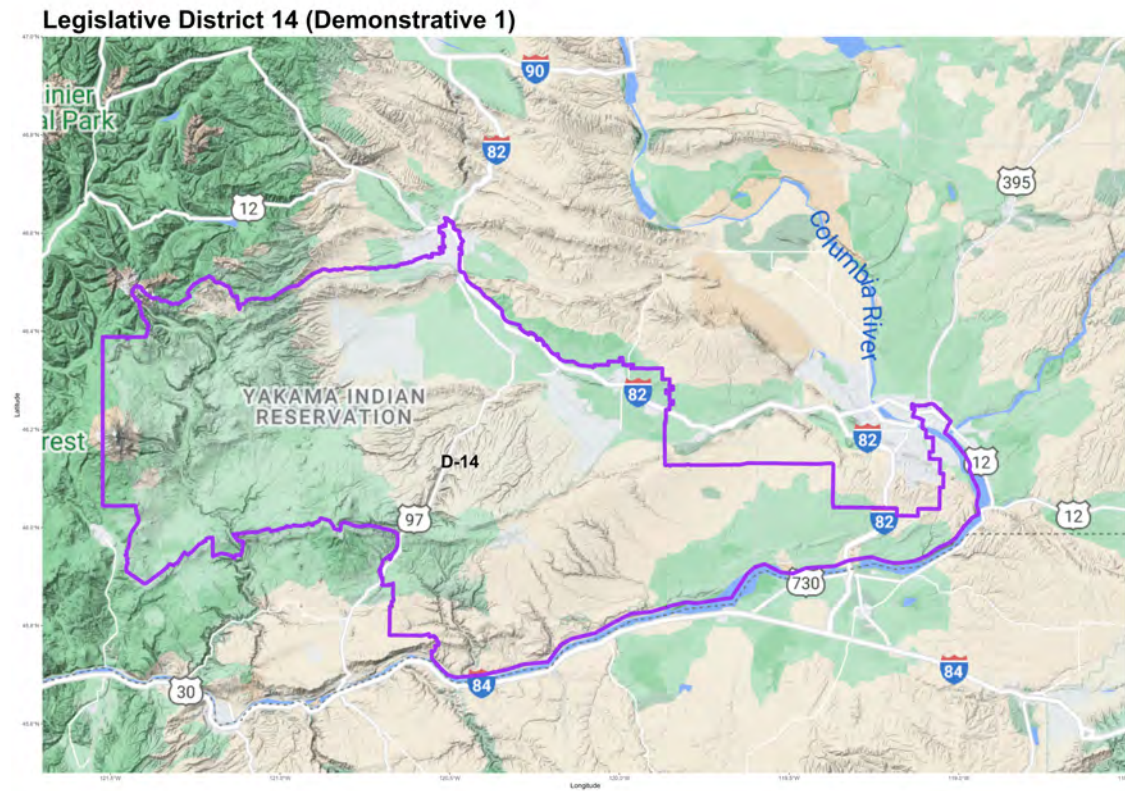


Figure 9. Washington House Legislative District 14, Plaintiffs' Demonstrative 2.

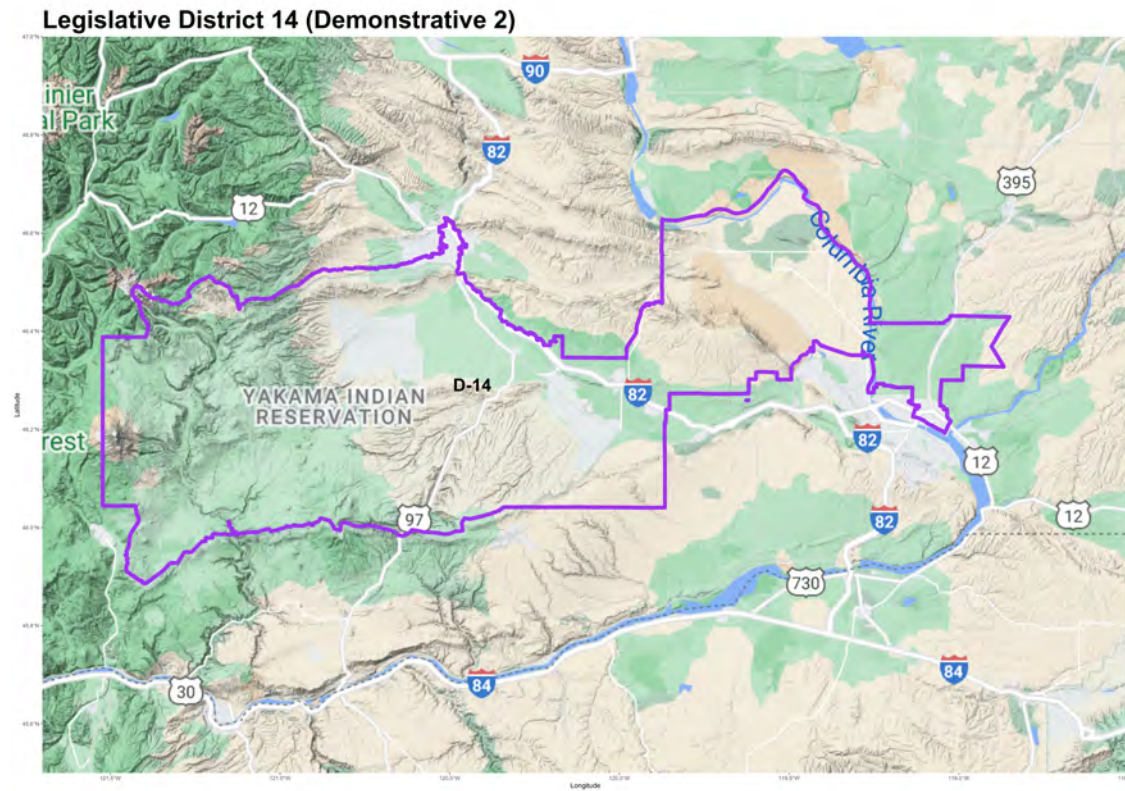
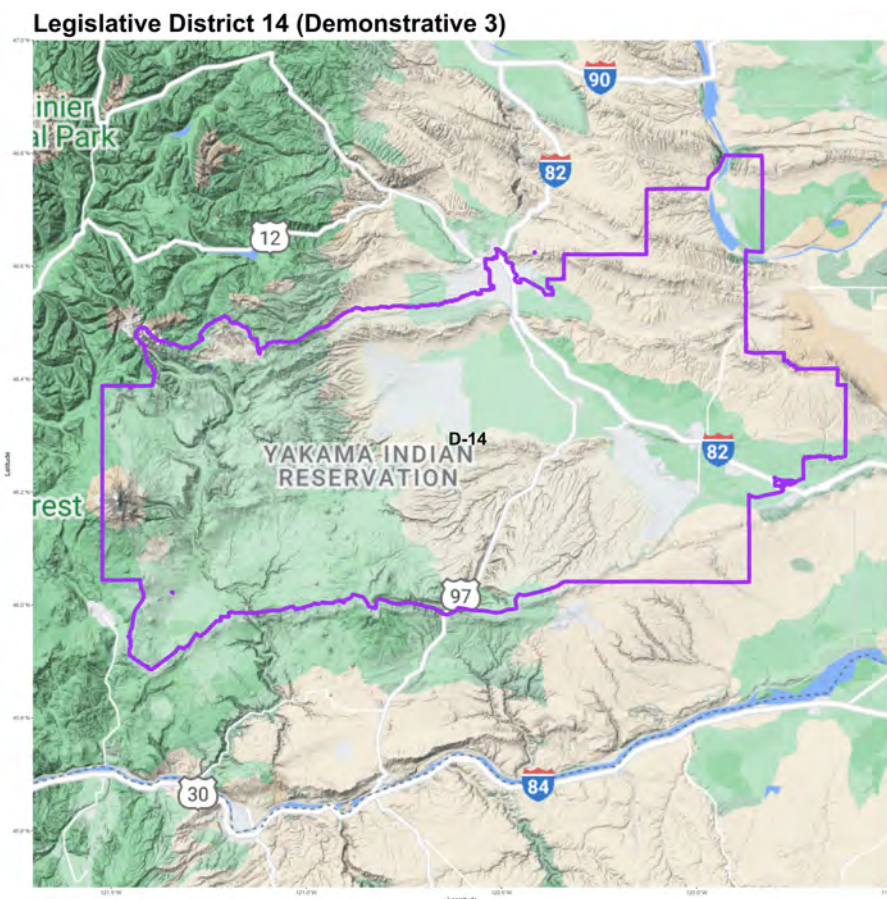


Figure 10. Washington House Legislative District 14, Plaintiffs’ Demonstrative 3.

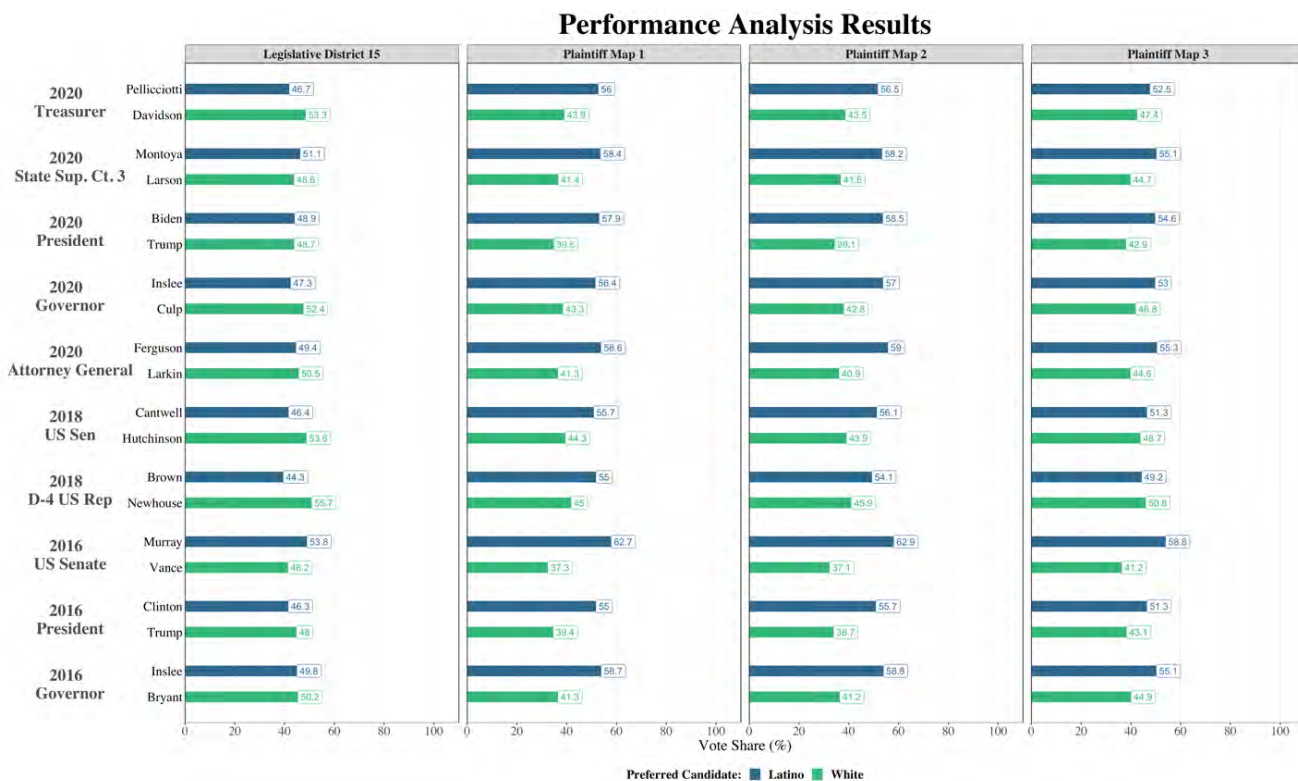


Turning to the results, Figure 11 shows four columns: Column 1 presents results subset to the enacted map, Column 2 is Plaintiffs’ Demonstrative map 1, Column 3 is Plaintiffs’ Demonstrative map 2, and Column 4 is Plaintiffs’ Demonstrative map 3.

Performance analysis of the enacted map shows the white-preferred candidate winning 7 of 10 contests. Latino-preferred candidates win in only three contests: the 2020 Presidential election, the 2020 State Supreme Court Position 3, and the 2016 U.S. Senate race. Thus, the Latino-preferred candidate loses 70% of the time.

Plaintiffs’ demonstrative plans provide Latino voters with a much greater chance of electing candidates of choice and gaining representation in this geographic area. Both Plaintiffs’ demonstratives 1 and 2 show the Latino-preferred candidates winning all 10 contests for a win-rate of 100%. Plaintiffs’ Demonstrative map 3 shows the Latino-preferred candidates winning 9 of 10 contests for a win-rate of 90%.

Figure 11. Electoral Performance analysis, 2016-2020 statewide general elections, paneled by enacted LD 15, LD 14 Plaintiff Demonstratives 1-3.



The performance analyses of the enacted and demonstrative plans provide strong evidence of white bloc voting – that is, the enacted LD 15 map will enable the white majority to block Latino voters’ ability to elect candidates of choice. However, Plaintiffs’ alternative districts provide Latino voters with an opportunity to elect candidates of their choice.

II. District Characteristics Analysis

Using Dave’s Redistricting software,¹⁴ I gathered statistics about the enacted LD 15 as well as the Plaintiffs’ three demonstrative plans showing their level of adherence to traditional redistricting criteria. Table 3 outlines several statistics about each plan, including: total population, population deviation, percent white CVAP, percent Latino CVAP, district compactness (Reock and Polsby), overall plan compactness (Reock and Polsby), county-district and district-county splits, and precinct splits.

Compactness scores range from 0-1, with 1 being perfect compactness, like a circle. County-district splits measure how much the map splits counties across districts and vice

¹⁴ Dave’s Redistricting is a free and publicly available software and database map drawers use to develop redistricting plans. Washington’s own Redistricting Commission employed this software during the map drawing process.

versa for district-county splits. In both cases, for splits the smaller the number, the more desirable from a mapping perspective.

Overall, on measures of population deviation, demographics, compactness, and splits, the Plaintiffs' demonstrative maps perform similarly to or better than the enacted LD 15. The population deviation of the enacted LD 15 and Plaintiffs' demonstratives are all very close to zero and virtually identical.

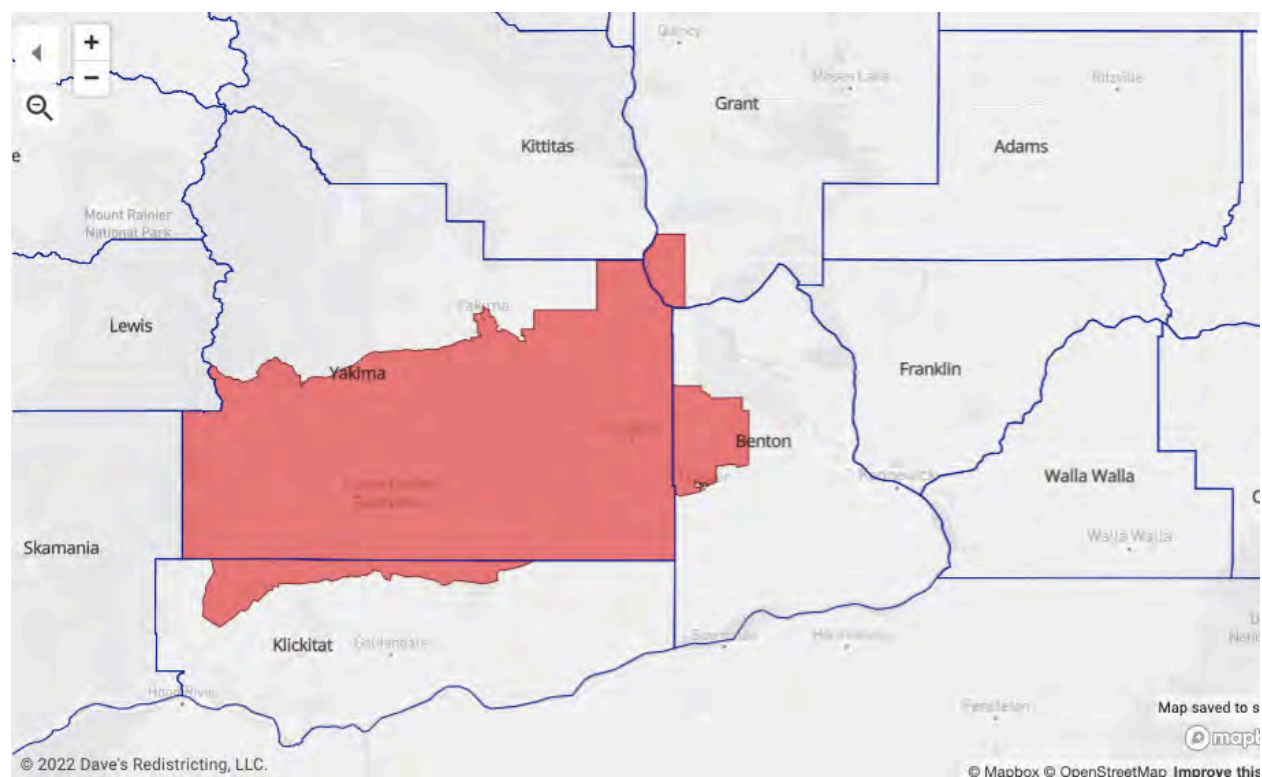
Table 4. Enacted and Demonstrative map statistics.

Statistic	Enacted	Alt 1	Alt 2	Alt 3
Population	157253	157247	157269	157223
Pop. Dev.	-0.0001	0	0.0001	-0.0002
WCVAP20	43.2	37	35.7	40.1
LCVAP20	51.5	52.5	53.6	50.2
District Reock	0.3226	0.2142	0.1766	0.3312
District Polsby	0.2372	0.2131	0.1812	0.3168
Map Reock	0.3993	0.3883	0.3918	0.395
Map Polsby	0.3204	0.3119	0.3114	0.3189
County-District	1.61	1.56	1.6	1.61
District-County	1.25	1.21	1.25	1.25
Precinct Splits	284	279	280	280

As Table 4 demonstrates, LD 14 in all three of Plaintiffs' demonstrative maps has a Latino CVAP of over 50%. Demonstrative 1 has LD 14 with a 52.5% Latino CVAP, Demonstrative 2 has LD 14 with 53.6% Latino CVAP, and Demonstrative 3 has LD 14 with a Latino CVAP of 50.2%.

On population deviation, all three of Plaintiffs' demonstrative plans match or beat enacted LD 15. For compactness scores for the relevant district, Plaintiffs' Demonstrative 3 has a higher Reock and Polsby-Popper score than the Enacted LD 15. Plaintiffs' Demonstrative 1 and 2 have slightly lower Reock scores, but Polsby-Popper scores that are very similar, and all of the demonstrative districts' compactness scores are reasonable. Further, all of the statewide demonstratives provided by Plaintiffs have higher or very similar Reock and Polsby-Popper scores for the overall map.

In terms of splits, all three of Plaintiffs' demonstrative districts contain the same or fewer county-district or district-county splits as the enacted map. And as shown in Figure 12, LD 14 in Demonstrative 3 splits only 4 counties (Yakima, Benton, Franklin, and Grant), while enacted LD 15 splits 5 (Benton, Yakima, Franklin, Adams, and Grant). Plaintiffs' demonstrative districts include a portion of Klickitat County to match the boundary of the Yakama Nation Reservation. Finally, all three of Plaintiffs' demonstratives contain fewer precinct splits.

Figure 12. County View of Plaintiffs' Demonstrative 3, LD 14.

III. Commission's Draft Maps and Decision Timeline

The Washington State Redistricting Commission consisted of five people: 1 independent non-voting chair, Sarah Augustine; two Democratic appointees, April Sims and Brady Walkinshaw; and two Republican appointees, Paul Graves and Joe Fain. In the redistricting process, the commissioners and/or their staff drafted and considered a number of maps, including various configurations of LD 14 and LD 15. Plaintiffs' counsel provided me with the links and shapefiles/block assignment files for these maps.

Table 5 compares these LD 14 and 15 drafts, including the name of each draft, the district numbering (whether 15 or 14), the Latino CVAP according to the 2019 5-Year ACS data (the data considered by commissioners during their map-drawing process), the Latino CVAP according to the most recent 2020 5-Year ACS data, and the Latino-preferred candidate's vote share across eight statewide election contests. These eight election contests are drawn from the statewide contests that I used to assess performance above, and for which I have identified a Latino-preferred candidate, and thus they allow us to see whether the draft maps perform for Latino voters.

Table 5. Decision Timeline.

Map	Dist #	'19 5-Yr ACS Latino CVAP %	'20 5-Yr ACS Latino CVAP %	Vote Share of Latino-Preferred Candidate (shaded if > white-preferred candidate's vote share)							
				2020 Pres% Biden	2020 Gov% Inslee	2020 AG% Ferguson	2020 Treas.% Pellicciotti	2018 U.S. Senate% Cantwell	2016 Pres% Clinton	2016 Gov% Inslee	2016 U.S. Senate% Murray
9.8 LD Draft Dominique Meyers to Sims	15	44.9	46.4	53	51.5	53.6	50.9	50.1	49.4	53.4	56.8
9.21 Fain Proposal Fain public release	15	33.8	35.5	46.2	44.4	46.2	43.3	43.7	41.9	46.7	49.8
9.21 Graves Proposal Graves public release	15	34.2	36.3	40.6	38.8	40.7	37.7	38.8	37.3	42.1	45.7
9.21 Sims Proposal Sims public release	15	44.7	46.1	54.1	52.5	54.6	51.9	51.4	50.4	54.4	58
9.21 Walkinshaw Prop Walkinshaw public release	14	40.4	41.5	55.4	53.7	55.8	53.1	53.7	51.5	55.3	59.4
10.25 Sims Proposal Sims public release	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
10.25 Walkinshaw Prop Walkinshaw public release	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.3 Graves LD 14 (2) Graves proposal	14	50.6	52.0	55.6	53.9	56.3	53.6	53.2	52.8	56.4	60.3
11.7 New leg proposal Anton Grose to Paul Graves	14	50.9	52.6	50.7	49.3	51.3	48.7	48.2	48.3	51.7	55.7
11.8 Fain V2 Fain proposal	15	50.6	52.0	52.4	50.8	52.9	50.2	50.0 ¹⁵	50.0	53.4	57.4
11.10 BW 11.10 new VRA Walkinshaw proposal	14	52.6	54	58.8	57.3	59.5	56.9	56.8	56.0	59.6	63.6
11.11 Base proposal Brady Walkinshaw	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.11 Graves1110LD Anton Grose to Graves, Sims	14	50.3	52	49.7	48.2	50.3	47.6	47.3	47.4	50.8	54.8
11/12¹⁶ April Sims to Paul Graves	15	49.2	50.6	47.9	46.3	48.3	45.7	45.4	45.4	48.9	52.8
11.12 Graves Draft Nov12 (1) Paul Graves and staff	15	50.2	51.6	49.0	47.4	49.5	46.8	46.5	46.5	50.0	53.9
11.13 BW leg proposal Ali O'Neil to Fain staff	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.15 Copy of 11/14 7:30pm Merged D Map Walkinshaw/Sims	15	49.2	50.5	47.9	46.3	48.4	45.7	45.5	45.4	48.9	52.8
11.15 R Prop Rebalanced Osta Davis to Ali O'Neil	15	50	51.5	48.9	47.3	49.4	46.7	46.4	46.3	49.8	53.8
Enacted Plan	15	50	51.5	48.9	47.3	49.4	46.6	46.3	46.3	49.8	53.7

¹⁵ Light shade indicates a percentage tie (50%-50%).¹⁶ The numbers here are different than those presented in my initial report submitted in August. In discovery, Plaintiffs' counsel discovered that the Dave's Redistricting App file I previously used had been modified after November 12. Plaintiffs' counsel received the correct version of the file in a production from DRA in response to a subpoena and gave me the appropriate geojson file which I used to generate these numbers.

This analysis first shows that commissioners proposed and considered maps that would have provided Latino voters at least an equal opportunity to elect candidates of choice, although the commissioners ultimately did not select those. In addition, the drafts demonstrate that proposals making the Latino opportunity district LD 14, rather than LD 15, were considered and presented by commissioners. Finally, the drafts in the table, which are displayed chronologically, show that as the map-drawing progressed and negotiations continued, the performance for Latino preferred candidates was systematically reduced, ending with the Enacted Plan.

IV. Voter Turnout Comparison and Justification for Even District Number

The commission's decision to label the Latino opportunity district LD 15 versus LD 14 has ramifications for whether Latino voters will be able to elect candidates of choice in this seat. This is because Latino turnout in the 5-county region is lower than white turnout in non-presidential years (LD 15) compared to presidential years (LD 14), and LD 14 has more elections in the presidential election year.

For each LD in Washington, there are three seats (two house representatives, and one state senator). Each state representative is elected every two years, while state senators are elected every four years. But the election years vary by district. For instance, all three of LD 15's positions will be up for election in 2022 (off-year); the next state house election will then be in 2024, while the next state senate election will be in the off-year 2026. By comparison, only two of LD 14's positions will be up for election in 2022 (the house seats), but all three seats will then be up for election in 2024 (with the senate seat always lined up with the presidential and gubernatorial election).

Turnout as Percent of Voter Registration

Using BISG voter file calculations from the 2018 and 2020 general elections, Table 6 presents estimated voter turnout by race/ethnicity (Anglo, Latino) in the 5-county region. To calculate turnout, I split the voter file based on who voted in 2020 and who did not, then sum the probability white column across the region. I then divide the total estimated number of white voters by the total number of estimated white registrants. I then do the same for the probability Hispanic column.

The 2020 general turnout information is presented in the first two columns of Table 6, followed by the 2018 general turnout information in the third and fourth columns. Overall, the findings show that registered Anglos are more likely to vote in both the 2020 general and the 2018 general. The overall 2020 white advantage in turnout is 21%. Specifically, 80% of white registered voters voted in the 2020 general, whereas just 59% of Latino voters did.

Voter turnout for both groups declined in the 2018 general election. I estimate that 65.4% of white registrants voted in the 2018 general election compared to just 38.4% of Latino voters, resulting in a white advantage of 27 percentage points. Compared to the 2020

general, white voters have an additional 6.1% turnout advantage over Latino voters in the 2018 general. Thus, by labeling the district LD 15 rather than LD 14, regardless of the CVAP numbers, white voters will have a disproportionately larger electoral composition advantage than if the commission had chosen to label the district LD 14, given that LD 14 holds more elections in line with the presidential election year.

Table 6. Voter turnout comparison across 2020 and 2018 general elections by Anglo and Hispanic/Latino registrants. Data calculated using BISG on voter files for both years.

Race	Pct. Voted 20G	White - Hisp. 20G	Pct. Voted 18G	White - Hisp. 18G	Diff 18G - Diff 20G
White	0.798		0.654		
Hispanic	0.589	0.209	0.384	0.27	0.061

Turnout as a Percent of Citizen Voting Age Population (CVAP)

I also calculated voter turnout as a function of Citizen Voting Age Population (CVAP). To do so, I take the estimated number of white and Latino actual voters, respectively, and divide by the CVAP estimates for the same groups. I gathered county-level CVAP data from the Redistricting Data Hub Washington State page, which provides 2016-2020 CVAP estimates, and 2014-2018 CVAP estimates based on the 5-year American Community Survey (ACS).¹⁷

The results are similar to the voter registration results, although somewhat attenuated in terms of differences in turnout across the two groups and across the two years.

Table 7 shows the 2020 general election turnout differences across Anglo and Hispanic voters relative to 2020 CVAP in the 5-county region. The table also includes a relative turnout difference between the two racial groups across the two election years. In 2020, I estimate that 200,501 white and 51,596 Latino registrants, respectively, cast a ballot. Taking these numbers and dividing by each group's CVAP, I place white turnout at 74.3% and Latino turnout at 51.1%, for a white turnout advantage of 23.2%.

Table 7. Voter turnout comparison in 2020 general elections by Anglo and Hispanic/Latino, as percent of CVAP. Data calculated using BISG on voter files for both years and CVAP as denominator.

Total CVAP	White CVAP	Hispanic CVAP	White Vote	Hispanic Vote	White TO	Hispanic TO	Difference	Off Year Adv.
398735	269880	100960	200501	51596	0.743	0.511	0.232	0.022

Table 8 shows the 2018 general election turnout differences across Anglo and Hispanic voters relative to 2018 CVAP in the 5-county region. In 2018, I estimate that 154,316 white and 29,033 Latino registrants, respectively, cast a ballot. Taking these numbers and

¹⁷ <https://redistrictingdatahub.org/state/washington/>.

dividing by each group's 2018 CVAP estimates, I place white turnout at 57.5% and Latino turnout at 32.1%, for a white turnout advantage of 25.4%.

Table 8. Voter turnout comparison in 2018 general elections by Anglo and Hispanic/Latino, as percent of CVAP. Data calculated using BISG on voter files for both years and CVAP as denominator.

Total CVAP	White CVAP	Hispanic CVAP	White Vote	Hispanic Vote	White TO	Hispanic TO	Difference
384995	268330	90365	154316	29033	0.575	0.321	0.254

Comparing Latino Electoral Composition in Included vs. Excluded Precincts

Finally, I analyzed Latino and white turnout rates and electoral composition in high-density Latino communities from Grant and Adams Counties that are included in the enacted LD 15, and compare that against other nearby high-density Latino communities in Yakima County that were excluded from the district. While these are all high Latino CVAP areas, my analysis shows that the included areas produce a higher white electoral composition than do the excluded regions of the map. In other words, while the high-density Latino communities from Grant and Adams Counties that were included in the district were necessary to achieve a bare HCVAP majority, those communities' electorates are disproportionately white compared to the Yakima County precincts that were excluded from the district.

The enacted map includes the following high-Latino precincts: Adams (413, 415, 511, 512) and Grant (26). These include parts of the communities of Othello and Mattawa. A 2018 general election voter file analysis reveals that these precincts contain about 633 registered Anglo voters, and 1,881 registered Latino voters.

However, due to turnout differential in the 2018 general election, (white = 64%, Hispanic = 37%), white voters made up 36% of election day voters despite being 25% of registrants. The pattern is replicated in the 2020 general election, where white voters were 28% of the electorate despite being 23% of registrants. This illustrates the deleterious effect of the decision to give the district the number 15 rather than 14: the electorate in these precincts is 8 points whiter in the off-year election than in the presidential election.

By contrast, the enacted plan excludes from the district the following neighboring high-density Latino precincts in Yakima County: 901, 2101, 2102, 2103, 2501, 2502. These include parts of the communities of Wapato, Toppenish, and Mabton. I estimate that as of the 2018 general election 428 white voters were registered in these precincts, while 4,579 Latino voters were on the rolls. Therefore, whites only comprised about 8% of registered voters. Accounting for turnout, the white composition of the 2018 electorate bumped up a bit to 11%. By 2020, the white share of registered voters dropped slightly to 7%, with electoral composition at 8%.

Table 9 below illustrates these findings.

Table 9. Comparison of included versus excluded precincts.

Precincts	Registered Voter Share (2018)	2018 Election Electorate Composition	Net White Advantage over Registration Share (2018)	Registered Voter Share (2020)	2020 Election Electorate Composition	Net White Advantage over Registration Share (2020)
Included Adams & Grant Latino Precincts	73% Latino, 25% white	61% Latino, 36% white	+23%	75% Latino, 23% white	70% Latino, 28% white	+10%
Excluded Yakima Latino Precincts	83% Latino, 8% white	80% Latino, 11% white	+6%	84% Latino, 7% white	83% Latino, 8% white	+2%

The commission's choice to include the Adams and Grant County precincts and exclude the Yakima County precincts has two notable effects. First, the Adams and Grant County precincts have lower shares of Latino registered voters compared to the Yakima precincts (73% v. 83%). Second, the Adams and Grant County precincts have disproportionately white *electorates* relative to their voter registration, whereas in the Yakima County precincts Latino vote share narrowly trails Latino registration. This is particularly pronounced in the 2018 off-year election, where the white advantage in the Adams and Grant County precincts is four times greater than in the Yakima County precincts.

The commission's decision of which high-density Latino precincts to include and exclude, coupled with the decision to label the district LD 15 with senate elections in off-years, thus helps explain why the district will not perform to provide Latino voters an equal opportunity to elect their candidates of choice.

Conclusion

In conclusion, racially polarized voting between white and Latino voters is present in the Washington Yakima Valley and surrounding 5-county region. The pattern is overwhelming. I examined 25 elections, and 23 demonstrate clear patterns of RPV using both the ecological inference and the rows by columns methods.

Further, in past elections, white voters voted sufficiently as a bloc to usually defeat minority voters preferred candidates in 7 of 10 statewide (plus congressional) elections analyzed in this report. When I examined white blocking of Latino preferred candidates, I observed 11 white voting blocks in 11 legislative or county/local elections. Despite this, the state drew legislative boundaries that affords these same minority voters fewer opportunities to elect candidates of choice than what their population and voting strength suggests.

In addition, Plaintiffs provided three demonstrative plans that contain majority-Latino configurations of LD 14, which compare similarly or superior to the enacted plan on redistricting criteria, and that allow Latino candidates an equal opportunity to elect their candidates of choice. In contrast, the enacted plan has produced a map that blocks minority voters' ability to elect candidates of choice, although draft maps proposed and considered during the redistricting process provided districts in the Yakima Valley and surrounding areas that would have provided Latino candidates with an equal opportunity to elect candidates of choice. Moreover, the choice to label the relevant district LD 15 rather than LD 14, especially given the number of elections in presidential years in each legislative district and lower Latino voter turnout especially in the off-year, further limits the ability of Latinos to elect candidates of their choice in LD 15. Finally, the nonperformance of the district is illustrated by the commission's decision to include Latino precincts with lower registration and turnout rates than neighboring Latino precincts that were excluded from the district.

Appendix

BISG Formula

Given the voter's surname $s \in \mathcal{S}$, geographic area $g \in \mathcal{G}$, and race $r \in \mathcal{R}$, the probability of a voter i being of race $R_i = r$ given their geographic area $G_i = g$ and surname $S_i = s$ is given by Bayes' Theorem as:

$$\Pr(R_i = r | S_i = s, G_i = g) = \frac{\Pr(G_i = g | R_i = r) \Pr(R_i = r | S_i = s)}{\sum_{r' \in \mathcal{R}} \Pr(G_i = g | R_i = r') \Pr(R_i = r' | S_i = s)}$$

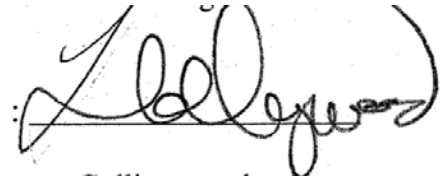
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Pursuant to 28 U.S.C. § 1746, I, Loren Collingwood, declare that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "Loren Collingwood", written over a horizontal line.

Dr. Loren Collingwood
Dated: November 2, 2022

Exhibit T

Executive Summary

I have been asked by counsel for the intervening defendants to evaluate the State Legislative District map enacted by the state of Washington. My focus is to respond to the question, are Hispanic voters in the enacted 13th, 14th, and 15th Legislative District likely to elect their preferred candidate? The broad question can be objectively measured in three parts to fit legal precedent. One, a specific racial or ethnicity population is large enough to be a majority in a district and is it compact. Second, if large enough and compact, the group has a cohesive preference for the same candidate. Third, candidates who receive cohesive support from a community of interest should not be defeated because of the voting behavior of another racial group. The first key opens the question and the trends of voting behavior establish whether vote dilution has occurred. These are the factors for the Gingles test.

In this case, I do not find the Hispanic community shows sufficient cohesion for one party. In a study of racially polarized voting, I find estimates of Hispanic voter preference for candidates from the Democratic Party differ by 30% or more from SD-13 to SD-14 or SD-15 (Table 1). I also do not find that non-Hispanic white voters in these three districts are more likely to vote against a Hispanic candidate than a Democratic candidate. Three recent elections show non-Hispanic white voters supported a Hispanic candidate more than other Democratic candidates in 2018 and 2020. The evidence I have collected shows a pattern that party is the dominant factor driving individual vote choice. For a Hispanic district to be a Democratic district the boundaries may need to be less compact in order to include even more Hispanic voters, due to the lack of overwhelming cohesiveness of the community. My analysis of the geographic dispersion of Hispanic voters in SD-15 shows that an attempt to identify Hispanic voters where Democratic ballots are more heavily concentrated has already occurred.

In Adams, Benton, Franklin, Grant, and Yakima counties the Hispanic population is collectively large enough to create a majority legislative district. Population counts from the Census and population estimates from the Census's American Community Survey give accurate measures to establish this observation. However, the Hispanic population is geographically dispersed around the cities which

diminishes the compactness of the community of interest compared to what one might expect in the largest metropolitan areas.

The results show Hispanic voters in Adams, Benton, Franklin, Grant, and Yakima counties are more politically independent than other groups of voters. This mirrors national trends. In most elections Hispanic voters support the Democratic candidate (65%) and on occasion they will defect from the party in large numbers.¹ The elevated support for Democratic candidates from Hispanic voters in SD-14 and SD-14, relative to the SD-13 neighbors, suggests there are either strong cultural influences that exist or the district populations were selected for political reasons. I do not find evidence of sufficient cohesion within the Hispanic electorate nor do I find evidence that opposition to candidates increase as a result of the race of the candidate. The absence of significant variation in candidate preference among candidates from the same party offers no statistical evidence of any diminishment in the ability of minority voters to elect representatives of their choice on the basis of race.

Qualifications and Expertise

I am a tenured associate professor of Political Science at The University of Texas at Tyler. In the seven years I have taught at UT Tyler, I have taught courses on Congress, voting behavior, state politics, and research methods at the undergraduate and graduate level. I have authored numerous journal articles on legislative politics and social behavior, which can be found in in *American Political Research*, *Legislative Studies Quarterly*, *Social Sciences Quarterly*, and other academic journals. I also co-authored a recent book, *Battle for the Heart of Texas*, about the changing preferences of voters in Texas and the increasing civic engagement of Hispanic voters. A full list of my qualifications and publications are available in my CV as Exhibit A.

¹ Clement, Scott, Emily Guskin, Amy B. Wang, and Sabrina Gonzalez. 2022. "Democrats' lead with Hispanic voters is smaller than 2018, Post-Ipsos poll finds." *Washington Post*, October 14, 2022.

I have also provided expertise during this redistricting cycle on two occasions. I helped a non-profit organization in the state of Oklahoma prepare districting plans of state and federal legislative offices for public submission. I also submitted a racially polarized voting analysis report in the case *Black Voters Matter Capacity Building Institute, Inc., et al. v. Laurel Lee* in the state of Florida. My compensation to prepare and write this report is \$350 per hour. My compensation is not reliant on the opinions offered herein.

Scope

I compare fourteen statewide elections that occurred in 2018 and 2020. These two election years are valuable for such a comparison, because the state implemented automatic voter registration and same day registration in 2018 (RCV 29A.08.140). The data required to use ecological inference to estimate racially polarized voting requires demographic data and precinct level election results to identify the racial and ethnic composition of a geographic area. My report is a tool to see if the redistricting plan causes harm, even if it is unintentional. This will include estimates of ballot choice that are precise enough to capture the geographic concentrations where a candidate gets votes and where Hispanic voters live. The secret ballot precludes us from knowing this information in exact detail, but fortunately aggregate trends are conditional on individual activity in ways that match theories behind the social science tools we use to evaluate the impact of a map.

Ecological inference (EI) is the best statistical method to estimate the probability the candidate preferences of Hispanics are based on party or race. We can infer racially polarized voting if two conditions are observed. Does a community of interest, Hispanic voters, reliably support one party more than another? Do Hispanic candidates receive less support in the district? If voters in a district always give the same support for nominees of one party, regardless of race, then we do not observe a negative effect of a candidate's race on their likelihood to win an election. EI is a Bayesian approach to estimate the conditional probability a Hispanic voter supports a Democratic candidate using the geographic

population distribution of Hispanic residents and where a candidate receives the most votes. High estimates suggest a block of voters were probably cohesive in their support for a candidate across the district. An estimate closer to 50% signals the block of voters were likely split between the two candidates. Low estimates indicate the voters oppose a candidate from the preferred party.

This study replicates the same method across multiple elections from the same geographic area to show the cohesion of the Hispanic electorate in its support for a Democratic candidate. The results in Table 1 and 2 will appear higher in Districts 14 and 15, but closer to 50% in District 13. I will also explain the conditions in which the Hispanic electorate becomes split in its support of a candidate when a Hispanic candidate is endorsed by the other party or there is not party affiliation at all.

Data

The data I use reflect the population count of the state of Washington and official tallies of election returns from 2020 and 2018. The Census block is the unit of comparison, because blocks can be assigned to different precincts and to different districts. The American Community Survey provides 5-year estimates (2016-2020) of the citizen voting age population as close as the block group level. This file includes many definitions of race, I use the measures of Hispanic identification CVAP, non-Hispanic white CVAP, and sum other non-Hispanic race and ethnic groups into the category of other.

I obtained this file from the Caliper Corporation and used Maptitude for Redistricting to disaggregate the block group level estimates of the citizen voting age population to the Census block level, by controlling for the Census population in the block. I also used Maptitude for Redistricting to layer past election results at the precinct level so they could be combined into one map, for the purpose of disaggregating the election information to the Census blocks that fit within the precinct boundary shape files (<https://www.sos.wa.gov/elections/research/election-results-and-voters-pamphlets.aspx>). This process anchors the population and election data to the Census block for the purpose of comparing district assignments. Estimates identified for the “Enacted Map” reflect the geographic shape file for the Final

Adopted State Legislative Districts from <https://www.redistricting.wa.gov/district-maps-handouts> (folder Final District Shapes 2022_NAD_83). Estimates from the “Previous Map” reflect the district assignment of the Census block from 2011 to 2021.

I rely solely on population data from the U.S. Census Bureau, because it is the most reliable measure of the geographic distribution of a population. It is also the most complete source of data, because it encompasses the representation of those who are registered to vote and those who are not. Population inferences based on a surname require that we know the name of the resident and are subject to the misclassification of an individual and advanced methods to reduce this misclassification error use population tallies by the Census as the basis for any adjustments.² Therefore, the Census remain the simplest and most accurate way to compare communities with a state.

Method: Ecological Inference

Ecological inference is an approach that uses aggregate data (like precincts) to make inferences about individual behavior. This is valuable when we cannot meaningfully interact with the research subjects. However, the key to accomplishing this task is a standardized structure of the aggregate data. Because the analysis is grounded in analyzing a geographic area nested within another, my estimates do not predict the behavior of an individual – they only speak to the behavior of people who are in a similar context. As an analogy, think about how pollsters anonymize individual surveys to explain an aggregate population. The key to knowing whether everyone is treated equally is to look at the aggregate effects.

² The U.S. Court of Appeals, 5th Circuit, strongly criticized the use of Spanish-surname analysis in the case *Rodriguez v. Bexar County* as it lacks reliability and underestimates Hispanic residents with a “non-Hispanic” name. The court directly stated, “census data based upon self-identification provides the proper basis for analyzing Section 2 vote dilution claims in the future” (See *Rodriguez v. Bexar County*, note 18, PAR 867 385F. 3d 853). Additionally, in a letter in *Political Analysis* (2021), Dr. Jesse Clark, Dr. John Curiel, and Tyler Steelman suggest more transparency is needed about how analysts implement BISG and how they might impute data from missing variables. Their study of BISG in Georgia shows that thousands of bootstrap estimates can help refine measures of Hispanic surnames if they are done at the Census Block level. Their final conclusion is that surname-only analysis should only be used when other all other alternatives have been examined. In their study, they did not compare the estimates from a BISG surname analysis to the Census estimate.

Clark, Jesse T. John A. Curiel, and Tyler S. Steelman. 2021. “Minmaxing of Bayesian Improved Surname Geocoding and Geography Level Ups in Predicting Race.” *Political Analysis* 30(3): 456-462.

This report offers numerous Ecological Inference estimates by election, to measure if groups of voters have cohesive support for candidates and how it varies across the enacted 13th, 14th, and 15th Legislative Districts in Washington. The model is constructed to control for the proportion of each group of voters within the citizen voting age population and how many voters in a geographic area participated in the election in order to estimate the share of each group of voters who supported the Democratic candidate. In the case of non-partisan State Supreme Court elections, I assigned the dependent variable to estimate the probability voters would vote for the candidate who had been appointed to the court prior to the election.

Ecological inference is a statistical procedure used in the natural sciences, business, and social sciences to estimate accurate measures of probability.³ The key is the ability to control for multiple dimensions, like those listed above in the description of the model. Voter participation and preferences often vary by race.⁴ Moreover, this is the same type of statistical analysis the plaintiffs cited by Dr. Matthew Barreto in paragraph 152 of Case 3:22-cv-05035-RSL in Document 70.

This analysis follows a logical path. If a set of precincts have more Hispanic voters than white voters and the Democratic candidate receives more votes from areas the Hispanic population is concentrated, we can measure the probability each question is true. However, if a Republican candidate for another office also appeals to Hispanic voters, we are less certain that the public is polarized in its voting. Examining these patterns of voting history was a reaction to moments when support from Black voters for a Democratic candidate was much higher if the candidate was a Black Democrat. Historically a pattern of electoral victories by white Democrats confounded the public, given the high proportion of Black residents in a community and the support they consolidated behind one candidate. The source of the problem was that Black Democratic nominees receive lower levels of support, than contemporary white Democrats, from white voters. The voting behaviors of Black Democrats and white Democrats

³ King, Gary, Ori Rosen, and Martin A. Tanner. 2004. *Ecological Inference: New Methodological Strategies*. Cambridge: Cambridge University Press.

⁴ Grofman, Bernard and Michael Migalski. 1988. "Estimating the Extent of Racially Polarized Voting in Multicandidate Elections." *Sociological Methods & Research* 16 (4): 427-54.

followed a pattern of racially polarized voting and not partisan polarized voting. The clear impact these types of voting behavior had on representation allowed the Supreme Court to introduce the Gingles test as guidance to indicate if district plans are racially discriminatory, even if they were not intended to be. A community of interest should be in a similar district if it is cohesive in its support for a candidate and if the community of interest that has similar preferences lives close to one another.

The conclusion is not always easy to ascertain, because our understanding is conditional on past elections and the presence of a Democrat and Republican nominee. The adoption of the top-two primary system in Washington does not exclude this context, but it allows another option that does not fit within the practical application of ecological inference to understand partisanship.

Racially Polarized Voting Analysis

The district estimates of voter preference for a Democratic candidate among Hispanic voters in the Yakima Valley region appear consistent, if not for three notable exceptions – geographic dispersion of Hispanic voters, partisanship of general election nominees, and ethnicity of a candidate who does not prefer the Democratic Party.

The best way to understand these results is to remember that these EI results are estimated at the Census block level, using population information from the Census and precinct election results that were disaggregated to the Census block level by the state. This allows the statistical approach to estimate preferences at a granular level and then sum the totals, based on how the Census blocks are assigned to districts in the Block Equivalency file for each District plan. I use two tables to report the EI results to classify the differences of executive elections and judicial elections.

Table 1 reports the percentage of how many ballots in a district were cast for a candidate who is the nominee of or prefers the Democratic Party by a Hispanic voter. The 14 electoral comparisons do not show significant support among Hispanic voters for a Democratic candidate across the three districts. The cohesiveness of Hispanic voters is not consistent everywhere in the region and can range by more than

30% between District 13 and District 14. This analysis also shows that the new redistricting map further exaggerated this difference. Estimates of Hispanic ballots that preferred the Democratic Party for District 14 increased in the new map.

Each row of Table 1 indicates the voting preference among Hispanic voters for a Democratic candidate. Columns 1 through 3 tell the year and office of the election before identifying the race and ethnicity of the candidates seeking that office, with the race of the Democratic nominee listed first. The next columns identify the name of the Democratic candidate and the estimated percentage of the two-party vote they received from Hispanic voters in the areas that comprise the Enacted and Previous districts. Table 2 also presents the vote preferences among Hispanic voters, but the name references the sitting Supreme Court justice seeking election since they do not have a partisan affiliation.

These results indicate the cohesiveness of Hispanic voters consistently varies by district. Hispanic voters in District 13 are likely to be less supportive of the Democratic candidate in every election than Hispanic voters in District 15. It is also apparent, Hispanic voters were not always cohesive in their support of Democratic candidate for Lieutenant Governor Denny Heck, when the opponent was also a Democratic candidate in an open seat contest. The top-two primary system allows voters to choose between candidates of the same party in the general election, which also presents a unique context to identify if there is cohesion within what type of Democratic candidate Hispanic voters will support. In this case, an intra-party coalition of Hispanic voters was split between two candidates.

Table 1: Ecological Regression Estimates of the Percent of Hispanic Voters Voting Democratic under the Enacted and Previous Senate maps
(Confidence Interval in Parentheses to indicate Margin of Error)

Year	Office	Candidate Race/Ethnicity	Democratic Candidate	Enacted SD-15	Previous SD-15	Enacted SD-14	Previous SD-14	Enacted SD-13	Previous SD-13
2020	Insurance Commissioner	W – A	Kreidler	79% (75.7, 82.3)	82% (79.2, 83.8)	86% (83.7, 88.3)	86% (80.1, 86.3)	50% (46.6, 52.9)	59% (56.0, 61.8)
2020	Commissioner of Public Lands	W – W	Franz	75% (71.4, 78.9)	78% (75.3, 80.6)	84% (81.5, 86.7)	81% (78.5, 84.4)	44% (40.0, 47.1)	53% (50.0, 56.4)
2020	Superintendent of Public Instruction	W – H	Reykdal	35% (33.5, 36.6)	33% (32.0, 34.5)	37% (35.9, 38.9)	42% (40.6, 44.1)	30% (28.1, 31.5)	33% (31.3, 34.5)
2020	State Auditor	W – W	McCarthy	75% (71.7, 79.0)	78% (75.4, 80.5)	84% (82.9, 87.0)	82% (81.9, 87.0)	46% (42.1, 49.1)	55% (52.1, 58.5)
2020	Treasurer	W – W	Pellicciotti	73% (69.1, 76.5)	76% (73.2, 78.4)	83% (80.7, 85.8)	80% (77.5, 83.4)	43% (39.9, 46.9)	53% (49.7, 56.0)
2020	Attorney General	W – W	Ferguson	76% (71.8, 79.3)	79% (76.0, 81.3)	85% (82.6, 87.8)	83% (79.7, 85.7)	45% (41.8, 49.1)	55% (52.1, 58.7)
2020	Secretary of State	W - W	Tarleton	69% (65.8, 73.0)	72% (69.5, 74.8)	80% (77.2, 82.2)	76% (73.1, 79.0)	42% (39.0, 45.4)	52% (48.7, 54.5)
2020	Lt. Governor**	W – W	Heck / Liias	49% (47.0, 51.3)	47% (45.9, 48.7)	45% (43.2, 46.4)	45% (42.9, 46.7)	52% (49.2, 53.9)	53% (50.2, 55.0)
2020	Governor	W – W	Inslee	74% (70.0, 77.4)	76% (73.4, 79.0)	82% (79.5, 84.8)	79% (76.0, 82.1)	39% (35.1, 42.2)	50% (46.4, 52.9)
2020	U.S. President	W/B – W/W	Biden	76% (72.3, 80.0)	79% (76.8, 82.1)	86% (83.4, 88.6)	83% (80.1, 86.2)	44% (40.5, 48.1)	54% (50.5, 57.4)
2018	U.S. Senate	W – W	Cantwell	73% (69.7, 76.4)	75% (72.9, 77.7)	81% (78.6, 83.3)	74% (71.7, 77.2)	37% (34.0, 40.4)	44% (41.5, 47.0)

** Two Democratic candidates were on the November general election ballot. W indicates the candidate was non-Hispanic White. B indicates the President's running mate was Black. H indicates the candidate was Hispanic. A indicates the candidate was Asian. *Note:* The first letter represents the Democratic nominee or a candidate who preferred the Democratic party.

Prior election returns show Hispanic voter support for a Democratic candidate does not always exist at the same rate if a candidate that prefers the Democratic Party is running against a Hispanic candidate who prefers the Republican Party. This election was described as “one of the most politically divided races in Washington state schools chief in recent memory.”⁵ In that election Reykdal received significantly lower support from Hispanic than other candidates on the 2020 ballot. Espinoza received 30% more support from Hispanic voters than Reykdal in this region. Her candidacy also attracted 53% of voter support from white voters in the region.

The preference of Hispanic voters for a Democratic nominee in the three districts are not statistically different across 10 of the 12 elections in Table 1 when the margin of error for these EI estimates is observed. The preferences of the Hispanic electorate in the newly created SD-15 are not statistically different from the prior composition of SD-15. Only the 2018 U.S. Senate race suggests a significant shift in the increasing support of Hispanic voters in the new SD-14 compared to the past. However, in 6 of the 12 elections analyzed there was a significant decrease in the voting support for Democratic candidates from the Hispanic community in the new formation of SD-13. Democratic support by Hispanics goes up in the new SD-14 and Hispanics in the new SD-13 are less supportive of Democratic candidates. This indicates the old SD-13 included Hispanic voters who were more favorable to Democratic candidates.

In SD-13, the estimated pattern of candidate preferences of Hispanic voters is more similar to the estimates of non-Hispanic white voters. There is significant difference in estimates of preference for the Democratic candidate among Hispanic voters in the new SD-13 compared to SD-13 in the previous map. Observing the estimates down the column, also shows that Hispanic voters in SD-13 exhibit variation in how much they oppose a Democratic candidate.

⁵ Bazzaz, Dahlia. 2020. “Chris Reykdal reelected as Superintendent of Public Instruction, defeating Maia Espinoza in Washington state election results.” *Seattle Times* November 3, 2020.

The election returns and demographic information indicate there is a consistent trend in the preference for a Democratic candidate among Hispanic voters within SD-15 and SD-14, but not SD-13. The expected pattern is not stable when voters must choose between a Democratic candidate and a Hispanic candidate of another party or when Democratic candidates are the only candidates on the ballot.

The race for Superintendent for Public Instruction presents a unique context to assess the level of racially polarized voting. Maia Espinoza received the endorsement of the Republican Party as she challenged incumbent Superintendent Chris Reykdal who was endorsed by the Democratic Party. Although Espinoza did not defeat the incumbent statewide, there was strong support from Central Washington. Reykdal received less support from Hispanic voters than other Democratic candidate in 2018 or 2020. However, Reykdal's preference for the Democratic Party also meant that Espinoza, a Hispanic candidate, received less support than other Hispanic candidates on the ballot. This presents a clear case example that partisanship is a strong cue for many Hispanic voters in elections.⁶

The statewide non-partisan elections in Washington for the judiciary provide another context to measure racially polarized voting in the absence of party affiliation or endorsement. Two of the contested elections for the State Supreme Court in 2020 let us compare voter preferences for candidates without an affiliation to the executive offices displayed in Table 1. Additionally, there is one female candidate with a Spanish surname, Justice Raquel Montoya-Lewis. Montoya-Lewis is a descendent of the Pueblo of Laguna tribe. Her candidacy is a valuable contrast to Espinoza, as someone who sought election without a partisan endorsement. Both women were new candidates in statewide elections.

In SD-14 and SD-15, the estimated support for Justice Montoya-Lewis among Hispanic voters is 6% higher than another female candidate on the ballot justice Helen Whitener, who had also previously

⁶ To put the Reykdal-Espinoza race in context of the preferred candidate in this district. Maia Espinoza received a 6% advantage based on the boundaries of the previous district. In the geographic areas that are part of the new District 15 Espinoza received more than 16% more votes than the incumbent. This is an example of a Latina candidate, who was preferred by the Hispanic voters, and would win the District.

been appointed to the court months before. The support for the two justices was very similar in SD-13 during the 2020 election. Justice Montoya-Lewis’s estimated vote share from Hispanic voters is statistically comparable to the 2018 support the voting bloc gave to Chief Justice Steven Gonzalez.

Table 2: Ecological Regression Estimates of the Percent of Hispanic Voters Voting in Judicial Elections under the Enacted and Previous maps

(Confidence Interval in Parentheses to indicate Margin of Error)

Year	Office	Candidate Race/Ethnicity	Judicial Candidate	Enacted SD-15	Previous SD-15	Enacted SD-14	Previous SD-14	Enacted SD-13	Previous SD-13
2020	Supreme Court, Pos. 3	NAIA – W	Montoya- Lewis	73% (70.0, 75.9)	74% (72.3, 76.5)	77% (74.3, 78.8)	69% (66.3, 71.5)	56% (53.1, 59.0)	63% (60.2, 65.7)
2020	Supreme Court, Pos. 6	B – W	Whitener	(64.8, 69.3)	(66.2, 69.3)	(66.7, 70.3)	(64.2, 68.5)	(52.8, 57.7)	(59.6, 64.5)
2018	Supreme Court, Pos. 8	H – A	Gonzalez	75% (73.0, 76.7)	77% (76.2, 78.8)	73% (71.4, 74.3)	64% (62.6, 65.8)	56% (54.7, 58.2)	60% (58.3, 61.3)

W indicates the candidate was non-Hispanic White. B indicates the candidate was Black. H indicates the candidate was Hispanic. NAIA indicates the candidate was Native American Indian American. A indicates the candidate was Asian. *Note:* The first letter represents the candidate who had previously been appointed to the Supreme Court.

A comparison of Table 2 to Table 1 shows that Hispanic voter preference for non-partisan candidates with a Spanish surname are almost identical to support for Democratic candidates in SD-15. We also see Hispanic voters in SD-13 are a contrast to their SD-15 neighbors, because they are more supportive of a candidate with a Spanish surname who is not affiliated with the Democratic Party (Montoya-Lewis, Gonzalez, and Espinoza). A consequence of the EI estimates in Table 2 are not significantly different from the results in Table 1’s partisan elections is that we do not have an adequate counterfactual example to determine if race or partisan preference causes these candidate choices.

Geographic Dispersal of Minority and Non-Minority Groups

The plaintiffs are concerned the new boundaries of District 15 are a façade for Hispanic representation. It is clear the new district includes a larger Hispanic population, but the concern is whether the Hispanic population is as likely to participate. The table below is a calculation of the citizen voting age population of District 15, districts with the longest borders, and the previous district. District 15 does not dilute the CVAP population. District 15 also carries the largest number of Hispanic voters under the

age of 18 (using Census population totals that are adjusted for the prison population). This fits with the national trend that Hispanic populations are significantly younger than the NH white population.⁷ This reinforces that the Hispanic population in District 15 is large enough to influence an election. However, based on the prior analysis, the Hispanic population in this part of Washington is not politically cohesive in all regions.

Table 3: Descriptive Statistics of Demographics Across Districts in the Region

	Hispanic CVAP	NH White CVAP	Reg Vote (Pct. of CVAP)	Hispanic (under 18)
District 15	38,130 (51%)	32,305 (44%)	57,542 (78%)	77,044
District 14	21,684 (27%)	50,636 (63%)	71,226 (88%)	35,214
District 13	14,474 (22%)	49,232 (73%)	59,612 (88%)	28,467
Dist. 15 (2020 map)	32,423 (41%)	41,585 (52%)	66,014 (83%)	54,869
Total: Adams, Benton, Franklin, Grant, and Yakima Counties	100,979 (29%)	269,840 (77%)	351,495 (88%)	

In the past decade, the state of Washington has implemented three election reforms that are expected to encourage voter turnout; a top-two primary, all-mail voting, and same-day registration. These election reforms are known to increase voter turnout,⁸ especially when they follow the implementation of all-mail voting in 2012 (RCA 29A.40.10). In time, same day registration provides the greatest increase among 18 to 24-year-old residents and other populations that exhibited lower turnout in the past.⁹ Studies in political science also suggest that same-day registration will benefit voters of all political preferences or party.¹⁰

⁷ Patten, Eileen. 2016. "The Nation's Latino Population is Defined by Its Youth." Pew Research Center. April 20, 2016. URL: <https://www.pewresearch.org/hispanic/2016/04/20/the-nations-latino-population-is-defined-by-its-youth/>

⁸ Burden, Barry C., David T. Cannon, Kenneth A. Mayer, and Donald P. Moynihan. 2014. "Election Laws, Mobilization, and Turnout: The Unanticipated Consequences of Election Reform" *American Journal of Political Science* 58(1): 95-109.

⁹ Grumbach, Jacob M. and Charlotte Hill. 2022. "Rock the Registration: Same Day Registration Increases Turnout of Young Voters." *Journal of Politics* 84(1): 405-417.

¹⁰ Hansford, Thomas G. and Brad T. Gomez. 2010. "Estimating the electoral effects of turnout." *American Political Science Review* 104(1): 268-288.

Neiheisel, Jacob R. and Barry C. Burden. 2012. "The Impact of Election Day Registration on Voter Turnout and Election Outcomes." *American Politics Research* 40(4): 636-664.

Table 4 documents how Hispanic participation in the elections compares to non-Hispanic White participation. There is little variation in the expected participation of either group of voters based on their assignment to the old map or new map. It appears SD-13 and SD-14 maintained Hispanic communities with higher engagement, while SD-15 now includes slightly lower participation among Hispanic residents. Looking to 2018, the estimates show that participation was lower for all population groups regardless of district assignment.

Table 4: Estimated Turnout of Citizen Voting Age Residents, by Race-Ethnicity

Year	Office	Enacted District		Past District	
		Hispanic	NH White	Hispanic	NH White
2020	SD-15	36%	79%	40%	79%
2020	SD-14	37%	84%	34%	85%
2020	SD-13	50%	78%	42%	78%
2018	SD-15	10%	56%	10%	56%
2018	SD-14	12%	56%	12%	56%
2018	SD-13	7%	46%	7%	46%

The inferences from Table this section and the racially polarized voting section suggest SD-15 did not change much politically, but it did become younger. The directional shifts as a result of redistricting are more likely to be observed in SD-13, which maintained Hispanic voters that were more likely to vote and support Republican candidates. In contrast, SD-14 now has the second largest concentration of Hispanic residents and they are more likely to participate and to support a Democratic candidate.

Geographic Residential Concentrations

Although my analysis concludes the presence of some cohesion and racially polarized voting, additional investigation is warranted. Under *Shaw v. Reno* (1993) citizens should not be placed into the same district by a government because of their race. It is violation of the equal protection clause to sort voters into a specific district that uses race to supersede the common features of a community such as county lines, water boundaries, or major roads that may define one area from another.

The distance between the western portion of SD-15 in Yakima County and the southeastern portion in Franklin County is 83 miles. The bottom of District 15 that connects some areas south of I-82 in Yakima County, but excludes portions of Benton County that are north of I-82 where the two counties meet. Moreover, District 16 (which comes from the East) includes portions of Benton County that are less Democratic and less Hispanic, while District 15 (from the West) extends east of Richland to connect the Benton County precincts with the highest concentration of Hispanic residents and the highest Democratic supportive precincts in Benton County. This raises the question: Is there a compelling reason that joins the communities south and east of the I-182 bypass around Richmond and the Yakima State Fair Park? Clear patterns show that this was done to increase the Hispanic voters who prefer Democratic candidates.

Some distance between the population centers is expected, because the county areas between these populous cities are less populated. Figure 1 shows this clearly with the population density of precincts within the blue boundary of District 15. District 15 captures geographically disparate precincts with higher concentrations of Hispanic residents in 4 different counties, while separating adjacent precincts with similar concentrations of Hispanic residents. Figure 2 represents the total count of Hispanic CVAP residents in a precinct to capture the total concentration of the community relative to all other areas. Figure 3 differentiates how much of the population in the precinct identifies as Hispanic to control for why the precinct might be included for an influence district.

Figure 1: Count of Citizen Voting Age Population in Precinct

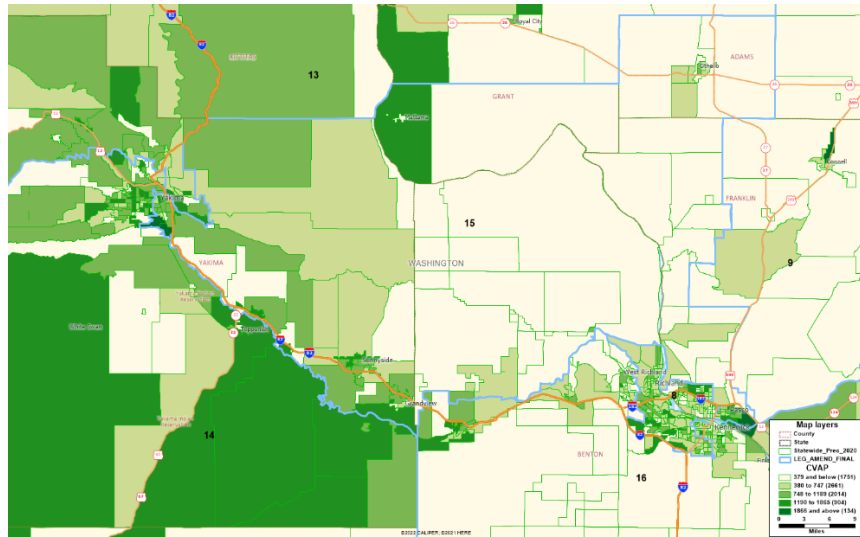


Figure 2: County of Hispanic Citizen Voting Age Population in Precinct

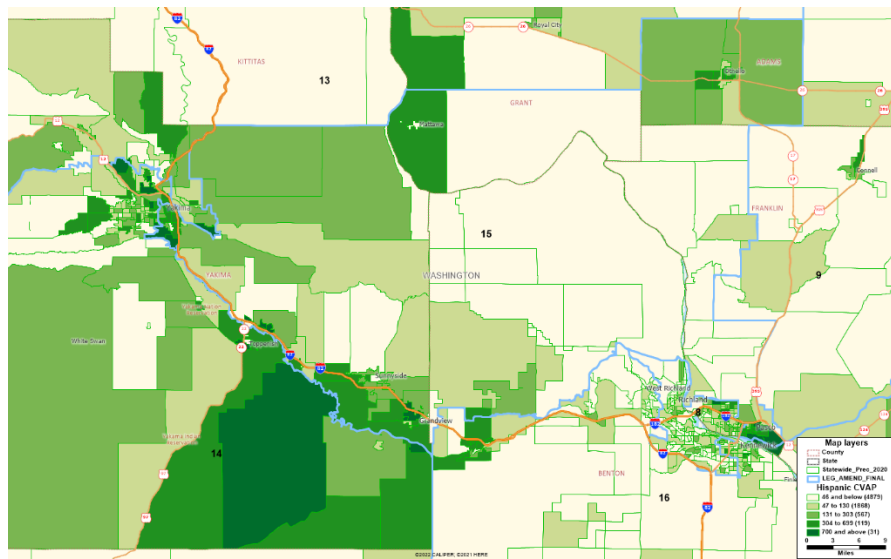


Figure 3: Percentage of CVAP who are Hispanic

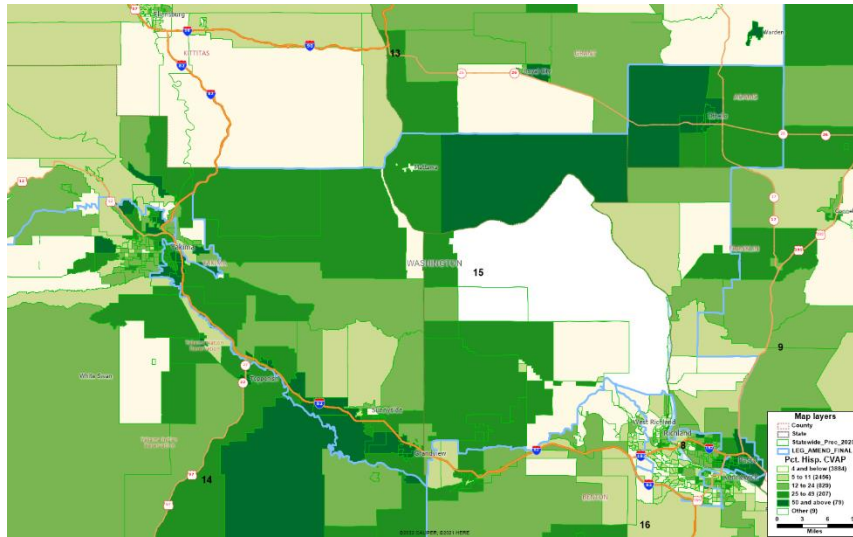
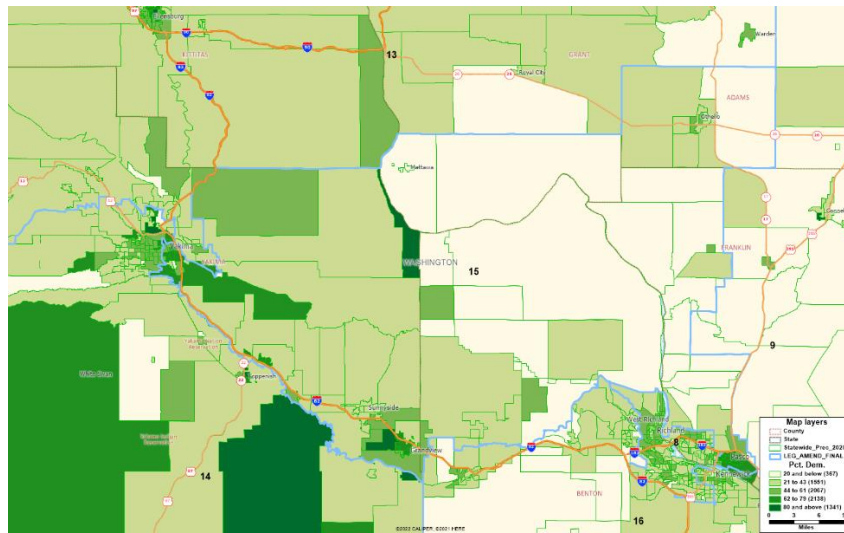


Figure 4: Percentage of Votes for President Joe Biden in 2020



The portion of District 15 that extends into Benton County, beyond District 8 and District 16, to capture 8,823 Hispanic CVAP and 14,665 total CVAP. This action represents 23% of the Hispanic population in District 15 that is in the new District 15. This has a substantial impact on the ability of SD-15 to be identified as a Hispanic District, despite the proximity of other precincts with concentrated Hispanic populations in the larger region.

Conclusion

Washington's population is changing. The state's election laws are also evolving. New leaders are emerging and trying to build multiethnic coalitions as they navigate a top-two primary system that may emphasize a candidate's ideology more than partisanship. This report uses non-partisan and partisan statewide elections to reach the conclusion that Hispanic, as well as Spanish surname candidates, do not draw more support from Hispanic voters than non-Hispanic white Democratic candidates. The pattern does not exist across the three districts identified for this analysis. As a result, a candidate's race cannot be identified as the cause of polarized voting or dilution of representation. The election outcome of a contest between a Hispanic Democratic nominee and a non-Hispanic white Republican nominee closely mirrors concurrent elections that have no difference in the race of candidates for the two major parties.

The report also shows that in the event that two Democratic candidates reach the general election, Hispanics in the electorate do not overwhelmingly favor one candidate. There is also a lack of cohesion among Hispanic voters when a Hispanic candidate is on the ballot in a non-partisan race, but that candidate is the preferred candidate of the Republican Party.

This report uses multiple different analyses to identify if racially polarized voting exists or if there is evidence of retrogression for a community of interest. Using the principles established by *Thornburg v. Gingles* (1986), I asked: Did the proportion of the eligible voting population that are Hispanic decrease? No, the proportion of voting-age citizens that are Hispanic is now larger in the new District 15. Do Hispanic voters appear to have a clear preference for who they want to represent them? The data show the political loyalty of Hispanic voters favors the Democratic Party, but it is not as homogenous as Black voters in Southern states. Candidates who affiliate with the Democratic Party receive higher vote shares from Hispanic voters. Also, Hispanic candidates in non-partisan races have received greater support from non-Hispanic white voters than Democratic candidates in the same elections. The choice is based on partisanship instead of racial identity. Do Hispanics live close enough to make their own district? The ability to generate a majority Hispanic district for the state legislature

suggests that it is. However, Table 3 gives describes and the maps show Hispanic residents are geographically distributed through much of the state and areas around Yakima County. This analysis shows that candidates preferred by the Hispanic electorate can win; Hispanic voters frequently have diverse candidate preferences in one election; and it is challenging to design a district that represents a geographically close Hispanic population. To the extent possible, we can also say that SD-15 was created to intentionally include as many Hispanic Democratic voters from Benton County as possible.

November 2, 2022



Mark E. Owens, Ph.D.

Mark Owens

Curriculum Vitae

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(903) 566-6281

EDUCATION

University of Georgia - Ph.D. in Political Science	2014
University of Oxford - Visiting Doctoral Student in the Department of Politics	2013
Johns Hopkins University - M.A. in Government	2008
University of Florida - B.A. in Political Science, <i>magna cum laude</i>	2006

ACADEMIC POSITIONS

University of Texas at Tyler	
Associate Professor	2020 - present
Assistant Professor	2015 - 2020
Reinhardt University - Adjunct Professor of Public Administration	May 2014 & May 2017
Bates College - Visiting Assistant Professor	2014 - 2015

PROFESSIONAL EXPERIENCE

APSA Congressional Fellow, <i>Office of the President Pro Tempore</i> , United States Senate.	2015 - 2016
Legislative Assistant, two former U.S. Representatives. Washington, D.C.	2007 - 2009

BOOKS

Owens, Mark, Ken Wink, and Kenneth Bryant, Jr. 2022. *Battle for the Heart of Texas: Political Change in the Electorate*. Norman, OK: University of Oklahoma Press.

Bryant, Jr., Kenneth, Eric Lopez, and Mark Owens. 2020. *Game of Politics: Conflict, Power, & Representation*. Tyler, TX: The University of Texas at Tyler Press (Open Source Textbook).

ARTICLES & PEER REVIEWED CHAPTERS

- 10 Howard, Nicholas O. and Mark Owens. 2022. "Organizing Staff in the U.S. Senate: The Priority of Individualism in Resource Allocation." *Congress & the Presidency* 49(1): 60-83.
- 9 Johnson, Renee M. Cassandra Crifasi, Erin M. Anderson Goodell, Arkadiusz Wiśniowski, Joseph W. Sakshaug, Johannes Thrul, and Mark Owens. 2021. "Differences in beliefs about COVID-19 by gun ownership: A cross-sectional survey of Texas adults." *BMJ Open* 11(11): 1-7.
- 8 Goldmann, Emily, Daniel Hagen, Estelle El Khoury, Mark Owens, Supriya Misra, and Johannes Thrul. 2021. "An examination of racial/ethnic differences in mental health during COVID-19 pandemic in the U.S. South." *Journal of Affective Disorders* 295(1): 471-478.

- 7 Owens, Mark. 2021. “Changes in Attitudes, Nothing Remains Quite the Same: Absentee Voting and Public Health.” *Social Science Quarterly* 102(4): 1349-1360.
- 6 Johnson, Renee M. and Mark Owens 2020. “Emergency Response, Public Behavior, and the Effectiveness of Texas Counties in a Pandemic.” *Journal of Political Institutions & Political Economy* 1(4): 615-630.
- 5 Howard, Nicholas O. and Mark Owens. 2020. “Circumventing Legislative Committees: Use of Rule XIV in the U.S. Senate.” *Legislative Studies Quarterly* 45(3): 495-526.
- 4 Madonna, Anthony J., Michael Lynch, Mark Owens and Ryan Williamson. 2018. “The Vice President in the U.S. Senate: Examining the Consequences of Institutional Design.” *Congress & The Presidency* 45(2): 145-165.
- 3 Owens, Mark. 2018. “Changing Senate Norms: Judicial Confirmations in a Nuclear Age.” *PS: Political Science and Politics* 51(1): 119-123.
- 2 Carson, Jamie L., Anthony J. Madonna, and Mark Owens 2016. “Regulating the Floor: Tabling Motions in the U.S. Senate, 1865-1946.” *American Politics Research* 44(1): 56-80.
- 1 Carson, Jamie L., Anthony J. Madonna, and Mark Owens 2013. “Partisan Efficiency in an Open-Rule Setting: The Amending Process in the U.S. Senate, 1865-1945.” *Congress & The Presidency* 40(2): 105-128.

BOOK REVIEWS

- 2 Owens, Mark. ND. “Johnson, Marc. Tuesday Night Massacre: Four Senate Elections and the Radicalization of the Republican Party.” *Great Plains Research*. **Forthcoming**.
- 1 Owens, Mark. 2021. “Lewallen, Johnathan. Committees and the Decline of Lawmaking in Congress.” *Congress & the Presidency* 48(3): 404-406.

BOOK CHAPTERS

- 2 McWhorter, Rochell, Mark Owens, Jessie Rueter, Joanna Neel, and Gina Doepker. 2020. “Examining Adult Learning of ‘Giving Back’ Initiatives.” In *Handbook of Research on Adult Learning in Higher Education*. Hershey, PA: IGI Publishers. With Rochell McWhorter, Jessie Rueter, Joanna Neel, and Gina Doepker.
 Reprinted in 2021 by Information Resources Management Association (Ed.), in *Research Anthology on Adult Education and the Development of Lifelong Learners* (pp. 1039-1066). IGI Global.
- 1 Carson, Jamie L. and Mark Owens. 2015. “Lawmaking.” In Robert A. Scott and Stephen M. Kosslyn, eds. *Emerging Trends in the Social and Behavioral Sciences*. New York: Wiley.

AWARDS

Burns “Bud” Roper Fellow. American Association of Public Opinion Researchers.	2021
Prestige Impact Award, Dean of the College of Arts & Sciences at UT Tyler.	2019
Outstanding Faculty Mentor Award, UT Tyler Office of the Provost.	2019

Certificate in Effective Teaching Practices, American College and University Educators.	2019
Teaching and Learning Award, UT Tyler Center for Excellence in Teaching and Learning.	2018
Community Engaged Learning Award, Harvard Center at Bates College.	2015
Outstanding Teaching Assistant Award, University of Georgia Provost.	2013
Charles S. Bullock, III Scholar, UGA School of Public and International Affairs.	2009

GRANT & CONTRACT SUPPORT

10. Texas Vaccine Hesitancy Survey, (Co-Investigator). 2022.	\$2.6 million
PI's: Paul McGaha (UT Tyler HSC) & Paula Cuccaro (UT SPH-Houston)	
Scope of Survey: Statewide survey of hard to reach respondents (Apr. to Sept.).	
Funded by: Texas State Department of Health and Human Service.	
• \$1.3 million sub-award directly to UT Tyler.	
9. El Paso County Social Survey, (Investigator). 2022.	\$46,200
PI's: Gregory Schober, UTEP	
Scope of Survey: Countywide survey, oversampling low-income households (May-July)	
Funded by: University of Texas at El Paso (UTEP).	
8. Southern Cities Survey, (Co-PI). 2020.	\$12,000
PI's: Emily Goldmann (NYU) & Mark Owens	
Scope of Survey: Sample of 5 major Southern Metropolitan areas in May.	
Funded by: UT Tyler & New York University School of Global Health.	
7. Small Grant, Center for Effective Lawmaking (Co-PI). 2020.	\$2,300
PI's: Mark Owens & Nicholas Howard (Auburn-Montgomery)	
Scope of Work: Content Analysis of all Senate committee reports, 1985-2020.	
Funded by: UVA & Vanderbilt.	
6. Texas Mental Health Survey, (Co-PI). 2020	\$45,000
PI's: Renee Johnson (JHU) & Mark Owens	
Scope of Survey: Three wave statewide panel (April, May, & June)	
Funded by: UT Tyler & Johns Hopkins Bloomberg School of Public Health	
5. East Texas Surveys on Education & Property Tax Reform, (Co-PI). 2019	\$10,000
PI's: Kyle Gullings (UT Tyler) & Mark Owens	
Scope of Work: Regional sample to compare East Texas to DFW and Houston.	
Funded by: UT Tyler	
4. Faculty Undergraduate Research Grant, (PI) Studying Vote Centers in Texas. 2018.	\$3,000
Scope of Work: Mentor undergraduates to gather data and submit FOIA requests.	
Funded by: UT Tyler Office of Research and Scholarship.	
3. Congressional Research Grant, (PI) Bicameralism's Effect on Appropriations. 2015.	\$3,133
Scope of Work: Archival visits to Concord, Tempe, and Washington, D.C.	
Funded by: The Dirksen Congressional Center.	
2. Faculty Development Grant, (PI) Majority Party Power in a Bicameral Congress. 2015.	\$2,575
Scope of Work: Mentor undergraduate researchers to analyze archived documents.	
Funded by: Office of the Dean of Faculty at Bates College.	
1. Richard Baker Award, (PI) Majority Party Power in a Bicameral Congress. 2011.	\$1,000
Scope of Work: Archival visits to Austin, TX and Washington, D.C..	
Funded by: Association of Centers for the Study of Congress.	

COMMENTARY

Owens, Mark. “Why our poll got it wrong on Biden but right on so much more.” *Dallas Morning News*. Sunday November 15, 2020. Page, 5P.

Howard, Nicholas O. and Mark Owens. “Are Amendment Strategies Learned Through Experience or Contingent on the Institution?” *LegBranch*. May 27, 2019.

Bryant, Jr. Kenneth, Ken Wink, and Mark Owens. “Conflicting Attitudes of Texans on Wall and Border Policies.” *Austin American-Statesman*. March 11, 2019.

Owens, Mark. “Are Courtesy Meetings Nuked?” *LegBranch*. July 10, 2018.

Owens, Mark. “East Texans support Trump, but at lower levels than 2012.” *Tribtalk: Texas Tribune*. November 8, 2016.

Media Interviews: News Nation, CBS Radio, NPR, Los Angeles Times, Newsweek, Reuters, USA Today, US News & World Report, Austin American-Statesman, Dallas Morning News, Fort Worth Star-Telegram, Houston Chronicle, Jacksonville Prospect, Longview News-Journal, Texas Tribune, Tyler Morning Telegraph, ABC News (KTBS-Shreveport/Texasarkana, KLTV-Tyler), CBS News (KYTX-Tyler), Fox News (KTBC-Austin, KFXK-Tyler), NBC News (KXAS-Dallas, KETK-Tyler), La Croix International (France), and Het Financieele Dagblad (Netherlands).

INVITED TALKS

Southern Methodist University Tower Center	“Battle for the Heart of Texas”	2022
East Texas Heritage Museum Association	“Polls in Today’s Elections”	2022
League of Women Voters, Houston	“Battle for the Heart of Texas”	2022
Texas A&M San Antonio	“Public Attitudes on Equity and Inclusivity”	2022
Delta Sigma Theta Sorority, Tyler Alumnae	“Social Action & Election Education”	2022
League of Women Voters Tyler/Smith County	“Your options under TX’s new Election Law”	2022
Texas Associated Press Managing Editors	“Texas Politics Panel”	2021
League of Women Voters Oklahoma	“All about Redistricting.”	2021
League of Women Voters Tyler/Smith County	“Essential Conversation on Voting in Texas”	2021
League of Women Voters Oklahoma	“Representation & Redistricting”	2021
Kilgore College	“Why We Poll Texans”	2020
Smith County Republican Women Club	“Understanding the 2020 Election Polls”	2020
League of Women Voters Tyler/Smith County	“Processes of the Electoral College”	2020
Kilgore College	“What Primary Voters in Texas Care About”	2019
League of Women Voters Tyler/Smith County	“Census & Redistricting Forum”	2019
Tyler Area Chamber of Commerce	“Public Input on Transportation”	2019
League of Women Voters Tyler/Smith County	“Representation & Redistricting”	2018
Bates College, Martin Luther King, Jr Day	“Legacy of the Voting Rights Act of 1965”	2015
Rothemere American Institute, Oxford, UK	“Effect of Bicameralism on Policy”	2013

CONFERENCE PRESENTATIONS

Hofstra University Presidential Conference on Barack Obama	2023
The Citadel Symposium on Southern Politics	2014 - 2022
Congress & History Conference	2012, 2016, 2018
Election Science, Reform, and Administration Conference	2020
American Association of Public Opinion Researchers Meeting	2020, 2021
American Political Science Association Meeting	2011 - 2016, 2020

Midwest Political Science Association Meeting	2011 - 2018
Southern Political Science Association Meeting	2011 - 2014, 2017 - 2022
Southwest Social Science Association Annual Meeting	2017, 2021

TEACHING EXPERIENCE

Graduate Course	Institution	Recent Evaluation	Years Taught
Scope & Methods	UT Tyler	4.6	2017 - 2022
Seminar on American Politics	UT Tyler	4.4	2015 - 2022
Budgeting & Public Finance	UT Tyler; Reinhardt	5	2014 - 2017
Program Evaluation	UT Tyler	4.7	2018
Advanced Quantitative Research	UT Tyler	3.8	2018
Undergraduate Course			
Campaigns & Elections	UT Tyler; Bates; UGA	4.6	2013 - 2020
Congress & Legislation	UT Tyler; UGA	4.3	2013 - 2021
Research Methods	UT Tyler	4.4	2016 - 2022
Southern Politics	UT Tyler	4.6	2018 - 2021
U.S. Presidency	UT Tyler; Bates	3.9	2014 - 2017
Intro. to Texas Government (Honors)	UT Tyler	4.1	2020 - 2021
Intro. to American Government	UT Tyler; Bates; UGA	3.8	2013 - 2019

PROFESSIONAL SERVICE

Co-Chair. Election Sciences Conference within a Conference at SPSA, San Antonio, TX.	2022
Speaker: AAPOR Send-a-Speaker Program.	2020
Field of Study Advisory Committee. <i>Texas Higher Education Coordinating Board</i> .	2018 - 2021
Co-Editor. <i>PEP Report</i> for the APSA Presidency and Executive Politics Section.	2018 - 2019
Grant Reviewer. Hurricane Resilience Research Institute (HURRI), University of Houston.	2018
Grant Reviewer. Administration on Children, Youth, and Families, US Dept. of HHS.	2007

Manuscript Reviewer: *American Journal of Political Science*, *American Politics Research*, *Congress & the Presidency*, CQ Press, *Journal of Politics*, *Journal of Political Science Education*, *Journal of Race, Ethnicity, and Politics*, Oxford University Press, PEARSON, *Perspectives on Politics*, *Political Research Quarterly*, and *Social Science Quarterly*

UNIVERSITY SERVICE

Tenure & Promotion Committee, Department of Political Science, (Chair, American Politics).	2021 - 2022
Chair Evaluation Committee, Department of Political Science & History, (Co-Chair).	2021 - 2022
University Research Council, UT Tyler (Member).	2020 - 2023
Department of History Promotion Committee (Member, U.S. History).	2020 - 2022
College of Arts and Sciences Governance Committee, (Chair).	2019 - 2021
Workload Policy Committee, Department of Political Science & History, (Chair).	2019 - 2020
Sociology Faculty Search Committee, (Outside Member).	2019 - 2020
University IT Committee, UT Tyler, (Member)	2019 - 2020
Bill Archer Fellowship Committee, (Review Member).	2018 - 2022
High School Ethics Bowl at UT Tyler, (Judge).	2018 - 2022
Political Science Faculty Search Committee, (Member).	2016 - 2017

EXTERNAL SERVICE

Expert Witness for Florida’s Secretary of State, *BVM et al. v. Lee*, racially polarized voting analysis. 2022
 Map Consultant for People not Politicians OK, Independent U.S. House and state district plans. 2021

ADDITIONAL TRAINING

Empirical Implications of Theoretical Models Institute, University of Houston. 2013
 Oxford Spring School, University of Oxford: Modeling Ordinal Categorical Data. 2012
 ICPSR, University of Michigan: Maximum Likelihood and Regression III. 2011

COMMUNITY INVOLVEMENT

KVUT 99.7FM UT Tyler Radio (NPR), Advisory Board Member. 2021 - 2023
 Secretary (2022-23)

League of Women Voters - Tyler/Smith County, TX, Nominating Committee. 2020 - 2022
 Chair of Nominating Committee (2021-22)

Tyler Day Nursery, Board Member. 2018 - 2021
 A United Way of Smith County supported non-profit.
 Annual Budget, \$446,755. Assets increased \$559,980 (2018-2021), to total of \$1,021,100.
 Board President (2021), Vice-President (2019-20).

Stewards of the Wild, Texas Parks and Wildlife Foundation, Advisory Council Member. 2017 - 2019

East Texas Youth Orchestra, Board Member. 2017 - 2019
 Annual Budget, \$74,000. Assets increased \$19,230 (2017-2019), to a total of \$102,000.
 Board President (2018-19), Vice-President (2017-18).

Leadership Tyler 2016 - 2022
 Class 30, Participant (2016 - 2017)
 Catalyst 100, Participant (2021 - 2022)

Exhibit U



Spencer, Aminta

From: Fain, Joe
Sent: Thursday, June 24, 2021 11:31 AM
To: Campos, Paul
Subject: Re: SRC Caucus retreat

Thanks, Can you also include the stacking cracking and packing slide on the VRA briefing. I do want to talk a bit about this issue with the caucus to help them understand the complexity and importance of the VRA and its impact on this process.

From: Campos, Paul <Paul.Campos@leg.wa.gov>
Date: Thursday, June 24, 2021 at 11:29 AM
To: Fain, Joe <Joe.Fain@redistricting.wa.gov>
Subject: RE: SRC Caucus retreat

Attached is the final draft .pptx; draft talking pnts .docx.

Three handouts for members: 2020 Deviation by LD and CD .pdf; 2020 Gen Elect by County within LD; and the OFM's race and ethnicity counts from 2020 by LD.

I also have the population exercise mapped in a .pptx statewide map and a couple of insets. I'll have the graphic files so you can zoom in as needed.

From: Fain, Joe <Joe.Fain@redistricting.wa.gov>
Sent: Thursday, June 24, 2021 11:14 AM
To: Campos, Paul <Paul.Campos@leg.wa.gov>
Subject: Re: SRC Caucus retreat

Can you send me one email with the final PPT. The final talking points. And any handouts that we are going to distribute.

From: Campos, Paul <Paul.Campos@leg.wa.gov>
Date: Thursday, June 24, 2021 at 8:15 AM
To: Fain, Joe <Joe.Fain@redistricting.wa.gov>, Joe@bellevuechamber.org <Joe@bellevuechamber.org>
Subject: RE: SRC Caucus retreat

Good morning,

Min sent the population mapped thematically by 2010 to 2020 pop growth by block. I added it to the "mapping data available" slide as this is the first we can see exactly where the 2020 OFM est. population is by block. After this slide you can walk them through the mapping exercise.

?

Paul

-----Original Appointment-----

From: Fain, Joe <Joe.Fain@redistricting.wa.gov>
Sent: Thursday, June 24, 2021 7:12 AM

To: Campos, Paul

Subject: Accepted: SRC Caucus retreat

When: Thursday, June 24, 2021 2:30 PM-3:30 PM (UTC-08:00) Pacific Time (US & Canada).

Where:

Spencer, Aminta

From: Fain, Joe
Sent: Friday, June 11, 2021 8:25 AM
To: Augustine, Sarah
Subject: Business Meeting Agenda

Sarah,

One item that I was hoping we could put on an agenda for a future meeting would be a briefing on federal VRA, and federal rulings related to redistricting – in particular those cases in which courts have thrown out maps and the reasons for it. Seems that these factors should be something in the minds of commissioners as they draw maps.

Thanks for considering!

-joe