

IN THE SUPREME COURT OF WISCONSIN
No. 2021AP1450-OA

Billie Johnson, Eric O'Keefe, Ed Perkins and Ronald Zahn,
Petitioners,

Black Leaders Organizing for Communities, Voces de la
Frontera, League of Women Voters of Wisconsin, Cindy
Fallona, Lauren Stephenson, Rebecca Alwin, Congressman
Glenn Grothman, Congressman Mike Gallagher, Congressman
Bryan Steil, Congressman Tom Tiffany, Congressman Scott
Fitzgerald, Lisa Hunter, Jacob Zabel, Jennifer Oh, John Persa,
Geraldine Schertz, Kathleen Qualheim, Gary Krenz, Sarah J.
Hamilton, Stephen Joseph Wright, Jean-Luc Thiffeault, and
Somesh Jha,

Intervenors-Petitioners,

v.

Wisconsin Elections Commission, Marge Bostelmann in her
official capacity as a member of the Wisconsin Elections
Commission, Julie Glancey in her official capacity as a
member of the Wisconsin Elections Commission, Ann Jacobs
in her official capacity as a member of the Wisconsin
Elections Commission, Dean Knudson in his official
capacity as a member of the Wisconsin Elections
Commission, Robert Spindell, Jr. in his official capacity
as a member of the Wisconsin Elections Commission and Mark
Thomsen in his official capacity as a member of the
Wisconsin Elections Commission,

Respondents,

The Wisconsin Legislature, Governor Tony Evers, in his
official capacity, and Janet Bewley Senate Democratic
Minority Leader, on behalf of the Senate Democratic Caucus,

Intervenors-Respondents.

Original Action in the Wisconsin Supreme Court

APPENDIX TO MERITS BRIEF OF INTERVENOR-PETITIONERS
BLACK LEADERS ORGANIZING FOR COMMUNITIES, VOCES
DE LA FRONTERA, LEAGUE OF WOMEN VOTERS OF

WISCONSIN, CINDY FALLONA, LAUREN STEPHENSON,
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*Admitted *pro hac vice*

CERTIFICATION BY ATTORNEY

I hereby certify that filed with this brief is an appendix that complies with s. 809.19 (2) (a) and that contains, at a minimum: (1) a table of contents; (2) the findings or opinion of the circuit court; (3) a copy of any unpublished opinion cited under s. 809.23 (3) (a) or (b); and (4) portions the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the circuit court's reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or judgment entered in a judicial review of an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using one or more initials or other appropriate pseudonym or designation instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

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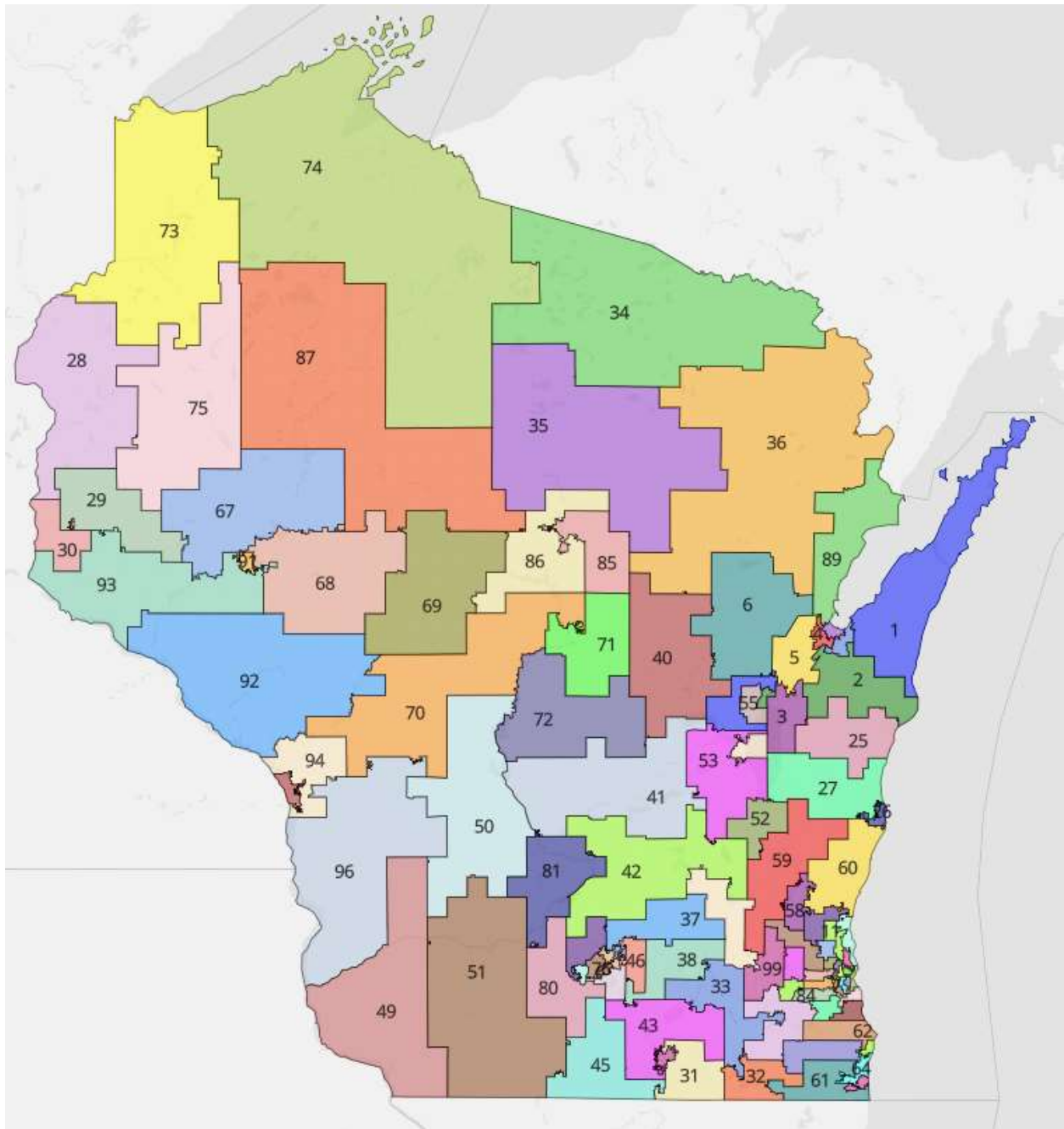
Electronically signed by Douglas M. Poland
Douglas M. Poland

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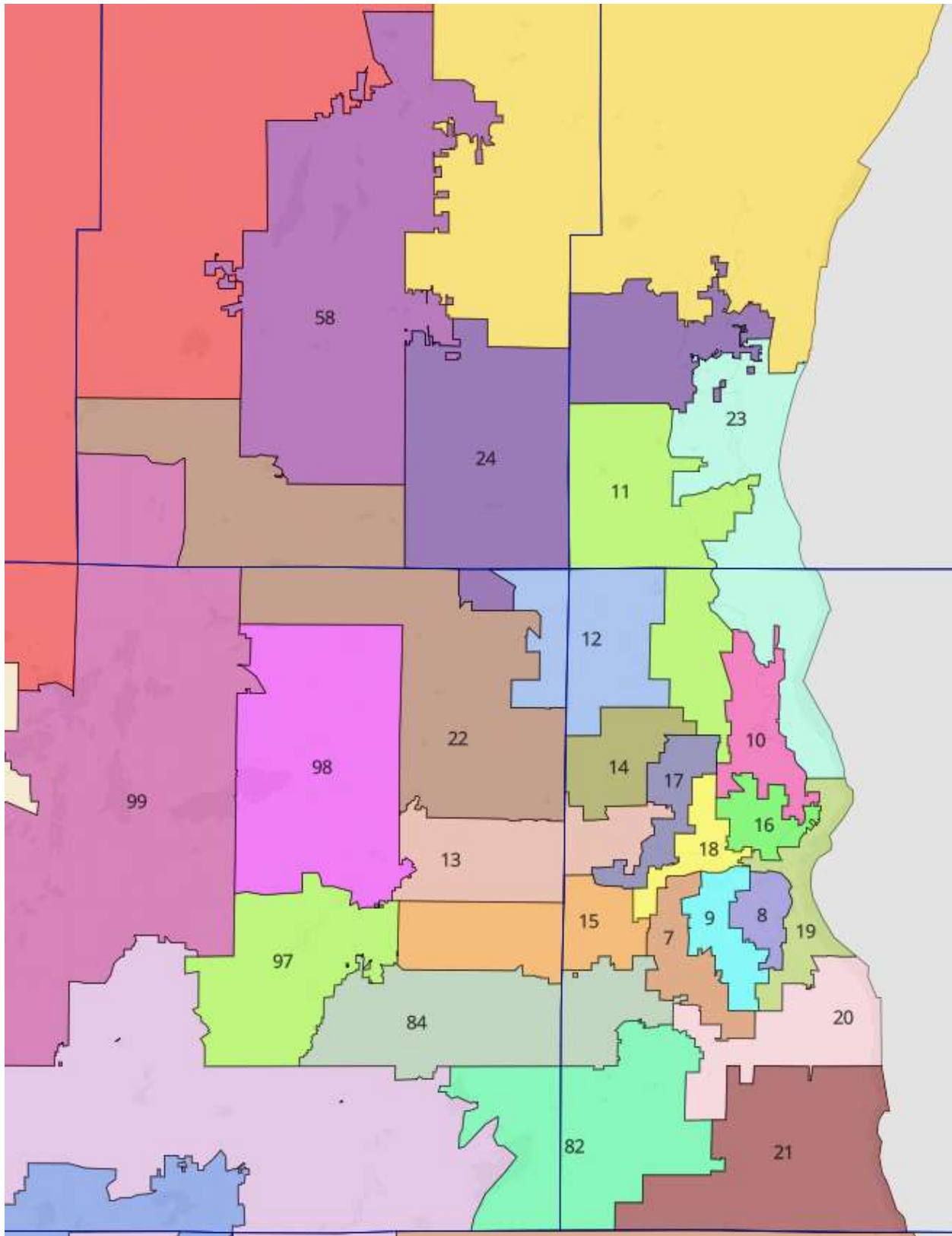
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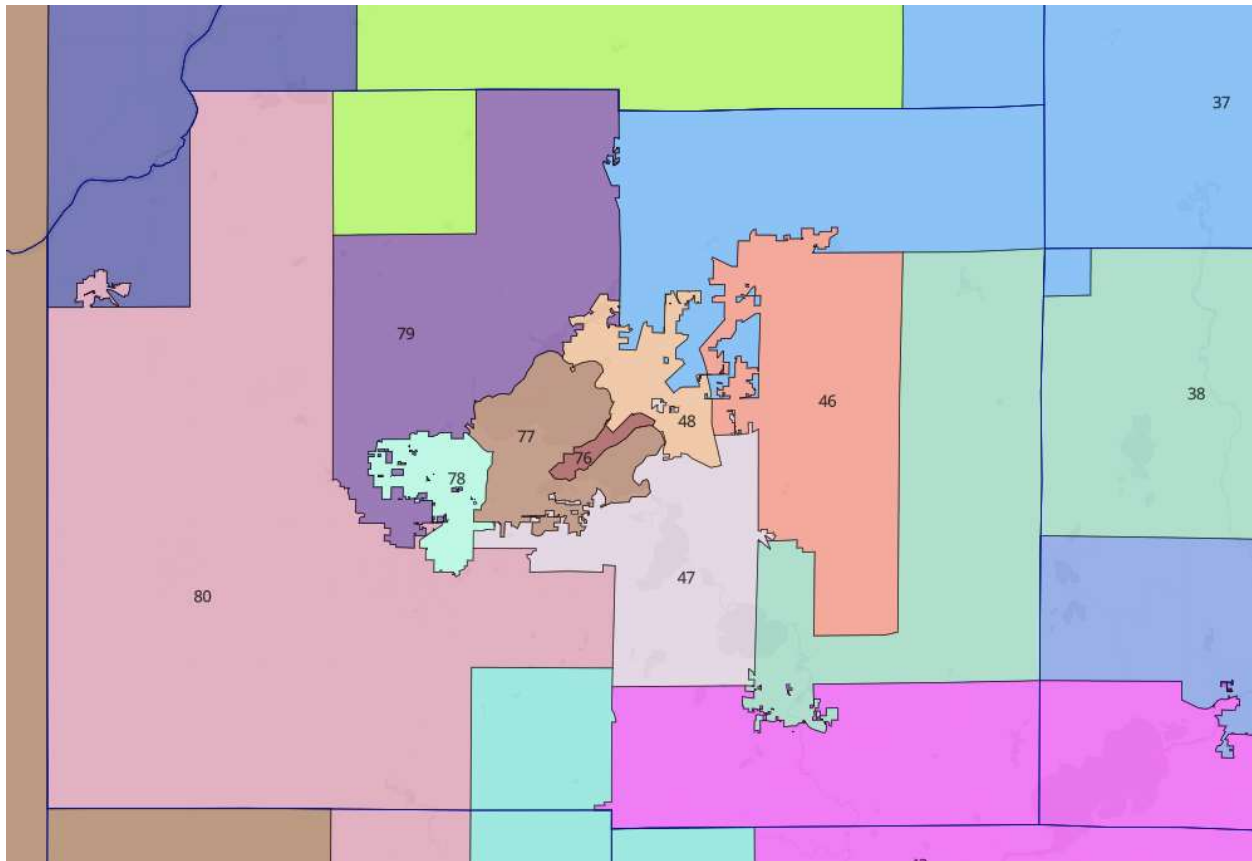
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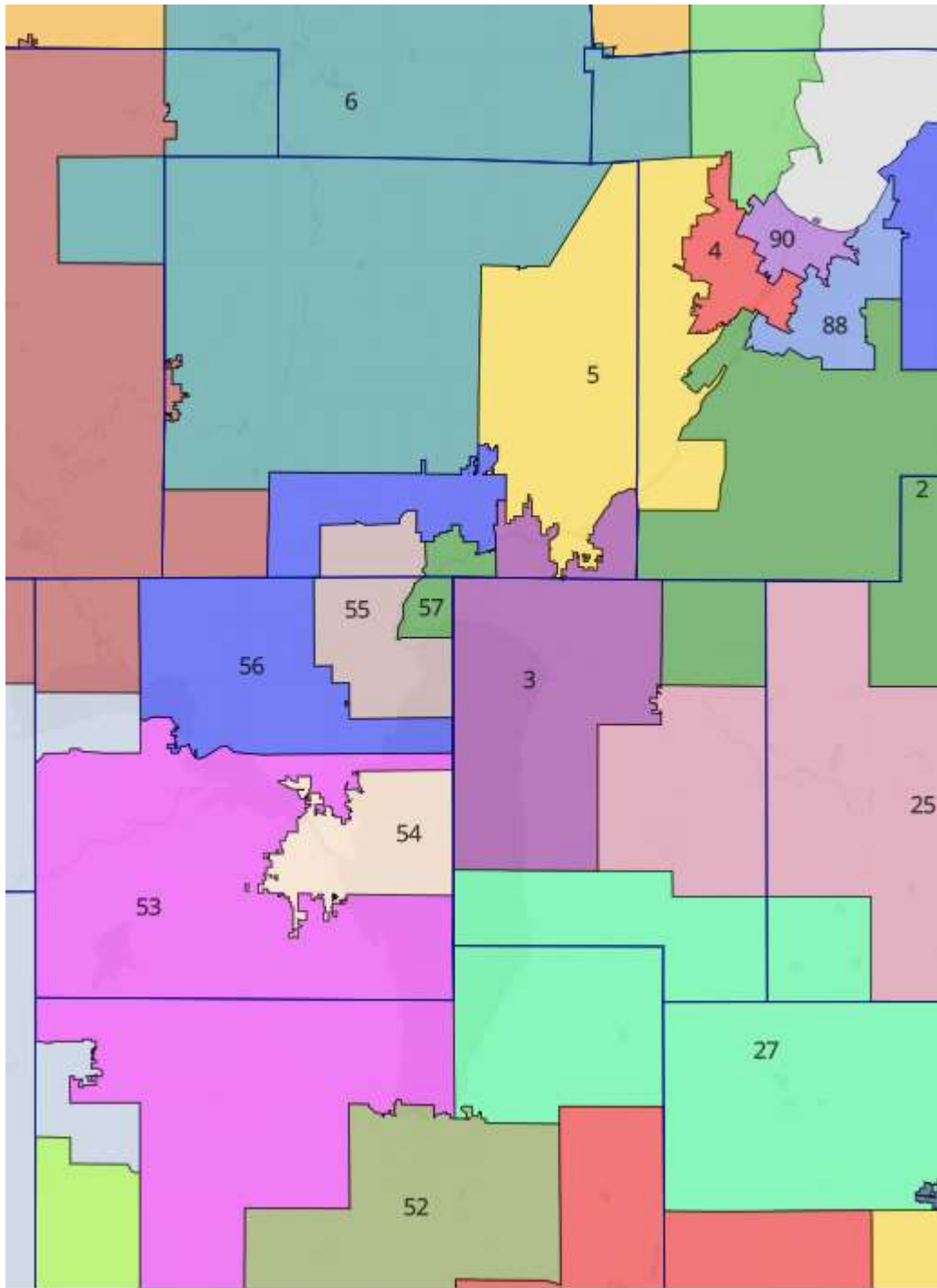
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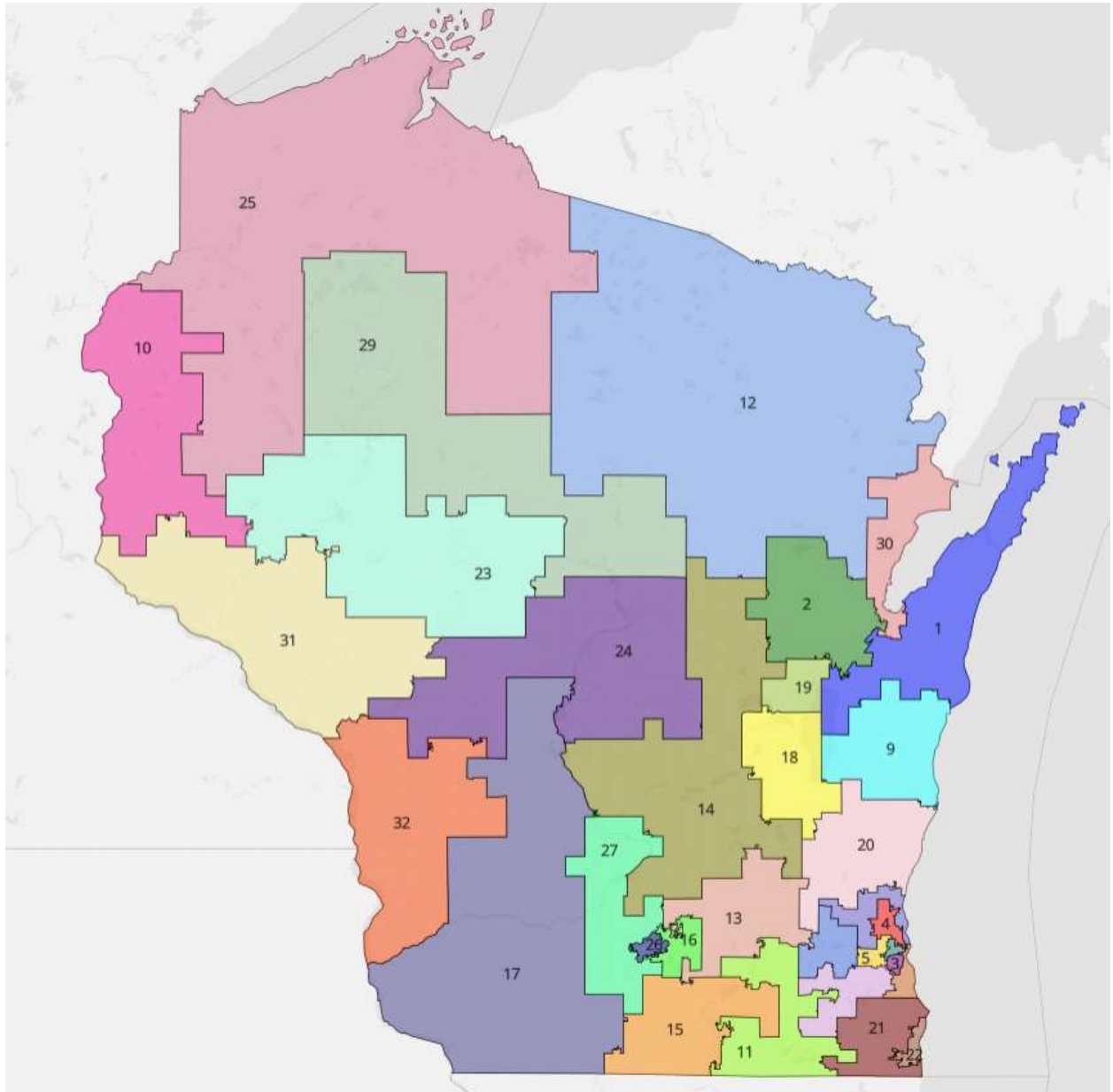
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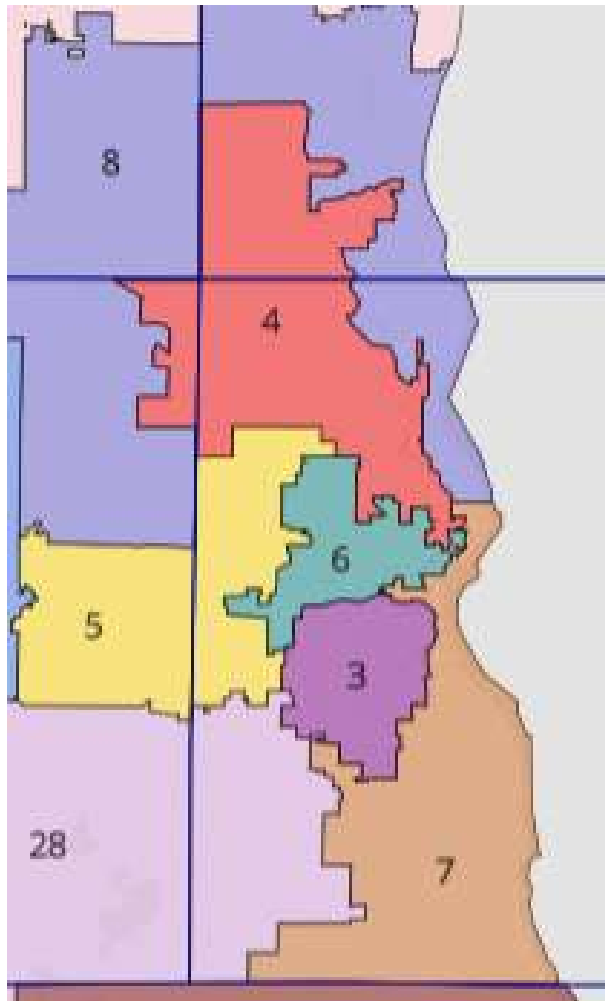
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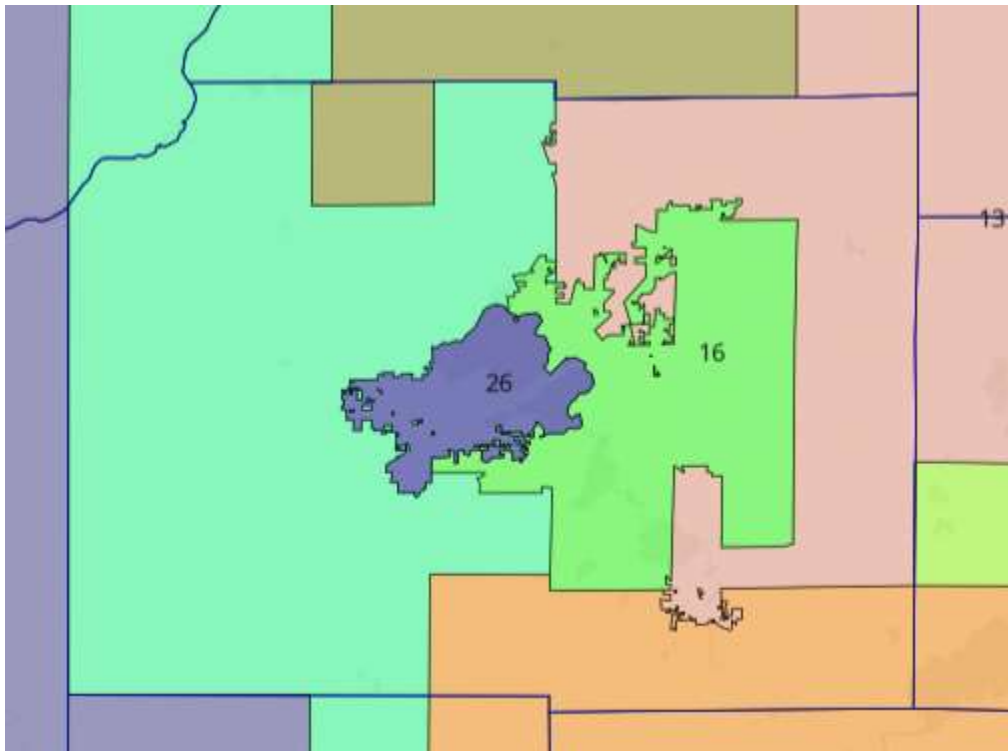
BLOC Senate Plan



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Expert Report of Dr. Loren Collingwood

Loren Collingwood

2021-12-15

Johnson, et al., v. WEC, et al., No. 2021AP1450-OA

Executive Summary

In this report, I examine past election data from Milwaukee-area election contests to determine if voting is racially polarized—i.e., if Black voters generally prefer one candidate, and white voters vote as a bloc against that preferred candidate. In conducting this analysis, I analyzed eight recent primary and spring general elections that included a Black candidate and use a variety of statistical methods to evaluate if racially polarized voting (RPV) exists. I also ran a performance analysis, which reconstructs previous election results in a new map to assess whether a Black or white preferred candidate is most likely to win in the new districts, to examine whether the BLOC Petitioners' seven proposed majority-Black districts would have been won by the candidate preferred by Black voters. I conclude:

- Racially polarized voting (RPV) is present in Milwaukee-area elections. This is particularly clear in elections featuring Black candidates, where I found racially polarized voting in seven of the eight contests analyzed.
- I used six different statistical methods to assess RPV; regardless of method employed, the results consistently demonstrate racially polarized voting between Blacks and whites in the Milwaukee area.
- Black voters cohesively prefer the same candidates for political office in the Milwaukee area; that is, Black voters strongly back Black candidates at very high rates even in multi-candidate primary elections.
- Black voters' preferred candidates disproportionately lose election to political office because white voters in Milwaukee cohesively vote as a bloc against Black voters' preferred candidates. Of the seven contests analyzed for bloc voting, white voters block the Black-preferred candidate (in this case the Black candidate) four times for a block rate of 57.14%. If the unusual 2018 Milwaukee County Sheriff's race is excluded, the block rate climbs even higher, to 66.66%.
- The BLOC Petitioners' seven proposed majority-Black districts perform for Black-preferred candidates in the elections examined below, and would lead to those candidates prevailing in the proposed districts.

My opinions are based on the following data sources: Statewide Wisconsin primary elections; Milwaukee County Spring primary and general elections, City of Milwaukee elections, Census Voting Age Population (VAP) and American Community Survey (ACS) Citizen Voting Age Population (CVAP) data, and Proposed State Assembly Districts geojson (i.e., shape files) provided to me by counsel for the BLOC Petitioners.

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 racially polarized voting. 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.

In between 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 and map-drawing and demographic analysis for the Inland Empire Funding Alliance in Southern California. I am the redistricting consultant for the West Contra Costa Unified School District, CA, independent redistricting commission in which I am charged with drawing court-ordered 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 vs. Pate*, No. 05771 CVCV061476 (Dist. Ct., Polk Cnty., Iowa 2021), and have filed an expert report in that case. I am the racially polarized voting expert for the plaintiff in *East St. Louis Branch NAACP, et al. vs. Illinois State Board of Elections, et al.*, Civil Action No. 1:21-cv-05512 (N.D. Ill.), having filed two reports in that case. In this case, I am being compensated at a rate of \$400/hour.

Racially Polarized Voting

Racially polarized voting (RPV) is said to occur when one racial group (i.e., Black voters) consistently votes for one candidate or set of candidates, and the other racial group (i.e., white voters) regularly votes for another candidate or set of candidates. Analysts examine multiple elections across years to determine whether a pattern of RPV is present in a given geography and/or political jurisdiction. In a two-candidate election contest, RPV is present

when a majority of voters belonging to one racial/ethnic group vote for one candidate and a majority of voters who belong to another racial/ethnic group prefer the other candidate. The favored candidate is called a “candidate of choice.” However, if a majority of voters of one racial group back a particular candidate and so do a majority of voters from another racial group, then RPV is not present in that contest.

Racially polarized voting does not mean voters are racist or intend to discriminate. Rather, Section two of the Voting Rights Act helps guard against vote dilution of minority voters, such that when it is realistically feasible the redistricting process should ensure minority voters the ability to elect candidates of choice. In situations where RPV is clearly present, majority voters may be able to block minority voters from electing candidates of choice.

I examine RPV in the context of nonpartisan winter primaries, nonpartisan spring general elections, and fall Democratic primary elections, because that is where the polarization and hence blocking is most likely to occur. I choose Democratic Primaries because the Milwaukee area is strongly Democratic, particularly in the areas surrounding the proposed majority-Black districts.¹ The nonpartisan winter primaries and spring general elections are probative elections to analyze, especially in the absence of more Democratic primaries with probative contests.

Ecological Inference

To determine if RPV exists, experts must generally infer individual-level voting behavior from aggregate data – a problem called ecological inference. We want to know how groups of voters (i.e., Blacks or whites) voted in a particular election when all we have to analyze are precinct vote returns (those are at the ward level in Wisconsin) and demographic composition. Experts have at their disposal several methods to analyze RPV: ecological regression (ER), ecological inference (EI), and homogeneous precinct analysis. I used all three of these methods in this report, including several different EI variations.

The R software package, *eiCompare* (Collingwood et al. 2020), builds upon packages *eiPack* (Lau, Moore, and Kellermann 2020) and *ei* (King and Roberts 2016) to streamline RPV analysis, and includes all of these aforementioned statistical methods. In this report I rely on homogeneous precinct analysis, ecological regression, iterative ecological inference, and rows by columns (RxC) as implemented in the R software package *eiCompare*. In addition, I include ecological inference estimates and RxC estimates accounting for variation in turnout by race. That is, I divide candidate vote by VAP (instead out of total voted in that contest) and include an estimate for no vote. Regardless of the method, the result is almost always the same, which strengthens my conclusions. Finally, for each analysis where relevant, I provide 95% confidence bands to demonstrate the range of statistical uncertainty contained in the estimates.

¹ <https://www.politico.com/2020-election/results/wisconsin/>

List of Elections Analyzed

To assess the presence of RPV, I analyzed eight elections between Black and white candidates in nonpartisan or Democratic primaries and Spring generals in jurisdictions that cover either Milwaukee County, Milwaukee City, or both. Again, I examine primaries and spring generals because the separation between Blacks and whites in these contests is likely to emanate in primary contests and/or spring generals featuring local candidates. Table 1 outlines the list of elections analyzed to examine the presence or absence of RPV. My analysis reveals RPV is present in seven of the eight contests analyzed.

Table 1. Contests analyzed in Milwaukee County or City jurisdictions or subset to the former.

Contest	Primary or General	Year	Jurisdiction	Black Candidate	Main White Candidate	RPV	Black Candidate Blocked
Comptroller	spring general	2016	Milwaukee City	Thomas	Matson	YES	Yes
Dem Sheriff	Primary	2018	Milwaukee County	Lucas	Schmidt	NO	No
Dem Gov	Primary	2018	Statewide (subset to county)	Mitchell	Evers	YES	No
State Assembly	Primary	2018	Dem primary	Myers	Kessler	YES	N/A
Mayor	spring general	2020	Milwaukee City	Taylor	Barrett	YES	Yes
MLK County Executive	Spring General	2020	Milwaukee County	Crowley	Larson	YES	No
Comptroller	spring general	2020	Milwaukee County	Fields	Sawa	YES	Yes
State Superintendent	Primary	2021	Statewide (subset to county)	Hendricks-Williams	Underly	YES	Yes
Total						7/8 = 87.5%	4/7 = 57.1%

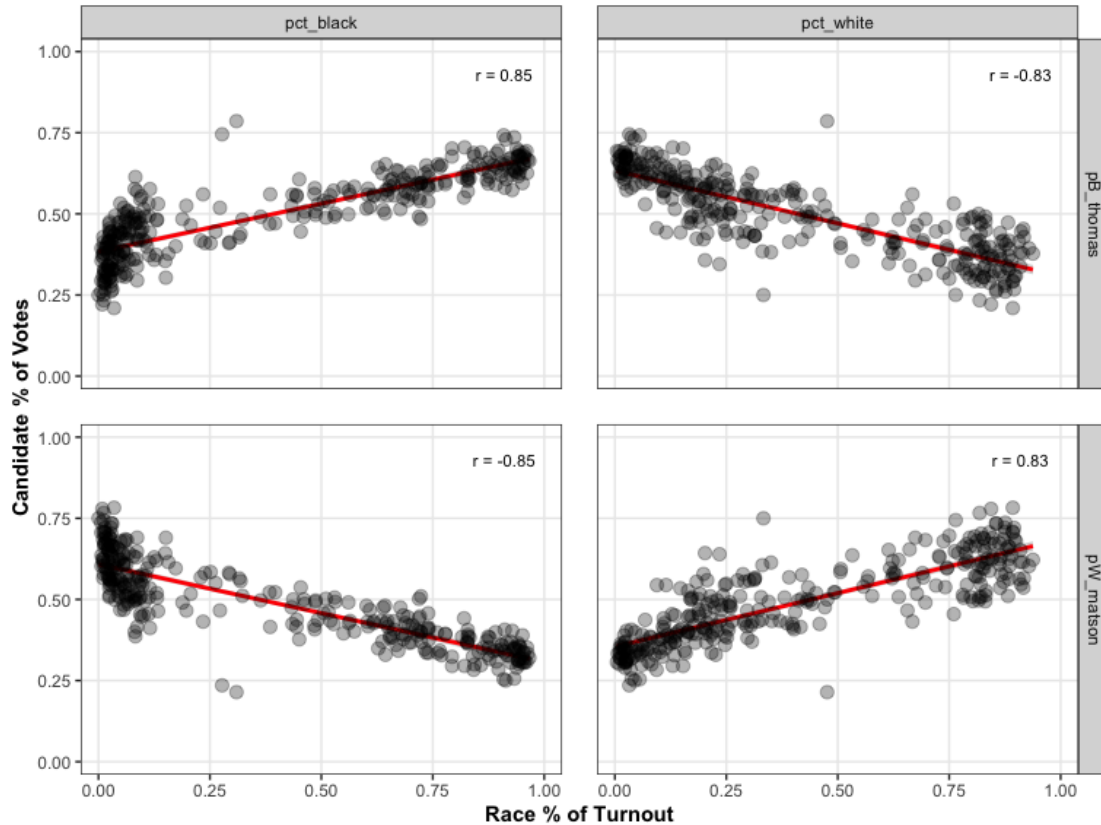
Next, I present scatterplots and RPV plots revealing the extent of RPV in each contest.

Milwaukee City Comptroller 2016 Nonpartisan Spring General: Johnny Thomas (Black) vs. Martin Matson (White)

Figure 1 visually presents the bivariate association between race and candidate choice. The correlation coefficient between percent of the Black voting age population and percent vote for the Black candidate, Johnny Thomas, is 0.85 (on a scale from -1 to 1, this is extraordinarily high positive association). The top left panel reveals the trend visually and shows an upward slopping pattern. Meanwhile, the top right panel shows exactly the

opposite trend: as the share of the white voting age population grows (left to right on the x-axis scale), Johnny Thomas's vote share reduces. These bivariate results are clear evidence of racially polarized voting.

Figure 1. Bivariate association between candidate support and precinct racial demographics, 2016 Milwaukee City Comptroller.

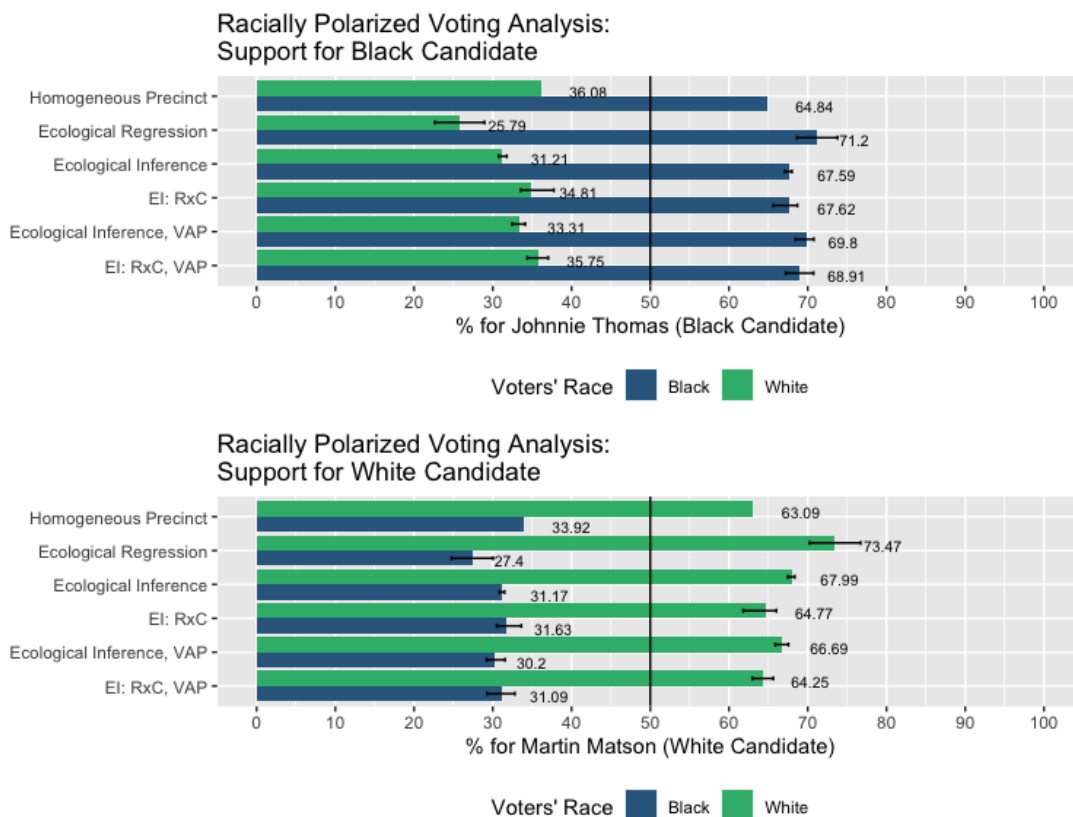


However, to estimate more precisely the degree that Black and white voters, respectively, support candidates Thomas (Black) and Matson (white), I turn to the suite of available ecological inference methods. In a context of evident racial segregation such as Milwaukee (Levine 2019), ecological inference should perform well because homogeneous precincts (precincts with a high percentage of one racial group) are present for the two racial groups under examination.² For instance, of the 324 precincts I analyzed in the 2016 Comptroller contest, 39 have a population that is 90% Black or higher, and nine have a population that is 90% white or higher.

² I also estimated this contest using PyEI (Knudson, Schoenbach, and Becker 2021), a recent ecological inference package available in Python. The results are almost exactly the same regardless of using the PyEI version, or the eiCompare iterated EI version, or the RxC version. Results are presented in the appendix.

The results, as presented in Figure 2, indicate that all six statistical methods produce very similar results. In the 2016 Milwaukee City Comptroller Nonpartisan Spring General, Black voters supported Thomas from a low of 64.85% (homogeneous precincts) to a high of 70.96% (ecological regression, point estimate). However, white voters supported Thomas at a much lower rate, from a low of 25.76% (ecological regression, point estimate) to a high of 36.08% (homogeneous precincts). In this case, the method employed would not change an analyst's conclusion that RPV is present.

Figure 2. Racially Polarized Voting assessment Milwaukee City Comptroller 2016 Nonpartisan Spring General.



Milwaukee County Sheriff Democratic Primary, 2018 Lucas (Black) vs. Schmidt (White) vs. Ostrowski (White)

The next contest I analyzed is the Milwaukee County Sheriff Democratic Primary between Lucas (Black) and two white candidates. The contest produces substantial cross-over vote among Milwaukee whites. This results stands as an aberration to the overall findings. A higher percentage of white votes for Lucas is likely due to the contest's focus on the repudiation of polarizing former Sheriff David Clarke (who is Black). Schmidt served as Clarke's number two and became acting sheriff upon Clarke's resignation in 2017.

Local news reporting shows that voters associated Schmidt with Clarke.³ Lucas therefore gained important endorsements from the white Democratic Party establishment, including Mayor Tom Barrett, U.S. Senator Tammy Baldwin and three Democratic former governors.⁴

Figure 5 shows the bivariate relationship between voters' race and candidate choice. Consistent with news reporting, the relationship between race and vote choice is less strong than in other contests: the correlation coefficient for percent Black and percent for Lucas is 0.54; the correlation for percent white and percent for Schmidt is just 0.32.

³ "And it was Clarke that dragged him down in the race. All three candidates said they wanted to move beyond the Clarke era, but Schmidt was unable to effectively separate himself from his former boss."
<https://www.theatlantic.com/politics/archive/2018/08/david-clarke-era-milwaukee-sheriff/567595/>; "Schmidt could not shed the mantle of his close association with former Sheriff David A. Clarke Jr. and his role as the department's second in command since 2010."
<https://www.jsonline.com/story/news/politics/elections/2018/08/14/milwaukee-county-sheriff-schmidt-lucas-ostrowski-battling-badge/952194002/>).

⁴ <https://urbanmilwaukee.com/pressrelease/governors-jim-doyle-tony-earl-and-marty-schreiber-endorse-earnell-lucas/> and <https://urbanmilwaukee.com/pressrelease/a-united-community-supports-earnell-lucas-for-sheriff/>)

Figure 5. Bivariate association between candidate support and precinct racial demographics, 2018 Milwaukee County Sheriff Democratic Primary.

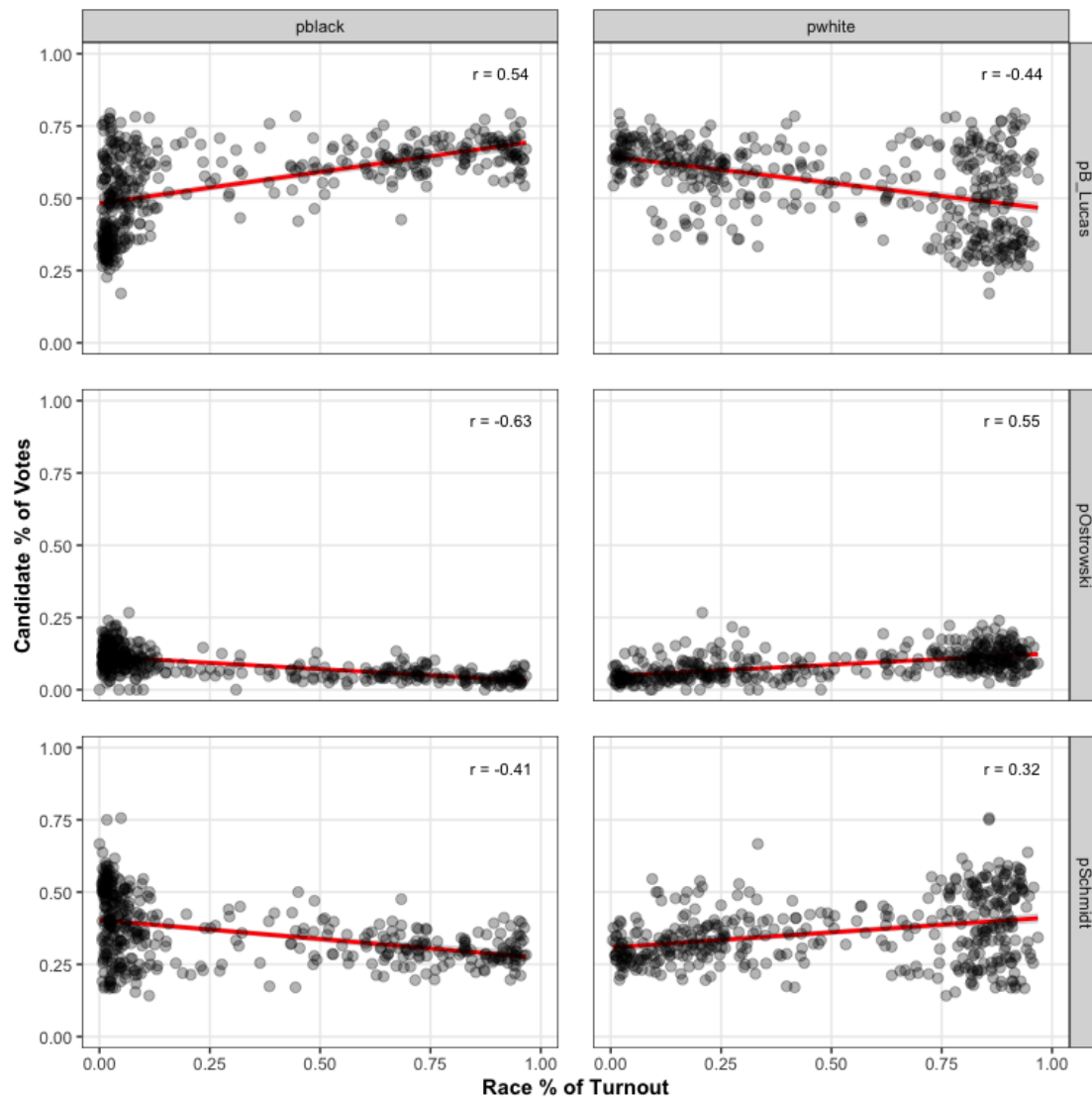
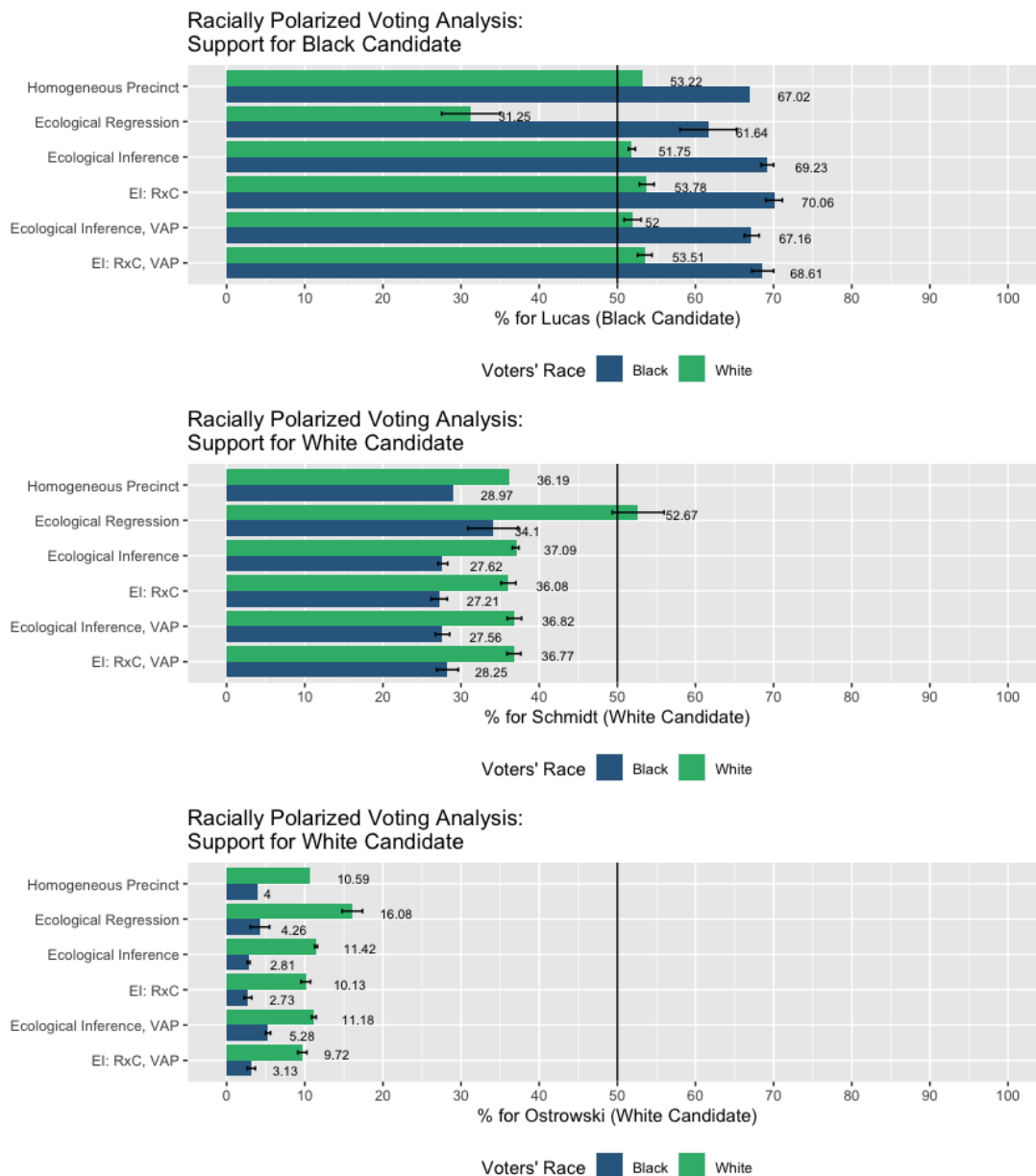


Figure 6 reports the RPV analysis results for the various methods. Black voters give Lucas an estimated 61.64% to 70.06% of their vote – depending on the statistical method. Thus, Black voters back Lucas. However, in five of the six statistical approaches, a slim majority of white voters also back Lucas – in the 51-53% range. Thus, I conclude that this contest did not feature racially polarized voting.

Figure 6. Racially Polarized Voting assessment with multiple methods. 2018 Milwaukee County Sheriff Democratic Primary.



Democratic Gubernatorial Primary 2018 Mitchell (Black) vs. Evers (White) and Other White Candidates

The 2018 Democratic gubernatorial primary shows a strong relationship between percent Black voting age population in a precinct and percent vote for Mitchell (the Black candidate) – see Figure 9. At 0.95, this is one of the highest correlation coefficients I observed in all elections analyzed. Meanwhile, the correlation between percent white

voting age population and percent support for Evers (the main white candidate) is 0.89. This is evidence of extreme racially polarized voting.

Figure 9. Bivariate association between candidate support and precinct racial demographics, Democratic Gubernatorial Primary 2018 Mitchell (Black) vs. Evers (white) and other white candidates.

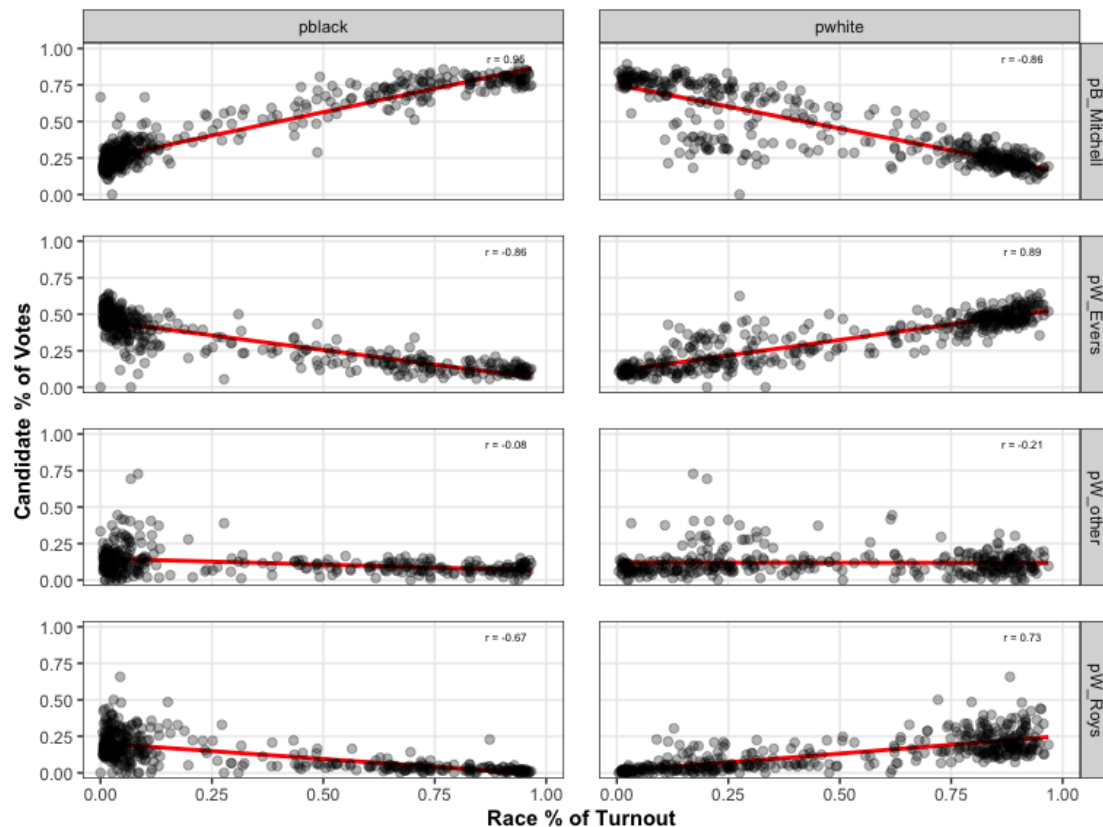
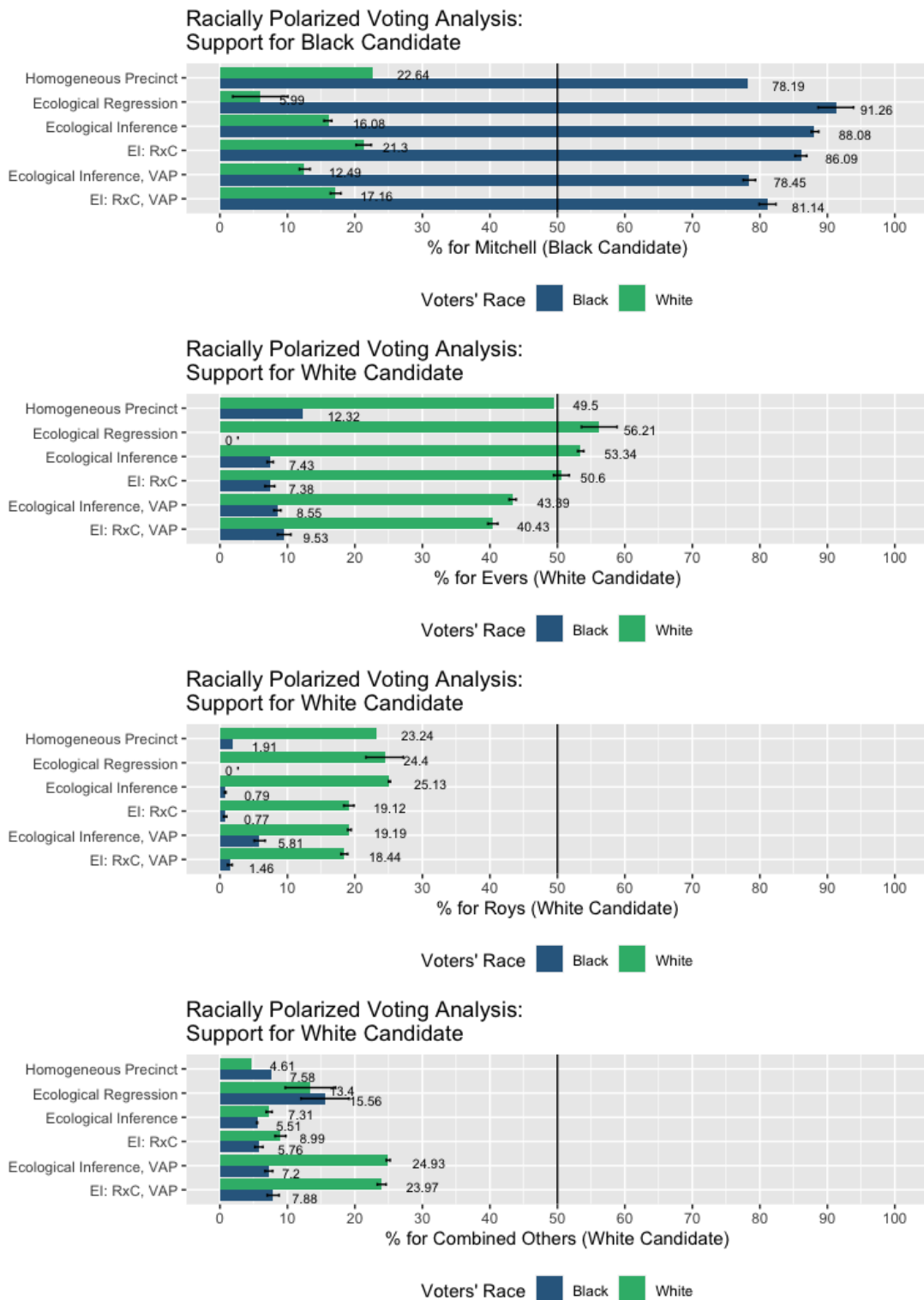


Figure 10 reports the RPV analysis results for the various methods. Regardless of statistical method, Black voters strongly back Mitchell (ranging between 78% - 91%). Meanwhile, fewer than a quarter of white voters back Mitchell (ranging from 6% - 23%). Rather, white voters disproportionately favor Evers who is their clear candidate of choice, and taken in total white candidates. Three of the six methods estimate that whites give Evers a majority of their vote (51%-56%). The other three methods estimate that whites gave Evers between 40%-50% of their vote. Regardless Evers is the top candidate among whites.

Figure 10. Racially Polarized Voting assessment. Democratic Gubernatorial Primary 2018 Mitchell (Black) vs. Evers (White) and Other White Candidates.



State Assembly District 12, 2018 Democratic Primary: Myers (Black) vs. Kessler (White)

The 2018 Democratic State Assembly District 12 primary shows a strong relationship between percent Black voting age population in a precinct and percent vote for Myers (the Black candidate) – see Figure 7. The correlation among percent Black VAP and percent support for Myers is 0.8; whereas the correlation among percent white VAP and percent support for Kessler is 0.85. These correlations are strong evidence of RPV.

Figure 7. Bivariate association between candidate support and precinct racial demographics. State Assembly District 12, 2018 Democratic Primary: Myers (Black) vs. Kessler (White).

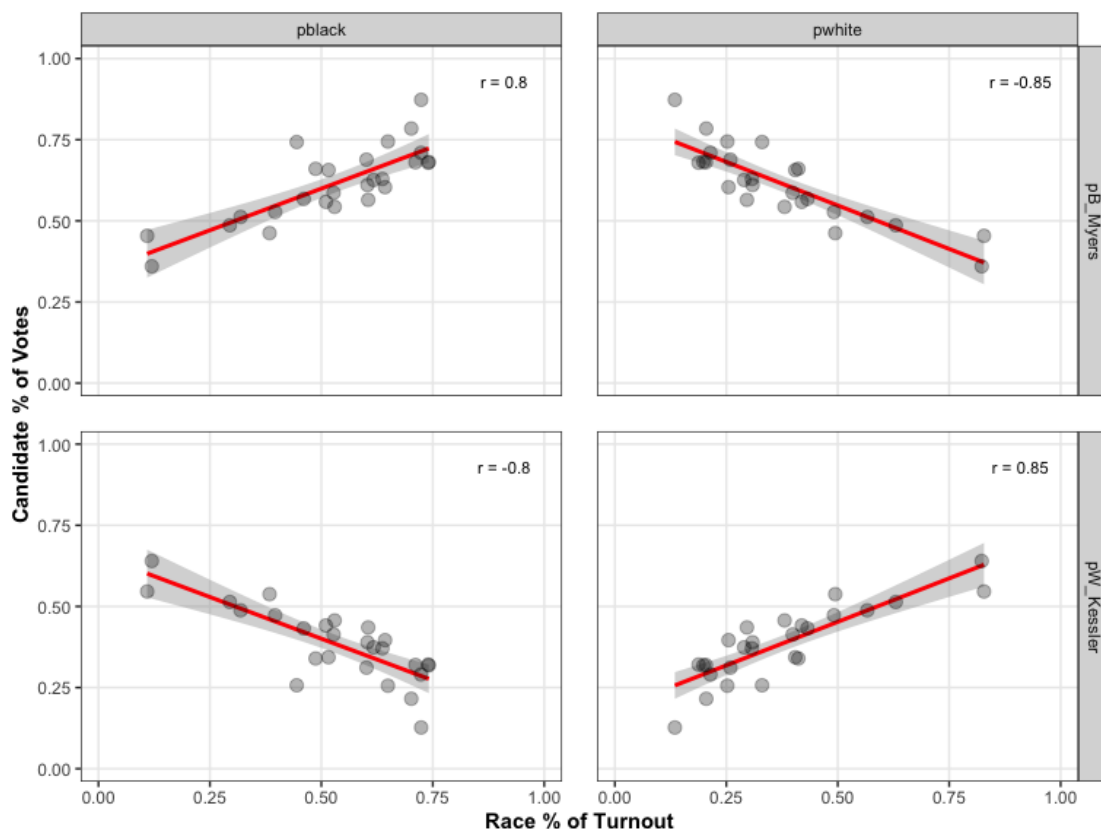


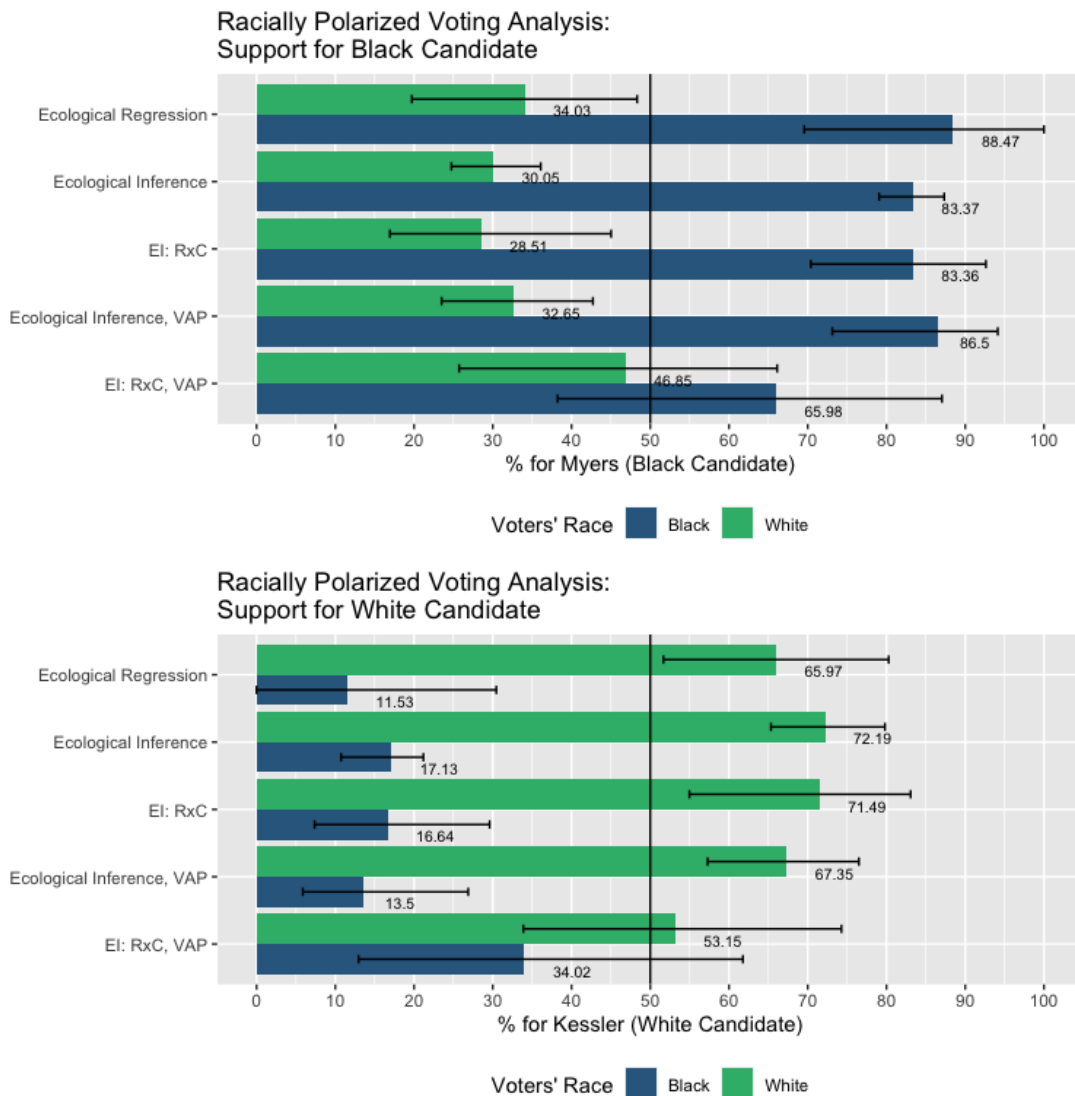
Figure 8 reports the RPV analysis results for the various methods. Regardless of statistical method, Black voters strongly back Myers.⁵ Four of the five methods show that Black voters

⁵ I do not include homogeneous precinct analysis here because there are no 90% plus white precincts in the district.

back Myers between 83%-88%. Whites, however, only give Myers around 30% of their vote.⁶

The pattern is reversed with respect to Kessler support. In four of the five methods, whites support Kessler between 66%-72%, whereas Blacks back Kessler between 11%-17%.

Figure 8. Racially Polarized Voting assessment. State Assembly District 12, 2018 Democratic Primary: Myers (Black) vs. Kessler (White).



⁶ One method, EI:RxC VAP supports a racially polarized voting finding; however the confidence band overlaps the 50% mark due to the relatively small number of precincts for this assembly district analysis.

Milwaukee Mayor 2020 Nonpartisan Spring General: Taylor (Black) vs. Barrett (White)

Figure 15 presents the scatterplot and correlation results for the 2020 Milwaukee Mayoral nonpartisan spring general election. As with the other contests, voting behavior is racially polarized with Blacks supporting candidate Taylor (coefficient = 0.88) and whites preferring candidate Barret (coefficient = 0.78).

Figure 15. Milwaukee Mayoral Election 2020 Nonpartisan Spring General bivariate association between race and candidate votes.

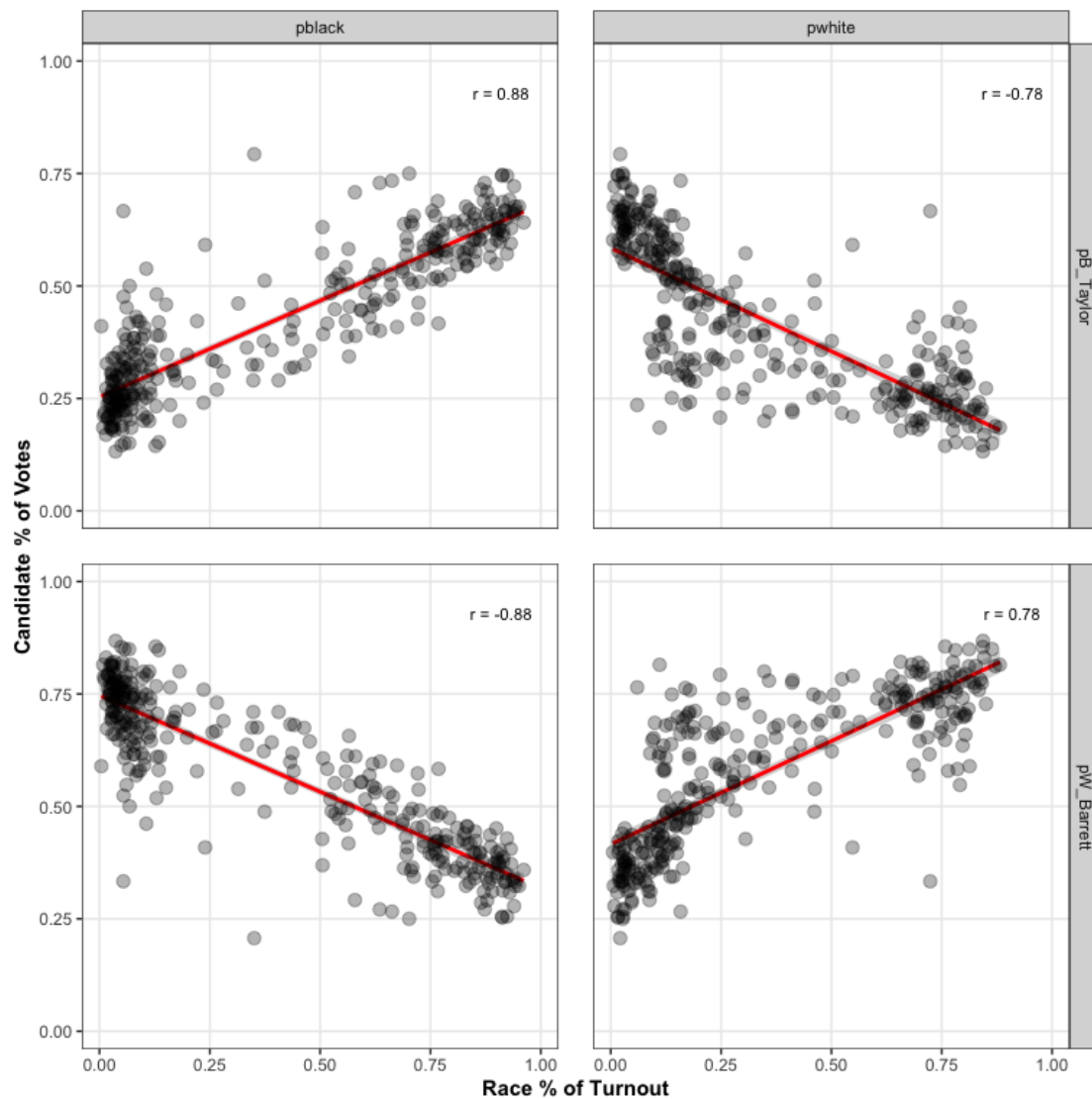
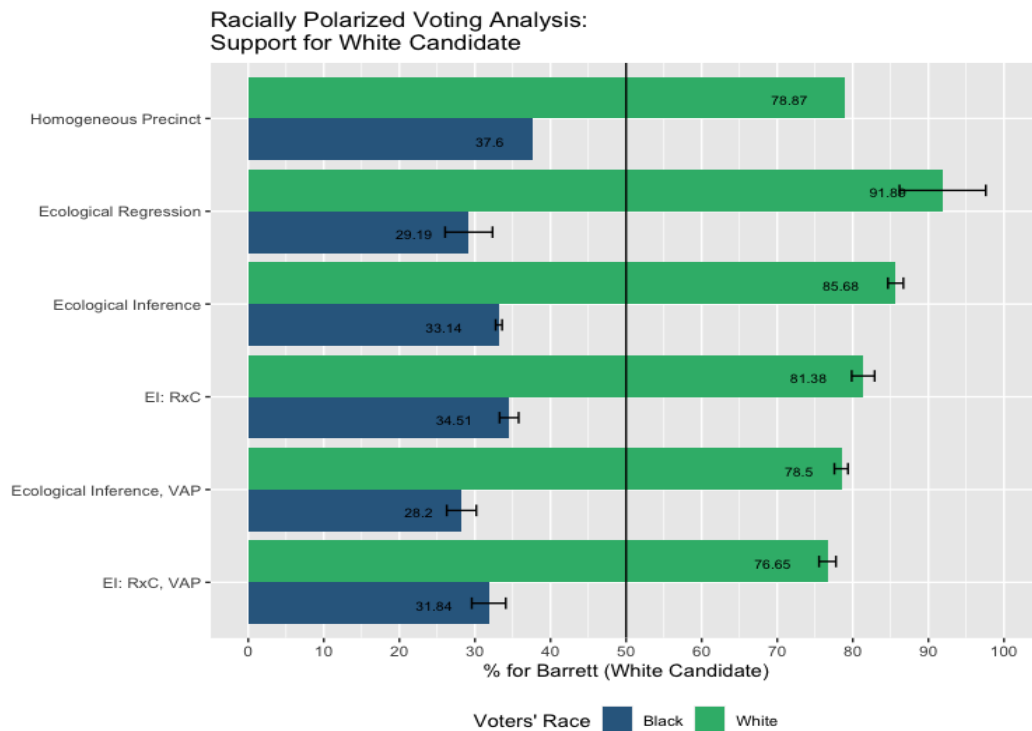
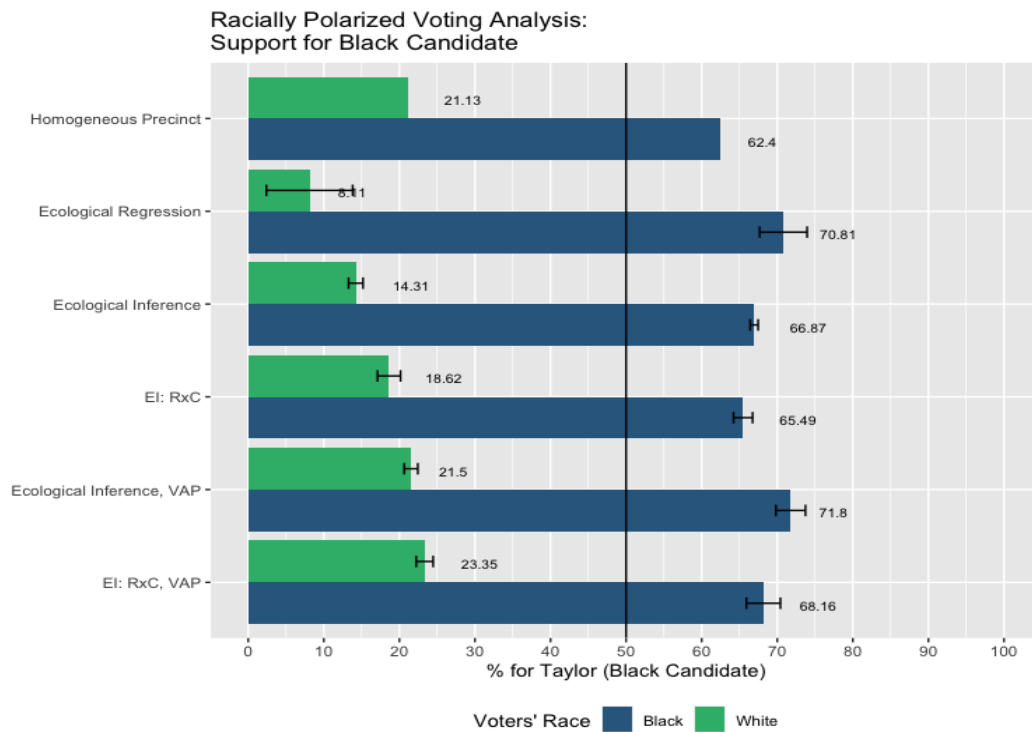


Figure 16 presents the RPV results by statistical method. The results are very clear – strong majorities of Black voters back Taylor (between 62% - 72%) and strong majorities of whites back Barrett (between 77% - 92%).

Figure 16. Racially Polarized Voting Assessment – Milwaukee Mayor 2020 spring general.



Milwaukee County Executive 2020 Nonpartisan Spring General: Crowley (Black) vs. Larson (White)

Figure 3 presents the bivariate scatterplot between race and candidate support. As with other contests, the 2020 nonpartisan spring general for Milwaukee County Executive is racially polarized. The coefficient between percent black VAP and percent Crowley (Black candidate) is 0.91; meanwhile the correlation coefficient between percent white VAP and percent Larson (white candidate) is 0.68.

Figure 3. Bivariate association between candidate support and precinct racial demographics, 2020 Milwaukee County Executive.

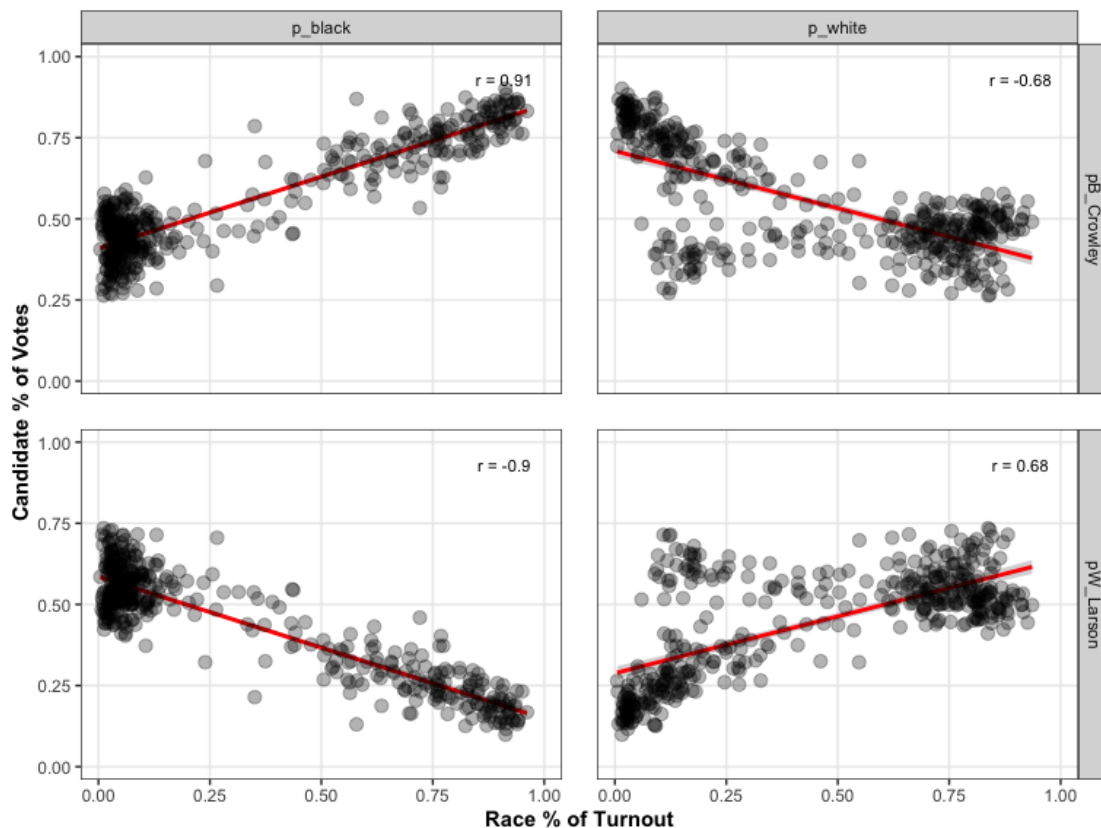
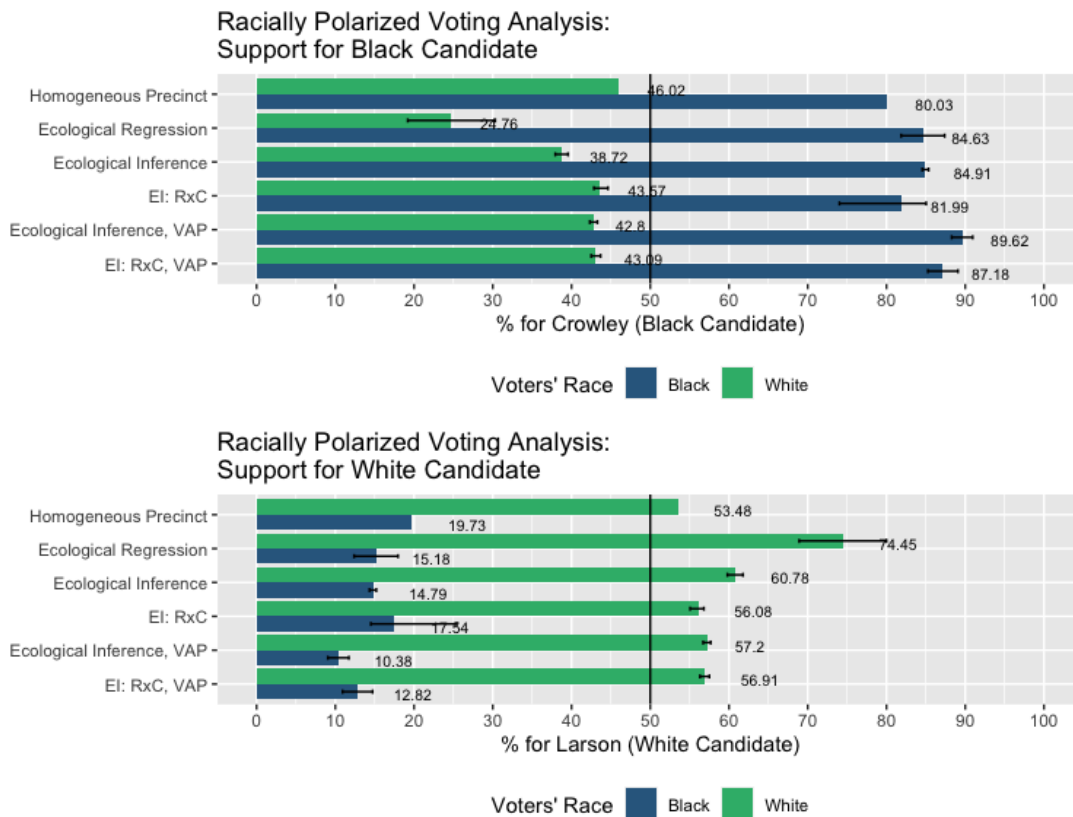


Figure 4 presents the RPV results by statistical method. The results are very clear – strong majorities of Black voters back Crowley (between 80% - 90%) and majorities of whites back Larson (between 53% - 74%).

Figure 4. Racially Polarized Voting assessment Milwaukee County Executive 2020 Nonpartisan Spring General.



2020 Comptroller Milwaukee County Nonpartisan Spring General: Fields (Black) vs. Sawa (White)

Figure 11 presents the bivariate scatterplot between race and candidate support. As with other contests, the 2020 nonpartisan spring general for Milwaukee County Comptroller is racially polarized. The coefficient between percent black VAP and percent Fields (Black candidate) is 0.89; meanwhile the correlation coefficient between percent white VAP and percent Sawa (white candidate) is 0.79.

Figure 11. Bivariate association between candidate support and precinct racial demographics, 2020 Comptroller Milwaukee County Nonpartisan Spring General.

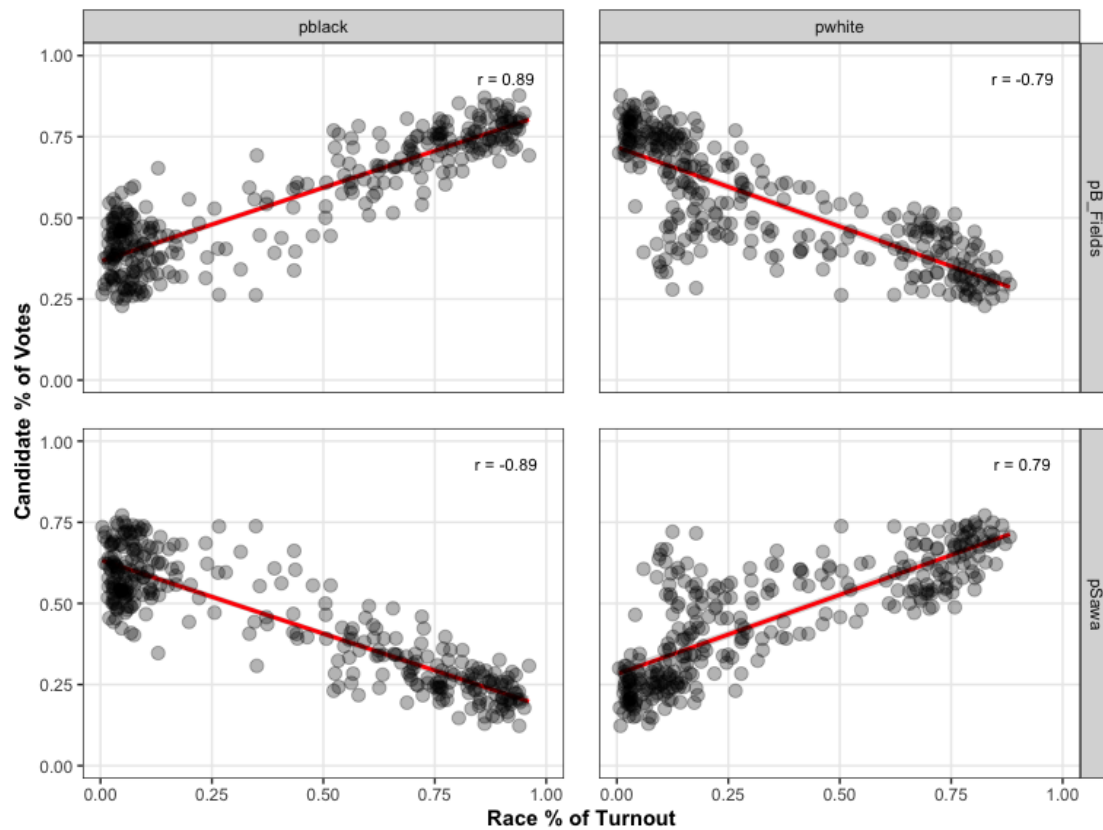
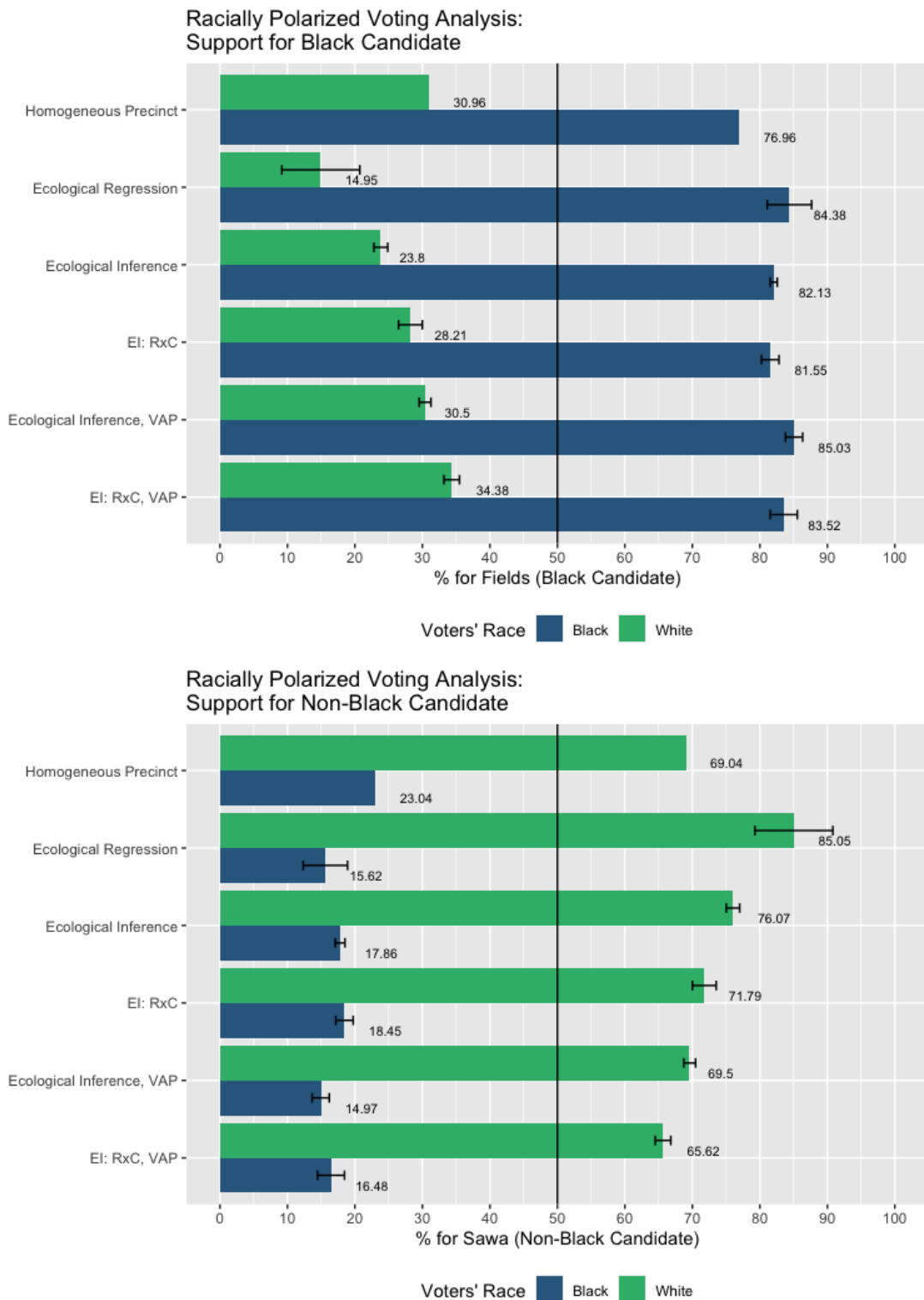


Figure 12 presents the RPV results by statistical method. The results are very clear – strong majorities of Black voters back Fields (between 77% - 85%) and majorities of whites back Sawa (between 65% - 85%).

Figure 12. Racially Polarized Voting assessment. 2020 Comptroller Milwaukee County Nonpartisan Spring General.



State Superintendent 2021 (Subset to Milwaukee County) Nonpartisan Primary: Hendricks-Williams (Black) vs. Underly (White) and Other White Candidates

The state superintendent contest is a top two primary election; thus the top two candidates advance regardless of partisanship.

Figure 13 presents the bivariate scatterplot between race and candidate support. As with other contests, the 2021 nonpartisan primary for state superintendent subset to Milwaukee County is racially polarized. The coefficient between percent black VAP and percent Hendricks-Williams (Black candidate) is 0.82; meanwhile the correlation coefficient between percent white VAP and percent Underly (the main white candidate) is 0.55.

Figure 13. State superintendent bivariate association. Democratic Primary 2021 featuring Hendricks-Williams (Black) vs Underly (white) and other white candidates.

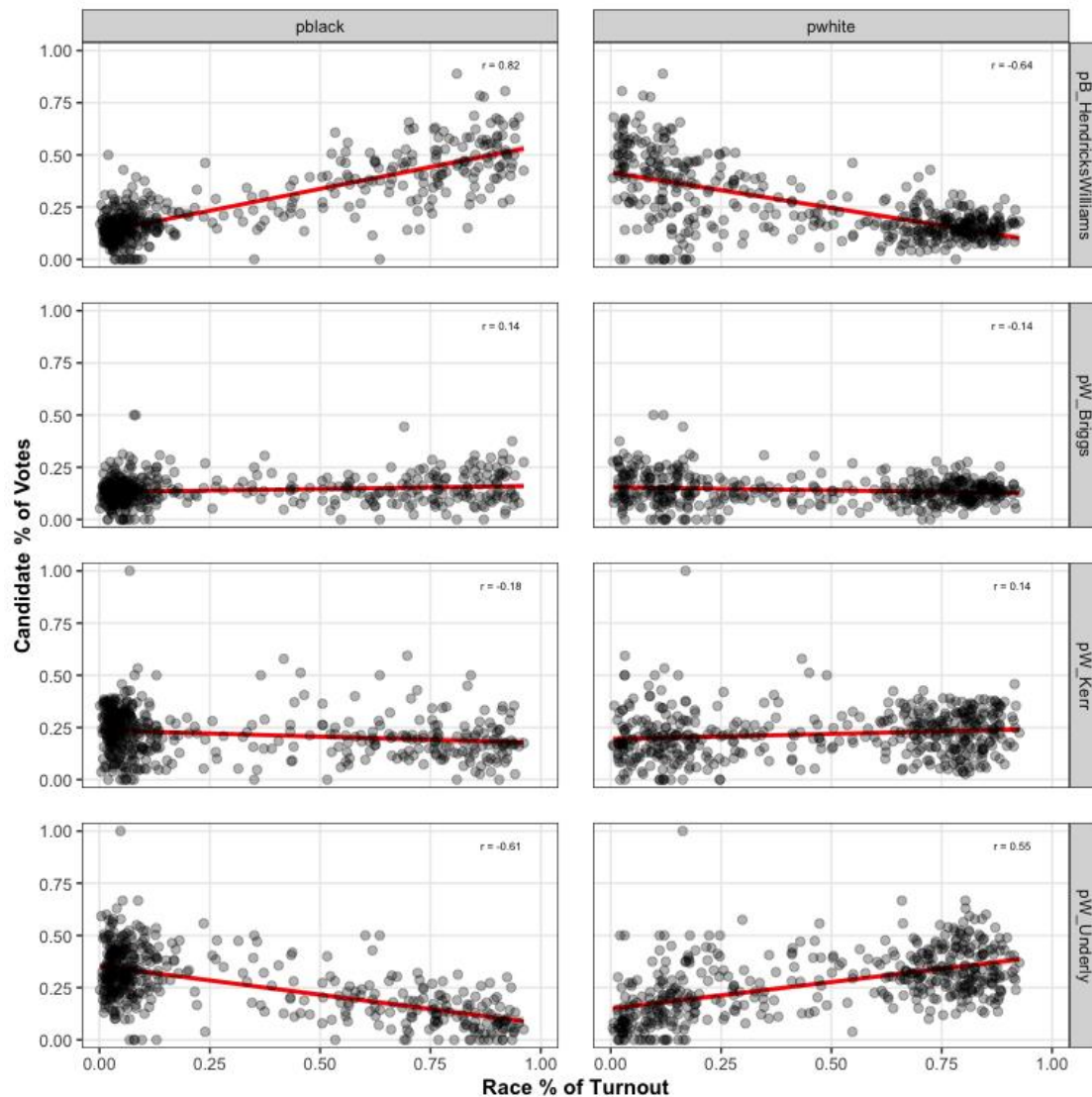
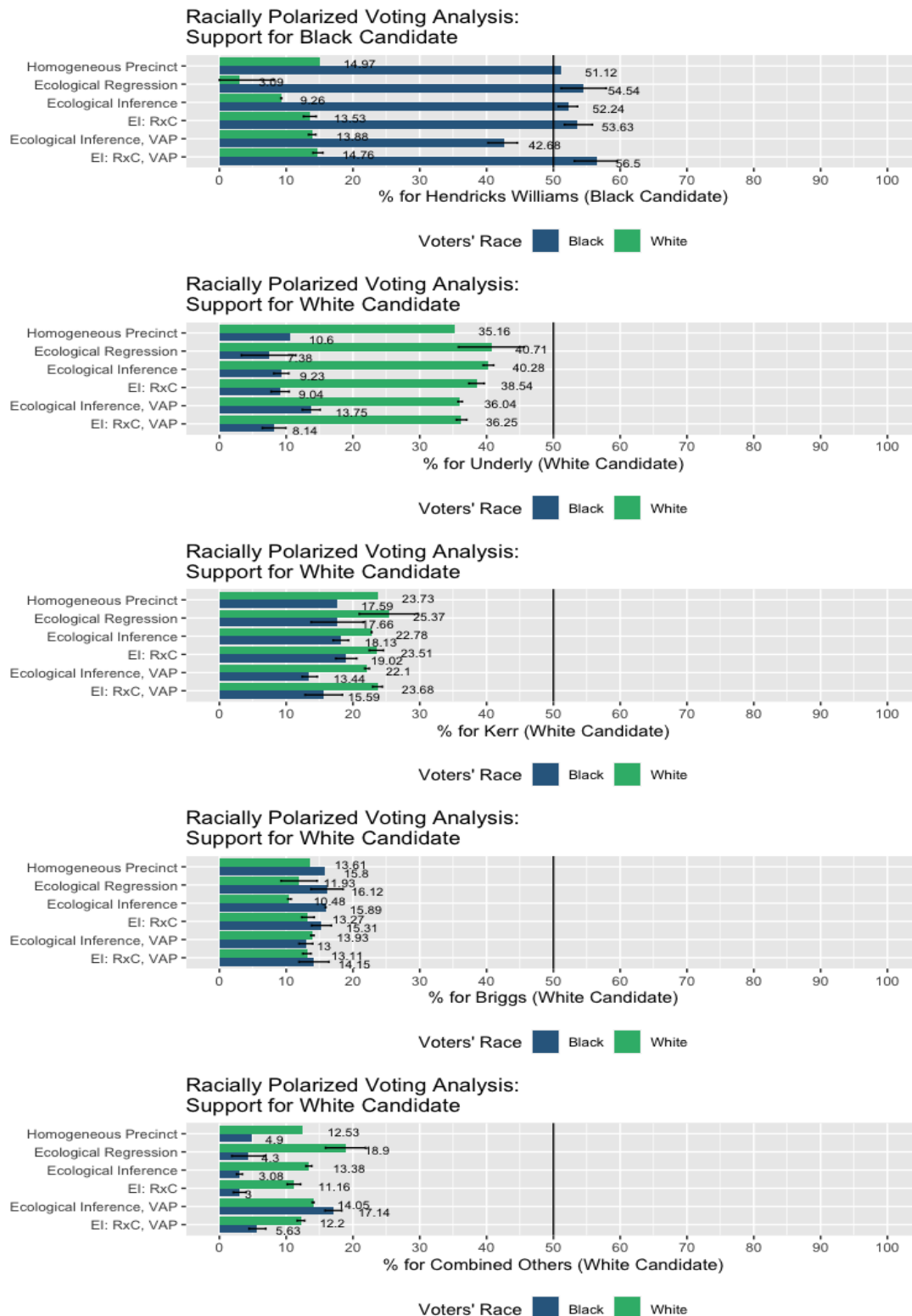


Figure 14 presents the RPV results by statistical method. Despite a plethora of candidates, a majority of Black voters support Hendricks-Williams across all statistical methods but one. Hendricks-Williams is clearly Black voters' top choice. White voters' top choice, however is Underly (backing the candidate ranging from 30%-40%). Further, in every statistical method, fewer than 15% of whites back Hendricks-Williams.

Figure 14. Racially Polarized Voting assessment. State Superintendent 2021 (subset to Milwaukee County) Nonpartisan Primary: Hendricks-Williams (Black) vs. Underly (White) and Other White Candidates



Bloc Voting Analysis

My RPV analysis reveals that RPV in Nonpartisan and Democratic Primary contests, along with spring general elections, is present between Black and white voters in Milwaukee County – especially in contests with Black and white candidates. Of the eight contests, seven cover most of the Milwaukee County or City jurisdiction. To examine *Gingles 3* – whether white voters usually block Black voters from electing candidates of choice, I exclude the primary between Myers and Kessler because this contest only covers a small subset of the wider jurisdiction, and because this seat is already a majority-Black district.

Of the seven contests analyzed, the Black preferred candidate (in this case the Black candidate) is blocked four times for a block rate of 57.14%. Note, I include the 2018 Gubernatorial Democratic Primary outcome as a win for the Black-preferred candidate because Mitchell outperformed Evers in Milwaukee despite losing the overall election.

In addition, as noted above, although the 2018 Milwaukee County Sheriff's election between Lucas and Schmidt covers the relevant jurisdiction, it was unique given the high level of white crossover voting due to white voters repudiating candidate Schmidt, who was heavily associated with controversial former sheriff David Clarke. Given this abnormality, if this election is also excluded from the analysis, white voters vote as a bloc to prevent Black voters from electing their candidate of choice in four of six (66.66%) elections.

I conclude that whether the 2018 Milwaukee County Sheriff's election is included or not, white voters bloc vote against the Black preferred candidate at a high rate, and always more than half of the time.

Performance Analysis of BLOC Petitioners' Proposed Assembly Plan

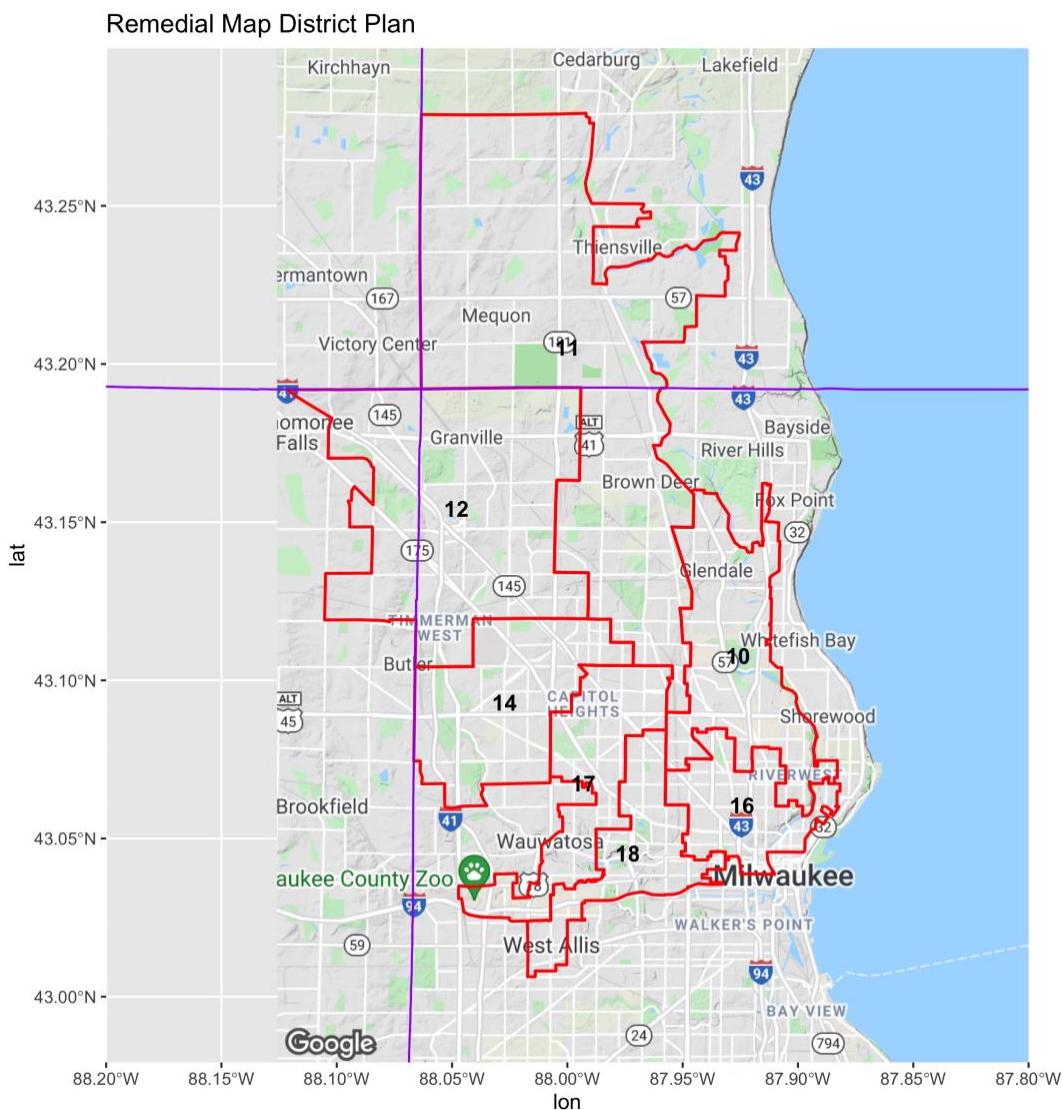
The BLOC Petitioners' lawyers have asked me to conduct an electoral performance analysis on the seven majority-Black VAP districts in their proposed assembly map plan. A performance analysis essentially reconstructs previous election results in a new map to assess whether a Black or white preferred candidate is most likely to win in the new districts. The BLOC Petitioners have proposed seven majority-Black districts – listed below in Table 2.

Table 2. BLOC Assembly Plan District Name, voting age population Black and white; and total voting age population.

NAME	BlackPct	MinorityPct	TotalVAP
10	0.523	0.612	45893
11	0.506	0.621	43155
12	0.502	0.652	42544
14	0.505	0.616	43527
16	0.505	0.622	46815
17	0.506	0.59	44660
18	0.505	0.661	43907

Figure 15 presents a map of the seven majority-Black districts in the BLOC Assembly Plan labeled by district. I include purple lines to denote county lines. Of particular note, the district plans do not include the village community of Shorewood in Milwaukee County because the inclusion of these precincts depresses votes, and therefore performance, for Black-preferred candidates. For instance, in the 2018 Democratic Gubernatorial Primary, Mitchell garners just 9% of the vote in Shorewood, while the rest of the vote goes to a mix of Evers, Roys, and other white candidates. In the 2021 Superintendent contest, the same precincts support Hendricks-Williams with just 14% of the vote, instead backing Underly at 50%.

Figure 15. BLOC Petitioners' Proposed majority-Black districts.



To conduct the performance analysis, first, I used statewide contests (Democratic Primary Governor 2018; 2021 State Superintendent) in order to fully reconstruct previous elections in the BLOC Petitioners' proposed districts. Because of the top-two nature of the non-partisan superintendent primary contest, I consider a first or second place a win for the Black-preferred candidate as performing.

I analyzed contests between white and Black candidates because these are most probative in measuring whether Black voters will have an equal opportunity to elect in the opportunity districts.⁷

⁷ Due to the unique RPV results observed with 2018 Sheriff contest, I do not conduct a performance analysis with this contest.

Second, I conduct the performance analysis using countywide contests between Black and white candidates for all proposed opportunity districts fully within Milwaukee County. I do not analyze Milwaukee City contests because of the smaller geographic nature that the City covers relative to the County. I list results tabularly for each contest. The contests include:

- 2018 Democratic Gubernatorial Primary
- 2021 State Superintendent nonpartisan primary
- 2020 Milwaukee County Executive (excluding districts that reach across county lines)

Democratic Primary 2018 Mitchell (Black) vs. Evers (White) and Other White Candidates

Table 3 lists candidate performance in the BLOC Petitioners' proposed opportunity district for the 2018 Democratic Gubernatorial Primary. The Black candidate, Mitchell, is the clear winner in each district, winning an outright majority in six of the seven seats. It is important to note that this contest includes 10 primary candidates so such win rates are extraordinary. Even in the one district that Mitchell does not outright win, he would have 47.9% of the vote, a clear plurality, with the next candidate having only 23.6% of the vote.

Table 3. Electoral performance analysis 2018 gubernatorial Democratic primary in BLOC Petitioners' proposed opportunity plan, by district.

Candidate	D10	D11	D12	D14	D16	D17	D18
B_Mitchell	0.479	0.547	0.557	0.517	0.524	0.511	0.515
W_Evers	0.236	0.232	0.241	0.242	0.228	0.235	0.229
W_Roys	0.121	0.066	0.057	0.087	0.097	0.122	0.101
W_other	0.164	0.154	0.144	0.154	0.152	0.132	0.154

State Superintendent 2021 (subset to Milwaukee County) Non-partisan Primary: Hendricks-Williams (Black) vs. Underly (White) and Other White Candidates

Table 4 shows the results for the the 2021 state superintendent nonpartisan primary contest in the BLOC Petitioners' proposed opportunity districts. Here the Black-preferred candidate (based on my RPV analysis) garners the most votes in three districts, tied for first in another, and second in three. In each scenario, the Black-preferred candidate (who

in this case is Black) would move onto the general election given it is a top-two primary, and almost certainly would win based on the demographics of the districts.

Table 4. Electoral performance analysis 2021 state superintendent nonpartisan primary in the BLOC Petitioners proposed opportunity plan, by district.

Candidate	D10	D11	D12	D14	D16	D17	D18
B_HendricksWilliams	0.28	0.259	0.327	0.286	0.316	0.308	0.272
W_Underly	0.348	0.179	0.187	0.272	0.289	0.308	0.314
W_Kerr	0.14	0.376	0.251	0.213	0.158	0.168	0.175
W_Briggs	0.157	0.11	0.135	0.124	0.154	0.137	0.148
W_other	0.074	0.076	0.1	0.106	0.083	0.08	0.091

Milwaukee County Executive 2020 Spring General: Crowley (Black) vs. Larson (White)

Table 5 presents performance results for the Milwaukee County Executive contest. These findings demonstrate overwhelming victory for the Black-preferred candidate Crowley. While I do not analyze districts stretching into the neighboring counties, Crowley wins in D10 by nearly 10 points, D14 by more than 20 points, D16 by 13 points, D17 by 18 points, and D18 by 15 percentage points.

Table 5. Electoral performance analysis 2020 Milwaukee County Executive in the BLOC Petitioners' proposed opportunity plan, by district.

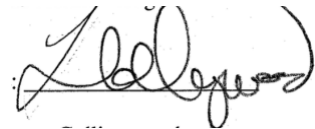
Candidate	D10	D14	D16	D17	D18
B_Crowley	0.542	0.601	0.564	0.59	0.572
W_Larson	0.455	0.396	0.433	0.408	0.426

Conclusion

In conclusion, without any doubt, racially polarized voting is present in Milwaukee-area elections. This is particularly clear in elections featuring Black candidates. In a mix of Democratic primary elections, nonpartisan primary elections, and spring general elections, Black voters vote cohesively for one set of candidates, and white voters for another set of candidates. More often than not, the white voters block Black voters' candidate of choice from winning. Finally, my performance analysis reveals that the BLOC Petitioners' proposed map shows that Black-preferred (in this case Black) candidates can and will win election to public office under the proposed opportunity districts.

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

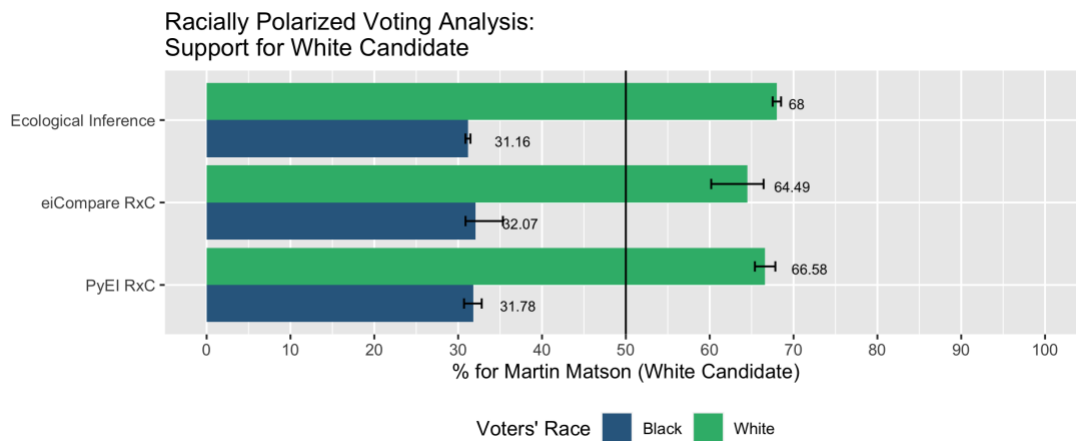
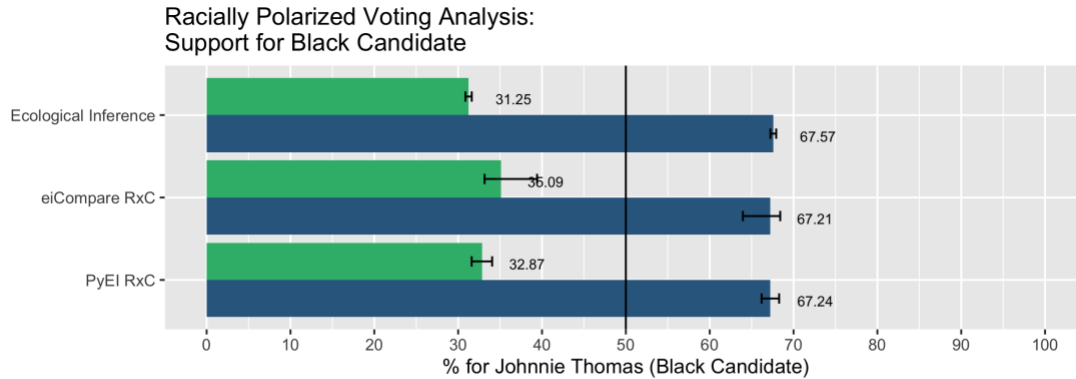
Executed on December 15, 2021.

A handwritten signature in black ink, appearing to read 'Loren Collingwood', with a stylized, cursive script.

Loren Collingwood

Appendix

Figure A1. Comparison of Milwaukee City Comptroller 2016 Nonpartisan Spring General: Johnny Thomas (Black) vs. Martin Matson (White); Using EI iterative and EI RxC from eiCompare and PyEI package.



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Employment

Associate Professor, University of New Mexico, 2020 - Present
Associate Professor, University of California, Riverside 2019 - 2020
Assistant Professor, University of California, Riverside 2012 - 2019
Assistant Analyst, Greenberg Quinlan Rosner, Washington DC 2005-2007
Field Associate, Greenberg Quinlan Rosner, Washington DC 2003-2005

Education

Ph.D., Political Science, University of Washington 2007 - 2012
Committee: Matt Barreto (chair), Chris Parker, Luis Fraga, Chris Adolph, Peter Hoff
M.A., Political Science, University of Washington, 2009
B.A., Psychology, California State University, Chico, 1998 - 2002
Minor: Political Science
Honors: *Cum Laude*, NCAA Scholar-Athlete in soccer

Research Fields

American Politics, Political Behavior, Methods, Race and Ethnic Politics, Immigration

Books

2. **Collingwood, Loren.** *Campaigning in a Racially Diversifying America: When and How Cross-Racial Electoral Mobilization Works.* 2020. Oxford University Press.

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Software

R package: **RTextTools**. This package uses supervised learning methods to automate text classification. Coauthors include Jurka, Boydstun, Grossman, and van Atteveldt. Available on CRAN.

R package: **eiCompare**. This package compares outcomes between ecological inference (EI) estimates and EI:Rows by Columns (RxC) estimates. Primary purpose is employed in racially polarized voting analysis. Development Version available here: [eiCompare](#) or on CRAN. Coauthors include Barreto, Oskooii, Garcia-Rios, Burke, Decter-Frain, Murayama, Sachdeva, Henderson, Wood, and Gross.

R package: **Rvoterdistance**. Calculates distance between voters and multiple polling locations and/or ballot drop boxes. Ports C++ code for high speed efficiency. Available on CRAN.

R package: **Rweights**. Creates survey weights via iterative variable raking. Survey design object and weights vector are produced for use with R, Stata, and other programs. Currently in alpha form with unix tarball available here: [Rweights](#).

R package: **Rmturkcheck**. Functions for cleaning and analyzing two-wave MTurk (or other) panel studies. Available: [Rmturkcheck](#)

R package: **RCopyFind**. Functions for extracting data frames then plotting results from WCopyFind plagiarism text program. Co-authored with and Maintained by Steph DeMora. Available: [RCopyFind](#)

Under Review / Working Papers

Barreto, Matt, Michael Cohen, **Loren Collingwood**, Chad Dunn, and Sonni Waknin. “Using Bayesian Improved Surname Geocoding (BISG) to Assess Racially Polarized Voting in Voting Rights Act Challenges.” [Revise & Resubmit]

Collingwood, Loren, Juandalyn Burke, Ari Decter-Frain, Hikari Murayama, Pratik Sachdeva, Matt Barreto, Scott Henderson, Spencer Wood, and Joshua Zingher. “Comparing BISG to CVAP Estimates in Racially Polarized Voting Analyses.” [Under Review]

Collingwood, Loren, Jason Morín, and Edward Vargas. “Protesting Detention: How Protests Activated Group Empathy and Party ID to Shift Attitudes on Child Detention.” [Working Paper]

Paarlberg, Michael A. and Loren Collingwood. “Fact or Fiction: Testing the link between local immigration policy and the MS-13 ‘Threat’.” [Working Paper]

Awards, Grants, and Fellowships

Matt Barreto and Loren Collingwood. Detection of Vote Dilution: New tools and methods for protecting voting rights. Data Science for Social Good project selection, University of Washington. 2020

Loren Collingwood. Measuring Cross-Racial Voter Preferences. UCR Faculty Senate. \$3,500. 2019.

Francisco Pedraza and Loren Collingwood. Evaluating AltaMed’s 2018 GOTV Efforts in Los Angeles. \$12,000. 2018-2019.

Allan Colbern, Loren Collingwood, Marcel Roman. A Mess in Texas: The Deleterious Effects of SB4 on Public Trust in Law Enforcement. Center for American Progress. \$7,100. 2018.

Karthick Ramakrishnan, Mindy Romero, Loren Collingwood, Francisco Pedraza, Evaluating California’s Voter’s Choice Act. Irvine Foundation. \$150,000, 2018-2019.

William McGuire, Loren Collingwood, Ben Gonzalez O’Brien, and Katie Baird, “Evaluating the Impact of Drop Boxes and Get-Out-The-Vote Advertising on Voter Turnout in Pierce County, WA.” MIT Election Data and Science Lab, \$16,365, 2017

Justin Freebourn and Loren Collingwood, Blum Initiative \$4,000, 2017

Hellman Fellowship Grant, UC Riverside, \$30,000, 2014-2015

Best Dissertation Award, 2013 Western Political Science Association

UC Riverside Harrison & Ethel Silver Fund, \$2,000, 2013

Best Graduate Student Paper Award State Politics section, 2012 American Political Science Association

Texas A&M Experimental Methods Winter Institute, \$800, January, 2011

UseR! 2011 Conference travel grant, \$1000, August, 2011

Center for Statistics and the Social Sciences travel grant, \$870, January, 2011

David J. Olson Research Grant, University of Washington Political Science, \$2,000, January, 2011

Warren Miller Scholarship Award, Inter-University Consortium for Political and Social Research, Summer 2009

Matthews Fellowship, University of Washington, Winter 2008 - Spring 2009

Brennan Center for Justice, New York University [with Matt Barreto]
Indiana Voter Identification Study, \$40,000 – Oct. 2007, 6 months

Teaching Experience

POSC 10 (American Politics); POSC 146 (Mass Media & Public Opinion); POSC 171 (State Politics); POSC 104S (Race and Ethnic Politics Special Topics); POSC 108 (Race and Ethnic Politics)

POLS 300: Immigration Politics with Focus on Latino Politics

POLS 300: The Voting Rights Act: Causes and Effects

POSC 202A: Introduction to Quantitative Methods (Graduate)

POSC 207: Statistical Programming and Data Science for the Social Sciences (Graduate)

POSC 207: Quantitative Text Analysis (Graduate)

POSC 220: Graduate Seminar in Race and Ethnic Politics in the U.S.

POSC 256: Graduate Seminar in Public Opinion

POSC 253: Graduate Seminar in Electoral Politics

Text Classification with R using the `RTextTools` package, UNC-Chapel Hill Workshop

Text Analysis with Political Data, Claremont Graduate School, 2019

CSSS Intermediate R Workshop 2011, Instructor (Summer)

POLS 501: Advanced Research Design and Analysis, Teaching Assistant (2 quarters)

ICPSR Summer Course: Methodological Issues in Quantitative Research on Race and Ethnicity, Teaching Assistant

POLS 202: Introduction to American Politics, Teaching Assistant

CSSS Math Camp 2011, Teaching Assistant

POLS 499D: Center for American Politics and Public Policy Undergraduate Honors Seminar (2 quarters)

Professional Service

Co-editor, *Politics of Groups and Identities*, 2020-2021

Reviewer, Political Behavior, Journal of Information Technology and Politics, American Politics Research, Social Sciences Quarterly, Journal of Politics, Politics of Groups and Identities, American Journal of Political Science, Political Research Quarterly, State Politics and Public Policy, American Political Science Review, British Journal of Political Science, Journal of Race and Ethnic Politics, Urban Studies, Urban Affairs Review; many other journals

Conference Papers and Presentations

Collingwood, Loren and Benjamin Gonzalez O'Brien. "Sanctuary Cities: The Politics of Refuge." Invited Talk California Lutheran University. (October 2020).

Collingwood, Loren. "Sanctuary Cities: The Politics of Refuge." Invited Talk California State University, Chico. (March 2020).

Collingwood, Loren. "Sanctuary Cities: The Politics of Refuge." Invited Talk Humboldt State University. (March 2020).

Collingwood, Loren. "Campaigning in a Racially Diversifying America: Whether and How Cross-Racial Electoral Mobilization Works." Invited Talk Oregon State University. (February 2020).

Collingwood, Loren and Benjamin Gonzalez O'Brien. "Sanctuary Cities: The Politics of Refuge." Invited Talk University of San Diego. (November 2019).

Collingwood, Loren. "Campaigning in a Racially Diversifying America: Whether and How Cross-Racial Electoral Mobilization Works." Invited Talk University of Massachusetts. (January 2020).

Collingwood, Loren. "Campaigning in a Racially Diversifying America: Whether and How Cross-Racial Electoral Mobilization Works." Invited Talk University of New Mexico. (December 2019).

Collingwood, Loren and Benjamin Gonzalez O'Brien. "Sanctuary Cities: The Politics of Refuge." Invited Talk California State University, Northridge, Los Angeles. (November 2019).

Collingwood, Loren and Benjamin Gonzalez O'Brien. "Sanctuary Cities: The Politics of Refuge." Invited Talk Occidental College, Los Angeles. (November 2019).

Collingwood, Loren (with Sean Long). "Can States Promote Minority Representation? Assessing the Effects of the California Voting Rights Act." UC Irvine Critical Observations on Race and Ethnicity Conference. (November 2019).

Collingwood, Loren. "Sanctuary Cities: The Politics of Refuge." Invited Talk University of Geneva, Switzerland. (November 2019).

Collingwood, Loren. "Sanctuary Cities: The Politics of Refuge." Invited Talk University of Bern, Switzerland. (October 2019).

Collingwood, Loren. "Sanctuary Cities: The Politics of Refuge." Invited Talk ETH Zurich, Switzerland. (October 2019).

Collingwood, Loren. "Sanctuary Cities: The Politics of Refuge." Invited Talk London School of Economics, U.K. (October 2019).

Collingwood, Loren. "Sanctuary Cities: The Politics of Refuge." Invited Talk University of Leeds, U.K. (October 2019).

Valenzuela, Ali, Kassra Oskooi, and Loren Collingwood. "Threat or Reassurance? Framing Midterms Results among Latinos and Whites." American Political Science Association, Washington, DC. (August 2019).

Paarlberg, Michael A. and Loren Collingwood. "Much Ado about Nothing: Local Immigration Policy and the MS-13 'Threat' ." American Political Science Association, Washington, DC. (August 2019).

Collingwood, Loren. "A Mess in Texas: The Deleterious Effects of SB4 on Public Trust in Law Enforcement." International Center for Local Democracy (ICLD) Conference on Local Democracy. Umea, Sweden (June 2019).

Collingwood, Loren. "The #FamiliesBelongTogether Outcry: How Protests Shifted Attitudes on Immigrant Family Separation and Child Detention." Invited Talk University of California, Irvine (May 2019).

Collingwood, Loren. "Text Analysis with R." Invited talk and presentation. Claremont Graduate University (May 2019)

Collingwood, Loren. "The #FamiliesBelongTogether Outcry: How Protests Shifted Attitudes on Immigrant Family Separation and Child Detention." PRIEC. UC Davis (May 2019).

Collingwood, Loren. "Data Analysis with R." Invited presentation and training Cal Poly Pomona (May 2019)

Collingwood, Loren. "The #FamiliesBelongTogether Outcry: How Protests Shifted Attitudes on Immigrant Family Separation and Child Detention." Invited Talk Northern Arizona University (May 2019)

Collingwood, Loren (with Jason Morín). "Contractor Politics: How Political Events Influence Private Prison Company Stock Shares in the Pre and Post Trump Era." Invited Talk Universidad Nacional Autonoma de Mexico, Distrito Federal, Mexico (February 2019).

Roman, Marcel, Allan Colbern, and Loren Collingwood. "A Mess in Texas: The Deleterious Effects of SB4 on Public Trust in Law Enforcement." PRIEC Consortium. University of Houston (December 2018)

Collingwood, Loren. "The #FamiliesBelongTogether Outcry: How Protests Shifted Attitudes on Immigrant Family Separation and Child Detention." Invited Talk University of Illinois Chicago (November 2018)

Collingwood, Loren. "Ongoing Research in Sanctuary Cities and Immigration Politics." Invited Talk University of Pennsylvania Perry World House (November 2018)

Collingwood, Loren. "Unfair Detention: How Protests Activated Racial Group Empathy to Shift Attitudes on Child Detention." Invited Talk Rutgers University (October 2018)

Collingwood, Loren. "Unfair Detention: How Protests Activated Racial Group Empathy to Shift Attitudes on Child Detention." UCR Alumni Research Presentation Washington and Philadelphia (October 2018)

Collingwood, Loren, Jason Morin. "Expanding Carceral Markets: Detention Facilities, ICE Contracts, and the Financial Interests of Punitive Immigration Policy." Invited Talk UCLA (October 2018).

Collingwood, Loren, Nazita Lajevardi, and Kassra Oskooii. "Opinion Shift and Stability: Enduring Opposition to Trump's "Muslim Ban". APSA (September 2018).

Collingwood, Loren, Jason Morin, and Stephen Omar El-Khatib. "Expanding Carceral Markets: Detention Facilities, ICE Contracts, and the Financial Interests of Punitive Immigration Policy." American Political Science Association Conference (August 2018).

Collingwood, Loren, Sergio Garcia-Rios, and Hannah Walker. "The Impact of Exposure to Police Brutality on Political Attitudes Among Black and White Americans." Cooperative Comparative Post-Election Survey (CMPS) Conference. (August, 2018).

Collingwood, Loren, Nazita Lajevardi, and Kassra Oskooii. "Opinion Shift and Stability: Enduring Opposition to Trump's "Muslim Ban". Politics of Race Immigration and Ethnicity Consortium (August 2018).

Collingwood, Loren, Jason Morin, and Stephen Omar El-Khatib. "Expanding Carceral Markets: Detention Facilities, ICE Contracts, and the Financial Interests of Punitive Immigration Policy." Politics of Race Immigration and Ethnicity Consortium, Michigan State University (April 2018)

Collingwood, Loren, Benjamin Gonzalez O'Brien, and Joe Tafoya. "Partisan Learning or Racial Learning: Opinion Change on Sanctuary City Policy Preferences in California and Texas." Midwest Political Science Association Conference (April 2018).

El-Khatib, Stephen Omar and Loren Collingwood. "State Policy Responses to Sanctuary Cities: Explaining the Rise of Sanctuary City Legislative Proposals." Midwest Political Science Association Conference (April 2018).

Hannah Walker, Loren Collingwood, and Tehama Lopez Bunyasi. "Under the Gun: Black Responsiveness and White Ambivalence to Racialized Black Death." Midwest Political Science Association Conference (April 2018).

Hannah Walker, Loren Collingwood, and Tehama Lopez Bunyasi. "Under the Gun: Black Responsiveness and White Ambivalence to Racialized Black Death." Western Political Science Association Conference (April 2018).

DeMora, Stephanie, Adriana Ninci, and Loren Collingwood. "Shoot First in ALEC's Castle: The Diffusion of Stand Your Ground Laws." Politics of Race Immigration and Ethnicity Consortium, ASU (February 2018).

El-Khatib, Stephen Omar and Loren Collingwood. "State Policy Responses to Sanctuary Cities: Explaining the Rise of Sanctuary City Legislative Proposals." Politics of Race Immigration and Ethnicity Consortium, UCR (September 2017).

Collingwood, Loren, Nazita Lajevardi, and Kassra Oskooii. "A Change of Heart? How Protests Shifted Individual-Level Public Opinion on Trump's Muslim Ban." APSA (September 2017).

Collingwood, Loren, McGuire, Will, Gonzalez O'Brien Ben, Hampson, Sarah, and Baird, Katie. "Do Dropboxes Improve Voter Turnout? Evidence from King County, Washington." APSA (September 2017).

Collingwood, Loren, Reny, Tyler, Valenzuela, Ali. "Flipping for Trump: In 2016, Immigration and Not Economic Anxiety Explains White Working Class Vote Switching." UCLA (May 2017).

Collingwood, Loren, Nazita Lajevardi, and Kassra Oskooii. "A Change of Heart? How Protests Shifted Individual-Level Public Opinion on Trump's Muslim Ban." UCLA (May 2017).

Collingwood, Loren, Nazita Lajevardi, and Kassra Oskooii. "A Change of Heart? How Protests Shifted Individual-Level Public Opinion on Trump's Muslim Ban." *Politics of Race Immigration and Ethnicity Consortium*, UCSB (May 2017).

Reny, Tyler, Ali Valenzuela, and Loren Collingwood. "Public Reactions to Anti-Latino Appeals in the Age of Obama: Race, Illegality and Changing Norms." Vancouver, Western Political Science Association Conference (April. 2017).

Collingwood, Loren, McGuire, Will, Gonzalez-O'Brien Ben, Hampson, Sarah, and Baird, Katie. "Do Dropboxes Improve Voter Turnout? Evidence from King County, Washington." WPSA (April 2017).

Gonzalez-O'Brien, Benjamin, Loren Collingwood, and Stephen El-Khatib. "Gimme Shelter: The Myth and Reality of the American Sanctuary City". Vancouver, Western Political Science Association Conference WPSA (April 2017).

Rush, Tye, Pedraza, Francisco, Collingwood, Loren. "Relieving the Conscience: White Guilt and Candidate Evaluation." *Politics of Race Immigration and Ethnicity Consortium*, UCI (March 2017).

Reny, Tyler, Ali Valenzuela, and Loren Collingwood. "Public Reactions to Anti-Latino Appeals in the Age of Obama: Race, Illegality and Changing Norms." Philadelphia, American Political Science Association Conference (Sept. 2016)

Barreto, Matt, Loren Collingwood, Sergio Garcia-Rios, and Kassra Oskooii. "Estimating Candidate Support: Comparing EI & EI-RxC." Chicago, Midwest Political Science Association Conference (April 2016)

Bishin, Benjamin, Loren Collingwood, and Erinn Lauterbach. "Cross-Racial Mobilization in a Rapidly Diversifying Polity: Latino Candidates and Anglo Voters" Chicago, Midwest Political Science Association Conference (April 2016)

Gonzalez-O'Brien, Benjamin, Loren Collingwood, and Stephen El-Khatib. "Gimme Shelter: The Myth and Reality of the American Sanctuary City". San Diego, Western Political Science Association Conference (April 2016)

Collingwood, Loren and Antoine Yoshinaka. The new carpetbaggers? Analyzing the effects of migration on Southern politics. The Citadel Conference on Southern Politics, Charleston, SC (Mar 2016)

Alamillo, Rudy and Loren Collingwood. Chameleon Politics: Social Identity and Racial Cross-Over Appeals. American Political Science Association Conference, San Francisco (Sept 2015)

Reny, Tyler, Ali Valenzuela, and Loren Collingwood. "Public Reactions to Anti-Latino Appeals in the Age of Obama: Race, Illegality and Changing Norms." San Francisco, American Political Science Association Conference (Sept 2015)

Alamillo, Rudy and Loren Collingwood. Chameleon Politics: Social Identity and Racial Cross-Over Appeals. Western Political Science Association Conference, Las Vegas (April 2015)

Barreto, Matt and Loren Collingwood. Confirming Electoral Change: The 2012 U.S. Presidential Election OSU Conference (October, 2013). "Earning and Learning the Latino Vote in 2008 and 2012: How the Obama Campaign Tried, Refined, Learned, and Made Big Steps in Cross-Racial Mobilization to Latinos.

Collingwood, Loren and Ashley Jochim. 2012 Midwest Political Science Association Annual Conference (April) Chicago, IL. "Electoral Competition and Latino Representation: The Partisan Politics of Immigration Policy in the 104th Congress."

Collingwood, Loren. 2012 Western Political Science Association Annual Conference (March) Portland, OR. "The Development and Use of Cross-Racial Mobilization as Campaign Strategy in U.S. Elections: The Case of Texas 1948-2010."

Collingwood, Loren. 2012 Institute for Pragmatic Practice Annual Conference (March) Seattle, WA. "Changing Demographics, Rural Electorates, and the Future of American Politics."

Collingwood, Loren. 2012 Politics of Race, Immigration, and Ethnicity Consortium (January) Riverside, CA. "The Development of Cross-Racial Mobilization: The Case of Texas 1948-2010."

Collingwood, Loren. 2011 American Political Science Association Annual Conference (September) Seattle, WA. "The Pursuit of Victory and Incorporation: Elite Strategy, Group Pressure, and Cross Racial Mobilization."

Forman, Adam and Loren Collingwood. 2011 American Political Science Association Annual Conference (September) Seattle, WA. "Measuring Power via Presidential Phone Records." (Poster)

Collingwood, Loren with (Tim Jurka, Wouter Van Atteveldt, Amber Boydstun, and Emiliano Grossman). UseR! 2011 Conference. (August) Coventry, United Kingdom. "RTextTools: A Supervised Learning Package for Text Classification in R."

Jurka, Tim, Loren Collingwood, Wouter Van Atteveldt, Amber Boydstun, and Emiliano Grossman. 2011 Comparative Agendas Project Conference. (June) Catania, Italy. "RTextTools: A Supervised Learning Package for Text Classification in R."

Collingwood, Loren and John Wilkerson. 2011 Journal of Information Technology & Politics Conference. (May) Seattle, WA. "Tradeoffs in Accuracy and Efficiency in Supervised Learning Methods."

Collingwood, Loren. 2011 Politics of Race, Immigration, and Ethnicity Consortium (May) Davis, CA. "The Pursuit of Victory and Incorporation: Elite Strategy, Group Pressure, and Cross Racial Mobilization"

Collingwood, Loren. 2011 Western Political Science Conference (April) San Antonio, TX. "Race-Matching as Targeted Mobilization."

Collingwood, Loren. 2011 Western Political Science Conference (April) San Antonio, TX. "The Pursuit of Victory and Incorporation: Elite Strategy, Group Pressure, and Cross Racial Mobilization"

Collingwood, Loren (with John Wilkerson). Invited Talk: Texas A&M University. (April, 2011) "Tradeoffs in Accuracy and Efficiency in Supervised Learning Methods."

Collingwood, Loren (with John Wilkerson). Invited Talk: Rice University. (April, 2011) "Tradeoffs in Accuracy and Efficiency in Supervised Learning Methods."

Collingwood, Loren. 2011 Midwest Political Science Association Annual Conference (April) Chicago, IL. "Race-Matching as Targeted Mobilization."

Collingwood, Loren and John Wilkerson. 2011 Text as Data Conference. (March) Evanston, IL. "Tradeoffs in Accuracy and Efficiency in Supervised Learning Methods."

Collingwood, Loren and John Wilkerson. 2011 Southern Political Science Conference. (January) New Orleans, LA. "Tradeoffs in Accuracy and Efficiency in Supervised Learning Methods."

Collingwood, Loren (with Ben Gonzalez). 2010 American Political Science Association Annual Conference. (September) Washington, DC. "The Political Process in Florida: Modeling African American Registration Rates Post *Smith v. Allwright*, 1944-1964."

Wilkerson, John, Steve Purpura, and Loren Collingwood. 2010 NSF Funded Tools for Text Workshop. (June) Seattle, WA. "Rtexttools: A Supervised Machine Learning Package in an R-Wrapper."

Collingwood, Loren and Marcela Garcia-Castanon. 2010 Western Political Science Association Annual Conference. (April) San Francisco, CA. "Negativity as a Tool: candidate poll standing and attack politics."

Collingwood, Loren. 2010 Politics of Race, Immigration, and Ethnicity Consortium. (January) Riverside, CA. "White Outreach: A spatial approach to modeling black incorporation in Florida post *Smith v. Allwright*, 1944-1965."

Collingwood, Loren. 2009 Western Political Science Association Annual Conference. (March) Vancouver, BC. "Levels of Education, Political Knowledge and Support for Direct Democracy."

Collingwood, Loren. 2009 Western Political Science Association Annual Conference. (March) Vancouver, BC. "The Negativity Effect: Psychological underpinnings of advertising recall in modern political campaigns."

Collingwood, Loren and Marcela Garcia-Castanon. 2009 Western Political Science Association Annual Conference. (March) Vancouver, BC. "Negativity as a Tool: predicting negative responses and their effectiveness in the 2008 campaign season."

Collingwood, Loren and Marcela Garcia-Castanon. 2009 Western Political Science Association Annual Conference. (March) Vancouver, BC. "Switching codes: analyzing Obama's strategy for addressing Latinos in the 2008 presidential campaign."

Collingwood, Loren, (with Matt Barreto and Sylvia Manzano) 2009 Shambaugh Conference. (March) University of Iowa, IA. "More than one way to shuck a tamale: Latino influence in the 2008 general election."

Collingwood, Loren and Marcela Garcia-Castanon. 2009 Midwest Political Science Association Annual Conference. (April) Chicago, IL. "Switching codes: analyzing Obama's strategy for addressing Latinos in the 2008 presidential campaign."

Collingwood, Loren and Marcela Garcia-Castanon. 2009 Pacific Northwest Political Science Conference. (October) Victoria, BC. "Negativity as a Tool: predicting negative responses and their effectiveness in the 2008 campaign season."

Collingwood, Loren and Francisco Pedraza (with Matt Barreto and Chris Parker). 2009 Center for Statistics and the Social Sciences 10th Anniversary Conference. (May) Seattle, WA. "Race of interviewer effects: perceived versus actual."

Collingwood, Loren (with Matt Barreto, Chris Parker, and Francisco Pedraza). 2009 Pacific Northwest Political Science Conference. (October) Victoria, BC. "Race of interviewer effects: perceived versus actual."

Barreto, Matt, Loren Collingwood and Todd Donovan. 2008 Midwest Political Science Association Annual Conference. (April) Chicago, IL. "Early Presidential Primaries, Viability, and Vote Switching in 2008."

Collingwood, Loren. 2008 Midwest Political Science Association Annual Conference. (April) Chicago, IL. "Levels of Education and Support for Direct Democracy: A Survey Experiment."

Collingwood, Loren. 2008 American Political Science Association Annual Conference. (September) Boston, MA. "Levels of Education and Support for Direct Democracy: A Survey Experiment." (Poster)

Collingwood, Loren. 2008 American Political Science Association Annual Conference. (September) Boston, MA. "Response Effects in Multi-Candidate Primary Vote Questions." (Poster)

Computer Skills

R, Stata, Python, WinBugs/JAGS, L^AT_EX, SPSS, MySQL, Access, ArcGIS, Some C++ when interacting with R.

Reports

Collingwood, Loren. (2008). *The Washington Poll: pre-election analysis*. www.washingtonpoll.org.

Collingwood, Loren. (2008). *Democratic underperformance in the 2004 gubernatorial election: explaining 2004 voting patterns with an eye towards 2008*. www.washingtonpoll.org.

Barreto, Matt, Loren Collingwood, Francisco Pedraza, and Barry Pump. (2009). *Online voter registration in Washington State and Arizona*. Commissioned by Pew Research Center.

Collingwood, Loren, Todd Donovan, and Matt Barreto. (2009). *An assessment of ranked choice voting in Pierce County, WA*.

Collingwood, Loren. (2009). *An assessment of the fiscal impact of ranked choice voting in Pierce County, WA*. Commissioned by the League of Women Voters.

Barreto, Matt, and Loren Collingwood. (2009). *Latino candidates and racial block voting in primary and judicial elections: An analysis of voting in Los Angeles County board districts*. Commissioned by the Los Angeles County Chicano Employees Association.

Barreto, Matt, and Loren Collingwood. (2011). *A Review of Racially Polarized Voting For and Against Latino Candidates in Los Angeles County 1994-2010*. Commissioned by Los Angeles County Supervisor Gloria Molina. August 4.

Collingwood, Loren. (2012). *Recent Political History of Washington State: A Political Map*. Commissioned by the Korean Consulate.

Collingwood, Loren. (2012). *Analysis of Polling on Marijuana Initiatives*. Commissioned by Greenberg Quinlan Rosner.

Collingwood, Loren, Sean Long, and Francisco Pedraza. (2019). *Evaluating AltaMed Voter Mobilization in Southern California, November 2018*. Commissioned by AltaMed.

Relevant Work Experience

Collingwood Research, LLC

Statistical Consulting and Analysis

January 2008 - Present

Conducted over 200 projects involving political research, polling, statistical modeling, redistricting analysis and mapping, data analysis, micro-targeting, and R software development for political and non-profit clients. Clients include: Greenberg Quinlan Rosner, Latino Decisions, Pacific Market Research, Beck Research, Squier Knapp Dunn Communications, Anzalone–Lizst Research, League of Women Voters, Shelia Smoot for Congress, pollster.com, Comparative Agendas Project, Amplified Strategies, Gerstein Bocian & Agne, Strategies 360, the Korean Consulate, the California Redistricting Commission, Monterey County Redistricting Commission, ClearPath Strategies, Los Angeles County Council, Demchak & Baller Legal, Arnold & Porter LLP, JPM Strategic Solutions, National Democratic Institute (NDI) – on site in Iraq, Latham & Watkins, New York ACLU, United States Department of Justice, Inland Empire Funder’s Alliance (redistricting work), Perkins & Coie, Elias Law Group; Santa Clara County (RPV Analysis); Native American Rights Fund (NARF); West Contra Costa County School District

Expert Witness Work

Expert Witness: *LULAC of Iowa vs. Pate*, 2021Expert Witness: *United States Department of Justice vs. City of Hesperia*, 2021Expert Witness: *NAACP vs. East Ramapo Central School District*, New York, 2018-2019

Riverside County, Corona and Eastvale, 2015

Los Angeles County Redistricting Commission, 2011

Racially Polarized Voting analysis of Latino and Asian candidates in San Mateo County and alternative map creation, 2010-2011

State of California, Citizens Redistricting Commission, including Blythe, CA, in Riverside County, 2011

Monterey County, CA Redistricting, alternative map creation, 2011

Greenberg Quinlan Rosner

Assistant Analyst, Anna Greenberg

June 2005 - May 2007

Assisted in the development of questionnaires, focus group guidelines, memos, and survey reports for political, non-profit, and corporate clients. Moderated in-depth interviews and focus groups.

Greenberg Quinlan Rosner

Field Associate

December 2003 - June 2005

Managed qualitative and quantitative data collection process in the U.S. and internationally. Provided methodological advice, including sample stratification, sampling Latino populations, and modal sampling strategies.

Congressman Adam Schiff

Database Manager

March 2003 - June 2003

Managed constituent mail and survey databases; updated and maintained Member's Congressional voting record.

Strategic Consulting Group

Field Organizer, Carol Roberts for Congress

July 2002 - November 2002

Recruited and coordinated over 100 volunteers for mailings, canvassing, phone banking, and GOTV operations. Developed internship program and managed 15 interns from local colleges and high schools.

Institute for Policy Studies

Intern, John Cavanagh

May 2001 - August 2001

Provided research assistance for projects advocating reform of the WTO, World Bank, and IMF. Worked on reports and op-ed pieces on global economic issues advocating fair trade.

Last updated: November 8, 2021

Section 2 of the Voting Rights Act Totality of the Circumstances Analysis

by

David T. Canon

University of Wisconsin, Madison

Supreme Court of Wisconsin

Johnson, et al., v. WEC, et al., No. 2021AP1450-OA

December 15, 2021

Executive Summary

I have been asked to examine the totality of the circumstances analysis applicable under Section 2 of the Voting Rights Act to Wisconsin, and particularly the Milwaukee area. My analysis considers whether, under the totality of the circumstances, Black voters living in the Milwaukee area have less opportunity than other members of the electorate to participate in the political process and elect candidates of their choice. This analysis is guided by the non-exhaustive Senate Factors outlined in a U.S. Senate Report by the Senate Committee on the Judiciary that accompanied the 1982 amendments of the Voting Rights Act. These factors include:

1. the history of official voting-related discrimination in the state or political subdivision;
2. the extent to which voting in the elections of the state or political subdivision is racially polarized;
3. the extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority-vote requirements, and prohibitions against bullet voting;
4. the exclusion of members of the minority group from candidate slating processes;
5. the extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process;
6. the use of overt or subtle racial appeals in political campaigns; and
7. the extent to which members of the minority group have been elected to public office in the jurisdiction.

No certain number of the factors, nor any one factor in particular, must be shown to satisfy this totality of the circumstances analysis.¹

In this report, I review Senate Factors 1, 2, 3, 5, 6, and 7. Plaintiffs' expert Professor Loren

¹ S. Rep. No. 97-417, at 29 (1982).

Collingwood has conducted a separate analysis of racially polarized voting and prepared a report presenting his opinions that racially polarized voting is present in Milwaukee-area elections. Thus, for my analysis of Senate Factor 2, I rely on and adopt Professor Loren Collingwood's opinions. I did not review Senate Factor 4, as it is not applicable here.

My analysis shows that each of Senate Factors 1, 2, 3, 5, 6, and 7 are clearly present in the Milwaukee area. I provide a short summary of my opinions for each Factor here, with more detailed explanations below in my report:

- **Senate Factor 1:** Wisconsin has a history of official voting-related discrimination, including in recent years. For example, in 2012 a federal court held that the legislature diluted the voting strength of minority voters in the Milwaukee area. In addition, recent voter list maintenance practices, which were the subject of litigation, had a disparate impact on Black voters.
- **Senate Factor 2:** The analysis provided by Professor Collingwood analyzes a number of probative election contests and finds that voting in the Milwaukee area is polarized along racial lines. In his analysis, Professor Collingwood found that Black voters are politically cohesive, and that white bloc voting usually defeats Black voters' candidates of choice.
- **Senate Factor 3:** Several voting practices that enhance the opportunity for discrimination against Black voters in the Milwaukee area have been used in recent elections, including disproportionately fewer polling places located in predominantly Black areas, resulting in depressed Black voter turnout and longer waiting times to vote. In addition, Wisconsin's voter ID law, one of the strictest in the nation, reduced voter turnout in general and disparately deterred or prevented more Black voters from voting than white voters.
- **Senate Factor 5:** Black Wisconsinites disproportionately bear the effects of discrimination

in employment, education, health, and criminal justice and incarceration, which hinders their ability to effectively participate in the political process. Black Wisconsinites have suffered historic discrimination in housing in Milwaukee, including redlining and racial covenants, which have helped produced outcomes that rank Milwaukee at the bottom or toward to bottom of all major U.S. cities concerning racial segregation in housing. Evictions and homelessness also have a disparate impact on Black residents of Milwaukee. Milwaukee also has some of the largest racial disparities in the nation when it comes to education, with the most segregated schools in the nation, and extremely high disparities in test scores, graduation rates, school suspensions, and access to higher education. Wisconsin also ranks poorly on racial disparities in employment, income, and poverty rates, has the highest racial disparities in incarceration rates in the nation, and large racial disparities in life expectancy, infant mortality, and COVID hospitalization rates. The accumulated effect of these factors is to make it difficult for Black voters to have an equal opportunity to participate in the political process and to create some of the largest racial disparities in voter turnout in the nation: in 2018, Wisconsin had the third largest gap between Black and white turnout; in 2020, that gap was the second largest in the nation.

- **Senate Factor 6:** Political campaigns statewide and in the Milwaukee area are often marked by both subtle and overt racial appeals, and at all levels of public office. Examples include an ad run against a Black incumbent in a state supreme court race, a radio ad run against a Black U.S. congressional incumbent, ads and commentary in the 2020 Presidential and 2018 gubernatorial elections, the 2020 state assembly district 24 race, and the 2021 State Superintendent of Public Instruction race.
- **Senate Factor 7:** Most elected positions in the Milwaukee area, particularly those outside of

Black majority-districts, are not held by Black officeholders, despite the large Black population in the area. For example, no Black candidate has *ever* been elected as Mayor of Milwaukee, and the first Black Milwaukee County Executive was only elected in 2020. In addition, only two of eight current county government officials elected on a countywide basis are Black.

In light of this evidence, and my analysis provided below, I conclude that the totality of the circumstances demonstrates that Black voters do not have an equal opportunity to participate in the political process and to elect representatives of their choice in Milwaukee area elections (52 U.S.C. § 10301(b), see U.S. Department of Justice, 2021).

Background and Qualifications

I am a professor of political science at the University of Wisconsin-Madison. I received my Ph.D. in political science in 1987 and M.A. in public affairs in 1984 from the University of Minnesota. I received a B.A. from Indiana University in Economics and Political Science in 1981. I was a Research Fellow at the Brookings Institution in Washington, D.C., and taught at Duke University for five years before accepting my current position in the fall of 1991. I teach courses in American politics, the presidency, Congress, and race and politics, and I have also taught classes on congressional elections, political parties, introductory statistics, and the scope and method of political science.

My research interests are in race and representation, political careers, congressional reform, election laws and election administration, partisan realignments, and the historical analysis of Congress (especially congressional committees). My work on race and representation in Congress was funded by grants from the National Science Foundation and the Graduate School at the University of Wisconsin. The findings of the study were published by the University of Chicago Press as a book *titled Race, Redistricting, and Representation: The Unintended Consequences of*

Black-Majority Districts, which won the American Political Science Association's Richard F. Fenno award for the best book published on legislative politics in 1999. I am author of 42 scholarly articles and chapters, three scholarly books, seven editions of an introductory American government textbook, seventeen edited books, and 20 other publications (see the attached vita), many of which relate to redistricting and race and representation. I have been an editor for the Election Law Journal since 2018, and a reviewer for a number of journals. I frequently appear on local TV and radio as an expert on national politics.

I have served as an expert witness in state and federal court for eight different cases concerning redistricting and elections. I have not testified as an expert at trial or by deposition in the past four years. I am being compensated for my work in this matter on an hourly basis, and my hourly rate is \$400.

Analysis

I. Totality of the Circumstances Analysis

A. Senate Factor 1

Senate Factor 1 examines the history of official voting-related discrimination in the state or political subdivision. Direct evidence of a racially discriminatory election process exists in Wisconsin and shows that racial minorities face obstacles to equal political participation. For example, in 2012 a three-judge panel for the Eastern District of Wisconsin held that the state Assembly plan established in Act 43 violated Section 2 of the Voting Rights Act because of its dilution of Latino voters in Milwaukee County (*Baldus v. Members of the Government Accountability Board*, 2012). This recent example of the legislature diluting the vote of minority voters in the Milwaukee area is particularly relevant, given that the legislature's current and proposed plans (adopted by the legislature in SB621) continue to dilute the voting strength of voters in the area, particularly Black voters.

Voter list maintenance practices also have a racially disparate effect on Black voters in

Milwaukee. Because voters who move rarely share this information with election administrators, election officials must try to match voter registration records with other administrative records, such as a driver's license application. To facilitate this process, since 2015 Wisconsin (and 30 other states, plus Washington, D.C.) has participated in data sharing with the nonprofit corporation the Electronic Registration Information Center (ERIC).² ERIC ingests voter registration files and government transaction data that the member states provide, namely from Departments of Motor Vehicles, and uses its matching methodology to identify registered voters who appear to have moved within a state or to a different state, or to have died while out of state. ERIC then aggregates the information and compiles it into an electronic record that it provides to the Wisconsin Elections Commission ("WEC"). WEC then uses this list of voters who appear to have changed their residential address from the address at which they are registered to vote, to mail a letter to those voters suggesting they either confirm that their address is current, or if they have moved to a different municipality in Wisconsin, to register to vote at their new address. If a voter fails to return the postcard confirming they still live at the address, they can be removed from the registered voter list, or put in the "inactive" file.³

In October 2017, the Wisconsin Elections Commission (WEC) received from ERIC names of 341,855 registered voters who had potentially moved and no longer resided at the address where they were registered to vote. Of those, only 6,153 responded to the postcard; the remaining 335,702 registrants were removed from the voter rolls. Subsequently, the WEC restored 12,133 registrants to the rolls because of concerns about the data matches; in other words, some of the information supplied by

² As of October, 2021, the participating states are Alabama, Alaska, Arizona, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Nevada, New Mexico, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin. The District of Columbia is also a member (31 states plus D.C.). Electronic Registration Information Center, <https://ericstates.org/>.

³ See Huber, 2021, for a more detailed description of this process.

ERIC gave false positives, reporting that voters had moved from the residence where they were registered to vote to a new residence, when, in fact, they had not moved. WEC also created a “movers poll book” for the 2018 elections for those that had been removed from regular voter rolls (Kaul 2021; Huber 2021). A similar process unfolded for the 2020 elections, with WEC mailing letters in October 2019 to 232,579 registered voters that ERIC reported had moved, asking them to confirm if they still resided at their registration address (Legislative Audit Bureau, 2021, 33). Given the problems in the previous election cycle in falsely identifying people who had moved, this letter did not mention removing voters from the rolls. The Wisconsin Institute for Law & Liberty sued, saying that all those who did not respond to the letter should be removed from the rolls within 30 days. The trial court agreed, but the appeals court reversed and that decision was largely upheld by the Wisconsin State Supreme Court in a 5-2 decision (*Zignego v. Wisconsin Elections Commission*, 2021 WI 32; see Kaul, 2021, for a more detailed discussion). Vindicating the appellate courts’ decisions not to affirm the trial court’s ruling, data from WEC demonstrates that 16,698 voters, or about 7.2% of the 230,000, would have been removed from the voter rolls for the 2020 election when they had not, in fact, moved (Kaul 2021, 3).

A 2021 report by the U.S. House Administration Committee’s Subcommittee on Elections investigated these events and found that voter mailers were disproportionately sent to areas in Wisconsin with large Black voting populations. “For example, mailers initiating a Wisconsin voter purge effort were disproportionately sent to counties with disproportionately large Black and Latino populations—over one-third of mailers were sent to areas that are home to the largest Black voting populations, while the Black voting population comprises only 5.7 percent of the total electorate” (U.S. House of Representatives, Subcommittee on Elections Report, 2021, 32-33).

In 2018, the WEC created a separate movers poll book for the 2018 elections, allowing for a

unique opportunity to examine the errors in the movers data. As Greg Huber and coauthors explain, “Registrants listed in the movers poll books who showed up in person to vote at their address of registration would sign their name in these poll books, which certified that they still resided at their registration address and wanted to remain registered at it.” (Huber et al. 2021, 3). They examined 60,145 of the 335,702 people in the movers poll book and found that 1,695 (2.8%) voted at their same address (by definition, these cases reveal errors in the ERIC database which listed these voters as having moved, when in fact they had not). After applying sampling weights, they determined that 9,015 voters in the mover poll book (about 3.5%) voted at their same address (Huber, et al. 2021, 5).⁴

The authors found significant racial disparities in those removed from the voter rolls, even after controlling for alternative explanations (such as living in apartment complexes and in larger households). They found that 2.7% of whites in the movers’ poll books cast a ballot at their same address of registration flagged by ERIC, while 6.5% of minorities did so.⁵ Focusing on those who voted in at least one of the three 2018 elections shows even greater disparities, including that “... more than 21% and 17% of black and Hispanic mover registrants, respectively, who voted using their original registration number did so at the address flagged by ERIC, as opposed to about 10% of white mover registrants” (Huber et al. 2021, 5).

B. Senate Factor 2

⁴ The authors note the 3.5% “only represents a lower bound on the false-mover error rate. First, the number does not include any voters who had their registration reactivated by the WEC before the movers poll books were created, including at least 12,133 removed registrations that the WEC proactively reactivated between January and March. Second, we show in the Robustness section that some registrants flagged as movers by ERIC subsequently cast ballots using a new registration number but at the same address. Last, some registrants in the movers poll book who did not vote may also not have moved, but we cannot observe this because we rely on the act of voting to learn a registrant’s most recent address” (Huber et al., 2021, 5).

⁵ Race was estimated in the following way. “Because the Wisconsin voter file does not include information on a registrant’s race or ethnicity, we imputed this information using a method that combines information on a registrant’s surname and the racial composition of a registrant’s census block group (22). We describe in the Supplementary Materials how we used this method to calculate predicted race and ethnicity scores for each registrant in the movers poll book and a random sample of the Wisconsin voter file” (Huber et al., 2021, 8). See <http://advances.sciencemag.org/cgi/content/full/7/8/eabe4498/DC1>.

As I note above, Professor Loren Collingwood's report demonstrates significant levels of racially polarized voting in Milwaukee County elections, and those conclusions need not be repeated here. I rely on Professor Collingwood's opinions that racially polarized voting is present in the Milwaukee area, and that Senate Factor 2 is therefore satisfied, for the purposes of my analysis and opinions.

C. Senate Factor 3

Senate Factor 3 examines the extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group. There are a number of examples of voting practices in the Milwaukee area that enhance the opportunity for discrimination against Black voters, in addition to those outlined above in the discussion of Senate Factor 1.

The April 2020 primary election is one example of Black voters not having an equal opportunity to participate in elections. Held at the height of the COVID-19 pandemic, the state was short about 7,000 poll workers on March 31 (Marley and Beck, 2020), which led to polling place consolidation around the state. The City of Milwaukee, which has a large Black voting population, was by far impacted most significantly in the state, with only *five* in-person polling sites (compared to 182 sites in November, 2016), or one polling place for every 103,000 registered voters. In contrast, the adjacent, predominantly white counties of Washington, Ozaukee, and Waukesha (WOW counties) each had one polling place for every 7,000 or fewer registered voters (Morris, 2021, 5), a ratio of nearly 15:1. News reports showed voters in the City of Milwaukee—and particularly Black voters—waiting in lines for hours (Curiel and Clark, 2021). Overall, only 16.1% of registered voters in the City of Milwaukee voted in the April 2020 primary, compared to 42.2% in the surrounding WOW counties. Morris and Miller, 2021, 2).

Another sophisticated study of voter turnout in the Wisconsin 2020 April primary employed a regression-discontinuity-in-space design that uses the municipal boundary line to compare turnout for

voters on either side of the boundary. Voters in Milwaukee were matched with two voters in the WOW counties on gender, household income, college education, race or ethnicity, partisan affiliation, and distance to the polls. This study found that poll closures in the April primaries depressed turnout in the City of Milwaukee by 8.6 percentage points (a one-third drop), with a disproportionate effect on Black voters who had a longer distance to travel to their polling places and who were required to learn the location of their new polling place. In the April 2020 election, turnout for Black voters who lived in Milwaukee was 13.2% lower than white voter turnout in the WOW counties. The depressive effects were even larger for voters who lived farther from the few polling places that were open (Morris and Miller, 2021, 10).

Another analysis also examined the April primaries in Wisconsin, explaining patterns of poll closures in the entire state and voter turnout in Dane and Milwaukee counties. Curiel and Clark (2021) use a spatial auto-regressive probit model to predict the probability of poll closures and logit models with random effects by ward for voter turnout. Only 30 of Wisconsin's 72 counties closed any polls and closures were concentrated in urban areas. They found that the percentage of non-white voters and population density are both strong predictors of poll closures. The predicted probability of a poll being closed in an all-white ward was 24% and in an all-Black ward it was more than three times as likely (77%). This statewide pattern was also evident within Milwaukee County. Figure 1 below confirms that more polls were closed in the areas of Milwaukee County with the greatest percentage of non-white voters (Curiel and Clark, 2021, Figure 1). In the voter turnout models, Curiel and Clark found that white voters were more likely to vote by mail, than early in person or on election day. Thus, Black voters bore the brunt of the poll closures. Also, as in the previous study, distance from the new polling place was related to lower turnout which had a racially disparate impact given that Black voters lived greater distances from the consolidate polls (Curiel and Clark, 2021, 11-12).

Figure 1 – Polling Places in Milwaukee County in the 2020 April Primary Elections

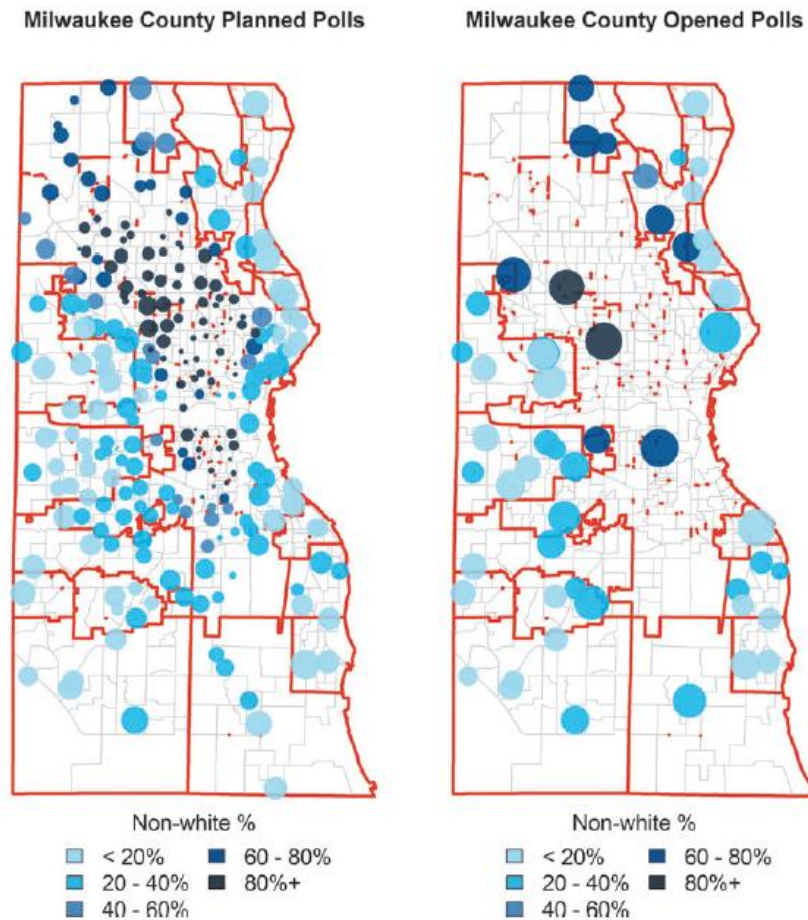


FIG. 1. Poll closures in Milwaukee County by size and race.

Source: Curiel and Clark, 2021.

In addition, in 2011, Wisconsin enacted one of the most restrictive voter ID laws in the nation. According to the National Conference of State Legislatures, only six other states have a photo ID law as strict as Wisconsin's.⁶ Research has demonstrated that racial minorities are more likely to be prevented from voting because of these laws than whites (Hajnal, Lajevardi, and Nielson, 2017). A sophisticated statistical analysis of the impact of the Wisconsin voter ID law in Milwaukee and Dane counties showed that thousands of voters were deterred or prevented from voting by the ID law:

Using flat priors, we estimate a mean of 13,900 nonvoters deterred from voting (to the nearest hundred, 95 percent interval from 9,000 to 19,000) and a mean of 7,900

⁶ National Conference of State Legislatures, <https://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>.

nonvoters prevented from voting (interval from 4,100 to 11,700). Estimates from informed priors reflect regularization of the affected rate and are thus slightly lower than the estimates from flat priors: 12,300 nonvoters deterred from voting (95 percent interval from 8,100 to 17,000) and a mean of 7,000 nonvoters prevented from voting (interval from 3,700 to 10,500) (DeCrecenzo and Mayer, 2019, 351-52).

The sample sizes of racial subgroups were not large enough to make conclusive statements about racial disparities in the effect of the Wisconsin voter ID law, but the point estimates of racial disparities were in the expected direction with Black residents reporting that they were more likely to be prevented from voting than whites (DeCrecenzo and Mayer, 2019, 352-53).

D. Senate Factor 5

Senate Factor 5 requires an analysis of “the extent to which the minority group bears the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process.” Senate Report No. 97-417, 97th Cong., 2d Sess. (1982), pages 28-29. Black voters in Milwaukee disproportionately bear the effects of discrimination in housing, criminal justice and incarceration, education, employment, and health, which undermines their ability to participate effectively in the political process. For example, a 2020 Zippia⁷ study ranked Wisconsin as the worst state in the nation for racial disparities, reporting a 48% home ownership gap, a 37% income gap, and a 16.7% education gap between Black and white residents of Wisconsin (Morris, 2020). Another broad-ranging report in 2019 by several Midwestern universities found that Wisconsin had the fourth-worst disparity in the nation in the rate of infant mortality for Black and white populations, the fourth-worst disparity for child poverty, the worst disparity for 8th grade math scores, the second-worst disparity for out-of-school suspensions, the worst disparity for bachelor’s degrees, the second-worst disparity for incarceration, the worst disparity for unemployment, the worst disparity for employment,⁸

⁷ Zippia is company that provides objective information, based on government data, to help people in their job searches (<https://www.zippia.com/about-us/>).

⁸ Unemployment refers to those who are looking for work who do not have a job, while employment is the total percentage of

the third-worst disparity for income, and the eighth-worst disparity for home ownership (Gordon, 2019; Center on Wisconsin Strategy, 2019).⁹ I will explore these and other findings in my analysis of Senate Factor 5, separated out by topic, below.

i. Housing

The history of racial discrimination in housing in the Milwaukee area dates back at least to the creation of the Federal Housing Administration (FHA) in 1934. In an effort to reduce the number of foreclosures, the FHA worked with the Home Owners' Loan Corporation (HOLC) to refinance mortgages for homeowners struggling to keep up. To aid in this process, the HOLC created "residential security" maps that identified specific neighborhoods as high or low risk for investment, color-coded blue ("best"), green ("still desirable"), yellow ("definitely declining"), and red ("hazardous"). These maps were used by banks and lending institutions to decide whether to provide mortgages to homebuyers. This system made it almost impossible to get mortgages in the "red" neighborhoods, and thus is referred to as "redlining" (Foltman and Jones, 2019).

The color-coding of neighborhoods in the Milwaukee area in the 1930s was explicitly linked to race by embracing neighborhoods that kept out racial minorities through restrictive racial covenants and deeming minority areas as hazardous. For example, the neighborhood just north of downtown Milwaukee was coded red with the following description, "This is the Negro and slum area of Milwaukee. It is old and very ragged. Besides the colored people, a large number of lower type Jews are moving into the section" (Foltman and Jones, 2019). On the other hand, the Washington Highlands subdivision in Wauwatosa was coded blue, while favorably noting it was a "highly restricted and exclusive area . . . which permits a wide latitude of discrimination in accepting residents into the

people who are employed (also referred to as the labor force participation rate).

⁹ In fact, one recent study found that the Black infant mortality rate in Milwaukee is worse than the mortality rates in Libya, Argentina, and the Ukraine (Stephenson, 2014).

neighborhood" (Foltman and Jones, 2019). Indeed, Washington Highlands was the first Milwaukee suburb to make a restrictive racial covenant in 1919. The covenant stated:

At no time shall the land included in Washington Highlands or any part thereof, or any building thereon be purchased, owned, leased or occupied by any person other than of white race. This prohibition is not intended to include domestic servants while employed by the owner or occupied by and (sic) land included in the tract (Quinn, 1979).

By the 1940s, at least 16 of the 18 Milwaukee County suburbs were using racially restrictive covenants to exclude Black families from residential areas (Quinn, 1979). These restrictive covenants were made illegal by the 1968 Fair Housing Act, but their effect is still evident today in segregated housing patterns in Milwaukee, which remains the most racially segregated metropolitan area in the nation at 79.8% (see Figure 2; Frey 2018).¹⁰ The impact of redlining is also reflected in homeownership statistics that reveal that Milwaukee has the seventh-lowest rate of Black homeownership in the nation at 26.7%, compared to 70.1% for whites in the Milwaukee metro area (Suh 2020). The national figures for home ownership are 73.3% for whites and 42.1% for Blacks.¹¹

¹⁰ Segregation is typically measured using a Black-white dissimilarity index; 100 indicates complete segregation while 0 is complete integration. Full integration means every neighborhood had the same racial breakdown as the metro area as a whole, not a 50-50 mix. For example, if a city is 40% White, 40% Black, and 20% Latino, then complete integration means each neighborhood would have a 40/40/20 racial composition.

¹¹ U.S. Census, 2020, <https://www.census.gov/housing/hvs/data/index.html>

Figure 2 – Metro areas with the highest Black-white segregation.

Metro areas with highest black-white segregation			
2000 and 2013-2017*			
2000		2013-2017	
	Segregation Index**		Segregation Index**
1 Detroit	85.7	1 Milwaukee	79.8
2 Milwaukee	83.3	2 New York	76.1
3 Chicago	81.2	3 Chicago	75.3
4 New York	79.7	4 Detroit	73.7
5 Cleveland	78.2	5 Cleveland	72.9
6 Buffalo	78.0	6 Buffalo	72.2
7 St. Louis	74.0	7 St. Louis	71.7
8 Cincinnati	73.6	8 Cincinnati	67.3
9 Indianapolis	71.7	9 Philadelphia	67.0
10 Philadelphia	71.0	10 Los Angeles	66.8
11 Kansas City	70.8	11 Pittsburgh	66.1
12 Los Angeles	70.0	12 Hartford	65.7

* Among 51 metro areas with populations exceeding one million and with black populations exceeding 3 percent of metro population (metro area names are abbreviated).

** Segregation Index is a dissimilarity index, which represents the percent of blacks that would need to relocate to be fully integrated with whites across metropolitan neighborhoods. A value of 100 indicates complete segregation; a value of 0 equals complete integration (See values for all metro areas and further details in Table A).

Source: William H Frey analysis of 2000 Census, and 2013-2017 multiyear American Community Survey (released December 6, 2018)

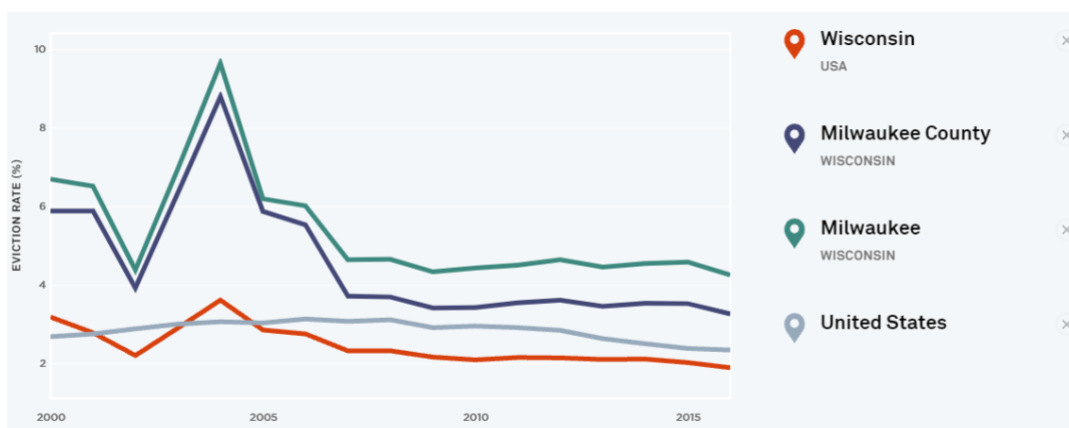
B Metropolitan Policy Program
at BROOKINGS

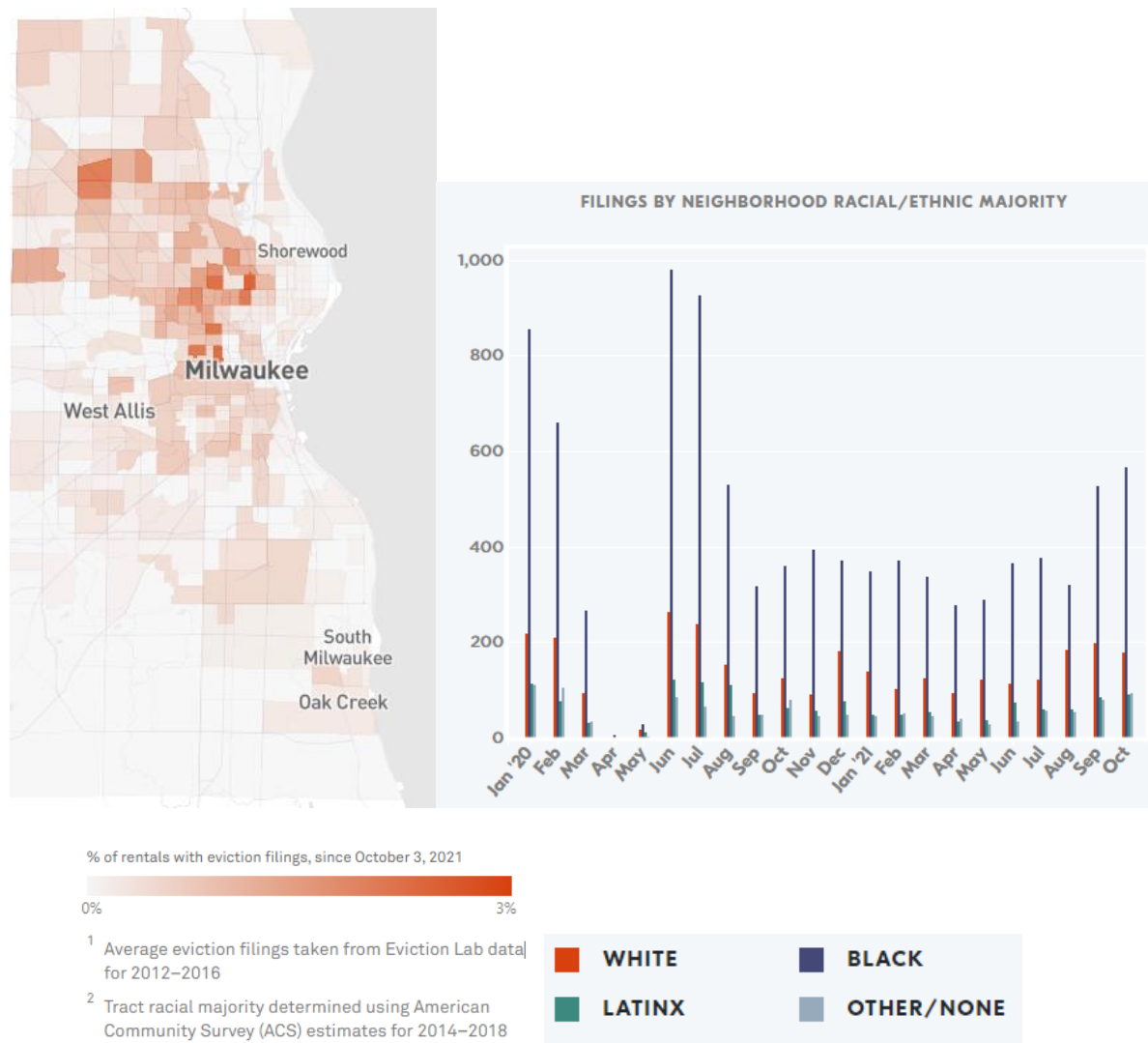
Against this backdrop, the United States Department of Housing and Urban Development (HUD) in 2015 entered into a settlement agreement with Associated Bank regarding a disparate treatment redlining case, which applies to majority-minority census tracts in Milwaukee, Wisconsin. HUD accused Associated Bank of disproportionately denying loans to Black applicants from 2008–2010 (United States Department of Housing and Urban Development, 2015). The agreement was the largest HUD-initiated redlining settlement in history (Gores, 2015).

Levels of eviction from housing also reveal large racial disparities. Between 2000 and 2016, the city of Milwaukee had between 5,687 and 6,102 court-ordered evictions per year, averaging just under

6,000 evictions a year (this understates the number of actual evictions because there are many others that are “informal”). Milwaukee County (not including the city) had an additional 600-700 evictions a year (Wisconsin Policy Forum, 2018, p.5). The eviction rate in the city of Milwaukee was between 4% and 5% from 2006-2016 after peaking at more than twice that rate in 2004. Eviction filings fell in the early months of the COVID-19 pandemic, given moratoriums against evictions, but now are climbing back to average levels. Evictions are concentrated in north Milwaukee, in predominantly Black neighborhoods (see the map in Figure 3). As shown in Figure 3 below, Black residents had about three times as many eviction filings from January 2020–October 2021 as whites, despite the fact that whites comprise 36.1% of Milwaukee’s population while Blacks are 38.6%.

Figure 3 – Eviction Rates in Milwaukee





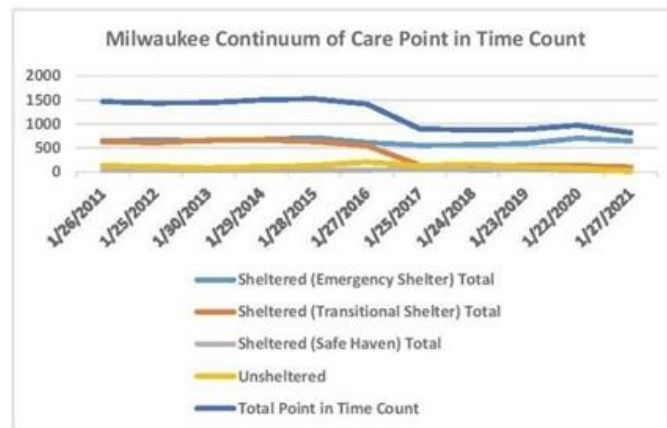
Source: The Eviction Lab, Princeton University, <https://evictionlab.org/eviction-tracking/milwaukee-wi/>, based on the U.S. Census American Community Survey. The map shows the number of eviction filings from October 3–31, 2021, divided by the number of renter households in the area. The bar chart shows the number of eviction filings from January 2020–October 2021 in Milwaukee county, by race.

Evictions are related to homelessness. As the eviction rate fell during the COVID-19 pandemic, the homelessness rate in Milwaukee also fell, but there were still 817 homeless people in Milwaukee at the “point in time count” in January, 2021 (Barrett, 2021) of which, 58% were Black (475 of 817), despite making up just 38.7% of the city’s total population (Baker, 2021). Furthermore, the annual snapshot of homelessness likely undercounts the actual number of homeless persons by some unknown, but large, margin. For example, in 2017, the government said the total homeless population in the U.S.

was 550,996. But that same year, school districts across the country reported 1.35 million homeless students, according to the National Center for Education Statistics (which would not include parents or other adults in the homeless family) (Editorial Board, 2021).

Figure 4 – Homelessness in Milwaukee

Date of Count	Sheltered (Emergency Shelter) Total	Sheltered (Transitional Shelter) Total	Sheltered (Safe Haven) Total	Unsheltered	Total Point in Time Count
1/26/2011	655	635	41	135	1466
1/25/2012	667	610	41	114	1432
1/30/2013	651	661	41	89	1442
1/29/2014	677	668	38	115	1499
1/28/2015	717	632	40	132	1521
1/27/2016	616	549	43	207	1415
1/25/2017	557	145	63	135	900
1/24/2018	565	99	46	161	871
1/23/2019	589	135	47	114	885
1/22/2020	704	134	45	87	970
1/27/2021	647	107	46	17	817



Point In Time Summary for WI-501 - Milwaukee City & County CoC

	Sheltered			Unsheltered	Total
	Emergency	Transitional	Safe Haven		
White	234	48	11	9	302
Black or African-American	382	58	31	4	475
Asian	4	0	1	1	6
American Indian or Alaska Native	5	1	1	1	8
Native Hawaiian or Other Pacific Islander	4	0	0	0	4
Multiple Races	18	0	2	2	22

Source: <https://city.milwaukee.gov/mayorbarrett/News/2021-News/Milwaukee-Continuum-of-Cares-Point-in-Time-Count-Sees-Record-Low>; https://drive.google.com/file/d/1VXMHk_W2egBAIYQVEJr447sVVdr2Mzyt/view, p.8.

There is a clear connection between segregation, homelessness, evictions, home ownership, and political participation. Studies show that a few as 10% of homeless people vote, compared to more than 60% of the voting age population in recent presidential elections (Vertenten, 2020). In addition, the voter ID law in Wisconsin makes no exceptions for homeless people. According to the Wisconsin Government Accountability Board (which was the election agency's name at the time the voter ID law went into effect), "There is no exception for homeless voters in the statute – they must also provide photo ID" (WEC, 2020). Homeless people may provide the address of a shelter or any physical location that could be identified on a map (such as a park) for their voting address, but they would have to provide "an affidavit on public or private social service agency letterhead identifying a homeless voter and describing the individual's residence for voting purposes" to establish that residence (WEC, 2020).

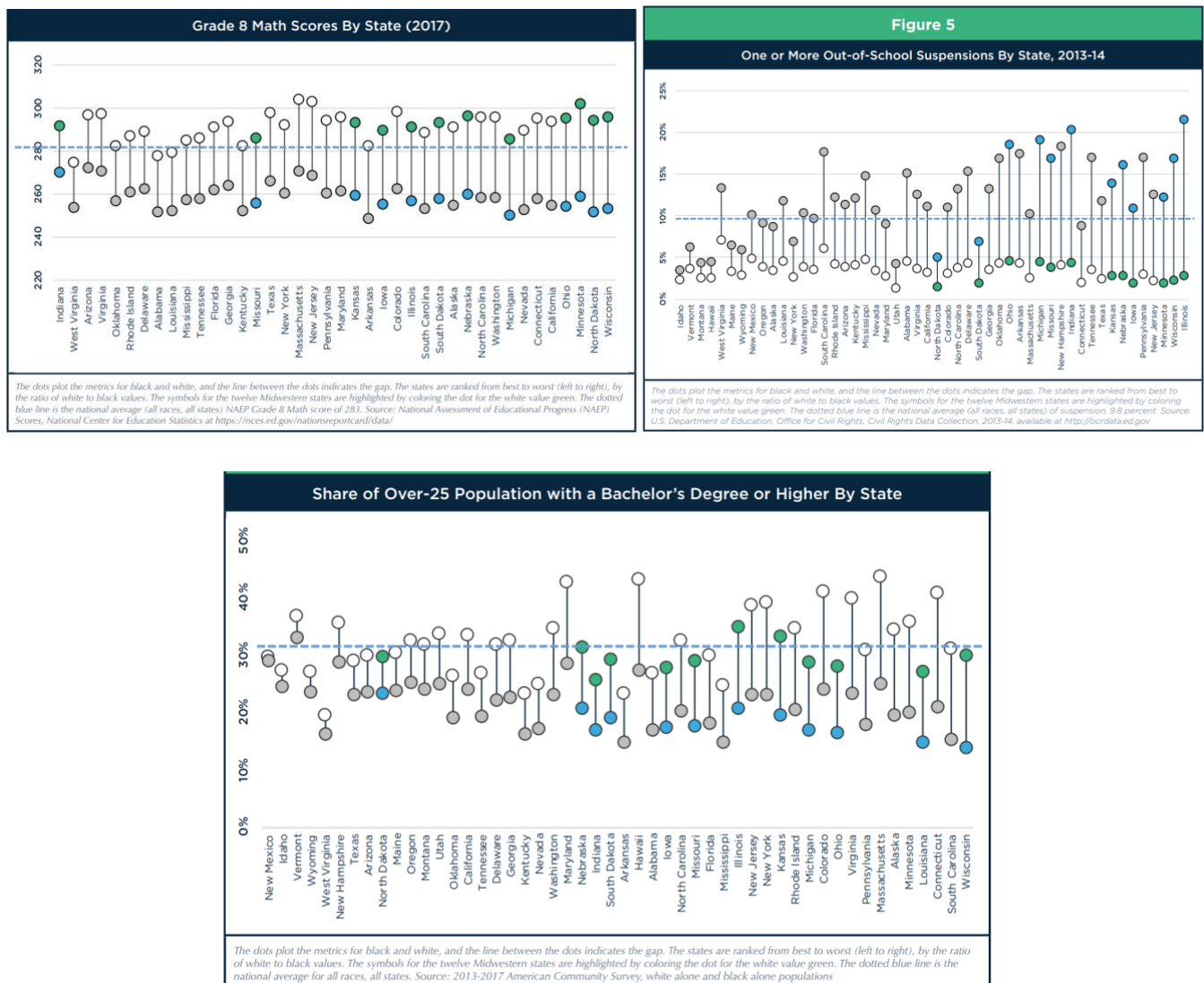
ii. Education

Racial disparities in education in Wisconsin are also among the highest in the nation. Data from the National Center for Education Statistics for the 2018-19 school year show that Wisconsin had a 22.4% gap between high school graduation rates for Black students (71.4%) and white students (93.8%)—the largest gap of any state in the nation, and second only to the District of Columbia. The national gap was only 9.8% and Wisconsin was the only state in the nation with a gap bigger than 20% (Minnesota was second worst at 18.8%).¹² A 2020 study by the financial firm WalletHub ranked Wisconsin last in the nation for educational equality, citing the graduation rate gap (50th in the nation), the gap in the percentage of adults with at least a high school degree (47th), the standardized test score gap (46th), the college entrance exam ACT score gap (48th), and the college degree gap between white and minority populations (47th) (McCann, 2020). The "Race in the Heartland" study cited above placed

¹²National Center for Education Statistics, https://nces.ed.gov/ccd/tables/ACGR_RE_and_characteristics_2018-19.asp.

Wisconsin at the bottom or close to the bottom on nearly every measure of the racial gap between white and Black students: last in 8th-grade math scores, next to last in out-of-school suspensions, and last in adults with a B.A. degree or higher (Gordon, 2019).

Figure 5 – Racial Disparities in Education

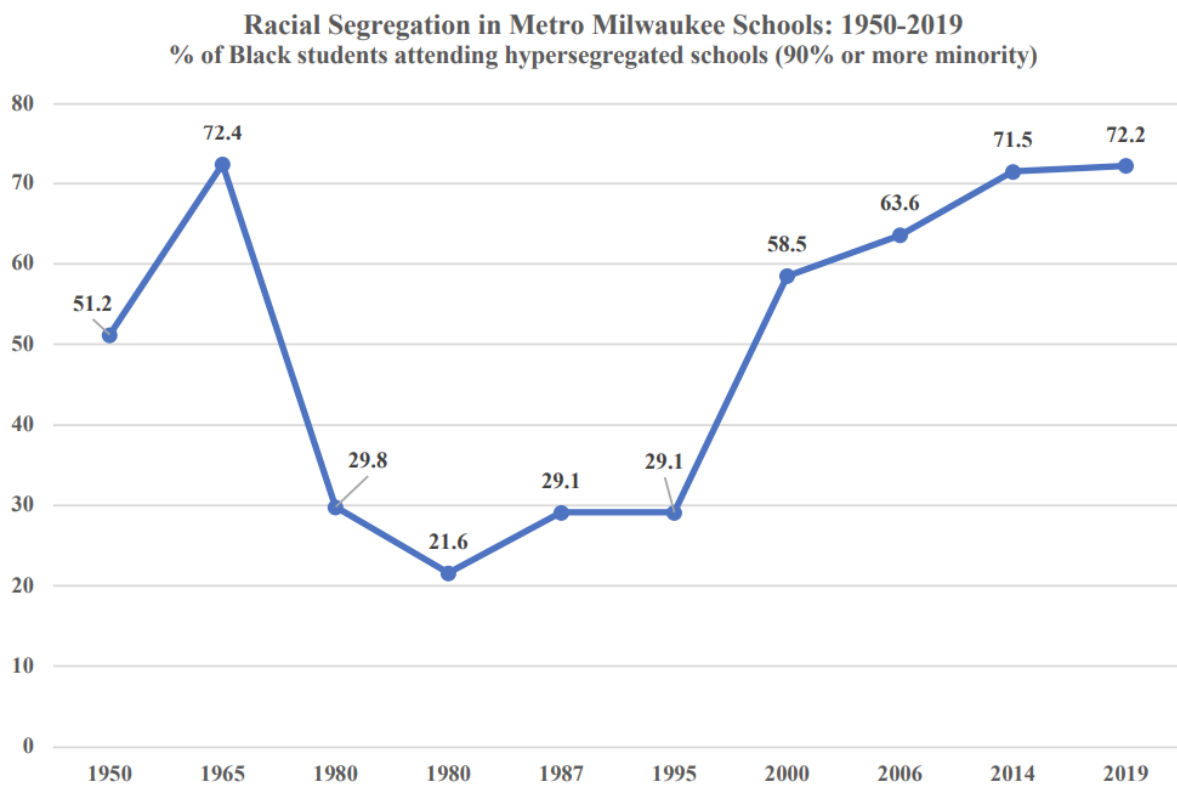


Source: “Race in the Heartland,” Fig. 4-6, pp. 6-7, <https://files.epi.org/uploads/Race-in-the-Midwest-FINAL-Interactive-1.pdf>

In addition, according to a 2015 study, “[A]bout 70% of Milwaukee’s black children attend hypersegregated schools (where students of color make up 90% or more of the enrollment), compared to 56% of African American students in Birmingham, Alabama.” (Sanchez, 2015). A more recent study

found that percentage increased to 72.2% in 2019, the highest rate in the country, and significantly higher than the percentage 30-40 years ago and nearly identical to the 72.4% in 1965 (Levine, 2020, 71-76, see Figure 6). The study also shows that more than a third of Milwaukee’s Black school children attend “apartheid” schools--those that are at least 99% minority--which is three times the level of 30 years ago (Levine, 2020, 73).

Figure 6 – Racial Segregation in Milwaukee Area Schools



Source: Levine, 2020, p. 74, https://dc.uwm.edu/cgi/viewcontent.cgi?article=1055&context=ced_pubs

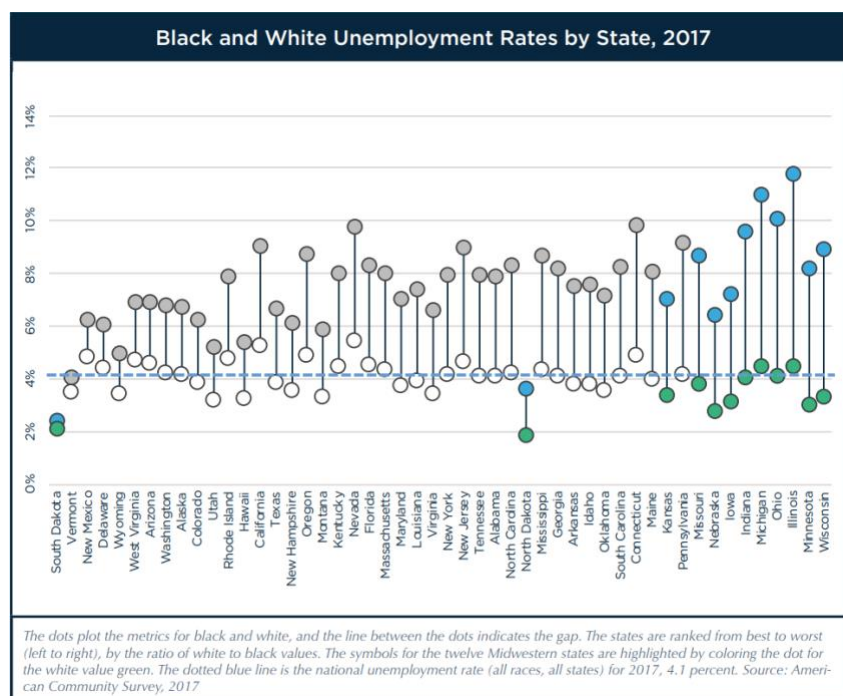
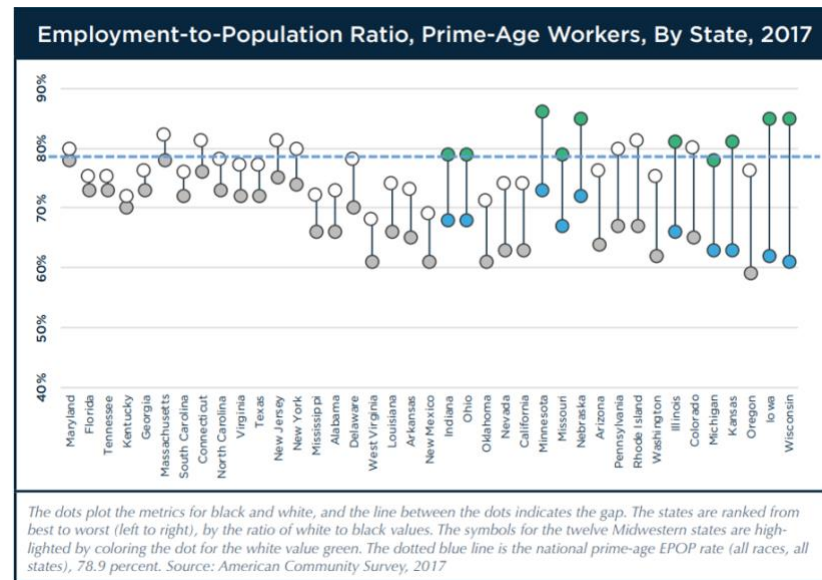
iii. Employment

Data from the U.S. Bureau of Labor Statistics demonstrate that the unemployment rate in 2020 among Black residents of Wisconsin was almost three times that of white residents (16.2% compared to 5.7%).¹³ Data from the U.S. Census’s American Community Survey show that Wisconsin is last in the

¹³ U.S. Bureau of Labor Statistics, <https://www.bls.gov/lau/ex14tables.htm>.

racial gap between white and Black residents in the employment-to-population ratio of prime-age workers (25-54) and last in the racial gap in unemployment rate (Gordon, 2019).

Figure 7 – Racial Gaps in Employment



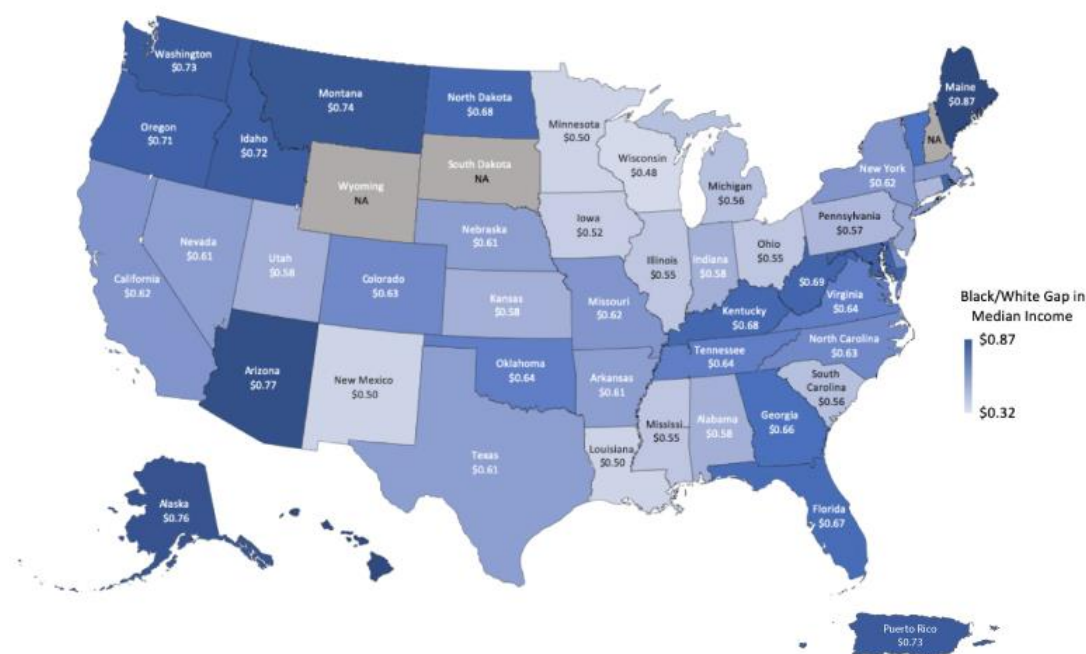
Source: “Race in the Heartland,” Figures 8 and 10, pp. 8-9, <https://files.epi.org/uploads/Race-in-the-Midwest-FINAL-Interactive-1.pdf>

In addition, a study by the St. Louis Federal Reserve in 2020 showed that Wisconsin had the largest gap in the nation in median household income, with Black residents earning 48 cents for every

dollar earned by white residents (the national gap is 61 cents per dollar). Similarly, Wisconsin has the highest disparity in the nation in the poverty rate between white and Black residents, with a gap of 23% while the national rate was 13% (see Figures 8 and 9). Using different government data, the “Race in the Heartland” study ranked Wisconsin third from the bottom in median income disparity and second from the bottom in the racial disparity in poverty rates (Gordon, 2019, pp.10-11).

Figure 8 – Racial Disparities in Income

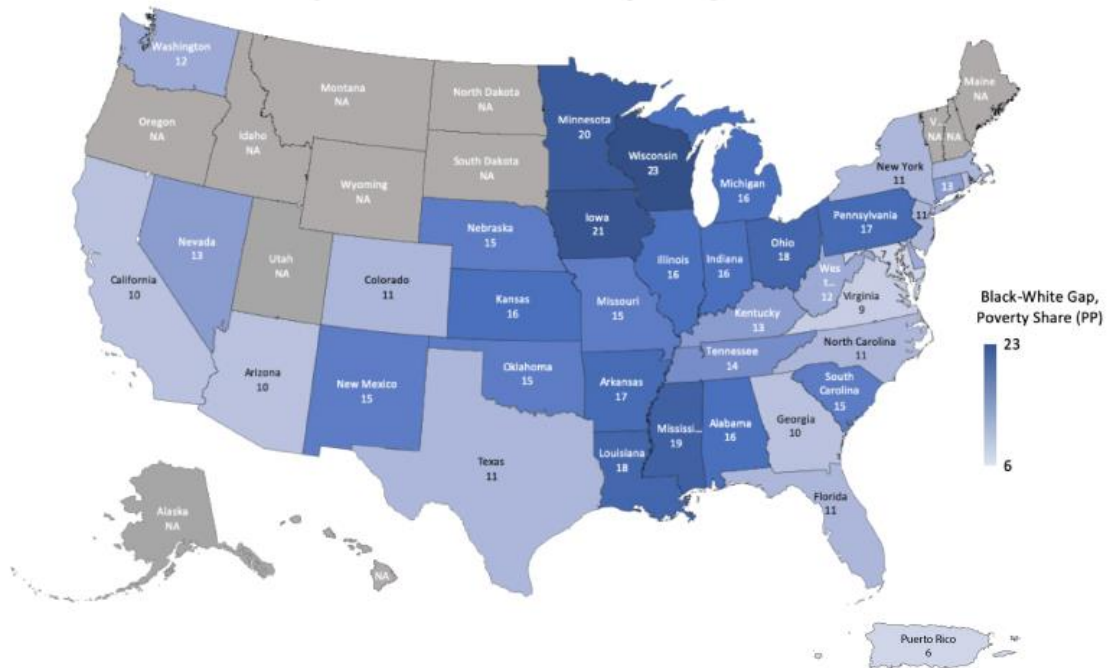
Black Household Median Income Per \$1 of White Household Income



Note: Lighter shading indicates a larger gap, or more inequality. States/areas too geographically small to show an estimate are as follows: Hawaii, \$0.87; Vermont, \$0.65; Massachusetts, \$0.62; Connecticut, \$0.57; Rhode Island, \$0.69; New Jersey, \$0.59; Delaware, \$0.63; Maryland, \$0.71; and District of Columbia, \$0.32. State estimates with a margin of error larger than 30% are not provided: New Hampshire, South Dakota and Wyoming. Source: Kent (2020), <https://www.stlouisfed.org/publications/bridges/volume-3-2020/examining-us-economic-racial-inequality-by-state>

Figure 9 – Racial Disparities in Poverty

Racial Poverty Gap in Percentage Points (Black Minus White Poverty Share)



Note: Heavier shading indicates greater inequality. States/areas too geographically small to show an estimate are as follows: Massachusetts, 11 percentage points; Rhode Island, 10; Delaware, 12; and District of Columbia, 19. State estimates with a margin of error larger than 30% are not provided: Alaska, Hawaii, Idaho, Maine, Montana, New Hampshire, North Dakota, Oregon, South Dakota, Utah, Vermont and Wyoming. Source: Kent (2020),

<https://www.stlouisfed.org/publications/bridges/volume-3-2020/examining-us-economic-racial-inequality-by-state>

iv. Incarceration

Wisconsin has the highest rate in the nation of incarceration among its Black residents, with 2,742 per 100,000 Black residents in prison, which is more than double the national average of 1,240 per 100,000 Black residents. This translates to 1 in every 36.5 Black residents in Wisconsin being in prison, compared to 1 in every 80.6 in the U.S (Nellis, 2021, pp. 7). The ratio of Black incarceration to white incarceration is the second highest in the nation at 11.9 times (see Table 1) (Nellis, 2021, p. 10). Another large racial disparity is that 42% of Wisconsin's prison population is Black, while only 6% of its population is Black. This 36% difference is the fifth largest in the nation (Nellis, 2021, p.20).

Table 1 - States with the Highest Black/White Differential in Imprisonment Rates

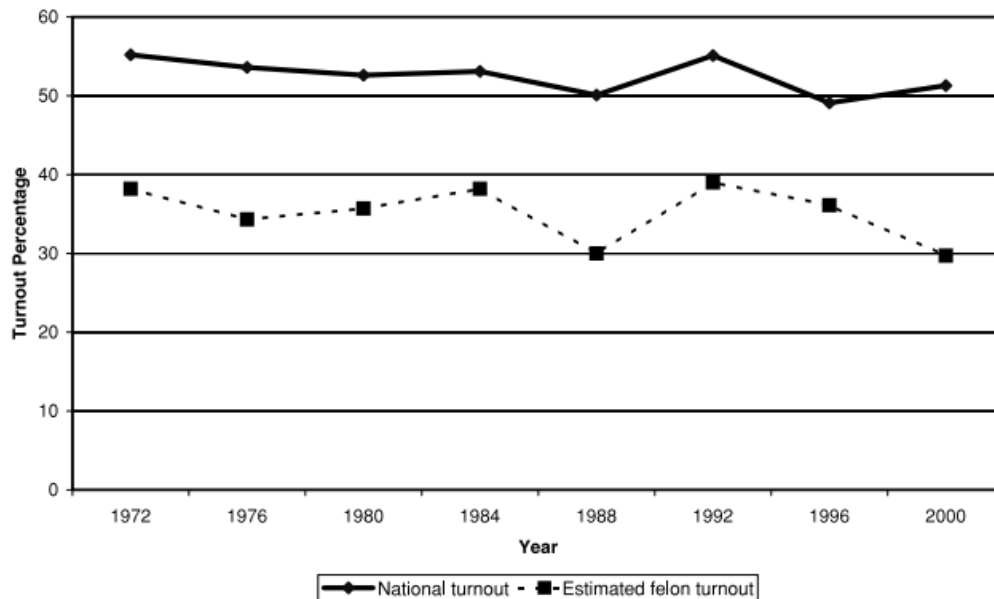
State	Black Imprisonment Rate	White Imprisonment Rate	B/W
New Jersey	1009	81	12.5
Wisconsin	2742	230	11.9
Minnesota	1023	105	9.7
Connecticut	1512	156	9.7
Maine	1331	143	9.3
California	1623	175	9.3
Iowa	2084	225	9.3
Nebraska	1733	195	8.9
Utah	1383	167	8.3
New York	754	96	7.9
State Average	1240	261	4.8

Source: Nellis, 2021, p.10.

The impact of incarceration on the ability to participate in the political process is direct and indisputable. In addition to the 10,165 Black residents in prison and 427 in jail in Wisconsin in 2020, individuals who are on probation or parole also are not allowed to vote in Wisconsin. In 2020, there were 7,330 Black Wisconsin residents on parole and 4,450 on felony probation, yielding a total of 22,371 Black Wisconsin residents who were disenfranchised because of a felony conviction, which is 9% of the state's Black voting age population (Uggen, et. Al, 2020, p.17). Further, the effects of a felony conviction on political participation go beyond the direct effects. Even after former felons are out of prison and "off papers," they continue to vote at a much lower rate than the general public. One study of voting from 1972-2000 showed that the level of turnout among ex-felons in presidential elections remained about 15-20% lower (Manza and Uggen, 2004, 496).

Figure 10 – Voting turnout among disenfranchised felons

Overall turnout rates and estimated turnout among disenfranchised felons, presidential elections 1972–2000



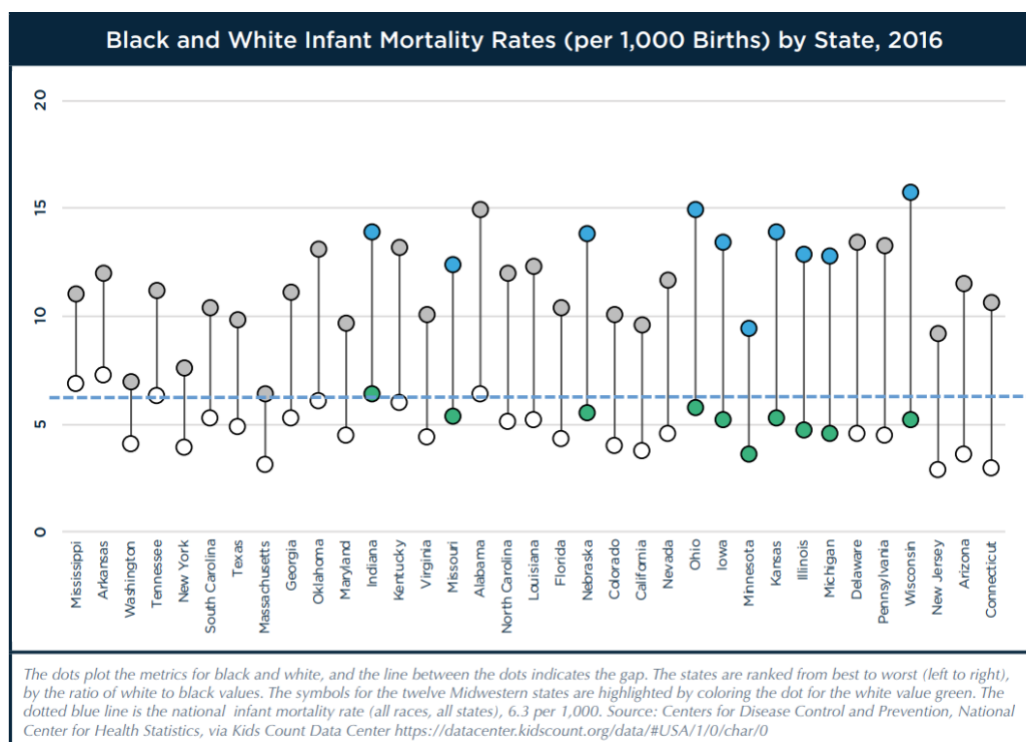
Source: Manza and Uggen, 2004, p. 496.

v. Health

Wisconsin has severe health disparities between Black and white residents. For example, Ozaukee County, which is predominantly white and has the second-highest median income in the state, ranked first for overall health of its residents in data from County Health Rankings & Roadmaps, a program of the University of Wisconsin Population Health Institute (data were accessed in November 2021 and are from various government sources ranging from 2017-2020). Milwaukee County, which has the vast majority of Wisconsin's Black population and also the highest rate of poverty in the state, ranked 70th among Wisconsin's 72 counties for the overall health of its residents. One measure showed that someone living in Milwaukee County was almost twice as likely to die before age 75 than someone living in Ozaukee County. Overall life expectancy for a Black person was 71.7 years in Milwaukee County, compared to 82.1 years for a white person in Ozaukee County. Milwaukee ranked 68th (of the 72 counties) in life expectancy and 72nd in quality of life. The study also ranked factors that could

explain these outcomes, demonstrating the interdependence between the various socioeconomic factors. Milwaukee ranked 71st in social and economic factors (education, employment, income, family and social support, and community safety), 71st in physical environment (air and water quality and housing and transit), 55th in health behaviors (tobacco use, diet and exercise, alcohol and drug use, and sexual activity) and 58th in clinical care (access to care and quality of care) (County Health Rankings & Roadmaps, 2021). The “Race in the Heartland” study cited above also found that Wisconsin ranked fourth from the bottom in the nation in racial disparities in infant mortality rates, which was driven by the highest Black infant mortality rate in the nation (the white infant mortality rate in Wisconsin was just below the national median; Gordon, 2019).

Figure 11 – Infant mortality rates



Source: “Race in the Heartland,” Figure 15, p. 14, <https://files.epi.org/uploads/Race-in-the-Midwest-FINAL-Interactive-1.pdf>

Finally, an important area concerning health is the racial disparate impact of the COVID-19 pandemic. A study published in the online *Journal of the American Medical Association* concluded that

“Milwaukee County (Wisconsin) is an area that has demonstrated racial disparities in COVID-19. By April 6, 2020, 601 of 1,304 cumulative confirmed cases (46.1%) in Milwaukee County had occurred among African American residents, who represent 27.2% of the county’s population. By the same date, 33 of 45 deaths (73.3%) due to COVID-19 had occurred in African American residents” (Muñoz-Price, et al., 2020). After controlling for many variables in a multivariate analysis, race still was a significant predictor of COVID cases and deaths. Updated raw data show that racial disparities persist. The Wisconsin Department of Health Services reports, “Communities of color have experienced higher rates of COVID-19 cases, hospitalizations, and deaths since the pandemic began. Compared to White Wisconsin residents, Hispanic or Latinx residents have 1.5 times greater case rates [Black case rates are 16% higher than White rates], Black residents have 2.0 times greater hospitalization rates, and American Indian residents have 1.4 times greater death rates [Black death rates are 5% higher than White rates]” (Wisconsin Department of Health Services, 2021).

The collective impact of these disparities is reflected at the ballot box. The 2019 Center on Wisconsin Strategy study showed that while 74% of eligible white Wisconsin voters participated in the 2016 election, just 47% of Black voters did—the third largest gap in the country, behind only North and South Dakota (Gordon, 2019, 16). According to data from the U.S. Census’s Current Population Survey, this gap persisted in 2018 and was even larger in 2020. In 2018, Black voter turnout was 46% and white turnout was 66.9%, for a disparity of 20.9%, which was the third-highest in the nation (the U.S. averages for 2018 were 51.1%, 57.5%, and 6.4%, respectively). In 2020, Black voter turnout in Wisconsin was even lower than 2018, which is almost unheard of when comparing a presidential election to a midterm election, at 43.5%, while white turnout climbed to 77.2%, producing a 33.7% gap, which was the second highest in the nation. The U.S. averages for 2020 were Black turnout of 62.6% and white turnout of

70.9% for a gap of 8.35.¹⁴ In addition, in 2020 Black voter turnout in Wisconsin was *19.1% lower* than Black turnout nationwide (see Table 3, Appendix). Given that nearly two-thirds of Black Wisconsin residents live in Milwaukee County (65.3%), this drop in Black voter turnout primarily occurred in Milwaukee (see Tables 2 and 3 in the Appendix).

E. Senate Factor 6

Senate Factor 6 examines the “the use of overt or subtle racial appeals in political campaigns.” Both overt and subtle appeals are frequently used in statewide campaigns in Wisconsin and in campaigns in the Milwaukee area. For example, former State Supreme Court Justice Michael Gableman ran an ad with strong racial appeals (Novak, 2008). The ad in question was run against Louis Butler in 2008 in Gableman’s campaign to unseat the incumbent Supreme Court Justice. Butler joined the state’s highest court in 2004 as its first Black justice after serving as a judge on the Milwaukee Municipal Court and the Milwaukee County Circuit Court. Gableman was trailing in the campaign, but then ran an ad that implied that Butler exploited a loophole to overturn the conviction of a Milwaukee man who went on to commit another crime. The campaign ad is described in detail:

The ad, by Gableman’s own campaign, showed the mug shot of a convicted rapist next to a photo of Butler. Both are African-American, and the effect was reminiscent of the Willie Horton ad run against Michael Dukakis in the 1988 presidential campaign. The false implication was that Butler was to blame for getting the rapist out of prison and allowing him to rape another victim. In fact, Butler was acting as a public defender and was not a judge at the time, though the ad pictured him in a judge’s robes. Furthermore, he failed to win his client’s release. Instead, Butler prevailed in an initial appeal of the man’s conviction but lost when the case went to the state’s highest court. The man remained locked up. He committed his next assault only after he’d served his sentence. Now, he’s behind bars again (Novak, 2008).

Butler was the target of 4,388 attack ads (with several other misleading ads), while Gableman was the target of 2,885 attack ads. Butler’s loss by a margin of 51-49% was the first time in more than forty

¹⁴ The CPS from 2018 is at <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-583.html>, Table 4b and from 2020 at <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html>, Table 4b.

years that an incumbent Supreme Court justice had been defeated for reelection in Wisconsin (Novak, 2008).

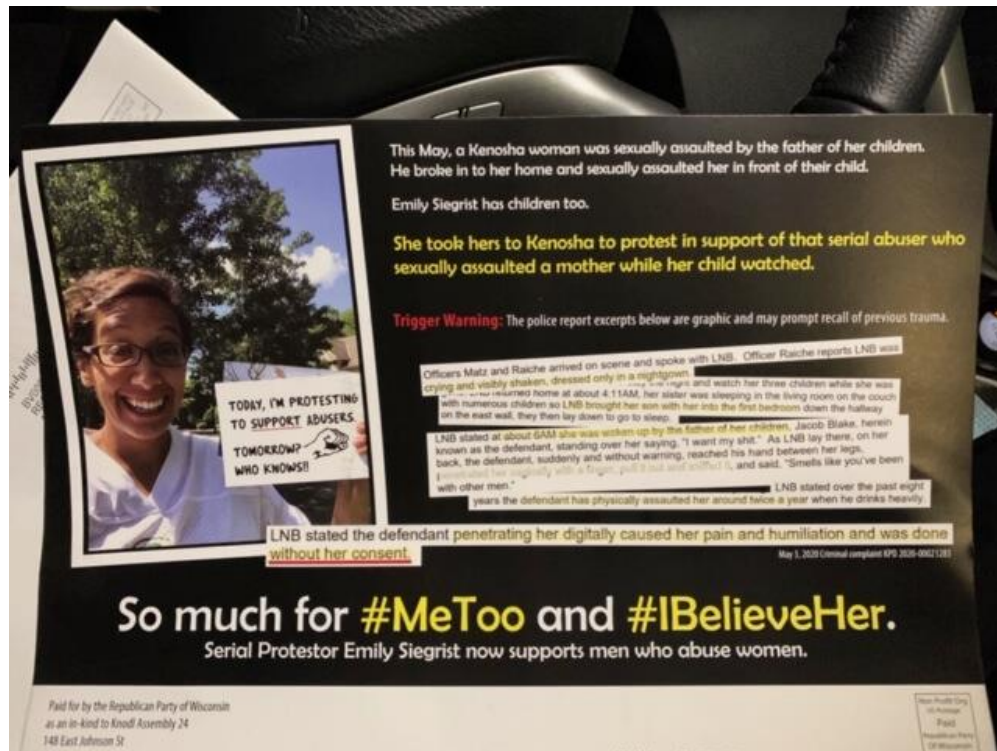
In the 2012 election for U.S. State Representative for the 4th congressional district in Wisconsin, Dan Sebring, a white male candidate, ran a radio ad against Gwen Moore, the Black female incumbent, and the eventual winner of the congressional seat.¹⁵ The ad contained many sound bites from Moore at a rally taken out of context and intended to make her sound loud and unsophisticated. After playing these clips of Moore, Sebring says “Many people in Glendale, Shorewood, Whitefish Bay, Fox Point, Bayside, and Brown Deer remain unaware that as a result of redistricting, they’re now represented by Gwen Moore.”¹⁶ The areas listed by Sebring are predominantly white, and the ad was designed to motivate white voter turnout.

A more recent example is from the 2020 campaign for Assembly District 24 in which the Republican Party of Wisconsin sent voters a mailer attacking Democratic candidate Emily Siegrist, a Latina woman, for attending a Black Lives Matter protest over the police shooting of Jacob Blake in Kenosha. The mailer attacked Siegrist for taking her children to the protest, and described in detail an alleged assault committed by Blake. The mailer showed a doctored photo of Siegrist holding up a sign saying “Today I’m protesting to support abusers. Tomorrow? Who knows!!” It concluded by saying “Serial Protestor Emily Siegrist now supports men who abuse women” (Conklin, 2020). Siegrist was also “doxxed” (having personal contact information revealed) by a Wisconsin Manufacturing and Commerce (WMC) ad. The ad, which criticized Siegrist’s position on health care and taxes, showed her phone number, something is that typically not done in attack ads. Siegrist lost the extremely close race to the Republican incumbent, Dan Knodl, by a 51.5% to 48.5% margin. Siegrist won 68.2% of the vote

¹⁵ An audio file of the ad can be heard here: <https://chirb.it/psadpq>

¹⁶ *Id.*

in Milwaukee County (9,150 to 4,263), while Knodl won 61.8% of the vote in the WOW counties (15,812 to 9,774).¹⁷



As a battleground state in the 2020 presidential election, Wisconsin was the target of heavy political advertising. Donald Trump aired an ad in Wisconsin entitled “Protecting Wisconsin Families” that accused Joe Biden of “taking a knee”—a reference to peaceful protests of racial injustice started by football player Colin Kaepernick—in response to protests over the police shooting of Jacob Blake in Kenosha. It is unclear where the picture of Biden kneeling came from, but it wasn’t in support of Blake. The ad also falsely accused Biden of calling to defund the police. While showing the image of a blond, white girl in a pink bandana, the narrator says that Trump will protect Wisconsin’s families, not criminals and “jobs, not mobs.” The ad made national news, with a *Los Angeles Times* headline saying, “New Trump ads stoke racial bias among white people in Minnesota and Wisconsin” (Finnegan 2020).¹⁸

¹⁷ 2020 Wisconsin State Assembly District 24 Election Results, <https://www.jsonline.com/elections/results/race/2020-11-03-state-house-WI-50243/>.

¹⁸ The full text of the ad is, “Lawless criminals terrorized Kenosha. Joe Biden takes a knee. Biden and the radical left weak

The same “take a knee” theme was emphasized in the 2018 governor’s race by Lieutenant Governor. Rebecca Kleefish and Governor Scott Walker, in a series of tweets, criticized a Black candidate for Lieutenant Governor, Mandela Barnes, for taking a knee.



Source: <https://twitter.com/RebeccaforReal/status/1037757762938318848>

Finally, in one of the more unusual racial incidents in recent Wisconsin campaigns, Deborah Kerr, one of the two candidates in the April, 2021, election for State Superintendent of Public Instruction, tweeted that she had been called the n-word while in high school because “my lips were bigger than most” (Bauer, 2021). Kerr is white, so the tweet was met with confusion and anger. Savion Castro, who is Black and a member of the Madison School Board, responded that the tweet made him “profoundly sad and angry. . . Perfect example of white educators profound failures to understand the isolation, alienation, and disenfranchisement our Black and Brown students experience in our education system – public [and] private.” Kerr apologized and took down her Twitter account, saying, “I apologize for having posted something that was intended to be a part of the discussion of racism,” (Bauer, 2021).

response has led to chaos and violence, and their calls for defunding police would make it worse. President Trump is making it stop sending National Guard and federal law enforcement to protect Wisconsin's families. Communities, not criminals, jobs, not mobs. Strong leadership when America needs it most. Donald J. Trump and I approve this message”
<https://host2.adimpact.com/admo/viewer/231b3cbd-24a7-4d7a-9a60-a3c6a55f7c5b/>.

The AP also reported that “Earlier in the campaign, the only Black candidate in the state superintendent race, Shandowlyon Hendricks-Williams, accused Kerr of a “racially motivated” attack when she tried to have Hendricks-Williams kicked off the ballot. Kerr filed a complaint saying Hendricks-Williams submitted invalid nomination papers. The Wisconsin Elections Commission deadlocked and Hendricks-Williams remained on the ballot” (Bauer 2021). Hendricks-Williams was the candidate of choice in the Democratic primary for Black voters in Milwaukee.

F. Senate Factor 7

Senate Factor 7 looks at the extent to which members of the minority group have been elected to public office in the jurisdiction. Recent election results show that Black candidates have mixed success in Milwaukee County. Although some Black candidates have had success in winning office in the Milwaukee area, most positions (outside of BVAP majority districts) are not held by Black officeholders, and the number of Black officeholders has been far below the number proportional to the Black population. For example, only two of out the eight current county government officials elected countywide are Black. David Crowley, the current County Executive (elected in 2020), is the first Black person *ever elected* to that office. Most significantly, the City of Milwaukee has never elected a Black mayor and has only ever had one Black mayor: Marvin Pratt became acting mayor in 2004 upon the resignation of Mayor Norquist.¹⁹ However, when he ran for a full term he was defeated in the 2004 general election by Tom Barrett, a white man. Having never elected a Black mayor is increasingly unusual for major U.S. cities (vom Hove, 2020). Indeed, Wisconsin has only elected one Black mayor in its history, Frances Huntley-Cooper in 1991 in Fitchburg, a suburb of Madison (Tomei, 2020). The Milwaukee region has no Black state representatives or senators outside of the BVAP majority districts

¹⁹ Common Council President Cavalier Johnson would become Milwaukee’s second Black mayor if the Senate confirms the nomination of Tom Barrett to be ambassador to Luxembourg.

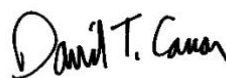
who were the candidate of choice of Black voters (Sen. Julian Bradley represent the 28th District, which is only 2% Black). The city of Milwaukee currently has no Black alderpersons outside of BVAP majority districts. Further, Milwaukee County has no Black supervisors outside of BVAP majority districts.

Conclusions

Overall, I conclude that Senate Factors 1, 2, 3, 5, 6, and 7 are present in Milwaukee County. There is a long history of voting-related discrimination against Black voters in Wisconsin, and Black voters continue to bear the effects of discrimination in areas such as voting, housing, education, incarceration, employment, and health. The analysis performed by Professor Collingwood shows that voting in the Milwaukee area is polarized along racial lines, and a number of voting practices have enhanced the opportunity for discrimination against Black voters in the Milwaukee area, such as the number and location of polling places and Wisconsin's voter ID law. Political campaigns statewide and in the Milwaukee area are marked by racial appeals, which helps explain the difficulty that minority candidates have getting elected in Milwaukee County. Most elected positions outside of Black majority voting age districts are not held by Black officeholders, and the number of Black officeholders is far from reflective of the size of the Black population. In sum, this analysis overwhelmingly shows that the totality of circumstances in the Milwaukee area undermines the ability of Black voters to participate fully in the political process and elect their candidates of choice.

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

Executed on December 15, 2021.

A handwritten signature in black ink that reads "David T. Canon". The signature is written in a cursive, flowing style.

David T. Canon

Appendix

Table 2 -- Citizen Turnout in the 2018 Elections

State	Black Citizen Turnout	White Citizen Turnout	White – Black Turnout
COLORADO	30.3%	62.6%	32.3%
WASHINGTON	44.2	65.5	21.3
WISCONSIN	46.0	66.9	20.9
OKLAHOMA	33.0	53.0	20.0
NEVADA	36.8	56.6	19.8
ARIZONA	47.0	65.3	18.3
WASH D.C.	53.7	69.5	15.8
KANSAS	46.5	59.1	12.6
MASSACHUSETTS	47.0	58.7	11.7
CALIFORNIA	50.6	61.4	10.8
MINNESOTA	54.7	64.8	10.1
FLORIDA	47.2	57.0	9.8
MARYLAND	48.7	58.4	9.7
CONNECTICUT	48.2	57.7	9.5
TEXAS	48.3	57.7	9.4
MISSOURI	47.9	56.7	8.8
IOWA	54.1	60.8	6.7
NEW JERSEY	51.5	57.9	6.4
U.S. AVERAGE	51.1	57.5	6.4
TENNESSEE	45.9	51.7	5.8
MICHIGAN	55.5	61.1	5.6
VIRGINIA	56.4	60.8	4.4
INDIANA	47.2	50.9	3.7
ALABAMA	49.5	52.6	3.1
NORTH CAROLINA	51.8	54.4	2.6
OHIO	51.4	53.9	2.5
ARKANSAS	41.6	44.0	2.4
LOUISIANA	49.5	51.7	2.2
PENNSYLVANIA	54.7	56.6	1.9
NEW YORK	51.3	52.9	1.6
ILLINOIS	56.8	57.1	0.3
KENTUCKY	56.4	54.1	-2.3
DELAWARE	56.2	52.7	-3.5
GEORGIA	59.6	56.1	-3.5
SOUTH CAROLINA	52.1	48.6	-3.5
MISSISSIPPI	59.8	51.7	-8.1

Note: cell entries are the percentage of citizens voting as reported in the U.S. Census report, “Voting and Registration in the Election of November 2018,” Table 4b, <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-583.html> using the “white alone” and “black alone” categories (accessed October 29, 2021).

Table 3 -- Citizen Turnout in the 2020 Elections

State	Black Citizen Turnout	White Citizen Turnout	White – Black Turnout
MASSACHUSETTS	36.4%	72.4%	36.0%
WISCONSIN	43.5	77.2	33.7
IOWA	46.2	73.0	26.8
OREGON	51.2	77.7	26.5
COLORADO	53.1	71.9	18.8
OKLAHOMA	49.5	65.0	15.5
SOUTH CAROLINA	53.9	69.0	15.1
WASHINGTON	61.9	77.0	15.1
MINNESOTA	66.1	79.9	13.8
VIRGINIA	63.9	77.3	13.4
ARKANSAS	44.7	57.0	12.3
NEVADA	58.5	69.7	11.2
TEXAS	60.8	72.0	11.2
CALIFORNIA	64.0	74.6	10.6
NEW JERSEY	71.3	81.1	9.8
KANSAS	61.0	70.7	9.7
WASH D.C.	79.3	88.8	9.5
ILLINOIS	63.8	72.9	9.1
U.S. AVERAGE	62.6	70.9	8.3
ALABAMA	54.8	63.0	8.2
FLORIDA	58.7	66.8	8.1
ARIZONA	69.1	77.0	7.9
KENTUCKY	62.5	69.6	7.1
OHIO	65.1	71.9	6.8
LOUISIANA	57.9	64.7	6.8
GEORGIA	64.0	70.3	6.3
NEW YORK	62.7	69.0	6.3
CONNECTICUT	65.2	71.0	5.8
MICHIGAN	63.8	68.2	4.4
DELAWARE	64.7	68.4	3.7
NORTH CAROLINA	63.4	66.6	3.2
INDIANA	60.2	62.0	1.8
PENNSYLVANIA	70.8	71.7	0.9
MISSOURI	69.2	67.9	-1.3
TENNESSEE	69.4	67.3	-2.1
MARYLAND	75.3	72.3	-3.0
MISSISSIPPI	72.8	69.8	-3.0

Note: cell entries are the percentage of citizens voting as reported in the U.S. Census report, “Voting and Registration in the Election of November 2020,” Table 4b, <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html>, using the “white alone” and “black alone” categories (accessed October 29, 2021).

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EDUCATION

University of Minnesota, Ph.D. in Political Science, 1987. M.A., Humphrey Institute of Public Affairs, 1984.

Indiana University, Bloomington, Indiana. B.A., with High Distinction and Honors in Political Science, 1981; Ford P. Hall Award – Outstanding Senior, 1981; Phi Beta Kappa, 1980; double-major in Political Science and Economics.

ACADEMIC POSITIONS

Professor, University of Wisconsin, Fall, 1999-present.

Editor, *Election Law Journal*, September, 2018-present.

Chair, University of Wisconsin, May, 2014-May 2017; August, 2020-December, 2020.

Fulbright Scholar, Distinguished Chair in Political Science and American Studies, Eberhard Karls University of Tübingen, Germany, Fall, 2011 - Summer, 2012.

Co-editor (for Congress), *Legislative Studies Quarterly*, September, 2007- 2010.

Fulbright Scholar, John Marshall Distinguished Chair in Political Science, University of Debrecen, Hungary, Fall, 2003 - Spring, 2004.

Associate Professor, University of Wisconsin, Fall, 1994-Spring, 1999.

Assistant Professor, University of Wisconsin, Fall, 1991-Spring, 1994.

Assistant Professor, Duke University, Fall, 1986-Fall, 1991.

Research Fellow, The Brookings Institution, September, 1985-August, 1986.

Instructor, University of Minnesota, Humphrey Institute of Public Affairs, Sloan Summer Program in Policy Skills, Summer, 1985, 1984, 1983.

TEACHING

Undergraduate: American Politics and Government, American Presidency; Classics in American Politics; Introductory Statistics; Congressional Elections; Campaigns and Elections; Political Parties; Race and Politics in the United States; the United States Congress.

Graduate: American Government for AP high school teachers; Classics in American Politics; Congressional Elections; The U.S. Congress; Political Science as a Discipline.

Winner of the 2008 Chancellor's Distinguished Teaching Award, University of Wisconsin, Madison; University Housing "Honored Instructor," award, 2006, 2009, 2010, 2011, 2013, 2014, 2019, 2020; UW-Panhellenic Association teaching award, Fall, 1991 and 1993.

PUBLICATIONS

Books

Race, Redistricting, and Representation: The Unintended Consequences of Black-Majority Districts (University of Chicago Press, 1999). Winner of the American Political Science Association's Richard F. Fenno Prize for the best book published on legislative politics in 1999.

The Dysfunctional Congress?: The Individual Roots of an Institutional Dilemma (Westview Press, 1999). With Kenneth Mayer. 2nd edition to be published by Columbia University Press.

Actors, Athletes, and Astronauts: Political Amateurs in the United States Congress (University of Chicago Press, 1990; substantially revised version of my Ph.D. dissertation).

Textbooks, Edited Books, Reference Books, and Monographs

American Politics Today (W.W. Norton, 2009, 2nd edition 2011, 3rd edition, 2013, 4th edition, 2015, 5th edition, 2017, 6th edition, 2019, 7th edition, 2021), with William T. Bianco.

Committees in the U.S. Congress, 1789-1947. Volume 1, House Standing Committees; Volume 2, Senate Standing Committees; Volume 3, Committee Assignments Listed by Member; Volume 4, Select Committees, House and Senate. (CQ Press, 2002). With Charles Stewart III and Garrison Nelson. Cited as the "Best Reference Source in 2002" by *Library Journal*.

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Faultlines: Debating the Issues in American Politics (W.W. Norton, 2004, 2nd ed., 2007, 3rd ed. 2011, 4th ed. 2014, 5th ed. 2018, 6th ed. forthcoming, 2022), with John Coleman and Ken Mayer.

Readings for American Government (W.W. Norton, 4th ed., 1996; 5th ed., 1998; 6th ed., 2000; 7th ed. 2002). With Theodore Lowi, Benjamin Ginsberg, Anne Khademian, and Kenneth Mayer. Accompanied the American Government text by Theodore Lowi, Benjamin Ginsberg, and Kenneth Shepsle (John Coleman replaced Khademian, Lowi, and Ginsberg on the 7th edition).

Congress Under Siege: The Electoral Roots of an Institutional Crisis (Harper/Collins, 1995). Brief monograph in the Harper/Collins "Political Pamphleteer" series.

Readings in American Government (Simon and Schuster custom publishing, 1994). With Anne Khademian and Kenneth Mayer.

Scholarly Research

"Race and Redistricting," *Annual Review of Political Science*, (forthcoming, 2022).

- "Debunking the 'Big Lie': Election Administration in the 2020 Presidential Election," (with Owen Sherman), *Presidential Studies Quarterly* 51:3 (September, 2021): 546-581.
- "The American Electoral System: Challenges to Democracy and Opportunities for Reform," *Journal of Parliamentary and Political Law* 13 (2019): 349-59.
- "The Complicated Partisan Effects of State Election Laws" (with Barry C. Burden, Kenneth Mayer, and Donald Moynihan), *Political Research Quarterly* 70:3 (September, 2017): 564-76. Winner of the 2014 Robert H. Durr Award for best paper at the Annual Meeting of the Midwest Political Science Association applying quantitative methods to a substantive problem.
- "What Happens at the Polling Place: Using Administrative Data to Look Inside Elections," Barry C. Burden, David T. Canon, Kenneth R. Mayer, Donald P. Moynihan, and Jacob Neihsel, *Public Administration Review* 77:3 (May/June, 2017): 354-64; [published online](#) June 30, 2016.
- "Review of the Career of Richard Fenno: Watching Politicians and Leading a Subfield," *The Forum* 2016; 14(3): 329-343.
- "The Effects and Costs of Early Voting and Same Day Registration in the 2008 Elections," Barry C. Burden, David T. Canon, Kenneth R. Mayer, and Donald P. Moynihan. *American Journal of Political Science*, 58:1 (January, 2014): 95-108. Winner of State Politics and Policy Best Journal Article Award from the American Political Science Association, 2015.
- "Selection Methods, Partisanship, and the Administration of Elections," Barry C. Burden, David T. Canon, Stéphane Lavertu, Kenneth R. Mayer, and Donald P. Moynihan. *American Politics Research* 41:6 (November, 2013): 903-36.
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- "The Year of the Outsider: Political Amateurs in the U.S. Congress," *The Forum* (2010): Vol. 8, Iss. 4, Article 6, www.bepress.com/forum/vol8/iss4/art6.
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- “Race, Redistricting, and the Courts,” in *Redistricting in the New Millennium*, edited by Peter F. Galderisi. Lexington Books, 2005, 87-117.
- “The Representation of Racial Interests in the U.S. Congress,” in the *Politics of Democratic Inclusion*. Edited by Rodney E. Hero and Christina Wolbrecht, Temple University Press, 2005, 281-313.
- “George W. Bush and the Politics of Gender and Race,” in *The George W. Bush Administration: First Appraisals*, edited by Colin Campbell and Bert Rockman. Chatham House, 2004, 265-297 (with Katherine Cramer Walsh).
- “Parties and Hierarchies in Senate Committees, 1789–1946,” in *U.S. Senate Exceptionalism*. Edited by Bruce I. Oppenheimer. Columbus, OH: Ohio State University Press, 2002, (with Charles Stewart III), 157-81.
- “Everything You Thought You Knew about Impeachment is Wrong.” In *Aftermath: The Clinton Impeachment and the Presidency in the Age of Political Spectacle*. Edited by Leonard V. Kaplan and Beverly I. Moran. New York: New York University Press, 2001 (with Kenneth R. Mayer), 47-62.
- “History in the Making: The 2nd District in Wisconsin.” In *The Battle for Congress: Candidates, Consultants, and Voters*. Edited by James A. Thurber. Washington, D.C.: Brookings Institution, 2001, 199-238.
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- “Clinton and the Politics of Gender and Race,” in *The Clinton Presidency*, edited by Colin Campbell and Bert Rockman. Chatham House, 2000, 169-99 (with Virginia Sapiro).
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- "Redistricting and the Congressional Black Caucus." *American Politics Quarterly* 23:2 (April, 1995): 159-89.
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- "Sacrificial Lambs or Strategic Politicians?: Political Amateurs in U.S. House Elections." *American Journal of Political Science* 37:4 (November, 1993): 1119-41.
- "Party System Change and Political Career Structures in the United States Congress." *Legislative Studies Quarterly* 17:3 (August, 1992): 347-63 (with David J. Sousa).
- "The Emergence of the Republican Party in the South, 1964-1988." In *The Atomistic Congress: An Interpretation of Congressional Change*, Allen D. Hertzke and Ronald M. Peters editors. Armonk, N.Y.: M.E. Sharpe, 1992, 73-105 (an earlier version of this paper was presented at the 1988 Southern Political Science Association Meeting, with David J. Sousa).
- "The Institutionalization of Leadership in the United States Congress." *Legislative Studies Quarterly*, 14:3 (August, 1989): 415-43. Reprinted in *The Changing World of the U.S. Senate*, edited by John R. Hibbing, Berkeley: Institute of Governmental Studies, 1990, 109-37; in *New*

Perspectives on the House of Representatives 4th ed., edited by Robert L. Peabody and Nelson W. Polsby, Baltimore: Johns Hopkins University Press, 1992, 291-318; in *American Political Parties*, edited by Eric M. Uslaner, Peacock Publishers, 1993, 464-92; and in *The International Library of Politics and Comparative Government: The United States of America, Volume II*, edited by Alan Ware, Dartmouth Publishing, 1997.

"Political Amateurism in the U.S. Congress." In *Congress Reconsidered*, Lawrence C. Dodd and Bruce I. Oppenheimer editors. Washington, D.C.: CQ Press, 4th Edition, 1989, pp. 65-87.

"Actors, Athletes, and Astronauts: Political Amateurs in the United States Congress." *Legislative Studies Section Extension of Remarks*, June, 1987.

Other Publications

"Writing An American Government Textbook: Lessons Learned," *PS: Political Science and Politics*, forthcoming, 2022, (with William T. Bianco).

"Restoring Trust in the Voting Process," (with Guy-Uriel Charles, Edward Foley, Richard Hasen, Lisa M. Manheim, Charles Stewart III, and Daniel Tokaji), *Election Law Journal* 20:2 (2021): 141-54.

Amici Curiae brief on partisan redistricting with other political scientists; Brian A. Sutherland as Counsel of Record and primary author, in *Robert A. Rucho, et al. v. Common Cause, et al.* (2019), U.S. Supreme Court, March 8, 2019.

"Representation and Redistricting," "*Shaw v. Reno*," and "Minority Majority Districts," in *American Governance*, edited by Laurie Malashanko, Macmillan Reference, 2015.

"Racial Redistricting and Descriptive Representation," *Oxford Handbook of Racial and Ethnic Politics*, edited by David Leal, Taeku Lee, and Mark Sawyer. New York, NY: Oxford University Press, on-line publication 2014; print version forthcoming.

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"Robert M. LaFollette and the Reform Streak in Midwestern Politics." *The American Midwest: An Interpretive Encyclopedia*. Andrew Clayton, Richard Sisson, and Christian Zacher editors. Bloomington: Indiana University Press, 2007.

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"The Voting Rights Act," *Dictionary of American History*, Stanley I. Kutler editor. New York, NY: Charles Scribner's Sons Reference Books, 2002, vol.8: 357-58.

"Congress," *The Oxford Companion to American Law*. Kermit Hall editor. New York, NY: Oxford University Press, 2002, 142-44.

- "Helping First-Year College Students Understand How Washington Works." In *Using National Papers in the College Classroom: Resources to Improve Teaching and Learning*. Edited by Betsy Barefoot, Steven Knowlton, and Pam Allen-Thompson. New York: New York Times Publications, 1999, 80-81.
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- "Race, Redistricting, and Representation." In the *International Newsletter* for the International Political Science Association 7:1 (Summer, 1994) and the Research Committee of Legislative Specialists of IPSA, 3:1 (Summer, 1994).
- "Elections: Becoming a Candidate" and "Members: Demographic Profile," in *The Encyclopedia of the United States Congress*, Donald C. Bacon, Roger H. Davidson, and Morton Keller editors. New York: Simon and Schuster, 1994, pp. 701-706, 1371-79.
- "Congress: The Electoral Connection." Supplement to Greenberg and Page's *The Struggle for Democracy* (Harper/Collins), 1993.
- "The Context of Congressional Reform." Memo prepared for the Brookings/AEI Conference on Congressional Reform, Washington, D.C., June 29, 1992.
- "Amateurs in the United States Congress," "Direct Mail," "Election of 1968," and "Terry Sanford." In the *Encyclopedia of American Political Parties and Elections*, L. Sandy Maisel editor. New York: Garland Pub., 1991, 32-33, 265-66, 314-16, 988.
- "The Status of Women in Ph.D. Departments." Committee on the Status of Women, Southern Political Science Association. *PS: Political Science and Politics* 23:1 (March, 1990): 82-86 (with Dorothy McBride Stetson, Diane Wall, Diane Blair, Mary Ellen Guy, Erika Fairchild, and Cheryl Brown).
- "Intelligence and Ethics: The CIA's Covert Operations." *The Journal of Libertarian Studies* 4:2 (Spring, 1980): 197-214.

Book Reviews

- Review of *The Unsolid South: Mass Politics and National Representation in a One-Party Enclave*, by Devin Caughey, *Congress and the Presidency*, 47:2 (2020).
- Review of *The Turnout Gap: Race, Ethnicity, and Political Inequality in a Diversifying America*, by Bernard L. Fraga, *The American Review of Politics*, 37:1 (2020).
- Review of *Racial Realignment: The Transformation of American Liberalism, 1932-1965*, by Eric Schickler, *Congress & the Presidency*, 2017.
- Review of *The Congressional Black Caucus, Minority Voting Rights, and the U.S. Supreme Court*, by Christina R. Rivers, *American Review of Politics*, Fall/Winter, 2013.
- Review of *The Speaker of the House: A Study of Leadership*, by Matthew N. Green, *Congress and the Presidency*, 38:2 (May-August, 2011): 239-241.

- Review of *Redistricting and Representation: Why Competitive Elections are Bad for America*, by Thomas Brunell, *Political Science Quarterly* 124:2 (Summer, 2009): 366-68.
- Review of *The Future of the Voting Rights Act*, edited by David L. Epstein, Richard H. Pildes, Rodolfo O. de la Garza, and Sharyn O'Halloran. *Election Law Journal*, 6:3 (2007): 266-69.
- Review of *Congressional Communication: Content and Consequences*, by Daniel Lipinski, *Political Communication*, 24:2 (April, 2006): 112-13.
- Review of *Congress, the Press, and Political Accountability*, by Douglas R. Arnold, *Congress and the Presidency*, 31:2 (Fall, 2004): 203-205.
- Review of *African Americans and the Politics of Congressional Redistricting*, by Dewey M. Clayton. *Law and Politics Book Review* 11:4 (April, 2001): 138-140.
- Review of *Thomas Paine: Firebrand of the Revolution*, by Harvey J. Kaye, *Wisconsin Academy Review* 47:1 (Winter, 2001): 52.
- "Notes from the Book Review Editor," (short book reviews), *Congress and the Presidency*, 23:1 (Spring, 1996): 65-67; 23:2 (Fall, 1996): 173-79; 24:1 (Spring, 1997): 84-92; 25:1 (Spring, 1998): 91-98; 25:2 (Fall, 1998): 203-211; 26:1 (Spring, 1999): 77-87, 26:2, (Fall, 1999): 193-99; 27:1 (Spring, 2000): 81-92, 27:2 (Fall, 2000): 191-198, 28:1 (Spring 2001): 85-92.
- Review of *Mistaken Identity: The Supreme Court and the Politics of Minority Representation*, by Keith J. Bybee, *Law and Politics Book Review*, (November, 1999).
- Review of *The Congressional Black Caucus: Racial Politics in the U.S. Congress*, by Robert Singh, *Social Science Quarterly* (September, 1999).
- "Recent Reference Works on Congress and the Presidency," (review essay), *Congress and the Presidency*, 22:1 (Spring, 1995): 93-98.
- Review of *The Presidential Pulse of Congressional Elections*, by James E. Campbell, *Political Science Quarterly*, 109:5 (Winter, 1994-95): 911-12.
- Review of *Changing Patterns in State Legislative Careers*, Gary F. Moncrief and Joel A. Thompson eds., *Journal of Politics* 56:1 (February, 1994): 276-79.
- Review of *Leading Congress: New Styles, New Strategies*, John J. Kornacki, editor, *American Political Science Review* 85:3 (September, 1991): 1029-1030.
- Review of *Homeward Bound*, by Glenn Parker, *Congress and the Presidency* 15 (Spring, 1988): 110-112.

Research Submitted for Publication or in Progress

- "The Apportionment Act of 1842: Principle or Interest?," Paper Presented at the Annual Meeting of the American Political Science Association, Washington, D.C, August 28, 2014, (with William Egar).
- "Committee Hierarchy and Assignments in the U.S. Congress: Testing Theories of Legislative Organization." Paper Presented at the Annual Meeting of the Midwest Political Science Association, April 25-27, 2002. (with Charles Stewart III).
- "Partisan Policymaking in the United States House of Representatives, 1929-1998." Paper Presented at the Annual Meeting of the American Political Science Association, September 3-6, 1999, Atlanta, Georgia. (with Kevin S. Price).
- "Informational and Demand-Side Theories of Congressional Committees: Evidence from the Senate, 1789-1993." Paper Presented at the Annual Meeting of the American Political Science Association,

September 3-6, 1998, Boston, Mass. (with Martin Sweet).
 "The Development of the Senate Committee System, 1789-1879." Paper Presented at the Annual Meeting of the American Political Science Association, September 3-6, 1998, Boston, Mass. (with Charles Stewart III). Revised version of this paper presented at the Vanderbilt University Conference on Senate Exceptionalism, Nashville, Tennessee, October, 1999.
 "Taking Care of Business: The Evolution of the House Committee System before the Civil War." Paper Presented at the Annual Meeting of the American Political Science Association, August 31-September 3, 1995, Chicago, Illinois (with Charles Stewart III, Brian Kroeger, and Greg Flemming).

Conference Papers Presented

American Political Science Association: 2014, 2011, 2010, 2009, 2002, 1999, 1998 (2 papers), 1996, 1995, 1994, 1993, 1992, 1989, 1987, 1985.
 Carl Albert Center, University of Oklahoma: 1990.
 Center for Congressional and Presidential Studies, American University, 1998.
 "Bicameralism," Duke University, March, 2009.
 "Candidate Recruitment," Colby College, 1986.
 "The Legislative Branch and American Democracy," University of Pennsylvania, 2004.
 "Making Voting Work," sponsored by the Pew Charitable Trusts, Reed College, October, 2009.
 "The Politics of Democratic Inclusion," Notre Dame University, 2002.
 "Senate Exceptionalism," Vanderbilt University, March, 1999.
 Hendricks Symposium, University of Nebraska: 1994, 1988.
 Midwest Political Science Association: 2013, 2011, 2010, 2002, 1993, 1992, 1990, 1989, 1984.
 Shambaugh Comparative Legislative Research Conference, University of Iowa, 1998.
 Southern Political Science Association: 1988.

RESEARCH SUPPORT

\$60,000 Leon Epstein Fellowship, College of Letters and Science (for research support, 2013-2016)
 \$35,000 Phil R. Certain Fund Award, College of Letters and Science (for research support, 2011).
 \$70,500 Vilas Associate Award (\$24,500 in research support and two summers of salary support, 2002-2004).
 \$60,000 Hawkins Professor research support, Department of Political Science, 2000-2005.
 \$17,851 for summer money and a 1/3-time, nine-month project assistant from the Wisconsin Alumni Research Foundation, 1996-97 fiscal year.
 \$56,722 grant from the National Science Foundation, 7/1/94-6/30/97.
 \$10,105 for a 1/2-time, nine-month project assistant, travel and supplies money from the Wisconsin Alumni Research Foundation, 1994-95 fiscal year (returned when NSF grant was funded).
 \$91,605 grant from the National Science Foundation, 8/1/93-8/31/97.
 \$13,771 for summer money and a 1/3-time, six-month project assistant from the Wisconsin Alumni Research Foundation, 1993-94 fiscal year.
 \$1,000 grant from the Dirksen Congressional Research Center, 1992-93 fiscal year.
 \$8,993 for summer money from the Wisconsin Alumni Research Foundation, 1992.

\$10,000 in flexible research funds from the Wisconsin Alumni Research Foundation, 1991-1994 (not competitive--part of hiring package).
\$8,888 for summer money from the Wisconsin Alumni Research Foundation, 1991 (not competitive, part of hiring package).
\$3,800 from the Duke University Research Council for the 1990-91 fiscal year.
\$1,120 from the Duke University Research Council for the 1989-90 fiscal year.
\$840 from the Duke University Research Council for the 1988-89 fiscal year.

OTHER PROFESSIONAL ACTIVITIES

Discussant

"Restoring Confidence in the U.S. Election System," panel discussion sponsored by the UW Elections Research Center, March 16, 2021.
Big Ten SPARK Conference on Redistricting, University of Maryland, March 4-5, 2019.
"Fifty Years after the Voting Rights Act: The Future of Voting and Representation in the U.S.," Theme Panel, American Political Science Association Meeting, San Francisco, 2015.
"Constituent Relationships and Homestyles," American Political Science Association Meeting, Chicago, IL, 2013 (also served as chair).
"Congress and the President: The Electoral Context," Midwest Political Science Association Meeting, Chicago, April, 2010 (also served as chair).
"The Concept of Constituency," Midwest Political Science Association Meeting, Chicago, April, 2007.
"Restoring Electoral Competition: Research and Remedies for Redistricting," University of Minnesota, March, 2006.
"Descriptive and Substantive Representation in Congress, American Political Science Association Meeting, Washington, D.C., 2005 (also served as chair).
Conference on the Legislative Branch and American Democracy, University of Pennsylvania, October, 2004.
"Issues in Campaign Finance," American Political Science Association Meeting, San Francisco, 2001 (served as chair).
"Author Meets Critic: Paul Frymer's *Uneasy Alliances: Race and Party Competition in America*. Midwest Political Science Association Meeting, Chicago, April, 2001.
"Race, Gender, and Representation," Midwest Political Science Association Meeting, Chicago, April, 2001 (also served as chair).
"Partisanship and Representation in Legislature." American Political Science Association Meeting, Washington, D.C, 2000.
"Latinos, African Americans, and Electoral Politics," Midwest Political Science Association Meeting, Chicago, 1996 (also served as chair).
"Patterns in State Legislative Careers," Midwest Political Science Association Meeting, Chicago, 1996 (also served as chair).
"Minority Group Interests and Legislative Representation," American Political Science Association Meeting, Chicago, 1995 (also served as chair).

"Campaign Strategy in Congressional Elections," Midwest Political Science Association Meeting, Chicago, 1995.

Conference on Congressional Reform, The Brookings Institution, Washington, D.C., June, 1992.

"Campaign Contributions and Congressional Elections," Midwest Political Science Association Meeting, Chicago, 1992.

"Congress and the Politics of Institutional Change," American Political Science Association Meeting, San Francisco, 1990.

"Legislative Voting: Ideology and Cohesion," Southern Political Science Association Meeting, Atlanta, GA, 1988.

"Measuring and Modeling the U.S. Congress," American Political Science Association Meeting, Washington, D.C., 1988.

"Perspectives on the Presidency," Southern Political Science Association Meeting, Charlotte, NC, 1987.

"Congressional Elections," American Political Science Association Meeting, Chicago, 1987.

Other Conferences and Invited Presentations

2nd Annual Conference on Effective Lawmaking, University of Virginia, June 9-10, 2019.

"Voting Rights for American Indians," 33rd Annual Coming Together of Peoples Conference, March 9, 2019. Wisconsin Indigenous Law Student Association, UW Law School.

Invited lecture, "Partisan Redistricting in Wisconsin," Wisconsin State Bar Association Foundation, Milwaukee, WI, September 13, 2018.

Invited lecture, "Midterm Elections in the United States," Department of Political Science, Nazarbayev University, Astana, Kazakhstan, August 21, 2018.

Invited lecture, "Partisan Redistricting in Wisconsin," Wisconsin League of Women Voters, State Convention, keynote address, Oshkosh, WI, June 9, 2018.

Invited lecture, "Voter ID, Early Voting, and Voting Rights: Will Changes in Voting Laws Affect the 2016 Elections?" American Democracy Project, University of Wisconsin Oshkosh, February 22, 2016.

Invited lecture, "The Budget Impasse in Washington," Michigan Tech University, Houghton, MI, September 16, 2013.

Invited lecture, "The U.S. Presidential Election: Who's Next, What's Next," keynote address, European Rotogravure Association, Turin, Italy, September 25, 2012.

Invited lectures, "Governing or Gridlock? Political Polarization in the United States" and "President Obama and Racial Politics," Free University of Berlin, July 19, 2012.

Invited lecture, "President Obama and Race in the 2012 Election," University of Bamberg, Bamberg, Germany, July 5, 2012.

Invited lecture, "Race and Religion in the 2012 Presidential Election," Graduate program retreat for the University of Heidelberg American Studies Program, Annweiler, Germany, June 15-16, 2012.

Invited lecture, "Race and Representation in Congress," University of Rostock, Rostock, Germany, June 8, 2012.

Invited lecture, "The 2012 Presidential Election: It's the Economy Stupid (Again)," The Hessischer Kreis, Frankfurt, Germany, May 7, 2012.

Invited lecture, "In Search of a True Conservative: The Republican Candidates in the 2012 Election,"

Atlantische Akademie, Lambrecht, Germany, April 27, 2012.

Invited lecture, "Race and Religion in the 2012 Presidential Election," Tübingen German-American Institute, Tübingen, Germany, April 26, 2012.

Invited lecture, "The 2012 Presidential Election: Strategies and Controversies," Studienhaus Wiesneck, Freiburg, Germany, April 19, 2012.

Chaired a panel on European Integration, Germany Fulbright Meeting, Berlin, Germany, March 21, 2012.

Invited lecture, "The Presidential Selection Process," Munich German-American Institute, Munich Germany, February 23, 2012.

Invited lecture, "Gender and Racial Equity in the Hiring and Tenure Process in American Universities," International Symposium on Quality Assurance in Personnel Processes, Sponsored by the Baden-Württemberg Ministry for Science, Research, and the Arts, University of Hohenheim, Stuttgart, Germany, December 9, 2011.

Invited lectures, "President Obama and Race," and "President Obama's Immigration Policy," Conference on U.S. Immigration Policy, sponsored by the U.S. State Department, Boppard, Germany, December 9, 2011.

Invited lecture, "Political Polarization in the United States," Fulbright Distinguished Chair Lecture, Eberhard Karls University Tübingen, Tübingen, Germany, December 5, 2011.

Invited lecture, "The Presidential Nomination Process," University of Munich, Department of Political Science, November 28, 2011.

Keynote Address, "Reforming the Presidential Nomination Process," Fulbright Alumni Association of Germany, Annual Meeting, Frankfurt, Germany, November 5, 2011.

Invited lecture, "Redistricting in Wisconsin," Lawrence University, April 19, 2011.

Invited lecture, "Election Laws and Turnout in Presidential Elections," Yale University American Politics Workshop, April 6, 2011.

"Making Democracy Work," Milwaukee, WI, September 29, 2007, sponsored by the League of Women Voters of Wisconsin (presentation on a panel on redistricting).

Roundtable on "Renewing the Voting Rights Act," American Political Science Association Meeting, Philadelphia, September, 2006.

Invited lecture, "The Patriot Act and the War on Terrorism," University of Pecs, Hungary, October, 27, 2003.

Conference (served as discussant), "Race and Political Representation," University of Rochester, May, 2003.

Invited lecture, "Race, Representation, and Redistricting in the U.S. House," University of Pittsburgh, March, 2003.

Invited lecture, "Race, Representation, and the U.S. Supreme Court," Dartmouth College Legal Studies speaker series, October, 2002.

Invited lecture, "Race, Representation, and Redistricting in the U.S. House," Utah State University, September, 2002.

Invited lecture, "Parties and Policy in the U.S. House," American Politics Workshop, University of Chicago, January, 2001.

Conference (presented paper), "Aftermath: Conversations on the Clinton Scandal, the Future of the Presidency, and the Liberal State," University of Wisconsin Law School, Madison, Wisconsin,

February, 2000.
 Roundtable on The Role of Political Consultants in the Contemporary Election Process, Midwest Political Science Association Meeting, Chicago, April, 1999.
 “Rational Choice and Interpretive Approaches to Studying Politics,” chair of Theme Panel for the Midwest Political Science Association Meeting, Chicago, April, 1997.
 “Political Parties in the United States Congress,” chair of panel, American Political Science Association Meeting, San Francisco, August, 1996.
 Roundtable on The Historical Study of Congress, American Political Science Association Meeting, New York, September, 1994.
 Roundtable on The Historical Study of Congress, American Political Science Association Meeting, Chicago, September, 1992.
 Conference on The Historical Study of Congress, University of North Carolina, Chapel Hill, May, 1992.
 Conference on Congressional Recruitment, The Carl Albert Center, University of Oklahoma, February, 1991.
 Understanding Congress: A Bicentennial Research Conference, Washington, D.C., February, 1989.
 Roundtable on Forecasting Congressional Elections, Southern Political Science Association Meeting, Atlanta, November, 1986.
 Conference on Congressional Candidate Selection, Colby College, Waterville, Maine, July, 1986.

Reviewer

American Economic Review, American Journal of Political Science, American Politics Research, American Political Science Review, American Politics Quarterly, American Review of Politics, British Journal of Political Science, Brooks/Cole Publishers, Columbia University Press, Congress and the Presidency, DC Heath, Du Bois Review, Election Law Journal, Electoral Studies, Ethnic and Racial Studies, Governance: An International Journal of Policy and Administration, Harper/Collins Publishers, International Studies Quarterly, Irish Research Council for Humanities and Social Sciences (IRCHSS), Journal of Policy History, Journal of Politics, Journal of Race, Ethnicity, and Politics, Journal of Theoretical Politics, Jurimetrics: The Journal of Law, Science, and Technology, Legislative Studies Quarterly, Louisiana State University Press, National Science Foundation, Northern Illinois University Press, Ohio State University Press, Paradigm Publishers, Party Politics, Perspectives on Politics, Politics, Groups, and Identities; Political Behavior, Political Communication, Political Research Quarterly; Politics, Groups, and Identities; Polity, PS: Political Science and Politics, Presidential Studies Quarterly, Princeton University Press, Roman and Littlefield, Routledge, St. Martin's Press, Social Science Journal, Social Science Quarterly, Southeastern Political Review, Stanford University Press, State Politics and Policy Quarterly, Studies in American Political Development, University of Chicago Press, University Press of Kansas, University of Michigan Press, University of Oklahoma Press, University of Pittsburgh Press, University of Virginia Press, University of Wisconsin Press, Western European Politics, Westview Press, Worth Publishers, W.W. Norton.

Editorial and Advisory Boards

American Politics Quarterly (10/95-6/98)

Campaign Assessment and Candidate Outreach Project (University of Maryland, 4/99-present)
 Center for Congressional and Presidential Studies (American University), Board of Academic Advisors
 (5/99-present)
Congress and the Presidency (Fall, 2007 - present)
Legislative Studies Quarterly (1/95-1/98, 2010-2016)
 Legislative Studies Section Executive Council, APSA, (8/2011-2013)
New York Times College Program Advisory Board (5/97-8/01)
Political Research Quarterly (7/91-7/94)
Polity (12/98-2003)
 Westview Press (for series on "Dilemmas in American politics," edited by L. Sandy Maisel, 1992-2004)

Member

American Political Science Association (Legislative Studies Section, Race and Ethnic Politics Section)
 Midwest Political Science Association

Service–Profession

Co-editor (with Janet Box-Steffensmeier), “Legislative Politics and Policy Making” book series,
 University of Michigan Press, 2008-current; Ohio State University Press, 2003-2008.
 Expert witness for the plaintiffs in *Rhonda J. Martin, et. al. v. Brian Kemp* (2020), Ohio Democratic
 Party in *The Ohio Democratic Party, et al., v. Jon Husted* (2015); Jon Erpenbach in *The John K.
 MacIver Institute for Public Policy and Brian Fraley v. Jon Erpenbach* (2013); for David A. Zien
 and Scott L. Gunderson in *State of Wisconsin, Peggy A. Lautenschlager, and Daniel P. Bach v.
 David A. Zien and Scott L. Gunderson* (2006); for the Wisconsin Senate Democrats in *Baumgart et
 al. v. Jensen et al.*, 10/2001-5/2002; for the State of Virginia, U.S. District Court, Roanoke, VA., in
Moon v. Meadows summer, 1996. I also prepared expert briefs for the U.S. Department of Justice in
 the remand of *Georgia v. Ashcroft* (12/2003-2/2004) and *North Carolina v. United States* (2/2004 -
 3/2004), and served as a consultant for the City of Greenbelt, MD, on a voting rights issue, Fall,
 2008-Spring, 2009.
 Testimony before an informational hearing sponsored by Senators Tim Cullen and Dale Schultz on S.B.
 163, Redistricting Reform, Wisconsin State Senate, February 10, 2014.
 Testimony before the Wisconsin State Assembly Committee on Election and Campaign Reform, March
 24, 2011.
 Testimony before the Wisconsin Senate Elections Committee on S.B. 6, Photo ID bill, January 26, 2011.
 Testimony before the U.S. Senate Judiciary Committee on the extension of the Voting Rights Act, June
 21, 2006.
 Co-editor (with Janet Box-Steffensmeier), “Legislatures and Parliaments” book series, Ohio State
 University Press, 2003-2006.
 Co-Program Chair (with Janet Box-Steffensmeier), Midwest Political Science Association Annual
 Meeting, 2004.
 Section Chair, Legislative Politics, 1997 Midwest Political Science Association Meeting.
 President, Pi Sigma Alpha, 2002-2004, Executive Council 1994-1998, 2001-2010; committee on “Best
 Graduate Paper Given at the APSA,” 1997, 1998; chair of committee on “Best Undergraduate

Honors Thesis,” 2001, 2007; chapter grant committee, 2002; Executive Committee, 1997-1998, 2001-2006, nominations committee (chair) 2006, 2008, 2010.

Reviews and Book Editor for *Congress and the Presidency: A Journal of Capital Studies*, Fall 1994-Spring, 2001.

Midwest Political Science Association Council, 2001-2004.

External Reviewer (chair of committee), Department of Political Science, University of Maryland (March, 2002).

Franklin L. Burdette/Pi Sigma Alpha Award Committee (chair), APSA, for the best paper presented at the 2014 APSA meeting.

Patrick J. Fett Award Committee, Midwest Political Science Association, 2014, best paper on the scientific study of Congress and the presidency.

Jewell Loewenberg Award Committee, 2013, APSA Legislative Studies Section award for the best article published in *Legislative Studies Quarterly* in 2012.

Alan Rosenthal Prize Committee, APSA Legislative Studies Section award for a young scholar whose work strengthens the practice of representative democracy, 2005-2006.

Gladys M. Kammerer Award Committee (best book on U.S. national Policy, sponsored by the APSA), 2001-2002 (chair).

Richard F. Fenno Prize Committee (best book on legislative politics, sponsored by the Legislative Studies Section of the APSA), 2000-2001 (chair), 1996-97.

Midwest Political Science Association, Committee on “Best Graduate Paper Given in American Politics at the 2000 Convention” (Westview Prize).

Carl Albert Prize Committee, Legislative Studies Section, APSA, best dissertation on legislative politics, 1998-99.

Committee on the Status of Women, Southern Political Science Association, 1988-1990.

Service—Department, University, and Community

University of Wisconsin, Dean’s Review Committee, School of Education, Spring, 2020.

University of Wisconsin, Provost Search Committee, Spring, 2019.

Social Sciences Divisional Committee, UW-Madison, Fall, 2018-present (vice-chair, 2019-20; chair 2020-21).

Faculty Advisory Committee, Tommy G. Thompson Center on Public Leadership, Fall, 2018-present.

Student Academic Appeals, College of Letters & Science, 2015, 2019, 2020, 2021.

Delta Program on Addressing the Performance Gap at UW, Fall 2014.

Student Academic Affairs Faculty Advisory Board, College of Letters & Science, 2007-2011.

Letters and Science Academic Planning Council, 2006-2009.

Faculty Senate (University and Letters and Science), 2007-2008.

Orientation and New Student Programs (ONSP) Advisory Committee, University of Wisconsin, 2004-2007.

Marching Band Review Committee, chair, Fall, 2009-Spring, 2010.

Undergraduate Program Committee, 2005-2007 (chair), 1994-96 (chair).

Teaching Awards Committee (chair), 2004-2011, 2012-14.

Graduate Program Committee, 1990-91, 1997-98, 1999-2001, 2004-2005, 2007-2008, 2012-2014.

Associate Chair, Department of Political Science, Fall, 1997; Fall, 1999-Spring, 2001.

Graduate Admissions and Fellowships Committee, Dept. of Political Science, 1989-93, 1996-98, 1999-2001.

Social Studies Fellowships Committee, Graduate School, University of Wisconsin, 2001-2003 (chair in 2003).

Union Council Personnel Committee, Wisconsin Union Directorate, 1995-96.

University Library Committee 1995-96.

Departmental Search Committees: American Politics, 1986-87, 1989-90, 1999-2000, 2010-11; Formal Theory, 1987-88, 1999-2000; Women's Studies, 1988-89.

Recruitment Committee, 2008-2011.

Ad Hoc Departmental Committees: Graduate Scope and Methods Class, 1988-89; Committee on 200-Level Courses, 1989; Mainframe Computing at Duke, 1989; Status of Women in the Graduate Program, 1998.

Student-Faculty Service Projects: Meals on Wheels (1987-90) and Habitat for Humanity, (1987-1991).

Pre-major Adviser, 1989-1990.

Undergraduate Faculty Council of Arts and Sciences, 1989-1990.

Twentieth Century America Program, Fall semesters, 1988-1990.

Co-organizer, Conferences on "American Federalism," Duke University, March 8-11, 1989; May 14-19, 1989. Sponsored by Visitor Program Service of Meridian House International and U.S.I.A., Washington, D.C.

Commentator on various television and radio programs concerning local and national politics.

Expert Report of Dr. Kenneth R. Mayer

Johnson, et al., v. WEC, et al., No. 2021AP1450-OA

December 15, 2021

I. Executive Summary

Population changes in Wisconsin since 2010, as measured by the 2010 Census, require redrawing the existing state legislative districts. The population of Wisconsin grew by 206,732 to 5,893,718, a growth of 2.6%. Most of the population growth occurred in populous counties, and was concentrated in Dane County, the Fox River Valley (Brown, Outagamie and Winnebago), the “collar counties” Milwaukee (Ozaukee, Washington, Waukesha), and in the Eau Claire area.

The BLOC Assembly map has the following characteristics:

Population Deviation:	1.32%
Compactness (Reock)	0.38
Core Population Retention:	84.2%
Delayed Senate Vote	179,629

The Senate Districts created by this plan have the following characteristics

Population Deviation:	0.96%
Compactness (Reock)	0.41
Core Population Retention:	89.6%

The BLOC Assembly Plan creates a seventh majority African American district in Milwaukee. Creating this new Majority-Minority district required reconfiguration of other districts in the City. Those changes, in turn, “rippled” through the adjacent districts, and then had second-order effects on the districts adjacent to those districts. These districts lower the overall core retention of the plan. Calculating core retention for the plan after removing them shows the following results:

Core Population Retention:	84.2%
Core Population Retention (removing Section 2 districts)	86.4%
Core Population Retention (removing Section 2 and adjacent Districts)	87.95%

Likewise, the majority-minority districts form even-numbered senate districts, and are adjacent to odd-numbered senate districts. As a result, the addition of a seventh majority Black district unavoidably increases the “delayed senate vote” affected population. Excluding the changes attributable to majority Black districts, the statewide delayed senate vote total drops to 127,147.

II. Data

In forming my opinions in this matter, I relied on the following data:

1. A map provided to me by counsel, consisting of a block equivalency file.
2. 2020 Census data, obtained either from the Census Bureau or the Redistricting Data Hub.
3. The peer reviewed academic literature and other sources cited in this report.

In calculating plan metrics, I relied on Maptitude for Redistricting Version 2021, a standard redistricting GIS application, and Dave's Redistricting App, a web application that is considered an authoritative source.¹ For district demographics, I relied on Census data and American Community Survey data reported in Dave's Redistricting App, and data available on the Redistricting Data Hub.

III. Qualifications and Expertise

I have a Ph.D. in political science from Yale University, where my graduate training included courses in econometrics and statistics. My undergraduate degree is from the University of California, San Diego, where I majored in political science and minored in applied mathematics. I have been on the faculty of the political science department at the University of Wisconsin-Madison since August 1989. My curriculum vitae is attached to this report.

All publications that I have authored and published in the past ten years appear in my curriculum vitae, attached to this report. Those publications include the following peer-reviewed journals: *Journal of Politics*, *American Journal of Political Science*, *Election Law Journal*, *Legislative Studies Quarterly*, *Presidential Studies Quarterly*, *American Politics Research*, *Congress and the Presidency*, *Public Administration Review*, *Political Research Quarterly*, and *PS: Political Science and Politics*. I have also published in law reviews, including the *Richmond Law Review*, the *UCLA Pacific Basin Law Journal*, and the *University of Utah Law Review*. My work on campaign finance has been published in *Legislative Studies Quarterly*, *Regulation*, *PS: Political Science and Politics*, *Richmond Law Review*, the *Democratic Audit of Australia*, and in an edited volume on electoral competitiveness published by the Brookings Institution Press. My research on campaign finance has been cited by the U.S. Government Accountability Office, and by legislative research offices in Connecticut and Wisconsin.

My work on election administration has been published in the *Election Law Journal*, *American Journal of Political Science*, *Public Administration Review*, *Political Research Quarterly*, and *American Politics Research*. I was part of a research group retained by the former Wisconsin Government Accountability Board to review their compliance with federal mandates and reporting systems under the Help America Vote Act, and to survey local election officials throughout the state. I serve on the Steering Committee of the Wisconsin Elections Research Center, a unit within the UW-Madison College of Letters and Science. In 2012, I was retained by the United States Department of Justice to analyze data and methods regarding Florida's efforts to identify and remove claimed ineligible noncitizens from the statewide file of

¹ Dr. Bernard Grofman, the Jack W. Peltason Chair and Distinguished Professor of Political Science at the University of California-Irvine, and a frequent expert witness or Special Master in redistricting cases (including serving an expert witness for the State of Wisconsin at the 2012 trial of the *Baldus v. Members of the Government Accountability Board* redistricting case in federal court), described Dave's Redistricting App as "free user-friendly mapping program that is becoming widely used in redistricting map-drawing" and relied on it to draw council districts in Virginia Beach, Virginia in *Holloway et al. v. City of Virginia Beach et al.*, Case No: 2:18cv69.

registered voters. I am the Principal Investigator of the Multidisciplinary Approach to Redistricting Knowledge project, a research project to study new ways of analyzing redistricting issues, which includes political scientists, geographers, and computer scientists

In the past nine years, I have testified as an expert witness in trial or deposition or submitted a report in the following cases:

Federal: *League of Women Voters of Florida, Inc., et al. v. Lee, et al.*, Case No. 4:21-cv-00186-MW-MAF (N.D. Fla., 2021); *Fair Fight Inc., et al. v. True the Vote, Inc., et al.*, Case No. 2:20-CV-00302-SCJ (N.D. Ga., 2021); *Majority Forward and Gamliel Warren Turner, Sr. v. Ben Hill County Board of Elections, et al.*, No. 1:20-CV-00266-LAG (M.D. Ga., 2021), *Pearson et al. v. Kemp et al.*, No. 1:20-cv-4809-TCB (N.D. Ga., 2021); *The Andrew Goodman Foundation v. Bostelmann*, No. 19-cv-955 (W.D. Wis., 2020); *The New Georgia Project et al. v. Raffensperger et al.* No. 1:20-CV-01986-EL0052 (N.D. Ga., 2020); *Fair Fight Action v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga. 2019); *Kumar v. Frisco Independent School District*, No. 4:19-cv-00284 (E.D. Tex. 2019); *Vaughan v. Lewisville Independent School District*, No. 4:19-cv-00109 (E.D. Tex. 2019); *Tyson v. Richardson Independent School District*, No. 3:18-cv-00212 (N.D. Tex. 2018); *Dwight, et al. v. Raffensperger*, No. 1:18-cv-2869-RWS (N.D. Ga. 2018); *League of Women Voters of Michigan, et al. v. Johnson*, No. 2:17-cv-14148-DPH-SDD (S.D. Mich. 2018); *One Wis. Institute, Inc. v. Thomsen* 198 F. Supp. 3d 896 (W.D. Wis. 2016); *Whitford v. Gill*, 218 F. Supp. 3d 837 (W.D. Wis. 2016); *Baldus v. Members of Wis. Gov't Accountability Bd.*, 849 F. Supp. 2d 840 (E.D. Wis. 2012).

State: *League of Women Voters of Arkansas et al. v. Thurston et al.*, Case No. 60CV-21-3138 (5th Circ. Ct., Pulaski Cty., AR, 2021); *Driscoll v. Stapleton*, No. DV 20 0408 (13th Judicial Ct. Yellowstone Cty., MT, 2020); *North Carolina Alliance for Retired Americans et al. v. North Carolina State Board of Elections* (Wake Cty., NC, 2020); *LaRose et al. v. Simon*, No. 62-CV-20-3149 (2d Jud. Dist. Ct., Ramsey Cty., MN, 2020); *Michigan Alliance for Retired Americans et al. v. Benson et al.* No 2020-000108-MM (Mich. Court of Claims, 2020); *Priorities U.S.A., et al. v. Missouri, et al.*, No. 19AC-CC00226 (Cir. Ct. of Cole Cty., MO 2018); *Milwaukee Branch of the NAACP v. Walker*, 851 N.W. 2d 262 (Wis. 2014); *Kenosha Cty. v. City of Kenosha*, No. 11-CV-1813 (Wis. Cir. Ct., Kenosha Cty., WI 2011).

Courts consistently have accepted my expert opinions, and the basis for those opinions. No court has ever excluded my expert opinion under *Daubert* or any other standard. Courts have cited my expert opinions in their decisions, finding my opinions reliable and persuasive. *See Driscoll v. Stapleton*, No. DV 20 0408 (13th Judicial Ct. Yellowstone Cty., MT, 2020); *Priorities U.S.A., et al. v. Missouri, et al.*, No. 19AC-CC00226 (Cir. Ct. Cole Cty., MO 2018); *Whitford v. Gill*, 218 F. Supp. 3d 837 (W.D. Wis. 2016); *One Wis. Inst., Inc. v. Thomsen*, 198 F. Supp. 3d 896 (W.D. Wis. 2016); *Baldus v. Members of Wis. Gov't Accountability Bd.*, 849 F. Supp. 2d 840 (E.D. Wis. 2012); *Milwaukee Branch of the NAACP v. Walker*, 851 N.W. 2d 262 (Wis. 2014); *Baumgart v. Wendelberger*, No. 01-C-0121, 2002 WL 34127471 (E.D. Wis. May 30, 2002).

In 2012, the Court in *Baldus v. Members of Wis. Gov't Accountability Bd.* relied on a map I drew to create a majority Hispanic Assembly District in Milwaukee (the 8th).

I am being compensated at an hourly rate of \$450 for my work in this matter.

IV. Wisconsin 2020 Census

The 2020 Census showed that Wisconsin's population grew by 206,732, to 5,893,718.² Population change was not uniform throughout the state, with populous counties experiencing most of the growth. The sixteen counties with over 100,000 population in the 2020 Census had 78.1% of the state's population growth from 2010 (161,393), while the twenty-six counties with under 25,000 population in 2020 had 1.5% of the population growth from 2010 (3,082).

Population growth was concentrated in the "collar counties" around Milwaukee (Ozaukee, Washington, and Waukesha Counties), the Fox Valley (Brown, Outagamie, and Winnebago Counties), the western portion of the state from Eau Claire west to the Minnesota border (Eau Claire, Chippewa, Dunn, St. Croix, and Pepin Counties), and the area around Madison (Dane County), which saw the largest absolute growth over the decade (73,431) and the largest percentage growth (over 15%).

As a result of population growth, decline, and shifts, the 2011 Act 43³ Assembly districts no longer have equal population. Table 1 shows the 2020 populations of each Assembly district, and the absolute and percentage deviation from the ideal population of 59,533. The deviations range from -11.6% in district 10 to +20.4% in district 76. Nine districts have a population deviation of -5% or more (seven of which are in the City of Milwaukee: the 8th, 10th, 11th, 12th, 16th, 17th, and 18th), and thirteen districts have a population deviation of +5% or higher, most of which are either in the Fox River Valley (the 5th and 56th) or Dane County (the 38th, 46th, 47th, 76th, 77th, 78th, 79th, and 80th).

2011 Act 43 - 2020 Populations			
District	2020 Population	Absolute Deviation	% Deviation
1	59,834	301	0.5%
2	62,564	3,031	5.1%
3	61,906	2,373	4.0%
4	58,716	-817	-1.4%
5	67,428	7,895	13.3%
6	57,409	-2,124	-3.6%
7	59,355	-178	-0.3%
8	53,999	-5,534	-9.3%
9	57,339	-2,194	-3.7%
10	52,628	-6,905	-11.6%
11	54,275	-5,258	-8.8%
12	56,305	-3,228	-5.4%
13	61,779	2,246	3.8%

² <https://www.census.gov/library/stories/state-by-state/wisconsin-population-change-between-census-decade.html>.

³ Throughout my report when I discuss the 2011 Act 43 Assembly districts, I refer to those districts *as modified by Baldus v. Members of Wis. Gov't Accountability Bd.*, 862 F. Supp. 2d 860 (E.D. Wis. 2012) unless otherwise specified.

14	60,136	603	1.0%
15	57,145	-2,388	-4.0%
16	53,739	-5,794	-9.7%
17	55,343	-4,190	-7.0%
18	52,987	-6,546	-11.0%
19	62,056	2,523	4.2%
20	56,812	-2,721	-4.6%
21	59,100	-433	-0.7%
22	60,750	1,217	2.0%
23	60,761	1,228	2.1%
24	60,737	1,204	2.0%
25	57,986	-1,547	-2.6%
26	58,710	-823	-1.4%
27	59,294	-239	-0.4%
28	59,274	-259	-0.4%
29	61,746	2,213	3.7%
30	62,735	3,202	5.4%
31	59,952	419	0.7%
32	59,397	-136	-0.2%
33	58,490	-1,043	-1.8%
34	60,803	1,270	2.1%
35	56,431	-3,102	-5.2%
36	57,713	-1,820	-3.1%
37	61,182	1,649	2.8%
38	61,646	2,113	3.5%
39	58,192	-1,341	-2.3%
40	57,138	-2,395	-4.0%
41	57,743	-1,790	-3.0%
42	58,322	-1,211	-2.0%
43	59,492	-41	-0.1%
44	58,574	-959	-1.6%
45	57,664	-1,869	-3.1%
46	65,092	5,559	9.3%
47	63,646	4,113	6.9%
48	63,754	4,221	7.1%
49	57,941	-1,592	-2.7%
50	58,713	-820	-1.4%
51	56,878	-2,655	-4.5%
52	59,848	315	0.5%
53	58,579	-954	-1.6%

54	57,411	-2,122	-3.6%
55	61,992	2,459	4.1%
56	64,544	5,011	8.4%
57	57,937	-1,596	-2.7%
58	59,054	-479	-0.8%
59	58,158	-1,375	-2.3%
60	59,358	-175	-0.3%
61	59,972	439	0.7%
62	58,422	-1,111	-1.9%
63	59,808	275	0.5%
64	57,845	-1,688	-2.8%
65	57,248	-2,285	-3.8%
66	56,026	-3,507	-5.9%
67	60,513	980	1.6%
68	61,896	2,363	4.0%
69	57,134	-2,399	-4.0%
70	58,276	-1,257	-2.1%
71	57,866	-1,667	-2.8%
72	57,669	-1,864	-3.1%
73	58,507	-1,026	-1.7%
74	59,010	-523	-0.9%
75	58,751	-782	-1.3%
76	71,685	12,152	20.4%
77	62,992	3,459	5.8%
78	67,142	7,609	12.8%
79	69,732	10,199	17.1%
80	65,830	6,297	10.6%
81	59,943	410	0.7%
82	59,196	-337	-0.6%
83	58,770	-763	-1.3%
84	59,529	-4	0.0%
85	58,671	-862	-1.4%
86	60,462	929	1.6%
87	57,051	-2,482	-4.2%
88	62,894	3,361	5.6%
89	60,143	610	1.0%
90	57,912	-1,621	-2.7%
91	59,397	-136	-0.2%
92	59,334	-199	-0.3%
93	60,667	1,134	1.9%

94	62,080	2,547	4.3%
95	58,704	-829	-1.4%
96	58,372	-1,161	-2.0%
97	56,590	-2,943	-4.9%
98	61,407	1,874	3.1%
99	57,780	-1,753	-2.9%

V. Apportionment of Legislative Districts

The imbalance of population determined from the 2020 Census across existing State Assembly districts requires redrawing the statewide district map.

Redrawing a statewide legislative map to equalize populations is not a straightforward process. When an existing district is underpopulated, map drawers must add populations from surrounding districts. Unless adjacent districts are overpopulated by the same amount, the process requires surrounding districts to expand outward as well. If the surrounding districts are also underpopulated, they become even more so after part of their populations are moved to the first district, and they must be modified to bring in population from other districts, and so on. As a rule, these changes propagate outward (analogous to a ripple spreading out when a rock is tossed into a lake) until an underpopulated region can be balanced with an overpopulated region or the effects dampen as population effects are spread out among more and more districts.

These changes can have large effects that propagate throughout a map, particularly if map drawers are taking other factors into account, such as keeping municipalities together or drawing compact districts.

“Ripple” effects from changes can be severe. Even a small shift in one district can result in the need for dramatic changes in other districts if there are strict population constraints (as there are for congressional districting) or if other constraints are in place such as preserving municipal and county boundaries, or avoiding vote dilution issues (Miller and Grofman 2018, 29).

The problem is made more complex because the number of possible map configurations, even under a “least-change” approach intended to minimize the number of changes to an existing map, very quickly becomes large.

VI. Majority-Minority Districts – Act 43

Act 43 created 7 majority-minority districts, one with a majority of Hispanic citizen voting age population (the 8th) and 6 majority Black voting age population districts (the 10th, 11th, 12th, 16th, 17th and 18th). The demographics of each district in the 2020 Census are shown below:

Act 43 – Majority Hispanic District			
District	CVAP	Hispanic CVAP	%
8	24983	13378	53.5%

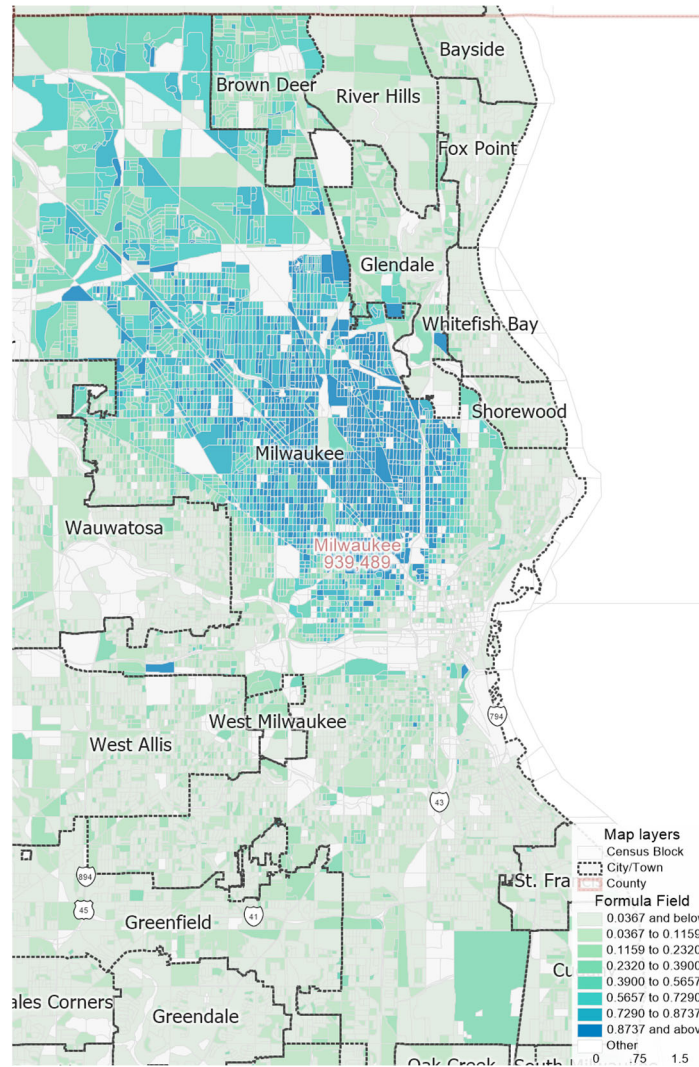
2020 Census – Act 43 Majority-Minority Districts			
District	VAP	Black VAP	%
10	39057	23197	59.4%
11	38031	24922	65.5%
12	39947	24224	60.6%
16	41231	22923	55.6%
17	40187	27476	68.4%
18	38748	23522	60.7%

VII. Majority-Minority Districts- BLOC Assembly Plan

Milwaukee is one of the most residentially segregated cities in the U.S.⁴, with patterns apparent from a map of the voting age population at the Census Block level, using 2020 Census data:

⁴ <https://www.brookings.edu/blog/social-mobility-memos/2016/02/17/milwaukee-segregation-and-the-echo-of-welfare-reform/>.

Figure A – Milwaukee Racial Composition



This map shows that the Black population is concentrated almost entirely in the Northwest part of the city, North of Interstate 90 and West of the Milwaukee River. Almost every block in this region has a Black VAP concentration of above 50%, and a majority have concentrations about 72%. The Black population clearly meets the standard in *Thornburgh v. Gingles* 478 U.S. 30 (1985) of constituting “sufficiently large and geographically compact” to constitute majorities in legislative districts (478 U.S. 30, 50- 51).

The BLOC Assembly plan maintains the majority Hispanic district (the 8th), and creates a seventh majority-minority Black district (the 14th):

BLOC Assembly Plan - Majority Hispanic District			
District	CVAP	Hispanic CVAP	%
8	28393	14826	52.2%

BLOC Assembly Plan Majority Black Districts			
District	VAP	Black VAP	% Black
10	45893	23997	52.3%
11	43155	21856	50.6%
12	42544	21352	50.2%
14	43527	21974	50.5%
16	46815	23651	50.5%
17	44660	22593	50.6%
18	43907	22169	50.5%

VIII. Metrics

A. Population Deviation

The district ideal population is 59,533. The total deviation is calculated as the difference between the least populated and most populated district. For the BLOC Assembly Plan, the deviation is 1.32%, well within acceptable limits (districts are rank ordered from smallest to largest population).

BLOC Assembly Plan – Population Deviation			
District	Population	Absolute Deviation	% Deviation
72	59141	-392	-0.66%
14	59149	-384	-0.65%
25	59153	-380	-0.64%
11	59154	-379	-0.64%
54	59159	-374	-0.63%
88	59171	-362	-0.61%
65	59177	-356	-0.60%
64	59184	-349	-0.59%
10	59202	-331	-0.56%
45	59208	-325	-0.55%

27	59211	-322	-0.54%
50	59225	-308	-0.52%
31	59228	-305	-0.51%
20	59235	-298	-0.50%
48	59260	-273	-0.46%
67	59266	-267	-0.45%
53	59272	-261	-0.44%
4	59284	-249	-0.42%
16	59287	-246	-0.41%
56	59288	-245	-0.41%
62	59294	-239	-0.40%
69	59307	-226	-0.38%
44	59312	-221	-0.37%
68	59313	-220	-0.37%
33	59316	-217	-0.36%
35	59317	-216	-0.36%
12	59325	-208	-0.35%
80	59347	-186	-0.31%
26	59354	-179	-0.30%
8	59362	-171	-0.29%
95	59365	-168	-0.28%
82	59397	-136	-0.23%
7	59408	-125	-0.21%
79	59431	-102	-0.17%
55	59436	-97	-0.16%
83	59442	-91	-0.15%
92	59444	-89	-0.15%
42	59447	-86	-0.14%
77	59449	-84	-0.14%
66	59456	-77	-0.13%
93	59463	-70	-0.12%
85	59467	-66	-0.11%
17	59473	-60	-0.10%
19	59478	-55	-0.09%
76	59485	-48	-0.08%
49	59492	-41	-0.07%
94	59494	-39	-0.07%
28	59498	-35	-0.06%
71	59501	-32	-0.05%
89	59530	-3	-0.01%
60	59535	2	0.00%
24	59542	9	0.02%
78	59550	17	0.03%

40	59562	29	0.05%
51	59562	29	0.05%
43	59573	40	0.07%
23	59591	58	0.10%
21	59592	59	0.10%
70	59592	59	0.10%
38	59595	62	0.10%
9	59598	65	0.11%
63	59613	80	0.13%
81	59618	85	0.14%
30	59623	90	0.15%
52	59667	134	0.23%
18	59685	152	0.26%
99	59690	157	0.26%
3	59696	163	0.27%
96	59706	173	0.29%
46	59710	177	0.30%
74	59710	177	0.30%
59	59718	185	0.31%
91	59732	199	0.33%
34	59734	201	0.34%
87	59751	218	0.37%
73	59766	233	0.39%
75	59766	233	0.39%
29	59768	235	0.39%
36	59778	245	0.41%
39	59788	255	0.43%
58	59796	263	0.44%
47	59799	266	0.45%
97	59800	267	0.45%
61	59831	298	0.50%
1	59834	301	0.51%
2	59840	307	0.52%
15	59846	313	0.53%
22	59846	313	0.53%
84	59848	315	0.53%
41	59856	323	0.54%
57	59856	323	0.54%
13	59857	324	0.54%
37	59868	335	0.56%
32	59876	343	0.58%
90	59879	346	0.58%
6	59881	348	0.58%

86	59902	369	0.62%
98	59910	377	0.63%
5	59925	392	0.66%

B. Core Retention

Core retention – a measure of how much districts changed in a redrawn map – is typically measured as the percentage of an old district’s previous population that is kept together in a new district.

The core retention metrics for the BLOC Assembly Plan are shown below. The average district core retention is 84.2%. The average is lowered by the drawing of a seventh majority Black district in Milwaukee, which required reconfiguration of existing districts.

BLOC Assembly Plan – Core Population Retention			
District	Core Retention Largest Population	Core Retention Percent	Section 2 District
1	59830	99.99	0
2	51217	85.59	0
3	56965	95.43	0
4	58716	99.04	0
5	48941	81.67	0
6	41923	70.01	0
7	49384	83.13	0
8	53999	90.97	YES
9	51949	87.17	0
10	28481	48.11	YES
11	31537	53.31	YES
12	35057	59.09	YES
13	38847	64.9	0
14	21248	35.92	YES
15	52244	87.3	0
16	30840	52.02	YES
17	35423	59.56	YES
18	42937	71.94	YES
19	39221	65.94	0
20	44154	74.54	0
21	58547	98.25	0
22	36562	61.09	0

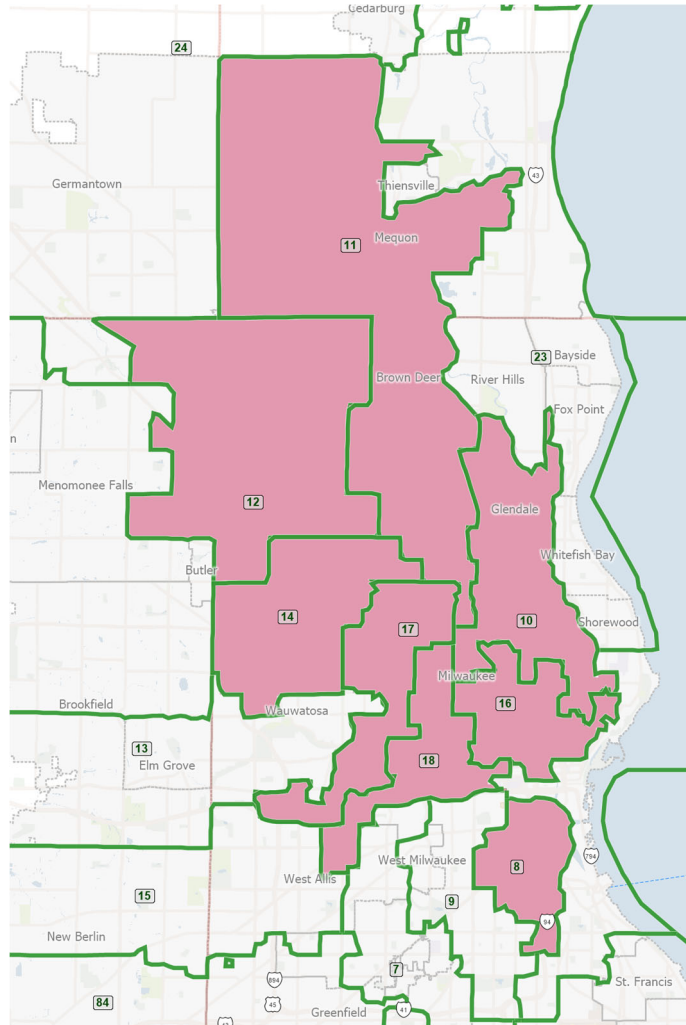
23	41504	69.65	0
24	26576	44.63	0
25	57986	98.03	0
26	42453	71.53	0
27	42034	70.99	0
28	58724	98.7	0
29	56089	93.84	0
30	59056	99.05	0
31	29072	49.08	0
32	39194	65.46	0
33	49318	82.88	0
34	59734	100	0
35	55791	94.06	0
36	50878	85.11	0
37	39770	66.43	0
38	29314	49.19	0
39	32073	53.64	0
40	48927	82.14	0
41	50427	84.25	0
42	49701	83.61	0
43	55398	92.99	0
44	55300	93.24	0
45	28592	48.29	0
46	47388	79.36	0
47	54819	91.67	0
48	45027	75.98	0
49	57869	97.27	0
50	57233	96.64	0
51	43531	73.09	0
52	53991	90.49	0
53	56738	95.72	0
54	57221	96.72	0
55	59421	99.97	0
56	56709	95.65	0
57	57930	96.78	0
58	58892	98.49	0
59	44537	74.58	0
60	41066	68.98	0
61	54295	90.75	0
62	58407	98.5	0
63	57902	97.3	0
64	54471	92.04	0
65	53481	90.37	0

66	56026	94.23	0
67	59260	99.99	0
68	57349	96.69	0
69	57111	96.3	0
70	57308	96.17	0
71	56637	95.19	0
72	55010	93.01	0
73	57600	96.38	0
74	59010	98.83	0
75	55822	93.4	0
76	59485	100	0
77	59329	99.8	0
78	58799	98.74	0
79	51551	86.74	0
80	39641	66.8	0
81	50404	84.54	0
82	41412	69.72	0
83	30369	51.17	0
84	48405	80.88	0
85	58574	98.5	0
86	59257	98.92	0
87	57052	95.48	0
88	59171	100	0
89	57642	96.83	0
90	57912	96.72	0
91	59218	99.14	0
92	57324	96.43	0
93	56240	94.58	0
94	59213	99.53	0
95	58465	98.48	0
96	56840	95.2	0
97	51789	86.6	0
98	53396	89.13	0
99	52635	88.18	0

Figures 2-4 show the ripple effects of the Voting Rights Act districts.

Figure 2 shows the seven districts with majority Black voting age populations (10, 11, 12, 14, 16, 17, 18) and the district with a majority Hispanic population (8). These 8 districts (shaded pink) have an average core retention of 58.9%, below the plan average. The creation of a seventh majority-minority Black district (the 14th) involved reconfiguring the boundaries of the existing districts (10-12 and 16-18),

Figure 2 – Section 2 Districts



The construction of the Section 2 districts affects the immediately adjacent districts. Figure 3 shows the adjacent districts (shaded light blue). Obviously, Districts 23 and 19 to the east are bounded by the Section 2 districts to the west and Lake Michigan to the east, and must take elongated shapes (as they do in the existing plan) that must change as the Section 2 districts' boundaries change. These adjacent districts have an average core retention of 64.7%, above the Section 2 district core retention metric, but below the plan average of 84.2%. The core retention of the BLOC Assembly plan, excluding these districts is 86.4%.

Figure 3 – Districts Adjacent to Section 2 Districts

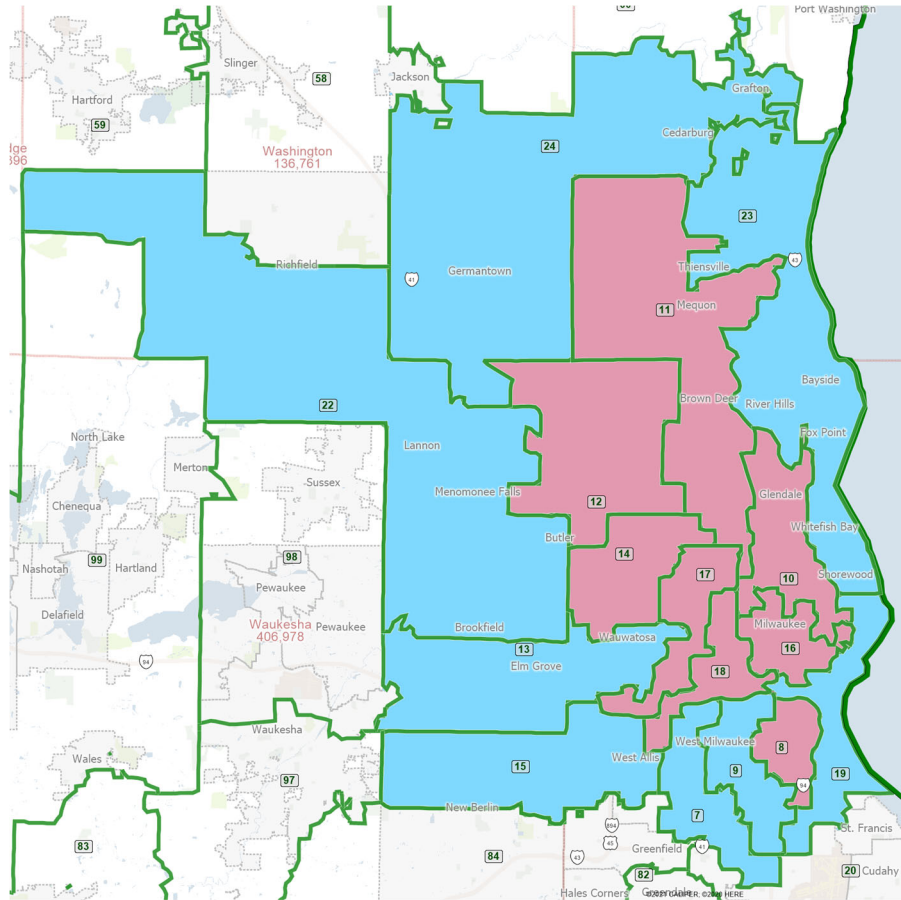
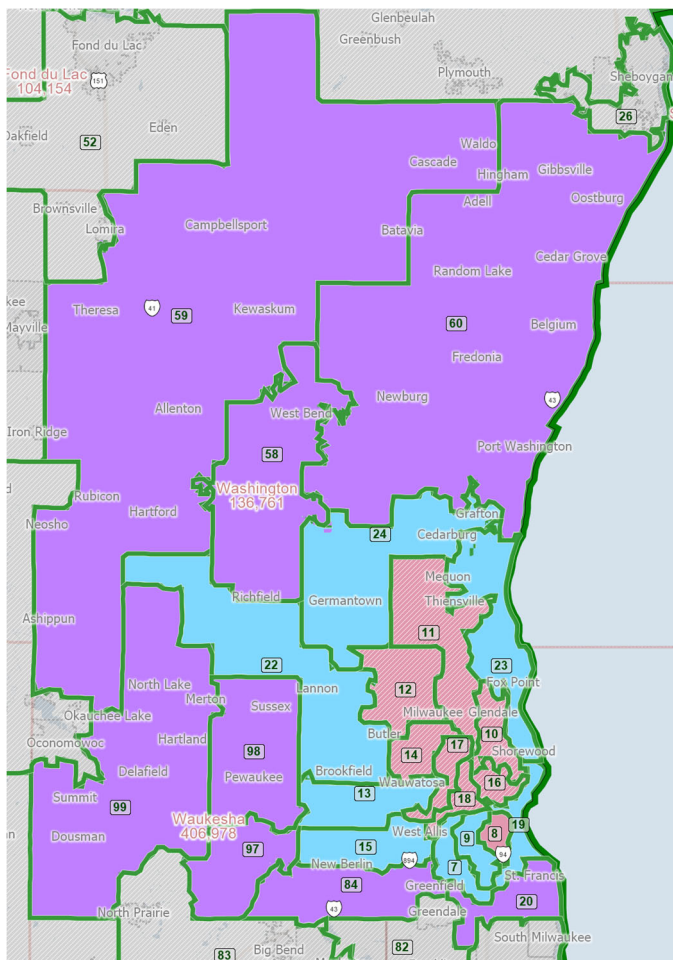


Figure 4 shows the second-order effects of the Section 2 districts, revealing how the ripple effects move outward. The districts shaded purple are those adjacent to the districts, contiguous with the Section 2 districts. The average core retention of these districts is 70.7%, demonstrating that as one moves outward from the Section 2 districts, core retention increases toward the plan mean. The mean core retention of the plan excluding these districts is 87.9%

Figure 4 – Second-Order Adjacency Effects



Figures 5 and 6 show the distribution of district core retention. Each histogram shows the number of districts in each band, with the red vertical line showing the mean core retention for the BLOC Assembly Plan. Figure 5 shows all 99 districts in the plan, while Figure 6 shows the distribution for all districts excluding the Section 2 and Section 2-adjacent districts (the shaded districts in Figure 3). The mean core retention excluding the Section 2, and Section 2-adjacent districts (shown in pink and blue). As shown below, the average core retention of the plan is even higher when excluding the changes most directly required to achieve Section 2 compliance: 86.4% core retention excluding just the Section 2 districts, and 87.95% excluding the adjacent districts.

Figure 5
Core Retention in Plan
All Districts

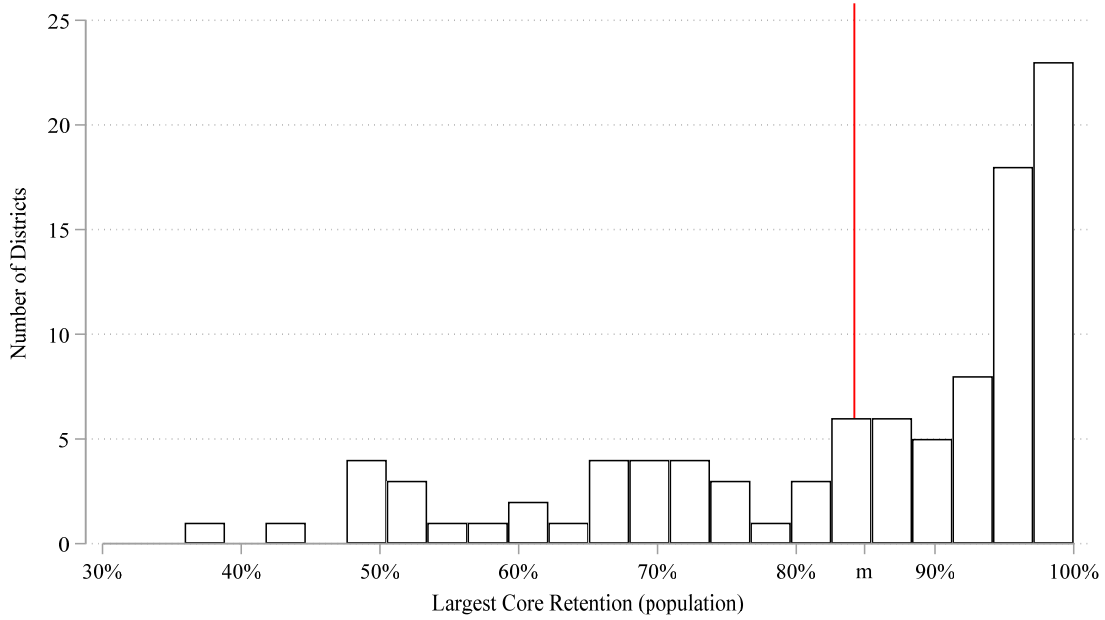
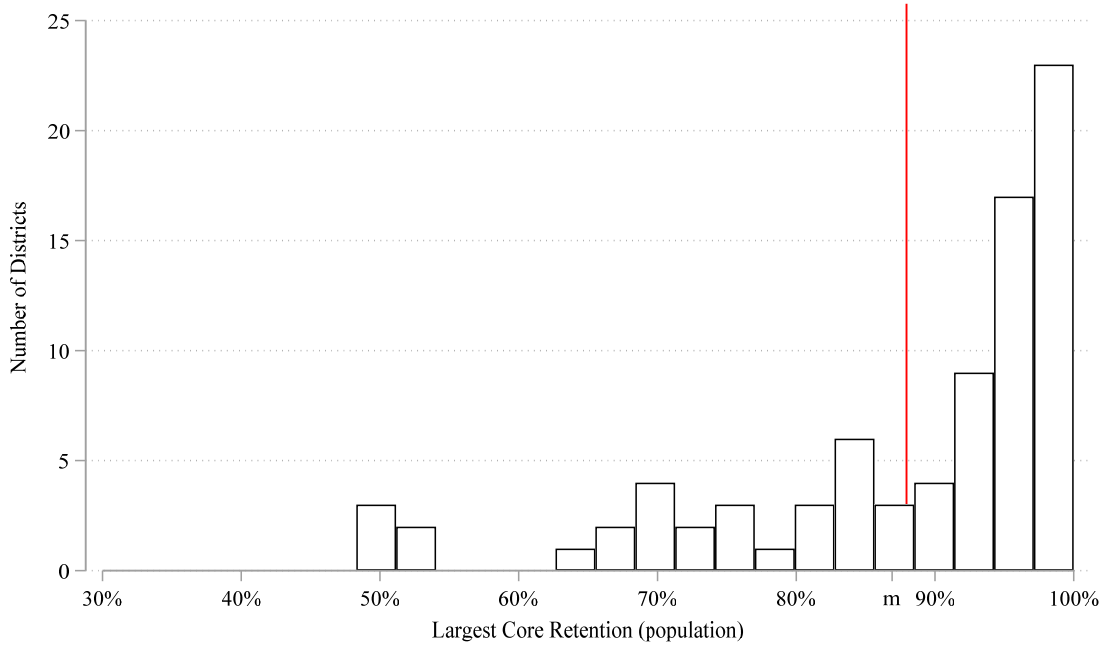


Figure 6
Core Retention in Plan - Excluding Section 2 and Adjacent Districts



C. Compactness

Compactness is commonly measured by the Reock score, calculated by dividing the area of a district by the area of the smallest circle that completely encloses the district.

Reock scores range from zero to one, with higher Reock scores indicating more compact districts. The mean Reock measure of the BLOC Assembly Plan is 0.38. The Reock measure of 2011 Act 43 is 0.4.

BLOC Assembly Plan Compactness	
District	Reock
1	0.50
2	0.34
3	0.42
4	0.32
5	0.42
6	0.60
7	0.29
8	0.47
9	0.36
10	0.28
11	0.26
12	0.49
13	0.28
14	0.49
15	0.35
16	0.53
17	0.23
18	0.23
19	0.27
20	0.35
21	0.30
22	0.22
23	0.19
24	0.36
25	0.30
26	0.38
27	0.24
28	0.45
29	0.33
30	0.42
31	0.54
32	0.41
33	0.33
34	0.36
35	0.48
36	0.44
37	0.33
38	0.30

39	0.24
40	0.46
41	0.40
42	0.36
43	0.42
44	0.36
45	0.41
46	0.39
47	0.25
48	0.35
49	0.36
50	0.35
51	0.49
52	0.52
53	0.45
54	0.44
55	0.24
56	0.33
57	0.39
58	0.34
59	0.29
60	0.56
61	0.28
62	0.31
63	0.33
64	0.22
65	0.28
66	0.32
67	0.46
68	0.60
69	0.47
70	0.24
71	0.54
72	0.51
73	0.36
74	0.48
75	0.33
76	0.18
77	0.56
78	0.49
79	0.35
80	0.39
81	0.46
82	0.51
83	0.43
84	0.26
85	0.41
86	0.29
87	0.34
88	0.30
89	0.39

90	0.45
91	0.42
92	0.40
93	0.27
94	0.50
95	0.27
96	0.39
97	0.46
98	0.55
99	0.36

D. Contiguity of Districts

All Assembly Districts in the BLOC Assembly Plan are comprised of contiguous territory, allowing for municipal islands permitted under Wisconsin law.

E. Senate Delayed Vote

Each State Senate district is made up of 3 sequentially-numbered Assembly districts (Assembly districts 1-3 constitute Senate District 1, Assembly Districts 4-6 Senate District 2, and so on).

Senate elections occur in even-numbered districts during presidential years (most recently 2020), and in odd-numbered districts during off-years (2018). If a voter is moved from an odd-numbered district into an even-numbered districts, their vote for a state senator is delayed from 2022 to 2024.

The BLOC Assembly Plan moves 179,629 people from odd to even Senate Districts. Excluding the Section 2 Districts in Milwaukee, the total is 127,147.

F. Senate Districts (Core Retention and Compactness)

The Senate Plan created by aggregating the BLOC Assembly districts has a population deviation of 0.96%, mean core population retention of 89.6% and a mean Reock compactness score of 0.41. Metrics for each Senate District are shown below.

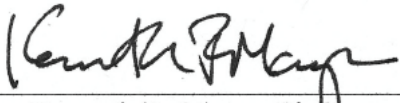
BLOC Assembly Plan - Senate District Core Retention		
District	Core Retention Largest Population	Core Retention Percent
1	172935	96.41
2	165375	92.34
3	168344	94.38
4	112385	63.25
5	128094	71.62
6	123666	69.3
7	154583	86.7
8	123555	69.03

9	160553	90.34
10	178115	99.57
11	142520	79.79
12	169929	95.02
13	144101	80.39
14	156923	87.73
15	142540	80.04
16	162494	90.9
17	160815	90.2
18	170533	95.75
19	178580	100
20	145544	81.29
21	171497	96
22	171112	96.23
23	175563	98.69
24	173072	97.1
25	175494	97.91
26	178131	99.8
27	155863	87.37
28	148697	83.26
29	175784	98.14
30	176670	98.93
31	175465	98.22
32	177642	99.48
33	166559	92.84

BLOC Assembly Plan Compactness - Senate Districts	
District	Reock
1	0.30
2	0.56
3	0.66
4	0.34
5	0.40
6	0.37
7	0.47
8	0.28
9	0.39
10	0.37
11	0.40
12	0.53
13	0.46
14	0.34
15	0.38
16	0.43
17	0.39
18	0.51
19	0.49
20	0.43
21	0.48
22	0.46
23	0.42
24	0.35
25	0.39
26	0.46
27	0.33
28	0.38
29	0.25
30	0.32
31	0.32
32	0.45
33	0.54

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

Executed on December 15, 2021.



Kenneth R. Mayer, Ph.D.

Sources

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Education

Yale University, Department of Political Science, Ph.D., 1988.
Yale University, Department of Political Science, M.A., M.Phil., 1987.
University of California, San Diego, Department of Political Science, B.A., 1982.

Positions Held

University of Wisconsin, Madison. Department of Political Science.
Professor, July 2000-present.
Associate Professor, June 1996-June 2000.
Assistant Professor, August 1989-May 1996.
Fulbright-ANU Distinguished Chair in Political Science, Australian National University (Canberra, ACT), July-December 2006.
Director, Data and Computation Center, College of Letters and Science, University of Wisconsin-Madison, June 1996-September 2003
Consultant, The RAND Corporation, Washington DC, 1988-1994. Conducted study of acquisition reform, and the effects of acquisition policy on the defense industrial base. Performed computer simulations of U.S. strategic force posture and capabilities.
Contract Specialist, Naval Air Systems Command, Washington D.C., 1985-1986. Responsible for cost and price analysis, contract negotiation, and contract administration for aerial target missile programs in the \$5 million - \$100 million range.

Awards

American Political Science Association, State Politics and Policy Section. Award for best Journal Article Published in the *American Journal of Political Science* in 2014. Awarded for Burden, Canon, Mayer, and Moynihan, "Election Laws, Mobilization, and Turnout."
Robert H. Durr Award, from the Midwest Political Science Association, for Best Paper Applying Quantitative Methods to a Substantive Problem Presented at the 2013 Meeting. Awarded for Burden, Canon, Mayer, and Moynihan, "Election Laws and Partisan Gains."
Leon Epstein Faculty Fellow, College of Letters and Science, 2012-2015
UW Housing Honored Instructor Award, 2012, 2014, 2017, 2018
Recipient, Jerry J. and Mary M. Cotter Award, College of Letters and Science, 2011-2012
Alliant Underkofler Excellence in Teaching Award, University of Wisconsin System, 2006
Pi Sigma Alpha Teaching Award, Fall 2006
Vilas Associate, 2003-2004, University of Wisconsin-Madison Graduate School.
2002 Neustadt Award. Awarded by the Presidency Research Group of the American Political Science Association, for the best book published on the American presidency in 2001. Awarded for *With the Stroke of a Pen: Executive Orders and Presidential Power*.
Lilly Teaching Fellow, University of Wisconsin-Madison, 1993-1994.
Interfraternity Council award for Outstanding Teaching, University of Wisconsin-Madison, 1993.
Selected as one of the 100 best professors at University of Wisconsin-Madison, Wisconsin Student Association, March 1992.
Olin Dissertation Fellow, Center for International Affairs, Harvard University, 1987-1988

Service as an Expert Witness

1. *League of Women Voters of Arkansas et al. v. Thurston et al.*, Case No. 60CV-21-3138 (5th Circ. Ct., Pulaski Cty., AR), election administration (2021).
2. *League of Women Voters of Florida, Inc., et al. v. Lee, et al.*, Case No. 4:21-cv-00186-MW-MAF (N.D. Fla.) voting rights (2021).
3. *Fair Fight Inc., et al. v. True the Vote, Inc., et al.*, Case No. 2:20-CV-00302-SCJ (N.D. GA), election administration (2021).
4. *Majority Forward and Gamliel Warren Turner, Sr. v. Ben Hill County Board of Elections, et al.*, No. 1:20-CV-00266-LAG (M.D. Ga), election administration (2020).
5. *Pearson et al. v. Kemp et al.*, No. 1:20-cv-4809-TCB (N.D. Ga), election administration (2020)
6. *North Carolina Alliance for Retired Americans et al. v. North Carolina State Board of Elections* (Wake Cty., NC), absentee ballots (2020).
7. *LaRose et al. v. Simon*, No. 62-CV-20-3149 (2d Jud. Dist. Ct., Ramsey Cty., MN), absentee ballots (2020).
8. *Michigan Alliance for Retired Americans et al. v. Benson et al.* No 2020-000108-MM (Mich. Court of Claims), absentee ballots (2020).
9. *The New Georgia Project et al. v. Raffensperger et al.* No. 1:20-CV-01986-EL0052 (N.D. Ga.), absentee ballots (2020).
10. *Driscoll v. Stapleton*, No. DV 20 0408 (13th Judicial Ct. Yellowstone Cty., MT), absentee ballots (2020).
11. *The Andrew Goodman Foundation v. Bostelmann*, No. 19-cv-955 (W.D. Wisc.), voter ID (2020).
12. *Kumar v. Frisco Independent School District et al.*, No.4:19-cv-00284 (E.D. Tex.), voting rights (2019).
13. *Fair Fight Action v. Raffensperger* No. 1:18-cv-05391-SCJ (N.D. Ga.), voting rights (2019)
14. *Vaughan v. Lewisville Independent School District*, No. 4:19-cv-00109 (E.D. Texas), voting rights (2019).
15. *Dwight et al. v. Raffensperger*, No: 1:18-cv-2869-RWS (N.D. Ga.), redistricting, voting rights (2018).
16. *Priorities U.S.A. et al. v. Missouri et al.*, No. 19AC-CC00226 (Cir. Ct. of Cole Cty., MO), voter ID (2018).
17. *Tyson v. Richardson Independent School District*, No. 3:18-cv-00212 (N.D. Texas), voting rights (2018).
18. *League of Women Voters of Michigan, et al. v. Johnson*, No. 2:17-cv-14148-DPH-SDD (S.D. Mich.), redistricting (2018).
19. *One Wisconsin Institute, Inc., et al. v. Nichol, et al.*, 198 F. Supp. 3d 896 (W.D. Wis.), voting rights (2016).
20. *Whitford et al. v. Gill et al*, 218 F. Supp. 3d 837, (W.D. Wis.), redistricting (2016).
21. *Milwaukee NAACP et al. v. Scott Walker et. al*, N.W.2d 262 (Wis. 2014), voter ID (2012).
22. *Baldus et al. v. Brennan et al.*, 849 F. Supp. 2d 840 (E.D. Wis.), redistricting, voting rights (2012).
23. *County of Kenosha v. City of Kenosha*, No. 22-CV-1813 (Wis. Cir. Ct., Kenosha Cty.) municipal redistricting (2011).
24. *McComish et al. v. Brewer et al.*, 2010 WL 2292213 (D. Ariz.), campaign finance (2009).
25. *Baumgart et al. v. Wendelberger et al.*, 2002 WL 34127471 (E.D. Wis.), redistricting (2002).

Grants

“A Multidisciplinary Approach for Redistricting Knowledge.” Principal Investigator. Co-PIs Adeline Lo (UW Madison, Department of Political Science), Song Gao (UW Madison, Department of Geography), and Barton Miller and Jin-Yi Cai (UW Madison, Department of Computer Sciences). University of Wisconsin Alumni Research Foundation (WARF), and UW Madison

Office of the Vice Chancellor for Research and Graduate Education. July 1, 2020-June 30, 2022. \$410,711.

“Analyzing Nonvoting and the Student Voting Experience in Wisconsin.” Dane County (WI) Clerk, \$44,157. November 2016-December 2017. Additional support (\$30,000) provided by the Office of the Chancellor, UW-Madison.

Campaign Finance Task Force, Stanford University and New York University, \$36,585. September 2016-August 2017.

Participant and Board Member, 2016 White House Transition Project, PIs Martha Joynt Kumar (Towson State University) and Terry Sullivan (University of North Carolina-Chapel Hill).

“How do You Know? The Structure of Presidential Advising and Error Correction in the White House.” Graduate School Research Committee, University of Wisconsin, \$18,941. July 1, 2015-June 30, 2016.

“Study and Recommendations for the Government Accountability Board Chief Inspectors’ Statements and Election Incident Report Logs.” \$43,234. Co-PI. With Barry C. Burden (PI), David T. Canon (co-PI), and Donald Moynihan (co-PI). October 2011-May 2012.

“Public Funding in Connecticut Legislative Elections.” Open Society Institute. September 2009-December 2010. \$55,000.

“Early Voting and Same Day Registration in Wisconsin and Beyond.” Co-PI. October 2008- September 2009. Pew Charitable Trusts. \$49,400. With Barry C. Burden (PI), David T. Canon (Co-PI), Kevin J. Kennedy (Co-PI), and Donald P. Moynihan (Co-PI).

City of Madison, Blue Ribbon Commission on Clean Elections. Joyce Foundation, Chicago, IL. \$16,188. January-July 2008.

“Wisconsin Campaign Finance Project: Public Funding in Connecticut State Legislative Elections.” JEHT Foundation, New York, NY. \$84,735. November 2006-November 2007.

“Does Public Election Funding Change Public Policy? Evaluating the State of Knowledge.” JEHT Foundation, New York, NY. \$42,291. October 2005-April 2006.

“Wisconsin Campaign Finance Project: Disseminating Data to the Academic, Reform, and Policy Communities.” Joyce Foundation, Chicago, IL. \$20,900. September 2005- August 2006.

“Enhancing Electoral Competition: Do Public Funding Programs for State and Local Elections Work?” Smith Richardson Foundation, Westport, CT. \$129,611. December 2002-June 2005

WebWorks Grant (implementation of web-based instructional technologies), Division of Information Technology, UW-Madison, \$1,000. November 1999.

“Issue Advocacy in Wisconsin during the 1998 Election.” Joyce Foundation, Chicago, IL. \$15,499. April 1999.

Instructional Technology in the Multimedia Environment (IN-TIME) grant, Learning Support Services, University of Wisconsin. \$5,000. March 1997.

“Public Financing and Electoral Competitiveness in the Minnesota State Legislature.” Citizens’ Research Foundation, Los Angeles, CA, \$2,000. May-November 1996.

“The Reach of Presidential Power: Policy Making Through Executive Orders.” National Science Foundation (SBR-9511444), \$60,004. September 1, 1995-August 31, 1998. Graduate School Research Committee, University of Wisconsin, \$21,965. Additional support provided by the Gerald R. Ford Library Foundation, the Eisenhower World Affairs Institute, and the Harry S. Truman Library Foundation.

The Future of the Combat Aircraft Industrial Base.” Changing Security Environment Project, John M. Olin Institute for Strategic Studies, Harvard University (with Ethan B. Kapstein). June 1993-January 1995. \$15,000.

Hilldale Student Faculty Research Grant, College of Letters and Sciences, University of Wisconsin (with John M. Wood). 1992. \$1,000 (\$3,000 award to student)

“Electoral Cycles in Federal Government Prime Contract Awards” March 1992 – February 1995. National Science Foundation (SES-9121931), \$74,216. Graduate School Research Committee at the University of Wisconsin, \$2,600. MacArthur Foundation, \$2,500.

C-SPAN In the Classroom Faculty Development Grant, 1991. \$500

Professional and Public Service

Education and Social and Behavioral Sciences Institutional Review Board, 2008-2014. Acting Chair, Summer 2011. Chair, May 2012- June 2014.

Participant, U.S. Public Speaker Grant Program. United States Department of State (nationwide speaking tour in Australia, May 11-June 2, 2012).

Expert Consultant, Voces de la Frontera. Milwaukee Aldermanic redistricting, (2011).

Expert Consultant, Prosser for Supreme Court. Wisconsin Supreme Court election recount (2011).

Chair, Blue Ribbon Commission on Clean Elections (Madison, WI), August 2007-April 2011.

Consultant, Consulate of the Government of Japan (Chicago) on state politics in Illinois, Indiana, Minnesota, and Wisconsin, 2006-2011.

Section Head, Presidency Studies, 2006 Annual Meeting of the American Political Science Association.

Co-Chair, Committee on Redistricting, Supreme Court of Wisconsin, November 2003-December 2009.

Section Head, Presidency and Executive Politics, 2004 Annual Meeting of the Midwest Political Science Association, Chicago, IL.

Presidency Research Group (organized section of the American Political Science Association) Board, September 2002-present.

Book Review Editor, *Congress and the Presidency*, 2001-2006.

Editorial Board, *American Political Science Review*, September 2004-September 2007.

Consultant, Governor's Blue Ribbon Commission on Campaign Finance Reform (Wisconsin), 1997.

PUBLICATIONS

Books

Presidential Leadership: Politics and Policymaking, 12th edition. Lanham, MD: Rowman and Littlefield, forthcoming 2022. With George C. Edwards, III and Steven J. Wayne. Previous editions 10th (2018), 11th (2020).

The Enduring Debate: Classic and Contemporary Readings in American Government. 9th ed. New York: W.W. Norton & Co., forthcoming 2022. Co-edited with David T. Canon and John Coleman. Previous editions 1st (1997), 2nd (2000), 3rd (2002), 4th (2006), 5th (2009), 6th (2011), 7th (2013), 8th (2017).

The 2016 Presidential Elections: The Causes and Consequences of an Electoral Earthquake. Lanham, MD: Lexington Press, 2017. Co-edited with Amnon Cavari and Richard J. Powell.

Faultlines: Readings in American Government, 5th ed. New York: W.W. Norton & Co. 2017. Co-edited with David T. Canon and John Coleman. Previous editions 1st (2004), 2nd (2007), 3rd (2011), 4th (2013).

The 2012 Presidential Election: Forecasts, Outcomes, and Consequences. Lanham, MD: Rowman and Littlefield, 2014. Co-edited with Amnon Cavari and Richard J. Powell.

Readings in American Government, 7th edition. New York: W.W. Norton & Co. 2002. Co-edited with Theodore J. Lowi, Benjamin Ginsberg, David T. Canon, and John Coleman). Previous editions 4th (1996), 5th (1998), 6th (2000).

With the Stroke of a Pen: Executive Orders and Presidential Power. Princeton, NJ: Princeton University Press. 2001. Winner of the 2002 Neustadt Award from the Presidency Studies Group of the American Political Science Association, for the Best Book on the Presidency Published in 2001.

The Dysfunctional Congress? The Individual Roots of an Institutional Dilemma. Boulder, CO: Westview Press. 1999. With David T. Canon.

The Political Economy of Defense Contracting. New Haven: Yale University Press. 1991.

Monographs

- 2008 Election Data Collection Grant Program: Wisconsin Evaluation Report*. Report to the Wisconsin Government Accountability Board, September 2009. With Barry C. Burden, David T. Canon, Stéphane Lavertu, and Donald P. Moynihan.
- Issue Advocacy in Wisconsin: Analysis of the 1998 Elections and A Proposal for Enhanced Disclosure*. September 1999.
- Public Financing and Electoral Competition in Minnesota and Wisconsin*. Citizens' Research Foundation, April 1998.
- Campaign Finance Reform in the States*. Report prepared for the Governor's Blue Ribbon Commission on Campaign Finance Reform (State of Wisconsin). February 1998. Portions reprinted in Anthony Corrado, Thomas E. Mann, Daniel Ortiz, Trevor Potter, and Frank J. Sorauf, ed., *Campaign Finance Reform: A Sourcebook*. Washington, D.C.: Brookings Institution, 1997.
- "Does Public Financing of Campaigns Work?" *Trends in Campaign Financing*. Occasional Paper Series, Citizens' Research Foundation, Los Angeles, CA. 1996. With John M. Wood.
- The Development of the Advanced Medium Range Air-to-Air Missile: A Case Study of Risk and Reward in Weapon System Acquisition*. N-3620-AF. Santa Monica: RAND Corporation. 1993.
- Barriers to Managing Risk in Large Scale Weapons System Development Programs*. N-4624-AF. Santa Monica: RAND Corporation. 1993. With Thomas K. Glennan, Jr., Susan J. Bodilly, Frank Camm, and Timothy J. Webb.

Articles

- "The Random Walk Presidency," *Presidential Studies Quarterly* 51: 71-95 (2021)
- "Voter Identification and Nonvoting in Wisconsin - Evidence from the 2016 Election." *Election Law Journal* 18:342-359 (2019). With Michael DeCrescenzo.
- "Waiting to Vote in the 2016 Presidential Election: Evidence from a Multi-county Study." *Political Research Quarterly* 71 (2019). With Robert M. Stein, Christopher Mann, Charles Stewart III, et al.
- "Learning from Recounts." *Election Law Journal* 17:100-116 (No. 2, 2018). With Stephen Ansolabehere, Barry C. Burden, and Charles Stewart, III.
- "The Complicated Partisan Effects of State Election Laws." *Political Research Quarterly* 70:549-563 (No. 3, September 2017). With Barry C. Burden, David T. Canon, and Donald P. Moynihan.
- "What Happens at the Polling Place: Using Administrative Data to Look Inside Elections." *Public Administration Review* 77:354-364 (No. 3, May/June 2017). With Barry C. Burden, David T. Canon, Donald P. Moynihan, and Jacob R. Neiheisel.
- "Alien Abduction, and Voter Impersonation in the 2012 U.S. General Election: Evidence from a Survey List Experiment." *Election Law Journal* 13:460-475 No.4, December 2014). With John S. Ahlquist and Simon Jackman.
- "Election Laws, Mobilization, and Turnout: The Unanticipated Consequences of Election Reform." *American Journal of Political Science*, 58:95-109 (No. 1, January 2014). With Barry C. Burden, David T. Canon, and Donald P. Moynihan. Winner of the State Politics and Politics Section of the American Political Science Association Award for the best article published in the *AJPS* in 2014.
- "Executive Power in the Obama Administration and the Decision to Seek Congressional Authorization for a Military Attack Against Syria: Implications for Theories of Unilateral Action." *Utah Law Review* 2014:821-841 (No. 4, 2014).
- "Public Election Funding: An Assessment of What We Would Like to Know." *The Forum* 11:365-485 (No. 3, 2013).
- "Selection Method, Partisanship, and the Administration of Elections." *American Politics Research* 41:903-936 (No. 6, November 2013). With Barry C. Burden, David T. Canon, Stéphane

- Lavertu, and Donald Moynihan.
- "The Effect of Administrative Burden on Bureaucratic Perception of Policies: Evidence from Election Administration." *Public Administration Review* 72:741-451 (No. 5, September/October 2012). With Barry C. Burden, David T. Canon, and Donald Moynihan.
- "Early Voting and Election Day Registration in the Trenches: Local Officials' Perceptions of Election Reform." *Election Law Journal* 10:89-102 (No. 2, 2011). With Barry C. Burden, David T. Canon, and Donald Moynihan.
- "Is Political Science Relevant? Ask an Expert Witness," *The Forum*: Vol. 8, No. 3, Article 6 (2010).
- "Thoughts on the Revolution in Presidency Studies," *Presidential Studies Quarterly* 39 (no. 4, December 2009).
- "Does Australia Have a Constitution? Part I – Powers: A Constitution Without Constitutionalism." *UCLA Pacific Basin Law Journal* 25:228-264 (No. 2, Spring 2008). With Howard Schweber.
- "Does Australia Have a Constitution? Part II: The Rights Constitution." *UCLA Pacific Basin Law Journal* 25:265-355 (No. 2, Spring 2008). With Howard Schweber.
- "Public Election Funding, Competition, and Candidate Gender." *PS: Political Science and Politics* XL:661-667 (No. 4, October 2007). With Timothy Werner.
- "Do Public Funding Programs Enhance Electoral Competition?" In Michael P. McDonald and John Samples, eds., *The Marketplace of Democracy: Electoral Competition and American Politics* (Washington, DC: Brookings Institution Press, 2006). With Timothy Werner and Amanda Williams. Excerpted in Daniel H. Lowenstein, Richard L. Hasen, and Daniel P. Tokaji, *Election Law: Cases and Materials*. Durham, NC: Carolina Academic Press, 2008.
- "The Last 100 Days." *Presidential Studies Quarterly* 35:533-553 (No. 3, September 2005). With William Howell.
- "Political Reality and Unforeseen Consequences: Why Campaign Finance Reform is Too Important To Be Left To The Lawyers," *University of Richmond Law Review* 37:1069-1110 (No. 4, May 2003).
- "Unilateral Presidential Powers: Significant Executive Orders, 1949-1999." *Presidential Studies Quarterly* 32:367-386 (No. 2, June 2002). With Kevin Price.
- "Answering Ayres: Requiring Campaign Contributors to Remain Anonymous Would Not Resolve Corruption Concerns." *Regulation* 24:24-29 (No. 4, Winter 2001).
- "Student Attitudes Toward Instructional Technology in the Large Introductory US Government Course." *PS: Political Science and Politics* 33:597-604 (No. 3 September 2000). With John Coleman.
- "The Limits of Delegation – the Rise and Fall of BRAC." *Regulation* 22:32-38 (No. 3, October 1999).
- "Executive Orders and Presidential Power." *The Journal of Politics* 61:445-466 (No.2, May 1999).
- "Bringing Politics Back In: Defense Policy and the Theoretical Study of Institutions and Processes." *Public Administration Review* 56:180-190 (1996). With Anne Khademian.
- "Closing Military Bases (Finally): Solving Collective Dilemmas Through Delegation." *Legislative Studies Quarterly*, 20:393-414 (No. 3, August 1995).
- "Electoral Cycles in Federal Government Prime Contract Awards: State-Level Evidence from the 1988 and 1992 Presidential Elections." *American Journal of Political Science* 40:162-185 (No. 1, February 1995).
- "The Impact of Public Financing on Electoral Competitiveness: Evidence from Wisconsin, 1964-1990." *Legislative Studies Quarterly* 20:69-88 (No. 1, February 1995). With John M. Wood.
- "Policy Disputes as a Source of Administrative Controls: Congressional Micromanagement of the Department of Defense." *Public Administration Review* 53:293-302 (No. 4, July-August 1993).
- "Combat Aircraft Production in the United States, 1950-2000: Maintaining Industry Capability in an Era of Shrinking Budgets." *Defense Analysis* 9:159-169 (No. 2, 1993).

Book Chapters

- “Is President Trump Conventionally Disruptive, or Unconventionally Destructive?” In *The 2016 Presidential Elections: The Causes and Consequences of an Electoral Earthquake*. Lanham, MD: Lexington Press, 2017. Co-edited with Amon Cavari and Richard J. Powell.
- “Lessons of Defeat: Republican Party Responses to the 2012 Presidential Election. In Amnon Cavari, Richard J. Powell, and Kenneth R. Mayer, eds. *The 2012 Presidential Election: Forecasts, Outcomes, and Consequences*. Lanham, MD: Rowman and Littlefield. 2014.
- “Unilateral Action.” George C. Edwards, III, and William G. Howell, *Oxford Handbook of the American Presidency* (New York: Oxford University Press, 2009).
- “Executive Orders,” in Joseph Bessette and Jeffrey Tulis, *The Constitutional Presidency*. Baltimore: Johns Hopkins University Press, 2009.
- “Hey, Wait a Minute: The Assumptions Behind the Case for Campaign Finance Reform.” In Gerald C. Lubenow, ed., *A User’s Guide to Campaign Finance Reform*. Lanham, MD: Rowman & Littlefield, 2001.
- “Everything You Thought You Knew About Impeachment Was Wrong.” In Leonard V. Kaplan and Beverly I. Moran, ed., *Aftermath: The Clinton Impeachment and the Presidency in the Age of Political Spectacle*. New York: New York University Press. 2001. With David T. Canon.
- “The Institutionalization of Power.” In Robert Y. Shapiro, Martha Joynt Kumar, and Lawrence R. Jacobs, eds. *Presidential Power: Forging the Presidency for the 21st Century*. New York: Columbia University Press, 2000. With Thomas J. Weko.
- “Congressional-DoD Relations After the Cold War: The Politics of Uncertainty.” In *Downsizing Defense*, Ethan Kapstein ed. Washington DC: Congressional Quarterly Press. 1993.
- “Elections, Business Cycles, and the Timing of Defense Contract Awards in the United States.” In Alex Mintz, ed. *The Political Economy of Military Spending*. London: Routledge. 1991.
- “Patterns of Congressional Influence In Defense Contracting.” In Robert Higgs, ed., *Arms, Politics, and the Economy: Contemporary and Historical Perspectives*. New York: Holmes and Meier. 1990.

Other

- “Campaign Finance: Some Basics.” Bauer-Ginsberg Campaign Finance Task Force, Stanford University. September 2017. With Elizabeth M. Sawyer.
- “The Wisconsin Recount May Have a Surprise in Store after All.” *The Monkey Cage* (Washington Post), December 5, 2016. With Stephen Ansolabehere, Barry C. Burden, and Charles Stewart, III.
- Review of Jason K. Dempsey, *Our Army: Soldiers, Politicians, and American Civil-Military Relations*. *The Forum* 9 (No. 3, 2011).
- “Voting Early, but Not Often.” *New York Times*, October 25, 2010. With Barry C. Burden.
- Review of John Samples, *The Fallacy of Campaign Finance Reform* and Raymond J. La Raja, *Small Change: Money, Political Parties, and Campaign Finance Reform*. *The Forum* 6 (No. 1, 2008).
- Review Essay, *Executing the Constitution: Putting the President Back Into the Constitution*, Christopher S. Kelley, ed.; *Presidents in Culture: The Meaning of Presidential Communication*, David Michael Ryfe; *Executive Orders and the Modern Presidency: Legislating from the Oval Office*, Adam L. Warber. In *Perspective on Politics* 5:635-637 (No. 3, September 2007).
- “The Base Realignment and Closure Process: Is It Possible to Make Rational Policy?” Brademas Center for the Study of Congress, New York University. 2007.
- “Controlling Executive Authority in a Constitutional System” (comparative analysis of executive power in the U.S. and Australia), manuscript, February 2007.
- “Campaigns, Elections, and Campaign Finance Reform.” *Focus on Law Studies*, XXI, No. 2 (Spring 2006). American Bar Association, Division for Public Education.
- “Review Essay: Assessing The 2000 Presidential Election – Judicial and Social Science Perspectives.” *Congress and the Presidency* 29: 91-98 (No. 1, Spring 2002).

- Issue Briefs (Midterm Elections, Homeland Security; Foreign Affairs and Defense Policy; Education; Budget and Economy; Entitlement Reform) *2006 Reporter's Source Book*. Project Vote Smart. 2006. With Meghan Condon.
- "Sunlight as the Best Disinfectant: Campaign Finance in Australia." Democratic Audit of Australia, Australian National University. October 2006.
- "Return to the Norm," *Brisbane Courier-Mail*, November 10, 2006.
- "The Return of the King? Presidential Power and the Law," *PRG Report XXVI*, No. 2 (Spring 2004).
- Issue Briefs (Campaign Finance Reform, Homeland Security; Foreign Affairs and Defense Policy; Education; Budget and Economy; Entitlement Reform), *2004 Reporter's Source Book*. Project Vote Smart. 2004. With Patricia Strach and Arnold Shober.
- "Where's That Crystal Ball When You Need It? Finicky Voters and Creaky Campaigns Made for a Surprise Electoral Season. And the Fun's Just Begun." *Madison Magazine*. April 2002.
- "Capitol Overkill." *Madison Magazine*, July 2002.
- Issue Briefs (Homeland Security; Foreign Affairs and Defense Policy; Education; Economy, Budget and Taxes; Social Welfare Policy), *2002 Reporter's Source Book*. Project Vote Smart. 2002. With Patricia Strach and Paul Manna.
- "Presidential Emergency Powers." *Oxford Analytica Daily Brief*. December 18, 2001.
- "An Analysis of the Issue of Issue Ads." *Wisconsin State Journal*, November 7, 1999.
- "Background of Issue Ad Controversy." *Wisconsin State Journal*, November 7, 1999.
- "Eliminating Public Funding Reduces Election Competition." *Wisconsin State Journal*, June 27, 1999.
- Review of *Executive Privilege: The Dilemma of Secrecy and Democratic Accountability*, by Mark J. Rozell. *Congress and the Presidency* 24 (No. 1, 1997).
- "Like Marriage, New Presidency Starts In Hope." *Wisconsin State Journal*. March 31, 1996.
- Review of *The Tyranny of the Majority: Fundamental Fairness in Representative Democracy*, by Lani Guinier. *Congress and the Presidency* 21: 149-151 (No. 2, 1994).
- Review of *The Best Defense: Policy Alternatives for U.S. Nuclear Security From the 1950s to the 1990s*, by David Goldfischer. *Science, Technology, and Environmental Politics Newsletter* 6 (1994).
- Review of *The Strategic Defense Initiative*, by Edward Reiss. *American Political Science Review* 87:1061-1062 (No. 4, December 1993).
- Review of *The Political Economy of Defense: Issues and Perspectives*, Andrew L. Ross ed. *Armed Forces and Society* 19:460-462 (No. 3, April 1993)
- Review of *Space Weapons and the Strategic Defense Initiative*, by Crockett Grabbe. *Annals of the American Academy of Political and Social Science* 527: 193-194 (May 1993).
- "Limits Wouldn't Solve the Problem." *Wisconsin State Journal*, November 5, 1992. With David T. Canon.
- "Convention Ceded Middle Ground." *Wisconsin State Journal*, August 23, 1992.
- "CBS Economy Poll Meaningless." *Wisconsin State Journal*, February 3, 1992.
- "It's a Matter of Character: Pentagon Doesn't Need New Laws, it Needs Good People." *Los Angeles Times*, July 8, 1988.

Conference Papers

- "Voter Identification and Nonvoting in Wisconsin – Evidence from the 2016 Election." Presented at the 2018 Annual Meeting of the Midwest Political Science Association, Chicago, IL April 5-8, 2018. With Michael G. DeCrescenzo.
- "Learning from Recounts." Presented at the Workshop on Electoral Integrity, San Francisco, CA, August 30, 2017, and at the 2017 Annual Meeting of the American Political Science Association, San Francisco, CA, August 31-September 3, 2017. With Stephen Ansolabehere, Barry C. Burden, and Charles Stewart, III.
- "What Happens at the Polling Place: Using Administrative Data to Understand Irregularities at the Polls." Conference on New Research on Election Administration and Reform, Massachusetts

- Institute of Technology, Cambridge, MA, June 8, 2015. With Barry C. Burden, David T. Canon, Donald P. Moynihan, and Jake R. Neiheisel.
- “Election Laws and Partisan Gains: What are the Effects of Early Voting and Same Day Registration on the Parties’ Vote Shares.” 2013 Annual Meeting of the Midwest Political Science Association, Chicago, IL, April 11-14, 2013. Winner of the Robert H. Durr Award.
- “The Effect of Public Funding on Electoral Competition: Evidence from the 2008 and 2010 Cycles.” Annual Meeting of the American Political Science Association, Seattle, WA, September 1-4, 2011. With Amnon Cavari.
- “What Happens at the Polling Place: A Preliminary Analysis in the November 2008 General Election.” Annual Meeting of the American Political Science Association, Seattle, WA, September 1-4, 2011. With Barry C. Burden, David T. Canon, Donald P. Moynihan, and Jake R. Neiheisel.
- “Election Laws, Mobilization, and Turnout: The Unanticipated Consequences of Election Reform.” 2010 Annual Meeting of the American Political Science Association, Washington, DC, September 2-5, 2010. With Barry C. Burden, David T. Canon, Stéphane Lavertu and Donald P. Moynihan.
- “Selection Methods, Partisanship, and the Administration of Elections. Annual Meeting of the Midwest Political Science Association, Chicago, IL, April 22-25, 2010. Revised version presented at the Annual Meeting of the European Political Science Association, June 16-19, 2011, Dublin, Ireland. With Barry C. Burden, David T. Canon, Stéphane Lavertu and Donald P. Moynihan.
- “The Effects and Costs of Early Voting, Election Day Registration, and Same Day Registration in the 2008 Elections.” Annual Meeting of the American Political Science Association, Toronto, Canada, September 3-5, 2009. With Barry C. Burden, David T. Canon, and Donald P. Moynihan.
- “Comparative Election Administration: Can We Learn Anything From the Australian Electoral Commission?” Annual Meeting of the American Political Science Association, Chicago, IL, August 29-September 1, 2007.
- “Electoral Transitions in Connecticut: Implementation of Public Funding for State Legislative Elections.” Annual Meeting of the American Political Science Association, Chicago, IL, August 29-September 1, 2007. With Timothy Werner.
- “Candidate Gender and Participation in Public Campaign Finance Programs.” Annual Meeting of the Midwest Political Science Association, Chicago IL, April 7-10, 2005. With Timothy Werner.
- “Do Public Funding Programs Enhance Electoral Competition?” 4th Annual State Politics and Policy Conference,” Akron, OH, April 30-May 1, 2004. With Timothy Werner and Amanda Williams.
- “The Last 100 Days.” Annual Meeting of the American Political Science Association, Philadelphia, PA, August 28-31, 2003. With William Howell.
- “Hey, Wait a Minute: The Assumptions Behind the Case for Campaign Finance Reform.” Citizens’ Research Foundation Forum on Campaign Finance Reform, Institute for Governmental Studies, University of California Berkeley. August 2000.
- “The Importance of Moving First: Presidential Initiative and Executive Orders.” Annual Meeting of the American Political Science Association, San Francisco, CA, August 28-September 1, 1996.
- “Informational vs. Distributive Theories of Legislative Organization: Committee Membership and Defense Policy in the House.” Annual Meeting of the American Political Science Association, Washington, DC, September 2-5, 1993.
- “Department of Defense Contracts, Presidential Elections, and the Political-Business Cycle.” Annual Meeting of the American Political Science Association, Washington, DC, September 2-5, 1993.
- “Problem? What Problem? Congressional Micromanagement of the Department of Defense.” Annual Meeting of the American Political Science Association, Washington DC, August 29 - September 2, 1991.

Talks and Presentations

- “Turnout Effects of Voter ID Laws.” Rice University, March 23, 2018; Wisconsin Alumni Association,

October 13, 2017. With Michael DeCrescenzo.

“Informational and Turnout Effects of Voter ID Laws.” Wisconsin State Elections Commission, December 12, 2017; Dane County Board of Supervisors, October 26, 2017. With Michael DeCrescenzo.

“Voter Identification and Nonvoting in Wisconsin, Election 2016. American Politics Workshop, University of Wisconsin, Madison, November 24, 2017.

“Gerrymandering: Is There A Way Out?” Marquette University. October 24, 2017.

“What Happens in the Districting Room and What Happens in the Courtroom” Geometry of Redistricting Conference, University of Wisconsin-Madison October 12, 2017.

“How Do You Know? The Epistemology of White House Knowledge.” Clemson University, February 23, 2016.

Roundtable Discussant, Separation of Powers Conference, School of Public and International Affairs, University of Georgia, February 19-20, 2016.

Campaign Finance Task Force Meeting, Stanford University, February 4, 2016.

Discussant, “The Use of Unilateral Powers.” American Political Science Association Annual Meeting, August 28-31, 2014, Washington, DC.

Presenter, “Roundtable on Money and Politics: What do Scholars Know and What Do We Need to Know?” American Political Science Association Annual Meeting, August 28-September 1, 2013, Chicago, IL.

Presenter, “Roundtable: Evaluating the Obama Presidency.” Midwest Political Science Association Annual Meeting, April 11-14, 2012, Chicago, IL.

Panel Participant, “Redistricting in the 2010 Cycle,” Midwest Democracy Network,

Speaker, “Redistricting and Election Administration,” Dane County League of Women Voters, March 4, 2010.

Keynote Speaker, “Engaging the Electorate: The Dynamics of Politics and Participation in 2008.” Foreign Fulbright Enrichment Seminar, Chicago, IL, March 2008.

Participant, Election Visitor Program, Australian Electoral Commission, Canberra, ACT, Australia. November 2007.

Invited Talk, “Public Funding in State and Local Elections.” Reed College Public Policy Lecture Series. Portland, Oregon, March 19, 2007.

Fulbright Distinguished Chair Lecture Tour, 2006. Public lectures on election administration and executive power. University of Tasmania, Hobart (TAS); Flinders University and University of South Australia, Adelaide (SA); University of Melbourne, Melbourne (VIC); University of Western Australia, Perth (WA); Griffith University and University of Queensland, Brisbane (QLD); Institute for Public Affairs, Sydney (NSW); The Australian National University, Canberra (ACT).

Discussant, “Both Ends of the Avenue: Congress and the President Revisited,” American Political Science Association Meeting, September 2-5, 2004, Chicago, IL.

Presenter, “Researching the Presidency,” Short Course, American Political Science Association Meeting, September 2-5, 2004, Chicago, IL.

Discussant, Conference on Presidential Rhetoric, Texas A&M University, College Station, TX. February 2004.

Presenter, “Author Meets Author: New Research on the Presidency,” 2004 Southern Political Science Association Meeting, January 8-11, New Orleans, LA.

Chair, “Presidential Secrecy,” American Political Science Association Meeting, August 28-31, 2003, Philadelphia, PA.

Discussant, “New Looks at Public Approval of Presidents.” Midwest Political Science Association Meeting, April 3-6, 2003, Chicago, IL.

Discussant, “Presidential Use of Strategic Tools.” American Political Science Association Meeting, August 28-September 1, 2002, Boston, MA.

Chair and Discussant, “Branching Out: Congress and the President.” Midwest Political Science

Association Meeting, April 19-22, 2001, Chicago, IL.
 Invited witness, Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, U.S. House of Representatives. *Hearing on Executive Order and Presidential Power*, Washington, DC. March 22, 2001.
 "The History of the Executive Order," Miller Center for Public Affairs, University of Virginia (with Griffin Bell and William Howell), January 26, 2001.
 Presenter and Discussant, Future Voting Technologies Symposium, Madison, WI May 2, 2000.
 Moderator, Panel on Electric Utility Reliability. Assembly Staff Leadership Development Seminar, Madison, WI. August 11, 1999.
 Chair, Panel on "Legal Aspects of the Presidency: Clinton and Beyond." Midwest Political Science Association Meeting, April 15-17, 1999, Chicago, IL.
 Session Moderator, National Performance Review Acquisition Working Summit, Milwaukee, WI. June 1995.
 American Politics Seminar, The George Washington University, Washington D.C., April 1995.
 Invited speaker, Defense and Arms Control Studies Program, Massachusetts Institute of Technology, Cambridge, MA, March 1994.
 Discussant, International Studies Association (Midwest Chapter) Annual Meeting, Chicago IL, October 29-30, 1993.
 Seminar on American Politics, Princeton University, January 16-17, 1992.
 Conference on Defense Downsizing and Economic Conversion, October 4, 1991, Harvard University.
 Conference on Congress and New Foreign and Defense Policy Challenges, The Ohio State University, Columbus OH, September 21-22, 1990, and September 19-21, 1991.
 Presenter, "A New Look at Short Term Change in Party Identification," 1990 Meeting of the American Political Science Association, San Francisco, CA.

University and Department Service

Cross-Campus Human Research Protection Program (HRPP) Advisory Committee, 2019-present.
 UW Athletic Board, 2014-present.
 General Education Requirements Committee (Letters and Science), 1997-1998.
 Communications-B Implementation Committee (Letters and Science), 1997-1999
 Verbal Assessment Committee (University) 1997-1998.
 College of Letters & Science Faculty Appeals Committee (for students dismissed for academic reasons).
 Committee on Information Technology, Distance Education and Outreach, 1997-98.
 Hilldale Faculty-Student Research Grants, Evaluation Committee, 1997, 1998.
 Department Computer Committee, 1996-1997; 1997-1998, 2005-2006. Chair, 2013-present.
 Faculty Senate, 2000-2002, 2002-2005. Alternate, 1994-1995; 1996-1999; 2015-2016.
 Preliminary Exam Appeals Committee, Department of Political Science, 1994-1995.
 Faculty Advisor, Pi Sigma Alpha (Political Science Honors Society), 1993-1994.
 Department Honors Advisor, 1991-1993.
 Brown-bag Seminar Series on Job Talks (for graduate students), 1992.
 Keynote speaker, Undergraduate Honors Symposium, April 13 1991.
 Undergraduate Curriculum Committee, Department of Political Science, 1990-1992; 1993-1994.
 Individual Majors Committee, College of Letters and Sciences, 1990-1991.
 Dean Reading Room Committee, Department of Political Science, 1989-1990; 1994-1995.

Teaching

Undergraduate

Introduction to American Government (regular and honors)
 The American Presidency
 Campaign Finance
 Election Law

Classics of American Politics
Presidential Debates
Comparative Electoral Systems
Legislative Process
Theories of Legislative Organization
Senior Honors Thesis Seminar

Graduate

Contemporary Presidency
American National Institutions
Classics of American Politics
Legislative Process



KeyCite Yellow Flag - Negative Treatment

Amended by [Baumgart v. Wendelberger](#), E.D.Wis., July 11, 2002

2002 WL 34127471

Only the Westlaw citation is currently available.

United States District Court,

E.D. Wisconsin.

James R. BAUMGART, Roger M. Breske, Brian T. Burke, Charles J. Chvala, Russell S. Decker, Jon Erpenbach, Gary R. George, Richard Grobschmidt, Dave Hansen, Robert Jauch, Mark Meyer, Rodney Moen, Gwendolynne S. Moore, Kimberly Plache, Fred A. Risser, Judy Robson, Kevin W. Shibilski, Robert D. Wirch, Spencer Black, James E. Kreuser, Gregory B. Huber, each individually and as members of the Wisconsin State Senate, Intervenor–Plaintiffs,

v.

Jeralyn WENDELBERGER, chairperson of the Wisconsin Elections Board, and each of its members in his or her official capacity, John P. Savage, David Halbrooks, R.J. Johnson, Brenda Lewison, Steven V. Ponto, John C. Schober, Christine Wiseman and Kevin J. Kennedy, its executive director, Defendants, and

Scott R. JENSEN, in his capacity as the Speaker of the Wisconsin Assembly, and Mary E. Panzer, in her capacity as the Minority Leader of the Wisconsin Senate, Intervenor–Defendants.

Scott R. JENSEN, in his capacity as the Speaker of the Wisconsin Assembly, Mary E. Panzer, in her capacity as the Minority Leader of the Wisconsin Senate, Plaintiffs,

v.

Jeralyn WENDELBERGER, chairperson of the Wisconsin Elections Board, and each of its members in his or her official capacity, John P. Savage, David Halbrooks, R.J. Johnson, Brenda Lewison, Steven V. Ponto, John C. Schober, Christine Wiseman, Kevin J. Kennedy, its executive director, Defendants, and

James R. BAUMGART, Roger M. Breske, Brian T. Burke, Charles J. Chvala, Russell S. Decker, Jon Erpenbach, Gary R. George, Richard Grobschmidt, Dave Hansen, Robert Jauch,

Mark Meyer, Rodney Moen, Gwendolynne S. Moore, Kimberly Plache, Fred A. Risser, Judy Robson, Kevin W. Shibilski, Robert D. Wirch, Spencer Black, James E. Kreuser, Gregory B. Huber, each individually and as members of the Wisconsin State Senate, Intervenor–Defendants.

No. 01–C–0121, 02–C–0366.

|

May 30, 2002.

Attorneys and Law Firms

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Before [EASTERBROOK](#), Circuit Judge, [STADTMUELLER](#), Chief District Judge, and [CLEVERT](#), District Judge.

AMENDED MEMORANDUM OPINION AND ORDER**PER CURIAM.**

*1 These consolidated actions challenge the constitutionality of the current apportionment of Wisconsin Assembly and Senate districts and seek declaratory, injunctive and other relief under the Constitution and laws of the United States, including the Fourteenth Amendment, the Fifteenth Amendment, § 2 of the Voting Rights Act of 1965, [42 U.S.C. § 1973](#) and [42 U.S.C. § 1983](#), as well as the laws and Constitution of the State of Wisconsin.¹ Both sets of plaintiffs ask the court to declare that the existing apportionment of the Wisconsin Senate and Assembly is unconstitutional and invalid. Moreover, they seek an order enjoining the eight members of the Wisconsin Elections Board from taking any actions related to elections under the existing apportionment plan, and an order redistricting the State of Wisconsin into 99 Assembly and 33 Senate Districts. As a consequence, the parties urge the court to adopt a reapportionment plan and maps that they have proffered

as a remedy for the malapportionment following the 2000 decennial census.

Chief Judge Joel M. Flaum of the Court of Appeals for the Seventh Circuit convened this panel and authorized it to hear both actions, pursuant to 28 U.S.C. § 2284, when the Wisconsin legislature failed to enact a plan of reapportionment. As a consequence, a trial on the merits was conducted on April 11 and April 12, 2002. For the reasons that follow, the court finds the existing Wisconsin Assembly and Senate districts violative of the “one person, one vote” standard articulated by  *Reynolds v. Sims*, 377 U.S. 533, 555, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964), and will implement a reapportionment plan to remedy the defects in those districts.

PROCEDURAL HISTORY

These actions were initiated with the filing of a complaint on February 1, 2001, by a group of Wisconsin voters naming the Wisconsin Elections Board and its members as defendants. Those voters alleged that Wisconsin's federal congressional districts violated the “one-person, one vote” principle articulated in art. I, sec. 2 of the United States Constitution.² Two groups of state legislators then filed motions to intervene. The first, the Baumgart intervenors, represent the Democratic members of the Wisconsin Senate, while the second, the Jensen intervenors, represent the Republican leaders of the State Senate and State Assembly. The motions to intervene were granted in November 2001. Subsequently, several other groups and individuals filed motions to intervene. The motions of Senators Gwendolynne Moore and Gary George were granted, and the motions of the African-American Coalition for Empowerment, Citizens for Competitive Elections, and Wisconsin Manufacturers and Commerce Association were denied. However, they were named *amicus curiae*.

*2 On April 12, 2002, to remedy a possible jurisdictional defect, the Jensen intervenors filed a separate complaint (the “Jensen action”) against the members of the Elections Board reasserting the state apportionment issues raised in the earlier case. The new filing, Case No. 02–C–0366, was assigned to Judge Clevert as a related case. Later that day, Chief Judge Flaum appointed Judges Easterbrook and Stadtmueller to the panel hearing the second case. The two cases were then

consolidated, and the Baumgart intervenors intervened in the second action (02–C–0366).

BACKGROUND

The United States Census Bureau released its final 2000 census data on March 8, 2001, showing that Wisconsin's total population is 5,463,675. Dividing this population into ninety-nine equipopulous state assembly districts and thirty-three equipopulous senate districts would yield Assembly districts containing 54,179 persons and state senate districts containing 162,536 persons. However, populations in the existing state Senate and Assembly districts vary substantially from these numbers. For example, Senate District 6 deviates more than 22 percent from the perfect senate district numeric population, and Assembly District 18 deviates more than 26 percent from the perfect assembly district numeric population. All parties agree that as drawn, Wisconsin Senate and Assembly districts are unconstitutional.

DISCUSSION

The reapportionment of state legislative districts requires the balancing of several disparate goals. These are summarized below.

“The Equal Protection Clause requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis. Simply stated, an individual's right to vote for state legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living in other parts of the State.”  *Reynolds v. Sims*, 377 U.S. 533, 568, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964). With respect to reapportionment, population equality is the “most elemental requirement of the Equal Protection Clause.”  *Connor v. Fitch*, 431 U.S. 407, 409, 97 S.Ct. 1828, 52 L.Ed.2d 465 (1977). See also  *Chapman v. Meier*, 420 U.S. 1, 22, 95 S.Ct. 751, 42 L.Ed.2d 766 (1975). However, the Supreme Court has not pronounced a threshold for a constitutionally acceptable level of deviation from absolute population equality. The three-judge panel that redistricted the State of Wisconsin in 1982 stated that population deviations should be of the “*de minimis*” variety, which it defined as below 2 percent. *AFL–CIO v. Elections Bd.*, 543 F.Supp. 630, 634 (E.D.Wis.1982).³

The 1992 reapportionment panel noted that because the 1990 decennial census contained errors and was out of date by the time of trial, the court not need fall for the “fallacy of delusive exactness” in fashioning a plan, and that “below one percent [deviation in voting power] there are no legally or politically relevant degrees of perfection.”  *Prosser v. Elections Bd.*, 793 F.Supp. 859, 865–66 (W.D.Wis.1992).⁴

*3 Although population equality is the primary goal while constructing legislative districts, it is not the only one. In the context of Congressional redistricting plans, the Supreme Court has observed that “court-ordered districts are held to higher standards of population equality than legislative ones,” but that “slight deviations are allowed” if supported by “historically significant state policy or unique features.”  *Abrams v. Johnson*, 521 U.S. 74, 98, 117 S.Ct. 1925, 138 L.Ed.2d 285 (1997) (internal citations omitted).

Historically, federal courts have accepted some deviation from perfect population equality to comply with “traditional” redistricting criteria. These criteria include retaining previous occupants in new legislative districts, known as “core retention,” see  *Karcher*, 462 U.S. 725, 740, 103 S.Ct. 2653, 77 L.Ed.2d 133 (1983); avoiding split municipalities, see *id.*; drawing districts that are as contiguous and compact as possible, see *id.*; respecting the requirements of the Voting Rights Act,  42 U.S.C. § 1973; maintaining traditional communities of interest, see *AFL–CIO*, 543 F.Supp. at 636; and avoiding the creation of partisan advantage, see  *Prosser*, 793 F.Supp. at 867 (noting that “[j]udges should not select a plan that seeks partisan advantage”). Avoiding unnecessary pairing of incumbents, a criterion discussed by the Supreme Court in  *Karcher*, 462 U.S. at 740, was expressly rejected by the 1982 Wisconsin reapportionment panel, see *AFL–CIO*, 543 F.Supp. at 638 (stating that the panel did not consider incumbent residency in drafting its plan).

Courts in Wisconsin have accepted some deviation from perfect population equality in view of two special considerations. The first involves senate elections. In Wisconsin, state senators have four year terms. State senators from even-numbered districts run for office in years corresponding to the presidential election cycle, and state senators from odd-numbered districts are elected during midterm elections. Thus, in midterm legislative election years such as 2002, if voters are shifted from odd to even

senate districts, they will face a two-year delay in voting for state senators. Delays of this nature are referred to as “disenfranchisement.” See  *Prosser*, 793 F.Supp. at 866.

The second consideration is the avoidance of ward boundary splits and, where possible, municipal boundary splits. Article IV, section 4 of the Wisconsin Constitution provides that assembly districts are “to be bounded by county, precinct, town or ward lines, to consist of contiguous territory and be in as compact form as practicable.” At one time this language was interpreted as prohibiting the creation of Assembly districts that crossed county lines. Indeed, in 1964 the Wisconsin Supreme Court declined to divide any counties when reapportioning the state, thereby creating a maximum population deviation of 76.2%. See *Wisconsin ex rel. Reynolds v. Zimmerman*, 23 Wis.2d 606, 623 (1964). Although avoiding the division of counties is no longer an inviolable principle, respect for the prerogatives of the Wisconsin Constitution dictate that wards and municipalities be kept whole where possible. This is in accord with the decisions of two earlier Wisconsin three judge panels. The 1982 and 1992 reapportionment panels did not divide any wards in their respective reapportionment plans, and the 1992 panel rejected a proposed plan that achieved 0% population deviation by splitting wards. See  *Prosser*, 793 F.Supp. at 866.

*4 With these considerations in mind, we turn to the plans submitted in these cases. A total of sixteen plans were submitted to the court. The Jensen intervenors filed nine plans (variations on a theme with different standards of population equality), the Baumgart intervenors three, while Senator George, the African American Coalition for Empowerment, Citizens for Competitive Elections, and Wisconsin Manufacturers and Commerce each filed one. Of the multiple plans submitted by the Jensen and Baumgart intervenors, the court considered only two for each group, JP1 Alternate A (Alt A) and JP1 Alternate C (Alt C) for the Jensen intervenors, and Leg Dem B and Leg Dem C for the Baumgart intervenors.

The two Jensen intervenor plans—Alt A and Alt C—have the lowest levels of population deviation of any of the filed plans, with maximum deviations of .97 and 1.00%, respectively. Moreover, they have the highest levels of core retention, lowest levels of disenfranchisement, and highest levels of compactness of any of the plans submitted.

On the other hand, the partisan origins of the Jensen plans are evident. First, they pair a substantial number of Democratic incumbents, while several Republican incumbent pairs are pairs in name only, with one of each retiring or running for another office. Second, it appears that the Jensen Assembly plans are designed to move a number of incumbent Democrats into strongly Republican districts and either pack Democrats into as few districts as possible or divide them among strong Republican districts. On the Senate side, the Jensen plans include questionable splits on the county level in districts with Democrat incumbents, and appear to have been designed to ensure Republican control of the Senate.

The Baumgart plans are riddled with their own partisan marks. Leg Dem B and Leg Dem C divide the City of Madison into six districts radiating out from the Capitol in pizza slice fashion. The Leg Dem plans have higher levels of population deviation, lower levels of core retention, higher levels of disenfranchisement, and lower levels of compactness than the Alt A and Alt C plans, in part because they renumber the Senate districts in Milwaukee County (again for presumed partisan advantage).

Senator George's plan is identical to Leg Dem C in all but the southeastern corner of the state. His plan contains a substantial level of absolute population deviation (2.67% in his amended plan), and disenfranchises more voters than any of the above plans, also due to renumbering districts in Milwaukee County.

At trial, the parties pursued two issues vigorously: what effect, if any, does § 2 of the Voting Rights Act have on creation of legislative districts in Milwaukee, and how the court should determine the relative partisan fairness of the reapportionment plans filed in this case (with each side claiming that their plan struck the proper balance of partisan fairness).

The Voting Rights Act issues are the result of demographic changes that occurred in Milwaukee County since redistricting in 1992. The 1992 redistricting panel created five African-American majority-minority districts and one African-American minority influence district, along with one Latino majority-minority district. Over the subsequent decade, demographic trends resulted in the African-American influence district becoming a majority-minority district. Those same demographic trends resulted in at least one district having a greater than 80% African-American population.

*5 Under the Supreme Court's ruling in  *Thornburg v. Gingles*, 478 U.S. 30, 106 S.Ct. 2752, 92 L.Ed.2d 25 (1986), extended to single-member districts in  *Grove v. Emison*, 507 U.S. 25, 40–41, 113 S.Ct. 1075, 122 L.Ed.2d 388 (1993), three things must be present to warrant the consideration of race as the primary basis for drawing districts: first, the minority group must be “sufficiently large and geographically compact to constitute a majority in a single-member district”; second, the minority group must be “politically cohesive”; and third, the majority must “vote[] sufficiently as a bloc to enable it ... to defeat the minority's preferred candidate.”  478 U.S. at 50–51.

The parties agree that the African-American community in the City of Milwaukee is large enough and compact enough to constitute a majority in several districts, and the parties share the view that African-Americans generally vote for Democrats. However, they disagree as to whether block voting occurs in the City of Milwaukee, and if so, what remedy should be applied.

The Jensen and Baumgart intervenors argued mutually contradictory positions with respect to whether § 2 of the Voting Rights Act should be considered in this case. The Jensen intervenors alleged that there was no evidence of block voting by whites in the City of Milwaukee, which, if correct would negate any justification under *Grove* for reliance upon race in constructing voting districts. However, the Jensen intervenors' expert, Bernard Grofman, testified by affidavit that the only way to respect communities of interest in Milwaukee is to draw district lines that create six African-American majority-minority districts, and avoid “packing” African-American votes. Indeed, the Jensen plans appear to have relied upon race as the basis for creating districts in the City of Milwaukee: a simple inspection of the Jensen plans of Milwaukee and the plans showing Milwaukee's minority population leads to the conclusion that the Jensen plans were crafted to chop the areas of Milwaukee with the highest African American populations and to balance those areas with areas of greater white population from outer sections of the City of Milwaukee.

In contrast, the Baumgart intervenors presented expert testimony that all of the *Gingles* criteria were present in Wisconsin in general and the City of Milwaukee in particular, but that the Jensen plans divided the African-American population too thinly and would result in the inability of African-Americans to elect candidates of choice. The

Baumgart intervenors' expert noted that a minority district requires an African-American voting age population of at least 60% to guarantee the election of candidates of choice, and that only their plans satisfied this criterion. Somewhat counterintuitively, the Baumgart intervenors' expert asserted that the court must reject the Jensen plans for failure initially to satisfy the *Gingles* factors (even though he urged the court to find that the Baumgart plans are consistent with *Gingles*).

*6 At the final hearing the parties debated the relative partisan impact of their plans. The Jensen intervenors contended that their plans were fair, using a "base-race" analysis, and resulted in "competitive" districts. The Baumgart intervenors in turn submitted that the Jensen plans were flawed because they packed the Democrats into a lesser number of districts and that the Jensen plans give the Republicans a five-seat majority in an even election.

Analysis reveals that the "base-race" method used by the Jensen intervenors is only as reliable as the elections chosen, and may be biased if special factors are present in the base-races used for the estimate. See  *Prosser*, 793 F.Supp. at 868 (noting that the ground for using base-races was destroyed on cross examination, as the races chosen "were riven by special factors"). The three base-races relied upon by Jensen's expert were saturated with special factors: the 1998 gubernatorial election, paired three-time incumbent Tommy Thompson (possibly the most popular governor in Wisconsin's history) against political newcomer Ed Garvey; the 1996 secretary of state election, paired Doug LaFollette (a distant relative of Progressive icon "Fighting Bob" La Follette and former Governor Phillip La Follette) against Linda Cross; and the 2000 presidential election, perhaps the closest in this state's history. Moreover, the base-race analysis was determined merely by averaging the vote percentages for each candidate in all of the districts without considering differences in population between the districts, thus biasing the analysis in favor of underpopulated districts.

The Baumgart intervenors' method for analyzing political fairness was more sophisticated than the base-race method and is correct in the results found, namely, that even if the Democrats win a bare majority of votes, they will take less than 50% of the total number of seats in the Assembly. The problem with using this finding as the basis for a plan is that it does not take into account the difference between popular and legislative majorities, and the fact that, practically, there is no way to draw plans which use the traditional criteria and completely avoid this result. Theoretically, it would be

possible to draw lines for Assembly districts that would assure that the party with the popular majority holds every seat in the Assembly. See  *Prosser*, 793 F.Supp. at 864. However, Wisconsin Democrats tend to be found in high concentrations in certain areas of the state, and the only way to assure that the number of seats in the Assembly corresponds roughly to the percentage of votes cast would be at-large election of the entire Assembly, which neither side has advocated and would likely violate the Voting Rights Act.

Having found various unredeemable flaws in the various plans submitted by the parties, the court was forced to draft one of its own. As was done in 1992, a draft version of the plan was submitted to the parties for comment and analysis. The parties were allowed five days to analyze the draft and to comment to the court.

*7 The court undertook its redistricting endeavor in the most neutral way it could conceive—by taking the 1992 reapportionment plan as a template and adjusting it for population deviations. The process began with district adjustments in the southeastern corner of the state. That area was chosen for two reasons. First, Milwaukee County has experienced the state's greatest population loss over the past decade, while the region immediately to its west has experienced the greatest population growth. Thus, the greatest population deviation in the state lies within this area. Second, the parties devoted much of their trial time to discussing how their plans would affect Milwaukee County.⁵

When making the necessary changes to the boundaries of the existing districts, the court was guided by the neutral principles of maintaining municipal boundaries and uniting communities of interest. There was also an attempt to keep population deviation between districts as low as possible while respecting these principles.

As part of its efforts, the court had to decide whether to renumber the assembly districts in southeastern Wisconsin to accommodate the migration of one entire district out of Milwaukee County. And there was an attempt to create physically compact senate districts and maintain communities of interest when making this decision.

Obviously, the process involved some subjective choices. For example, the court had to decide *which* communities to exclude from overpopulated districts and to include in underpopulated districts. Where possible, the court relied on affidavits supplied by the parties describing the natural

communities of interest to direct these subjective choices. (Senator George's submissions provided particular guidance within Milwaukee County in this regard.)

Adherence to these criteria resulted in a plan containing five African–American majority assembly districts, one Latino majority assembly district, and one African–American “influence” assembly district. The racial and cultural minority populations in these districts appear sufficient to permit African–Americans and Latinos to elect candidates of choice. Hence, it was unnecessary to decide whether racially polarized voting occurs in southeastern Wisconsin (thereby necessitating the conscious creation of majority-minority districts pursuant to the Voting Rights Act).

The court's plan embodies a maximum population deviation of 1.48%, which is lower than the population deviation of the best of the Baumgart intervenors' plans and slightly higher than the population deviations of the Jensen intervenors' plans, and within the de minimis 2% threshold set by the *AFL–CIO* court. Presumably, because of the methodology used, the court's plan meets or exceeds the submissions of the parties and amici with respect to most traditional apportionment criteria. The average level of core retention is 76.7%, versus 73.9% for the Jensen plans and 74% for the Baumgart plans. The court plan splits 50 municipalities, as compared to 51 for the Jensen plans and 78 for the Baumgart plans. The number of voters disenfranchised with respect to Senate elections is 171,613, versus 206,428 for the Jensen plans and 303,606 for the Baumgart plans. District compactness levels are also higher than those for the Jensen and Baumgart plans, using the smallest circle and perimeter to area measures.⁶ Finally, the court plan respects traditional communities of interest in the City of Milwaukee.

*8 Now, therefore,

IT IS ORDERED that the Wisconsin State legislative districts described in Chapter 4 of the Wisconsin Statutes (1999–2000) are declared unconstitutional.

IT IS FURTHER ORDERED that all elections to be held in the Wisconsin State legislative districts as described in Chapter 4 of the Wisconsin Statutes (1999–2000) are enjoined.

IT IS FURTHER ORDERED that the 99 Wisconsin State assembly districts described below are organized into 33 senate districts as follows:

I. SENATE DISTRICTS

First senate district: The combination of the 1st, 2nd and 3rd assembly districts.

Second senate district: The combination of the 4th, 5th, and 6th assembly districts.

Third senate district: The combination of the 7th, 8th, and 9th assembly districts.

Fourth senate district: The combination of the 10th, 11th, and 12th assembly districts.

Fifth senate district: The combination of the 13th, 14th, and 15th assembly districts.

Sixth senate district: The combination of the 16th, 17th, and 18th assembly districts.

Seventh senate district: The combination of the 19th, 20th, and 21st assembly districts.

Eighth senate district: The combination of the 22nd, 23rd, and 24th assembly districts.

Ninth senate district: The combination of the 25th, 26th, and 27th assembly districts.

Tenth senate district: The combination of the 28th, 29th, and 30th assembly districts.

Eleventh senate district: The combination of the 31st, 32nd, and 33rd assembly districts.

Twelfth senate district: The combination of the 34th, 35th, and 36th assembly districts.

Thirteenth senate district: The combination of the 37th, 38th, and 39th assembly districts.

Fourteenth senate district: The combination of the 40th, 41st, and 42nd assembly districts.

Fifteenth senate district: The combination of the 43rd, 44th, and 45th assembly districts.

Sixteenth senate district: The combination of the 46th, 47th, and 48th assembly districts.

Seventeenth senate district: The combination of the 49th, 50th, and 51st assembly districts.

Eighteenth senate district: The combination of the 52nd, 53rd, and 54th assembly districts.

Nineteenth senate district: The combination of the 55th, 56th, and 57th assembly districts.

Twentieth senate district: The combination of the 58th, 59th, and 60th assembly districts.

Twenty-First senate district: The combination of the 61st, 62nd, and 63rd assembly districts.

Twenty-Second senate district: The combination of the 64th, 65th, and 66th assembly districts.

Twenty-Third senate district: The combination of the 67th, 68th, and 69th assembly districts.

Twenty-Fourth senate district: The combination of the 70th, 71st, and 72nd assembly districts.

Twenty-Fifth senate district: The combination of the 73rd, 74th, and 75th assembly districts.

Twenty-Sixth senate district: The combination of the 76th, 77th, and 78th assembly districts.

Twenty-Seventh senate district: The combination of the 79th, 80th, and 81st assembly districts.

*9 Twenty-Eighth senate district: The combination of the 82nd, 83rd, and 84th assembly districts.

Twenty-Ninth senate district: The combination of the 85th, 86th, and 87th assembly districts.

Thirtieth senate district: The combination of the 88th, 89th, and 90th assembly districts.

Thirty-First senate district: The combination of the 91st, 92nd, and 93rd assembly districts.

Thirty-Second senate district: The combination of the 94th, 95th, and 96th assembly districts.

Thirty-Third senate district: The combination of the 97th, 98th, and 99th assembly districts.

II. ASSEMBLY DISTRICTS

First assembly district. All of the following territory constitutes the first assembly district:

- (1) Whole county. Door County.
- (2) Brown County. That part of Brown County consisting of the towns of Green Bay, Humboldt, and Scott.
- (3) Kewaunee County. That part of Kewaunee County consisting of all of the following:
 - (a) The towns of Ahnapee, Carlton, Casco, Lincoln, Luxemburg, Montpelier, Pierce, Red River, and West Kewaunee.
 - (b) The villages of Casco and Luxemburg.
 - (c) The cities of Algoma and Kewaunee.

Second assembly district. All of the following territory constitutes the 2nd assembly district:

- (1) Brown County. That part of Brown County consisting of all of the following:
 - (a) The towns of Bellevue, Eaton, Glenmore, Ledgeview, New Denmark, Rockland, and Wrights town.
 - (b) The villages of Denmark and Wrights town.
- (2) Kewaunee County. That part of Kewaunee County consisting of the town of Franklin.
- (3) Manitowoc County. That part of Manitowoc County consisting of all of the following:
 - (a) The towns of Cooperstown, Franklin, Gibson, Kossuth, Maple Grove, Mishicot, Two Creeks, and Two Rivers.
 - (b) The villages of Francis Creek, Kellnersville, Maribel, and Mishicot.
 - (c) The city of Two Rivers.

Third assembly district. All of the following territory constitutes the 3rd assembly district:

- (1) Brown County. That part of Brown County consisting of the towns of Holland and Morrison.
- (2) Calumet County. That part of Calumet County consisting of all of the following:
 - (a) The towns of Brillion, Chilton, Harrison, Stockbridge, and Woodville.
 - (b) The villages of Sherwood and Stock bridge.
 - (c) The cities of Brillion and Chilton.
 - (d) That part of the city of Appleton located in the county.
 - (e) That part of the city of Menasha located in the county.
- (3) Outagamie County. That part of Outagamie County consisting of all of the following:
 - (a) The town of Buchanan.
 - (b) The villages of Combined Locks and Kimberly.
 - (c) That part of the village of Little Chute comprising wards 5, 6, 7, and 11.
 - (4) Winnebago County. That part of Winnebago County consisting of that part of the city of Appleton comprising wards 41 and 49.

Fourth assembly district. All of the following territory in Brown County constitutes the 4th assembly district:

- *10** (1) The village of Allouez.
- (2) That part of the village of Ashwaubenon comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, and 12.
 - (3) The city of De Pere.
 - (4) That part of the city of Green Bay comprising ward 46.

Fifth assembly district. All of the following territory constitutes the 5th assembly district:

- (1) Brown County. That part of Brown County consisting of all of the following:
 - (a) The towns of Hobart and Lawrence.

- (b) That part of the village of Ashwaubenon comprising ward 9.

- (c) That part of the city of Green Bay comprising wards 47, 48, and 49.

- (2) Outagamie County. That part of Outagamie County consisting of all of the following:

- (a) The towns of Black Creek, Cicero, Freedom, Kaukauna, Oneida, Osborn, Seymour, and Vandenbroek.

- (b) The villages of Black Creek and Nichols.

- (c) That part of the village of Little Chute comprising wards 1, 2, 4, 8, 9, 10, and 12.

- (d) That part of the village of Howard located in the county.

- (e) The cities of Kaukauna and Seymour.

- (3) Shawano County. That part of Shawano County consisting of the town of Maple Grove.

Sixth assembly district. All of the following territory constitutes the 6th assembly district:

- (1) Oconto County. That part of Oconto County consisting of all of the following:

- (a) The towns of Abrams, Bagley, Brazeau, Breed, Gillett, How, Maple Valley, Morgan, Oconto Falls, Spruce, and Underhill.

- (b) The village of Suring.

- (c) The cities of Gillett and Oconto Falls.

- (2) Outagamie County. That part of Outagamie County consisting of all of the following:

- (a) The towns of Bovina, Deer Creek, Ellington, Liberty, Maine, and Maple Creek.

- (b) The villages of Bear Creek and Shiocton.

- (3) Shawano County. That part of Shawano County consisting of all of the following:

- (a) The towns of Angelica, Belle Plaine, Grant, Green Valley, Hartland, Herman, Lessor, Morris, Navarino, Pella, Richmond, Seneca, Washington, Waukechon, and Wescott.

(b) The villages of Bonduel, Bowler, Cecil, and Gresham.

(c) The city of Shawano.

(4) Waupaca County. That part of Waupaca County consisting of all of the following:

(a) The town of Matteson.

(b) The village of Embarrass.

Seventh assembly district. All of the following territory in Milwaukee County constitutes the 7th assembly district:

(1) That part of the city of Greenfield comprising wards 1, 2, 3, 4, 5, 8, 13, 14, 15, 16, 17, 18, 19, 20, and 21.

(2) That part of the city of Milwaukee comprising wards 184, 185, 186, 187, 188, 189, 190, 193, 194, 195, 196, 197, 198, 199, and 231.

Eighth assembly district. All of the following territory in Milwaukee County constitutes the 8th assembly district: that part of the city of Milwaukee comprising wards 63, 64, 132, 133, 134, 135, 139, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 291, 292, and 293.

Ninth assembly district. All of the following territory in Milwaukee County constitutes the 9th assembly district: that part of the city of Milwaukee comprising wards 136, 137, 138, 140, 141, 142, 143, 144, 145, 146, 182, 183, 200, 217, 218, 219, 220, 221, 242, 243, 244, 245, 246, 247, 248, 294, 295, and 296.

***11** Tenth assembly district. All of the following territory in Milwaukee County constitutes the 10th assembly district:

(1) That part of the city of Glendale comprising wards 1, 6, and 12.

(2) That part of the city of Milwaukee comprising wards 1, 2, 3, 11, 13, 16, 17, 19, 41, 48, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 157, 161, 164, 165, 166, 176, 177, and 178.

Eleventh assembly district. All of the following territory in Milwaukee County constitutes the 11th assembly district: that part of the city of Milwaukee comprising wards 4, 5, 6, 7, 8, 9, 10, 12, 14, 15, 18, 20, 21, 22, 23, 26, 27, 28, 78, 79, 80, 115, 156, 158, 159, 160, 162, and 163.

Twelfth assembly district. All of the following territory constitutes the 12th assembly district:

(1) Milwaukee County. That part of Milwaukee County consisting of all of the following:

(a) That part of the city of Milwaukee comprising wards 24, 25, 74, 75, 76, 77, 83, 148, 149, 151, 152, 153, 154, 155, 264, 266, 267, 268, 269, 270, 271, 272, and 273.

(b) That part of the city of Wauwatosa comprising wards 23 and 24.

(2) Waukesha County. That part of Waukesha County consisting of that part of the city of Milwaukee comprising ward 274.

Thirteenth assembly district. All of the following territory in Milwaukee County constitutes the 13th assembly district:

(1) The village of West Milwaukee.

(2) That part of the city of Milwaukee comprising wards 37, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 282, 283, 284, 285, 288, and 289.

(3) That part of the city of Wauwatosa comprising wards 1, 2, 3, 4, 7, 10, 11, 12, 13, 14, and 15.

Fourteenth assembly district. All of the following territory constitutes the 14th assembly district:

(1) Milwaukee County. That part of Milwaukee County consisting of all of the following:

(a) That part of the city of Milwaukee comprising wards 286 and 287.

(b) That part of the city of Wauwatosa comprising wards 5, 6, 8, 9, 16, 17, 18, 19, 20, 21, and 22.

(c) That part of the city of West Allis comprising wards 16, 17, 18, 28, 30, and 32.

(2) Waukesha County. That part of Waukesha County consisting of all of the following:

(a) The village of Elm Grove.

(b) That part of the city of Brookfield comprising wards 1, 2, 3, 7, 9, 15, 23, and 24.

Fifteenth assembly district. All of the following territory in Milwaukee County constitutes the 15th assembly district:

- (1) That part of the city of Milwaukee comprising wards 191 and 192.
- (2) That part of the city of West Allis comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 31, and 33.

Sixteenth assembly district. All of the following territory in Milwaukee County constitutes the 16th assembly district: that part of the city of Milwaukee comprising wards 60, 61, 62, 65, 66, 70, 71, 72, 73, 105, 106, 107, 108, 109, 110, 111, 112, 174, 175, 179, 180, 297, 298, 299, 311, 312, 313, and 314.

***12** Seventeenth assembly district. All of the following territory in Milwaukee County constitutes the 17th assembly district: that part of the city of Milwaukee comprising wards 29, 30, 31, 32, 33, 34, 35, 36, 81, 82, 84, 113, 114, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 127, 128, 167, 168, 169, 170, and 171.

Eighteenth assembly district. All of the following territory in Milwaukee County constitutes the 18th assembly district: that part of the city of Milwaukee comprising wards 67, 68, 69, 126, 129, 130, 131, 172, 173, 181, 275, 276, 277, 278, 279, 280, 281, 290, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, and 310.

Nineteenth assembly district. All of the following territory in Milwaukee County constitutes the 19th assembly district: that part of the city of Milwaukee comprising wards 39, 42, 43, 44, 45, 46, 47, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 235, 236, 237, 238, 239, 240, 241, 251, 252, and 255.

Twentieth assembly district. All of the following territory in Milwaukee County constitutes the 20th assembly district:

- (1) The cities of Cudahy and St. Francis.
- (2) That part of the city of Milwaukee comprising wards 216, 222, 223, 224, 225, 226, 227, 228, 230, 233, 234, 249, 250, 253, 254, 256, and 257.

Twenty-first assembly district. All of the following territory in Milwaukee County constitutes the 21st assembly district:

- (1) The cities of Oak Creek and South Milwaukee.

- (2) That part of the city of Milwaukee comprising wards 229 and 232.

Twenty-second assembly district. All of the following territory in Milwaukee County constitutes the 22nd assembly district:

- (1) The villages of Fox Point, River Hills, Shorewood, and Whitefish Bay.
- (2) That part of the city of Glendale comprising wards 2, 3, 4, 5, 7, 8, 9, 10, and 11.
- (3) That part of the city of Milwaukee comprising wards 38, 40, 147, and 150.

Twenty-third assembly district. All of the following territory constitutes the 23rd assembly district:

- (1) Milwaukee County. That part of Milwaukee County consisting of all of the following:
 - (a) The village of Brown Deer.
 - (b) That part of the village of Bayside located in the county.
 - (c) That part of the city of Milwaukee comprising wards 258, 259, 260, 261, 262, 263, and 265.
- (2) Ozaukee County. That part of Ozaukee County consisting of all of the following:
 - (a) The village of Thiensville.
 - (b) That part of the village of Bayside located in the county.
 - (c) That part of the city of Mequon comprising wards 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21.
- (3) Washington County. That part of Washington County consisting of that part of the city of Milwaukee comprising ward 262.

Twenty-fourth assembly district. All of the following territory constitutes the 24th assembly district:

- (1) Washington County. That part of Washington County consisting of all of the following:
 - (a) The town of Germantown.

*13 (b) That part of the town of Richfield comprising wards 6, 7, 8, 11, 12, and 13.

(c) The village of Germantown.

(2) Waukesha County. That part of Waukesha County consisting of all of the following:

(a) The village of Butler.

(b) That part of the village of Menomonee Falls comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 28, and 29.

Twenty-fifth assembly district. All of the following territory constitutes the 25th assembly district:

(1) Calumet County. That part of Calumet County consisting of all of the following:

(a) The town of Rantoul.

(b) The villages of Hilbert and Potter.

(2) Manitowoc County. That part of Manitowoc County consisting of all of the following:

(a) The towns of Cato, Centerville, Eaton, Liberty, Manitowoc, Manitowoc Rapids, Meeme, Newton, and Rockland.

(b) The villages of Cleveland, Reedsville, St. Nazianz, Valders, and Whitelaw.

(c) The city of Manitowoc.

Twenty-sixth assembly district. All of the following territory in Sheboygan County constitutes the 26th assembly district:

(1) That part of the town of Sheboygan comprising ward 2.

(2) The village of Kohler.

(3) The city of Sheboygan.

(4) That part of the city of Sheboygan Falls comprising ward 10.

Twenty-seventh assembly district. All of the following territory constitutes the 27th assembly district:

(1) Calumet County. That part of Calumet County consisting of all of the following:

(a) The towns of Brothertown, Charlestown, and New Holstein.

(b) The city of New Holstein.

(c) That part of the city of Kiel located in the county.

(2) Fond du Lac County. That part of Fond du Lac County consisting of all of the following:

(a) The towns of Calumet, Forest, and Marshfield.

(b) The villages of Mount Calvary and St. Cloud.

(3) Manitowoc County. That part of Manitowoc County consisting of all of the following:

(a) The town of Schleswig.

(b) That part of the city of Kiel located in the county.

(4) Sheboygan County. That part of Sheboygan County consisting of all of the following:

(a) The towns of Greenbush, Herman, Mosel, Plymouth, Rhine, Russell, and Sheboygan Falls.

(b) That part of the town of Sheboygan comprising wards 1, 3, 4, 5, 6, and 7.

(c) The villages of Elkhart Lake, Glenbeulah, and Howards Grove.

(d) The city of Plymouth.

(e) That part of the city of Sheboygan Falls comprising wards 1, 2, 3, 4, 5, 6, 7, 8, and 9.

Twenty-eighth assembly district. All of the following territory constitutes the 28th assembly district:

(1) Burnett County. That part of Burnett County consisting of all of the following:

(a) The towns of Anderson, Daniels, Dewey, Grantsburg, La Follette, Lincoln, Meenon, Roosevelt, Siren, Trade Lake, West Marshland, and Wood River.

(b) The villages of Grantsburg, Siren, and Webster.

(2) Polk County. That part of Polk County consisting of all of the following:

***14** (a) The towns of Alden, Apple River, Balsam Lake, Black Brook, Bone Lake, Clam Falls, Clayton, Clear Lake, Eureka, Farmington, Garfield, Georgetown, Laketown, Lincoln, Lorain, Luck, Milltown, Osceola, St. Croix Falls, Sterling, and West Sweden.

(b) The villages of Balsam Lake, Centuria, Clayton, Clear Lake, Dresser, Frederic, Luck, Milltown, and Osceola.

(c) The cities of Amery and St. Croix Falls.

(3) St. Croix County. That part of St. Croix County consisting of all of the following:

(a) That part of the town of Somerset comprising wards 1, 3, 4, and 5.

(b) The village of Somerset.

Twenty-ninth assembly district. All of the following territory constitutes the 29th assembly district:

(1) Dunn County. That part of Dunn County consisting of all of the following:

(a) The towns of Lucas, Menomonie, and Stanton.

(b) The village of Knapp.

(c) The city of Menomonie.

(2) Pierce County. That part of Pierce County consisting of all of the following:

(a) The towns of Gilman and Spring Lake.

(b) The village of Elmwood.

(c) That part of the village of Spring Valley located in the county.

(3) St. Croix County. That part of St. Croix County consisting of all of the following:

(a) The towns of Baldwin, Cady, Cylon, Eau Galle, Emerald, Erin Prairie, Forest, Glenwood, Hammond, Kinnickinnic, Pleasant Valley, Richmond, Rush River, Springfield, Stanton, Star Prairie, and Warren.

(b) The villages of Baldwin, Deer Park, Hammond, Roberts, Star Prairie, Wilson, and Woodville.

(c) That part of the village of Spring Valley located in the county.

(d) The cities of Glenwood City and New Richmond.

Thirtieth assembly district. All of the following territory constitutes the 30th assembly district:

(1) Pierce County. That part of Pierce County consisting of all of the following:

(a) The towns of Clifton, Diamond Bluff, Oak Grove, River Falls, Trenton, and Trimbelle.

(b) The village of Ellsworth.

(c) The city of Prescott.

(d) That part of the city of River Falls located in the county.

(2) St. Croix County. That part of St. Croix County consisting of all of the following:

(a) The towns of Hudson, St. Joseph, and Troy.

(b) That part of the town of Somerset comprising ward 2.

(c) The village of North Hudson.

(d) The city of Hudson.

(e) That part of the city of River Falls located in the county.

Thirty-first assembly district. All of the following territory constitutes the 31st assembly district:

(1) Jefferson County. That part of Jefferson County consisting of all of the following:

(a) The towns of Cold Spring, Concord, Farmington, Hebron, Palmyra, and Sullivan.

(b) The villages of Johnson Creek, Palmyra, and Sullivan.

(2) Walworth County. That part of Walworth County consisting of all of the following:

(a) The towns of Lafayette, La Grange, Spring Prairie, Sugar Creek, and Troy.

(b) The city of Elkhorn.

***15** (3) Waukesha County. That part of Waukesha County consisting of all of the following:

- (a) The towns of Eagle, Ottawa, and Summit.
- (b) The villages of Dousman, Eagle, and Oconomowoc Lake.
- (c) That part of the city of Oconomowoc comprising wards 7, 8, 9, 10, 11, 12, and 13.

Thirty-second assembly district. All of the following territory constitutes the 32nd assembly district:

- (1) Kenosha County. That part of Kenosha County consisting of the town of Wheat land.
- (2) Walworth County. That part of Walworth County consisting of all of the following:
 - (a) The towns of Bloomfield, Darien, Delavan, Geneva, Linn, Lyons, Sharon, and Walworth.
 - (b) The villages of Darien, Fontana-on-Geneva Lake, Sharon, Walworth, and Williams Bay.
 - (c) That part of the village of Genoa City located in the county.
 - (d) The cities of Delavan and Lake Geneva.

Thirty-third assembly district. All of the following territory in Waukesha County constitutes the 33rd assembly district:

- (1) The towns of Delafield and Geneses.
- (2) That part of the town of Mukwonago comprising wards 1, 2, 4, 5, 6, 7, 8, 9, and 10.
- (3) That part of the town of Waukesha comprising wards 3, 7, and 8.
- (4) The villages of Chenequa, Hartland, Nashotah, North Prairie, and Wales.
- (5) The city of Delafield.
- (6) That part of the city of Pewaukee comprising ward 7.
- (7) That part of the city of Waukesha comprising wards 8, 10, 11, 12, 13, 14, and 15.

Thirty-fourth assembly district. All of the following territory constitutes the 34th assembly district:

- (1) Whole county. Vilas County.

- (2) Oneida County. That part of Oneida County consisting of all of the following:

- (a) The towns of Crescent, Enterprise, Hazelhurst, Lake Tomahawk, Minocqua, Monico, Newbold, Pelican, Piehl, Pine Lake, Schoepke, Stella, Sugar Camp, Three Lakes, and Woodruff.

- (b) The city of Rhinelander.

Thirty-fifth assembly district. All of the following territory constitutes the 35th assembly district:

- (1) Whole county. Lincoln County.
- (2) Langlade County. That part of Langlade County consisting of all of the following:
 - (a) The towns of Ackley, Ainsworth, Antigo, Elcho, Neva, Norwood, Parrish, Peck, Rolling, Summit, Upham, and Vilas.
 - (b) The city of Antigo.
- (3) Marathon County. That part of Marathon County consisting of all of the following:
 - (a) The towns of Halsey, Hamburg, Harrison, and Hewitt.
 - (b) The village of Athens.
- (4) Oneida County. That part of Oneida County consisting of the towns of Cassian, Little Rice, Lynne, Nokomis, and Woodboro.

Thirty-sixth assembly district. All of the following territory constitutes the 36th assembly district:

- (1) Whole counties. Florence County, Forest County, and Menominee County.
- (2) Langlade County. That part of Langlade County consisting of all of the following:
 - (a) The towns of Evergreen, Langlade, Polar, Price, and Wolf River.
 - *16 (b) The village of White Lake.

- (3) Marathon County. That part of Marathon County consisting of all of the following:

- (a) The town of Elderon.

- (b) The village of Elderon.
- (c) That part of the village of Birnamwood located in the county.
- (4) Marinette County. That part of Marinette County consisting of all of the following:
 - (a) The towns of Amberg, Athelstane, Beecher, Dunbar, Goodman, Lake, Middle Inlet, Niagara, Pembine, Porterfield, Silver Cliff, Stephenson, Wagner, and Wausaukee.
 - (b) The villages of Crivitz and Wausaukee.
 - (c) The city of Niagara.
- (5) Oconto County. That part of Oconto County consisting of the towns of Doty, Lakewood, Mountain, Riverview, and Townsend.
- (6) Shawano County. That part of Shawano County consisting of all of the following:
 - (a) The towns of Almon, Aniwa, Bartelme, Birnamwood, Hutchins, Red Springs, and Wittenberg.
 - (b) The villages of Mattoon and Wittenberg.
 - (c) That part of the village of Birnamwood located in the county.

Thirty-seventh assembly district. All of the following territory constitutes the 37th assembly district:

- (1) Dane County. That part of Dane County consisting of all of the following:
 - (a) The towns of Albion, Christiana, and Deerfield.
 - (b) The villages of Deerfield and Rochdale.
 - (c) That part of the village of Cambridge located in the county.
- (2) Jefferson County. That part of Jefferson County consisting of all of the following:
 - (a) The towns of Aztalan, Jefferson, Koshkonong, Lake Mills, Milford, Oakland, Sumner, Waterloo, and Watertown.

- (b) That part of the town of Ixonia comprising wards 1, 3, and 4.
- (c) That part of the village of Cambridge located in the county.
- (d) The cities of Fort Atkinson, Jefferson, Lake Mills, and Waterloo.

Thirty-eighth assembly district. All of the following territory constitutes the 38th assembly district:

- (1) Columbia County. That part of Columbia County consisting of that part of the city of Columbus located in the county.
- (2) Dodge County. That part of Dodge County consisting of all of the following:
 - (a) The towns of Ashippun, Clyman, Elba, Emmet, Hustisford, Lebanon, Lowell, Portland, and Shields.
 - (b) The villages of Clyman, Hustisford, Lowell, and Reeseville.
 - (c) That part of the city of Watertown located in the county.
 - (d) Dodge County. That part of Dodge County consisting of that part of the city of Columbus located in the county.
- (3) Jefferson County. That part of Jefferson County consisting of all of the following:

- (a) That part of the town of Ixonia comprising ward 2.
- (b) That part of the city of Watertown located in the county.
- (4) Waukesha County. That part of Waukesha County consisting of all of the following:
 - (a) The town of Oconomowoc.
 - (b) The village of Lac La Belle.
 - (c) That part of the city of Oconomowoc comprising wards 1, 2, 3, 4, 5, and 6.

Thirty-ninth assembly district. All of the following territory constitutes the 39th assembly district:

- *17 (1) Columbia County. That part of Columbia County consisting of that part of the village of Randolph located in the county.

(2) Dodge County. That part of Dodge County consisting of all of the following:

- (a) The towns of Beaver Dam, Burnett, Calamus, Chester, Fox Lake, Herman, Hubbard, Leroy, Lomira, Oak Grove, Rubicon, Trenton, Westford, and Williams town.
- (b) The villages of Brownsville, Iron Ridge, Kekoskee, Lomira, and Neosho.
- (c) That part of the village of Randolph located in the county.
- (d) The cities of Beaver Dam, Fox Lake, Horicon, Juneau, and Maxville.

Fortieth assembly district. All of the following territory constitutes the 40th assembly district:

(1) Outagamie County. That part of Outagamie County consisting of all of the following:

- (a) The town of Hottonia.
- (b) The village of Hortonville.
- (c) That part of the city of New London located in the county.

(2) Shawano County. That part of Shawano County consisting of that part of the city of Marion located in the county.

(3) Waupaca County. That part of Waupaca County consisting of all of the following:

- (a) The towns of Bear Creek, Caledonia, Dayton, Dupont, Farmington, Harrison, Helvetia, Iola, Larrabee, Lebanon, Lind, Little Wolf, Mukwa, Royalton, St. Lawrence, Scandinavia, Union, Waupaca, Weyauwega, and Wyoming.

(b) The villages of Big Falls, Iola, Ogdensburg, and Scandinavia.

(c) The cities of Clintonville, Manawa, Waupaca, and Weyauwega.

(d) That part of the city of Marion located in the county.

(e) That part of the city of New London located in the county.

Forty-first assembly district. All of the following territory constitutes the 41st assembly district:

(1) Whole county. Green Lake County.

(2) Fond du Lac County. That part of Fond du Lac County consisting of all of the following:

- (a) The towns of Alto, Metomen, and Ripon.
- (b) The villages of Brandon and Fair water.
- (c) The city of Ripon.

(3) Marquette County. That part of Marquette County consisting of all of the following:

(a) The towns of Crystal Lake, Mecan, Neshkoro, and Newton.

(b) The village of Neshkoro.

(4) Waupaca County. That part of Waupaca County consisting of all of the following:

(a) The town of Fremont.

(b) The village of Fremont.

(5) Waushara County. That part of Waushara County consisting of all of the following:

(a) The towns of Aurora, Bloomfield, Coloma, Dakota, Leon, Marion, Mount Morris, Poysippi, Richford, Saxeville, Springwater, Warren, and Wautoma.

(b) The villages of Coloma, Lohrville, Redgranite, and Wild Rose.

(c) The city of Wautoma.

(d) That part of the city of Berlin located in the county.

Forty-second assembly district. All of the following territory constitutes the 42nd assembly district:

(1) Adams County. That part of Adams County consisting of all of the following:

(a) The towns of Dell Prairie and New Haven.

***18** (b) That part of the city of Wisconsin Dells located in the county.

(2) Columbia County. That part of Columbia County consisting of all of the following:

(a) The towns of Caledonia, Fort Winnebago, Lewiston, Marcellon, Newport, and Wyocena.

(b) The villages of Pardeeville and Wyocena.

(c) The city of Portage.

(d) That part of the city of Wisconsin Dells located in the county.

(3) Marquette County. That part of Marquette County consisting of all of the following:

(a) The towns of Buffalo, Douglas, Harris, Montello, Moundville, Oxford, Packwaukee, Shields, and Westfield.

(b) The villages of Endeavor and Oxford.

(c) The city of Montello.

(4) Sauk County. That part of Sauk County consisting of all of the following:

(a) The towns of Baraboo, Delton, Fairfield, and Greenfield.

(b) The villages of Lake Delton and West Baraboo.

(c) The city of Baraboo.

(d) That part of the city of Wisconsin Dells located in the county.

Forty-third assembly district. All of the following territory constitutes the 43rd assembly district:

(1) Dane County. That part of Dane County consisting of that part of the city of Edgerton located in the county.

(2) Jefferson County. That part of Jefferson County consisting of that part of the city of Whitewater located in the county.

(3) Rock County. That part of Rock County consisting of all of the following:

(a) The towns of Avon, Beloit, Center, Fulton, Janesville, Lima, Milton, Newark, Plymouth, Porter, Rock, and Spring Valley.

(b) The villages of Footville and Orfordville.

(c) The city of Milton.

(d) That part of the city of Edgerton located in the county.

(4) Walworth County. That part of Walworth County consisting of all of the following:

(a) The town of Whitewater.

(b) That part of the city of Whitewater located in the county.

Forty-fourth assembly district. All of the following territory in Rock County constitutes the 44th assembly district: that part of the city of Janesville comprising wards 1, 2, 3, 4, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25.

Forty-fifth assembly district. All of the following territory constitutes the 45th assembly district:

(1) Rock County. That part of Rock County consisting of all of the following:

(a) The towns of Bradford, Clinton, Harmony, Johnstown, La Prairie, and Turtle.

(b) The village of Clinton.

(c) The city of Beloit.

(d) That part of the city of Janesville comprising wards 5, 6, and 12.

(2) Walworth County. That part of Walworth County consisting of the town of Richmond.

Forty-sixth assembly district. All of the following territory in Dane County constitutes the 46th assembly district:

(1) The towns of Cottage Grove, Dunkirk, Pleasant Springs, Rutland, and Sun Prairie.

(2) That part of the town of Dunn comprising wards 1 and 7.

(3) The village of Cottage Grove.

(4) That part of the village of Oregon comprising wards 2, 3, and 4.

***19** (5) The cities of Stoughton and Sun Prairie.

Forty-seventh assembly district. All of the following territory constitutes the 47th assembly district:

- (1) Columbia County. That part of Columbia County consisting of all of the following:
 - (a) The towns of Arlington, Columbus, Courtland, Dekorra, Fountain Prairie, Hampden, Leeds, Lodi, Lowville, Otsego, Pacific, Randolph, Scott, Springvale, and West Point.
 - (b) The villages of Arlington, Cambria, Doylestown, Fall River, Friesland, Poynette, and Rio.
 - (c) The city of Lodi.
- (2) Dane County. That part of Dane County consisting of all of the following:
 - (a) The towns of Bristol, Dane, Mazomanie, Medina, Roxbury, Vienna, Windsor, and York.
 - (b) The villages of Dane, DeForest, and Marshall.
- (3) Sauk County. That part of Sauk County consisting of all of the following:
 - (a) The town of Merrimac.
 - (b) The village of Merrimac.

Forty-eighth assembly district. All of the following territory in Dane County constitutes the 48th assembly district:

- (1) The town of Blooming Grove.
- (2) That part of the town of Dunn comprising wards 2, 3, 4, 5, and 6.
- (3) The village of McFarland.
- (4) The city of Monona.
- (5) That part of the city of Madison comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 33, 55, and 56.

Forty-ninth assembly district. All of the following territory constitutes the 49th assembly district:

- (1) Whole county. Grant County.
- (2) Iowa County. That part of Iowa County consisting of all of the following:

- (a) That part of the village of Livingston located in the county.
 - (b) That part of the village of Montfort located in the county.
 - (c) That part of the village of Muscoda located in the county.
- (3) Lafayette County. That part of Lafayette County consisting of all of the following:
 - (a) The town of Benton.
 - (b) The village of Benton.
 - (c) That part of the village of Hazel Green located in the county.
 - (d) That part of the city of Cuba City located in the county.
 - (4) Richland County. That part of Richland County consisting of all of the following:
 - (a) The towns of Dayton, Eagle, Orion, and Richwood.
 - (b) The village of Boaz.

Fiftieth assembly district. All of the following territory constitutes the 50th assembly district:

- (1) Whole county. Juneau County.
- (2) Monroe County. That part of Monroe County consisting of all of the following:
 - (a) The towns of Clifton and Glendale.
 - (b) The village of Kendall.
- (3) Richland County. That part of Richland County consisting of all of the following:
 - (a) The towns of Marshall, Richland, Rockbridge, Westford, and Willow.
 - (b) That part of the village of Cazenovia located in the county.
 - (c) The city of Richland Center.
- (4) Sauk County. That part of Sauk County consisting of all of the following:

(a) The towns of Dellona, Excelsior, Freedom, Ironton, La Valle, Reedsburg, Washington, Westfield, Winfield, and Woodland.

***20** (b) The villages of Ironton, La Valle, Lime Ridge, Loganville, North Freedom, and Rock Springs.

(c) That part of the village of Cazenovia located in the county.

(d) The city of Reedsburg.

Fifty-first assembly district. All of the following territory constitutes the 51st assembly district:

(1) Iowa County. That part of Iowa County consisting of all of the following:

(a) The towns of Arena, Brigham, Clyde, Dodgeville, Eden, Highland, Linden, Mifflin, Mineral Point, Moscow, Pulaski, Ridgeway, Waldwick, and Wyoming.

(b) The villages of Arena, Avoca, Barneveld, Cobb, Highland, Hollandale, Linden, Rewey, and Ridge way.

(c) That part of the village of Blanchardville located in the county.

(d) The cities of Dodgeville and Mineral Point.

(2) Lafayette County. That part of Lafayette County consisting of all of the following:

(a) The towns of Argyle, Belmont, Blanchard, Darlington, Elk Grove, Fayette, Gratiot, Kendall, Lamont, Monticello, New Diggings, Seymour, Shullsburg, White Oak Springs, Willow Springs, and Wiota.

(b) The villages of Argyle, Belmont, and Gratiot.

(c) That part of the village of Blanchardville located in the county.

(d) The cities of Darlington and Shullsburg.

(3) Richland County. That part of Richland County consisting of all of the following:

(a) The towns of Buena Vista and Ithaca.

(b) The village of Lone Rock.

(4) Sauk County. That part of Sauk County consisting of all of the following:

(a) The towns of Bear Creek, Franklin, Honey Creek, Prairie du Sac, Spring Green, Sumpter, and Troy.

(b) The villages of Plain, Prairie du Sac, Sauk City, and Spring Green.

Fifty-second assembly district. All of the following territory in Fond du Lac County constitutes the 52nd assembly district:

(1) The towns of Eldorado, Friendship, and Taycheedah.

(2) The village of North Fond du Lac.

(3) The city of Fond du Lac.

Fifty-third assembly district. All of the following territory constitutes the 53rd assembly district:

(1) Dodge County. That part of Dodge County consisting of that part of the city of Waupun located in the county.

(2) Fond du Lac County. That part of Fond du Lac County consisting of all of the following:

(a) The towns of Byron, Empire, Fond du Lac, Lamartine, Oakfield, Rosendale, Springvale, and Waupun.

(b) The villages of Oakfield and Rosendale.

(c) That part of the city of Waupun located in the county.

(3) Winnebago County. That part of Winnebago County consisting of all of the following:

(a) The towns of Algoma, Black Wolf, Nekimi, Nepeuskun, Omro, Oshkosh, Rushford, and Utica.

(b) The city of Omro.

(c) That part of the city of Oshkosh comprising wards 3, 4, 5, 6, 7, and 9.

Fifty-fourth assembly district. All of the following territory in Winnebago County constitutes the 54th assembly district: that part of the city of Oshkosh comprising wards 1, 2, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 33.

***21** Fifty-fifth assembly district. All of the following territory in Winnebago County constitutes the 55th assembly district:

- (1) That part of the town of Menasha comprising wards 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13.
- (2) The city of Neenah.
- (3) That part of the city of Appleton comprising wards 38 and 39.
- (4) That part of the city of Menasha located in the county.

Fifty-sixth assembly district. All of the following territory constitutes the 56th assembly district:

- (1) Outagamie County. That part of Outagamie County consisting of all of the following:
 - (a) The towns of Center, Dale, Grand Chute, and Greenville.
 - (b) That part of the city of Appleton comprising wards 30, 31, and 32.
- (2) Winnebago County. That part of Winnebago County consisting of all of the following:
 - (a) The towns of Clayton, Neenah, Poygan, Vinland, Winchester, Winneconne, and Wolf River.
 - (b) That part of the town of Menasha comprising wards 1 and 2.
 - (c) The village of Winneconne.

Fifty-seventh assembly district. All of the following territory in Outagamie County constitutes the 57th assembly district:

- (1) That part of the village of Little Chute comprising ward 3.
- (2) That part of the city of Appleton comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 33, 34, 35, 36, and 37.

Fifty-eighth assembly district. All of the following territory in Washington County constitutes the 58th assembly district:

- (1) The towns of Addison, Jackson, and West Bend.
- (2) That part of the town of Hartford comprising ward 5.

- (3) That part of the town of Polk comprising wards 1, 2, 3, 4, 6, and 7.

- (4) That part of the town of Trenton comprising wards 3 and 4.

- (5) The villages of Jackson and Slinger.

- (6) The city of West Bend.

Fifty-ninth assembly district. All of the following territory constitutes the 59th assembly district:

- (1) Dodge County. That part of Dodge County consisting of all of the following:

- (a) The town of Theresa.
- (b) The village of Theresa.

- (2) Fond du Lac County. That part of Fond du Lac County consisting of all of the following:

- (a) The towns of Ashford, Auburn, Eden, and Osceola.
- (b) The villages of Campbellsport and Eden.

- (3) Ozaukee County. That part of Ozaukee County consisting of all of the following:

- (a) The towns of Belgium and Fredonia.
- (b) That part of the town of Saukville comprising ward 1.
- (c) The villages of Belgium and Fredonia.

- (4) Sheboygan County. That part of Sheboygan County consisting of all of the following:

- (a) The towns of Holland, Lima, Lyndon, Mitchell, Scott, Sherman, and Wilson.
- (b) The villages of Adell, Cascade, Cedar Grove, Oostburg, Random Lake, and Waldo.

- (5) Washington County. That part of Washington County consisting of all of the following:

- (a) The towns of Barton, Farmington, Kewaskum, and Wayne.

- *22** (b) The village of Kewaskum.

Sixtieth assembly district. All of the following territory constitutes the 60th assembly district:

- (1) Ozaukee County. That part of Ozaukee County consisting of all of the following:
 - (a) The towns of Cedarburg, Grafton, and Port Washington.
 - (b) That part of the town of Saukville comprising wards 2, 3, 4, 5, and 6.
 - (c) The villages of Grafton and Sackville.
 - (d) That part of the village of Newburg located in the county.
 - (e) The cities of Cedarburg and Port Washington.
 - (f) That part of the city of Mequon comprising ward 2.
- (2) Washington County. That part of Washington County consisting of all of the following:
 - (a) That part of the town of Trenton comprising wards 1, 2, 5, 6, and 7.
 - (b) That part of the village of Newburg located in the county.

Sixty-first assembly district. All of the following territory in Racine County constitutes the 61st assembly district:

- (1) That part of the town of Mount Pleasant comprising ward 22.
- (2) The villages of North Bay and Wind Point.
- (3) That part of the city of Racine comprising wards 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 27, 33, and 34.

Sixty-second assembly district. All of the following territory in Racine County constitutes the 62nd assembly district:

- (1) That part of the town of Mount Pleasant comprising wards 1, 2, 3, 4, 5, 7, 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, and 23.
- (2) The villages of Elmwood Park and Sturtevant.
- (3) That part of the city of Racine comprising wards 8, 21, 23, 24, 25, 26, 28, 29, 30, 31, and 32.

Sixty-third assembly district. All of the following territory in Racine County constitutes the 63rd assembly district:

- (1) The towns of Caledonia, Dover, Norway, Raymond, Rochester, and Yorkville.
- (2) That part of the town of Mount Pleasant comprising wards 6, 8, 9, 13, and 15.
- (3) The villages of Rochester and Union Grove.

Sixty-fourth assembly district. All of the following territory in Kenosha County constitutes the 64th assembly district:

- (1) That part of the town of Somers comprising ward 8.
- (2) That part of the city of Kenosha comprising wards 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 19, 20, 21, 22, 29, 31, and 32.

Sixty-fifth assembly district. All of the following territory in Kenosha County constitutes the 65th assembly district:

- (1) That part of the town of Bristol comprising ward 6.
- (2) The village of Pleasant Prairie.
- (3) That part of the city of Kenosha comprising wards 5, 6, 16, 17, 18, 23, 24, 25, 26, 27, 28, 30, 33, and 34.

Sixty-sixth assembly district. All of the following territory constitutes the 66th assembly district:

- (1) Kenosha County. That part of Kenosha County consisting of all of the following:
 - (a) The towns of Brighton, Paris, Randall, and Salem.
 - (b) That part of the town of Bristol comprising wards 1, 2, 3, 4, 5, 7, and 8.
 - *23 (c) That part of the town of Somers comprising wards 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, and 12.
- (d) The villages of Paddock Lake, Silver Lake, and Twin Lakes.
- (e) That part of the village of Genoa City located in the county.
- (2) Racine County. That part of Racine County consisting of all of the following:
 - (a) The town of Burlington.

(b) That part of the city of Burlington located in the county.

(3) Walworth County. That part of Walworth County consisting of that part of the city of Burlington located in the county.

Sixty-seventh assembly district. All of the following territory constitutes the 67th assembly district:

(1) Barron County. That part of Barron County consisting of all of the following:

(a) The towns of Dallas, Dovre, and Sioux Creek.

(b) The village of Dallas.

(c) That part of the village of New Auburn located in the county.

(2) Chippewa County. That part of Chippewa County consisting of all of the following:

(a) The towns of Anson, Arthur, Auburn, Birch Creek, Bloomer, Cleveland, Colburn, Cooks Valley, Eagle Point, Estella, Goetz, Howard, Lake Holcombe, Ruby, Sampson, Tilden, and Woodmohr.

(b) The village of Cadott.

(c) That part of the village of New Auburn located in the county.

(d) The cities of Bloomer, Chippewa Falls, and Cornell.

(3) Dunn County. That part of Dunn County consisting of all of the following:

(a) The towns of Colfax, Elk Mound, Grant, Hay River, New Haven, Otter Creek, Red Cedar, Sand Creek, Sheridan, Sherman, Spring Brook, Tainter, Tiffany, and Wilson.

(b) The villages of Boyceville, Colfax, Downing, Elk Mound, Ridgeland, and Wheeler.

Sixty-eighth assembly district. All of the following territory constitutes the 68th assembly district:

(1) Chippewa County. That part of Chippewa County consisting of all of the following:

(a) The towns of Hallie, Lafayette, and Wheaton.

(b) That part of the city of Eau Claire located in the county.

(2) Eau Claire County. That part of Eau Claire County consisting of all of the following:

(a) The towns of Lincoln, Ludington, Seymour, and Union.

(b) That part of the town of Washington comprising wards 9 and 13.

(c) The village of Fall Creek.

(d) That part of the city of Altoona comprising wards 8, 12, and 13.

(e) That part of the city of Eau Claire comprising wards 1, 7, 8, 9, 10, 11, 12, 13, 14, 19, 22, 23, 29, 34, 35, 36, and 37.

Sixty-ninth assembly district. All of the following territory constitutes the 69th assembly district:

(1) Chippewa County. That part of Chippewa County consisting of all of the following:

(a) The towns of Delmar, Edson, and Sigel.

(b) The village of Boyd.

(c) The city of Stanley.

(2) Clark County. That part of Clark County consisting of all of the following:

(a) The towns of Beaver, Butler, Colby, Eaton, Foster, Fremont, Grant, Green Grove, Hendren, Hewett, Hixon, Hoard, Longwood, Loyal, Lynn, Mayville, Mead, Mentor, Pine Valley, Reseburg, Seif, Sherman, Sherwood, Thorp, Unity, Warner, Washburn, Weston, Withee, Worden, and York.

***24** (b) The villages of Curtiss, Granton, and Withee.

(c) That part of the village of Dorchester located in the county.

(d) That part of the village of Unity located in the county.

(e) The cities of Greenwood, Loyal, Neillsville, Owen, and Thorp.

(f) That part of the city of Abbotsford located in the county.

- (g) That part of the city of Colby located in the county.
- (3) Eau Claire County. That part of Eau Claire County consisting of the town of Wilson.
- (4) Marathon County. That part of Marathon County consisting of all of the following:
 - (a) The towns of Brighton, Cleveland, Eau Pleine, Frankfort, Hull, McMillan, Spencer, and Wien.
 - (b) The villages of Edgar, Fenwood, Spencer, and Stratford.
 - (c) That part of the village of Dorchester located in the county.
 - (d) That part of the village of Unity located in the county.
 - (e) That part of the city of Abbotsford located in the county.
 - (f) That part of the city of Colby located in the county.
- (5) Taylor County. That part of Taylor County consisting of the town of Taft.
- (6) Wood County. That part of Wood County consisting of the town of Lincoln.

Seventieth assembly district. All of the following territory constitutes the 70th assembly district:

- (1) Marathon County. That part of Marathon County consisting of that part of the city of Marshfield located in the county.
- (2) Portage County. That part of Portage County consisting of all of the following:
 - (a) The towns of Carson, Dewey, Eau Pleine, Hull, Linwood, and Sharon.
 - (b) That part of the town of Grant comprising ward 3.
 - (c) That part of the town of Plover comprising wards 1 and 4.
 - (d) The village of Junction City.
 - (e) That part of the village of Milladore located in the county.
- (3) Wood County. That part of Wood County consisting of all of the following:

- (a) The towns of Arpin, Auburndale, Cameron, Cary, Cranmoor, Dexter, Hansen, Hiles, Marshfield, Milladore, Port Edwards, Remington, Richfield, Rock, Rudolph, Seneca, Sherry, Sigel, and Wood.
- (b) The villages of Arpin, Auburndale, Hewitt, Rudolph, and Vesper.
- (c) That part of the village of Milladore located in the county.
- (d) The cities of Nekoosa and Pittsville.
- (e) That part of the city of Marshfield located in the county.

Seventy-first assembly district. All of the following territory constitutes the 71st assembly district:

- (1) Portage County. That part of Portage County consisting of all of the following:
 - (a) The towns of Almond, Amherst, Belmont, Buena Vista, Lanark, New Hope, Pine Grove, and Stockton.
 - (b) That part of the town of Plover comprising wards 2 and 3.
 - (c) The villages of Almond, Amherst, Amherst Junction, Nelsonville, Park Ridge, Plover, and Whiting.
 - (d) The city of Stevens Point.
- (2) Waushara County. That part of Waushara County consisting of all of the following:
 - (a) The towns of Deerfield, Hancock, Oasis, Plainfield, and Rose.
 - *25 (b) The villages of Hancock and Plainfield.

Seventy-second assembly district. All of the following territory constitutes the 72nd assembly district:

- (1) Adams County. That part of Adams County consisting of all of the following:
 - (a) The towns of Adams, Big Flats, Colburn, Easton, Jackson, Leola, Lincoln, Monroe, New Chester, Preston, Quincy, Richfield, Rome, Springville, and Strong's Prairie.
 - (b) The village of Friendship.

(c) The city of Adams.

(2) Marquette County. That part of Marquette County consisting of all of the following:

(a) The town of Springfield.

(b) The village of Westfield.

(3) Portage County. That part of Portage County consisting of that part of the town of Grant comprising wards 1 and 2.

(4) Wood County. That part of Wood County consisting of all of the following:

(a) The towns of Grand Rapids and Saratoga.

(b) The villages of Biron and Port Edwards.

(c) The city of Wisconsin Rapids.

Seventy-third assembly district. All of the following territory constitutes the 73rd assembly district:

(1) Whole county. Douglas County.

(2) Burnett County. That part of Burnett County consisting of the towns of Blaine, Jackson, Oakland, Rusk, Sand Lake, Scott, Swiss, Union, and Webb Lake.

(3) Washburn County. That part of Washburn County consisting of all of the following:

(a) The towns of Bass Lake, Brooklyn, Casey, Chicog, Crystal, Evergreen, Frog Creek, Gull Lake, Minong, Springbrook, Stinnett, and Trego.

(b) The village of Mining.

Seventy-fourth assembly district. All of the following territory constitutes the 74th assembly district:

(1) Whole counties. Ashland County, Bayfield County, and Iron County.

(2) Sawyer County. That part of Sawyer County consisting of all of the following:

(a) The towns of Bass Lake, Couderay, Edgewater, Hayward, Hunter, Lenroot, Ojibwa, Radisson, Round Lake, Sand Lake, Spider Lake, and Winter.

(b) The villages of Couderay, Radisson, and Winter.

(c) The city of Hayward.

Seventy-fifth assembly district. All of the following territory constitutes the 75th assembly district:

(1) Barron County. That part of Barron County consisting of all of the following:

(a) The towns of Almena, Arland, Barron, Bear Lake, Cedar Lake, Chetek, Clinton, Crystal Lake, Cumberland, Doyle, Lakeland, Maple Grove, Maple Plain, Oak Grove, Prairie Farm, Prairie Lake, Rice Lake, Stanford, Stanley, Sumner, Turtle Lake, and Vance Creek.

(b) The villages of Almena, Cameron, Haugen, and Prairie Farm.

(c) That part of the village of Turtle Lake located in the county.

(d) The cities of Barron, Chetek, Cumberland, and Rice Lake.

(2) Polk County. That part of Polk County consisting of all of the following:

(a) The towns of Beaver, Johnstown, and McKinley.

(b) That part of the village of Turtle Lake located in the county.

(3) Washburn County. That part of Washburn County consisting of all of the following:

***26** (a) The towns of Barronett, Bashaw, Beaver Brook, Birchwood, Long Lake, Madge, Sarona, Spooner, and Stone Lake.

(b) The village of Birchwood.

(c) The cities of Shell Lake and Spooner.

Seventy-sixth assembly district. All of the following territory in Dane County constitutes the 76th assembly district:

(1) That part of the town of Madison comprising wards 2, 3, 4, and 6.

(2) That part of the city of Fitchburg comprising wards 1, 2, 3, 4, and 6.

- (3) That part of the city of Madison comprising wards 48, 50, 58, 59, 60, 65, 66, 67, 68, 69, 72, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, and 94.

Seventy-seventh assembly district. All of the following territory in Dane County constitutes the 77th assembly district:

- (1) The village of Shorewood Hills.
- (2) That part of the city of Madison comprising wards 45, 46, 47, 61, 62, 63, 64, 70, 71, 73, 74, 75, 76, 77, 78, 79, 80, 81, 95, 96, and 97.
- (3) That part of the city of Middleton comprising wards 2, 3, and 4.

Seventy-eighth assembly district. All of the following territory in Dane County constitutes the 78th assembly district:

- (1) That part of the town of Madison comprising wards 1, 5, 7, 8, 9, 10, and 11.
- (2) The village of Maple Bluff.
- (3) That part of the city of Madison comprising wards 14, 15, 21, 31, 32, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 49, 51, 52, 53, 54, and 57.

Seventy-ninth assembly district. All of the following territory in Dane County constitutes the 79th assembly district:

- (1) The towns of Blue Mounds, Cross Plains, Middleton, Springdale, Vermont, and Verona.
- (2) The villages of Blue Mounds and Mount Horeb.
- (3) The city of Verona.
- (4) That part of the city of Fitchburg comprising wards 5, 7, 8, 9, 10, 11, and 12.
- (5) That part of the city of Madison comprising wards 82, 83, 98, and 99.
- (6) That part of the city of Middleton comprising wards 1, 5, 6, 7, and 9.

Eightieth assembly district. All of the following territory constitutes the 80th assembly district:

- (1) Whole county. Green County.

- (2) Dane County. That part of Dane County consisting of all of the following:

- (a) The towns of Montrose, Oregon, Perry, and Primrose.
- (b) That part of the village of Oregon comprising wards 1, 5, 6, 7, and 8.
- (c) That part of the village of Belleville located in the county.
- (d) That part of the village of Brooklyn located in the county.

- (3) Lafayette County. That part of Lafayette County consisting of all of the following:

- (a) The town of Wayne.
- (b) The village of South Wayne.

- (4) Rock County. That part of Rock County consisting of all of the following:

- (a) The towns of Magnolia and Union.
- (b) The city of Evansville.

Eighty-first assembly district. All of the following territory in Dane County constitutes the 81st assembly district:

- (1) The towns of Berry, Black Earth, Burke, Springfield, and Westport.
- (2) The villages of Black Earth, Cross Plains, Mazomanie, and Waunakee.
- *27 (3) That part of the city of Madison comprising wards 9, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29, and 30.
- (4) That part of the city of Middleton comprising ward 8.

Eighty-second assembly district. All of the following territory in Milwaukee County constitutes the 82nd assembly district:

- (1) The village of Greendale.
- (2) The city of Franklin.
- (3) That part of the city of Greenfield comprising wards 6, 7, 9, 10, 11, and 12.

Eighty-third assembly district. All of the following territory constitutes the 83rd assembly district:

- (1) Racine County. That part of Racine County consisting of all of the following:
 - (a) The town of Waterford.
 - (b) The village of Waterford.
- (2) Walworth County. That part of Walworth County consisting of all of the following:
 - (a) The town of East Troy.
 - (b) The village of East Troy.
 - (c) That part of the village of Mukwonago located in the county.
- (3) Waukesha County. That part of Waukesha County consisting of all of the following:
 - (a) The town of Vernon.
 - (b) That part of the town of Mukwonago comprising ward 3.
 - (c) The village of Big Bend.
 - (d) That part of the village of Mukwonago located in the county.
 - (e) The city of Muskego.

Eighty-fourth assembly district. All of the following territory constitutes the 84th assembly district:

- (1) Milwaukee County. That part of Milwaukee County consisting of the village of Hales Corners.
- (2) Waukesha County. That part of Waukesha County consisting of all of the following:
 - (a) That part of the town of Waukesha comprising wards 6, 9, 10, 11, and 12.
 - (b) The city of New Berlin.
 - (c) That part of the city of Waukesha comprising wards 25 and 26.

Eighty-fifth assembly district. All of the following territory constitutes the 85th assembly district:

- (1) Marathon County. That part of Marathon County consisting of all of the following:
 - (a) The towns of Berlin, Easton, Maine, Norrie, Plover, Texas, and Wausau.
 - (b) The village of Brokaw.
 - (c) That part of the village of Rothschild comprising wards 1, 2, 3, and 4.
 - (d) The cities of Schofield and Wausau.
- (2) Shawano County. That part of Shawano County consisting of the villages of Aniwa and Eland.

Eighty-sixth assembly district. All of the following territory constitutes the 86th assembly district:

- (1) Marathon County. That part of Marathon County consisting of all of the following:
 - (a) The towns of Bergen, Bevent, Cassel, Day, Emmet, Franzen, Green Valley, Guenther, Knowlton, Kronenwetter, Marathon, Mosinee, Reid, Rib Falls, Rib Mountain, Rietbrock, Ringle, Stettin, and Weston.
 - (b) The villages of Hatley, Marathon City, and Weston.
 - (c) That part of the village of Rothschild comprising wards 5 and 6.
 - (d) The city of Mosinee.
- (2) Portage County. That part of Portage County consisting of all of the following:
 - (a) The town of Alban.
 - (b) The village of Rosholt.
- *28 (3) Shawano County. That part of Shawano County consisting of all of the following:
 - (a) The towns of Fairbanks and Germania.
 - (b) The village of Tiverton.

Eighty-seventh assembly district. All of the following territory constitutes the 87th assembly district:

- (1) Whole counties. Price County and Rusk County.
- (2) Marathon County. That part of Marathon County consisting of the towns of Bern, Holton, and Johnson.
- (3) Sawyer County. That part of Sawyer County consisting of all of the following:
 - (a) The towns of Draper, Meadowbrook, Meteor, and Weirgor.
 - (b) The village of Exeland.
- (4) Taylor County. That part of Taylor County consisting of all of the following:
 - (a) The towns of Aurora, Browning, Chelsea, Cleveland, Deer Creek, Ford, Goodrich, Greenwood, Grover, Hammel, Holway, Jump River, Little Black, McKinley, Maplehurst, Medford, Molitor, Pershing, Rib Lake, Roosevelt, and Westboro.
 - (b) The villages of Gilman, Lublin, Rib Lake, and Stetsonville.
 - (c) The city of Medford.

Eighty-eighth assembly district. All of the following territory in Brown County constitutes the 88th assembly district: that part of the city of Green Bay comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, and 36.

Eighty-ninth assembly district. All of the following territory constitutes the 89th assembly district:

- (1) Brown County. That part of Brown County consisting of all of the following:
 - (a) The town of Pittsfield.
 - (b) That part of the town of Suamico comprising wards 1, 2, 3, 4, 5, 6, 8, 9, and 10.
 - (c) That part of the village of Pulaski located in the county.
- (2) Marinette County. That part of Marinette County consisting of all of the following:
 - (a) The towns of Beaver, Grover, Peshtigo, and Pound.
 - (b) The villages of Coleman and Pound.

- (c) The cities of Marinette and Peshtigo.
- (3) Oconto County. That part of Oconto County consisting of all of the following:
 - (a) The towns of Chase, Lena, Little River, Little Suamico, Oconto, Pensaukee, and Stiles.
 - (b) The village of Lena.
 - (c) That part of the village of Pulaski located in the county.
 - (d) The city of Conto.
- (4) Shawano County. That part of Shawano County consisting of that part of the village of Pulaski located in the county.

Ninetieth assembly district. All of the following territory in Brown County constitutes the 90th assembly district:

- (1) That part of the town of Suamico comprising ward 7.
- (2) That part of the village of Howard located in the county.
- (3) That part of the city of Green Bay comprising wards 25, 28, 29, 30, 31, 32, 33, 34, 35, 37, 38, 39, 40, 41, 42, 43, 44, and 45.

Ninety-first assembly district. All of the following territory constitutes the 91st assembly district:

- (1) Whole counties. Buffalo County and Trempealeau County.
- (2) Jackson County. That part of Jackson County consisting of all of the following:
 - *29** (a) The town of Springfield.
 - (b) The village of Taylor.
- (3) Pepin County. That part of Pepin County consisting of all of the following:
 - (a) The towns of Durand, Frankfort, Pepin, Stockholm, Waterville, and Waubeek.
 - (b) The villages of Pepin and Stockholm.
 - (c) The city of Durand.

(4) Pierce County. That part of Pierce County consisting of all of the following:

(a) The towns of Ellsworth, El Paso, Hartland, Isabelle, Maiden Rock, Martell, Salem, and Union.

(b) The villages of Bay City, Maiden Rock, and Plum City.

Ninety-second assembly district. All of the following territory constitutes the 92nd assembly district:

(1) Clark County. That part of Clark County consisting of the towns of Dewhurst and Levis.

(2) Eau Claire County. That part of Eau Claire County consisting of all of the following:

(a) The towns of Bridge Creek and Fairchild.

(b) The village of Fairchild.

(c) The city of Augusta.

(3) Jackson County. That part of Jackson County consisting of all of the following:

(a) The towns of Adams, Albion, Alma, Bear Bluff, Brockway, City Point, Cleveland, Curran, Franklin, Garden Valley, Garfield, Hixton, Irving, Knapp, Komensky, Manchester, Melrose, Millston, North Bend, and North field.

(b) The villages of Alma Center, Hixton, Melrose, and Merrill an.

(c) The city of Black River Falls.

(4) Monroe County. That part of Monroe County consisting of all of the following:

(a) The towns of Adrian, Angelo, Byron, Grant, Greenfield, Lafayette, La Grange, Lincoln, Little Falls, New Lyme, Oakdale, Scott, Sparta, and Tomah.

(b) The villages of Oakdale, Warrens, and Wyeville.

(c) The cities of Sparta and Tomah.

Ninety-third assembly district. All of the following territory constitutes the 93rd assembly district:

(1) Dunn County. That part of Dunn County consisting of the towns of Dunn, Eau Galle, Peru, Rock Creek, and Weston.

(2) Eau Claire County. That part of Eau Claire County consisting of all of the following:

(a) The towns of Brunswick, Clear Creek, Drammen, Otter Creek, and Pleasant Valley.

(b) That part of the town of Washington comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, and 12.

(c) That part of the city of Altoona comprising wards 1, 2, 3, 4, 5, 6, 7, 9, 10, and 11.

(d) That part of the city of Eau Claire comprising wards 2, 3, 4, 5, 6, 15, 17, 18, 20, 21, 25, 26, 27, 28, 30, 31, 32, 33, 38, and 39.

(3) Pepin County. That part of Pepin County consisting of the towns of Albany and Lima.

(4) Pierce County. That part of Pierce County consisting of the town of Rock Elm.

Ninety-fourth assembly district. All of the following territory constitutes the 94th assembly district:

(1) La Crosse County. That part of La Crosse County consisting of all of the following:

(a) The towns of Bangor, Barre, Burns, Campbell, Farmington, Greenfield, Hamilton, Holland, Medary, Onalaska, and Washington.

***30** (b) That part of the town of Shelby comprising wards 2 and 3.

(c) The villages of Bangor, Holmen, and West Salem.

(d) That part of the village of Rockland located in the county.

(e) The city of Onalaska.

(2) Monroe County. That part of Monroe County consisting of all of the following:

(a) The towns of Leon and Portland.

(b) The village of Melvin.

- (c) That part of the village of Rockland located in the county.

Ninety-fifth assembly district. All of the following territory in La Crosse County constitutes the 95th assembly district:

- (1) That part of the town of Shelby comprising wards 1, 4, 5, and 6.
- (2) The city of La Crosse.

Ninety-sixth assembly district. All of the following territory constitutes the 96th assembly district:

- (1) Whole counties. Crawford County and Vernon County.
- (2) Monroe County. That part of Monroe County consisting of all of the following:
 - (a) The towns of Jefferson, Ridgeville, Sheldon, Wellington, Wells, and Wilton.
 - (b) The villages of Cashton, Norwalk, and Wilton.
- (3) Richland County. That part of Richland County consisting of all of the following:
 - (a) The towns of Akan, Bloom, Forest, Henrietta, and Sylvan.
 - (b) The village of Yuba.
 - (c) That part of the village of Viola located in the county.

Ninety-seventh assembly district. All of the following territory in Waukesha County constitutes the 97th assembly district:

- (1) That part of the town of Waukesha comprising wards 1, 2, 4, and 5.
- (2) That part of the city of Waukesha comprising wards 1, 2, 3, 4, 5, 6, 7, 9, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, and 38.

Ninety-eighth assembly district. All of the following territory in Waukesha County constitutes the 98th assembly district:

- (1) The town of Brookfield.
- (2) That part of the town of Lisbon comprising wards 4, 5, 6, and 7.

- (3) The village of Pewaukee.

- (4) That part of the village of Sussex comprising ward 12.

- (5) That part of the city of Brookfield comprising wards 4, 5, 6, 8, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, and 22.

- (6) That part of the city of Pewaukee comprising wards 1, 2, 3, 4, 5, 6, 8, 9, and 10.

Ninety-ninth assembly district. All of the following territory constitutes the 99th assembly district:

- (1) Dodge County. That part of Dodge County consisting of that part of the city of Hartford located in the county.

- (2) Washington County. That part of Washington County consisting of all of the following:

- (a) The town of Erin.

- (b) That part of the town of Hartford comprising wards 1, 2, 3, 4, and 6.

- (c) That part of the town of Polk comprising ward 5.

- (d) That part of the town of Richfield comprising wards 1, 2, 3, 4, 5, 9, and 10.

- (e) That part of the city of Hartford located in the county.

- (3) Waukesha County. That part of Waukesha County consisting of all of the following:

- *31** (a) The town of Merton.

- (b) That part of the town of Lisbon comprising wards 1, 2, 3, 8, 9, 10, 11, and 12.

- (c) The villages of Lannon and Merton.

- (d) That part of the village of Menominee Falls comprising wards 18, 24, 25, 26, and 27.

- (e) That part of the village of Sussex comprising wards 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11.

All Citations

Not Reported in F.Supp.2d, 2002 WL 34127471

Footnotes

- 1 The complaint also sought reapportionment of Wisconsin's congressional districts, as the 2000 census resulted in Wisconsin losing one of its nine seats in congress. However, during the pendency of this case, the Wisconsin Legislature passed, and Governor Scott McCallum signed, a bill reapportioning the congressional districts, and the congressional portion of this case became moot on April 11, 2002 (the day on which the trial in the state legislative portion of this case began).
- 2 Case No. 01–C–0121 was randomly assigned to Senior District Judge John W. Reynolds. Pursuant to [28 U.S.C. § 2284](#), Chief Judge Flaum named Circuit Judge Frank H. Easterbrook and Chief District Judge J.P. Stadtmueller to a three-judge panel to hear the case. The case was subsequently reassigned, pursuant to General L.R. 3.1, to District Judge C.N. Clevert.
- 3 In contrast, Congressional redistricting may create a much more rigorous standard for “de minimis” population deviations. See *Vieth v. Pennsylvania*, No. 1:CV–01–2439, 2002 U.S. Dist. LEXIS 6188 at *15 (M.D. Penn. April 8, 2002) (finding plan creating Congressional districts unconstitutional because the most- and least-populous districts differed in population by nineteen persons.)
- 4 The *Prosser* Court noted that the parties refer to both the maximum deviation, which is the difference in population between the least and the most populous district divided by the mean population of all districts, as well as the average by which the districts deviate from the average population.
- 5 The population shifts in the area necessitated the elimination of one assembly district in Milwaukee County and the creation of one assembly district in the high-growth area west of the county.
- 6 The court's plan is also superior to all plans submitted by amici with respect to the traditional redistricting criteria.

2002 WL 32587312

Only the Westlaw citation is currently available.

United States District Court,
N.D. Georgia, Atlanta Division.

Michael E. BODKER, Plaintiff

v.

Mark F. TAYLOR, Thomas B. Murphy,
David Scott, and Bob Holmes, in their
official capacities; the Fulton County Board
of Registration and Elections, Defendants

v.

FULTON COUNTY, Defendant/Intervener

No. Civ.A.1:02-CV-999ODE.

|

June 5, 2002.

Attorneys and Law Firms

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MEMORANDUM OPINION

EVANS, J.

*1 This redistricting case challenges the Constitutionality of the current Fulton County Board of Commissioners electoral districts. The court issues this opinion to explain in full its previous order of May 28, 2002, in which the court adopted and made available to the parties and the public its redistricting plan for the Fulton County Board of Commission districts.

The seven-member Fulton County Board of Commissioners is elected from seven districts. Districts 1 and 2 are county-wide, at-large districts. Districts 3,4,5,6, and 7 are single-

member districts, each covering a particular geographic area of the county. The Commission districts presently in place have not been adjusted since the 1990 decennial census. The parties agree that the Georgia General Assembly is the state legislative body with “the power and duty to enact, subject to the approval of the Governor, local legislation to reapportion the Fulton County Board of Commissioners.” [Parties Fact Stips para.5]. Although the State House of Representatives did pass a redistricting plan for Fulton County, *see* H.B. 1232, 2002 Ga. Gen. Assem., that plan did not reach a full vote in the State Senate. Consequently, the General Assembly failed to enact reapportionment legislation. The 2000 census reveals pronounced growth in Fulton County,¹ particularly in the suburban areas of north Fulton County. All of the parties agree that this population growth now causes the Commission districts to be malapportioned. The parties disagree about how the court should approach what has become its duty to ensure that the Fulton County Commission districts meet all applicable Constitutional requirements.

Plaintiff is a voter residing in Fulton County Commission district 3, the northern-most district. Plaintiff claims that the current districting for the Fulton County Board of Commissioners violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The equal protection clause protects the interest of each voter to have his or her vote counted, which is known as the “one person, one vote” principle. *See, e.g., Reynolds v. Sims*, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964).

All of the parties essentially agree that the existing apportionment plan violates the one person, one vote rule. As is set forth in greater detail below, the parties' disagreement centers upon how best to protect the one person, one vote interest while still adhering to other legal constraints including the Voting Rights Act.

In 1993, after the 1990 census, the Georgia General Assembly enacted a redistricting plan for the Fulton County Board of Commissioners to reflect the population changes brought to light by that census. That redistricting plan is the plan that was in effect at the time Plaintiff filed suit, which the court refers to as the “existing” or “current” plan, and which represents the benchmark against which to measure redistricting plans based on the 2000 census. Under that plan, the total percent deviation of districts from the ideal population size was 8.71%. Districts 3,4,5,6 and 7 had population deviations of -0.30%, -3.93%, -3.05%, 2.51% and 4.78% respectively, as

well as total black populations of 4.55%, 6.88%, 93.06%, 74.30% and 68.82% respectively.

for each of the five single-member districts is one-fifth of 816,006 or 163,201. As the district lines are presently drawn, the population of each district is as follows:

*2 According to the 2000 census, Fulton county now has a total population of 818,006. Thus, an ideal district population

District	# Population
3	240,574
4	156,029
5	127,494
6	139,526
7	152,383

Clearly, then district 3 is disproportionately large compared to the ideal population size. Consequently, if the 1993 district

lines remain unchanged, the population statistics will be as follows:

District	% Deviation	% Black
3	47.41%	8.73%
4	-4.39	8.14
5	-21.88	91.65
6	-14.51	70.39
7	-6.63	78.91
Total	69.29 deviation	

Thus, the population of district 3 is under-represented by a significant margin. Because the General Assembly has not enacted a reapportionment scheme, the unenviable task of reapportioning the county falls to this court.

The primary dispute in this matter is between Plaintiff and Fulton County, which intervened as a necessary party by consent of the other parties. The Fulton County Board of Commissioners passed a redistricting plan (the "Fulton County Plan") on May 31, 2002, after this suit was filed, which it has presented for consideration by this court. The Board of Commissioners asserts that its plan is entitled to deference from this court as a legislative enactment. *See*

 *McDaniel v. Sanchez*, 452 U.S. 130, 101 S.Ct. 2224, 68 L.Ed.2d 724 (1981);  *Tallahassee Branch of NAACP v. Leon County, Fla.*, 827 F.2d 1436 (11th Cir.1987). Thus, the Board of Commissioners argues that, assuming its plan is

otherwise constitutional, this court should adopt it. Plaintiff, on the other hand, contends that the Board's plan is not entitled to deference as a legislative enactment because the Board lacks the statutory authority to redistrict itself. Plaintiff maintains instead that the court should draw its own redistricting plan, and urges the court to focus on drawing the district lines so that each district is precisely equal in population. Likewise, at oral arguments, the Fulton County Board of Registration and Election agreed that the Court was not required to defer to the Fulton County plan, but emphasized that the court could be more flexible in drawing the district lines with respect to population size than the absolute standard favored by Plaintiff.

The court turns first to the question of deference to the Fulton County plan. The Fulton County Board of Commissioners maintains that the court should defer to the map it passed by a majority of Commissioners on May 1, 2002. Plaintiff, on the other hand, maintains that, because the Fulton County

Commission is without authority to redistrict itself, the court need not defer to the Board's plan. When a state legislative body adopts a reapportionment plan, federal courts must generally defer to that exercise of legislative judgment.

 *Leon County*, 827 F.2d at 1438; see also  *Reynolds v. Sims*, 377 U.S. 533, 566-7, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964). Our federalism requires that the federal courts defer to expressions of state legislative judgment on matters of state or local concern, such as local elections. Thus, “only when the state is unable or refuses to reapportion itself in accordance with federal law will a federal district court undertake reapportionment.”  *Leon County*, 827 F.2d at 1438. The court, therefore does not approach the question of deference in this matter lightly.

*3 The Board of Commissioners asserts primarily that *Leon County* requires the court to defer to its plan. In *Leon County*, black voters residing in Leon County, Florida, brought suit to challenge the county commission apportionment plan under section 2 of the Voting Rights Act,  42 U.S.C. § 1973. After the suit was filed, the district court continued the proceedings in order to permit the county to submit an election plan. Under Florida law, a referendum vote is required to change the structure of a county commission, although a county clearly has the authority and duty to re-draw its district lines in order to maintain proportionately equal populations in the districts. See  Fla. Stat. Ann. §§ 124.01 (“[t]he board of county commissioners shall from time to time, fix the boundaries of the above districts so as to keep them as nearly equal in proportion to population as possible ...”), 124.011. The county commission proposed a plan changing the commission structure from all single-member districts to a combination of single-member and at large representation, in which four districts remained single-member districts and three commissioners would be elected at large. The voters rejected this proposal in the referendum. Thereafter, the county commission adopted a reapportionment plan in which the structure changed to five single-member districts and two at-large districts. The county never submitted this plan for a referendum vote, and instead submitted it directly to the court.

Concluding that this plan was entitled to deference as a legislatively enacted plan, the United States Circuit Court for the Eleventh Circuit relied upon Justice Powell's concurrence in  *Wise v. Lipscomb*, 437 U.S. 535, 98 S.Ct. 2493, 57 L.Ed.2d 411 (1978)(plurality opinion), and the Court's implicit adoption of Justice Powell's position in  *McDaniel*

v. Sanchez, 452 U.S. 130, 101 S.Ct. 2224, 68 L.Ed.2d 724 (1981), for its holding that the county need not have possessed actual authority to enact its proposal for it to be considered legislatively enacted. The Eleventh Circuit specifically relied upon the conclusion in *McDaniel* that “the essential characteristic of a legislative plan is the exercise of legislative judgment. The fact that particular requirements of state law may not be satisfied does not alter this essential characteristic.” See  *Leon County*, 827 F.2d at 1439. Thus, the Eleventh Circuit concluded that *McDaniel* applies “with equal force whether it is applied in a voting dilution suit or in a section 5 preclearance action.”  *Id.* at 1440 (internal citation, punctuation omitted).

Assuming that the *Leon County* holding would also apply to equal protection claims, although this proposition has not been explicitly stated by the Eleventh Circuit, the court concludes that the plan proposed by the Fulton County Board of Commissioners is not a legislatively enacted plan requiring deferential treatment. First, the instant case is factually distinguishable from *Leon County*. Second, federalism principles militate against as broad a reading of *Leon County* as the Fulton County Board of Commissioners advocates.

*4 The instant case and *Leon County* are distinguishable on their facts. In *Leon County*, the county commission had statutory authority to prepare a reapportionment plan. Although Florida law required such a plan be approved by the voters through a referendum, the commission had explicit authority under the law to create the plan to propose to the voters. Thus, the commission had an officially recognized role to play in the redistricting process. Although it bypassed the referendum requirement, the commission was still the only legislative body of the state charged with the authority to fashion changes to the commission districts.

Not so in Georgia. Georgia's 159 counties serve as the principal political subdivision of the state. The county system of Georgia is a state legislative creation, embodied in article IX of the Georgia Constitution and Title 36 of the Georgia Code, having to do with local government. The Georgia Constitution sets forth the powers and responsibilities of counties in Art. IX, § 2, § 1, “Home Rule for Counties and Municipalities.” The state grant of authority to the counties provides that, “[t]he governing authority of each county shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs,

and local government for which no provision has been made by general law and which is not inconsistent with this Constitution or any local law applicable thereto.” *Ga. Const. Art. IX, § 2, ¶ 1(a)*. This section continues,

The power granted to counties in subparagraphs (a) and (b) above shall not be construed to extend to the following matters ...

(1) Action affecting any elective county office, the salaries thereof, or the personnel thereof, except the personnel subject to the jurisdiction of the county governing authority.

(2) Action affecting the composition, form, procedure for election or appointment, compensation, and expenses and allowances in the nature of compensation of the county governing authority.

Ga. Const. Art. IX, § 2, ¶ 1(c). Since the state has explicitly withheld from county boards of commissioners the power to engage in “action affecting any elective county office,” and “action affecting the ... procedure for election ... of the county governing authority,” the Fulton County Board of Commissioners has no official legislative role to play in its redistricting.² See also *O.C.G.A. § 36-5-22.1* (listing the matters over which the governing authority of a county has original and exclusive jurisdiction, which do not include redistricting). Thus, in Georgia, the General Assembly is the *only* legislative body with the power to enact redistricting legislation for the counties, including Fulton County.

The *Leon County* court itself distinguished its facts from “a case in which the legislative body is unwilling to draft an acceptable reapportionment plan.” *Leon County*, 827 F.2d at 1440; see also *Wise v. Lipscomb*, 437 U.S. 535, 540, 98 S.Ct. 2493, 57 L.Ed.2d 411 (1978) (concluding that the federal judiciary is obligated to devise a reapportionment plan when “those with legislative responsibilities do not respond” to their required reapportionment duties). Here, the Georgia General Assembly is the only legislative body with the power to draft a reapportionment plan. The General Assembly has not enacted any reapportionment plan for Fulton County’s Commission districts, “acceptable” or otherwise. The court, therefore, must step in and fulfill its “unwelcome obligation” to fashion a reapportionment plan. See *id.* (quoting *Connor v. Finch*, 431 U.S. 407, 415, 97 S.Ct. 1828, 52 L.Ed.2d 465 (1977)).

*5 Federalism also favors this result. Federalism requires this court to defer to state legislative judgments that are not inconsistent with federal law. It is the clear legislative judgment of the State of Georgia, as declared in its constitution, that the General Assembly shall be the sole legislative authority with the power to redistrict counties. In its sound legislative judgment, Georgia has withheld that power from the county boards of commissioners. For the court to defer to a redistricting plan proposed by the Fulton County Board of Commissioners, one that has not been considered by the General Assembly, would give to Fulton County that which the state of Georgia intended to retain, and in so doing would raise serious federalism concerns.

All of this is not to say that the plan proposed by the Fulton County Board of Commissioners was an unconstitutional plan. While the Fulton County plan is not entitled to deference as a legislatively enacted plan, it is entitled to

consideration as an expression of county policy. See *White v. Weiser*, 412 U.S. 783, 93 S.Ct. 2348, 37 L.Ed.2d 335 (1973) (“a federal district court, in the context of legislative reapportionment, should follow the policies and preferences of the State, as expressed in statutory and constitutional provisions or in the reapportionment plans proposed by the state legislature, whenever adherence to state policy does not detract from the requirements of the Federal Constitution”). In fact, the court’s plan is similar in many respects to the Fulton County proposal. Both plans, for instance, are fundamentally similar in that they both focus on shifting the district lines generally northward in order to alleviate the under-representation of the population in North Fulton. “In fashioning a reapportionment plan ... a district court should not pre-empt the legislative task nor intrude upon state policy any more than is necessary.” *Upham v. Seamon*, 456 U.S. 37, 41-2, 102 S.Ct. 1518, 71 L.Ed.2d 725 (1982) (internal citations and punctuation omitted). Consequently, in redistricting cases, the court should defer to legislative judgments whenever possible, except where “necessary to cure any constitutional or statutory defect.” *Upham*, 456 U.S. at 43. This “minimum change” doctrine acknowledges that redistricting is fundamentally a legislative task, best handled by those elected representatives in whose hands the voters have placed their trust to handle such matters, rather than an unelected federal judge. See *id.* at 41-2.

In the case at bar, drafting a redistricting plan that meets the one person, one vote standard would be an impossible task without moving all of the district lines. The population growth

in North Fulton has simply been too rapid and too great compared to the rest of the county to satisfy equal protection absent an adjustment of all of the districts. The Fulton County Board of Commissioners recognized this plain fact when it passed its proposed map. The court notes, then, that its plan represents only a small, though constitutionally necessary, change in the district lines in accordance with the minimum change doctrine.

*6 Having determined that it must devise its own redistricting plan, the court now turns to Plaintiff's equal protection claim that the current districts violate the one person, one vote principle. See *Wesberry v. Sanders*, 376 U.S. 1, 84 S.Ct. 526, 11 L.Ed.2d 481 (1964); *Reynolds v. Sims*, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964); *Abate v. Mundt*, 403 U.S. 182, 91 S.Ct. 1904, 29 L.Ed.2d 399 (1971); *Abrams v. Johnson*, 521 U.S. 74, 117 S.Ct. 1925, 138 L.Ed.2d 285 (1997). In addition to remedying the unconstitutional malapportionment of the districts as they presently stand, the court must also comply with sections 5 and 2 of the Voting Rights Act. 42 U.S.C. §§ 1973, 1973c; see also *Abrams*, 521 U.S. at 90; *McDaniel*, 452 U.S. at 149; *Johnson v. Miller*, 929 F.Supp. 1529, 1562 (S.D.Ga.1996).

As the parties are aware, a district court is held to different and more stringent standards when drafting a redistricting plan than those applied to the legislature. See *Connor v. Finch*, 431 U.S. 407, 414, 97 S.Ct. 1828, 52 L.Ed.2d 465 (1977). The equal protection clause requires that electoral districts achieve population equality as nearly as possible. See *Wesberry*, 376 U.S. at 7-8; *Reynolds*, 377 U.S. at 557. This principle of one person, one vote is applicable to congressional, state, and local redistricting plans. See *Reynolds*, 377 U.S. at 565-6 (state); *Avery v. Midland County*, 390 U.S. 474, 88 S.Ct. 1114, 20 L.Ed.2d 45 (1968) (local). When evaluating whether a redistricting plan comports with the equal protection clause, the usual measure is the percent deviation from the ideal population. The ideal district population is basically the average population per the number of districts. Deviation from the ideal population is calculated as the overall population deviation for the county, rather than taking a district by district view. See, e.g., *Abrams*, 521 U.S. at 98-99; *Chapman v. Meier*, 420 U.S. 1, 95 S.Ct. 751, 42 L.Ed.2d 766 (1975). "Overall

population deviation is the difference in population between the two districts with the greatest disparity." *Abrams*, 521 U.S. at 99.³

The primary issue in the instant matter is how close the court's redistricting plan must come to absolute population equality. In the context of congressional redistricting, "absolute population equality [is of] paramount" importance. *Karcher v. Daggett*, 462 U.S. 725, 732, 103 S.Ct. 2653, 77 L.Ed.2d 133 (1983). Thus, congressional redistricting requires the legislature or court to engage in a "good faith effort to achieve precise mathematical equality." See *id.* at 730 (citation omitted); see also *White*, 412 U.S. at 790.

Local districts, by their nature, are locally oriented, so that "the particular circumstances and needs of a local community as a whole may sometimes justify departures from strict equality." *Abate*, 403 U.S. at 185. Moreover, as a matter of mathematics, since local redistricting involves smaller numbers of people, deviations of just a few people can represent a larger proportion of the population so that a *de minimis* departure may be higher in a local redistricting case than in a congressional redistricting case. See *id.* Clearly, then, state or local reapportionment plans are not required to comply with the strict population equality required for congressional redistricting. See *Chapman v. Meier*, 420 U.S. 1, 27 n. 19, 95 S.Ct. 751, 42 L.Ed.2d 766 (1975).

*7 When the state legislature enacts an otherwise lawful state or local redistricting plan, however, that plan may generally deviate from the ideal population size by as much as 10%. See *Voinovich v. Quilter*, 507 U.S. 146, 161, 113 S.Ct. 1149, 122 L.Ed.2d 500 (1993); *Brown v. Thomson*, 462 U.S. 835, 842-843, 103 S.Ct. 2690, 77 L.Ed.2d 214 (1983); *Connor*, 431 U.S. at 418; *White v. Regester*, 412 U.S. 755, 764, 93 S.Ct. 2332, 37 L.Ed.2d 314 (1973). On the other hand, court-ordered plans should "ordinarily achieve the goal of population equality with little more than *de minimis* variation. Where important and significant state considerations rationally mandate departure from these standards, it is the reapportioning court's responsibility to articulate precisely why a plan ... with minimal population variance cannot be adopted." *Chapman*, 420 U.S. at 26-27; see also *Abrams*, 521 U.S. at 98.

Following the rule in *Chapman*, that the court is required to achieve *de minimis* deviation from the ideal and articulate precisely the reasons for any variations, the court has adopted the plan attached to this order and labeled FEDCTFULCC. According to figures from the 2000 census, Fulton County's

total population is 816,006. There are five single-member commission districts. Thus, the ideal population for any district is 163,201. Under the court's plan, the district populations break down as follows:

District	Population	% Deviation
3	162,351	-0.52%
4	163,788	0.36
5	163,956	0.46
6	162,955	-0.15
7	162,956	-0.15
Total	816,006	0.98% (Overall Range)

While this deviation of less than 1% is in all probability a *de minimis* deviation in the context of this local redistricting case, see *Wyche v. Madison Parish Policy Jury*, 635 F.2d 1551 (5th Cir. Feb 2., 1981)(finding a 4.11% overall population deviation *de minimis* in parish police jury redistricting case), the court will explain this small deviation below.

The Supreme Court has articulated a number of factors that may justify departure from absolute population equality. Relevant to the instant matter is the county's "desire to preserve the integrity of political subdivisions." *Abate*, 403 U.S. at 185. The Supreme Court has also recognized Georgia's specific historical preference for not splitting precincts, and maintaining "core districts and communities of interest." *Abrams*, 521 U.S. at 99-100. To the extent that the court's plan deviates from absolute population equality, deviation was necessary to minimize the splitting of precincts. Where precincts are split, the court has attempted to follow presently existing natural or man-made landmarks or boundaries, such as interstates.⁴ In addition, this is, according to the Fulton County Board of Registration and Elections, the first election season in which the county will be using new voting equipment to replace the outdated (and now infamous) punch card ballots. Moreover, congressional redistricting has lead to the redrawing of some voting precincts. Thus, there is a reasonable probability of significant voter confusion during the upcoming elections. The court, in minimizing precinct splitting has additionally

attempted to minimize voter confusion, which also has the potential to lead to equal protection problems.

*8 The court must also abide by the racial fairness requirement pronounced in sections 2 and 5 of the Voting Rights Act. *42 U.S.C. §§ 1973*, 1973c. Neither section 2 nor section 5 facially applies to court-ordered redistricting plans, although it is safe to assume that courts should comply with those sections. See *Abrams*, 521 U.S. at 90, 95; *McDaniel v. Sanchez*, 452 U.S. 130, 149, 101 S.Ct. 2224, 68 L.Ed.2d 724 (1981); *Johnson v. Miller*, 929 F.Supp. 1529, 1562 (S.D.Ga.1996).

Section 2 of the Voting Rights Act prohibits states from acting to deny or abridge the right to vote because of race. A violation of this section occurs if, under the totality of the circumstances, the evidence shows that the "political processes leading to nomination or election in the ... political subdivision are not equally open to participation by members of a [minority] ... 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."

42 U.S.C. § 1973(b). On the other hand, section 2 does not guarantee electoral success for minority candidates as it explicitly provides that the section does not establish a right to proportional representation. *Id*; see also *Wyche*, 635 F.2d at 1159; *Potter v. Washington Co., Fla.*, 653 F.Supp. 121, 127-8 (N.D.Fla.1986).

When a plaintiff challenges a redistricting plan under section 2 of the Voting Rights Act, that plaintiff must establish a prima facie case that (1) that the minority group is large and compact enough to constitute a majority in the single member district; (2) the minority group is politically cohesive; and (3) the majority constitutes a voting bloc sufficient to defeat the minority group's candidate. See *Thornburgh v. Gingles*, 478 U.S. 30, 106 S.Ct. 2752, 92 L.Ed.2d 25 (1986); *Growe v. Emison*, 507 U.S. 25, 113 S.Ct. 1075, 122 L.Ed.2d 388 (1993). The plaintiff must then show that under the totality of the circumstances the minority group is denied an equal opportunity to participate in the electoral process and elect the representative of its choice. See 42 U.S.C. § 1973; *Abrams*, 521 U.S. at 90. In other words, the district lines,

District % Black Population⁵

3	5.98%
4	10.69
5	65.43
6	65.42
7	78.50
Total	45.2%

*9 Consequently, majority black districts make up 60% of the single member seats or 43% of the total seats on the Board of Commissioners. Although proportionate representation is not dispositive evidence that minorities have an equal opportunity to participate in the electoral process, it is strong evidence of such. See *DeGrandy*, 512 U.S. at 1020. This is particularly so in the case at bar, where there is simply no evidence before the court about the social, historical or other circumstances that might impact whether minorities in Fulton County are denied equal opportunity for political participation. Moreover, the relative political, social and ethnic diversity of the county support the conclusion that the black minority⁶ generally has equal opportunity. Finally, the county's elongated shape itself serves as a kind of barrier to dilution of minority voting power, as it does not really allow for manipulation of voting districts into unusual shapes. Accordingly, the court's map conforms with section 2 of the Voting Rights Act.

when considered in light of social, historical, or other factors, must not impair "the ability of a protected class to elect its candidate of choice on an equal basis with other voters."

Johnson v. DeGrandy, 512 U.S. 997, 1007, 114 S.Ct. 2647, 129 L.Ed.2d 775 (1994) (quoting *Gingles*, 478 U.S. at 50-51).

There is no evidence presently before the court as to the voting habits or preferences of minorities in Fulton County. According to the 2000 census figures, the overall population of Fulton County is approximately 45% black. Under the court's redistricting plan, districts 5, 6, and 7 maintain majority black populations and voting age populations as demonstrated below:

% Black Voting Age Population

5.77%
9.99
60.65
60.13
75.70
42.35%

Similarly, the court's map comports with the non-retrogression requirement of section 5 of the Voting Rights Act, 42 U.S.C. § 1973c. This section requires governmental review, either through the Department of Justice or the district court in Washington, D.C., of any proposed change to voting practice or procedure made by a state or other political subdivision of a state. 42 U.S.C. § 1973c. Such changes must not have the effect of denying or abridging the right to vote because of race or color. *Id.* The purpose of this section is to ensure that there are no changes in voting processes that lead to retrogression in minority position. See *Beer v. United States*, 425 U.S. 130, 141, 96 S.Ct. 1357, 47 L.Ed.2d 629 (1976). In other words, minorities must not lose ground when a state or other political subdivision changes its voting processes.

Although a map crafted by the court would not be subject to "pre-clearance" review under section 5, a district court that fashions an interim map for state or local legislative elections

is admonished to follow the standards set forth in section 5. See  *McDaniel*, 452 U.S. at 149; *Johnson v. Miller*, 929 F.Supp. at 1562. Thus, the court's plan must not “lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise” in Fulton County.  *Beer*, 425 U.S. at 141.

In *Abrams*, the Supreme Court explained that the first step in determining whether a congressional redistricting plan is retrogressive is to identify a benchmark against which to measure the minority position in the proposed plan. Generally, the benchmark should be the last legally enforceable practice or procedure, which will usually be the practice or procedure in place at the time the changes are proposed. See  *Abrams*, 521 U.S. at 96-7. Thus, in the case at bar, the benchmark is the existing Fulton County districting plan, which was enacted in 1993 using 1990 census figures. Then, the proposed plan is measured against the benchmark to compare minority positions.

***10** In *Abrams*, under the benchmark plan, one out of ten congressional districts was majority black. The Court then determined that the proposal, in which one out of eleven districts was a majority black district, was not retrogressive, concluding that the Voting Rights Act does not require a state with at least one majority-minority district to add only a majority-minority district each time a new congressional district is added because of population growth.

Likewise, In  *Bush v. Vera*, 517 U.S. 952, 116 S.Ct. 1941, 135 L.Ed.2d 248 (1996), the Supreme Court considered a Texas proposal that reconfigured an existing congressional district to increase the overall percentage of African-Americans in the new district to ensure the maintenance of a majority black district in that area. Although the area had been historically majority black, the black population had decreased while the Latino or Chicano population had increased. These population changes were sufficient for the court to conclude that increasing the district's black population from 40.8% (after the 1980 census) to 50.9% (after the 1990 census) was not necessary to avoid retrogression, even though the district had for twenty years elected black representatives. The court stated that non-retrogression “merely mandates that the minority's opportunity to elect representatives of its choice not be diminished, directly or indirectly, by the State's actions.”  *Bush*, 517 U.S. at 983.

It is not, however, meant to “ensure continued electoral success.” *Id.*

Here, the benchmark plan contained three majority black districts, which the court's plan preserves. Under the court's plan, districts 5, 6, and 7, maintain majority black populations. Thus, by retaining three majority black districts, the court's plan avoids retrogression. See  *Abrams* 521 U.S. at 97.

The court's plan also does not needlessly diminish the opportunity of minority voters to elect their preferred candidate in a specific district. Section 5 does not command the maximization of black voters in the majority-minority districts. See  *Miller v. Johnson*, 515 U.S. 900, 926-927, 115 S.Ct. 2475, 132 L.Ed.2d 762 (1995). Further, as explained above, the court is also bound by the one person, one vote requirement, which limits the court's discretion to vary substantially any district's population from the ideal size. Although under the court's plan the size of the total minority populations in districts 5 and 6 will shrink⁷ from 93.06% total population in 1993 to 65.43%, and from 74.30% in 1993 to 65.42%, respectively, those districts will maintain sufficient black majorities to avoid retrogression. The Black Voting Age Populations in districts 5, 6, and 7 comprise 60.65%, 60.13% and 75.70% of the total populations of those districts respectively. These numbers, given the somewhat lopsided growth in the county, the constitutional constraints on redistricting, the concerns about splitting precincts and limiting voter confusion, as well as the actual physical shape of the county, should sufficiently guard against a diminution in the opportunity to elect a minority community's candidate of choice.

***11** Thus, the court's plan avoids retrogression at the county level by retaining three majority black districts as well as at the district level by maintaining reasonable majorities of blacks of voting age in districts 5, 6, and 7.

Accordingly, the court has adopted its redistricting plan for Fulton County entitled FEDCTFULCC, a copy of which is attached to this order. IT IS HEREBY ORDERED that the Fulton County Board of Registration and Election shall implement the court's redistricting plans for the upcoming 2002 election for the Fulton County Board of Commissioners and for all subsequent elections until the Georgia General Assembly, with the approval of the Governor and in accordance with all legal and constitutional requirements, enacts a redistricting plan for the Fulton County Board of

Commissioners. Having determined that all claims in this matter have been adjudicated, the clerk is directed to enter judgment accordingly, with costs cast upon Defendants.

All Citations

Not Reported in F.Supp.2d, 2002 WL 32587312

SO ORDERED.

Footnotes

- 1 The total population of Fulton county according to the 1990 census was 648,951. As of the 2000 census, Fulton County's population has grown to 816,006.
- 2 The court recognizes that, as a *de facto* matter, the Board of Commissioners does, in all likelihood, play a role in the redistricting process. The court is not certain of the mechanics of this relationship, but surmises from the parties' oral arguments that the role varies. For instance, the Board as a whole may present a redistricting plan to the General Assembly, or individual Commissioners may independently lobby members of the General Assembly to pass a particular plan. This *ad hoc* approach cannot fairly be described as legislative, however, and thus can not constitute a sufficiently official role in the redistricting process to overcome the Board's clear lack of statutorily granted power in this area.
- 3 The question of identifying which population to measure, e.g., whether the relevant population is the total population of the county, the voting age population, or the citizens of voting age population, did not arise in this case. Generally, the different populations are interchangeable for equal protection purposes, as "generally, the ineligible to vote or register to do so ... can be assumed to be evenly distributed throughout the area to be districted, and the usage of the total population is thus an acceptable surrogate for measuring potential voters."  *Chen v. City of Houston*, 206 F.3d 502 (5th Cir.2000), *cert. denied*, 532 U.S. 1046, 121 S.Ct. 2020, 149 L.Ed.2d 1017 (2001). No party has suggested that the total population of Fulton County is an inappropriate measure for the one-person, one-vote evaluation, and the court finds no evidence of uneven distribution of those who are not eligible to vote within Fulton County.
- 4 For example, voting precinct 2P had to be divided, but the dividing line is I-75/ Williams Street.
- 5 The Percent Black Population includes individuals who represented themselves in the census as either black or a combination of black and another racial or ethnic heritage.
- 6 There is no evidence before the court of any other minority group in Fulton County with significant enough numbers to influence the county elections.
- 7 The total black population in district 7 will increase under the court's plan, from 68.82% in 1993 to 78.50%.

2012 WL 2339499

Only the Westlaw citation is currently available.

United States District Court,
S.D. Georgia,
Augusta Division.

Kenneth B. MARTIN; Charles N. Cody, Sr.;
Bobby D. Harper; Sammie L. Sias; Kenneth
L. Williams; A.J. Saunders; Melvin Ivey;
Gail Hicks; and Joe E. Howard, Plaintiffs,

v.

AUGUSTA-RICHMOND COUNTY, GEORGIA,
COMMISSION; Deke S. Copenhaver, in his official
capacity as Mayor of Augusta-Richmond County;
Richmond County, Georgia, Board of Education;
Alex Howard, in his official capacity as President
of the Richmond County Board of Education; Lynn
Bailey, in her official capacity as Executive Director
of the Richmond County Board of Elections; David
Ralston, in his official capacity as Speaker of the
Georgia House of Representatives; and Tommie
Williams, in his official Capacity as President
Pro Tempore of the Georgia Senate, Defendants.

No. CV 112-058.

|
June 19, 2012.

Attorneys and Law Firms

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[Andrew G. MacKenzie](#), Richmond County Law Department, Wayne Brown, Augusta Law Department, [Leonard O. Fletcher, Jr.](#), Fletcher, Harley & Fletcher, LLP, Augusta, GA, for Defendants.

ORDER

[J. RANDAL HALL](#), District Judge.

*1 This reapportionment case was initiated due to population shifts in Richmond County, Georgia which were revealed by the decennial 2010 census. Plaintiffs filed suit pursuant to  42 U.S.C. § 1983 and the Equal

Protection Clause of the Fourteenth Amendment seeking declaratory, injunctive, and remedial relief relating to the reapportionment of the districts for the Augusta-Richmond County Commission ("County Commission") and the County Board of Education of Richmond County ("Board of Education"). (Doc. no. 1.)

I. BACKGROUND

In this Court's May 16, 2012 Order, the Court declared that the existing districts for the County Commission and Board of Education were unconstitutional because they violated the "one person, one vote" principle. Accordingly, the Court enjoined further use of those unconstitutional districts and enjoined the County Board of Elections from accepting qualifications and conducting elections under the existing malapportioned County Commission and Board of Education district maps. Additionally, the qualifying dates for the County Commission and Board of Education seats subject to this election cycle, scheduled for May 23-25, 2012, were delayed until further order of this Court. Finally, after considering the specialized skill required in map drawing and reapportionment, the Court appointed the Georgia Legislative and Congressional Reapportionment Office (and its necessary staff, including Regina Harbin Wright), as the Court's technical advisor and consultant in this matter.

As indicated at the injunction hearing held on May 16, 2012, the Court created a preliminary map for the eight County Commission and Board of Education single member districts and a preliminary map for the two super districts based on the 2010 decennial census results. The preliminary maps were presented for review by the parties and attached to the Court's June 5, 2012 Order as the Court's Exhibits 1 and 2. (Doc. no. 44.) The parties were afforded the opportunity to file written comments regarding the preliminary maps. The time for commenting on the maps has passed, and the Court will now adopt final remedial maps and set qualifying dates for the County Commission and Board of Education seats with terms expiring December 31, 2012.

II. DISCUSSION

Because the existing maps are unconstitutional, the Court, due to the failure of the Georgia General Assembly to legislatively implement a new map, is faced with the task of drawing new constitutional districts based on the

2010 decennial census results. Indeed, the Georgia General Assembly has the duty and responsibility to reapportion the County Commission and Board of Education districts during a regular or special session.  *Miller v. Johnson*, 515 U.S. 900, 915, 115 S.Ct. 2475, 132 L.Ed.2d 762 (1995) (“It is well settled that ‘reapportionment is primarily the duty and responsibility of the State.’ ”); *Smith v. Cobb Cnty. Bd. of Elections & Registrations*, 314 F.Supp.2d 1274, 1286 (N.D.Ga.2002). However, the 2012 session of the Georgia General Assembly ended without the enactment of a map or plan that creates constitutionally proportional districts for the County Commission and Board of Education. Furthermore, it is undisputed that the Georgia General Assembly will not be reconvening prior to the upcoming 2012 elections. “In the wake of a legislature’s failure constitutionally to reconcile ... conflicting state and federal goals ... a federal court is left with the unwelcome obligation of performing in the legislature’s stead”  *Connor et al. v. Finch et al.*, 431 U.S. 407, 415, 97 S.Ct. 1828, 52 L.Ed.2d 465 (1977); see also  *Swann et al. v. Charlotte-Mecklenburg Bd. of Educ. et al.*, 402 U.S. 1, 16, 91 S.Ct. 1267, 28 L.Ed.2d 554 (1971) (noting that “judicial powers may be exercised only on the basis of a constitutional violation” and “[j]udicial authority enters only when local authority defaults.”).

A. The New Map Was Created by the Court

*2 Georgia is a covered district under § 5 of the Voting Rights Act of 1964, as amended. Therefore, any legislatively enacted reapportionment plan must be submitted for preclearance to either the Department of Justice or the District Court for the District of Columbia.  42 U.S.C. § 1973c. However, when a federal court devises its own plan, the new plan does not require federal preclearance. See  *Lopez et al. v. Monterey Cnty. et al.*, 525 U.S. 266,

286, 119 S.Ct. 693, 142 L.Ed.2d 728 (1999). Therefore, with the assistance of the Georgia Legislative and Congressional Reapportionment Office, the Court has fashioned its own map for the eight County Commission and Board of Education single member districts and the two super districts, using the 2002 plan as its benchmark.¹

B. The “One Person, One Vote” Requirement Is Met

While legislative bodies are given some leeway with regard to population deviations if those population deviations are supported by legitimate state interests, a court-ordered plan must be held to higher standards than a State’s own plan unless there are persuasive justifications. See  *Chapman et al. v. Meier*, 420 U.S. 1, 26–27, 95 S.Ct. 751, 42 L.Ed.2d 766 (1975). Moreover, “a court-ordered reapportionment plan of a state legislature must avoid use of multimember districts, and, as well, must ordinarily achieve the goal of population equality with little more than de minimus variation.” *Id.* If a court deviates from substantial equality in drawing its plan, the court must support that deviation with “historically significant state policy or unique features.” *Id.* at 26. In devising the remedial plan, this Court attempted to reduce the population deviations as much as possible, while minimizing the unnecessary splitting of precincts.

A final remedial map of the new single member districts and a map of the new super districts, along with a legal description of each district and a statistics sheet for each map describing certain relevant population percentages, are attached to this Order as the Court’s Exhibit 1 and 2 (“the Final Plan”). The Final Plan contemplates the ideal population for each single member district as 25,069 and the ideal population for each super district as 100,275. The Final Plan has eight single member districts and two super districts, like the 2002 plan, and they break down accordingly:

District	Population	Deviation %
1	25,126	0.23%
2	25,049	–0.08%
3	25,081	0.05%

4	25,027	-0.17%
5	25,038	-0.12%
6	25,078	0.04%
7	24,955	-0.45%
8	25,195	0.50%
9	100,240	-0.03%
10	100,309	0.03%

The new single member district map has an overall deviation of 0.96%, and no single member district deviates above the ideal size of 25,069 by more than 0.50% or less than -0.45%. The new single member district map also has a significantly lower overall deviation than both the 2002 plan (35.92%) and the 3R Plan (Final) (4.42%). Additionally, the new super district map has an overall deviation of 0.07%, and the super districts only deviate from the ideal size by 0.03% and -0.03% respectively. The Court acknowledges that the final remedial maps contain a small number of split precincts. However, such a result is unavoidable in light of the Court's population deviation objectives.

*3 Accordingly, the Court finds that the Final Plan achieves the goal of population equality with de minimus variation and comports with the "one person, one vote requirement."

C. Traditional Redistricting Principles

Apart from mathematical percentages, the Court was also guided by traditional redistricting principles when drawing the new maps. These redistricting principles are: changing the old districts as little as possible, protecting incumbency, compactness, contiguity, maintenance of communities of interest, and compliance with §§ 2 and 5 of the Voting

Rights Act. *Johnson v. Miller*, 922 F.Supp. 1556, 1564-66 (S.D.Ga.1995). The most significant of these factors falls under the gambit of the "minimum change doctrine." See *Upham v. Seamon*, 456 U.S. 37, 43, 102 S.Ct. 1518, 71 L.Ed.2d 725 (1982); *Miller*, 922 F.Supp. at 1559. Essentially, the Court is required to change only the faulty portions of the benchmark plan, as subtly as possible, in order to make the new plan constitutional. *Id.* Keeping the minimum change doctrine in mind, the Court only made the changes it deemed necessary to guarantee substantial equality and to honor traditional redistricting concerns. In fact, in every single member and super district, the Court preserved at least 74.19% of the benchmark district in the new plan. Thus, the Court preserved the core constituency of each district.

Furthermore, of the twenty incumbents on the County Commission and Board of Education, none were drawn out of their current district in the Final Plan. Moreover, none of the incumbents are competing for the same district seat. All ten districts are also both contiguous and compact. Contiguity requires that a person is able to walk to each part of the district without having to go through another district. *Crumley, et al. v. Cobb Cnty. Bd. of Elections & Voter Registration*, No. 1:12-CV-1301, doc. no. 45 at 28 (N.D.Ga. May 9, 2012).

Compactness is an aesthetic factor requiring that there be no strangely shaped or bizarre looking districts. *Id.* at 27. The Court finds that the Final Plan respects these two principles.

The Court also considered the preservation of communities of interests. “People who share communities of interest logically belong within the same ... district.” *Miller*, 922 F.Supp. at 1562–63. The parties' comments on the preliminary maps relate almost exclusively to communities of interest. Plaintiffs as well as the Board of Education, Defendant Howard, and the County Commission all seek to have the neighborhood of Sandridge united into one single member district. The Board of Education and Defendant Howard also seek to have the neighborhood of Wood Lake united into one single member district. Finally, the Board of Education, Defendant Howard, and the County Commission request that Fort Gordon be divided equally into three single member districts, instead of the two single member districts that are included in the preliminary maps.²

*4 Although the Court thoroughly considered the parties' comments to the preliminary maps and recognizes the merit of a single commissioner and Board member representing the interests of the Sandridge and Wood Lake neighborhoods, the Court finds that it cannot change the preliminary map to accommodate these comments in light of its application of constitutional considerations and traditional redistricting principles. For example, Plaintiffs' request to move Census Block 2000 from District 8 to District 4 in an effort to unite a portion of the Sandridge neighborhood would cause a deviation of 3.09% in District 4 and a deviation of –2.76% in District 8. This would result in a total overall deviation of 5.58% for the single member district map. (*See* Doc. no. 51.) As previously stated, the Court's remedial maps are held to a more stringent standard than legislatively created maps, and the Court cannot have more than de minimus population deviations. *See*  *Chapman*, 420 U.S. at 26–27. Adopting the proposed changes suggested by the parties would force the Court to ignore the minimal change doctrine and equal population principles, something this Court is unwilling to do.

D. Requirements of the Voting Rights Act of 1964

Although in redistricting, “the overriding objective must be substantial equality of population among the various districts,”  *Reynolds v. Sims*, 377 U.S. 533, 579, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964), all redistricting plans must comply with the Voting Rights Act of 1965, as amended.

 42 U.S.C. § 1973 *et seq.* All jurisdictions must follow § 2 of the Voting Rights Act prohibiting minority vote dilution. In some jurisdictions, including Georgia and its political subdivisions, redistricting plans must also comply with § 5; that is, the plans must not have the “purpose or effect of denying or abridging the right to vote based on race, color or membership in a language minority.”  42 U.S.C. § 1973c.

1. Section Two Analysis

Section 2 of the Voting Rights Act prohibits States from imposing or applying any voting practice or procedure that dilutes, denies, or abridges the right of any citizen of the United States to vote on account of that citizen's race or color.

See  42 U.S.C. § 1973. In analyzing whether a particular apportionment plan complies with § 2, a court must consider whether, under the totality of circumstances, minorities have been granted an equal opportunity to participate in the political process and to elect representatives of their choice.

 *Georgia v. Ashcroft*, 539 U.S. 461, 478, 123 S.Ct. 2498, 156 L.Ed.2d 428 (2003); *see also*  *Thornburg v. Gingles*, 478 U.S. 30, 47, 106 S.Ct. 2752, 92 L.Ed.2d 25 (1986) (noting the “essence” of a § 2 vote dilution claims is that “a certain electoral law, practice, or structure ... cause[s] an inequality in the opportunities enjoyed by black and white voters to elect their preferred representatives”).

After considering the totality of circumstances, the Court finds that under its Final Plan, there has been no dilution of the minority voting strength, and minorities have been granted an equal opportunity to participate in the political process and to elect representatives of their choice.

2. Section Five Analysis

*5 In contrast to § 2, which focuses upon ensuring that minority voters everywhere are afforded an equal opportunity to elect candidates of their choice, § 5 is directed toward preventing retrogression in the established opportunities of minority citizens to elect candidates of their choice in particular areas of the country with histories of discrimination in voting laws.  *Reno v. Bossier Parrish Sch. Bd.*, 528 U.S. 320, 335, 120 S.Ct. 866, 145 L.Ed.2d 845 (2000) (“Bossier Parrish II”). These “covered jurisdictions,” including Georgia and its political subdivisions, must prove that redistricting plans have neither the purpose nor effect of worsening minority citizens' right to vote.  42 U.S.C. § 1973c. “[A]

retrogression inquiry under § 5, ‘by definition, requires a comparison of a jurisdiction’s new voting plan with its existing plan.’ ”  *Georgia*, 539 U.S. at 478 (quoting *Reno v. Bossier Parish Sch. Bd.*, 520 U.S. 471, 477, 117 S.Ct.

1491, 137 L.Ed.2d 730 (1997) (“Bossier Parish I”)). Here, the benchmark plan is the map drawn in 2002. The population and minority breakdown for the Court’s Final Plan in comparison to the 2002 benchmark plan is as follows:

DISTRICTS	2002 EXISTING BENCHMARK PLAN	2012 FINAL REMEDIAL PLAN	DEVIATION
DISTRICT 1			
% Total Black	63.54%	67.90%	+ 4.36%
% Total Black VAP ³	60.27%	64.57%	+ 4.30%
DISTRICT 2			
% Total Black	75.77%	70.25%	5.52%
% Total Black VAP	72.75%	67.17%	5.58%
DISTRICT 3			
% Total Black	40.56%	40.51%	– 0.05%
% Total Black VAP	37.81%	38.07%	+ 0.26%

DISTRICT 4

% Total Black	76.33%	68.17%	- 8.16%
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% Total Black VAP	75.49%	65.16%	- 10.33%
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DISTRICT 5

% Total Black	74.12%	72.63%	- 1.49%
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% Total Black VAP	71.45%	69.37%	- 2.08%
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DISTRICT 6

% Total Black	51.17%	52.43%	+1.26%
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% Total Black VAP	47.65%	49.35%	+1.70%
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DISTRICT 7

% Total Black	27.66%	27.48%	- 0.18%
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% Total Black VAP	25.29%	25.12%	– 0.17%
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DISTRICT 8

% Total Black	31.39%	33.99%	+2.60%
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% Total Black VAP	29.65%	32.28%	+2.63%
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DISTRICT 9

% Total Black	72.84%	69.73%	– 3.11%
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% Total Black VAP	70.21%	66.54%	– 3.67%
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DISTRICT 10

% Total Black	37.40%	38.61%	+1.21%
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% Total Black VAP	34.69%	35.96%	+1.27%
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The Court finds that the Final Plan has not worsened the Augusta–Richmond County minority populations' equal opportunity to elect candidates of choice in a manner that constitutes retrogression under § 5. Like the benchmark plan, the new maps have four majority-minority single

member districts and one majority-minority super district. The benchmark plan had four clear majority-minority single member districts: District 1 with a 60.27% black VAP, District 2 with a 72.75% black VAP, District 4 with a 75.49% black VAP, and District 5 with a 71.45% black VAP. District 6,

though not a majority-minority district, had a “strong black influence” with a black VAP of 47.65%. See *Markham v. Fulton Cnty. Bd. of Registrations & Elections*, No. 1:02-CV-1111, 2002 WL 32587313, at *9 (N.D.Ga. May 29, 2002). The benchmark plan also had one majority-minority super district: District 9 with a 70.21% black VAP.

*6 The Final Plan, like the benchmark plan, has four majority-minority single member districts: District 1 with a 64.57% black VAP, District 2 with a 67.17% black VAP, District 4 with a 65.16% black VAP, and District 5 with a 69.37% black VAP. District 6 remains a single member district with a “strong black influence.” Indeed, its black VAP has increased from 47.65% to 49.35%. Finally, the new maps also have one majority-minority super district: District 9 with a 66.54% black VAP.

Based on the above analysis, the Court finds that retrogression, as it is prohibited under § 5 of the Voting Rights Act, has not occurred with the implementation of the Final Plan.

E. Qualification and Election Dates

Because the Final Plan has now been created, the Court finds it prudent to set the qualifying dates for the County Commission and Board of Education seats that were previously scheduled for May 23–25, 2012. As requested by Defendants, the Court will now schedule the **qualification period to begin at 9:00 a.m. on August 6, 2012 and to end at 12:00 noon on August 8, 2012**. Furthermore, elections for the County Commission and Board of Education seats with terms expiring December 31, 2012, will be conducted on **November 6, 2012**, in conjunction with the general elections in order to avoid the unnecessary cost to the citizens of Richmond County that a special election would require. Accordingly, Defendants' Motion for Injunctive Relief (doc. no. 30) is **GRANTED**.

III. CONCLUSION

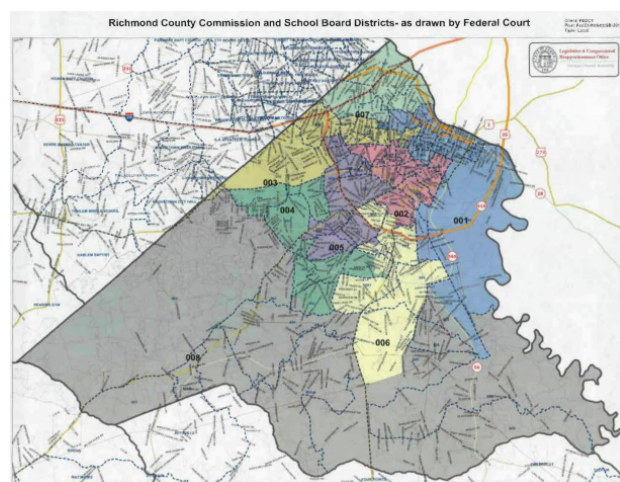
For the reasons set forth above, the Court adopts the Final Plan attached to this Order as Court's Exhibits 1 and 2. Additionally, Defendants' motion for injunctive relief (doc. no. 30) is **GRANTED** and the qualification period for the County Commission and Board of Education seats shall begin at 9:00 a.m. on August 6, 2012 and end at 12:00 noon on August 8, 2012. Finally, Plaintiffs are **ORDERED** to submit a

brief concerning the issue of costs and attorney's fees pursuant to 42 U.S.C. § 1988 within **ten (10) days** from the date of this Order. Defendants may respond within **five (5) days** from the date Plaintiffs submit their brief.

ORDER.

Court's Exhibit 1

Final Remedial Map for Eight County Commission and Board of Education Single Member Districts



Richmond County Commission and School Board Districts- as drawn by Federal Court									
Plan Name: FedCh-RichCSB-2012 Plan Type: Local User: Gina Administrator: FEDCT									
DISTRICT	POPULATION	DEVIATION	% DEVIATION	% BLACK	% BLACK	BLACK COMBO	TOTAL BLACK	%TOTAL BLACK	HISP OR LATINO
001	25,126	37	0.23%	17,061	67.90%	342	17,403	69.28%	518 2.06%
VAP	19,530			12,611	64.57%	148	12,759	65.33%	338 1.83%
002	25,049	-20	-0.08%	17,096	70.23%	342	17,938	71.61%	773 3.09%
VAP	18,710			12,568	67.17%	159	12,727	68.02%	593 2.69%
003	25,081	12	0.05%	10,161	40.51%	391	10,552	42.07%	1,116 4.46%
VAP	19,923			7,284	36.07%	203	7,787	39.09%	814 4.05%
004	25,027	-42	-0.17%	17,060	68.17%	610	17,670	70.60%	1,731 6.92%
VAP	17,981			11,717	65.16%	293	12,010	66.79%	1,250 6.93%
005	25,038	-31	-0.12%	18,185	72.63%	463	18,648	74.48%	1,115 4.43%
VAP	18,147			12,389	69.37%	215	12,604	70.50%	733 4.03%
006	25,078	9	0.04%	15,149	52.43%	459	15,608	54.26%	869 3.47%
VAP	18,298			9,830	49.35%	160	9,990	50.22%	548 2.99%
007	24,955	-114	-0.45%	8,838	27.48%	354	7,212	28.90%	1,065 4.26%
VAP	20,188			5,871	25.12%	151	5,222	25.87%	778 3.85%
008	25,195	126	0.50%	8,563	33.99%	397	8,960	35.56%	1,020 4.05%
VAP	18,467			5,961	32.28%	141	6,102	33.04%	647 3.50%

Total Population: 205,549
 Ideal Value: 25,069
 Summary Statistics
 Population Range: 24,955 to 25,195
 Absolute Overall Range: 240
 Relative Range: -0.45% to 0.50%
 Relative Overall Range: 0.96%

DATA SOURCE: 2010 US Census PL94-171 Population Cou

SINGLE MEMBER DISTRICTS LEGAL DESCRIPTION

1045 1046

DISTRICT 001**RICHMOND COUNTY**

VTD: 245101 - 101

001000:

2015 2017 3001 3002 3003 3004 3005 3006 3009 3010

3011 3012

3013 3014 3015 3016 3017 3020 3021

001100:

1018 1028 1029 1030 1031 1042

001200:

1000 1001 1002 1003 1004 1013 1020 1021 1022 1023

1024

001300:

1010 2005 2006 2010 2011

VTD: 245102 - 102

VTD: 245103 - 103

VTD: 245104 - 104

VTD: 245105 - 105

VTD: 245106 - 106

VTD: 245107 - 107

VTD: 245108 - 108

VTD: 245109 - 109

VTD: 245110 - 110

VTD: 245111 - 111

VTD: 245112 - 112

VTD: 245113 - 113

VTD: 245202 - 202

010510:

1014 1015

010511:

1000 1001 1002 1003 1004 1005 1006 1015 1016 1017

1018 1019

1020 1021 1028 1029 1030 1031 1032 1033 1034 1035

1038 2000

2001 2002 2003 2009 2022

VTD: 245205 - 205

VTD: 245805 - 805

010600:

4146 4158 4161 4162

010706:

1004 1005 1009 1012 1013 1014 1015 1016 1017 1018

1019 1020

1021 1033 1034 1036 1037 1038 1039 1040 1041 1042

1043 1044

DISTRICT 002**RICHMOND COUNTY**

VTD: 245201 - 201

VTD: 245202 - 202

010506:

1001 1002 1003 1004 1005 1006 1008 1009 1010 1011

1012 1013

1014 1015 1016 1017 1018 1019 1020 1021 1024 1025

1026 1027

1028 1031 1032 1033 1034 1035 1036 1037 1038 1039

1040 1041

1042 1043 1044

010508:

1000 1001 1002 1003 1004 1005 1006 1008 1009 1010

1011 1012

1013 1014 1015 1016 1017 1018 1019 1020 1021 1022

1023 1024

1025 1026 1027 1028 1029 1030 1031 1032 1033 2000

2001 2002

2003 2005 2006 2007 2008

010510:

1000 1001 1002 1003 1004 1005 1006 1007 1008 1009

1010 1011

1012 1013 1016 1017 1018 1019 1020

010511:

2005

VTD: 245203 - 203

VTD: 245204 - 204

VTD: 245206 - 206

VTD: 245207 - 207

VTD: 245208 - 208

VTD: 245209 - 209

VTD: 245504 - 504

VTD: 245507 - 507

VTD: 245602 - 602

010510:

2000 2001 2002 2003 2004 2005 2006 2007 2008 2009

2010 2011

2012 2013 4000 4001 4002 4003 4004 4005 4006 4007

4008 4009

4010 4011 4012 4013 4014 4015 4018 4019 4020 4021

4022

010511:	VTD: 245309 - 309
2004	VTD: 245403 - 403
	VTD: 245501 - 501
	VTD: 245502 - 502
	VTD: 245503 - 503
	VTD: 245505 - 505
	VTD: 245506 - 506
	VTD: 245508 - 508
	VTD: 245509 - 509
	VTD: 245605 - 605
	010509:
	2000 2001 2002 2003 2004 2005 2011 2013 2015
DISTRICT 003	
RICHMOND COUNTY	
VTD: 245101 - 101	
001100:	
1024 1025 1026 1027 1032 1033 1034 1035 1038 1039	
1040 1041	
001200:	
1005 1006 1007 1008 1009 1010 1011 1012 1014 1015	
1019 5000	
5004 5005	
VTD: 245301 - 301	
VTD: 245302 - 302	
VTD: 245303 - 303	
VTD: 245305 - 305	
VTD: 245306 - 306	
VTD: 245307 - 307	
VTD: 245310 - 310	
VTD: 245704 - 704	
DISTRICT 004	
RICHMOND COUNTY	
VTD: 245304 - 304	
VTD: 245401 - 401	
010709:	
1000 1001 1003 1004 1005 1006 1007 1008 1009 1010	
1011 2021	
2029 2030 2031 2032	
VTD: 245402 - 402	
VTD: 245404 - 404	
VTD: 245405 - 405	
010712:	
1024 3000 3001 3002 3003 3004 3005 3006 3007 3008	
3009 3010	
3011 3012 3013 3014 3015 3016 3017 3018	
VTD: 245406 - 406	
VTD: 245407 - 407	
VTD: 245408 - 408	
DISTRICT 005	
RICHMOND COUNTY	
VTD: 245308 - 308	
	DISTRICT 006
	RICHMOND COUNTY
	VTD: 245401 - 401
	010709:
	1002 2000 2001 2002 2003 2004 2005 2006 2007 2008
	2009 2010
	2011 2012 2013 2014 2015 2016 2017 2018 2019 2020
	2022 2023
	2024 2025 2026 2027 2028 2033
	VTD: 245601 - 601
	VTD: 245602 - 602
	010508:
	2004 2009 2010 2011 2012 2013 2014 2015 2016 2017
	2018 2019
	2020 2021 2022 2023 2024 2025 2026 2027 2028
	010509:
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	1010 1011
	1012 1013 1014 1015 1016 1017 1018 1019 1020 1021
	1022 1023
	1025 1027 1030 1031
	010510:
	4016 4017 4023 4024
	VTD: 245603 - 603
	VTD: 245604 - 604
	VTD: 245605 - 605
	010509:
	1024 1026 1028 1029 2006 2007 2008 2009 2010 2012
	2014 2016
	2017 2018 2019 2020 2021 2022 2023 2024 2025 2026
	2027 2028
	2029 2030 2031 2032 2033 2034 2035 2036
	VTD: 245606 - 606

2012 WL 2339499

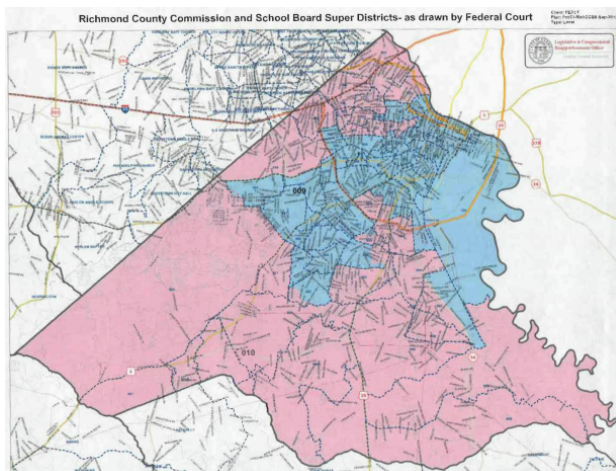
VTD: 245806 - 806
 010906:
 2000 2002 2003 2004 2005 2006 2007 2008 2009 2010
 2011 2012
 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022
 2023 2024
 2026 2027 2032

DISTRICT 007**RICHMOND COUNTY**

VTD: 245701 - 701
 VTD: 245702 - 702
 VTD: 245703 - 703
 VTD: 245705 - 705
 VTD: 245706 - 706
 VTD: 245707 - 707

DISTRICT 008**RICHMOND COUNTY**

VTD: 245405 - 405
 010711:
 1015 1016 1017 1018 1019
 VTD: 245801 - 801
 VTD: 245801B - 801B
 VTD: 245802 - 802
 VTD: 245803 - 803
 VTD: 245804 - 804
 VTD: 245804H - 804H
 VTD: 245805 - 805
 010706:
 1010 1011 1022 1023 1024 1025 1026 1027 1028 1029
 1030 1031
 1032 1035
 VTD: 245806 - 806
 010906:
 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009
 1010 1011
 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021
 1022 1023
 1024 1025 1026 1027 1028 1029 1030 2025 2028 2029
 2030 2031
 VTD: 245807 - 807
 VTD: 245808 - 808
 VTD: 245809 - 809

Court's Exhibit 2**Final Remedial Map for Two Super Districts**

Plan Name: FedCI-RichCCSB-Sep-2012		Plan Type: Local		User: Glas		Administrator: PEDCT				
DISTRICT	POPULATION	DEVIATION	% DEVIATION	BLACK	% BLACK	BLACK COMBO	TOTAL BLACK	%TOTAL BLACK	HISP. OR LATINO	%HISP
009	100,240	-35	-0.03%	49,962	69.73%	1,757	71,659	71.49%	4,137	4.13%
VAP	74,368			49,482	66.54%	815	50,300	67.64%	2,843	3.83%
010	100,309	34	0.03%	38,731	38.61%	1,601	40,332	40.21%	4,070	4.06%
VAP	76,876			27,646	35.96%	655	28,301	36.81%	2,787	3.63%
Total Population: 200,549										
Ideal Value: 100,275										
Summary Statistics										
Population Range: 100,240 to 100,309										
Absolute Overall Range: 69										
Relative Range: -0.03% to 0.03%										
Relative Overall Range: 0.07%										
DATA SOURCE: 2010 US Census PL94-171 Population Cou										

SUPER DISTRICTS LEGAL DESCRIPTION**DISTRICT 009****RICHMOND COUNTY**

VTD: 245101 - 101
 001000:
 2015 2017 3001 3002 3003 3004 3005 3006 3009 3010
 3011 3012
 3013 3014 3015 3016 3017 3020 3021
 001100:
 1018 1028 1029 1030 1031 1042
 001200:
 1000 1001 1002 1003 1004 1013 1020 1021 1022 1023
 1024
 001300:
 1010 2005 2006 2010 2011
 VTD: 245102 - 102
 VTD: 245103 - 103
 VTD: 245104 - 104
 VTD: 245105 - 105
 VTD: 245106 - 106
 VTD: 245107 - 107
 VTD: 245108 - 108
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 VTD: 245401 - 401
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 VTD: 245402 - 402
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VTD: 245405 - 405
010712:
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VTD: 245406 - 406
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VTD: 245508 - 508
VTD: 245509 - 509
VTD: 245602 - 602
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2010 2011
2012 2013 4000 4001 4002 4003 4004 4005 4006 4007
4008 4009
4010 4011 4012 4013 4014 4015 4018 4019 4020 4021
4022
010511:
2004
VTD: 245605 - 605
010509:
2000 2001 2002 2003 2004 2005 2011 2013 2015
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010600:
4146 4158 4161 4162
010706:
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1019 1020
1021 1033 1034 1036 1037 1038 1039 1040 1041 1042
1043 1044
1045 1046

DISTRICT 010
RICHMOND COUNTY
VTD: 245101 - 101
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1040 1041
001200:
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1019 5000
5004 5005
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VTD: 245306 - 306
VTD: 245307 - 307
VTD: 245310 - 310
VTD: 245401 - 401
010709:
1002 2000 2001 2002 2003 2004 2005 2006 2007 2008
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2011 2012 2013 2014 2015 2016 2017 2018 2019 2020
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2024 2025 2026 2027 2028 2033
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VTD: 245601 - 601
VTD: 245602 - 602
010508:
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010509:
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VTD: 245605 - 605
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2027 2028
2029 2030 2031 2032 2033 2034 2035 2036
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VTD: 245702 - 702
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VTD: 245704 - 704
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VTD: 245804 - 804
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1010 1011 1022 1023 1024 1025 1026 1027 1028 1029
1030 1031
1032 1035
VTD: 245806 - 806
VTD: 245807 - 807
VTD: 245808 - 808
VTD: 245809 - 809

All Citations

Not Reported in F.Supp.2d, 2012 WL 2339499

Footnotes

- 1 The Ad Hoc Redistricting Committee passed Plan 3R (Final) and submitted it to the County Commission and Board of Education as a recommendation only. Although it was not submitted to the Georgia General

Assembly by the Ad Hoc Committee for adoption, Wayne Howard, a member of the local Georgia House of Representative delegation, submitted Plan 3R (Final) to the Georgia House as HB 923 and HB 924. The Georgia House of Representatives approved Plan 3R (Final), but the Georgia Senate approved a wholly separate plan. The Georgia General Assembly adjourned the 2012 legislative session without enacting a final plan. Because the General Assembly did not pass. Plan 3R (Final), the Court's benchmark in this case is the 2002 plan.

- 2 The parties failed to provide legal support, and the Court has not found any, for the proposition that a federal district court, when redrawing maps, should give special consideration to the military voting age population based on the military's historical propensity to not vote in the districts where members reside. Moreover, as discussed below, the Court cannot alter the preliminary maps in the manner proposed by the Board of Education and County Commission without violating equal population principles and the doctrine of minimal change.
- 3 "VAP" means voting age population.

2012 WL 601017

Only the Westlaw citation is currently available.

United States District Court,
E.D. Missouri,
Eastern Division.

Steven V. STENGER, et al., Plaintiffs,

v.

Richard H. KELLETT, et al., Defendants.

No. 4:11CV2230 TIA.

|

Feb. 23, 2012.

Attorneys and Law Firms

Crystal K. Hall, John C. Grellner, Nicholas G. Frey, Jane E. Dueker, Stinson and Morrison, St. Louis, MO, for Plaintiffs.

Darold E. Crotzer, Jr., Ford Law, Clayton, Mo, Amy J. White, Crotzer and Ormsby, St. Louis, MO, for Defendants.

MEMORANDUM AND ORDER

TERRY I. ADELMAN, United States Magistrate Judge.

*1 This matter is pending before the undersigned pursuant to  28 U.S.C. § 636(c). Plaintiffs and Plaintiff/Intervenors seek judicial reapportionment of St. Louis County Council Districts necessitated by the failure of the St. Louis County Council Reapportionment Commission to file a timely plan of reapportionment based on the results of the Decennial Census of 2010.

Background

Plaintiffs Steven V. Stenger, Michael E. O'Mara, Patrick M. Dolan, Sr., Mary Sanders, Vince Sansone, Jasmina Vajzovic, Keith Walston, and David T. Calhoun, who are citizens, residents, and registered voters of St. Louis County filed this action pursuant to  42 U.S.C. §§ 1983 and  1988 alleging violation of their rights to the equal protection of the laws as guaranteed by the Fourteenth Amendment to the United States Constitution, and by  Article 1, Section 2, of the Constitution of the State of Missouri. Stenger, O'Mara, and Dolan are also Democratic members of the St. Louis County

Council. The Defendants, sued in their official capacities, are members of the Board of Election Commissioners of St. Louis County. Plaintiffs seek to have this Court: 1) declare that the present boundaries of the seven council districts violate the requirements of the Constitution of the United States and of the State of Missouri, and 2) divide St. Louis County into seven county council districts that are contiguous, compact, and as nearly equal in population as may be.

The parties allege that the shift in population from 2000 to 2010 renders the county council districts in violation of the "one person, one vote" rule because some districts have significantly less population than other districts. Therefore, the lawsuit alleges that the population of St. Louis County is not equally apportioned between and among the seven county council districts as those districts are presently defined. Pursuant to Section 2.035 of the St. Louis County Charter, County Executive Charlie Dooley appointed a County Council Reapportionment Commission ("Commission") on May 24, 2011. Section 2.035 of the St. Louis County Charter states, in part:

... The commission shall reapportion the council districts by dividing the population of the county by the number of council districts established by this charter so that the population of each district shall, as near as possible, equal that figure and so that each district shall be composed of contiguous territory as compact as may be. Not later than six months after the population of St Louis County is reported to the president of the United States after each decennial census or six months after the appointment of the commission by the county executive, whichever is later, the commission shall file with the county clerk and with the office or officer charged with conducting elections in the county a final statement of the numbers and the boundaries of the districts together with a map of the districts....

St. Louis County Charter, Article II, County Council Part 1, Section 2.035.

*2 Pursuant to the above charter provision, the terms of the Commission members expired at 12:01 a.m. on November 24, 2011. The Commission neither adopted a reapportionment plan for the county council districts nor filed a final statement of reapportionment of districts as mandated by the St. Louis County Charter. No procedure exists for extending the term of the Commission, reconvening the Commission, or accomplishing the reapportionment of the county council districts under any other procedure in the St. Louis County Charter or ordinances. County council members must be elected from districts and may not be elected at large pursuant to Sections 2.020, 2.040, and 2.160 of the St. Louis County Charter. Because the Commission could not reach a decision, the Plaintiffs filed this lawsuit on December 23, 2011, requesting an expedited discovery order and expedited trial. Plaintiffs noted that the first day for filing a declaration for candidacy for the 2012 general election to the St. Louis County Council is February 28, 2012, and the last day for filing is March 27, 2012. Therefore, the parties state that the Court's plan must be filed no later than on or before February 28, 2012.

Based on the above, the undersigned held a scheduling hearing pursuant to [Fed.R.Civ.P. 16](#) immediately after the Defendants were served. On January 9, 2012, the undersigned entered an expedited scheduling plan which required that responsive pleadings be filed no later than January 13, 2012, and that any intervention of other parties should be made no later than January 13, 2012. The Court also entered an expedited discovery schedule, with discovery to be completed by February 1, 2012, a pretrial conference to be held on February 7, 2012, and the trial to commence on February 8, 2012 at 9 a.m.

On February 6, 2012, at approximately 4 p.m., Republican St. Louis County Council member Greg Quinn filed a motion to intervene in this case. According to Mr. Quinn's attorney, Mr. Quinn had been informed of this lawsuit on December 23, 2011 when St. Louis County Counselor Patricia Reddington e-mailed a copy of the petition to all County Council members. According to the motion to intervene under [Fed.R.Civ.P. 24](#), Mr. Quinn was unable to obtain counsel until February 6, 2012, less than a day and a half before the trial. The Plaintiffs filed a response agreeing to the intervention, but with some restrictions. At the pretrial conference, Mr. Quinn's attorney agreed to almost all of the restrictions, including the prohibition that he be denied from requesting any relief except that a lawful map be drawn by the Court.¹ He specifically

stated in his motion to intervene that the Court should draw its own map and not adopt the map presented by the expert hired by the Democrat Plaintiffs. Mr. Quinn also asked that the Court allow him to cross-examine the expert as to political factors and ramifications involved in drawing the map to be presented to the Court.

The undersigned informed the parties that the Court would likely allow the political evidence to be introduced on cross-examination and determine later whether the evidence was relevant. The Plaintiffs and Defendants agreed to this procedure. On February 7, 2012, the undersigned granted Mr. Quinn's motion to intervene in this case.

Facts Elicited at Trial

*3 David Kimball is an associate professor of political science at the University of Missouri, St. Louis. He received an undergraduate degree at Brown University and a Masters Degree and Ph.D in political science from Ohio State University. His areas of specialty and study are American politics and voting behavior. He has written several books analyzing voting behavior in American elections including: Barry C. Burden and David C. Kimball, *Why Americans Split Their Tickets: Campaigns, Competition, and Divided Government* (University of Michigan Press 2002); and Martha Kropf and David C. Kimball, *Helping America Vote: The Limits of Election Reform* (Routledge 2011). In these books, he applied statistical modeling and statistical analysis commonly used in the political science field. In fact, much of his research involves statistical analysis. Dr. Kimball has also testified as an expert in two federal cases involving voting: one in the U.S. District Court in New York City and another in Ohio. He recently testified in a reapportionment case in the State of Missouri. He has extensive experience in the study of voting patterns of minorities. No one challenged Dr. Kimball's credentials in this case.

In reapportioning U.S. congressional districts, state house districts, city, and county districts, population totals in the most recent census are used to reconfigure the districts. This census data is packaged in county areas, but is also released for smaller units. The smallest unit is the census block, which is equivalent to a city block. The 2010 census revealed 18,747 census blocks in St. Louis County. For each census block, the census provides the age and ethnicity of each person in the block. A census tract is a group of census blocks joined together, and the average tract contains about 100 blocks.

Based on the 2010 census data, St. Louis County has 199 census tracts containing about 5,000 people in each tract. The county also provides to the census bureau “voter tabulation districts,” which are almost always voting precincts. Together the census and county provide ethnicity and age for each person in each voting tabulation district or precinct. Census blocks are generally used in the reapportionment process because the fewest people can be moved without disrupting the overall plan.

Four factors govern the reapportionment process: equal population, or “one person, one vote”; compactness; contiguity; and compliance with the Voting Rights Act. A frequently used model in reapportioning districts is to begin with the current boundaries and change them as little as possible while making equal the population of the districts. This is called the “least change” or “minimal change” method, which assumes that if the current district map complied with the redistricting criteria during the previous census, then a new map will likely comply with only limited changes. The “least change” method is advantageous because it maintains the continuity in representation for each district and is by far the simplest way to reapportion the county council districts.

*4 Kimball considered the “least change” model the best model for accommodating all the different aspects of redistricting. He attempted to create new districts by changing existing boundaries as little as possible while achieving equal population districts that were as compact and contiguous as possible. In addition, the “least change” model allowed Dr. Kimball to avoid placing two incumbents in the same district. He did this, not to protect the incumbent, but to allow the voters to decide whether they desired to keep the same representative or reject him or her by electing someone else. Placing two incumbents in the same district takes this choice away from the voters.

Dr. Kimball testified that the most important principle in redistricting is to ensure that the districts comply with the “one person, one vote” mandate of the United States Supreme Court. To achieve this goal, Dr. Kimball calculated the ideal population in each district by dividing the number of people in the county by the seven county council districts. He determined this perfect number to be 142,708 people in each of the seven county council districts. Although it is almost impossible to reach the ideal population, Dr. Kimball attempted to make the population of each district as close as possible to the ideal population while keeping the other redistricting factors in mind.

Dr. Kimball also considered compactness in redrawing the district lines. Compactness means that areas within the same district are packed as closely together as possible so the ideal shape of a district would be a circle or a square. Compactness can not be completely achieved in St. Louis County because part of the county boundary follows the Missouri river, while another follows the Meramec river. This renders boundaries jagged and quite winding. However, the population polygon model provides a statistical way to measure the compactness of a district. This model runs on a scale from 1.0 to 0.0, with 1.0 being the most compact and 0.0 being the least compact.

As previously stated, another goal of redistricting is to ensure that the districts are contiguous, allowing a person to walk from one district to the next without crossing into a third district.

Finally, the new districts, as drawn, may not violate the Voting Rights Act. The Voting Rights Act requires that any district plans allow minority groups the opportunity to elect candidates of their choice. Two ways that redistricting can violate the Voting Rights Act are by “packing” or “cracking” the districts. If a minority group is concentrated in a particular area, “cracking” draws the district boundaries to split the minority group into different districts so these districts consist of a smaller minority percentage in each of those districts. Thus, the minority group cannot influence the outcome of the election in those districts. “Packing” applies the opposite strategy. “Packing” puts all or as many voters of a minority group as possible into one district so that all the neighboring districts have a very small share of a minority group. Likewise, the minority group would have little or no influence on elections in the surrounding districts.

*5 To create the new proposed map, Dr. Kimball first considered the existing map in light of the 2010 census population in each of the seven current districts. He observed that some districts, particularly the first, the second, and the fourth, were substantially below the new population ideal. Further, some other districts, particularly the third, the sixth, and the seventh, were substantially above the population ideal. The table placed into evidence demonstrates almost a 17,000–person difference between the smallest populated district and the largest populated district for standard deviation of more than 11%. Thus, redrawing the districts was necessary. The following exhibit depicts the deviation in population in each of the districts:

**Population Deviation in Current
St. Louis County Council Districts**

Proposed District	2010 Population	Deviation from Ideal Population	Percentage Deviation
1	133,830	-8,878	-6.2%
2	139,060	-3,648	-2.6%
3	147,228	4,520	3.2%
4	140,167	-2,541	-1.8%
5	142,317	-391	-0.3%
6	145,622	2,914	2.0%
7	150,730	8,022	5.6%

Pltf-1 a.

As stated above, to redraw the maps so that the population was equal, Dr. Kimball adopted the “least change” approach, starting with making minimal changes to the boundaries drawn by Judge Perry in 2002, then moving toward equal population while also considering compactness and contiguity. He used existing districts because they were substantially compact and attempted to cause minimal change to the make-up of the various districts. Dr. Kimball believed he would have difficulty achieving equal population and keeping the districts compact if he tried to redraw the entire map. Initially, he did not consider the Voting Rights Act or racial data in drawing the districts. He considered only equal population, compactness, and contiguity. After redrawing the districts, he then analyzed the new districts as to their compliance with the Voting Rights Act.

Dr. Kimball used computer software redistricting programs to draw the maps. These programs combined census data as to population and St. Louis Planning Commission data as to voting ages, then superimposed the information on a map of St. Louis County containing each of the seven districts. In this way, he used the software to move the lines of the districts and

determine the effect on the population and compactness. Dr. Kimball did not use any political performance data, nor did he review the plan after drawing it to determine its political performance or significance. In summary, he did not review the political performance of the proposed or changed districts but only considered population, compactness, and contiguity.

Specifically, working in a counterclockwise manner, Dr. Kimball added population to the three underpopulated districts, and subtracted from the three districts which were overly populated. He only minimally changed the fifth district, because it was already close to the ideal population and was very compact. Dr. Kimball detailed each of the changes he made to the various districts and where they were located. Further, he explained his revisions and their impact on the population in the districts as well as their deviation from the ideal population both in numbers and in percentage points. This information is depicted in Plaintiffs' Exhibit 2a as follows:

**Population Deviation in Plaintiffs' Proposed
St. Louis County Council Districts**

Proposed District	2010 Population	Deviation from Ideal Population	Percentage Deviation
1	142,759	51	.036%
2	142,772	64	.045%
3	142,653	-55	-.039%

4	142,648	-60	-.042%
5	142,755	47	.033%
6	142,720	12	.008%
7	142,647	-61	-.043%

*6 Pltf-2a.

As demonstrated in the above chart, the proposed plan distributes the population in each district equally. All deviations are less than one-tenth of one percent, a number that, in Dr. Kimball's opinion, is *de minimis*. The maximum deviation is 64 individuals over the ideal population in the second district and 60 individuals under the ideal population in the fourth district. Dr. Kimball testified that compactness would be sacrificed if he moved the census blocks to achieve even more equality.

Next, Dr. Kimball used the population polygon measure of compactness to determine whether the new council districts were compact. In comparing the previous districts drawn by Judge Perry, he determined that the districts he drew were slightly more compact than the districts drawn in 2002. Plaintiffs' Exhibit 2b represents the compactness of the districts:

**Population Polygon Measure of Compactness for
Plaintiffs' Proposed St. Louis County Council Districts**

District	Population Polygon Compactness Measure
1	.93
2	.90
3	.82
4	.88
5	.97
6	.93
7	.94

Pltf-2b

As the above chart shows, with 1.0 being the most compact and 0.0 being the least compact, the districts all measure .9 or .8 and are, thus, compact.

As previously stated, Dr. Kimball did not analyze the racial make-up of the newly redrawn districts until after he made certain the districts were equal, contiguous, and compact. When conducting this Voting Rights Act analysis, he determined that most African Americans resided in the first and fourth districts of St. Louis County. Under the new configuration, both the first and fourth districts were "majority minority" districts. A "majority minority" district occurs when the minority population (in this case African American) constitutes a majority of the population of that

district. Ten years ago when the districts were drawn in a previous case, St. Louis County contained only one "majority minority" district. An "effective minority" district is a concept used in determining whether a plan complies with the Voting Rights Act. If a "majority minority" district is composed such that the minority group has an equal chance of electing a candidate, it is an "effective minority" district.

When Judge Perry drew the districts ten years ago, many experts believed that a minority population of 65% was necessary to ensure an "effective minority" district. The experts based their beliefs on four assumptions, some of which no longer seem to apply in St. Louis County. The first assumption was that the minority group will vote almost entirely or largely in a bloc for their preferred candidate, and the majority group will vote almost entirely as a bloc against the minority preferred candidate. The second assumption was

that the voting age population of minority groups tends to be smaller than its share of the overall total population. For example, if the minority accounts for 55% of the entire population, it will account for only 50% of the voting age population. The third assumption was that, among voting-age population, the voter registration rate for minorities is about five percentage points lower than the registration for whites. Finally, the last assumption presumed that, among registered voters, the turnout rate of minority voters is about five percentage points lower than the turnout rate for white voters.

*7 Two recognized statistical methods test these assumptions. The first test is the homogenous precinct analysis, and the second is the ecological regression method. Utilizing the homogenous precinct model, Dr. Kimball looked at voting precincts in the fourth district, one which was almost entirely white and one which was almost entirely African American, and examined the voting behavior in those precincts. The assumption was that those percentages would hold throughout the fourth district. The ecological regression theory analyzes how African American voters and white voters voted in the entire district and county.

Dr. Kimball's analysis showed that in elections where African American candidates were running countywide (which totaled five elections), the voter turnout between African American voters and white voters was almost exactly

the same, and in some instances greater among the African American population. Further, his analysis showed that white voters do not vote against African American candidates in a bloc to the extent previously believed. In the two elections in which Charlie Dooley, an African American, ran for County Executive, the analysis showed that 45% to 49% of the white voting population in the fourth district voted for Charlie Dooley. This study and other studies demonstrate that white bloc voting does not exist in St. Louis County to the degree previously believed. Further, the percentage of African American voters voting in elections with African American candidates on the ballot is similar to the percentage of white voters. Thus, the study disproved two of the assumptions requiring a 65% minority population in order to qualify as an "effective minority" district. Dr. Kimball relied on these studies to determine that the 55% African American majority and the 51% voting age population majority of African Americans in the fourth district is more than enough to make it an "effective minority" district. This, along with the 71 % voting age population of African Americans in the first district, gives the county two "effective minority" districts. The following chart shows the racial make-up of the proposed districts:

Racial Composition of Total Population in Plaintiffs' Proposed St. Louis County Council Districts

Proposed District	2010 Population	Percentage White/Caucasian	Percentage African American
1	142,759	21.5%	74.6%
2	142,772	71.3%	17.8%
3	142,653	89.9%	3.2%
4	142,648	41.2%	55.2%
5	142,755	84.4%	8.3%
6	142,720	94.2%	1.7%
7	142,647	89.4%	2.3%

Pltf-2c.

The attached chart demonstrates the voting age population broken down on racial grounds:

Racial Composition of VAP in Plaintiffs' Proposed St. Louis County Council Districts

Proposed District	2010 VAP	Percentage White/Caucasian	Percentage African American
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1	104,554	25.1%	71.5%
2	112,226	74.7%	16.0%
3	109,361	91.3%	3.0%
4	106,040	45.9%	51.4%
5	113,757	85.1%	8.2%
6	113,469	95.3%	1.4%
7	105,373	90.4%	2.4%

*8 Pltf-2c.

The analysis involving homogenous districts and ecological regression is shown in the following charts:

Table 4. Average White and African American Turnout in Recent Elections with African American Candidates

Election	White Estimates(%)		African American Estimates(%)	
	Homogeneous Precincts	Ecological Regression	Homogeneous Precincts	Ecological Regression
2008 Primary–Obama (County)	22.2	21.7	35.6	35.7
2008 Primary–Obama (District 4)	24.0	23.2	39.1	38.2
2008 General–Obama (County)	76.0	74.3	74.7	69.6
2008 General–Obama (District 4)	73.9	71.3	81.4	75.1
2010 General–Dooley (County)	52.2	50.7	41.1	37.8
2010 General–Dooley (District 4)	43.3	45.7	48.1	47.7
County Average District 4	50.1	48.9	50.5	47.7
Average	47.1	46.7	56.2	53.7

Table 5. Average White and African American Voting for the Minority–Preferred Candidate in Recent Elections

Election	White Estimates(%)	African American Estimates(%)
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	Homogeneous Precincts	Ecological Regression	Homogeneous Precincts	Ecological Regression
2008 Primary–Obama (County)	55.0	53.3	85.7	88.6
2008 Primary–Obama (District 4)	41.4	43.0	85.3	94.0
2008 General–Obama (County)	48.4	48.2	97.7	100
2008 General–Obama (District 4)	57.4	52.2	97.4	100
2010 General–Dooley (County)	40.0	39.7	96.5	100
2010 General–Dooley (District 4)	51.0	45.2	95.6	100
County Average District 4	47.8	47.1	93.3	96.2
Average	49.9	46.8	92.8	98.0

Pltf–8a.

Thus, based on all of the above, Dr. Kimball unequivocally believes that the map he drew and introduced into evidence (which was the only map introduced into evidence), was equal, compact, contiguous, and complied with the Voting Rights Act. In addition, he testified on direct examination, several times on cross-examination, and upon examination by the Court, that political considerations played no part in his drawing of the map.

History of Reapportionment in St. Louis County

This marks the fourth decade in which St. Louis County has failed to adopt *any* plan to reapportion its council districts and the fourth time that a judge in this Court will adopt or draw a plan for the county council districts. Judge Cahill reapportioned the county districts in 1982; Judge Hamilton reapportioned them in 1992; Judge Perry reapportioned the districts in 2002; and in 2012, by this order, the undersigned will also reapportion the county council districts. As Judge Perry aptly stated in 2002:

[T]he plan adopted here and which
will remain in effect for ten years

will mark three decades in which the voters of St. Louis County will have their County Council district lines established by a federal judge, rather than by the political process established by the Charter. With such a pattern, I must conclude that, for some reason I cannot begin to understand, the voters in St. Louis County prefer to have this important governmental task performed by an unelected federal judge who should not be making political decisions. If this is not their preference, they should certainly establish a new system for deciding the issue before the next census comes around.

**9 Corbett v. Sullivan*, 202 F.Supp.2d 972, 975 (E.D.Mo.2002). Obviously, the same situation continues to exist in St. Louis County in 2012 as has existed since 1982.

Conclusions of Law

In  *Fletcher v. Golder*, 959 F.2d 106 (8th Cir.1992), the Court of Appeals stated that in reapportioning the St. Louis County Council Districts, the district court was “required to achieve: (1) equality of population among districts; (2) geographic compactness; and (3) protection of minority voting rights.”  959 F.2d at 109. Clearly, the touchstone for a court drawing a reapportionment plan is that each district should have equal population. As stated in the landmark case of *Reynolds v. Sims*, “[p]opulation is, of necessity, the starting point for consideration and the controlling criterion for judgment in legislative apportionment controversies.”  377 U.S. 533, 567 (1964). The plan must ensure that the districts are as equal as possible in population and thus comply with the “one person, one vote” principle.  *Id.* at 577.

Further, court-ordered districts must come as close to population equality as possible and much closer than the political or legislative process would allow. In *Abrams v. Johnson*, the Court stated:

Court-ordered districts are held to higher standards of population equality than legislative ones. A court-ordered plan should “ordinarily achieve the goal of population equality with little more than *de minimis* variation.”

 *Chapman v. Meier*, 420 U.S. 1, 26–27, 95 S.Ct. 751, 766, 412 L.Ed.2d 766 (1975);  *Connor v. Finch*, 431 U.S. 407, 414, 97 S.Ct. 1828, 1833, 52 L.Ed. 2d 465 (1977) (same).... Slight deviations are allowed under certain circumstances.  *Chapman, supra*, at 26, 95 S.Ct., at 765–766 (“With a court plan, any deviation from approximate population equality must be supported by enunciation of historically significant state policy or unique features”);  *Connor, supra*, at 419–420, 97 S.Ct., at 1830 (same);  *Karcher, supra*, at 740, 103 S.Ct., at 2663 (“Any number of consistently applied legislative policies might justify some variance, including, for instance, making districts compact, respecting municipal boundaries, preserving the cores of prior districts, and avoiding contests between incumbent[s]”).

 521 U.S. 74, 98 (1997). See also *Chapman v. Meier*, 420 U.S. (1975);  *Karcher v. Daggett*, 462 U.S. 725 (1983).

Based on the above, the undersigned finds that the plan proposed by the Plaintiffs is statistically equal as to each district. The maximum deviation between the highest population district and the lowest population district is less than one-tenth of one percent, much lower than the difference

approved by the Court of Appeals in  *Fletcher v. Golder*, 959 F.2d at 109. The maximum deviation from the ideal population is  64 individuals in district three to a –61 in district seven, for a total maximum deviation of 125 individuals out of the 142,708 ideal population. Further, the undersigned finds this deviation to be *de minimis*. In addition, the expert stated that he could not obtain complete statistical equality without sacrificing considerable compactness. Thus, as required by *Abrams*, a small deviation is supported by a significant legislative policy, in this case the mandate that the county council districts should be as compact as possible. Therefore, the undersigned concludes that the districts as proposed by the Plaintiffs comply with the “one person, one vote” principle.

Compactness and Contiguity

*10 Section 2.035 of the St. Louis County Charter provides in pertinent part:

The commission [the apportionment commission] shall reapportion the council districts by dividing the population of the county by the number of council districts established by this charter so that the population of each district shall, as near as possible, equal that figure and so that each district shall be composed of contiguous territory as compact as may be. Not later than six months after the population of St. Louis County is reported to the president of the United States after each decennial census or six months after the appointment of the commission by the county executive, whichever is later, the commission shall file with the county clerk and with the office or officer charged with conducting elections in the county a final statement of the

numbers and the boundaries of the districts together with a map of the districts. The final statement must receive the affirmative vote of a majority plus one of all the members. At the next general election held at least nine months after the statement is filed and at general elections thereafter councilmen shall be elected according to such districts until a reapportionment is made as herein provided, but no reapportionment shall shorten the term of any councilman.

St. Louis County Charter, Article II, County Council Part 1, Section 2.035.

As to compactness, the County Charter stresses that the districts must be composed of contiguous territory and must be as compact as they “may be.” Thus, the Court must examine compactness in drawing the districts. The expert specifically considered the compactness requirement in drawing the proposed map. He achieved as equal a population as possible while drawing the districts so they would be as compact as possible. The undersigned notes that perfect compactness is not possible because the outer boundaries of the county are bordered by meandering rivers. The expert measured the compactness of the districts by using the population polygon statistical method. Using this method, each of the districts comes relatively close to a perfect score of 1.0. No district falls below .8 on the population polygon score, and five of the seven districts achieve a score of .9 or better. Further, merely viewing the districts indicates that they are reasonably compact. A small bump or finger extends from the third district and slightly into the seventh district. This small bump is adequately explained by the expert as necessary to equal the population of the two districts. He stated that it was the least harmful way to accomplish this without sacrificing compactness in a more drastic manner. Even with this bump, this district receives a compactness score of .82. Thus, the undersigned concludes and finds that the proposed map comports with the compactness requirement in the County Charter. Further, all parts of the districts are self-contained and, therefore, are contiguous.

Voting Rights Act

*11 Although this case contains no Voting Rights Act claim, the Court nevertheless should review the plan to determine that it protects “minority voting rights.” See  *Fletcher v. Golder*, 959 F.2d at 109 (agreeing that the district court correctly considered the Voting Rights Act in adopting a reapportionment plan, even where no party pleaded a Voting Rights Act violation).  Section 2 of the Voting Rights Act states in pertinent part:

A violation of subsection (a) of this section 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) of this section 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.

 42 U.S.C § 1973(b).

 Section 2 contains no *per se* prohibitions in these particular types of electoral districts. “It says nothing about majority-minority districts, districts dominated by certain political parties, or even districts based entirely on partisan political concerns. Instead,  § 2 focuses exclusively on the consequences of apportionment.”  *Voinovich v. Quilter*, 507 U.S. 146, 155 (1993). The statute essentially prohibits any process that, interacting with social and historical conditions, impairs the ability of a protected class to elect its candidate

of choice on an equal basis with other voters.  *Thornburg v. Gingles*, 478 U.S. 30, 47 (1986).

Plaintiffs seeking to protect their constitutional rights and show a voting rights violation can establish a  § 2 violation by proving three factors as first set forth in *Gingles* and reaffirmed in several other cases: 1) the minority group is sufficiently large and geographically compact to constitute a majority in a properly drawn single district; 2) the minority group is politically cohesive; and 3) that racial-bloc voting typically frustrates the election of the minority's group's preferred candidate. *Id.* at 50–51. See also  *Bartlett v. Strickland*, 556 U.S. 1, 11 (2009); *Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1018 (8th Cir.2006). A minority group satisfying these conditions is then entitled to consideration of its claim on the merits under the totality of circumstances test. *Id.*

Month & Year	Election	African American Candidate	Votes	White Candidate	Votes
Nov.2004	County Executive	Charlie Dooley	280,520 (52.9%)	Gene McNary	242,903 (45.8%)
Nov.2006	County Executive	Charlie Dooley	272,465 (67.3%)	Joe Passanise	124,850 (30.9%)
Feb.2008	President–Dem Primary	Barack Obama	118,143 (62.8%)	Hillary Clinton	66,803 (35.5%)
Nov.2008	President	Barack Obama	333,123 (59.4%)	John McCain	221,705 (39.5%)
Nov.2010	County Executive	Charlie Dooley	191,222 (51.1%)	Bill Corrigan	175,025 (46.7%)

*12 Pltf–8.

Just as importantly, the statistical data supports the conclusion that district one and district four are both “effective minority” districts. In these districts, white voters do not vote in a bloc against African American candidates to the extent previously believed, and the voter turnout percentage is approximately equal between white voters and African American voters.

Further, because the African American “effective minority” districts are in approximate proportion to their population of St. Louis County, the plan would likely not violate the Voting Rights Act even if the *Gingles* factors were met, given the totality of the circumstances in this case. In  *Johnson v. De Grandy*, the Supreme Court noted that the district court found that all three *Gingles* factors were met, which required creating 11 districts, the maximum number of safe Hispanic districts in Dade County, Florida. 512 U.S. 997, 1002, 1009 (1994). In holding that the *Gingles* factors alone were not

Based on the evidence adduced at trial, the undersigned finds that the first two factors are met. The evidence revealed that African Americans constitute a majority of the voting age population in the first and fourth districts and that they vote in 85 to 95% majorities for African American candidates. The evidence, however, does not support the third requirement, i.e., that racial-bloc voting typically frustrates the election of the minority's preferred candidates. In the last five county wide elections in which an African American candidate ran against a white candidate, the African American candidate won the election. The following chart illustrates this result:

**Table 6. Countywide Election Results
with a White Candidate Facing an
African American Candidate, 2002–2010**

sufficient to require that the maximum number of districts be created, the Supreme Court held that while proof of the *Gingles* factors was relevant to a Voting Rights Act violation, courts had to consider other matters which bore on the issue of political opportunity.  512 U.S. 997, 1009 (1994). In holding that no Voting Rights Act violation existed despite the fact that the *Gingles* factors were met, the Court stated:

We hold that no violation of  § 2 can be found here, where, in spite of continuing discrimination and racial bloc voting, minority voters form effective majorities in a number of districts roughly proportional to minority voters' respective shares of the voting-age population. While such proportionality is not dispositive in a challenge to single-member districting, it is a relevant fact in the totality of circumstances to be analyzed when determining whether members of a minority group have “less opportunity than other members of the electorate to participate in

the political process and to elect representatives of their choice.” *Ibid*.

Id. at 1000.

The *Johnson* case is particularly significant when compared to the case presently before this Court. African Americans make up slightly more than 23% of the population of St. Louis County, and each of the seven districts represents 14.3% of the population. Thus, “effective minority” districts exist in slightly greater numbers than the proportional percentage of African Americans in St. Louis County. Further, Dr. Kimball did not draw the current map with race in mind, but, rather, he merely considered equal population, compactness, and contiguity. He analyzed the effect on African American voters only after drawing the new districts. Adding this into the totality of circumstances in the case leads the undersigned to conclude that the proposed plan does not violate the Voting Rights Act in any respect, and the undersigned so holds and concludes.

Conclusion

*13 As stated above, the Court concludes that the plan proposed by Plaintiffs (hereby attached as Exhibits A and B), is equal in population as to each district, compact as to each district, contiguous as to each district, and protects minority voting rights. The evidence reveals that the map was not drawn with Republican or Democrat politics in mind. The expert unequivocally testified that he did not consider politics either before or after drawing the map. The expert made this clear on both direct and cross-examination, despite the efforts of the intervenor to prove otherwise. Although the expert's map was somewhat similar in several respects to the Democrat's last proposal to the Reapportionment Commission, there were also many differences. Significantly, the expert testified unequivocally that he had not considered the last proposed map from the Democrats in any way

in drawing his map. Thus, although given an opportunity to do so, the intervenor was unable to show that the Plaintiffs' proposed map was drawn with a political purpose in mind. Therefore, the map is equal in population, compact, contiguous, protects minority rights, and is not the product of politics. The undersigned adopts the Plaintiffs' map as the map to be used in the reapportionment of St. Louis County because it best satisfies the constitutional and statutory goals of apportionment.

Accordingly,

IT IS HEREBY ORDERED that the current St. Louis County, Missouri Council Districts are declared in violation of the Fourteenth Amendment to the United States Constitution, and  [Article 1, Section 2 of the Missouri Constitution](#).

IT IS FURTHER ORDERED that the apportionment plan adopted by the Court in this Memorandum which is attached hereto as Exhibit A and B, and is the Plaintiffs' proposed plan be declared to meet all federal and state constitutional requirements.

IT IS FURTHER ORDERED that said plan of reapportionment govern the election of members of the St. Louis County, Missouri Council beginning with the 2012 election and continuing thereafter until St. Louis County, Missouri Council Districts are reapportioned in accordance with law.

IT IS FURTHER ORDERED that the Defendants in the performance of their duties and functions be governed by and comply with the Court-adopted plan of apportionment.

All Citations

Not Reported in F.Supp.2d, 2012 WL 601017

Footnotes

- 1 Mr. Quinn's attorney represented, and the Court so ordered in the Memorandum and Order granting the motion to intervene, that Mr. Quinn may request attorneys' fees should he prevail.