

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

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP, *et al.*,

Plaintiffs,

v.

THOMAS C. ALEXANDER, *et al.*,

Defendants.

Case No. 3:21-cv-03302-MGL-TJH-RMG

**SENATE DEFENDANTS' AND
HOUSE DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

Because redistricting “is primarily the duty and responsibility of the State,” “[f]ederal-court review of districting legislation represents a serious intrusion on the most vital of local functions.” *Miller v. Johnson*, 515 U.S. 900, 915 (1995). “Electoral districting is a most difficult subject for legislatures, and so the States must have discretion to exercise the political judgment necessary to balance competing interests,” and “the good faith of a state legislature must be presumed.” *Id.* Accordingly, federal courts must “exercise extraordinary caution in adjudicating claims that a State has drawn district lines on the basis of race.” *Id.* at 915–16; *see also Abbott v. Perez*, 138 S. Ct. 2305, 2324 (2018). Such caution is “especially appropriate” in cases like this one, “where the State has articulated a legitimate political explanation for its districting decision, and the voting population is one in which race and political affiliation are highly correlated.” *Easley v. Cromartie*, 532 U.S. 234, 242 (2001) (*Cromartie II*).

Plaintiffs therefore face a “demanding” burden of proof on their challenges to the Congressional Plan the General Assembly enacted earlier this year. *Id.* at 241. Although Plaintiffs initiated this suit with sweeping and offensive allegations that the General Assembly “used its redistricting power to ... discriminate against [b]lack voters,” Dkt. No. 267 ¶ 1, this Court was

quick to note that the evidence “may tell a different story,” Dkt. No. 291 at 6. The evidence does just that. Indeed, *every* legislator and staffer who Plaintiffs have deposed—including an African-American legislator—has confirmed that race was not used to draw lines in the Congressional Plan, that race did not predominate in the Plan, and that the General Assembly did not intentionally discriminate in enacting the Plan.

Thus, it is unsurprising that Plaintiffs cannot prove their extraordinary allegations that the General Assembly unconstitutionally used race in drawing the Congressional Plan. In particular, Plaintiffs’ racial gerrymandering claim requires a sufficient showing that race was the General Assembly’s “dominant and controlling consideration,” *Shaw v. Hunt*, 517 U.S. 899, 905 (1996) (*Shaw II*), such that it “subordinated traditional race-neutral districting principles . . . to racial considerations” in the Congressional Plan, *Miller*, 515 U.S. at 916. But far from satisfying this exacting burden, Plaintiffs *acknowledge* that the Congressional Plan is largely a continuation of the Benchmark Plan that this Court and the Supreme Court upheld against racial gerrymandering and other challenges in *Backus v. South Carolina*, 857 F. Supp. 2d 553, 557 (D.S.C.), *aff’d*, 568 U.S. 801 (2012). Moreover, undisputed record evidence confirms that traditional districting principles, rather than race, are “the basis for” the Congressional Plan. *Miller*, 515 U.S. at 916.

If that were not enough, Plaintiffs cannot carry their heavy burden to show that race predominates in the Congressional Plan for at least three more independent reasons. *First*—like the putative expert this Court rejected in *Backus*—each of Plaintiffs’ putative experts “failed to consider all the traditional race-neutral principles that guide redistricting in South Carolina.” *Backus*, 857 F. Supp. 2d at 562. Thus, Plaintiffs’ putative expert analysis is “incomplete” and “unconvincing” and cannot carry Plaintiffs’ burden. *Id.* at 562–63. *Second*, Plaintiffs offer no evidence, such as alternative maps, that the General Assembly “could have achieved its legitimate

political objectives in alternative ways that are comparably consistent with traditional districting principles.” *Cromartie II*, 532 U.S. at 258. *Third*, at bottom, Plaintiffs ask this Court to engage in the race-conscious exercise of prioritizing African-Americans’ ability to influence congressional elections over traditional districting principles—a “textbook” racial gerrymander that this Court may not impose. *Cooper v. Harris*, 137 S. Ct. 1455, 1469 (2017).

Plaintiffs fare no better on their intentional discrimination claim. That claim requires them to set forth specific facts showing that the Congressional Plan has “disproportionately adverse” effects upon African-American voters and that the General Assembly enacted the Congressional Plan “because of, not merely in spite of,” those effects. *Pers. Adm’r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979). Plaintiffs do not allege that the General Assembly should have created a majority-African-American district in the Congressional Plan, which is presumably why they have not brought a claim under Section 2 of the Voting Rights Act.

Rather, Plaintiffs’ theory of discriminatory effect posits that the General Assembly should have increased the black voting-age population (BVAP) in Districts 1, 2, or 5 in order to enhance African-American voters’ ability to form coalitions with white Democrats, to “elect” their preferred candidates, and to exercise political “influence” in those districts. Dkt. No. 267 ¶ 171. But there is no “right to form political coalitions,” *Bartlett v. Strickland*, 556 U.S. 1, 15 (2009), so the General Assembly’s decision not to adopt such districts does not inflict an “adverse effect” on African-American voters as a matter of law, *see, e.g., Feeney*, 442 U.S. at 279; *see also Nixon v. Kent Cnty.*, 76 F.3d 1381, 1392 (6th Cir. 1996) (en banc); *Hall v. Virginia*, 385 F.3d 421, 431 (4th Cir. 2004). The Congressional Plan illustrates why. The Congressional Plan treats all African-American Democrats and “similarly situated” white Democrats in Districts 1, 2, and 5 exactly the same, *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439–40 (1985): it has the *same effect*

on *all* Democrats to form winning coalitions, regardless of their race, so it does not impose an “adverse effect” on any voters “because of” race, *Feeney*, 442 U.S. at 279.

Plaintiffs’ intentional discrimination claim also fails because Plaintiffs have no direct evidence of discriminatory intent by *any* legislator, let alone the General Assembly “as a whole,” *Brnovich v. Democratic Nat’l Comm.*, 141 S. Ct. 2321, 2339 (2021), and their scattered circumstantial evidence is insufficient to carry their heavy burden. The Court should grant summary judgment.¹

BACKGROUND

A. Congressional Redistricting Following The 2000 Census

In 1994, the General Assembly enacted into law a redistricting plan for South Carolina’s congressional delegation. *Colleton Cnty. Council v. McConnell*, 201 F. Supp. 2d 618, 664 (D.S.C. 2002) (three-judge court). Under the 1994 plan, District 6 was a majority-BVAP district, and Charleston County was split into two districts. *See id.* at 665–66 & n.29.

Following an impasse between the General Assembly and then-Governor Hodges, a three-judge panel of this Court drew a new Congressional districting plan in 2002 to account for population shifts revealed by the 2000 Census results. *See id.* at 663–68. Among other things, the 2000 Census revealed that District 6 was “severely underpopulated” by nearly 10%. *Id.* at 663. In drawing the remedial plan, the three-judge panel “generally sought to maintain the cores of the existing congressional districts” and to make other changes “as individual district requirements dictated to correct the population deviations.” *Id.* at 664. The 2002 court-drawn plan maintained a split of Charleston County. *See id.* at 666 n.29.

¹ Pursuant to Local Civil Rule 7.04 (D.S.C.), a separate memorandum is not submitted because this motion contains a full explanation and, thus, one “would serve no useful purpose.”

B. Congressional Redistricting Following The 2010 Census

In 2011, the General Assembly enacted a new Congressional redistricting plan that reflected population shifts revealed by the 2010 Census results and the apportionment of a seventh Congressional district to South Carolina. *See Backus*, 857 F. Supp. 2d at 557. The 2011 plan (“Benchmark Plan”) maintained a split of Charleston County between District 1 and District 6. *See* Benchmark Plan Map (Ex. 1). Benchmark District 6 had a BVAP of 55.18% under the 2010 Census results. *See* Benchmark Plan Statistics 2010 (Ex. 2).

The Obama Department of Justice precleared the Benchmark Plan, and a three-judge panel of this Court upheld it against racial gerrymandering, intentional discrimination, and Section 2 claims. *See Backus*, 857 F. Supp. 2d at 558–70.² The racial gerrymandering claim failed in part because the challengers’ putative expert “failed to consider all the traditional race-neutral principles that guide redistricting in South Carolina” and, thus, this Court rejected the putative expert’s analysis as “problematic,” “incomplete,” and “unconvincing.” *Id.* at 562–63. The Supreme Court summarily affirmed this Court’s decision. *See Backus*, 857 F. Supp. 2d 553, *aff’d*, 568 U.S. 801.

The *Backus* plaintiffs moved to set aside the Court’s judgment following the Supreme Court’s decision in *Shelby County v. Holder*, 570 U.S. 529 (2013). *See Backus v. South Carolina*, No. 3:11-cv-03120 (D.S.C. Aug. 29, 2013) (Dkt. No. 223). The Court denied the motion, *see id.* (Dkt. No. 239), and the Supreme Court dismissed the appeal, *see id.* (Dkt. Nos. 243, 244).

² Plaintiffs’ national counsel has repeatedly misrepresented *Backus* to witnesses in this case. Contrary to these misleading assertions, *Backus* had nothing to do with Section 5. Further, it is worth noting the *Backus* plaintiffs did not simply fail to meet their burden; this Court expressly held that “Defendants were able to disprove that race was the predominant factor.” *Backus*, 857 F. Supp. 2d at 560.

C. Congressional Redistricting Following The 2020 Census

The belatedly released 2020 Census results revealed that the Benchmark Plan had become malapportioned and needed to be redrawn to comply with the Constitution’s one-person, one-vote mandate. *Karcher v. Daggett*, 462 U.S. 725 (1983); 2021 Senate Redistricting Guidelines (Ex. 3). In particular, the Census results revealed massive population shifts away from predominantly African-American areas and toward coastal areas. Thus, under the 2020 Census results, Benchmark District 6 was underpopulated by 11.59% and neighboring Benchmark District 1 was overpopulated by 11.99%. *See* Benchmark Plan Statistics 2020 (Ex. 4). The remaining districts were between 3.34% underpopulated and 3.97% overpopulated. *See id.*

The General Assembly adopted the Congressional Plan (“Senate Amendment 1”) as S. 865 in January 2022. The Senate’s Redistricting Guidelines specifically identified “[p]reserving the cores of existing districts” as a traditional criterion. 2021 Senate Redistricting Guidelines III.B (Ex. 3); *Karcher*, 462 U.S. at 740; *Colleton Cnty. Council*, 201 F. Supp. 2d at 630, 647, 664. The Congressional Plan thus preserves high percentages of the cores of each of the seven districts. *See infra* p. 13.

The Congressional Plan maintains a split of Charleston County—which has been split for three decades—and splits a total of only 10 counties and 13 voting districts. *See* Congressional Plan Splits Report (Ex. 5). The Congressional Plan also maintains the partisan composition of six majority-Republican districts and one majority-Democratic district (District 6). *See* Congressional Plan Partisan Report (Ex. 6). According to 2020 presidential election results, District 1 is 54.39% Republican in the Congressional Plan. *See id.*

The 2020 Census results revealed changes in the BVAP levels in the Benchmark Plan, and those levels changed in the Congressional Plan. In particular, under the 2020 Census results:

- District 1’s Benchmark BVAP was 16.56% and Enacted BVAP is 16.72%;

- District 2's Benchmark BVAP was 23.06% and Enacted BVAP is 24.49%;
- District 5's Benchmark BVAP was 25.06% and Enacted BVAP is 24.03%; and
- Benchmark District 6 was underpopulated by nearly 12% and had a 51.04% BVAP, and Enacted District 6 has a 45.90% BVAP.

See Benchmark Plan Statistics 2020 (Ex. 4); Congressional Plan Statistics (Ex. 7).

D. Plaintiffs' and Senator Harpootlian's Alternative Plans

Plaintiff South Carolina NAACP proposed two plans as alternatives to the Congressional Plan. Dkt. No. 267 ¶ 154. The first such proposal, NAACP Plan 1, significantly redraws South Carolina's congressional map compared to the Benchmark Plan and the Congressional Plan. See NAACP Plan 1 Map (Ex. 8). NAACP Plan 1 thus preserves a significantly smaller percentage of the cores of districts than the Congressional Plan. See *infra* p. 13.

NAACP Plan 1 also splits 14 counties affecting population and 24 voting districts (precincts) affecting population, both more than the Congressional Plan. See NAACP Plan 1 Splits Report (Ex. 9). By dramatically redrawing South Carolina's congressional districts, NAACP Plan 1 also increases District 1's BVAP to 34.02%, more than double the level in either the Benchmark Plan or the Congressional Plan. See NAACP Plan 1 Statistics (Ex. 10).

The NAACP's second proposal, NAACP Plan 2, likewise preserves less of the cores of the Benchmark Districts than the Congressional Plan. See NAACP Plan 2 Map (Ex. 11); see also *infra* p. 13. NAACP Plan 2 splits 11 counties affecting population and 53 voting districts affecting population, both more than the Congressional Plan. See NAACP Plan 2 Splits Report (Ex. 12). NAACP Plan 2 increases District 1's BVAP to 23.26%, which is at least 5% higher than the Benchmark Plan or the Congressional Plan at any time. See NAACP Plan 2 Statistics (Ex. 13).

Democrat Senator Richard Harpootlian also proposed an alternative plan to the General Assembly (“Senate Amendment 2” or the “Harpootlian Plan”). *See* Harpootlian Plan Map (Ex. 14). Like the NAACP’s submissions, the Harpootlian Plan preserves much less of the cores of the Benchmark Plan than the Congressional Plan. *See infra* p. 13.

The Harpootlian Plan also splits 6 counties affecting population and 17 voting districts affecting population. *See* Harpootlian Plan Splits Report (Ex. 15). Compared to the Congressional Plan, the Harpootlian Plan increases District 1’s BVAP to 21.76%, District 5’s BVAP to 34.23%, and District 6’s BVAP to 50.27%. *See* Harpootlian Plan Statistics (Ex. 16).

Both the NAACP’s plans and the Harpootlian Plan fail to maintain six majority-Republican districts and one majority-Democratic district. In addition to keeping District 6 as a Democratic district, the NAACP plans make District 1 “reliably effective” for Democrats, Duchin Tr. 152:9–154:4, 159:8–9 (Ex. 17); *see also* Duchin Rep. 25 (Ex. 18); Liu Rep. 12–13 tbl. 4 (Ex. 19); Liu Tr. 46:16–47:6 (Ex. 20), and the Harpootlian Plan makes District 1 a 51.83% Democratic district, *see* Harpootlian Plan Partisan Report (Ex. 21).

E. Plaintiffs’ Challenges To The Congressional Plan

Plaintiffs bring racial gerrymandering and intentional discrimination claims against Districts 1, 2, and 5. *See* Dkt. No. 267 ¶¶ 160–73. Plaintiffs posit that the changes the Congressional Plan made to District 6, on the one hand, and Districts 1, 2, and 5, on the other, evince racial predominance and intentional discrimination. *See id.* Plaintiffs, however, have not challenged District 6 or explained why they did not do so. *See id.*

To date, Plaintiffs have deposed numerous legislators and staffers involved in the enactment of the Congressional Plan, including several House members, Senator George Campsen (the lead sponsor of the Plan), Senator Shane Massey, William Roberts (the Senate’s nonpartisan mapdrawer), and Andrew Fiffick (the nonpartisan Chief of Staff and Director of Research for the

Senate Judiciary Committee, and the Senate staffer in charge of redistricting). Every legislator and staffer deposed in this case has confirmed that no lines in the Congressional Plan were drawn based upon race, that race did not predominate in the Plan, and that the General Assembly did not intentionally discriminate in adopting it. *See* Roberts Tr. 73:25–76:5; 170:1–180:24; 258:6–11 (Ex. 22); Fiffick Tr. 123:16–125:22 (Ex. 23); Campsen Tr. 83:4–88:11, 216:2–20 (Ex. 24); Massey Tr. 134:12–136:23, 143:17–146:25, 163:10–163:18, 173:19–175:4, 196:19–197:10 (Ex. 25). This includes Democratic Representative Justin Bamberg, an African-American legislator, testified that the Plan is not tainted by racial predominance or intentional discrimination. *See* Bamberg Tr. 52:4–59:18, 122:6–130:20 (Ex. 26).

Plaintiffs have adduced no direct evidence of racial predominance or intentional discrimination in the Congressional Plan despite volumes of discovery data and the contents of both the Senate and House Map Rooms. Instead, Plaintiffs have proffered five putative expert witnesses to support their claims. But like the expert this Court rejected in *Backus*—and by their own admission—each of Plaintiffs’ putative experts failed to consider “all the traditional race-neutral principles that guide redistricting in South Carolina.” 857 F. Supp. 2d at 562.

- Dr. Moon Duchin conducted an ensemble analysis in an attempt to isolate the role that race played in the Congressional Plan, but she did not consider core preservation, voting district splits, incumbency protection, partisan performance, and communities of interest other than the few that she deemed important. *See* Duchin Rep. 22 (Ex. 18); Duchin Tr. 67:13–14, 67:25–68:1, 68:5, 134:15–21, 135:15–16, 24, 136:5–6 (Ex. 17).
- Dr. Kosuke Imai conducted a simulation analysis but failed to consider core preservation, voting district splits, communities of interest, keeping incumbents with their core constituents, partisan performance, and the legality of his simulated plans.

See Imai Rep. 4–5, 9–10 (Ex. 27); Imai Tr. 67:20–68:5, 103:20–106:22, 180:17–183:15 (Ex. 28).

- Dr. Jordan Ragusa used an “envelope” approach that attempted to evaluate whether higher-BVAP voting districts were more or less likely to be moved into or out of a district as part of the Congressional Plan, but he did not consider core preservation, voting district splits, contiguity, compactness, political subdivisions, partisan performance, and communities of interest at a granular level. *See* Ragusa Rep. 1–4 (Ex. 29); Ragusa Tr. 306:11–12, 306:3–6, 307:7–16 (Ex. 30).
- Dr. Baodong Liu analyzed racial and voting data in an effort to assess whether race determined whether voters were moved into or out of various districts under the Congressional Plan, but he failed to consider core preservation, voting district splits, contiguity, compactness, incumbency protection, and communities of interest. Liu Tr. 90:10–23; 126:7–127:24, 143:25–144:2, 144:5–7 (Ex. 20).
- Dr. Joseph Bagley opined on the “historical and contemporaneous context” surrounding the enactment of the Congressional Plan, but he did not purport to analyze the Plan’s compliance with traditional districting principles. Bagley Rep. 3 (Ex. 31).

Senate Defendants and House Defendants have proffered redistricting expert and elections analyst Sean Trende as an expert. *See* Trende Rep. (Ex. 32); Trende Rebuttal Rep. (Ex. 33).

LEGAL STANDARD

“Summary judgment is appropriate ‘if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.’” *United States ex rel. Gugenheim v. Meridian Senior Living, LLC*, 36 F.4th 173, 178 (4th Cir. 2022) (quoting Fed. R. Civ. P. 56(a)). “[A] party opposing a properly supported motion for summary judgment may

not rest upon mere allegation” or even a “scintilla of evidence” supporting its position. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 256 (1986). Rather, the nonmoving party “must set forth specific facts showing that there is a genuine issue for trial”—an “obligation [that] is particularly strong when the nonmoving party bears the burden of proof.” *Pachaly v. City of Lynchburg*, 897 F.2d 723, 725 (4th Cir. 1990). Indeed, Rule 56 “mandates” the entry of summary judgment against “a party who fails to make a showing sufficient to establish the existence of an element essential to that party’s case.” *Cray Commc’ns, Inc. v. Novatel Computer Sys., Inc.*, 33 F.3d 390, 393 (4th Cir. 1994) (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986)).

ARGUMENT

I. SENATE DEFENDANTS AND HOUSE DEFENDANTS ARE ENTITLED TO SUMMARY JUDGMENT ON THE RACIAL GERRYMANDERING CLAIM

Plaintiffs’ evidence is doubly insufficient to carry their “demanding” burden on their racial gerrymandering claim, *Cromartie II*, 532 U.S. at 241: the record evidence fails to show *both* that the General Assembly “subordinated traditional race-neutral districting principles . . . to racial considerations,” *Miller*, 515 U.S. at 916; *see infra* Part I.A, *and* that the General Assembly “could have achieved its legitimate political objectives in alternative ways that are comparably consistent with traditional districting principles,” *Cromartie II*, 532 U.S. at 258; *see infra* Part I.B. And if those two failures were not enough, Plaintiffs in fact ask this Court to *impose* a racial gerrymander on South Carolina’s voters. *See infra* Part I.C. The Court should grant summary judgment.

A. Plaintiffs Cannot Show That The General Assembly Subordinated Traditional Districting Principles To Race

Plaintiffs’ demanding burden on count one requires a showing that race was the General Assembly’s “dominant and controlling consideration,” *Shaw II*, 517 U.S. at 905, such that it “subordinated traditional race-neutral districting principles . . . to racial considerations” in drawing the Congressional Plan, *Miller*, 515 U.S. at 916. Far from satisfying this burden, the record

evidence—much of which is undisputed—shows that traditional districting principles, rather than race, are “the basis for” the Congressional Plan. *Id.* And although Plaintiffs trotted out a stable of putative experts to perform various data analyses that purportedly demonstrate that race played an allegedly “significant” role in the Congressional Plan, these putative experts committed the same fatal error as the “problematic” expert this Court rejected in *Backus*. By their own admission, each “failed to consider all the traditional race-neutral principles that guide redistricting in South Carolina” and, thus, their analysis “is incomplete and unconvincing.” 857 F. Supp. 2d at 562–63.

1. Undisputed Record Evidence Confirms That The Congressional Plan Was Based on Traditional Districting Principles, Not Race

“[T]raditional race-neutral principles that guide redistricting in South Carolina” include, among others, (a) core retention, (b) the preservation of political subdivisions, voting districts, and communities of interest, (c) compactness and contiguity, and (d) the protection of incumbents and preservation of political advantage. *Backus*, 857 F. Supp. 2d at 562–63; *Miller*, 515 U.S. at 916; *Raleigh Wake Citizens Ass’n v. Wake Cnty. Bd. of Elections*, 827 F.3d 333, 352 (4th Cir. 2016). The undisputed record evidence below confirms that the General Assembly adhered to these principles rather than subordinating them to race.

a. The Congressional Plan Undisputedly Preserves The Cores Of Districts

This Court long has recognized that “preserving the cores of existing districts” is a traditional districting principle in South Carolina—and, in fact, that compliance with this principle also fosters compliance with other race-neutral principles, such as maintaining communities of interest and respecting political boundaries. *Backus*, 857 F. Supp. 2d at 560; *see Colleton Cnty. Council v. McConnell*, 201 F. Supp. 2d 618, 647, 649 (D.S.C. 2002) (three-judge court). In particular, when drawing South Carolina’s redistricting plans in 2002, this Court observed:

Generally speaking, however, we find that the cores in existing districts are the clearest expression of the legislature’s intent to

group persons on a “community of interest” basis, and because the cores are drawn with other traditional districting principles in mind, they will necessarily incorporate the state’s other recognized interests in maintaining political boundaries, such as county and municipal lines, as well as other natural and historical communities of interest.

Colleton Cnty. Council, 201 F. Supp. 2d at 649.

There is no dispute that the Congressional Plan preserves the cores of district and, indeed, dramatically outperforms the NAACP’s and Senator Harpootlian’s proposed plans on this metric in every district, including the districts Plaintiffs challenge. Six of the seven districts under the Congressional Plan have high core retention rates that exceed 92%. The rate for the remaining district, District 6, is not quite as high at 77%, but that is unsurprising because the district’s severe underpopulation required the General Assembly to add thousands of voters and, in any event, the rate still outstrips the 45–54.34% rates achieved by the NAACP’s and Senator Harpootlian’s plans.

Preservation Of Cores Of Existing Districts

District	Congressional Plan	NAACP 1	NAACP 2	Harpootlian
1	92.78%	52.23%	72.46%	73.39%
2	96.75%	71.69%	51.52%	65.71%
3	94.75%	75.30%	86.34%	70.38%
4	98.09%	83.00%	87.51%	74.35%
5	95.04%	57.15%	79.85%	55.23%
6	77.41%	45.53%	46.35%	54.34%
7	99.51%	59.77%	99.30%	55.83%

See Congressional Plan Core Preservation Report (Ex. 34); NAACP Plan 1 Core Preservation Report (Ex. 35); NAACP Plan 2 Core Preservation Report (Ex. 36); Harpootlian Plan Core Preservation Report (Ex. 37).

Thus, rather than “subordinat[ing]” this “traditional race-neutral consideration[]” to race, the Congressional Plan carefully adheres to it. *Miller*, 515 U.S. at 916.

b. The Congressional Plan Preserves Political Subdivisions, Voting Districts, And Communities Of Interest

The Congressional Plan also preserves political subdivisions, voting districts, and communities of interest. In fact, Plaintiffs do not dispute that the Congressional Plan surpasses the Court-endorsed Benchmark Plan and the NAACP’s plans in preserving counties and voting districts. The Congressional Plan splits only 10 counties and 13 voting districts affecting population, *see supra* p. 6, compared to 12 split counties and 65 split voting districts in the Benchmark Plan, Benchmark Plan Splits Report (Ex. 38). NAACP Plan 1 splits 14 counties and 24 voting districts affecting population, *see supra* p. 7, and NAACP Plan 2 splits 11 counties and 53 voting districts affecting population, *see supra* p. 7. The Harpootlian Plan performs slightly better than the Congressional Plan on county splits (6), but worse on voting district splits (17). *See supra* p. 8. The General Assembly therefore chose a redistricting plan that complies with, rather than subordinates, these “race-neutral districting principle[.]” *Miller*, 515 U.S. at 916.

The General Assembly’s pursuit of the goal of minimizing voting district splits is even more evident in the specific changes between Districts 1 and 6, Districts 2 and 6, and Districts 5 and 6 that Plaintiffs challenge. *See* Dkt. No. 267 ¶¶ 150–54, 163. The changes between Districts 1 and 6 in Charleston County eliminated all 5 voting district splits that existed in Charleston County under the Benchmark Plan; the changes between Districts 2 and 6 repaired 19 of the 21 voting district splits that existed in Richland County and all 3 of the voting district splits that

existed in Orangeburg County under the Benchmark Plan; and the changes between Districts 5 and 6 eliminated 5 of the 6 voting district splits that existed in Sumter County under the Benchmark Plan. *Compare* Benchmark Plan Splits Report (Ex. 38), *with* Congressional Plan Splits Report (Ex. 5). Thus, these changes to Districts 1, 2, and 5 challenged by Plaintiffs reflect the “race-neutral consideration[]” of minimizing divisions of voting districts. *Miller*, 515 U.S. at 916.

The General Assembly also preserved communities of interest. As noted, the General Assembly’s preservation of district cores was “the clearest expression of [its] intent to group persons on a ‘community of interest’ basis.” *Colleton Cnty. Council*, 201 F. Supp. 2d at 649. And consistent with its broad definition of “[c]ommunities of interest,” 2021 Senate Redistricting Guidelines III.A (Ex. 3), the General Assembly maintained other communities of interest:

- In Richland County, the General Assembly kept the community of interest around Fort Jackson in District 2, which is represented by Representative Joe Wilson, a member of the House Armed Services Committee. *See* Campsen Tr. 95:18–96:1 (Ex. 24); *Colleton Cnty. Council*, 201 F. Supp. 2d at 668.
- The General Assembly maintained the Republican “political” community of interest in District 1 at a 54.39% level. 2021 Senate Redistricting Guidelines III.A (Ex. 3); *see* Congressional Plan Partisan Report (Ex. 6); Massey Tr. 134:12–136:23 (Ex. 25).
- The General Assembly included two precincts in Jasper County in District 1 in order to place the entire Sun City community of interest in a single district. *See* Roberts Tr. 206:5–14 (Ex. 22); Nov. 29, 2021 Tr. 6, 21–22 (Ex. 39).
- The General Assembly also included the Limestone precincts from Orangeburg County in District 2 based on testimony that the area forms a community of interest with neighboring areas in District 2. Nov. 29, 2021 Tr. 6 (Ex. 39).

Neither of the NAACP's plans nor the Harpootlian Plan maintains any of those communities of interest. Thus, on these metrics too, the General Assembly complied with, rather than subordinated, traditional redistricting principles. *See Miller*, 515 U.S. at 916.

c. The Congressional Plan Is Contiguous and Compact

There is also no dispute that the Congressional Plan is contiguous, as each district is “composed of contiguous geography.” 2021 Senate Redistricting Guidelines II (Ex. 3). Moreover, while Plaintiffs’ experts dispute the *degree* of the Congressional Plan’s compactness compared to various alternatives, none disputes that the Congressional Plan is compact. *See* Trende Rep. 19–20 & tbl. 6 (Ex. 32). The General Assembly did not subordinate contiguity or compactness to race. *See Miller*, 515 U.S. at 916.

d. The Congressional Plan Undisputedly Protects Incumbents and Preserves Political Advantage

Finally, the Congressional Plan undisputedly promotes both “incumbency protection” and “political advantage”—two more “[t]raditional race-neutral districting principles.” *Raleigh Wake Citizens Ass’n*, 827 F.3d at 352 (quoting *Miller*, 515 U.S. at 916); *see also* 2021 Senate Redistricting Guidelines III.A, III.B (Ex. 3). As to the former, the Congressional Plan “avoid[s] contests between incumbent[s].” *Bush v. Vera*, 517 U.S. 952, 964 (1996) (plurality opinion); *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 412 (2006) (plurality opinion) (similar); *see* Duchin Rep. 13 (Ex. 18). The Congressional Plan also preserves Republican political advantage, namely the 6-1 Republican-to-Democratic split in House seats. As discussed further below, this political consideration animated the General Assembly’s line-drawing decisions and is embodied in the map that was ultimately enacted, which maintains the pro-Republican composition of six districts. *See infra* Part I.B.1. Both NAACP plans and the Harpootlian Plan would have eliminated that political advantage. *See supra* p. 8.

2. Plaintiffs Have Not Come Close To Satisfying Their Burden To Show That Race Predominated in the Congressional Plan

The undisputed evidence of compliance with traditional districting principles alone demonstrates that the Congressional Plan did not “subordinate[] traditional race-neutral districting principles . . . to racial considerations” and, thus, that the Court should grant summary judgment. *Miller*, 515 U.S. at 916. But it is not the only undisputed evidence showing that race did not predominate in the Congressional Plan: as explained, *every* legislator or staffer who Plaintiffs have deposed has confirmed that race did not predominate and that the General Assembly did not intentionally discriminate in enacting the Plan. *See supra* pp. 8–9.

In the face of all this undisputed evidence, Plaintiffs have offered nothing that could carry their burden to show that race was actually the General Assembly’s “dominant and controlling consideration,” *Shaw II*, 517 U.S. at 905, such that it “subordinated traditional race-neutral districting principles . . . to racial considerations,” *Miller*, 515 U.S. at 916. Rather than identifying any direct evidence that race drove the General Assembly’s decisions, Plaintiffs attempt to carry their burden by relying on various putative experts’ data analyses purporting to assess the role of race in the Congressional Plan. But each of these putative experts—Duchin, Imai, Ragusa, and Liu—committed the same fatal error as the expert this Court rejected in *Backus*: by their own admission, each “failed to consider all the traditional race-neutral principles that guide redistricting in South Carolina.” 857 F. Supp. 2d at 562. Thus, each putative expert’s analysis “is incomplete and unconvincing” and cannot carry Plaintiffs’ burden. *Id.* at 561–63.

First, Duchin “found that racial factors predominated” in the Congressional Plan based on an algorithmic “ensemble method” that “construct[ed] large numbers of sample plans that vary district lines while holding the rules and geography constant.” Duchin Rep. 22, 27 (Ex. 18). In generating the ensembles, Duchin “enforced” population balance and contiguity, “implemented . . .

a preference for compactness and for the preservation of counties and municipalities,” and “performed runs which attempt[ed] to prioritize the preservation of certain communities of interest identified in public testimony.” *Id.* But Duchin admitted that she did not control for—or even consider—numerous other traditional districting principles, particularly core preservation, avoiding VTD splits, incumbency protection, partisan performance, and communities of interest other than the few that she deemed important. Duchin Tr. 67:13–14, 67:25–68:1, 68:5, 135:15–16, 24, 136:5–6 (Ex. 17); *see also* Duchin Rep. 22 (Ex. 18). Duchin did not consider these principles even though she *acknowledged* that all or some of them may have been *more* significant to the General Assembly than her preferred criteria and were identified in the Senate Guidelines. Duchin Tr. 134:15–21 (Ex. 17); *see id.* at 70:9–11, 73:12–13, 73:18, 76:2–3, 14–15. Having failed to consider these principles, Duchin’s analysis is “incomplete and unconvincing” and “unable” to show that the General Assembly subordinated them to race. *Backus*, 857 F. Supp. 2d at 562–63.³

Second, like Duchin, Imai relied on an ensemble of simulated plans to conclude that “race played a significant role” in the Congressional Plan “beyond the purpose of adhering to the traditional redistricting criteria, including those specified in the South Carolina guidelines.” Imai

³ Even with respect to the traditional districting principles that Duchin *did* consider, her analysis was inadequate. For example, she considered only mathematical measures of compactness, *see* Duchin Rep. 8, 11 (Ex. 18), even though she acknowledged that the House Redistricting Guidelines “express[ly]” state that compactness “should not be judged based upon any mathematical, statistical, or formula-based calculation or determination,” *id.* at 8 (quoting House Redistricting Guidelines); *see also* House Redistricting Guidelines VI (Ex. 43). Duchin also admitted that to the extent she considered compactness and preservation of political subdivisions, her report did not analyze how the Congressional Plan compares to the ensemble plans on those metrics. Duchin Tr. 149:19 (Ex. 17). Finally, Duchin considered only four communities of interest despite acknowledging that more “certainly” exist, *id.* at 81:16, and she hand-picked those four communities of interest based only on her reading of the public hearing transcripts—an approach that she conceded lacks support in the academic literature and “certainly” does not yield a representative sample of the views of South Carolina voters, *id.* at 84:22–23, 86:20; *see id.* at 86:22–25, 87:5–6; 88:22.

Rep. 4–5 (Ex. 27). Imai controlled for the basic districting principles of population balance, contiguity, mathematical compactness, municipal and county splits, and avoiding incumbent pairing. *See id.* at 8–10. Imai conceded, however, that he did not account for any other traditional districting principles identified in the Senate Guidelines, including core preservation, voting district splits, communities of interest, and keeping incumbents with their core constituents. *See* Imai Tr. 103:20–106:22 (Ex. 28). Imai did not even consider whether his simulated plans were legal. *Id.* at 36:6–22, 67:20–68:5. And Imai conceded that he did not control for partisan performance. *See* Imai Rep. 9–10 (Ex. 27); Imai Tr. 155:9–10, 181:16–18, 182:25–183:15 (Ex. 28). By ignoring all of these considerations, Imai necessarily failed to achieve his stated goal of “isolat[ing] the role of race” in the Congressional Plan. Imai Tr. 105:25 (Ex. 28).

Third, Ragusa’s analysis is similarly flawed. By comparing the Benchmark Plan and the Congressional Plan using his “envelope” approach, he purported to assess whether precincts with higher BVAPs within a given county were more or less likely to be moved into or out of a district as part of the Congressional Plan. *See* Ragusa Rep. 1–4 (Ex. 29). But Ragusa failed to control for myriad traditional districting principles, including core preservation, VTD splits, compactness, political subdivisions, and communities of interest at a granular level. *See* Ragusa Tr. 306:11–12, 306:3–6, 307:7–16 (Ex. 30). Ragusa even failed to control for contiguity—one of the most “fundamental” districting principles. *Johnson v. Miller*, 864 F. Supp. 1354, 1384 (S.D. Ga. 1994), *aff’d*, 515 U.S. 900 (1995); *see* Trende Rebuttal Rep. 9–11 (Ex. 33).

Finally, Liu concluded that race was the “driving factor” in whether voters were moved into or out of challenged districts based on his analysis of race and voting data. Liu Rep. 6, 21; *see id.* at 17–20 (Ex. 19). But Liu conceded that he “doesn’t control for any” factors other than race and politics. Liu Tr. 143:25–144:2 (Ex. 20). He therefore failed to control for almost every

traditional principle, including core preservation, avoiding VTD splits, compactness, incumbency protection, communities of interest, and even contiguity. *Id.* 90:10–23; 126:7–127:24, 144:5–7.

In sum, Plaintiffs’ putative experts’ failure “to consider all the traditional race-neutral principles that guide redistricting in South Carolina” alone warrants summary judgment on their racial gerrymandering claim in count one. *Backus*, 857 F. Supp. 2d at 562–63.

B. Plaintiffs Cannot Satisfy Their Burden To Show That Race Rather Than Politics Predominated

Plaintiffs’ failure to demonstrate racial predominance alone warrants summary judgment. *See supra* Part I.A. Plaintiffs, moreover, cannot show racial predominance for another reason. In South Carolina, as elsewhere, race “is highly correlated with political affiliation.” *Cromartie II*, 532 U.S. at 243; *see also, e.g.*, Liu Tr. 170:4–8 (Ex. 20); Duchin Tr. 153:15–154:4 (Ex. 17). Accordingly, as part of their demanding burden to establish a racial gerrymandering claim, Plaintiffs must decouple race from politics and demonstrate that “race *rather than* politics *predominantly* motivated” the Congressional Plan. *Cromartie II*, 532 U.S. at 243. That is because “a jurisdiction may engage in constitutional political [line-drawing], even if it so happens that the most loyal Democrats happen to be black Democrats and even if the State were *conscious* of that fact.” *Hunt v. Cromartie*, 526 U.S. 541, 551 (1999) (emphasis original). Thus, Plaintiffs “must show at the least that the legislature could have achieved its legitimate political objectives in alternative ways that are comparably consistent with traditional districting principles”—and “that those districting alternatives would have brought about significantly greater racial balance”—compared to the Congressional Plan. *Cromartie II*, 532 U.S. at 258.

The General Assembly engaged in a “legitimate political objective,” *id.*, when it pursued the goal of preserving and strengthening the 6-1 Republican-Democratic composition that existed under the Benchmark Plan. This unsurprising political goal is evident from the record, which

confirms that “politics really drove the decisions that were made on the map.” Roberts Tr. 252:22–23 (Ex. 22); *see* Fiffick Tr. 256:24–257:4 (Ex. 23); Campsen Tr. 88:4–5, 148:11–12, 185:23–186–1 (Ex. 24); Massey Tr. 134:12–136:23 (Ex. 25). The Senate Guidelines authorized the General Assembly to maintain “political” communities of interest and to use “political” data to draw the Congressional Plan. 2021 Senate Guidelines III.A, IV (Ex. 3). Throughout the redistricting process, legislative staff generated and made public—and the members of the General Assembly requested—extensive data on the political make-up of districts under potential plans. Roberts Tr. 109:25, 255:11 (Ex. 22); *see id.* at 109:8–20, 110:7–8, 112:12–113:7; Fiffick Tr. 40:2 (Ex. 23); Campsen Tr. 103:22–104:1, 186:4–5 (Ex. 24); *see also, e.g.*, Congressional Plan Partisan Report (Ex. 6); Harpootlian Plan Partisan Report (Ex. 21).

The General Assembly’s ultimate line-drawing decisions aimed to reinforce the 6-1 Republican-Democratic split, particularly by increasing District 1’s Republican percentage (or “Trump number” in the 2020 election) to make the district more Republican-leaning as compared to the Benchmark Plan. Roberts Tr. 113:4–7 (Ex. 22); *see id.* at 112:12–113:7, 170:10–17, 172:19, 252:25–253:15; Fiffick Tr. 256:24–257:4 (Ex. 23); Massey Tr. 134:12–136:23 (Ex. 25). As the lead sponsor explained, District 1 had become “basically a swing district,” having narrowly elected Democrat Joe Cunningham in 2018 and Republican Nancy Mace in 2020, which prompted concerns (including from Mace herself) that Republicans could lose the district in future elections. Campsen Tr. 185:23–187:1 (Ex. 24); *see id.* at 94:13–95:11, 99:7–9. Based on these “political numbers,” the General Assembly selected a map that equalized population while moving District 1 “to the Republican side.” *Id.* at 185:23–187:1; *see also* Roberts Tr. 172:1–7, 180:18–19 (Ex. 22). In addition, Representative Bamberg, an African-American legislator, agreed that politics rather than race explains the Plan. *See* Bamberg Tr. 52:4–59:18, 122:6–130:20 (Ex. 26).

Faced with evidence that the General Assembly pursued this “legitimate political objective,” Plaintiffs are required to prove that the General Assembly “could have achieved [its] objectives in alternative ways that are comparably consistent with traditional districting principles.” *Cromartie II*, 532 U.S. at 258. To be sure, the majority in *Cooper v. Harris* opined that an “alternative map” is not always necessary to satisfy this requirement, but it recognized that a challenger may “need an alternative map, as a practical matter, to make his case,” and *must* provide an alternative map in cases like this one, where “the plaintiffs ha[ve] meager direct evidence of a racial gerrymander and need[] to rely on evidence of forgone alternatives.” 137 S. Ct. at 1481; *see also id.* at 1488–91 (Alito, J., dissenting) (dissenting justices concluding that an alternative map is always required). Yet Plaintiffs have failed to present an alternative map or any other evidence showing that the General Assembly could have achieved its political objectives in alternative ways. *See Cromartie II*, 532 U.S. at 258. In fact, Plaintiffs’ own experts have acknowledged that the NAACP plans and the Harpootlian Plan *do not* maintain the 6-1 Republican-Democratic composition that the Congressional Plan maintains. *See* Duchin Tr. 152:9–154:4, 159:8–9 (Ex. 17); Duchin Rep. 25 (Ex. 18); Liu Rep. 12–13 tbl. 4 (Ex. 19); Liu Tr. 46:16–47:6 (Ex. 20).

Moreover, none of Plaintiffs’ putative experts even attempted to present an alternative, much less to show that any alternative achieved the General Assembly’s political goals in a manner that is “comparably consistent with traditional districting principles,” *Cromartie II*, 532 U.S. at 258. Nor could they have done so, since every one of Plaintiffs’ putative experts—including those who purport to analyze race and politics in the Congressional Plan—ignored myriad traditional districting principles. *See supra* Part I.A.2.

Finally, if anything, Plaintiffs’ putative expert analyses underscore that politics better explains the Congressional Plan than any alleged use of race. In particular, Liu offers an “empirical test of race vs. party” and a “verification study of race vs. politics,” Liu Rep. 14, 19 (Ex. 19), but neither controls for traditional districting principles, *see* Liu Tr. 90:10–23; 126:7–127:24, 143:25–144:7 (Ex. 20). Moreover, Liu’s “empirical test” shows that, on net, the Congressional Plan moves far more Democratic voters than black voters across the two districts he examines. Specifically, according to Liu’s own charts:

- The Plan moves a net of 1,213 black voters out of District 1,⁴ but a net of 4,591 Democratic voters—*nearly four times as many*—out of District 1.⁵
- The Plan moves a net of 441 black voters into District 2,⁶ but a net of 1,153 Democratic voters⁷—*more than two-and-a-half times as many*—out of District 2.⁸

Thus, even under Liu’s own approach, the political effect of the Congressional Plan’s changes to Districts 1 and 2 was far more pronounced than any racial effect. Plaintiffs cannot prove that “race *rather than* politics *predominantly* explains” the Congressional Plan. *Cromartie II*, 532 U.S. at 243 (emphasis original). The Court should grant summary judgment.

⁴ 3,640 Black Democrats + 164 Black Republicans “out” minus 2,176 Black Democrats + 415 Black Republicans “into.” Liu Rep. 16 tbl. 6 (Ex. __).

⁵ 3,651 White Democrats + 3,640 Black Democrats “out” minus 524 White Democrats + 2,176 Black Democrats “into.” *Id.*

⁶ 930 Black Democrats + 17 Black Republicans “into” minus 496 Black Democrats + 10 Black Republicans “out.” *Id.* at 18 tbl. 7.

⁷ 1,682 White Democrats + 496 Black Democrats “out” minus 95 White Democrats + 930 Black Democrats “in.” *Id.*

⁸ Tellingly, Dr. Liu did not include any analysis of District 5 in his report because the analysis he conducted did not support Plaintiffs’ preferred conclusion regarding District 5. *See* Liu Tr. 138:20–139:8.

C. Plaintiffs Ask The Court To Impose A Racial Gerrymander

The Court should reject the racial gerrymandering claim for a final reason: Plaintiffs ask the Court to impose a racial gerrymander. In particular, Plaintiffs ask the Court to engage in the race-conscious exercise of increasing African-American voters' ability to form coalitions to "influence" congressional elections. *See* Dkt. No. 267 ¶¶ 148, 152, 153. Plaintiffs even go so far as to request that the Court redraw District 1 to increase its BVAP to "34%"—or *more than double* its level in either the Benchmark Plan or the Congressional Plan under the 2020 Census results. *Id.* ¶ 154. Plaintiffs' own expert maintains that the ultimate map should "prioritize minority electoral opportunity" *even if* that goal "conflict[s]" with traditional districting principles like core preservation and compactness. Duchin Tr. 210:5–212:12 (Ex. 17); *see* Duchin Rep. 7 (Ex. 18); Such subordination of traditional principles to race is the essence of a racial gerrymander. *See, e.g., Cooper*, 137 S. Ct. at 1469.

Indeed, intentionally increasing or maximizing African-American voting strength is unlawful when, as now, such action would subordinate traditional principles to race and fail to satisfy strict scrutiny. *See, e.g., Miller*, 515 U.S. 917–27. Here, *both* NAACP plans and the Harpootlian Plan are far more race-conscious than the Congressional Plan and perform demonstrably worse on traditional criteria than the Congressional Plan. *See, e.g., supra* Part I.A.

Moreover, Plaintiffs have not attempted to show that any of the proposed alternatives satisfies "strict scrutiny." *Miller*, 515 U.S. at 920. Nor could they: Section 2 does not require or justify creating a district or any other district where the minority group does not form a majority—which is presumably why Plaintiffs have not brought a Section 2 claim. *Bartlett*, 556 U.S. 1; *Thornburg v. Gingles*, 478 U.S. 30 (1986). Moreover, no other compelling interest can justify intentionally increasing African-American voting strength or "influence" in a district where African-Americans do not constitute a majority but seek to form a coalition with white crossover

voters to elect Democratic candidates. *See, e.g., Bartlett*, 556 U.S. 1; *Miller*, 515 U.S. 917–27. The Court should grant summary judgment.

II. SENATE DEFENDANTS AND HOUSE DEFENDANTS ARE ENTITLED TO SUMMARY JUDGMENT ON THE INTENTIONAL DISCRIMINATION CLAIM

Like their racial gerrymandering claim, Plaintiffs’ intentional discrimination claim fails at the threshold. Plaintiffs simply cannot show that the General Assembly subjected African-American voters to “differential treatment” compared to “similarly situated” voters of another race. *City of Cleburne*, 473 U.S. at 439–40. Indeed, as explained above, the General Assembly adhered to the same race-neutral traditional criteria across the Congressional Plan, in all of the challenged districts, for all South Carolina voters—and Plaintiffs’ intentional discrimination claim rests on proposed alternative plans that are *less* compliant with race-neutral principles than the Congressional Plan. *See supra* Part I. There is no intentional discrimination when, as now, a legislature applies the same race-neutral criteria to all voters *regardless* of their race. *See Feeney*, 442 U.S. at 279. For this reason alone, Plaintiffs’ intentional discrimination claim is a nonstarter.

Plaintiffs nonetheless contend that the General Assembly engaged in “intentional vote dilution” in the challenged districts. Dkt. No. 267 ¶ 3. “The essence of a vote dilution claim under the Fourteenth Amendment is ‘that the State has enacted a particular voting scheme as a purposeful device to minimize or cancel out the voting potential of racial or ethnic minorities.’” *Backus*, 857 F. Supp. 2d at 567 (quoting *Miller*, 515 U.S. at 911).⁹ “Viable vote dilution claims require proof that the districting scheme has a discriminatory effect and the legislature acted with a discriminatory purpose.” *Id.* (citing *Washington v. Finlay*, 664 F.2d 913, 919 (4th Cir. 1981)).

⁹ It is an open question whether a vote-dilution claim is cognizable under the Fifteenth Amendment, but, even if it were, such a claim is “essentially congruent with vote-dilution claims under the Fourteenth Amendment.” *Backus*, 857 F. Supp. 2d at 569.

Because Plaintiffs cannot prove either of these essential elements, *see Cray Commc'ns, Inc.*, 33 F.3d at 393, the Court should enter summary judgment on the intentional discrimination claim.

A. Plaintiffs Cannot Show That The Congressional Plan Has A Discriminatory Effect

Plaintiffs cannot prove that the Congressional Plan has “disproportionately adverse” effects upon African-American voters, *Feeney*, 442 U.S. at 279, compared to “similarly situated” white voters, *City of Cleburne*, 473 U.S. at 439–40. As explained, Plaintiffs ask the Court to draw a district where black voters can form a coalition with white crossover voters to “elect” their preferred candidates or “influence” the outcome of elections. Dkt. No. 267 ¶ 171. Plaintiffs’ own putative experts assert that race and party are “highly correlated” in South Carolina, with black voters preferring Democratic candidates in general elections. *See* Liu Tr. 170:4–8 (Ex. 20); Duchin Tr. 153:15–154:4 (Ex. 17). Thus, Plaintiffs’ alleged discriminatory effect in this case is that black voters are placed in districts without a sufficient number of white Democratic voters to elect Democratic candidates in general elections. *See* Dkt. No. 267 ¶ 171.

This theory of discriminatory effect fails as a matter of law. There is no “right to form political coalitions,” *Bartlett*, 556 U.S. at 15, and “[a] redistricting plan that does not adversely affect a minority group’s potential to form a majority in a district, but rather diminishes its ability to form a political coalition with other racial or ethnic groups, does not result in vote dilution on account of race,” *Hall*, 385 F.3d at 431; *see Baten v. McMaster*, 967 F.3d 345, 360–61 (4th Cir. 2020) (similar). “The Equal Protection Clause [and] the Fifteenth Amendment ... are aimed only at ensuring equal political opportunity: that every person’s chance to form a majority is the same, regardless of race or ethnic origin. Coalition suits provide minority groups with a political advantage not recognized by our form of government, and not authorized by the constitutional and statutory underpinnings of that structure.” *Nixon*, 76 F.3d at 1392 (citations omitted); *see Hall*,

385 F.3d at 431; *see also* *Bartlett*, 556 U.S. at 15 (“[M]inority voters are not immune from the obligation to pull, haul, and trade to find common political ground.”).

In other words, the Congressional Plan does not have “disproportionately adverse” effects upon African-American voters, *Feeney*, 442 U.S. at 279, because it affects African-American Democrats and “similarly situated” white Democrats *in exactly the same way*. *City of Cleburne*, 473 U.S. at 439–40; *see United States v. Mason*, 774 F.3d 824, 830 (4th Cir. 2014). African Americans form a distinct minority in all three districts Plaintiffs challenge—Districts 1, 2, and 5—under the Benchmark Plan and the Congressional Plan, *see supra* pp. 6–7, and each district contains just as many or more white Democrats as African-American Democrats. For example, in the 2020 election, when Benchmark District 1’s BVAP was 16.56%, *id.*, Joe Biden received approximately 47% of the vote in that district—which indicates that District 1 contains even more white Democrats than African-American Democrats, *see* Benchmark Plan Partisan Report (Ex. 40). That same year, District 2’s BVAP was 23.06% and Joe Biden received 44.22% of the vote, while District 5’s BVAP was 25.06% and Joe Biden received 41.55% of the vote. *See supra* pp. 6–7; Benchmark Plan Partisan Report (Ex. 40).

These figures make clear that the Congressional Plan does not have a discriminatory effect on African Americans. It has an effect on Democrats: it limits the ability of *all* Democrats in Districts 1, 2, and 5—black *and* white—to form a winning political coalition, and conversely improves the ability of *all* Republicans—black *and* white—to do the same. As Plaintiffs’ own putative expert put it, “[a]ny voter who voted for a Democrat is not seeing their preferred candidate elected in a district that always elects Republicans.” Duchin Tr. 170:20–171:2 (Ex. 17). This political effect, however, “has nothing to do with the race of the voter,” *id.*, but instead reflects the

partisan composition of the district. It also is not cognizable under an intentional discrimination claim. *See, e.g., Nixon*, 76 F.3d at 1392; *Hall*, 385 F.3d at 431; *Bartlett*, 556 U.S. at 15, 20.

If more were needed, the NAACP's plans and the Harpootlian Plan confirm the Congressional Plan's effects are political rather than racial. In addition to keeping District 6 as a Democratic district, the NAACP plans make District 1 "reliably effective" for Democrats, Duchin Tr. 152:9–154:4, 159:8–9 (Ex. 17); *see also* Duchin Rep. 25 (Ex. 18); Liu Rep. 12–13 tbl. 4 (Ex. 19); Liu Tr. 46:16–47:6 (Ex. 20), and the Harpootlian Plan makes District 1 a 51.83% Democratic district, *see* Harpootlian Plan Partisan Report (Ex. 21). But black voters form minorities in each of those versions of District 1: 34.02% in NAACP Plan 1, 23.26% in NAACP Plan 2, and 20.57% in the Harpootlian Plan. *See supra* pp. 7–8. Thus, those districts are "coalition" districts that include not only African-American Democrats, but also significant numbers of white Democrats. *See, e.g.,* Duchin Tr. 162:9–163:1 (conceding that "[w]hite crossover voting" would "certainly" be a "significant factor" in "wins for [b]lack preferred candidates" under the Harpootlian Plan) (Ex. 17). The General Assembly's decision not to adopt those proposed districts is not discrimination against black Democrats, as it has the exact same effect on white Democrats. *See Nixon*, 76 F.3d at 1392; *Hall*, 385 F.3d at 431; *see also Bartlett*, 556 U.S. at 15; *Feeney*, 442 U.S. at 279. The Court should grant summary judgment.¹⁰

¹⁰ Plaintiffs cannot show that the Congressional Plan has a discriminatory effect on black voters for another reason as well. Neither of the NAACP plans nor the Harpootlian Plan is "a reasonable alternative voting practice [that can] serve as the benchmark 'undiluted' voting practice." *Reno I*, 520 U.S. at 480; *see Backus*, 857 F. Supp. 2d at 568. None of those plans is mandatory under Section 2 because none forms a district outside of District 6 where black voters constitute a majority, *see Reno v. Bossier Parish Sch. Bd.*, 520 U.S. 471, 480 (1997); *Backus*, 857 F. Supp. 2d at 568, and all perform worse than the Congressional Plan on traditional districting principles, *see supra* __; *see also Reno*, 520 U.S. at 480; *League of United Latin Amer. Citizens v. Perry*, 548 U.S. 399, 433–34 (2006); *Abrams v. Johnson*, 521 U.S. 74, 92 (1997).

B. Plaintiffs Cannot Show That The General Assembly Enacted The Congressional Plan For A Discriminatory Purpose

Plaintiffs’ failure to show discriminatory effect alone is fatal to their intentional discrimination claims. *See Feeney*, 442 U.S. at 279. But that claim fails for another reason as well: Plaintiffs have failed to “overcome the presumption of legislative good faith” and to demonstrate that the General Assembly “acted with invidious [discriminatory] intent.” *Abbott*, 138 S. Ct. at 2325. As a member of this Court recently emphasized, the Supreme Court has “specifically held” that “‘awareness of consequences’ is not enough to show discriminatory intent.” *Coal. for TJ v. Fairfax Cnty. Sch. Bd.*, No. 22-1280, 2022 WL 986994, at *4 (4th Cir. Mar. 31, 2022) (Heytens, J., concurring) (quoting *Feeney*, 442 U.S. at 279). Rather, at this stage, Plaintiffs must set forth specific facts showing that the General Assembly “as a whole,” *Brnovich*, 141 S. Ct. at 2350, enacted the Congressional Plan “*because of*, not merely *in spite of*,” (non-existent) “adverse effects upon an identifiable group,” *Feeney*, 442 U.S. at 279 (emphasis added). This requirement “operates as a critical limitation on the potential to lodge constitutional challenges to facially neutral laws of all stripes,” *Coal. for TJ*, 2022 WL 986994, at *4 (Heytens, J., concurring), and Plaintiffs cannot satisfy it here.

Indeed, *every* legislator and staffer Plaintiffs have deposed in this case—regardless of race or party affiliation—has confirmed that the General Assembly did not act with discriminatory intent in adopting the Congressional Plan. *See supra* pp. 8–9. Unsurprisingly, then—despite reviewing thousands of internal legislative emails, texts, and other documents concerning the Congressional Plan and deposing numerous legislators and staffers—Plaintiffs have no “direct evidence” that the General Assembly enacted the Congressional Plan for a discriminatory purpose. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 268 (1977). Plaintiffs also have not “identif[ied] [racist] statements” made by any legislator who voted for the Congressional

Plan, let alone by the entire General Assembly. *DHS v. Regents of Univ. of Calif.*, 140 S. Ct. 1891, 1916 (2020). Indeed, Plaintiffs have not presented any evidence that legislators “harbor[ed] racist motives,” Bagley Tr. 42:8–15 (Ex. 41), or otherwise were “motivated” to enact the Congressional Plan specifically ““because of” its alleged ““adverse effect”” on African-American voters, *Coal. for TJ*, 2022 WL 986994, at *4 (Heytens, J., concurring) (quoting *Feeney*, 442 U.S. at 279).

Instead, Plaintiffs attempt to show discriminatory intent using only “circumstantial evidence,” *Arlington Heights*, 429 U.S. at 268, specifically (1) Bagley’s report and testimony regarding South Carolina’s historical treatment of African-American voters and (2) the sequence of events surrounding the enactment of the Congressional Plan. Both attempts fail.

First, Bagley discussed a “broad mosaic” of historical events, ranging from the Civil War and Reconstruction to the Civil Rights movement and past redistricting cycles in South Carolina. Bagley Tr. 97:5 (Ex. 41); *see* Bagley Rep. 4–24 (Ex. 31). These historical events, however, are simply too remote in time to “condemn” today’s Congressional Plan. *Abbott*, 138 S. Ct. at 2324. Courts “cannot accept official actions taken long ago as evidence of current intent,” *McCleskey v. Kemp*, 481 U.S. 279, 298 n.20 (1987), and “[p]ast discrimination cannot, in the manner of original sin, condemn governmental action that is not itself unlawful.” *Id.* at 2324 (quoting *City of Mobile v. Bolden*, 446 U.S. 55, 74 (1980) (plurality opinion)); *see Bishop of Charleston v. Adams*, 538 F. Supp. 3d 608, 615 (D.S.C. 2021) (rejecting “efforts to draw a straight line through the unconscionable discrimination of the past to the judicial and administrative decisions of the present”); *see also Greater Birmingham Ministries v. Sec’y of State for State of Alabama*, 992 F.3d 1299, 1325 (11th Cir. 2021) (“*GBM*”) (“outdated intentions of previous generations” do not “taint” “legislative action forevermore on certain topics”). At bottom, “what matters” is “the intent of the [current] legislature,” *Abbott*, 138 S. Ct. at 2325, in “the precise circumstances surrounding the

passing of the [challenged] law,” *GBM*, 992 F.3d at 1325–26; *accord Brnovich*, 141 S. Ct. at 2349, and Bagley’s dated historical analysis does not demonstrate that the General Assembly enacted the Congressional Plan with a discriminatory intent in 2022.

Indeed, this Court rejected similar evidence in *Backus*. South Carolina’s historical treatment of African-American voters was squarely before the three-judge panel in *Backus*, but the panel nonetheless rejected the *Backus* plaintiffs’ intentional discrimination challenge to the Benchmark Plan in an opinion summarily affirmed by the Supreme Court. *See Backus*, 857 F. Supp. 2d 553, *aff’d*, 568 U.S. 801. And while Bagley also cited the history of Department of Justice objections to various primarily *local* voting practices under Section 5 of the Voting Rights Act, *see* Bagley Rep. 20–24 (Ex. 31), the Department of Justice precleared the Benchmark Plan challenged in *Backus*, *see Backus*, 857 F. Supp. 2d at 557, and its most recent objection Bagley cited was more than a decade ago—much too “remote in time” to be probative here. *Regents*, 140 S. Ct. at 1916; *see* Bagley Tr. 99:8–16 (Ex. 41); Bagley Rep. 22 (Ex. 31). As the Court has already reaffirmed in this case, evidence from past redistricting cycles does not bear on “the intent of any legislator [or] the South Carolina General Assembly as a whole[.]” in voting for plans this cycle. Dkt. No. 153 at 13.

Second, Bagley questioned the sequence of events surrounding enactment of the Congressional Plan, *see* Bagley Rep. 24–49 (Ex. 31), but he ultimately conceded that the General Assembly engaged in robust process around the Plan. He admitted that the redistricting process was “generally analogous” to—and “consisten[t]” with—the process in previous cycles, Bagley Tr. 74:10–15, 77:16–17, 78:19–22, 85:14–86:4 (Ex. 41), and that the General Assembly adhered to regular procedures in holding public hearings and receiving public input, *id.* at 85:15–21.

Nonetheless, Bagley pointed to alleged “procedural irregularities” in the legislative process leading up to enactment of the Congressional Plan because, in his view, the General Assembly was not sufficiently transparent or receptive to public input, did not afford adequate time to review proposals, and departed from the usual process in certain ways. *See, e.g.*, Bagley Rep. 24, 32, 38, 48 (Ex. 31). But Bagley did not show that the General Assembly’s actions deviated from any actual rules or procedures; he simply noted that some legislators “thought” violations occurred and that a different approach would have been preferable as a matter of “best practices and good government.” Bagley Tr. 143:11–12, 67:13–14 (Ex. 41). Moreover, Bagley acknowledged “there was wide opportunity for the submission of [public] input or feedback” on the Congressional Plan. *Id.* at 79:11–12. And there was no procedural irregularity merely because the General Assembly did not agree with or incorporate certain pieces of public input or feedback: after all, the General Assembly could not have incorporated all public input into the Congressional Plan because it received *conflicting* input on a variety of matters, including whether to maintain a split in Charleston County or to make that county whole. *See* Public Comment Emails (Ex. 42).

In all events, even if a critique of transparency and a failure to incorporate some public input could be procedural irregularities, they are not the kind of “radical departures from normal procedures,” that could support a finding of discriminatory intent. *Veasey v. Abbott*, 830 F.3d 216, 237 (5th Cir. 2016) (en banc). Indeed, “procedural irregularities are not themselves proof of discriminatory intent.” *Coal. for TJ*, 2022 WL 986994, at *5 (Heytens, J., concurring); *Rollerson v. Brazos River Harbor Navigation Dist. of Brazoria Cnty.*, 6 F.4th 633, 640 (5th Cir. 2021) (“procedural violations do not demonstrate invidious intent of their own accord”); *GBM*, 992 F.3d at 1326 (truncated debate, use of cloture, party-line vote, and lack of support from black legislators were not indicative of discriminatory intent). Rather, procedural irregularities are “relevant” only

“to the extent they ‘afford evidence that improper purposes are playing a role.’” *Coal. for TJ*, 2022 WL 986994, at *5 (Heytens, J., concurring) (quoting *Arlington Heights*, 429 U.S. at 267).

In other words, the violations “must have occurred in a context that suggests the decision-makers were willing to deviate from established procedures *in order to accomplish a discriminatory goal*.” *Rollerson*, 6 F.4th at 640 (emphasis added). Thus, “fail[ure] to follow the proper procedures against all individuals,” when such conduct is not “targeted to any identifiable minority group,” is not indicative of discriminatory intent. *Rollerson v. Port Freeport*, No. 18-cv-0235, 2019 WL 4394584, at *8 (S.D. Tex. Sept. 13, 2019), *aff’d*, 6 F.4th 633; *see also League of United Latin Am. Citizens v. Abbott*, No. 1:21-cv-0991, 2022 WL 1410729, at *26–28 (W.D. Tex. May 4, 2022) (“[T]he presumption of good faith is overcome only when there is a showing that a legislature acted with an ulterior *racial* motive.”).

Bagley failed to show that the General Assembly deviated from established procedures at all, much less to accomplish a “discriminatory goal” or in a way that targeted African-Americans. *Rollerson*, 6 F.4th at 640; *see also Coal. for TJ*, 2022 WL 986994, at *5 (Heytens, J., concurring). To the contrary, he expressly declined to testify that any legislators “harbor[ed] racist motives,” Bagley Tr. 42:8–15 (Ex. 41), and the irregularities he alleged are “readily explainable” by non-discriminatory considerations, *City of Mobile*, 446 U.S. at 70, such as the short timeline under which the General Assembly was compelled to enact the Congressional Plan (which resulted from the delayed release of Census result and Plaintiffs’ premature lawsuit) and the conflicting nature of the public input the General Assembly received. *See* Dkt. No. 63 at 13 (“[T]he court stays the case and gives the Legislature until . . . Tuesday, January 18, 2022, to enact new district maps.”). Because any alleged procedural irregularities are explainable on “alternative” non-discriminatory grounds, they do not support any “nefarious inference.” *League of United Latin Am. Citizens*,

2022 WL 1410729, at *20–21; *see City of Mobile*, 446 U.S. at 70; *GBM*, 992 F.3d at 1326; *see also Regents*, 140 S. Ct. at 1916 (a process is not “irregular” where it is a “natural response” to the circumstances).

CONCLUSION

The Court should grant summary judgement and dismiss Plaintiffs’ suit.

August 19, 2022

Respectfully submitted,

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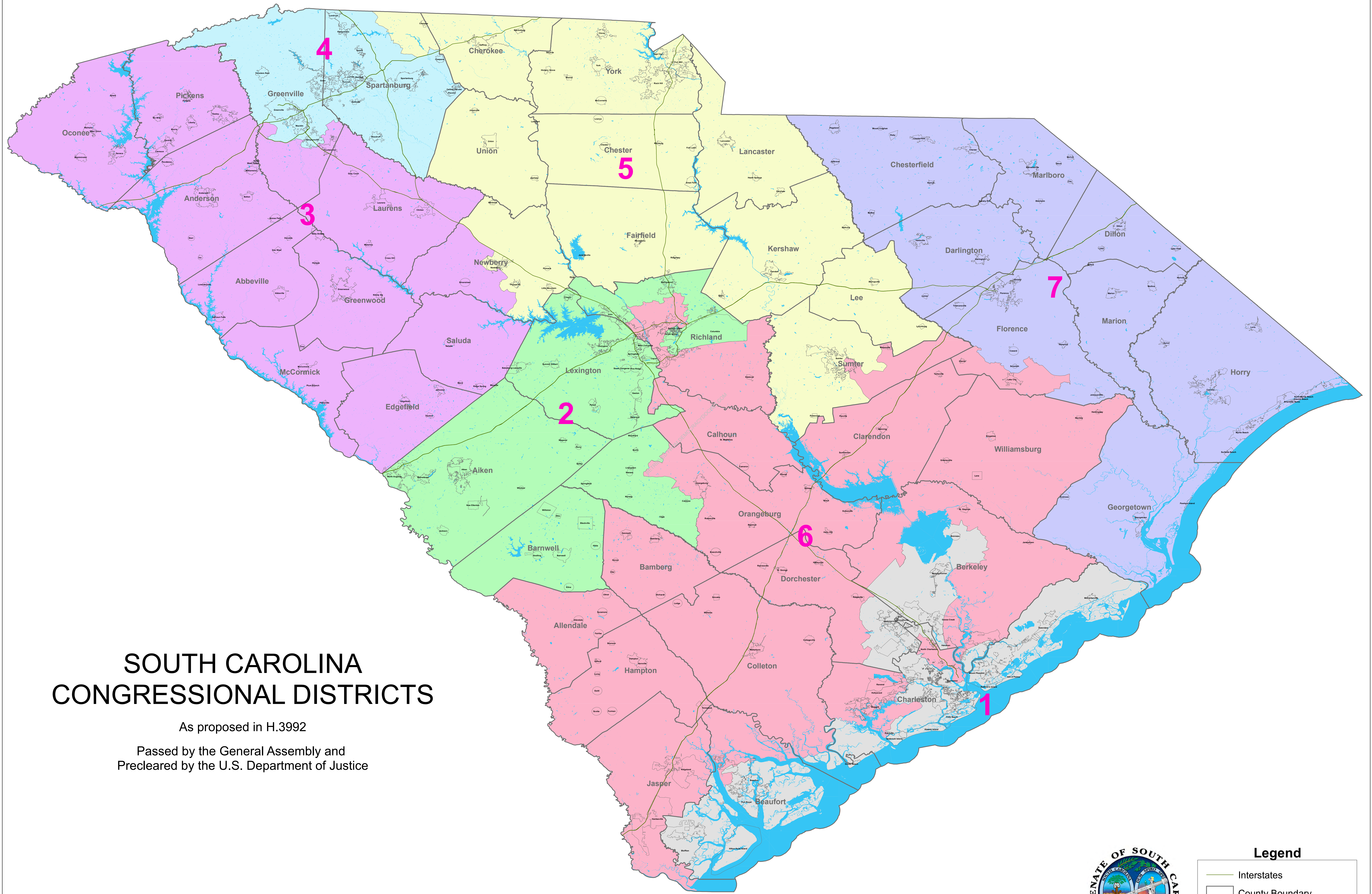
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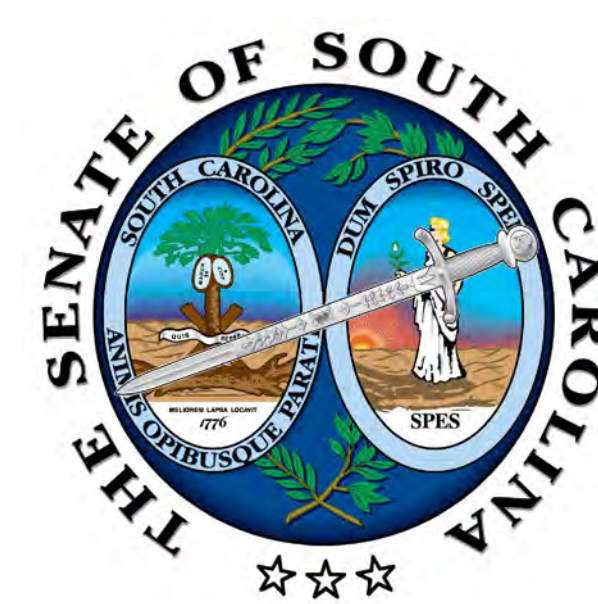
Exhibit 1

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SOUTH CAROLINA CONGRESSIONAL DISTRICTS

As proposed in H.3992
Passed by the General Assembly and
Precleared by the U.S. Department of Justice



Legend

- Interstates
- County Boundary
- 2010 Corporate Boundary
- Water Area

Exhibit 2

RETRIEVED FROM DEMOCRACYDOCKET.COM

Plan: H3992_26JUL2011

Plan Type:

Administrator:

User: Senate Judiciary

District Statistics Report

Wednesday, July 27, 2011

11:31 AM

District 1

Population Statistics

Ideal Population: 660,766 Absolute Deviation: 0
Actual Population: 660,766 Relative Deviation: 0.00 %

Total Population

NH_Wht	NH_DOJ_Bl	NH_DOJ_Ind	NH_DOJ_Asn	[Hispanic Origin]	%NH_Wht	%NH_DOJ_Bl	%NH_DOJ_Ind	% NH_DOJ_Asn	% [Hispanic Origin]
463,312	131,974	4,187	13,898	42,987	70.12	19.97	0.63	2.10	6.51
[18+ Pop]									
NH_Wht	NH_DOJ_Bl	NH_DOJ_Ind	NH_DOJ_Asn	[Hispanic Origin]	%NH_Wht	%NH_DOJ_Bl	%NH_DOJ_Ind	% NH_DOJ_Asn	% [Hispanic Origin]
372,381	92,636	3,198	10,202	28,405	73.08	18.18	0.63	2.00	5.57

District 1 Counties (* indicates the county is not entirely within the district.)

Beaufort SC* Berkeley SC* Charleston SC* Colleton SC*
Dorchester SC*

District 2

Population Statistics

Ideal Population: 660,766 Absolute Deviation: 0
Actual Population: 660,766 Relative Deviation: 0.00 %

Plan:	H3992_26JUL2011	Administrator:	
Type:		User:	Senate Judiciary

District 2 (continued)**Total Population**

NH_Wht	NH_DOJ_Blk	NH_DOJ_Ind	NH_DOJ_Asn	[Hispanic Origin]	%NH_Wht	%NH_DOJ_Blk	%NH_DOJ_Ind	% NH_DOJ_Asn	% [Hispanic Origin]
450,818	154,650	4,609	12,336	34,355	68.23	23.40	0.70	1.87	5.20

[18+ Pop]

NH_Wht	NH_DOJ_Blk	NH_DOJ_Ind	NH_DOJ_Asn	[Hispanic Origin]	%NH_Wht	%NH_DOJ_Blk	%NH_DOJ_Ind	% NH_DOJ_Asn	% [Hispanic Origin]
355,521	107,593	3,488	9,036	22,857	70.98	21.48	0.70	1.80	4.56

District 2 Counties (* indicates the county is not entirely within the district.)

Aiken SC	Barnwell SC	Lexington SC	Orangeburg SC*
Richland SC*			

District 3**Population Statistics**

Ideal Population:	660,766	Absolute Deviation:	1
Actual Population:	660,767	Relative Deviation:	0.00 %

Total Population

NH_Wht	NH_DOJ_Blk	NH_DOJ_Ind	NH_DOJ_Asn	[Hispanic Origin]	%NH_Wht	%NH_DOJ_Blk	%NH_DOJ_Ind	% NH_DOJ_Asn	% [Hispanic Origin]
495,139	126,615	3,155	6,011	27,747	74.93	19.16	0.48	0.91	4.20

[18+ Pop]

NH_Wht	NH_DOJ_Blk	NH_DOJ_Ind	NH_DOJ_Asn	[Hispanic Origin]	%NH_Wht	%NH_DOJ_Blk	%NH_DOJ_Ind	% NH_DOJ_Asn	% [Hispanic Origin]
393,129	91,570	2,506	4,471	17,686	76.99	17.93	0.49	0.88	3.46

District 3 Counties (* indicates the county is not entirely within the district.)

Abbeville SC	Anderson SC	Edgefield SC	Greenville SC*
Greenwood SC	Laurens SC	McCormick SC	Newberry SC*
Oconee SC	Pickens SC	Saluda SC	

District 4

Plan:	H3992_26JUL2011	Administrator:	
Type:		User:	Senate Judiciary

District 4 (continued)**Population Statistics**

Ideal Population:	660,766	Absolute Deviation:	0
Actual Population:	660,766	Relative Deviation:	0.00 %

Total Population

NH_Wht	NH_DOJ_Bl	NH_DOJ_Ind	NH_DOJ_Asn	[Hispanic Origin]	%NH_Wht	%NH_DOJ_Bl	%NH_DOJ_Ind	% NH_DOJ_Asn	% [Hispanic Origin]
462,044	128,491	2,893	15,354	48,908	69.93	19.45	0.44	2.32	7.40
[18+_Pop]									
NH_Wht	NH_DOJ_Bl	NH_DOJ_Ind	NH_DOJ_Asn	[Hispanic Origin]	%NH_Wht	%NH_DOJ_Bl	%NH_DOJ_Ind	% NH_DOJ_Asn	% [Hispanic Origin]
363,880	91,384	2,223	10,713	31,445	72.57	18.23	0.44	2.14	6.27

District 4 Counties (* indicates the county is not entirely within the district.)

Greenville SC* Spartanburg SC*

District 5**Population Statistics**

Ideal Population:	660,766	Absolute Deviation:	0
Actual Population:	660,766	Relative Deviation:	0.00 %

Total Population

NH_Wht	NH_DOJ_Bl	NH_DOJ_Ind	NH_DOJ_Asn	[Hispanic Origin]	%NH_Wht	%NH_DOJ_Bl	%NH_DOJ_Ind	% NH_DOJ_Asn	% [Hispanic Origin]
436,838	183,647	5,062	7,515	24,976	66.11	27.79	0.77	1.14	3.78
[18+_Pop]									
NH_Wht	NH_DOJ_Bl	NH_DOJ_Ind	NH_DOJ_Asn	[Hispanic Origin]	%NH_Wht	%NH_DOJ_Bl	%NH_DOJ_Ind	% NH_DOJ_Asn	% [Hispanic Origin]
340,768	131,881	3,597	5,224	15,463	68.36	26.46	0.72	1.05	3.10

Plan:	H3992_26JUL2011	Administrator:	
Type:		User:	Senate Judiciary

District 5 (continued)**District 5 Counties** (* indicates the county is not entirely within the district.)

Cherokee SC	Chester SC	Fairfield SC	Kershaw SC
Lancaster SC	Lee SC	Newberry SC*	Spartanburg SC*
Sumter SC*	Union SC	York SC	

District 6**Population Statistics**

Ideal Population:	660,766	Absolute Deviation:	0
Actual Population:	660,766	Relative Deviation:	0.00 %

Total Population

NH_Wht	NH_DOJ_Bl	NH_DOJ_Ind	NH_DOJ_Asn	[Hispanic Origin]	%NH_Wht	%NH_DOJ_Bl	%NH_DOJ_Ind	% NH_DOJ_Asn	% [Hispanic Origin]
234,290	382,130	3,544	6,868	30,284	35.46	57.83	0.54	1.04	4.58
[18+ Pop]									
NH_Wht	NH_DOJ_Bl	NH_DOJ_Ind	NH_DOJ_Asn	[Hispanic Origin]	%NH_Wht	%NH_DOJ_Bl	%NH_DOJ_Ind	% NH_DOJ_Asn	% [Hispanic Origin]
197,689	282,180	2,791	5,621	20,759	38.66	55.18	0.55	1.10	4.06

District 6 Counties (* indicates the county is not entirely within the district.)

Allendale SC	Bamberg SC	Beaufort SC*	Berkeley SC*
Calhoun SC	Charleston SC*	Clarendon SC	Colleton SC*
Dorchester SC*	Florence SC*	Hampton SC	Jasper SC
Orangeburg SC*	Richland SC*	Sumter SC*	Williamsburg SC

District 7**Population Statistics**

Ideal Population:	660,766	Absolute Deviation:	1
Actual Population:	660,767	Relative Deviation:	0.00 %

Total Population

NH_Wht	NH_DOJ_Bl	NH_DOJ_Ind	NH_DOJ_Asn	[Hispanic Origin]	%NH_Wht	%NH_DOJ_Bl	%NH_DOJ_Ind	% NH_DOJ_Asn	% [Hispanic Origin]
420,299	198,464	6,155	6,336	26,425	63.61	30.04	0.93	0.96	4.00

Plan:	H3992_26JUL2011	Administrator:	
Type:		User:	Senate Judiciary

District 7 (continued)

[18+_Pop]

NH_Wht	NH_DOJ_Bl	NH_DOJ_Ind	NH_DOJ_Asn	[Hispanic Origin]	%NH_Wht	%NH_DOJ_Bl	%NH_DOJ_Ind	% NH_DOJ_Asn	% [Hispanic Origin]
342,399	141,676	4,605	4,515	17,561	66.80	27.64	0.90	0.88	3.43

District 7 Counties (* indicates the county is not entirely within the district.)

Chesterfield SC	Darlington SC	Dillon SC	Florence SC*
Georgetown SC	Horry SC	Marion SC	Marlboro SC

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Exhibit 3

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Adopted September 17, 2021

2021 REDISTRICTING GUIDELINES
SOUTH CAROLINA SENATE JUDICIARY COMMITTEE
REDISTRICTING SUBCOMMITTEE

The South Carolina Senate Judiciary Redistricting Subcommittee adopts the 2021 Redistricting Guidelines to aid the Redistricting Subcommittee and interested parties in developing and evaluating redistricting plan proposals. These Guidelines are drawn in part from the guidelines adopted for prior redistricting, the 2002 opinion of the three-judge court in *Colleton County Council v. McConnell*, the 2012 opinion of the three-judge court in *Backus v. South Carolina*, other court decisions, and input received in public hearings across the State.

I. REQUIREMENTS OF FEDERAL LAW

A. Population equality

1. Legislative districts

The Fourteenth Amendment to the U.S. Constitution requires an honest and good faith effort to construct legislative districts as nearly of equal population as is practicable. The good faith effort required by the Fourteenth Amendment does not preclude the pursuit of legitimate redistricting policies such as making districts compact, respecting political subdivision boundaries, preserving the cores of prior districts, and avoiding contests between incumbent legislators. Any redistricting plan with population deviation ranges of greater than ten percent (10%) between the most-populous and least-populous districts is presumptively unlawful unless the good faith effort required by the Constitution is proven. So that the State may avoid assuming this additional burden under federal law, population deviations of individual districts shall be within plus (+) or minus (-) five percent (5%) of the ideal population and within an overall range of less than ten percent (10%). This guideline does not affect the requirement of an honest and good faith effort to construct districts as nearly of equal population as is practicable.

2. Congressional districts

Under the apportionment clause of Article I, Section 2 of the U.S. Constitution, any population deviation among congressional districts, no matter how small, must be justified through a showing that the specific deviation is required by legitimate redistricting policies such as making districts compact, respecting political subdivision boundaries, preserving the cores of prior districts, and avoiding contests between incumbent representatives. So that the State may avoid assuming this additional burden under federal law, a congressional redistricting plan should not have population deviations greater than one (1) person.

B. Voting rights. A redistricting plan for the General Assembly or Congress must not have either the purpose or the effect of diluting minority voting strength and must otherwise comply with Section 2 of the Voting Rights Act, as expressed through *Thornburg v. Gingles* and its progeny, and the Fourteenth and Fifteenth Amendments to the U.S. Constitution.

C. Avoidance of racial gerrymandering. All plans must comply with the Fourteenth Amendment to the U.S. Constitution, as interpreted by the United States Supreme Court in *Shaw v. Reno* and subsequent cases. Under those cases, while consideration of race is permissible, race must not be the predominant factor in that race-neutral considerations are subordinated to racial considerations, unless that subordination is narrowly tailored to serve a compelling state interest.

II. CONTIGUITY. All legislative and congressional districts should be composed of contiguous geography. Contiguity by water is acceptable to link territory within a district provided that there is a

Adopted September 17, 2021

reasonable opportunity to access all parts of the district and the linkage is designed to meet the other criteria stated herein. Point-to-point contiguity is acceptable so long as adjacent districts do not use the same vertex as points of transversal.

III. ADDITIONAL CONSIDERATIONS. Other criteria that should be given consideration, where practical and appropriate, in no particular order of preference, are:

A. Communities of Interest. Communities of interest should be considered. Areas defined by geographic, demographic, historic or other characteristics that cause people to identify with one another, including economic, social, cultural, language, political, and recreational activity interests common to the area's population may constitute communities of interest. Communities of interest may be overlapping and may consist of one or more formally, or informally, defined geographic areas with unifying common interests.

B. Constituent Consistency. Preserving the cores of existing districts, keeping incumbents' residences in districts with their core constituents, and avoiding contests between incumbent legislators should be considered.

C. Minimizing Divisions of County Boundaries.

D. Minimizing Divisions of Cities and Towns.

E. Minimizing Divisions of Voting Precinct Boundaries. Voting precinct boundaries are represented by the Census Bureau's Voting Tabulation District (VTD) lines. Both existing lines and pending precinct boundary realignments should be considered. If precincts are split, every effort should be made to divide precincts along recognizable and demonstrable boundaries.

F. District Compactness. In determining the relative compactness of a district, consideration should be given to geography, demography, communities of interest, and the extent to which parts of the district are joined by roads, media outlets, or other means for constituents to communicate effectively with each other and with their representative.

IV. DATA. The total state population and the population of the defined subunits thereof, as reported by the 2020 Federal Decennial Census, shall be the exclusive permissible population database used for the development, evaluation, and analysis of proposed redistricting plans. Other succinct and importable sources of demographic and political information may be considered in drafting and analyzing proposed redistricting plans.

Exhibit 4

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Benchmark Congressional Districts with 2020 Data
District Statistics

District	Population	Deviation	%Deviation	Hispanic	%Hispanic	NH_Wh	%NH_White	NH_Bl	%NH_Black	VAP	%VAP	HVAP	%HVAP	WVAP	%WVAP	BVAP	%BVAP
1	818,893	87,689	11.99%	66,733	8.15%	556,715	67.98%	145,634	17.78%	641,390	78.32%	43,755	6.82%	455,332	70.99%	106,223	16.56%
2	721,829	-9,375	-1.28%	50,120	6.94%	452,493	62.69%	177,418	24.58%	556,839	77.14%	32,704	5.87%	365,440	65.63%	128,408	23.06%
3	706,785	-24,419	-3.34%	42,205	5.97%	506,897	71.72%	127,015	17.97%	557,631	78.90%	27,128	4.86%	413,026	74.07%	94,433	16.93%
4	760,233	29,029	3.97%	77,314	10.17%	495,681	65.20%	142,496	18.74%	587,921	77.33%	50,772	8.64%	400,160	68.06%	104,356	17.75%
5	736,286	5,082	0.70%	40,874	5.55%	464,621	63.10%	191,538	26.01%	567,369	77.06%	26,171	4.61%	371,789	65.53%	142,163	25.06%
6	646,463	-84,741	-11.59%	39,477	6.11%	237,317	36.71%	344,592	53.30%	517,064	79.98%	26,997	5.22%	204,639	39.58%	265,982	51.44%
7	727,936	-3,268	-0.45%	36,115	4.96%	464,828	63.86%	195,194	26.81%	586,246	80.54%	23,597	4.03%	393,589	67.14%	145,487	24.82%

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Exhibit 5

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User:

Plan Name: House Plan 2 Senate Amendment 1

Plan Type:

Political Subdivision Splits Between Districts

Tuesday, January 11, 2022

9:08 AM

Split Counts

Number of subdivisions split into more than one district: Number of splits involving no population:

County	10	County	0
Voting District	13	Voting District	0

Number of times a subdivision is split into multiple districts:

County	10
Voting District	13

County	Voting District	District	Population
--------	-----------------	----------	------------

Split Counties:

Charleston SC		1	179,743
Charleston SC		6	228,492
Colleton SC		1	2,358
Colleton SC		6	36,246
Dorchester SC		1	127,543
Dorchester SC		6	33,997
Florence SC		6	10,609
Florence SC		7	126,450
Greenville SC		3	64,526
Greenville SC		4	461,008
Jasper SC		1	4,581
Jasper SC		6	24,210
Orangeburg SC		2	24,394
Orangeburg SC		6	59,829
Richland SC		2	223,421
Richland SC		6	192,726
Spartanburg SC		4	270,196
Spartanburg SC		5	57,801
Sumter SC		5	76,661
Sumter SC		6	28,895

Split VTDs:

Dorchester SC	Beech Hill 2	1	2,191
Dorchester SC	Beech Hill 2	6	18
Dorchester SC	Cypress	1	4,659
Dorchester SC	Cypress	6	103
Dorchester SC	Delemars	1	416
Dorchester SC	Delemars	6	675
Dorchester SC	Givhans	1	1,280
Dorchester SC	Givhans	6	139
Dorchester SC	Givhans 2	1	1,565
Dorchester SC	Givhans 2	6	114
Dorchester SC	Lincoln	1	418
Dorchester SC	Lincoln	6	3,362

Political Subdivision Splits Between Districts

House Plan 2 Senate Amend

County	Voting District	District	Population
Dorchester SC	Windsor	1	53
Dorchester SC	Windsor	6	1,352
Florence SC	Scranton	6	286
Florence SC	Scranton	7	1,031
Greenville SC	SYCAMORE	3	4,015
Greenville SC	SYCAMORE	4	342
Richland SC	Hampton	2	1,457
Richland SC	Hampton	6	1,374
Richland SC	North Springs 3	2	2,439
Richland SC	North Springs 3	6	424
Spartanburg SC	Converse Fire Station	4	1,448
Spartanburg SC	Converse Fire Station	5	515
Sumter SC	BIRNIE	5	561
Sumter SC	BIRNIE	6	676

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Exhibit 6

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House Plan 2 Senate Amendment 1

District	Biden	%Biden	Trump	%Trump	Total
1	170662	45.61%	203533	54.39%	374,195
2	160640	44.63%	199295	55.37%	359,935
3	105850	30.97%	235966	69.03%	341,816
4	137465	40.57%	201396	59.43%	338,861
5	146303	40.78%	212458	59.22%	358,761
6	219577	66.30%	111599	33.70%	331,176
7	145757	40.76%	211855	59.24%	357,612

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Exhibit 7

RETRIEVED FROM DEMOCRACYDOCKET.COM

House Plan 2 Senate Amendment 1

District	Population	Deviation	% Deviation	Hispanic	% Hispanic	NH White	% NH White	NH_DOJ_Blk	% NH_DOJ_Blk	VAP	% VAP	HVAP	%HVAP	NH_WVAP	%NH_WVAP	NH_DOJ_BVAP	% NH_DOJ_BVAP
1	731,203	-1	0.00%	59,591	8.15%	498,807	68.22%	130,245	17.81%	570,538	78.03%	38,918	6.82%	405,889	71.14%	95,400	16.72%
2	731,203	-1	0.00%	51,434	7.03%	446,768	61.10%	190,488	26.05%	563,028	77.00%	33,556	5.96%	360,714	64.07%	137,891	24.49%
3	731,204	0	0.00%	42,512	5.81%	524,457	71.73%	132,875	18.17%	577,297	78.95%	27,422	4.75%	427,484	74.05%	98,848	17.12%
4	731,204	0	0.00%	77,653	10.62%	468,620	64.09%	142,090	19.43%	565,412	77.33%	50,888	9.00%	379,099	67.05%	104,145	18.42%
5	731,204	0	0.00%	39,825	5.45%	468,920	64.13%	182,332	24.94%	562,685	76.95%	25,482	4.53%	374,151	66.49%	135,206	24.03%
6	731,204	0	0.00%	45,619	6.24%	304,061	41.58%	349,653	47.82%	586,760	80.25%	31,196	5.32%	261,421	44.55%	269,326	45.90%
7	731,203	-1	0.00%	36,204	4.95%	466,919	63.86%	196,204	26.83%	588,740	80.52%	23,662	4.02%	395,217	67.13%	146,236	24.84%

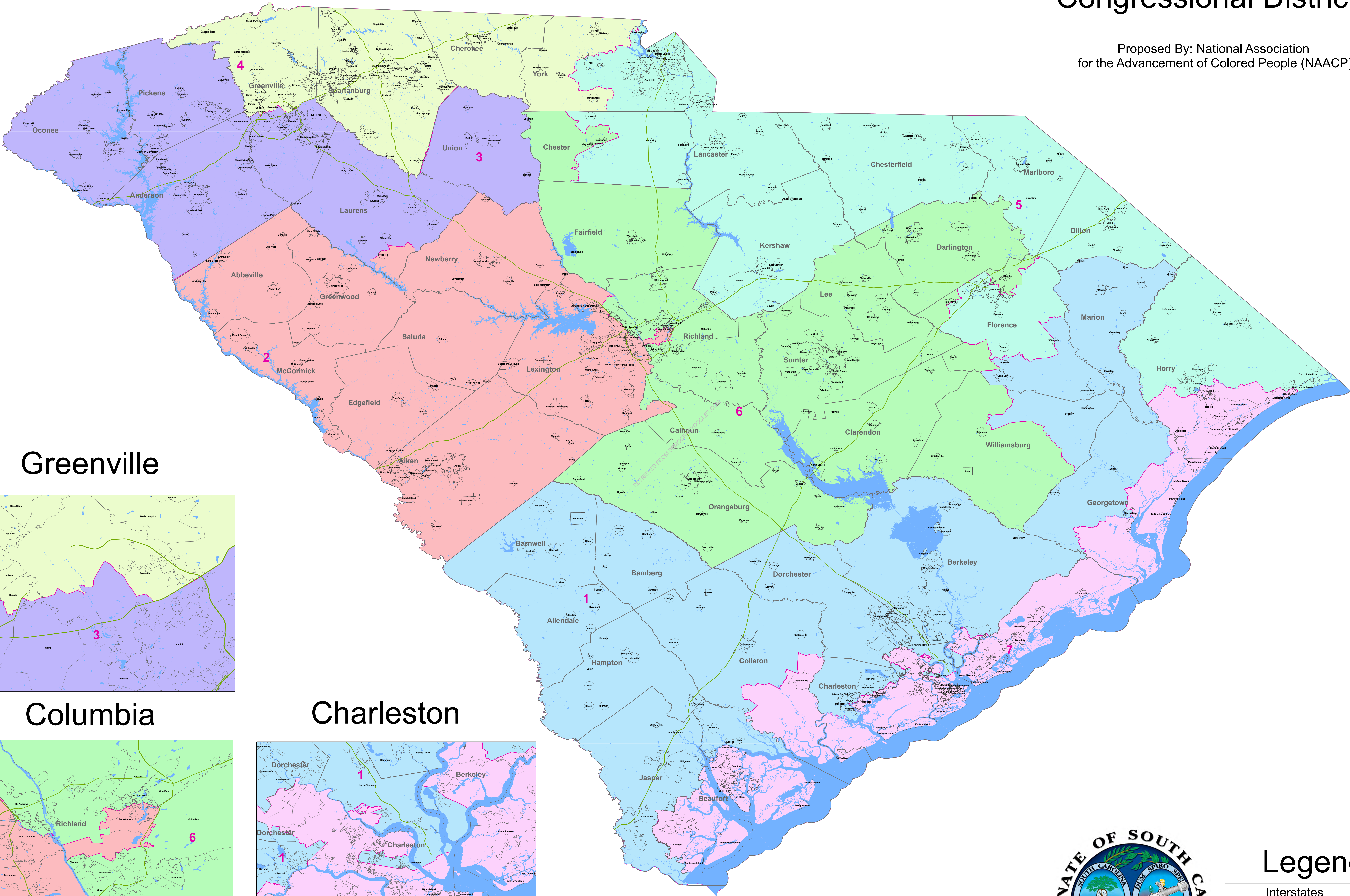
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Exhibit 8

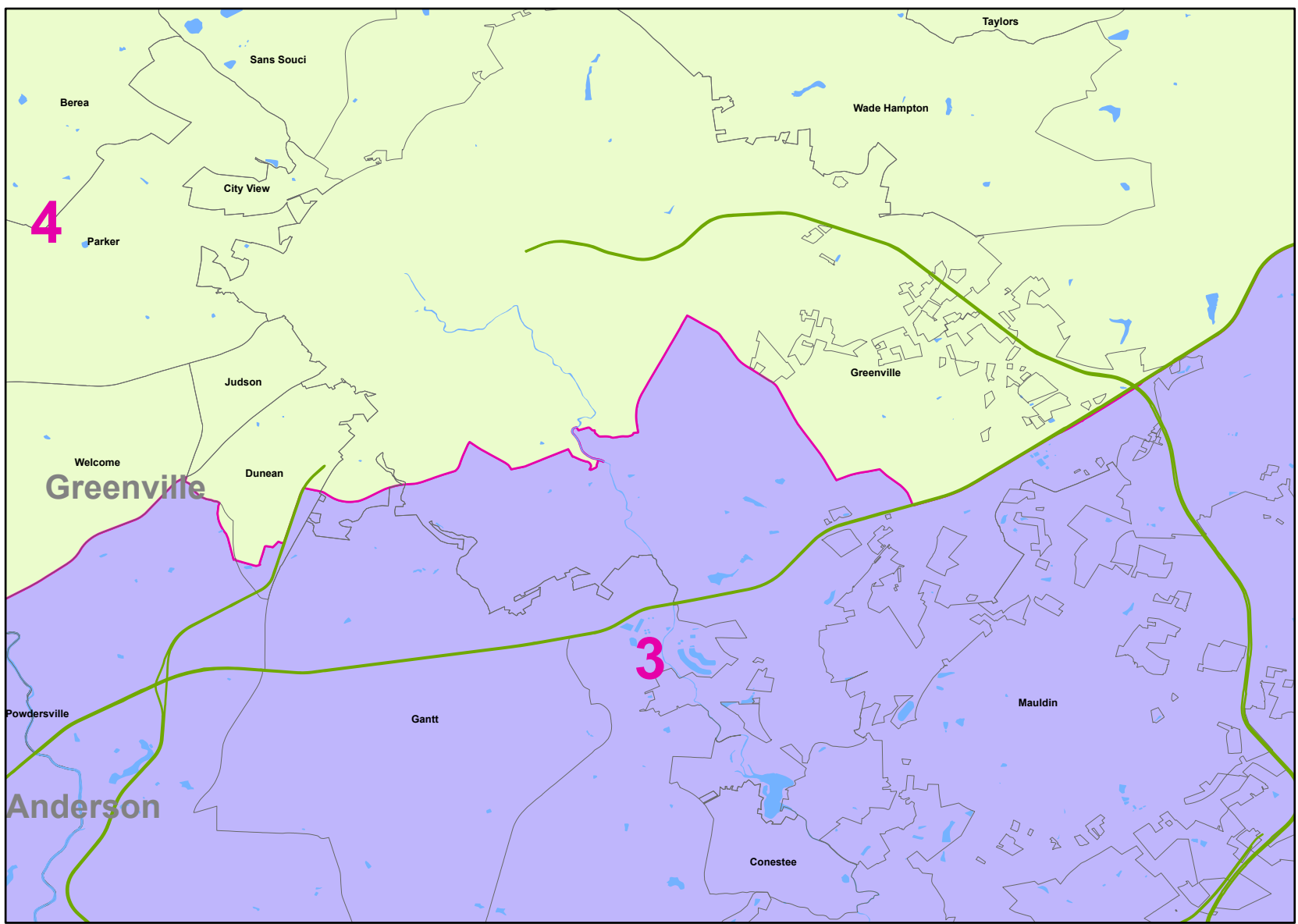
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South Carolina Congressional Districts

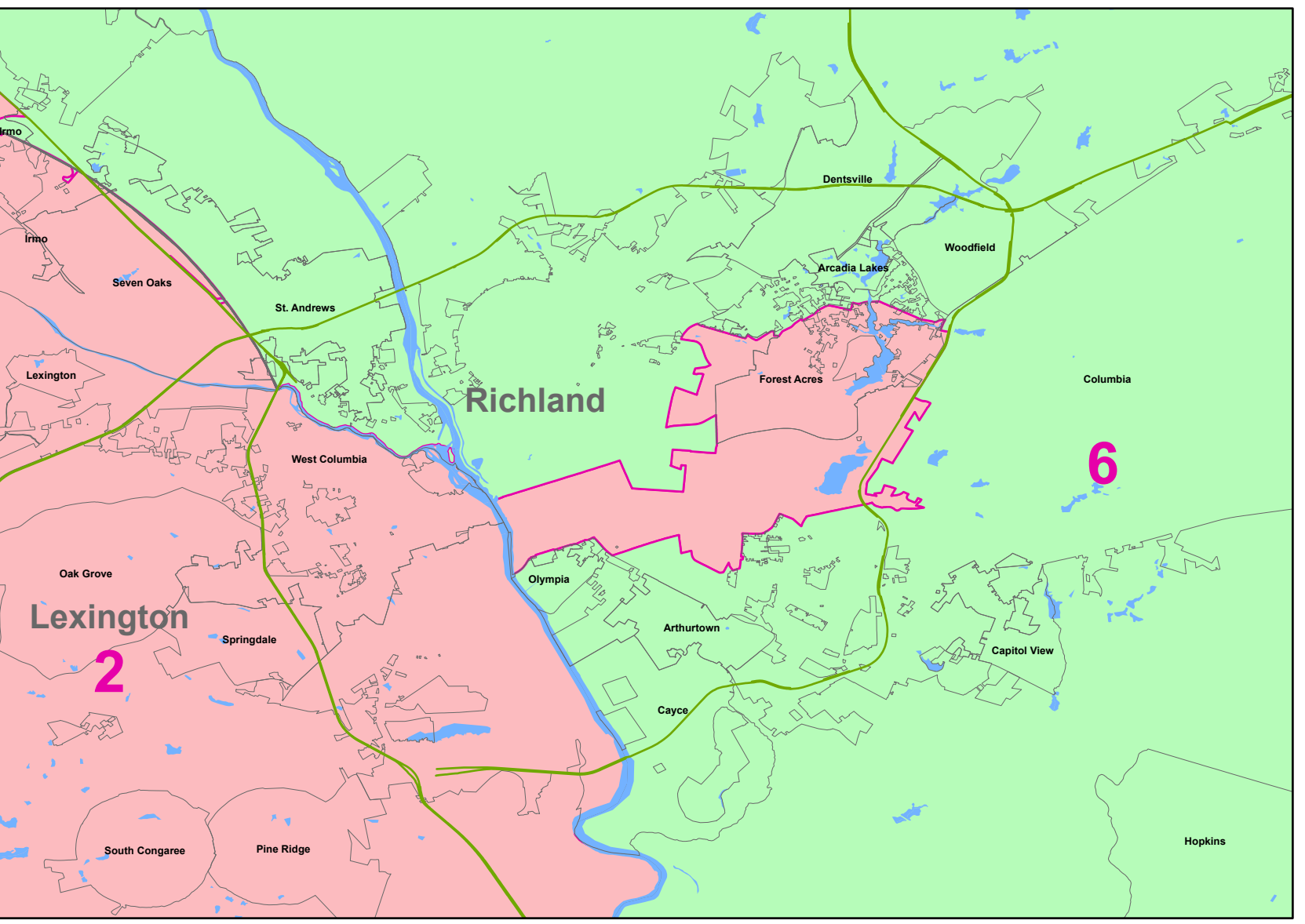
Proposed By: National Association
for the Advancement of Colored People (NAACP)



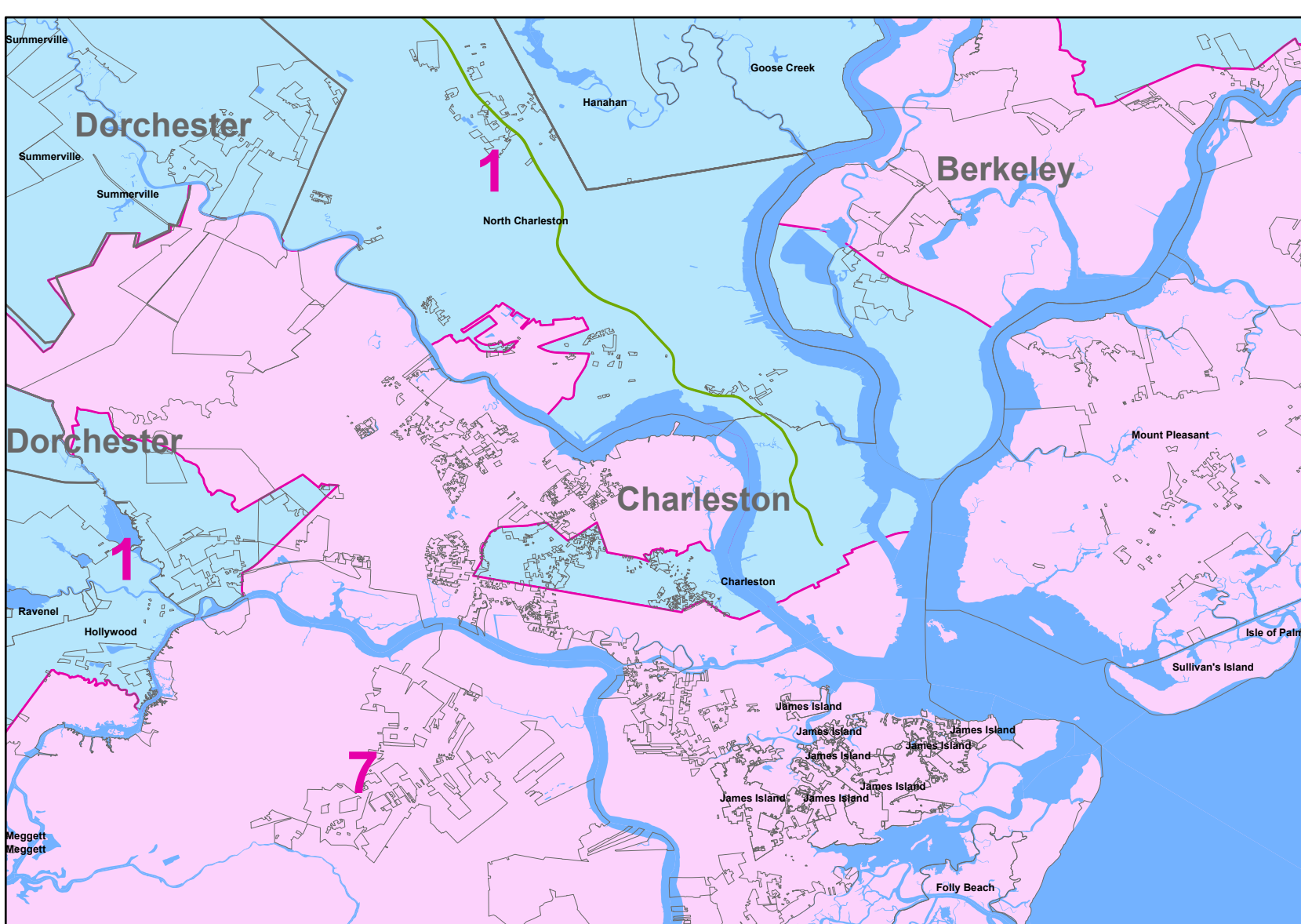
Greenville



Columbia



Charleston



Legend

- Interstates
- 2020 Corporate Boundary
- County Boundary
- Water Area

Exhibit 9

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User:

Plan Name: NAACP_Congressional_1

Plan Type: NAACP_Congressional_1

Political Subdivision Splits Between Districts

Friday, October 29, 2021

11:17 AM

Split Counts

Number of subdivisions split into more than one district: Number of splits involving no population:

County	19	County	5
Voting District	49	Voting District	25

Number of times a subdivision is split into multiple districts:

County	20
Voting District	49

County	Voting District	District	Population
<i>Split Counties:</i>			
Beaufort SC		1	3,982
Beaufort SC		7	183,135
Berkeley SC		1	219,682
Berkeley SC		7	10,179
Charleston SC		1	139,930
Charleston SC		7	268,305
Chester SC		5	20,549
Chester SC		6	11,745
Colleton SC		1	35,789
Colleton SC		7	2,815
Dorchester SC		1	161,540
Dorchester SC		7	0
Florence SC		1	20,897
Florence SC		5	90,173
Florence SC		6	25,989
Georgetown SC		1	22,717
Georgetown SC		7	40,687
Greenville SC		3	224,750
Greenville SC		4	300,784
Greenwood SC		2	69,351
Greenwood SC		3	0
Horry SC		5	124,947
Horry SC		7	226,082
Laurens SC		2	2,058
Laurens SC		3	65,481
Lexington SC		2	293,929
Lexington SC		6	62
Marion SC		1	29,183
Marion SC		5	0
Pickens SC		3	131,404
Pickens SC		4	0
Richland SC		2	80,998
Richland SC		6	335,149

Political Subdivision Splits Between Districts

NAACP_Congressional_1

County	Voting District	District	Population
Spartanburg SC		3	0
Spartanburg SC		4	327,997
Williamsburg SC		1	8,192
Williamsburg SC		6	22,834
York SC		4	46,207
York SC		5	235,883
<i>Split VTDs:</i>			
Beaufort SC	Chechessee 2	1	0
Beaufort SC	Chechessee 2	7	2,442
Charleston SC	Charleston 11	1	29
Charleston SC	Charleston 11	7	2,011
Charleston SC	Charleston 14	1	1,574
Charleston SC	Charleston 14	7	174
Charleston SC	North Charleston 18	1	3,368
Charleston SC	North Charleston 18	7	80
Charleston SC	St. Andrews 11	1	0
Charleston SC	St. Andrews 11	7	1,127
Charleston SC	St. Pauls 3	1	0
Charleston SC	St. Pauls 3	7	2,385
Colleton SC	Hendersonville	1	1,353
Colleton SC	Hendersonville	7	0
Colleton SC	Jacksonboro	1	0
Colleton SC	Jacksonboro	7	457
Dorchester SC	Saul Dam	1	793
Dorchester SC	Saul Dam	7	0
Florence SC	Florence Ward 11	5	1,263
Florence SC	Florence Ward 11	6	165
Florence SC	Florence Ward 5	5	1,593
Florence SC	Florence Ward 5	6	271
Georgetown SC	GEORGETOWN NO. 1	1	0
Georgetown SC	GEORGETOWN NO. 1	7	1,032
Georgetown SC	GEORGETOWN NO. 3	1	2,198
Georgetown SC	GEORGETOWN NO. 3	7	85
Georgetown SC	PLANTERSVILLE	1	168
Georgetown SC	PLANTERSVILLE	7	706
Greenville SC	CANEBRAKE	3	0
Greenville SC	CANEBRAKE	4	3,597
Greenville SC	CHESTNUT HILLS	3	255
Greenville SC	CHESTNUT HILLS	4	2,835
Greenville SC	GRANITE CREEK	3	0
Greenville SC	GRANITE CREEK	4	4,167
Greenville SC	GREENVILLE 24	3	7
Greenville SC	GREENVILLE 24	4	7,300
Greenville SC	JENNINGS MILL	3	0
Greenville SC	JENNINGS MILL	4	2,193
Greenville SC	SLATER MARIETTA	3	0
Greenville SC	SLATER MARIETTA	4	5,430

Political Subdivision Splits Between Districts

NAACP_Congressional_1

County	Voting District	District	Population
Greenville SC	THORNBLADE	3	0
Greenville SC	THORNBLADE	4	5,118
Greenwood SC	Rutherford Shoals	2	1,176
Greenwood SC	Rutherford Shoals	3	0
Horry SC	OCEAN DRIVE #1	5	2,713
Horry SC	OCEAN DRIVE #1	7	7
Horry SC	SALEM	5	166
Horry SC	SALEM	7	3,202
Horry SC	TILLY SWAMP	5	1,350
Horry SC	TILLY SWAMP	7	1,458
Laurens SC	CROSS HILL	2	2,007
Laurens SC	CROSS HILL	3	279
Laurens SC	MOUNTVILLE	2	51
Laurens SC	MOUNTVILLE	3	919
Lexington SC	GRENADIER	2	2,905
Lexington SC	GRENADIER	6	0
Lexington SC	QUAIL VALLEY	2	2,668
Lexington SC	QUAIL VALLEY	6	62
Marion SC	Britton's Neck	1	1,997
Marion SC	Britton's Neck	5	0
Pickens SC	Nine Forks	3	1,909
Pickens SC	Nine Forks	4	0
Pickens SC	Pumpkintown	3	2,141
Pickens SC	Pumpkintown	4	0
Richland SC	Parkridge 1	2	1,046
Richland SC	Parkridge 1	6	488
Richland SC	Riversprings 1	2	525
Richland SC	Riversprings 1	6	1,042
Richland SC	St. Andrews	2	0
Richland SC	St. Andrews	6	2,109
Richland SC	Ward 23	2	1,280
Richland SC	Ward 23	6	28
Richland SC	Ward 26	2	946
Richland SC	Ward 26	6	9,720
Richland SC	Ward 5	2	8,651
Richland SC	Ward 5	6	0
Richland SC	Ward 6	2	1,825
Richland SC	Ward 6	6	9
Spartanburg SC	Cross Anchor Fire Station	3	0
Spartanburg SC	Cross Anchor Fire Station	4	1,219
Spartanburg SC	Enoree First Baptist	3	0
Spartanburg SC	Enoree First Baptist	4	2,322
Spartanburg SC	Pelham Fire Station	3	0
Spartanburg SC	Pelham Fire Station	4	3,298
Spartanburg SC	Reidville Elementary	3	0
Spartanburg SC	Reidville Elementary	4	4,379
Spartanburg SC	Woodruff Elementary	3	0

Political Subdivision Splits Between Districts

NAACP_Congressional_1

County	Voting District	District	Population
Spartanburg SC	Woodruff Elementary	4	4,799
Spartanburg SC	Woodruff Fire Station	3	0
Spartanburg SC	Woodruff Fire Station	4	1,977
Williamsburg SC	Kingstree No. 3	1	1,527
Williamsburg SC	Kingstree No. 3	6	1,316
York SC	Cannon Mill	4	111
York SC	Cannon Mill	5	2,637
York SC	New Home	4	1,994
York SC	New Home	5	1,396
York SC	York No. 1	4	87
York SC	York No. 1	5	3,598

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Exhibit 10

RETRIEVED FROM DEMOCRACYDOCKET.COM

District	Population	Deviation	% Deviation	Hispanic	% Hispanic	NH White	% NH White	NH_DOJ_Blk	% NH_DOJ_Blk	VAP	% VAP	HVAP	%VAP	NH_WVAP	%NH_WVAP	NH_DOJ_BVAP	% NH_DOJ_BVAP
1	731,203	-1	0%	58,103	7.95%	374,724	51.25%	257,726	35.25%	562,919	76.99%	37,708	6.70%	304,098	54.02%	191,527	34.02%
2	731,203	-1	0%	50,085	6.85%	489,931	67.00%	154,183	21.09%	573,132	78.38%	32,329	5.64%	399,830	69.76%	113,931	19.88%
3	731,204	0	0%	46,023	6.29%	526,163	71.96%	121,953	16.68%	571,410	78.15%	30,010	5.25%	425,016	74.38%	88,955	15.57%
4	731,204	0	0%	69,746	9.54%	493,048	67.43%	128,743	17.61%	566,795	77.52%	45,429	8.02%	398,055	70.23%	94,172	16.61%
5	731,203	-1	0%	40,221	5.50%	466,751	63.83%	183,626	25.11%	567,439	77.60%	25,799	4.55%	378,256	66.66%	135,140	23.82%
6	731,205	1	0%	33,431	4.57%	276,541	37.82%	389,191	53.23%	573,426	78.42%	22,759	3.97%	230,669	40.23%	295,992	51.62%
7	731,203	-1	0%	55,229	7.55%	551,394	75.41%	88,465	12.10%	599,339	81.97%	37,090	6.19%	468,051	78.09%	67,335	11.23%

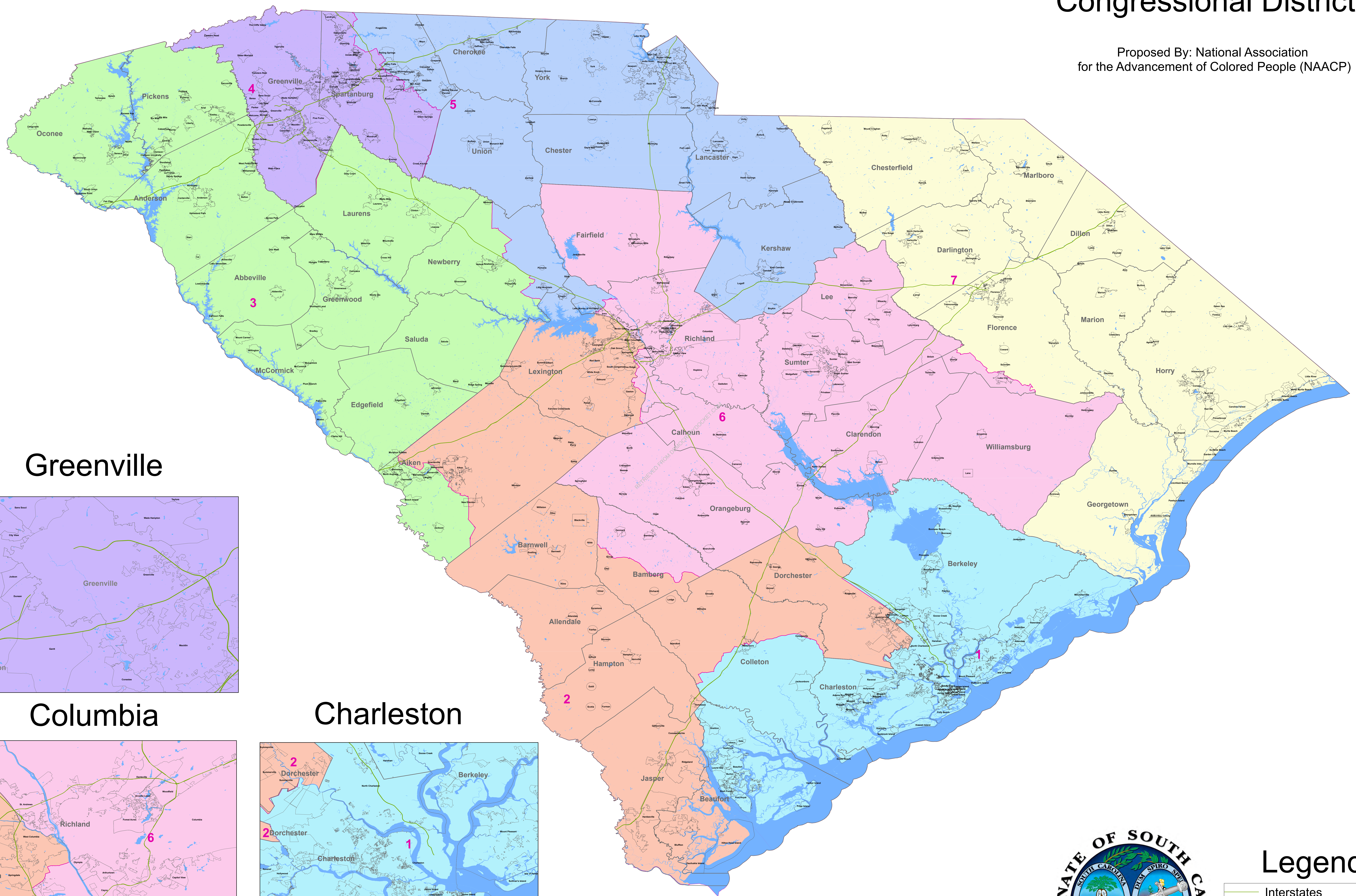
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Exhibit 11

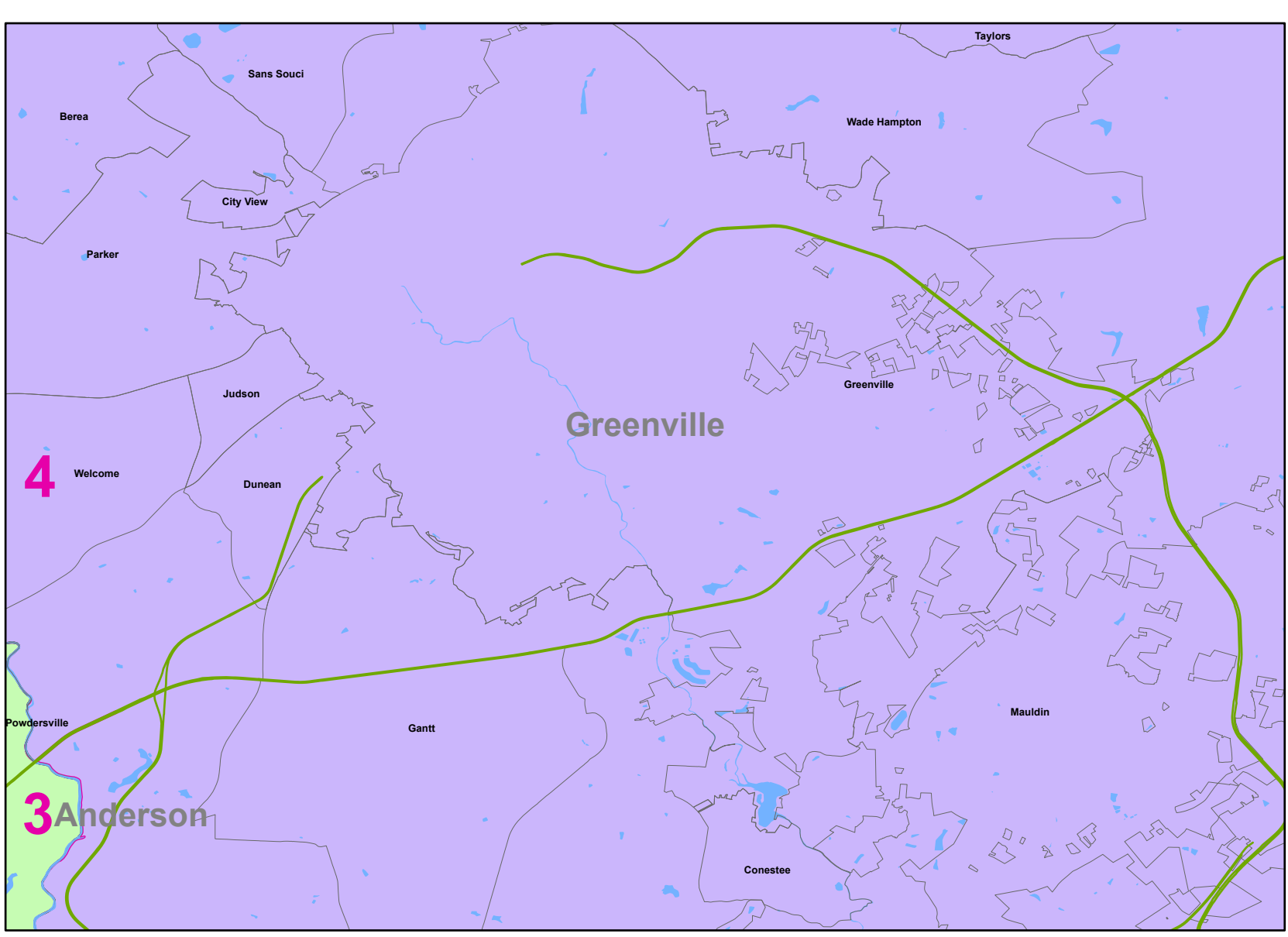
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South Carolina Congressional Districts

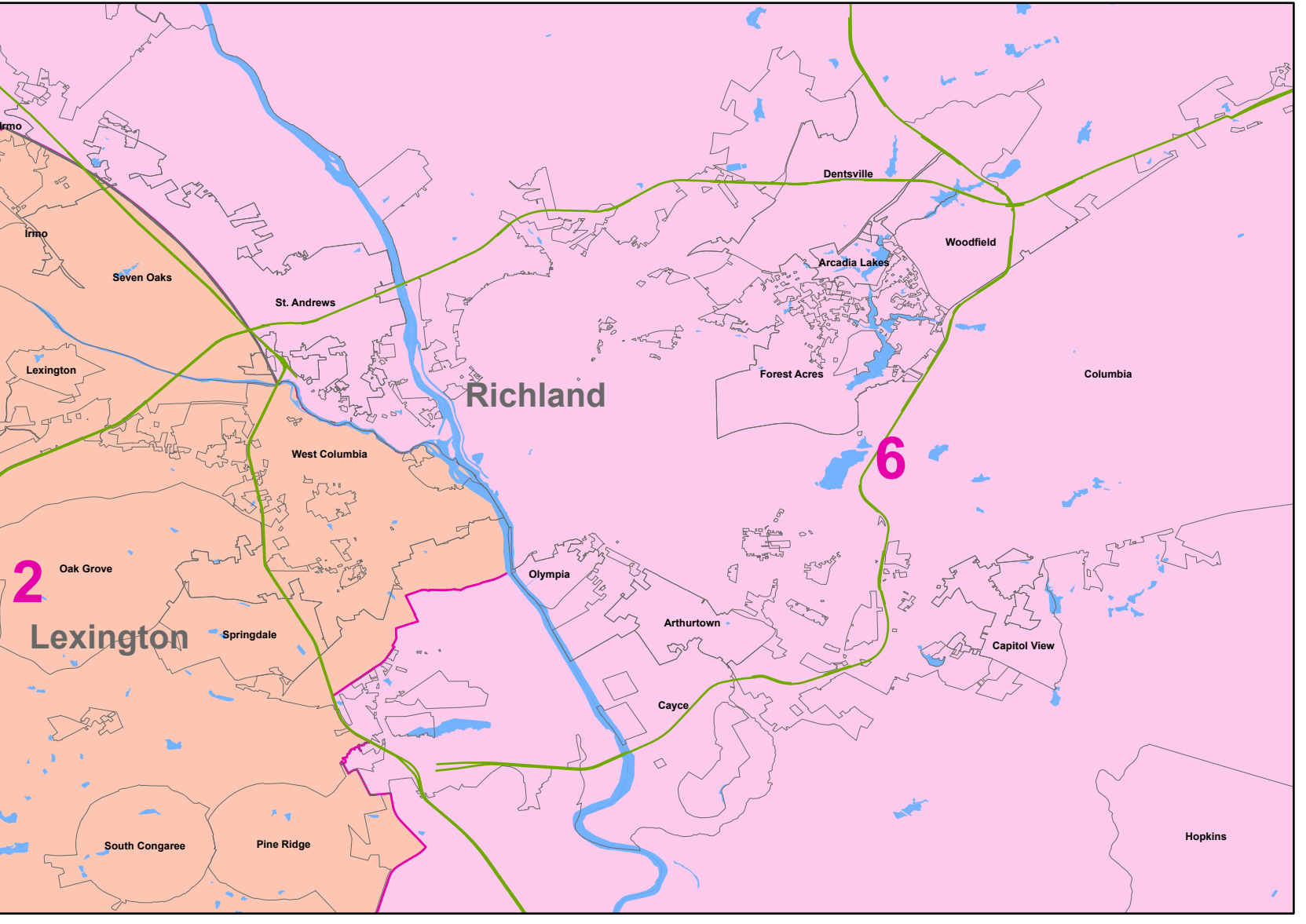
Proposed By: National Association
for the Advancement of Colored People (NAACP)



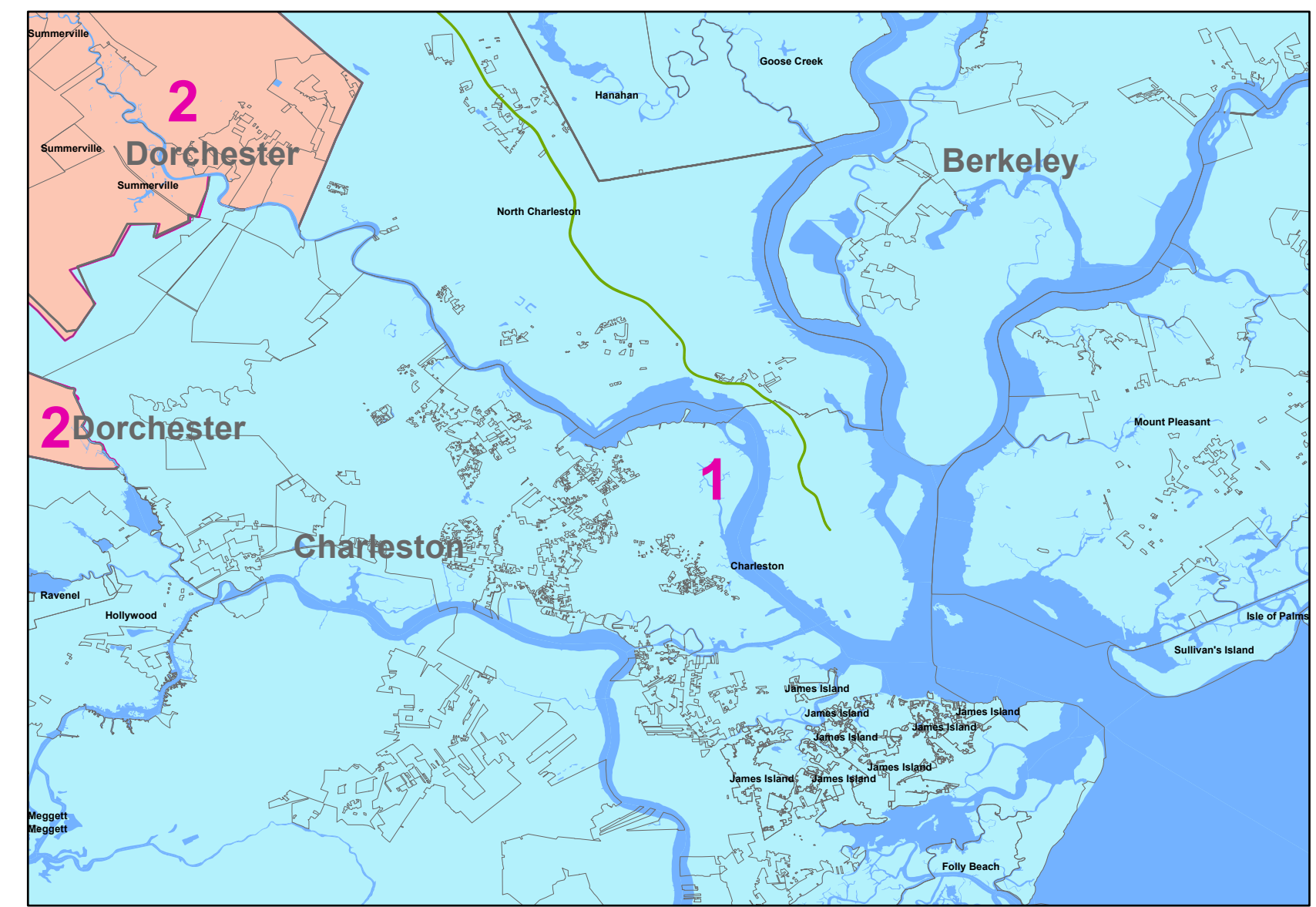
Greenville



Columbia



Charleston



Legend

- Interstates
- 2020 Corporate Boundary
- County Boundary
- Water Area

Exhibit 12

RETRIEVED FROM DEMOCRACYDOCKET.COM

User:

Plan Name: NAACP_Congressional_2

Plan Type: NAACP_Congressional_2

Political Subdivision Splits Between Districts

Friday, October 29, 2021

8:52 AM

Split Counts

Number of subdivisions split into more than one district: Number of splits involving no population:

County	14	County	3
Voting District	71	Voting District	19

Number of times a subdivision is split into multiple districts:

County	16
Voting District	71

County	Voting District	District	Population
<i>Split Counties:</i>			
Aiken SC		2	97,040
Aiken SC		3	71,768
Anderson SC		3	203,718
Anderson SC		4	0
Bamberg SC		2	2,286
Bamberg SC		6	11,025
Beaufort SC		1	76,080
Beaufort SC		2	111,037
Colleton SC		1	17,029
Colleton SC		2	21,575
Edgefield SC		2	6
Edgefield SC		3	25,651
Florence SC		6	10,625
Florence SC		7	126,434
Greenville SC		3	50
Greenville SC		4	525,484
Hampton SC		1	0
Hampton SC		2	18,561
Lexington SC		2	261,737
Lexington SC		5	18,247
Lexington SC		6	14,007
Newberry SC		3	30,432
Newberry SC		5	7,287
Richland SC		5	24,131
Richland SC		6	392,016
Spartanburg SC		3	0
Spartanburg SC		4	205,721
Spartanburg SC		5	122,276
Sumter SC		6	105,540
Sumter SC		7	16
<i>Split VTDs:</i>			
Aiken SC	Graniteville	2	1,930
Aiken SC	Graniteville	3	0

Political Subdivision Splits Between Districts

NAACP_Congressional_2

County	Voting District	District	Population
Aiken SC	Midland Valley No. 51	2	333
Aiken SC	Midland Valley No. 51	3	2,949
Aiken SC	Misty Lakes	2	3,058
Aiken SC	Misty Lakes	3	0
Aiken SC	New Ellenton	2	889
Aiken SC	New Ellenton	3	1,358
Aiken SC	SRS	2	0
Aiken SC	SRS	3	0
Aiken SC	Talatha	2	1,504
Aiken SC	Talatha	3	1,151
Aiken SC	Warrenville	2	1,703
Aiken SC	Warrenville	3	1,236
Anderson SC	Pelzer	3	1,434
Anderson SC	Pelzer	4	0
Anderson SC	West Pelzer	3	3,080
Anderson SC	West Pelzer	4	0
Bamberg SC	Edisto	2	14
Bamberg SC	Edisto	6	396
Bamberg SC	Ehrhardt	2	983
Bamberg SC	Ehrhardt	6	30
Bamberg SC	Govan	2	208
Bamberg SC	Govan	6	144
Bamberg SC	Hightowers Mill	2	5
Bamberg SC	Hightowers Mill	6	106
Bamberg SC	Hunter's Chapel	2	3
Bamberg SC	Hunter's Chapel	6	271
Colleton SC	Cottageville	1	1,149
Colleton SC	Cottageville	2	1,289
Colleton SC	Peniel	1	1,714
Colleton SC	Peniel	2	40
Colleton SC	Petits	1	122
Colleton SC	Petits	2	243
Colleton SC	Round O	1	363
Colleton SC	Round O	2	1,199
Colleton SC	Sniders	1	23
Colleton SC	Sniders	2	955
Colleton SC	Walterboro No. 2	1	1,117
Colleton SC	Walterboro No. 2	2	879
Colleton SC	Walterboro No. 4	1	504
Colleton SC	Walterboro No. 4	2	1,657
Edgefield SC	Harmony	2	0
Edgefield SC	Harmony	3	1,323
Edgefield SC	Trenton No. 1	2	6
Edgefield SC	Trenton No. 1	3	2,019
Florence SC	Lake City No. 2	6	1,013
Florence SC	Lake City No. 2	7	655
Florence SC	Lake City No. 3	6	2,394

Political Subdivision Splits Between Districts

NAACP_Congressional_2

County	Voting District	District	Population
Florence SC	Lake City No. 3	7	20
Florence SC	Leo	6	41
Florence SC	Leo	7	436
Florence SC	McAllister Mill	6	422
Florence SC	McAllister Mill	7	824
Florence SC	Olanta	6	1,775
Florence SC	Olanta	7	169
Greenville SC	CAROLINA	3	0
Greenville SC	CAROLINA	4	2,657
Greenville SC	DUNKLIN	3	0
Greenville SC	DUNKLIN	4	3,829
Greenville SC	FORK SHOALS	3	13
Greenville SC	FORK SHOALS	4	3,034
Greenville SC	FOUNTAIN INN 2	3	23
Greenville SC	FOUNTAIN INN 2	4	2,705
Greenville SC	GROVE	3	0
Greenville SC	GROVE	4	3,512
Greenville SC	PIEDMONT	3	0
Greenville SC	PIEDMONT	4	5,218
Greenville SC	TANGLEWOOD	3	0
Greenville SC	TANGLEWOOD	4	4,775
Greenville SC	WALNUT SPRINGS	3	14
Greenville SC	WALNUT SPRINGS	4	8,536
Greenville SC	WARE PLACE	3	0
Greenville SC	WARE PLACE	4	3,160
Hampton SC	Yemassee	1	0
Hampton SC	Yemassee	2	1,371
Lexington SC	CAYCE 2A	2	2,121
Lexington SC	CAYCE 2A	6	55
Lexington SC	CAYCE NO. 1	2	2,866
Lexington SC	CAYCE NO. 1	6	0
Lexington SC	GASTON 1	2	2,088
Lexington SC	GASTON 1	6	486
Lexington SC	GASTON 2	2	3,296
Lexington SC	GASTON 2	6	216
Lexington SC	PINE RIDGE 1	2	1,677
Lexington SC	PINE RIDGE 1	6	199
Lexington SC	QUAIL VALLEY	2	2,668
Lexington SC	QUAIL VALLEY	6	62
Newberry SC	Fairview	3	1,949
Newberry SC	Fairview	5	127
Newberry SC	Little Mountain	3	134
Newberry SC	Little Mountain	5	1,875
Newberry SC	Mt. Bethel-Garmany	3	1,608
Newberry SC	Mt. Bethel-Garmany	5	523
Newberry SC	Prosperity Outside	3	1,621
Newberry SC	Prosperity Outside	5	11

Political Subdivision Splits Between Districts

NAACP_Congressional_2

County	Voting District	District	Population
Newberry SC	St. Phillips-Jolly Street	3	14
Newberry SC	St. Phillips-Jolly Street	5	1,490
Newberry SC	Wheeland	3	188
Newberry SC	Wheeland	5	461
Newberry SC	Whitmire Outside	3	1,003
Newberry SC	Whitmire Outside	5	244
Richland SC	Friarsgate 1	5	495
Richland SC	Friarsgate 1	6	2,020
Spartanburg SC	Boiling Springs Elementary	4	3,601
Spartanburg SC	Boiling Springs Elementary	5	3,923
Spartanburg SC	Chapman High School	4	4,399
Spartanburg SC	Chapman High School	5	1,024
Spartanburg SC	Cleveland Elementary	4	1,131
Spartanburg SC	Cleveland Elementary	5	3,333
Spartanburg SC	Cross Anchor Fire Station	4	1,219
Spartanburg SC	Cross Anchor Fire Station	5	0
Spartanburg SC	E.P. Todd Elementary	4	2,392
Spartanburg SC	E.P. Todd Elementary	5	1,536
Spartanburg SC	Ebenezer Baptist	4	1,520
Spartanburg SC	Ebenezer Baptist	5	2
Spartanburg SC	Enoree First Baptist	3	0
Spartanburg SC	Enoree First Baptist	4	2,322
Spartanburg SC	Gramling Methodist	4	2,276
Spartanburg SC	Gramling Methodist	5	225
Spartanburg SC	Hayne Baptist	4	1,085
Spartanburg SC	Hayne Baptist	5	5,317
Spartanburg SC	Hendrix Elementary	4	2,349
Spartanburg SC	Hendrix Elementary	5	1,805
Spartanburg SC	Hope	4	2,106
Spartanburg SC	Hope	5	0
Spartanburg SC	Landrum High School	4	3,750
Spartanburg SC	Landrum High School	5	242
Spartanburg SC	Mt. Moriah Baptist	4	1,460
Spartanburg SC	Mt. Moriah Baptist	5	1,136
Spartanburg SC	Powell Saxon Una	4	3,991
Spartanburg SC	Powell Saxon Una	5	557
Spartanburg SC	Southside Baptist	4	1,842
Spartanburg SC	Southside Baptist	5	181
Spartanburg SC	Swofford Career Center	4	253
Spartanburg SC	Swofford Career Center	5	5,135
Spartanburg SC	White Stone Methodist	4	117
Spartanburg SC	White Stone Methodist	5	1,206
Spartanburg SC	Woodruff Elementary	3	0
Spartanburg SC	Woodruff Elementary	4	4,799
Sumter SC	SAINT JOHN	6	1,497

Political Subdivison Splits Between Districts

NAACP_Congressional_2

County	Voting District	District	Population
Sumter SC	SAINT JOHN	7	16

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Exhibit 13

RETRIEVED FROM DEMOCRACYDOCKET.COM

District	Population	Deviation	% Deviation	Hispanic	% Hispanic	NH White	% NH White	NH_DOJ_Bik	% NH_DOJ_Bik	VAP	% VAP	HVAP	%VAP	NH_WVAP	%NH_WVAP	NH_DOJ_BVAP	% NH_DOJ_BVAP
1	731,205	1	0.00%	57,615	7.88%	452,572	61.89%	178,711	24.44%	574,926	78.63%	38,529	6.70%	371,406	64.60%	133,744	23.26%
2	731,201	-3	0.00%	60,057	8.21%	479,156	65.53%	152,696	20.88%	570,260	77.99%	38,660	6.78%	392,178	68.77%	111,346	19.53%
3	731,203	-1	0.00%	42,695	5.84%	521,234	71.28%	135,907	18.59%	578,927	79.17%	27,402	4.73%	426,435	73.66%	101,323	17.50%
4	731,205	1	0.00%	76,974	10.53%	473,372	64.74%	138,284	18.91%	562,354	76.91%	50,365	8.96%	380,527	67.67%	100,631	17.89%
5	731,204	0	0.00%	43,441	5.94%	496,511	67.90%	150,070	20.52%	561,732	76.82%	27,830	4.95%	395,334	70.38%	110,027	19.59%
6	731,204	0	0.00%	35,835	4.90%	288,548	39.46%	372,291	50.91%	577,441	78.97%	24,667	4.27%	242,628	42.02%	283,932	49.17%
7	731,203	-1	0.00%	36,221	4.95%	467,159	63.89%	195,928	26.80%	588,820	80.53%	23,671	4.02%	395,467	67.16%	146,049	24.80%

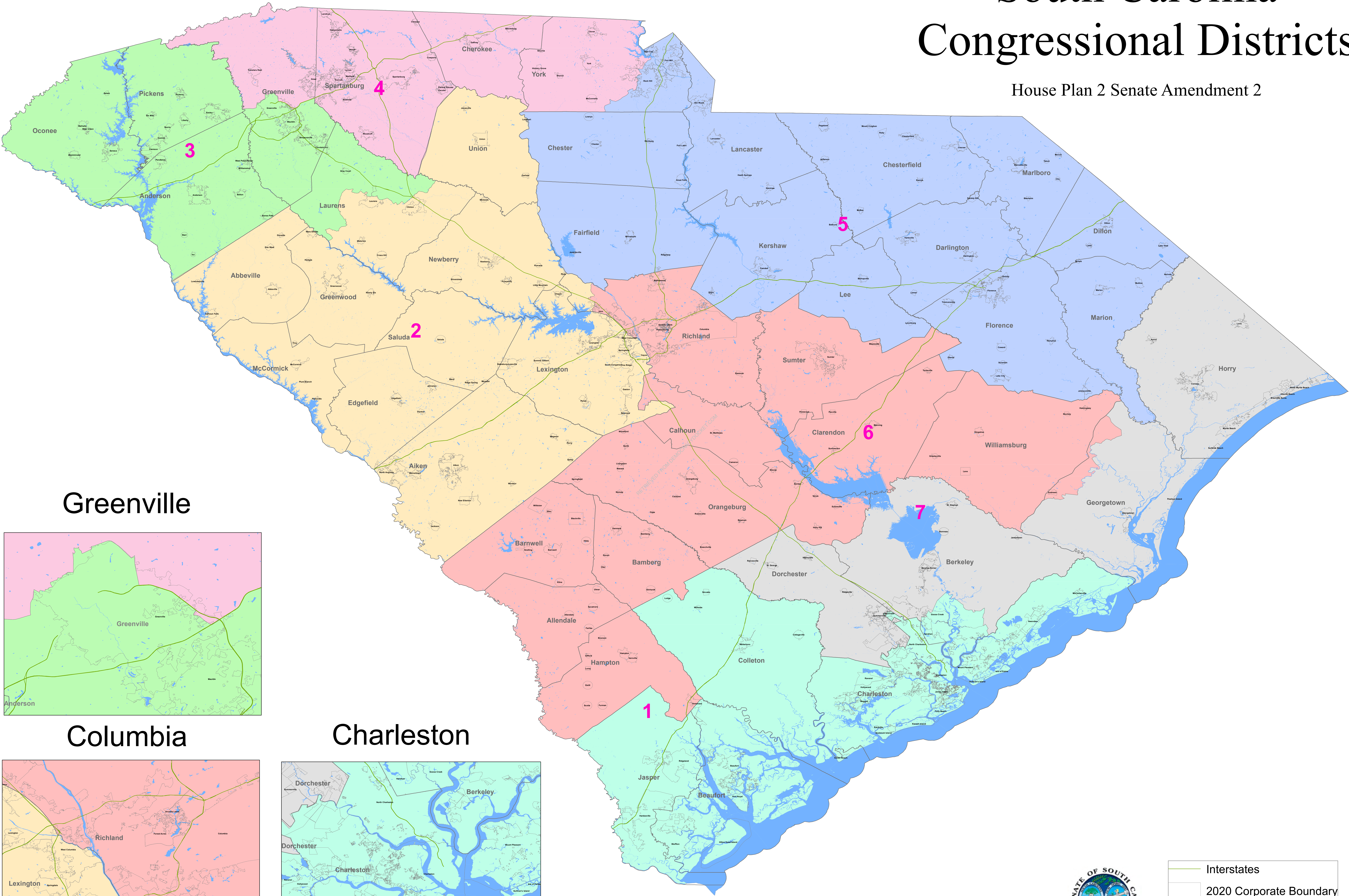
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Exhibit 14

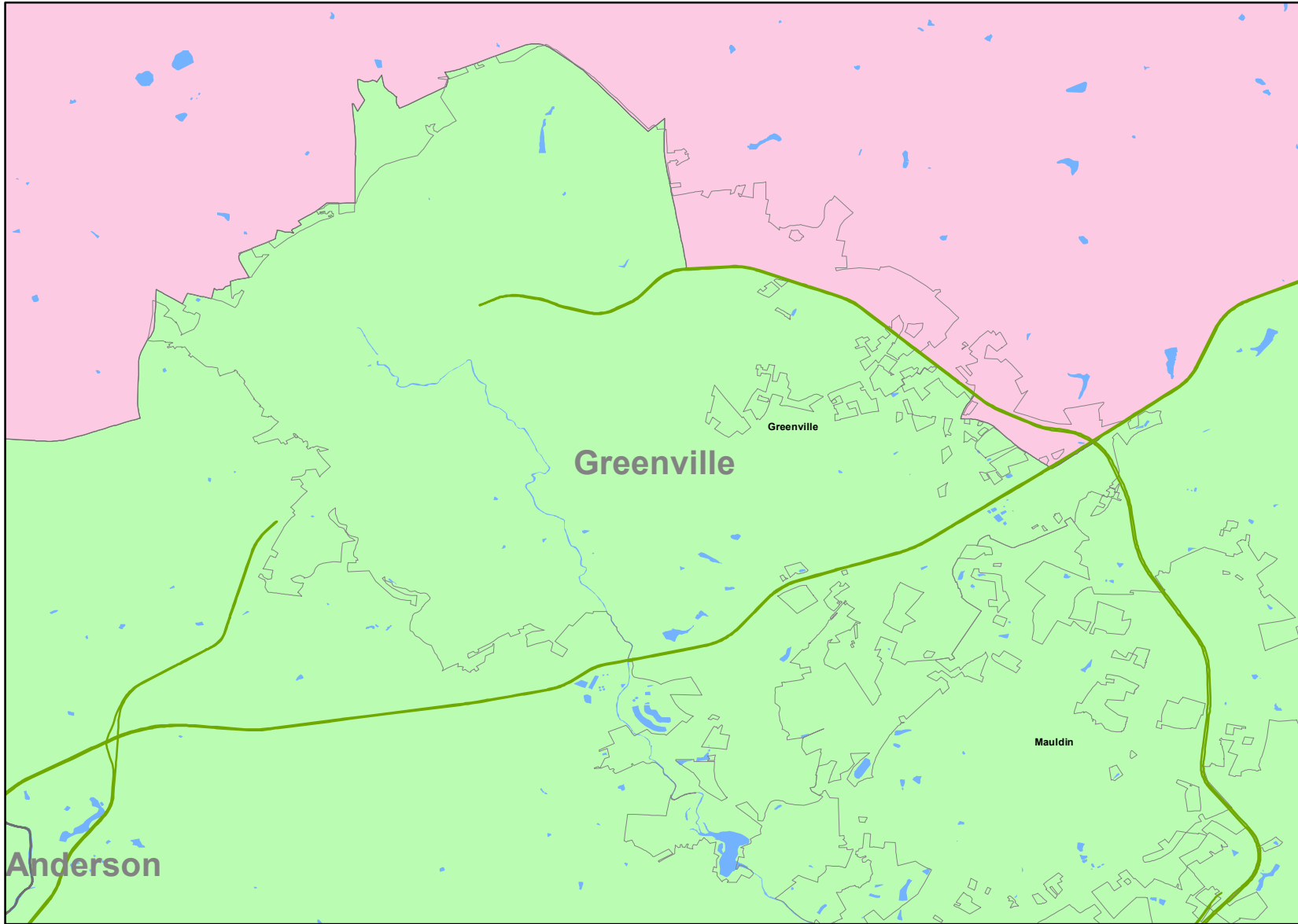
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South Carolina Congressional Districts

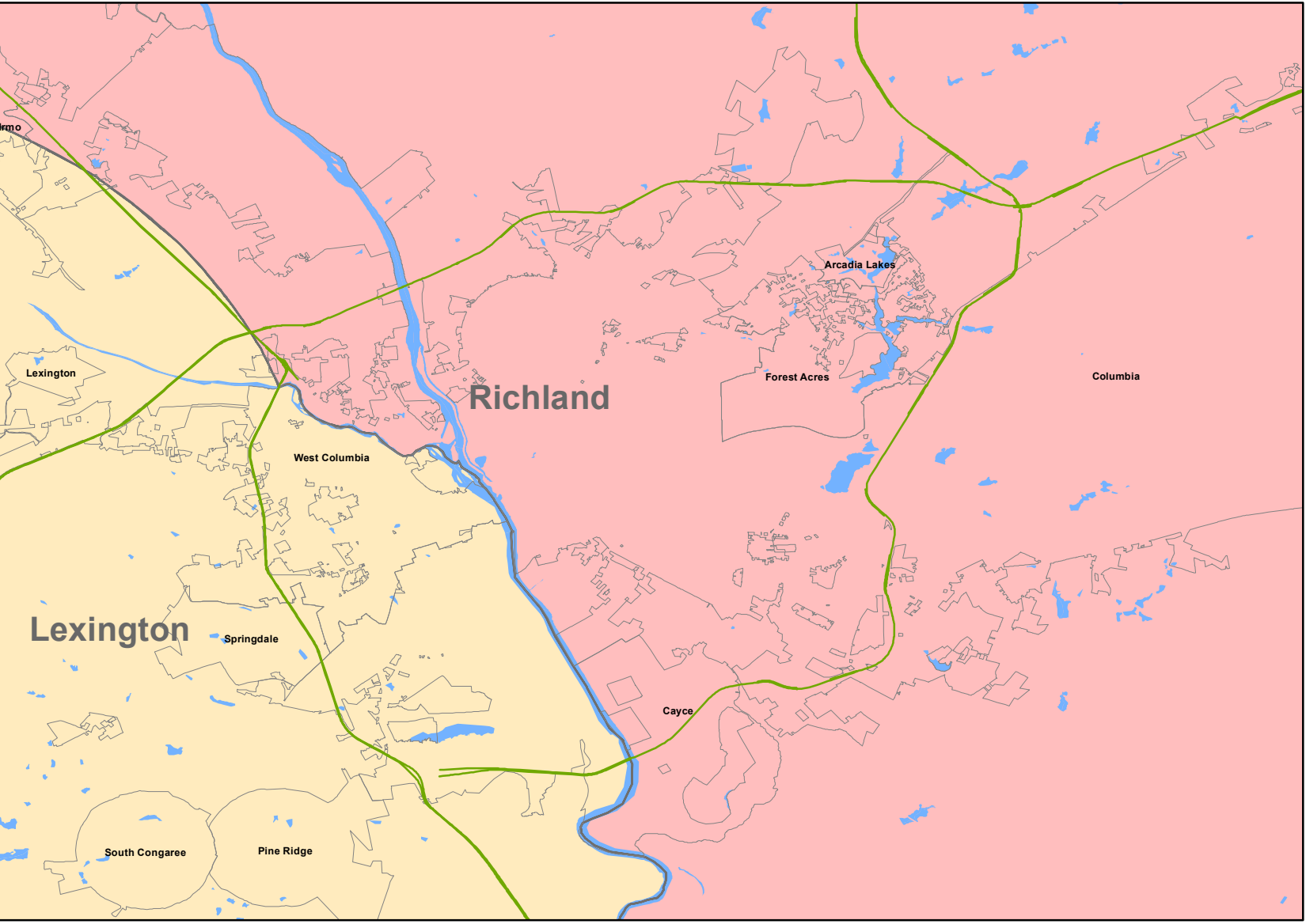
House Plan 2 Senate Amendment 2



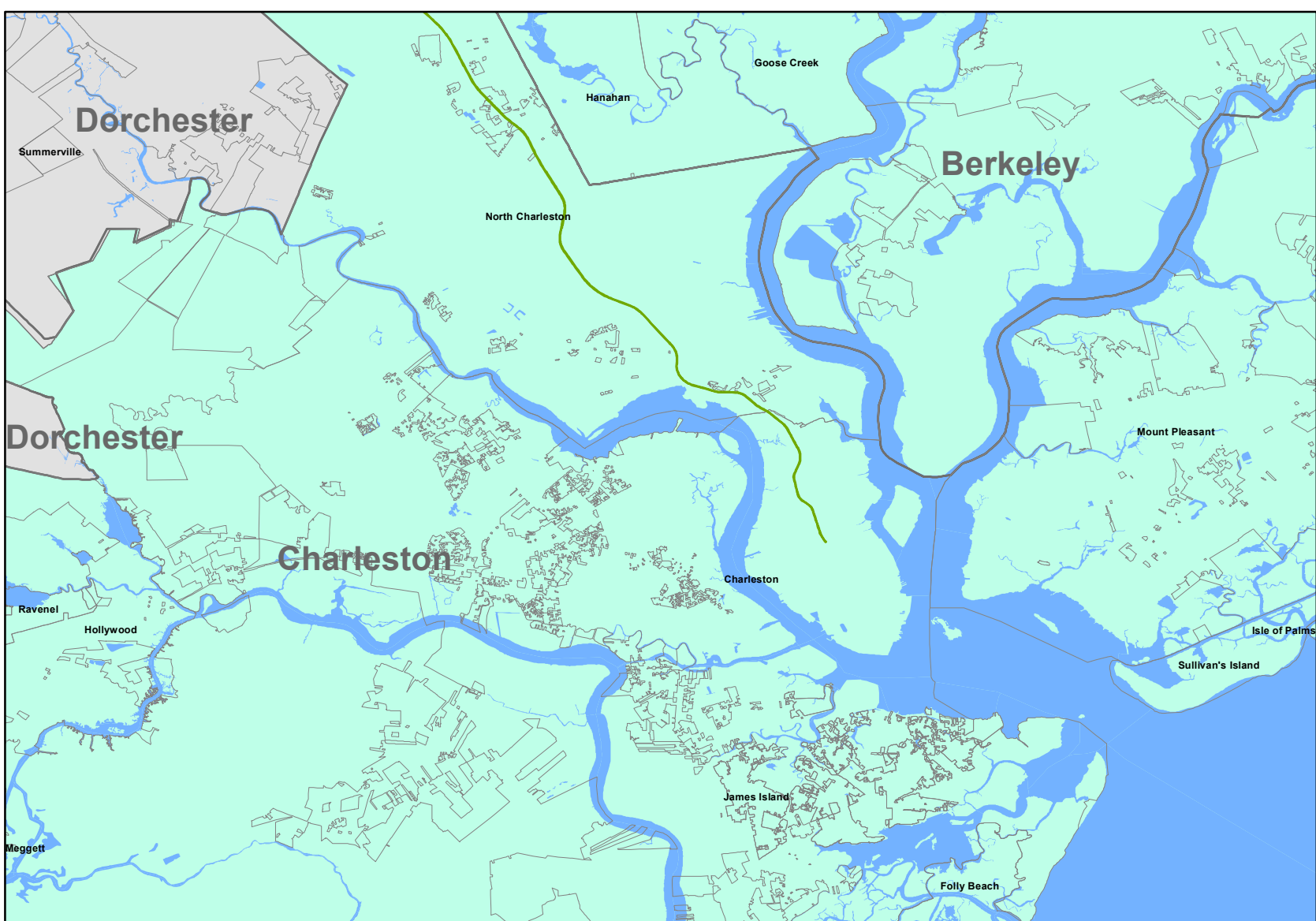
Greenville



Columbia



Charleston



- Interstates
- 2020 Corporate Boundary
- County Boundary
- Water Area

Exhibit 15

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User:

Plan Name: House Plan 2 Senate Amendment 2 Blk Eq

Plan Type:

Political Subdivision Splits Between Districts

Thursday, January 13, 2022

2:20 PM

Split Counts

Number of subdivisions split into more than one district: Number of splits involving no population:

County	6	County	0
Voting District	18	Voting District	1

Number of times a subdivision is split into multiple districts:

County	6
Voting District	18

County	Voting District	District	Population
<i>Split Counties:</i>			
Berkeley SC		1	68,458
Berkeley SC		7	161,403
Georgetown SC		6	6,173
Georgetown SC		7	57,231
Greenville SC		3	288,003
Greenville SC		4	237,531
Laurens SC		2	38,068
Laurens SC		3	29,471
Richland SC		2	17,683
Richland SC		6	398,464
York SC		4	109,457
York SC		5	172,633
<i>Split VTDs:</i>			
Berkeley SC	Cainhoy	1	980
Berkeley SC	Cainhoy	7	542
Georgetown SC	BETHEL	6	101
Georgetown SC	BETHEL	7	1,574
Georgetown SC	LAMBERT TOWN	6	8
Georgetown SC	LAMBERT TOWN	7	735
Greenville SC	GREENVILLE 4	3	3,324
Greenville SC	GREENVILLE 4	4	1,141
Greenville SC	GREENVILLE 6	3	762
Greenville SC	GREENVILLE 6	4	564
Greenville SC	LEAWOOD	3	133
Greenville SC	LEAWOOD	4	3,809
Laurens SC	BARKSDALE-NARINE	2	0
Laurens SC	BARKSDALE-NARINE	3	1,644
Laurens SC	EKOM	2	578
Laurens SC	EKOM	3	341
Laurens SC	LAURENS 6	2	1,842
Laurens SC	LAURENS 6	3	6
Laurens SC	MOUNT OLIVE	2	1,703
Laurens SC	MOUNT OLIVE	3	127

Political Subdivision Splits Between Districts

House Plan 2 Senate Amend

County	Voting District	District	Population
Richland SC	Ballentine 1	2	2,288
Richland SC	Ballentine 1	6	21
Richland SC	Dutch Fork 4	2	143
Richland SC	Dutch Fork 4	6	2,331
Richland SC	Friarsgate 1	2	4
Richland SC	Friarsgate 1	6	2,511
Richland SC	Friarsgate 2	2	9
Richland SC	Friarsgate 2	6	2,055
York SC	Hollis Lakes	4	2,815
York SC	Hollis Lakes	5	177
York SC	Mt. Gallant	4	2,144
York SC	Mt. Gallant	5	12
York SC	Newport	4	2,691
York SC	Newport	5	225
York SC	Oakridge	4	3,864
York SC	Oakridge	5	55

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Exhibit 16

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House Plan 2 Senate Amendment 2 Plan Stats

District	Population	Deviation	% Deviation	Hispanic	% Hispanic	NH White	% NH White	NH_DOJ_Blk	% NH_DOJ_Blk	VAP	% VAP	HVAP	%HVAP	NH_WVAP	%NH_WVAP	NH_DOJ_BVAP	% NH_DOJ_BVAP
1	731,205	1	0.00%	67,258	9.20%	467,845	63.98%	159,131	21.76%	585,290	80.04%	44,998	7.69%	392,333	67.03%	120,379	20.57%
2	731,204	0	0.00%	49,071	6.71%	482,965	66.05%	164,513	22.50%	570,189	77.98%	31,326	5.49%	392,422	68.82%	121,406	21.29%
3	731,203	-1	0.00%	50,606	6.92%	523,816	71.64%	118,621	16.22%	572,754	78.33%	33,194	5.80%	424,564	74.13%	86,659	15.13%
4	731,201	-3	0.00%	66,678	9.12%	502,238	68.69%	122,075	16.70%	564,580	77.21%	43,166	7.65%	403,463	71.46%	88,677	15.71%
5	731,204	0	0.00%	34,335	4.70%	409,663	56.03%	250,265	34.23%	564,534	77.21%	22,189	3.93%	330,096	58.47%	186,598	33.05%
6	731,205	1	0.00%	35,466	4.85%	293,654	40.16%	367,540	50.27%	576,485	78.84%	24,575	4.26%	245,676	42.62%	280,133	48.59%
7	731,203	-1	0.00%	49,424	6.76%	498,371	68.16%	141,742	19.38%	580,628	79.41%	31,676	5.46%	415,421	71.55%	103,200	17.77%

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Exhibit 17

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Moon Duchin , PhD
The South Carolina State Confvs.McMaster/Alexander

July 14, 2022

Page 1

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

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP

and

TAIWAN SCOTT, ON BEHALF OF HIMSELF
AND ALL OTHER SIMILARLY SITUATED
PERSONS,

Plaintiffs,

vs.

Case No. 3:21-CV-03302-JMC-TJH-RMG

THOMAS C. ALEXANDER, IN HIS OFFICIAL
CAPACITY AS PRESIDENT OF THE SENATE;
LUKE A. RANKIN, IN HIS OFFICIAL CAPACITY
AS CHAIRMAN OF THE SENATE JUDICIARY
COMMITTEE; MURRELL SMITH, IN HIS OFFICIAL
CAPACITY AS SPEAKER OF THE HOUSE OF
REPRESENTATIVES; CHRIS MURPHY, IN HIS
OFFICIAL CAPACITY AS CHAIRMAN OF THE HOUSE
OF REPRESENTATIVES JUDICIARY COMMITTEE;
WALLACE H. JORDAN, IN HIS OFFICIAL CAPACITY
AS CHAIRMAN OF THE HOUSE OF REPRESENTATIVES
ELECTIONS LAW SUBCOMMITTEE; HOWARD KNAPP,
IN HIS OFFICIAL CAPACITY AS INTERIM
EXECUTIVE DIRECTOR OF THE SOUTH CAROLINA
STATE ELECTION COMMISSION; JOHN WELLS,
JOANNE DAY, CLIFFORD J. EDLER, LINDA MCCALL,
AND SCOTT MOSELEY, IN THEIR OFFICIAL
CAPACITIES AS MEMBERS OF THE SOUTH CAROLINA
STATE ELECTION COMMISSION,

Defendants.

DEPOSITION OF: MOON DUCHIN, PHD
(Via Videoconference)

DATE: Tuesday, July 14, 2022

TIME: 10:13 a.m.

1 files. And so it's a little bit insubstantial to
2 talk about whether things were in separate files or
3 the same one, but it was all in the same data
4 package. It was all in the same delivery.

5 Q. And before I go to section 5 I want to
6 go back and just round out a few questions on this
7 section 4.

8 A. Yes.

9 Q. Did you omit from section 4 any
10 traditional criteria contained in the General
11 Assembly's Guidelines?

12 A. I made an effort to address all the ones
13 that had high billing. There isn't a numerical
14 discussion of core retention. But again, as we
15 reviewed when we looked at the Guidelines before,
16 core retention is kind of packaged with other
17 considerations in the Guidelines, and it wasn't a
18 clear heading, in particular, in the House
19 Guidelines. So I do not give core retention
20 statistics across the plans but I do give core
21 retention statistics in places where I think they
22 are relevant in the report.

23 Q. And what about VTD splits, did you give
24 statistics on VTD splits here?

25 A. It does not look like I did give

1 statistics on VTD splits. I certainly could if that
2 would be helpful.

3 Q. And did you give any statistics on
4 partisan performance?

5 A. Not in this section because, indeed,
6 partisan performance is not listed among the
7 criteria in the Guidelines. But I certainly do
8 discuss partisan performance later in my report.

9 Q. You said that you focused on the
10 criteria that had, quote -- "high billing" I think
11 was your phrase. Is that a phrase you used a moment
12 ago?

13 A. I believe you.

14 Q. If I'm wrong you can correct me on the
15 transcript. But how did you determine which
16 criteria do or do not have high billing or otherwise
17 merited inclusion here in section 4?

18 A. I'm referring, sort of generally, to
19 things like being the heading of a section or being
20 in boldface, things like that. So that, for
21 example, if you review the House Guidelines you will
22 see that core retention is nowhere a section header
23 or in boldface. That is an informal
24 characterization of the billing in the Guidelines.

25 Q. And was the General Assembly prevented

1 is listed here; therefore, it's a named principle.
2 It shall not influence the redistricting plan to
3 such an extent as to overtake other redistricting
4 principles.

5 So though it's not made explicit, I
6 would say that a reasonable reader would conclude,
7 quite strongly, even, that unnamed criteria also
8 cannot overtake the redistricting principles that
9 are here named. But I concede to you that that is
10 just an attempt to make sense of what's written here
11 and not explicit text.

12 Q. And are you looking currently at the
13 House Guidelines?

14 A. I was just reading from the House
15 Guidelines. Correct.

16 Q. And can you see those on the screen now?

17 A. Yes.

18 Q. It takes me a moment to catch up with
19 you, so I appreciate your patience. And the House
20 Guidelines here, in part VII, mention Communities of
21 Interest?

22 A. Uh-huh.

23 Q. Are you aware of any authority or any
24 decisions treating existing districts and cores of
25 districts as a community of interest?

1 other states. Correct?

2 A. Quite a few, yeah.

3 Q. And you said, as a result, that then
4 affects the extent to which or whether map drawers
5 can consider preservation of cores of districts in
6 those states. Is that right?

7 A. That's right.

8 Q. So I'm just asking, is there anything
9 that you're aware of in South Carolina law that
10 functions that way and would prohibit consideration
11 of preservation of cores?

12 A. Right. I understand. No, there is
13 nothing in the law that I'm aware of.

14 Q. And are you aware of anything in the law
15 that would prohibit the General Assembly from
16 treating cores of districts as communities of
17 interest in South Carolina?

18 A. Nothing in the law that I'm aware of.

19 Q. Are you aware of anything else that
20 would prohibit them from doing so?

21 A. I would say that as a matter of good
22 government best practices, that there would be some
23 significant skepticism of using the communities of
24 interest heading in that way.

25 Q. And which good government best practices

1 summary, section 3B is called: Constituent
2 consistency. And it employs the phrase:
3 "Preserving the cores of existing districts."

4 Q. I'm going to share that again for the
5 record. I believe you're reading here off of page
6 2, this heading B, Constituent consistency. Is that
7 correct?

8 A. That's right.

9 Q. And how that heading also discusses
10 keeping incumbents' residences in their districts
11 with their core constituents and avoiding contests
12 between incumbent legislators. Did I read that
13 correctly?

14 A. Yes. It says that all three of those
15 should be considered.

16 Q. And I'm going to pull up your report
17 again if I can figure out how. And here, in section
18 4, you discussed incumbent pairing but not
19 preserving cores of districts. Is that right?

20 A. That's right. In this section I
21 discussed incumbent pairing but not core
22 preservation.

23 Q. All right. I would like to move on now
24 to your detailed district review in section 5, if
25 that's okay.

Moon Duchin , PhD

July 14, 2022

The South Carolina State Confvs.McMaster/Alexander

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1 A. Sorry. Excuse me. It's also addressing
2 the South Carolina State House districts also in
3 that report.

4 Q. Got it. And do you have -- is there any
5 support or discussion of this particular method in
6 any academic literature that you're aware of?

7 A. That is, is there any discussion of the
8 method of using public testimony to identify
9 communities of interest?

10 Q. To identify a subset of communities of
11 interest.

12 A. I'm sorry. Could you rephrase?

13 Q. Sure. Let me ask you this: Were these
14 the only four communities of interest identified in
15 the public testimony?

16 A. I see. No, certainly not. Thank you
17 for rephrasing.

18 Q. Yeah. Sorry.

19 Okay. So I want to understand how you
20 identified these four out of the various communities
21 of interest that were identified in the public
22 hearing testimony. So can you tell me why you
23 identified these four, as opposed to other
24 communities of interest?

25 A. Sure. And incidentally, if you look at

1 quantification or quantitative analysis in
2 communities of interest. Is that right?

3 A. I think maybe a good way to answer your
4 question would be to say what academic domain this
5 falls in. So this falls in an area that has a huge
6 literature called "participatory mapping" that's
7 part of the academic geography literature. I would
8 say there are hundreds of papers on participatory
9 mapping and the idea of taking seriously public
10 input, grass-roots input. So I don't know that any
11 of those papers focuses specifically on applications
12 to redistricting, but there is really no shortage of
13 both qualitative and quantitate support for the idea
14 of community mapping.

15 Q. And here I'm just looking for a simple
16 yes or no answer to this next question.

17 A. Sure.

18 Q. Is there any academic literature that
19 discusses the method you used here, in this report,
20 this specific method?

21 A. I'm trying to give you the yes or no
22 answer. I would say the detailed method used here,
23 no.

24 Q. Okay. Thank you. And how about are you
25 aware of any court decisions or opinions discussing

1 public testimony?

2 A. Okay. In many states anyone can. For
3 instance, the cycle in Michigan, the commission
4 debated whether only residents could provide
5 testimony and decided that it would be open to
6 anyone.

7 Q. And among the people who show up to
8 testify, for example, are they a statistically
9 random sample of the statewide population?

10 A. I'm not sure I understand what that
11 would mean, but I think the spirit is are they --
12 are there any statistics gathered on commenters. Am
13 I understanding right?

14 Q. Well, what I really want to understand
15 is, are commenters, whoever shows up to comment in a
16 public -- in public hearing, can we extrapolate from
17 that that their views represent the views of the
18 entire state or the populous at large from which
19 they are drawn?

20 A. Well, certainly not. With any public
21 anticipatory effort there is always going to be a
22 kind of small sample. And it's hard to say exactly
23 what that might represent in terms of the overall
24 views of all residents, all adults, all voters or
25 some other universe.

1 Q. So if I can just briefly summarize, the
2 public testimony does not necessarily represent the
3 views of all voters or all residents of the state.
4 Is that correct?

5 A. It certainly does not represent the
6 views of all voters. It could not.

7 Q. And I think you said that you were
8 looking for communities of interest that got
9 particular focus or emphasis in the public hearing
10 testimony. Is that right?

11 A. That's right. I looked for themes, is
12 the phrase that I used.

13 Q. And so would those communities of
14 interest necessarily be a point of focus or emphasis
15 for all voters or all individuals in the state?

16 A. Again, I clearly concede that there is
17 no way testimony could possibly capture everything.
18 That's certain.

19 Q. But would the weight of that testimony
20 be representative of the weight of the views among
21 all residents or all voters in the state?

22 A. Well, I believe that it's the best we
23 have, that, in fact, considerable effort was
24 expended by the State to collect it. And it strikes
25 me that it would be misuse of that time and those

1 resources not to take it seriously as the best
2 record we have of residents characterizing their own
3 communities.

4 Q. And regardless of whether it is the best
5 we have or is something that the General Assembly
6 should have, could have or did, in fact, take
7 account of, I'm asking a slightly different
8 question, which is, do the points of emphasis -- can
9 you say, one way or the other, whether the points of
10 emphasis in the public testimony accurately
11 represent the views of the points of emphasis of the
12 populous generally in South Carolina?

13 A. I think it's reasonable to assume a
14 correlation. Is that what you mean? It's not going
15 to be the entirety, necessarily, but I think it's
16 reasonable to assume correlation.

17 Q. And have you conducted any analysis,
18 either survey analysis or anything like that to try
19 to capture the views of individuals who did not
20 provide public hearing testimony with respect to
21 communities of interest?

22 A. In South Carolina, certainly not.

23 Q. And did plaintiff's counsel ever
24 instruct you to focus, back on page 15, on these
25 four communities, Columbia, Sumter, Orangeburg and

1 mean that you turned off race data in the ensemble
2 plans or something else?

3 A. That means that the algorithm does not
4 use the race field.

5 I want to say something that I think is
6 very important for reasoning about ensembles and
7 race, which is, I think that everything else that's
8 in the ensemble has racial factors subtly proxied.
9 For example, the boundaries of counties and
10 municipalities can well have an important racial
11 history. And I don't mean to deny that at all, only
12 to say that in this collection of ensemble runs the
13 race field and the data was simply not used by the
14 algorithm.

15 Q. And the rest of that sentence says that
16 the plans are neutral with respect to all other
17 properties except those listed here. Does that mean
18 the ensemble plans don't consider data on other
19 traditional districting principles or those
20 principles at all?

21 A. It does mean that. And it also means
22 something stronger, which is that the -- those of us
23 who study computational redistricting, we think
24 about, as I was referring to earlier, the
25 probability distribution from which we are sampling.

1 So I'm not only saying that we didn't use a field in
2 the data that has to do with other features, I'm
3 also saying that I can characterize the limiting
4 distribution and it depends only on the named
5 features, the limiting distribution does, which is
6 to say -- well, let me rephrase that in a way that I
7 think is maybe clearer. If you take two plans and
8 you ask how much more likely is it to see this than
9 this, I can answer that quantitatively. And I know
10 that it depends only on the things that are
11 described here.

12 Q. So when the algorithm is drawing the
13 plans in the ensemble approach or in the ensemble
14 plans does it consider preservation of cores?

15 A. I have done that in some studies. I did
16 not do that here.

17 Q. Okay. And focusing again on what you
18 did here for South Carolina on the Congressional
19 plan, does the algorithm consider VTD splits?

20 A. Yes. Because it only builds from whole
21 VTDs. It does not split any VTDs.

22 Q. And does it consider partisan
23 performance in any districts?

24 A. Certainly not.

25 Q. How about incumbency pairing?

1 A. Can I do that here? I did look at
2 incumbency in the South Carolina House, but I think
3 for Congress I did not. Let me look again at the
4 description in appendix A. I don't see incumbency
5 described. And that means in this report I did not
6 look at incumbencies.

7 Q. Section 6.1 is a statewide analysis --
8 or at least it's headed as a statewide analysis.
9 And you say -- and I don't mean to suggest it's not.
10 I'm just trying to be as accurate as you are, which
11 you're setting a high standard. The first sentence
12 says: "Using neutral ensembles of districting maps,
13 we can compare the properties of a plan to
14 alternative statewide plans that were made under
15 traditional criteria." Are these alternative
16 statewide plans that were made under traditional
17 criteria the ensemble plans made with the parameters
18 we have been discussing?

19 A. Yes, that's right.

20 Q. Or art they different? There are not
21 any different set of plans?

22 A. No. We just described the comparative.

23 Q. Okay. And as I understand what you have
24 shown here, we will move here to District -- maybe
25 to Figure 10, but I think it's also on page 22, what

1 BY MR. GORE:

2 Q. Dr. Duchin, did you discuss your
3 testimony or deposition with anyone during the
4 break?

5 A. I did not.

6 Q. I want to ask one more question about
7 section 6 before I move on to section 7.

8 A. Yes.

9 Q. In section 6, back on page 22 you
10 identified some of the other principles that you
11 used to program the algorithm that generated the
12 ensemble map. And you noted a preference for
13 compactness and for the preservation of counties and
14 municipalities.

15 A. Yes.

16 Q. Does your report contain any analysis of
17 how the enacted plan compares to the ensemble plans
18 with respect to those criteria?

19 A. No, it's not in my report, but it could
20 be derived from the outposts.

21 Q. Thank you. All right. Let's move to
22 section 7. We talked a little bit about minority
23 opportunity during your deposition. Do you know how
24 counsel identified these races that are shown here
25 on page 25?

1 in saying that Table 7 shouldn't be interpreted as
2 democratic performance because it's the performance
3 of these four particular Democrats.

4 Q. Certainly. And are these four
5 candidates the only Black candidates of choice in
6 South Carolina electoral history?

7 A. No, they are not.

8 Q. Okay. So you have four elections. And
9 you have identified -- or had identified for you
10 four Black candidates of choice. And in each of
11 those four elections those candidates are Democrats.
12 Right?

13 A. Yes, these were four or five. I mean,
14 Joe Biden and Kamala Harris being on one ticket but
15 different people.

16 Q. So maybe we will refer to them as
17 tickets, just to be precise. Table 7 records the
18 number of times any of these candidates won in each
19 district in each of the plans listed here. Correct?

20 A. Right. And just to be perfectly clear,
21 one means that they had more votes than their major
22 party opponent, in this case a Republican. So it
23 does not take third-party votes into account. So
24 it's the plurality winner, essentially.

25 Q. Thank you. And thank you for that

1 clarification. So each of these quote/unquote wins
2 is the Black preferred candidate, who is also a
3 democrat, prevailing in the two-party vote. Is that
4 correct?

5 A. That is correct.

6 Q. So take the enacted plan, for example,
7 it lists four wins in District 6.

8 A. Yes.

9 Q. And each of those wins is for a Black
10 preferred candidate. Correct?

11 A. Yes.

12 Q. And each is also for a Democrat.
13 Correct?

14 A. Yes.

15 Q. And in your experience have you ever
16 seen a case or scenario where the Black preferred
17 candidate was not a democrat?

18 A. I'm thinking. In a recent electoral
19 history in statewide elections, that is in elections
20 with a party ID, at the moment Black preferred
21 candidates do strongly tend to be Democrats
22 nationwide. That's not necessarily true for other
23 minority groups. Are there exceptions? Well, it is
24 definitely the case that ecological inference
25 methods, which are usually what underpin RPV

1 analysis, show areas of the country in which Black
2 voters have preferred Republicans at times. But in
3 the studies that I personally have conducted I have
4 not seen that, at least with any frequency.

5 Q. And so according to Table 7, enacted
6 2022 and previous 2012 which I have been calling the
7 benchmark plan, each have four wins in District 6.
8 Right?

9 A. That's correct.

10 Q. And I'm going to flip back to page 24 --
11 23 and 24. You identified an alternative districts
12 plan here.

13 A. Yes.

14 Q. And do you know how many wins these
15 districts generated?

16 A. I do. It's described in the footnote.

17 Q. I see it. Okay.

18 A. And the footnote says that the candidate
19 of choice won outright in one of the four contests
20 and received at least 47.5 percent of the vote; i.e.
21 they were in that 5 percent margin in the other
22 three.

23 Q. So that would be a total of five wins.
24 Is that right?

25 A. Out of four? No.

1 Q. All right. So let's look at this. So
2 the Harpootlian plan in District 1 generates two
3 wins for the Black preferred candidate. Is that
4 right?

5 A. That's right.

6 Q. Who also happens to be a Democrat. Is
7 that right?

8 A. Yes. And these Black preferred
9 candidates are all Democrats.

10 Q. I want to go back to page -- and then
11 the Harpootlian plan does not generate any other
12 wins for Black preferred candidates in any other
13 districts. Correct?

14 A. That's right. Although, again, this
15 table doesn't show you instances of getting close
16 but it just shows you whether you cross the line to
17 having plurality support. You're right. There are
18 no other instances of plurality support.

19 Q. So let's go back to page 9, if we might.

20 A. We might.

21 Q. And in the Harpootlian plan, what is the
22 BVAP of District 1?

23 A. 21.2 percent.

24 Q. So for the Black preferred candidate to
25 prevail in a 21.2 percent BVAP district, that means

1 District 5 has maybe 12-and-a-half-percent higher
2 BVAP than District 1. And in District 5 there are
3 zero wins for those four candidates and in District
4 1 there are two wins for those four candidates.
5 Right?

6 A. Right. I think this completely supports
7 the point discussed earlier, that BVAP is an
8 imperfect proxy for electoral opportunity.

9 Q. And does it also support the point that
10 what is driving wins for Black preferred candidates
11 is the presence or absence of White crossover
12 voting?

13 A. I wouldn't say that drives. I would say
14 it contributes.

15 Q. And you would say that it's a
16 significant factor. Right?

17 A. That White crossover voting is a
18 significant factor in outcomes?

19 Q. Yes.

20 A. No question, yes, it certainly is.

21 Q. And how significant a factor is it?

22 A. Could you maybe rephrase the question?

23 Q. Probably not. That was my
24 characterization, significant factor. And so maybe
25 we can just leave it at that --

1 A. I agree with significant factor.

2 Q. -- that you agree with the significant
3 factor.

4 A. (Witness nods head).

5 Q. And do you happen to know where, in
6 South Carolina, White Democrats live?

7 A. Well, first I would say that I resist
8 characterizing people -- people as either Democrats
9 or Republicans because, for example, I live in a
10 state where people vote one way for Senate and
11 wildly differently for governor. And so party
12 affiliations are not immutable. But I have looked
13 at where, in the State, it's possible to find
14 historically effective districts, in the sense that
15 I discuss here in section 7, that are affected
16 despite a relatively low BVAP. I have seen places
17 in the State, especially near Charleston and
18 Columbia, where there are significant historical
19 levels of crossover support.

20 Q. And is it accurate to say, at least in
21 South Carolina, that those areas of crossover
22 support and crossover opportunity are concentrated
23 in particular areas of the State, as opposed to
24 being diffused evenly across the state?

25 A. I would really have to do an analysis

1 little bit of a term of art, as I understand it, at
2 least in my areas of expertise. So "candidate of
3 choice" is the overall preference of a racial,
4 ethnic or language group. I don't think it just
5 means the candidate that you voted for. Right? And
6 so White voters' candidate of choice in South
7 Carolina is, to my understanding, always the
8 Republican in a party ID contest. But having said
9 that, just to set out the terms of discussion,
10 you're asking, I think, if White voters who voted
11 for the Democrat can prevail in a district in which
12 the Republican always wins. Am I understanding --

13 Q. Go ahead and answer that. Yeah.

14 A. If you're a White voter who voted for a
15 Democrat but your district always goes Republican,
16 then your favorite candidate is not being elected.

17 Q. And so the way you describe that is the
18 candidate of choice or candidate for whom they
19 voted, that candidate is not prevailing.

20 A. Right. Any voter who voted for a
21 Democrat is not seeing their preferred candidate
22 elected in a district that always elects
23 Republicans.

24 Q. And that's true, regardless of the race
25 of that voter. Correct?

1 A. That has nothing to do with the race of
2 the voter. I agree.

3 Q. Let's move to page 26, Figure 12. And
4 it looks like this top chart in 12 -- or this top
5 histogram, to be more precise, is a histogram of
6 Table 7. Is that right?

7 A. That's right. It shows, I hope, if I
8 don't have any typos, the numbers that you see in
9 the key should match the total effectiveness numbers
10 in the table.

11 Q. And this bottom chart is a histogram
12 that shows other Democratic -- outcomes for other
13 Democratic candidates in 63 other races. Is that
14 right?

15 A. It is --

16 Q. Or perhaps it's nine races disaggregated
17 over or reconstituted over seven districts.

18 A. We were just rushing to agree with each
19 other. It is nine contests times seven districts.

20 Q. So this is nine statewide races.

21 A. Correct.

22 Q. Reconstituted in the seven districts in
23 each of the plans.

24 A. That's right.

25 Q. And the total numbers are the number of

1 minority opportunity as opposed to higher core
2 retention, yes. I think that is directed, but I
3 wouldn't say required.

4 Q. So let me rephrase and see if I
5 understand your point. Is it your reading that the
6 Guidelines direct the General Assembly not to trade
7 off compliance with some other principle at the
8 expense of minority voting opportunity?

9 A. So sorry, but I think my entering got
10 cut out in the middle of your sentence. Can you
11 repeat that?

12 Q. It was such a good sentence, I don't
13 know, but I will try. Is it your reading of the
14 Guidelines that the Guidelines direct the General
15 Assembly not to trade off less minority voting
16 opportunity for better compliance with the other
17 principles in the Guidelines or considerations in
18 the Guidelines?

19 A. Well, an exception might be population
20 balance, which is in the first tier here. But
21 specifically as to core retention, my reading is
22 that they are directed to prioritize minority
23 electoral opportunity over core retention. That's
24 correct.

25 Q. And what about over other principles

1 that you have placed in the second tier?

2 A. Okay. Let's review. Yes. I think it
3 says the requirements addressed in sections 1, 2, 3
4 and 4 should be given priority if there is a
5 conflict.

6 Q. So on your reading, the Guidelines
7 direct the General Assembly to maximize voting --
8 minority voting strength to the extent it can do so
9 while trading off compliance with the second-tier
10 considerations?

11 A. I would shy away from the word
12 "maximize" which has a very specific meaning for me.
13 I don't think there is maximization here. But I do
14 think that, again, to quote, if there is a conflict,
15 the requirements that include minority electoral
16 opportunity should be given priority. So they are
17 directed, in case of conflict, to prioritize
18 minority electoral opportunity over compactness over
19 district cores and so on.

20 Q. So this is helpful, but let me ask it
21 another way, if that's okay. We talked earlier that
22 redistricting involves tradeoffs. Right? That the
23 criteria may cut in different directions or that a
24 map drawer may prioritize one criterion or
25 consideration over another and that tradeoffs are

1 part and parcel of redistricting. Is that right?

2 A. Yes.

3 Q. Is it your reading that the Guidelines
4 direct the General Assembly, when faced with such
5 tradeoff between minority voting strength on the one
6 hand and a second-tier consideration on the other
7 hand, to choose the option that prioritizes minority
8 voting strength?

9 A. I think that's the plain language here.
10 And let me stipulate that I might not have written
11 it exactly this way. But reading the way they wrote
12 it, I do think that's what they say.

13 Q. Okay. And have you discussed the
14 Guidelines with whoever wrote them?

15 A. I certainly haven't. And I have no idea
16 who wrote them.

17 Q. And do you know one way or another
18 whether the standard in the Guidelines was simply
19 meant to be an articulation of what Section 2 of the
20 Voting Rights Act requires?

21 A. Not simply. It says that it goes beyond
22 the Voting Rights Act. And both sets of the
23 Guidelines reference other principles such as equal
24 protection. So it's not simply a recording of
25 Section 2.

Exhibit 18

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Report on South Carolina Congressional Districts

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Senior Fellow, Tisch College of Civic Life

April 11, 2022

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1 Background and qualifications

I am a Professor of Mathematics and a Senior Fellow in the Jonathan M. Tisch College of Civic Life at Tufts University. At Tisch College, I am the director and principal investigator of an interdisciplinary research lab focused on geometric and computational aspects of redistricting. My areas of research and teaching include the structure of census data, the history of the U.S. Census, the design and implementation of randomized algorithms for generating districting plans, and the analysis of redistricting more broadly. I was recently awarded a major grant from the National Science Foundation to study *Network Science of Census Data*.

I am compensated at \$300/hour for my work in this case. I have previously written reports and provided testimony by deposition, a hearing, or at trial in North Carolina, Pennsylvania, Wisconsin, and Alabama, as well as for the challenge in this case to certain South Carolina House of Representatives districts.¹ A full copy of my CV is attached to this report.

1.1 Assignment

I have been asked to examine the Congressional districts enacted in South Carolina (Enacted2022), together with the maps from the previous census cycle (Previous2012), alternative maps presented during the legislative process (notably the map submitted with the Harpootlian Amendment, which I have denoted Harpootlian) as well as those by the South Carolina NAACP (SC-NAACP1, SC-NAACP2), the League of Women Voters of South Carolina (LWVSC), and by other members of the public (Foster, Harrison, Muscatel, Sukovich, and Roberts). The eleven maps under consideration are shown on the following two pages.

In comparing these maps, my focus is to assess the state's enacted plan. My analysis will consider the possibility of excessively race-conscious line-drawing, especially noting when traditional districting principles have been undermined in a manner that results in "cracking"—splitting communities and dispersing their voters over multiple districts. I will consider whether this cracking ultimately leads to discernible vote dilution for the Black population of South Carolina.

All work in this report was completed by me and by research assistants working under my direct supervision.

1.2 Materials

Materials consulted in the preparation of this report include the following.

- A major source is Census data, primarily the Decennial Census releases (i.e., the PL 94-171). Other data products from the Census Bureau, including the American Community Survey and the TIGER/Line shapefiles, were also used.
- For priorities and criteria, I consulted the publications by the South Carolina House of Representatives Redistricting Ad Hoc Committee on *2021 Guidelines and Criteria for Congressional and Legislative Redistricting*, and the corresponding publication for the Senate. These are available at [5] [8].
- The state's Congressional plan and numerous publicly submitted alternative plans are available on the state's website [6] [9].
- Community of interest testimony was collected at public meetings and is recorded on the state's website [7] [10].

¹NC League of Conservation Voters, et al. v. Hall, et al. No. 21-cvs-500085 (Wake Cnty. Sup. Ct. 2021); Carter v. Chapman, No. 7 MM 2022, 2022 WL 702894 (Pa. Mar. 9, 2022); Johnson v. Wis. Elections Comm'n, No. 2021AP1450-OA, 2022 WL 621082 (Wis. Mar. 3, 2022); Milligan, et al. v. Merrill, et al., Case No. 2:21-cv-01530-AMM and Thomas, et al. v. Merrill, et al., Case No. 2:21-cv-01531-AMM (N.D. Ala. 2021).

Congressional Maps



Enacted2022



Previous2012



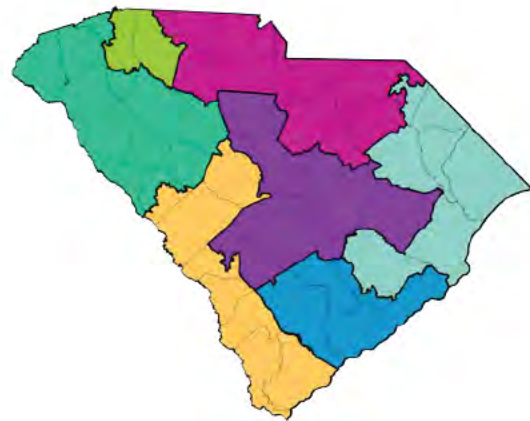
SC-NAACP1



SC-NAACP2



Harpootlian



LWSC



D. Foster
(Stanford Law)



H. Harrison
(no affiliation given)



G. Muscatel
(Stanford Law)



J. Sukovich
(Newberry County Democrats)



M. Roberts
(no affiliation given)

2 Demographics in South Carolina

In South Carolina, the total population from the 2020 Decennial Census is 5,118,425. Of those, 1,370,542 are identified as Black on their Census forms—this makes up roughly 26.78% of the population. By focusing on those who answered "Yes" to the question of Black racial identity, we use what is sometimes called the *Any Part Black* definition of Black population—this means Black alone or in combination with any other racial or ethnic category. If the most restrictive definition of Black population were used instead, namely non-Hispanic respondents choosing Black and no other race, then the population number would drop to 1,269,031, or 24.79% of population. For the remainder of this report, "Black" refers to the larger definition.

When considering residents of voting age, the Black population is enumerated at 1,014,656 out of 4,014,460, or 25.28%. I will refer to this population share as BVAP, or Black voting age population. Passing to estimates of Black *citizen* voting age population (or BCVAP), the share shifts to 1,007,692 out of 3,877,913, or 25.99%.

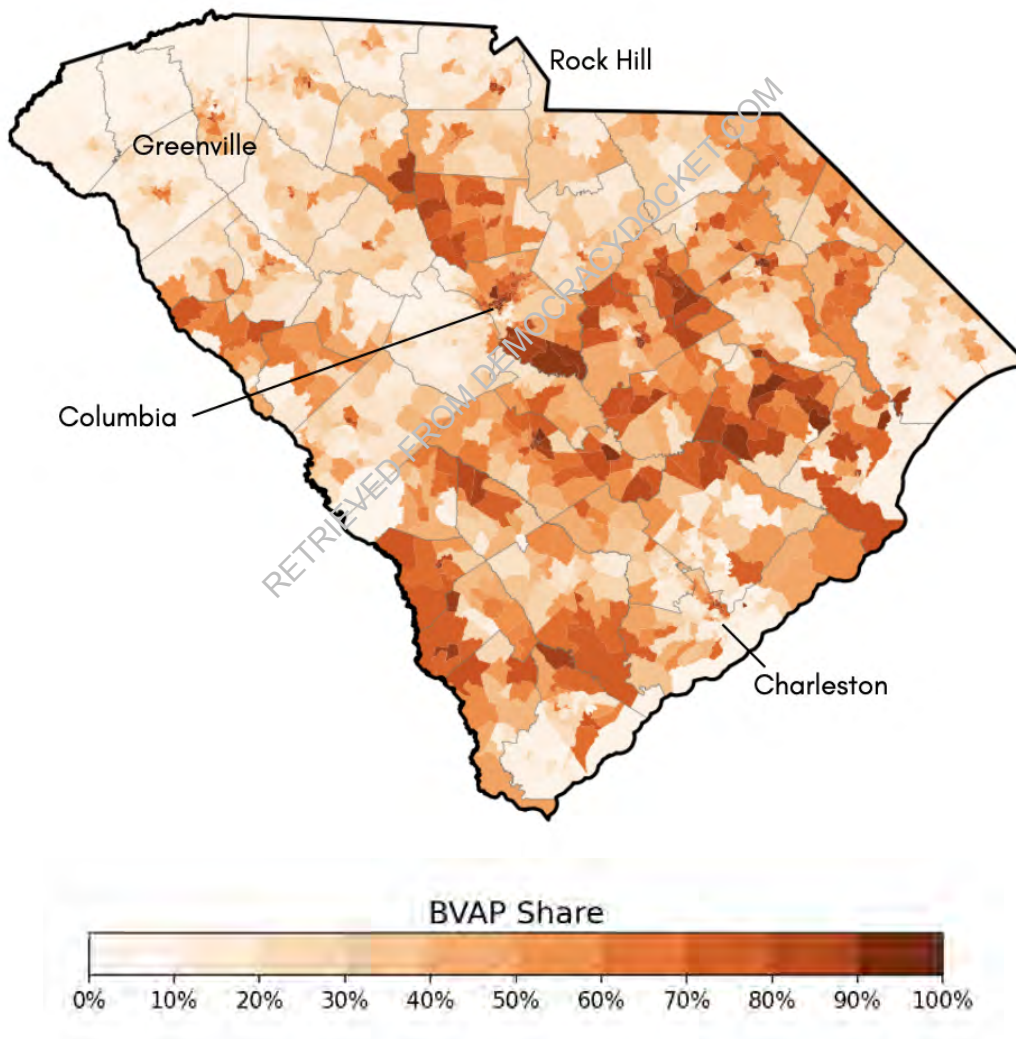


Figure 1: This choropleth map shows the share of Black voting age population shaded by VTD (i.e., by voting precinct) across South Carolina, overlaid with the boundaries of the 46 counties.

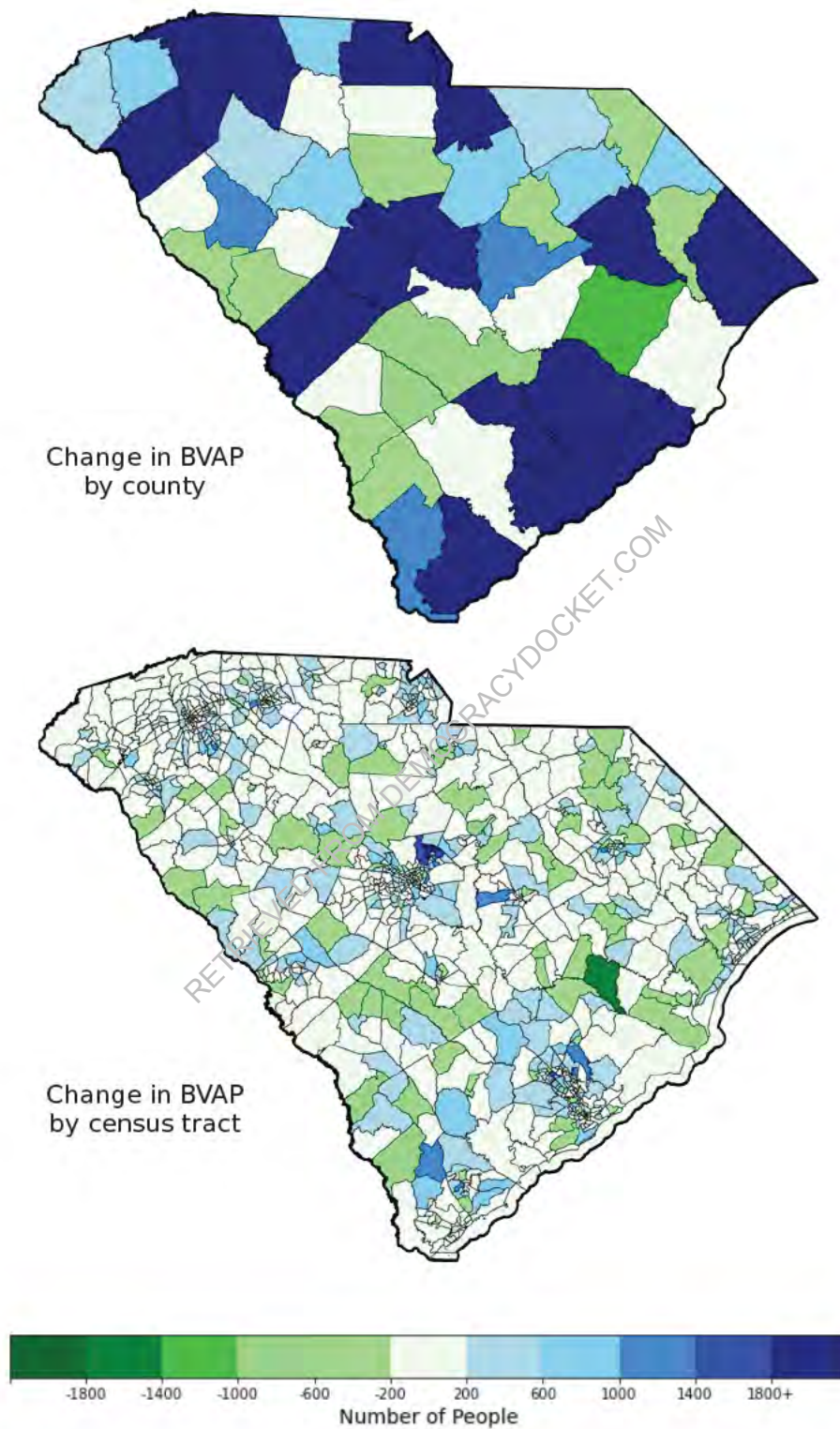


Figure 2: These maps show the shifts in Black population in South Carolina, according to American Community Survey estimates comparing 2010 and 2019. Black population has grown in the Columbia area and parts of greater Charleston, particularly, creating the demographic conditions for increased electoral influence.

3 Redistricting criteria

The Guidelines issued by the House and Senate are substantially similar; I will focus below on the House Guidelines and make notes as to where the Senate Guidelines agree or differ.

3.1 First-tier requirements

Minority opportunity. The first specific districting criterion discussed in the House Guidelines is the safeguarding of minority opportunity to elect candidates of choice, referencing the Voting Rights Act of 1965 and more generally federal and state law. The House Guidelines affirm that "Any proposed redistricting plan that is demonstrated to have the intent or effect of dispersing or concentrating minority population in a manner that prevents minorities from electing their candidates of choice will neither be accepted nor approved."²

I note that both sets of Guidelines clearly contemplate the use of race data in ensuring compliance with the VRA: "race may be a factor considered in the creation of redistricting plans, but it shall not be the predominant factor motivating the legislature's decisions concerning the redistricting plan and shall not unconstitutionally predominate over other criteria set forth in these guidelines."³

Population balance. The standard interpretation of *One Person, One Vote* is that districts, especially Congressional districts, should be balanced to near mathematical equality of population, using total population from the Decennial Census.

For population balancing, the House Guidelines cite the Congressional ideal of 731,204 people per district derived from the PL94-171 and, by referencing "strict equality," imply that we should seek to have four districts at 731,204 and three at 731,203. The Senate Guidelines explicitly call for one-person top-to-bottom deviation for Congressional districts.

3.2 Second-tier requirements

The previous criteria (covered in I-IV of the House Guidelines) are rooted in the Constitution and in federal and state law. Next, the Guidelines delineate four traditional principles that should be considered in South Carolina redistricting, though their role is clearly meant to be subordinate to the requirements of I-IV, and therefore they may need to give way in case of conflict.⁴

Contiguity. A district is regarded as contiguous when it is one connected piece. More precisely, a district formed from census blocks is called contiguous by the standard definition if it is possible to transit from any part of the district to any other part through a sequence of blocks that share boundary segments of positive length from one to the next. In South Carolina, in accordance with the guidance in Section V of the House Guidelines, contiguity by water is acceptable; however, areas that only intersect at a single point or "points of adjoining corners" are not considered contiguous. Interestingly, point contiguity is allowed in the Senate Guidelines, as long as pairs of districts do not cross over each other at such a point.

²The Senate Guidelines are nearly identical, noting that Congressional plans "must not have either the purpose or the effect of diluting minority voting strength".

³The Senate language is similar: "consideration of race is permissible," but any predominance of race-neutral considerations must be narrowly tailored.

⁴Similarly, the Senate Guidelines cover population balance and minority opportunity in Section I, then contiguity in Section II, putting communities of interest, district cores, the integrity of political subdivisions (counties, cities, towns, and VTDs), and compactness into Section III, entitled "Additional Considerations."

Compactness. The criterion of district compactness is the principle that districts should be reasonably shaped, not eccentric or irregular. The House Guidelines note that districts that are not visually compact can sometimes be justified by the shape of census block boundaries or natural geography and by the creation of districts to comply with the VRA.⁵

The House Guidelines remark that compactness "should be judged in part by the configuration of prior plans... [but] should not be judged based upon any mathematical, statistical, or formula-based calculation or determination." Despite this expressed preference, metrics are routinely used in redistricting analysis and litigation, so I will report them here.

The two most common compactness metrics are the Polsby-Popper score and the Reock score. These are both *contour-based* scores that rely on the outline of the district on a map. *Polsby-Popper* is a ratio formed by comparing the district's area to its perimeter. *Reock* considers how much of the smallest bounding circle is filled out by the district's area. Recently, mathematicians have argued for the use of discrete compactness metrics that de-emphasize the outline and instead consider how the districts are formed from units of census geography. *Block cut edges* is a metric that counts the number of census blocks that are adjacent to each other in the state, but are assigned to different districts. This assesses the "scissors complexity" of a plan, giving a measure of how many blocks would have to be separated from one another to divide up all the districts. An advantage of the contour scores is that they are familiar and in wide use. An advantage of discrete scores is that they do not excessively penalize districts for having winding boundaries when those boundaries come from physical geography, like coastlines or rivers.

Communities of interest (COIs) and political boundaries. Communities of interest are geographical areas where residents have shared interests relevant to their representational needs. The Senate Guidelines spell this out as "geographical, demographic, historic, or other characteristics that cause people to identify with one another, including economic, social, cultural, language, political, and recreational activity interests." (This is condensed but similar to the language in the House Guidelines.)

In numerous states, the legislature or other government offices launched an effort to collect COI testimony accompanied by digital mapping from members of the public, coordinated with the new Decennial Census data. I have reviewed the public testimony collected by the state and published online on the redistricting sites for the Senate and House [10 7]. The oral testimony was not accompanied by mapping submissions, but I have made a serious effort to screen it comprehensively and take it into account in this report wherever possible.

Many submitted comments were broad or theoretical, such as the general importance of communities; preserving county and municipal boundaries; concerns about partisan and racial gerrymandering; competitiveness; transparency and public participation; and deprioritizing incumbency protections. But notably, speakers also named particular counties, regions, or metropolitan areas with specific representational concerns. For instance, commenters spoke to Dorchester County, the Lowcountry, North Charleston, Orangeburg, Columbia, and Sumter communities of interest, which will be discussed below in the detailed district review (§5).

In line with some of the public commenters, the House Guidelines fold what is usually a separate principle into the category of COIs. Namely, it is very common in redistricting to require respect for political boundaries, especially for the boundaries of counties, cities, and towns. In South Carolina, counties, municipalities, and precinct/VTD lines are explicitly classified as a part of the COI principle, "but will be given no greater weight, as a matter of state policy, than other identifiable communities of interest." The Senate Guidelines split out respect for counties (III.C), cities and towns (III.D), and VTDs/precincts (III.E) under separate headings.

⁵Compactness is also sometimes used to describe population distributions rather than districts; in that usage, compact populations are those that are clustered rather than dispersed. Notably, the Senate Guidelines shy away from shape considerations entirely, referencing what is sometimes called *functional compactness*: "the extent to which points of the district are joined by roads, media outlets, or other means for constituents to communicate effectively with each other and with their representative."

4 Review of metrics for Congressional maps

This section reports metrics for all of the Congressional maps discussed in this report. These include measurements of traditional redistricting criteria such as compactness and geographic splits, as well as demographic data.

4.1 Racial demographics

The plans submitted to the legislature for consideration differ greatly in their distribution of Black population over the districts. The following tables present the BVAP by district for each of the plans, and then identify the number of districts surpassing thresholds of 50, 40, and 30% BVAP. Recall that, as described above, BVAP measurements in this report are with respect to so-called Any Part Black categories (i.e., Black alone or in combination).

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Previous2012	0.173	0.239	0.174	0.183	0.257	0.525	0.254
Enacted2022	0.174	0.254	0.176	0.19	0.247	0.469	0.254
SC-NAACP1	0.349	0.205	0.16	0.172	0.244	0.528	0.117
SC-NAACP2	0.24	0.202	0.18	0.185	0.202	0.503	0.254
Harpootlian	0.212	0.219	0.156	0.162	0.337	0.497	0.184
LWVSC	0.233	0.197	0.169	0.191	0.244	0.488	0.245
Foster	0.244	0.208	0.143	0.153	0.202	0.323	0.496
Muscatel	0.167	0.248	0.178	0.184	0.247	0.488	0.254
Harrison	0.233	0.276	0.185	0.177	0.277	0.352	0.267
Sukovich	0.293	0.184	0.143	0.211	0.319	0.493	0.129
Roberts	0.233	0.315	0.197	0.386	0.321	0.167	0.151

	#districts with >50% BVAP	# districts with >40% BVAP	#districts with >30% BVAP
Previous2012	1	1	1
Enacted2022	0	1	1
SC-NAACP1	1	1	2
SC-NAACP2	1	1	1
Harpootlian	0	1	2
LWVSC	0	1	1
Foster	0	1	2
Muscatel	0	1	1
Harrison	0	0	1
Sukovich	0	1	2
Roberts	0	0	3

Table 1: The first table gives Black voting age population share by district for the plans under consideration. The second table shows the number of districts that have BVAP over 50%, 40%, and 30%, respectively.

4.2 Population deviation

One Person, One Vote calls for plans to have nearly equal population across their districts. Over the ten years between Decennial Census releases, districts grow quite malapportioned due to natural population shifts between and within the states. In South Carolina, the deviation grew to over 170,000 from top to bottom.

All of the new plans reduce the deviation significantly, with Enacted2022, SC-NAACP1, SC-NAACP2, Harpootlian, LWVSC, Foster, and Muscatel all achieving top-to-bottom deviation in the single digits.

	Maximum positive deviation	Maximum negative deviation	Top-to-bottom deviation
Previous2012	87,689	-84,741	172,430
Enacted2022	0	-1	1
SC-NAACP1	1	-1	2
SC-NAACP2	1	-3	4
Harpootlian	1	-3	4
LWVSC	3	-2	5
Foster	0	-1	1
Muscatel	0	-1	1
Harrison	630	-668	1298
Sukovich	746	-944	1690
Roberts	1790	-724	2514

Table 2: Population deviation in each plan.

4.3 Compactness

In terms of district shape, the state's enacted plan, like the state's plan from the previous cycle, is only moderately compact compared to some of the other proposals submitted to the legislature. For example, LWVSC and SC-NAACP2 plans are more compact than both state maps—Previous2012 and Enacted2022—by all three featured metrics of compactness. The Harpootlian plan beats the state's maps on the Polsby-Popper and cut edges scores, though not on the Reock score.

	avg Polsby-Popper (higher is better)	avg Reock (higher is better)	Block cut edges (lower is better)
Previous2012	0.202	0.369	3217
Enacted2022	0.210	0.361	2843
Harpootlian	0.235	0.327	2227
LWVSC	0.224	0.379	2392
SC-NAACP1	0.165	0.270	3578
SC-NAACP2	0.240	0.371	2343
Foster	0.273	0.376	2313
Muscatel	0.216	0.371	2955
Harrison	0.289	0.443	2074
Sukovich	0.208	0.324	2636
Roberts	0.177	0.308	3091

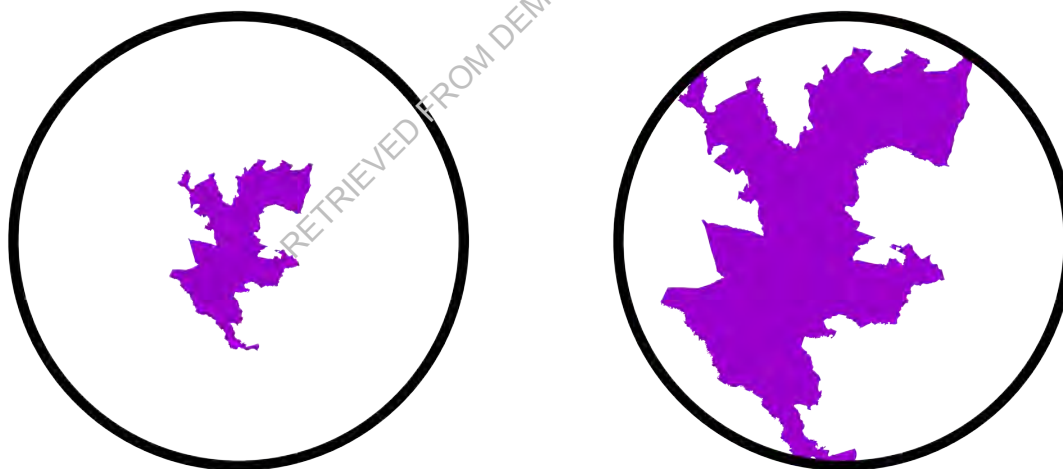


Table 3: Comparing compactness scores via one discrete and two contour-based metrics. The Polsby-Popper score compares a district's area to the area of the circle with the same perimeter (left). The Reock score compares a district's area to the area of the smallest circle that contains the district (right). These are illustrated using CD 6 from the state's plan Enacted2022, which has an extremely low Polsby-Popper score of 0.0754 (left) and a more moderate Reock score of 0.3569 (right).

4.4 Political subdivisions

Respect for the integrity of political subdivisions—units such as counties and cities—is a traditional principle in its own right. In South Carolina, it is also named as a communities of interest consideration in the legislative Guidelines.

In the tables below, each "splits" score counts the number of units that are assigned to multiple districts, while each "pieces" score adds up, over the divided units, how many districts they touch. For example, if one county is split two ways and another is split three ways, this would count as a total of two split counties and five county pieces.

In Table 4, we see the splits/pieces counts for counties and county subdivisions. County subdivisions are a census data product; subdivisions nest inside counties and respect municipalities, tending to have more regular boundary lines than municipalities themselves.

	County Splits (out of 46)	County Pieces	Subdivision Splits (out of 271)	Subdivision Pieces
Previous2012	12	24	39	78
Enacted2022	10	20	29	58
SC-NAACP1	19	39	49	99
SC-NAACP2	14	30	30	61
Harpootlian	7	14	12	24
LWVSC	6	12	24	48
Foster	9	19	26	53
Muscatel	12	24	31	62
Harrison	6	12	15	30
Sukovich	13	26	23	46
Roberts	7	15	22	46

Table 4: This table presents the number of county and county subdivision splits and pieces in each plan.

In the cities and towns analysis, I will distinguish the splits and pieces that merely impact the *territory* from the splits that actually divide *population*. Note that the population splits are often smaller, because boundaries of cities can be quite complicated and sometimes only an unpopulated outlying area is divided from the rest of the city—this would count as a territory split, but not as a population split. Table 5 shows the counts.

	City Splits (out of 69)	City Pieces	Town Splits (out of 202)	Town Pieces
Previous2012	13 / 13	26 / 26	6 / 5	12 / 10
Enacted2022	10 / 10	20 / 20	12 / 10	24 / 20
SC-NAACP1	15 / 13	30 / 26	11 / 10	22 / 20
SC-NAACP2	9 / 7	18 / 14	13 / 10	27 / 21
Harpootlian	9 / 7	18 / 14	7 / 6	14 / 12
LWVSC	6 / 5	12 / 10	5 / 4	10 / 8
Foster	11 / 10	22 / 20	8 / 5	16 / 10
Muscatel	16 / 16	32 / 32	7 / 6	14 / 12
Harrison	11 / 11	22 / 22	6 / 6	13 / 12
Sukovich	14 / 13	28 / 26	8 / 7	16 / 14
Roberts	14 / 11	30 / 24	8 / 8	16 / 16

Table 5: This table presents city and town splits for each plan, with both territory splits and population splits shown. For example, the Harpootlian plan city splits are shown as 9 / 7, meaning that the plan splits the territory of nine cities across multiple districts, but only seven of those splits involve populated blocks.

4.5 Incumbency

The plans under consideration vary in their treatment of incumbents, from zero to three pairings.

- Previous2012: none
- Enacted2022: none
- SC-NAACP1: none
- SC-NAACP2: none
- Harpootlian: none
- LWVSC: one pair
 - CD 3: Duncan (R) / Timmons (R)
- Foster: one pair
 - CD 4: Rice (R) / Mace (R)
- Muscatel: none
- Harrison: one pair
 - CD 6: Clyburn (D) / Wilson (R)
- Sukovich: one pair
 - CD 4: Rice (R) / Norman (R)
- Roberts: three pairs
 - CD 2: Wilson (R) / Mace (R)
 - CD 3: Rice (R) / Norman (R)
 - CD 5: Duncan (R) / Clyburn (D)

5 Detailed district review

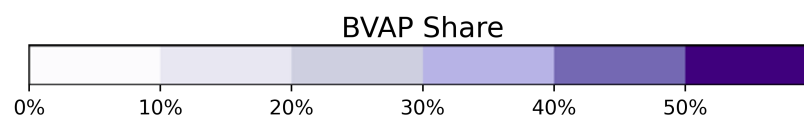
The complaint filed by the SC-NAACP cites Congressional districts 1, 2, and 5 from the newly-proposed plan Enacted2022 as having being drawn to dilute Black voting power. Since these districts surround district 6—the only district in the state’s plan that presents electoral opportunity to Black voters—we will discuss CD 1, CD 2, and CD 5 in relation to CD 6.

First, we recall the levels of Black voting age population and the compactness scores for each district. Note: only Polsby-Popper is cited here because it is by far the most commonly used compactness score. Cut edges, in particular, is only defined for whole plans and not for individual districts.

Enacted2022	1	2	5	6
BVAP	.174	.254	.247	.469
Polsby-Popper	.146	.171	.229	.077



Enacted2022



In the reconfiguration between Previous2012 and Enacted2022, the movement of terrain between key districts is shown below in Figure 3

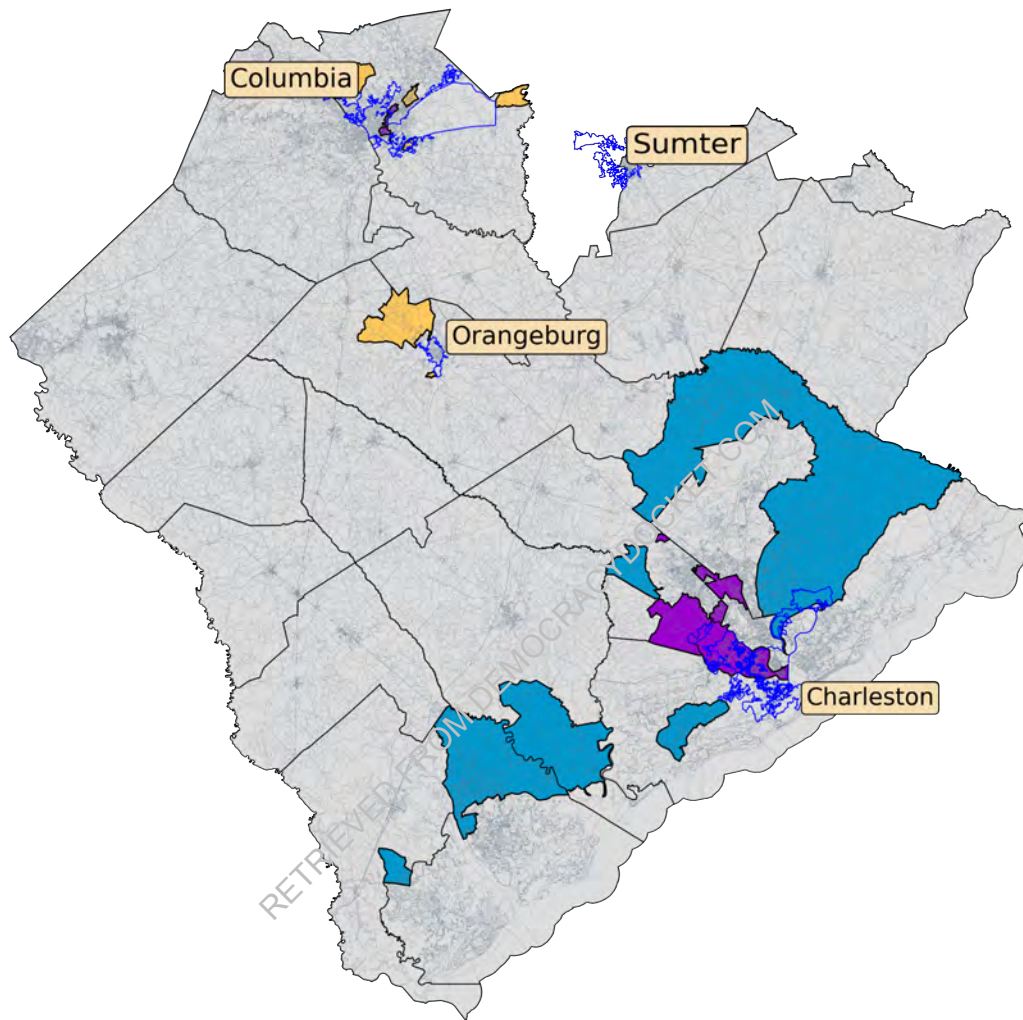


Figure 3: Terrain moved in and out of CD 6. Areas are colored in terms of their district reassignment. Yellow areas were moved from CD 6 to CD 2; blue was moved from CD 6 to CD 1, and purple areas were moved into CD 6 from the neighboring districts.

As the figure makes clear, the reassignment is happening in scattered chunks and shards, and is not aimed at healing key splits of cities and communities that were frequently cited in the public testimony, including Columbia, Sumter, Orangeburg, and Charleston. This produces a map that cuts those areas in a way that neither respects traditional redistricting principles nor publicly identified community needs, as I will detail in the remainder of this section.

5.1 CD 1

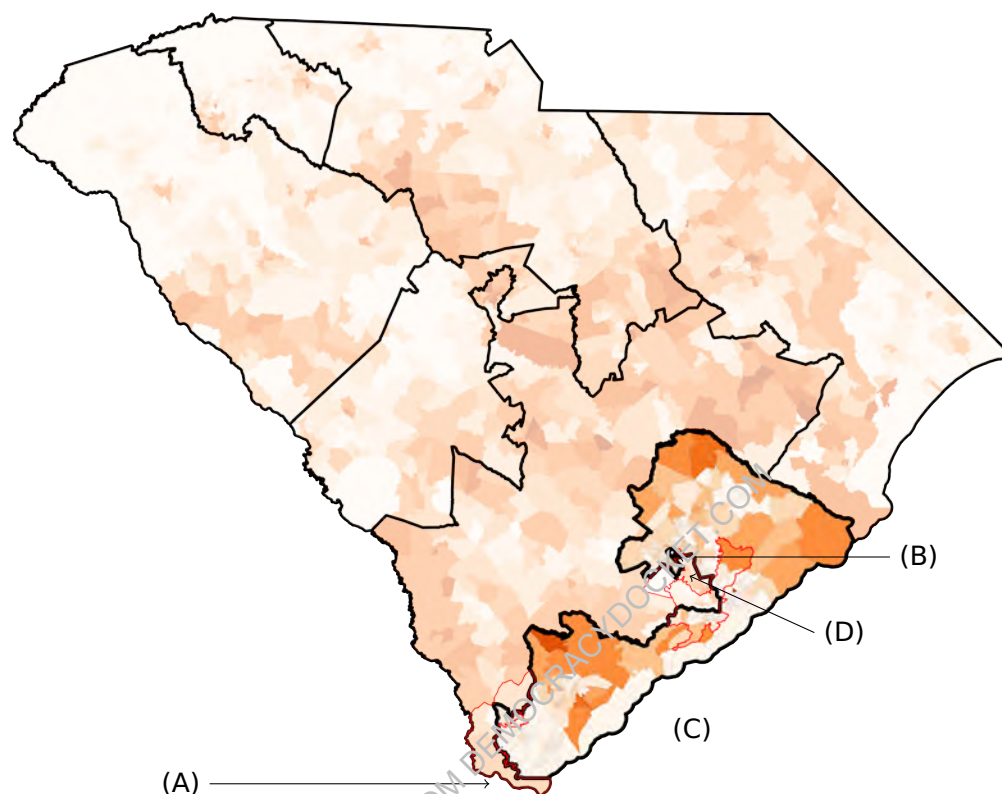


Figure 4: CD 1 is highlighted, with the Black voting age population as in Figure 1 and split cities outlined in red.

The first Congressional district in the Enacted2022 map comprises all of Berkeley and Beaufort Counties and pieces of Jasper, Colleton, Charleston, and Dorchester Counties. Within Charleston County, the CD 1 and CD 6 boundary follows natural geography, but only until reaching Berkeley County.

- (A) **Jasper County split.** Jasper County, which was previously intact in the enacted 2012 map, is split. Only two of its precincts are included in the new CD 1.
- (B) **Dorchester County split illogically.** The district makes an unnecessary detour from Berkeley County into Dorchester County, involving six precinct splits that do not follow any major roadways or bodies of water. The reasons for splitting precincts are not clear, but they result in two separate pieces of Dorchester County being found in CD 6. The split precinct pieces show a noticeable racial skew—five out of six split precincts have a significant BVAP differential between the piece in CD 1 and the piece in CD 6, with higher Black population share on the CD 6 side, consistent with a strategy of cracking in CD 1.
- (C) **Coastal and Lowcountry COIs disregarded.** COI testimony asks to keep together the coastal communities and "Lowcountry" counties—principally Jasper, Charleston, Colleton, and Beaufort—but these are split in the state's map. By contrast, the Harpootlian proposal is highly cognizant of these COIs.

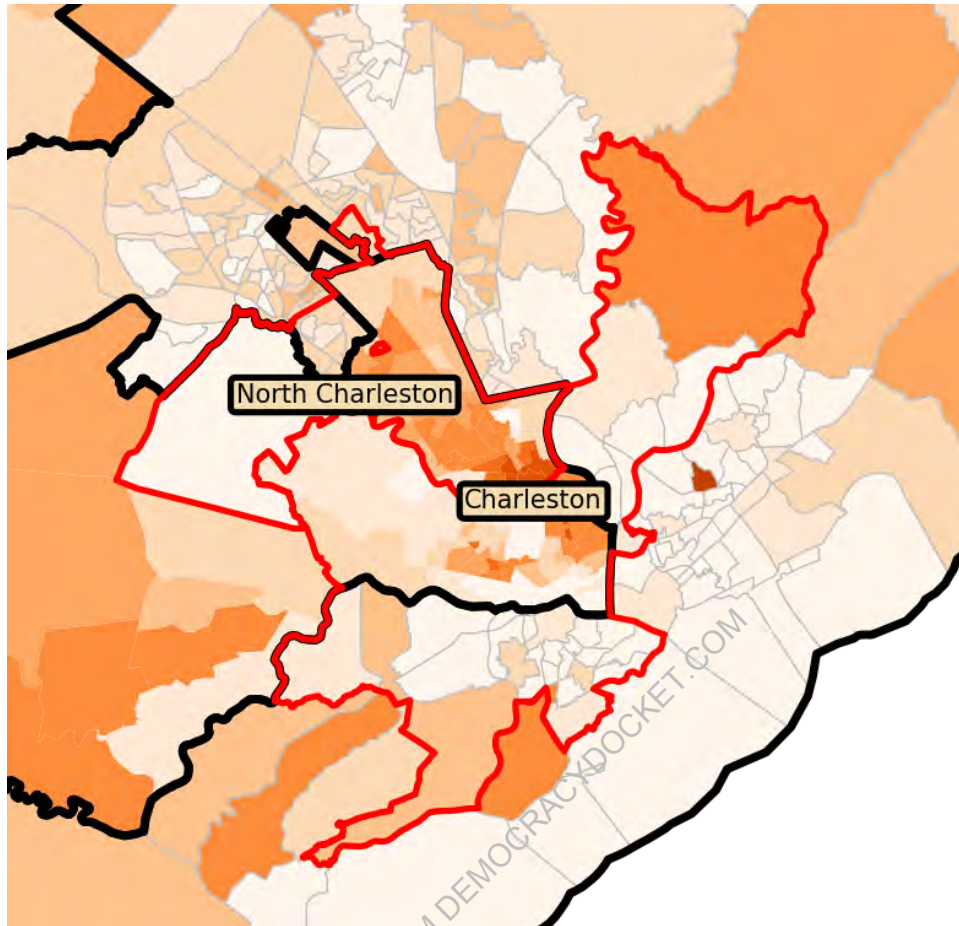


Figure 5: North Charleston is split between CD 1 and CD 6 as the district line winds between counties, in and out of the city, and through neighborhoods with significant Black population.

- (D) **Charleston County split erratically.** Charleston County boundaries appear to be selectively followed, ignoring communities cited in public testimony, which notably highlights "Charleston and surrounding towns." The cities of Summerville and Ladson are part of both Berkeley and Dorchester Counties, while North Charleston spans these two counties as well as Charleston County. The state has split all three cities: for Summerville and Ladson, the district boundary follows the county line, but for North Charleston the district winds around to grab a small piece of the city. (See Figure 5) All of these important communities could have been kept whole. Public comment is particularly vocal on North Charleston, saying that the city has more in common with Charleston than with Columbia, and more in common with the Lowlands than the Midlands.

5.2 CD 2

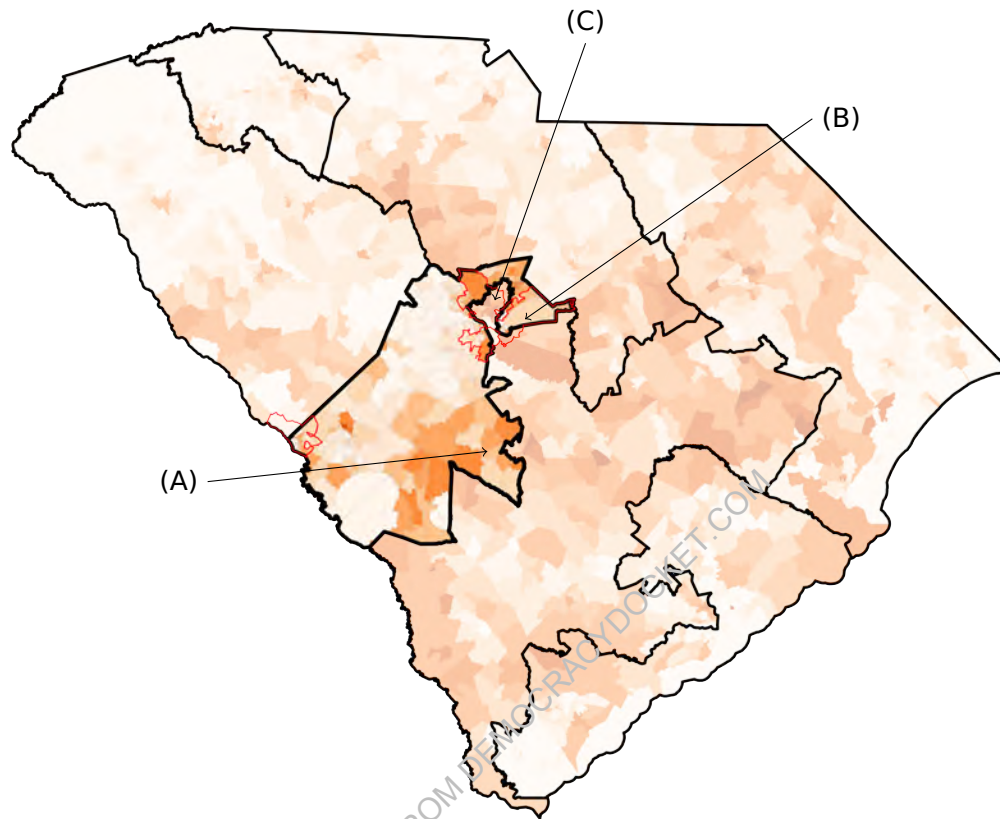


Figure 6: CD 2 is highlighted, with the Black voting age population as in Figure 1 and split cities outlined in red.

The second district is made up of the entirety of Aiken, Barnwell, and Lexington Counties and pieces of Orangeburg and Richland Counties.

- (A) **Orangeburg separated from CD 2.** The CD 2 boundary forms a ring around the western Orangeburg suburbs, keeping the city of Orangeburg in CD 6. The public comment indicates, by contrast, that Orangeburg has more in common with the adjoining areas of CD 2.
- (B) **Hook into Columbia.** In Richland County, CD 2 wraps circuitously around the greater Columbia area in a non-compact hook shape in the prior plan Previous2012—and though the details are different, that hook shape is preserved in the new plan Enacted2022. It appears to crack voters by drawing district boundaries through an area in northern Richland with high BVAP. (See Figure 7.)

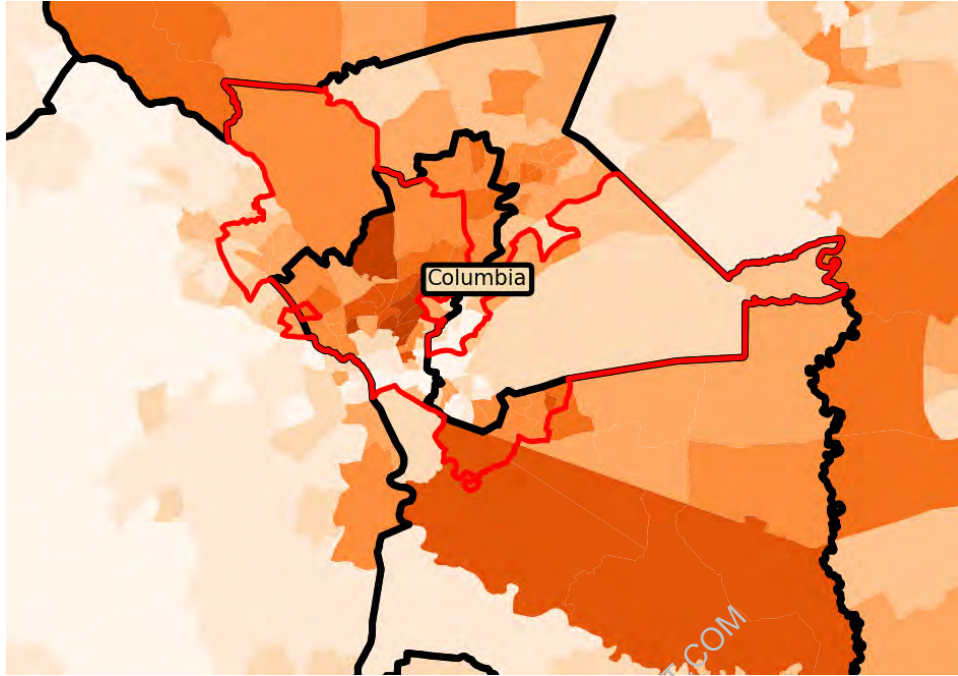


Figure 7: District lines wrap around and divide the city of Columbia. This splits both the city and the county in a manner that cracks Black population.

- (C) **Splitting in and around Columbia.** In Richland County, the cities of Cayce, Columbia, and Forest Acres are all split, along with two precincts that are split in a manner that does not appear to follow major roads. If the district line traced along the Richland County boundary, or at least divided the county in a less winding manner, it would avoid needless splitting and confusion. Some public comment suggests that the Columbia area contains communities that are linked, but that these linked communities were divided by the CD 6 "bulb" in Columbia. As William Maxie testified: "Do people in downtown Columbia not have that much in common with people from Forest Acres or people right across the [Congaree] river? No, they do. That's where a lot of people live and a lot of those people work." (Appendix **B**)

5.3 CD 5

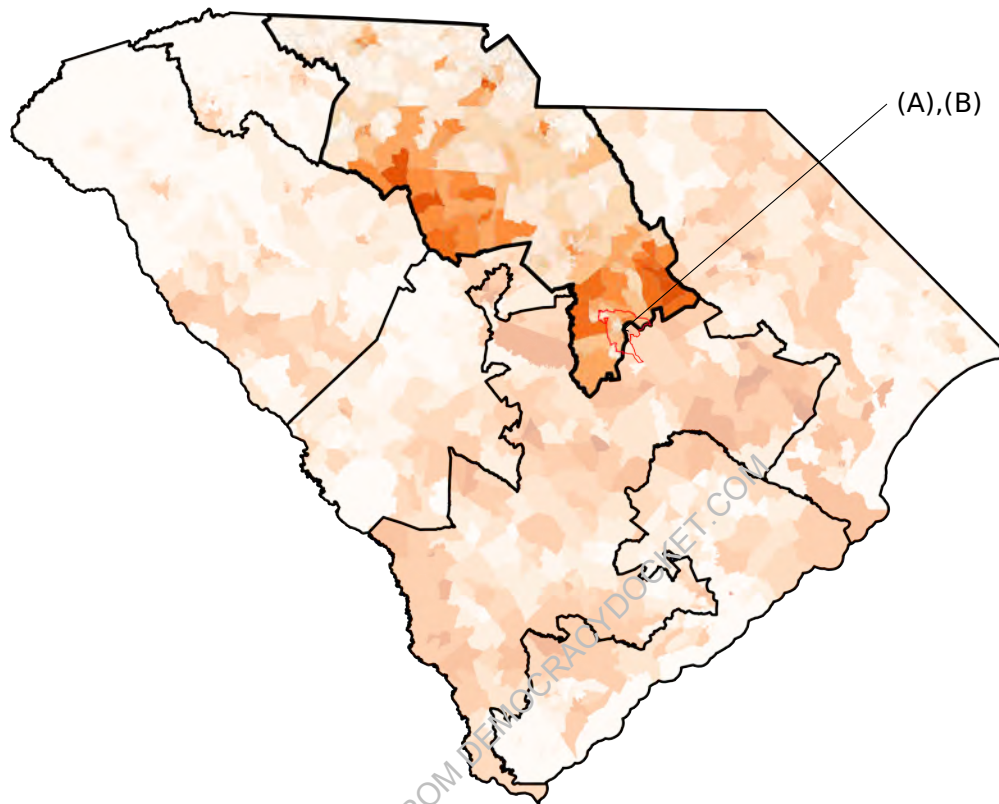


Figure 8: CD 5 is highlighted, with the Black voting age population shown as in Figure 1 and the split city of Sumter (pop. 43,463) outlined in red.

The fifth district covers all of Cherokee, York, Union, Chester, Lancaster, Fairfield, Kershaw, and Lee Counties and pieces of Spartanburg County along the CD 5 and CD 4 boundary and Sumter County along the CD 5 and CD 6 boundary.

- (A) **Sumter COI not respected.** The city of Sumter and the neighborhoods of East Sumter and Mulberry are three majority-Black communities split by the enacted map.⁶ The public testimony suggests that the city of Sumter and Sumter County are each important communities—these are referenced by at least four commenters. For instance, Archie Parnell testified that "I think there is a community of interest here in Sumter and I would urge you to continue with your criteria that you've adopted 10 years ago and, hopefully, keep counties together."
- (B) **Sumter split is illogical.** In Sumter County, one precinct is split along several low-density residential roads (W Oakland Ave, Cemetery Road, Carver Street, Green Swamp Road, Bradford Street, and Council Street). This portion of W Oakland Ave and all of Cemetery Road appear to be in the middle of a cemetery.

⁶Sumter in particular is roughly 51% Black by population.

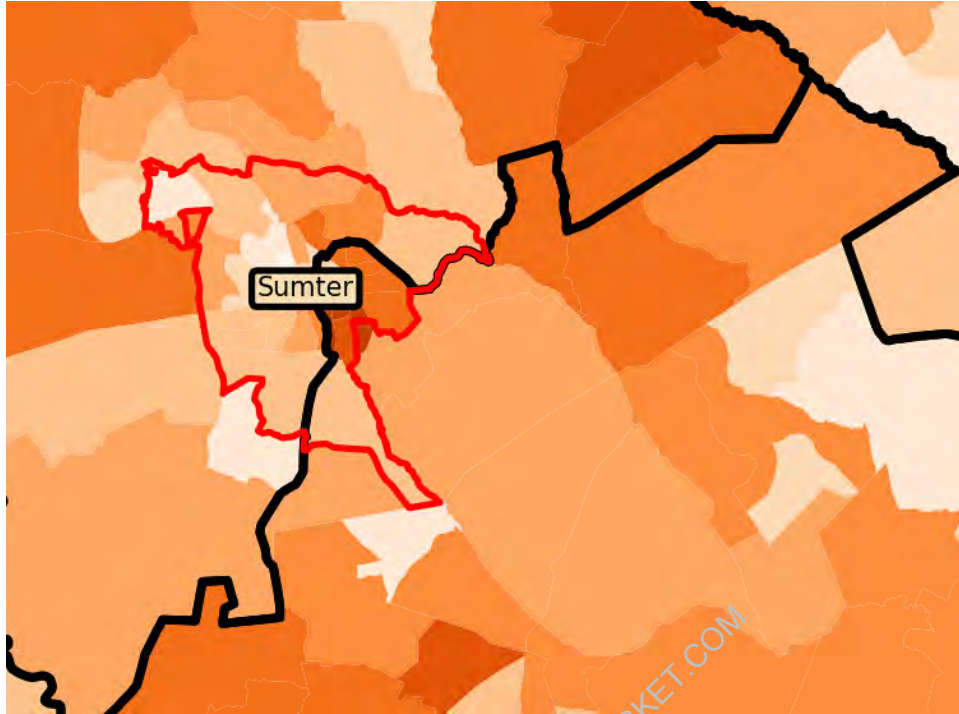


Figure 9: Sumter, a small majority-Black city cited in public testimony as an important community, is split in the state's map as the CD 5/CD 6 dividing line wends through a heavily Black region.

See Appendix [B](#) for a large selection of public testimony supporting the points raised in this section.

6 Vote dilution compared to the neutral baseline

In order to illustrate the universe of possibilities when some or all districts are redrawn, I have used a method that is increasingly popular in the peer-reviewed scientific literature as well as courts of law.⁷ This is called the *ensemble method* for redistricting, where randomized algorithms are used to construct large numbers of sample plans that vary district lines while holding the rules and geography constant. This is a popular method for determining whether some property of districting plans is an inevitable consequence of the rules and geography, or whether neutrally drawn alternatives show evidence that the unusual property is intentional. In this section, I will investigate evidence of whether the state's plan has *cracked* the Black population across districts 1, 2, 5, and 7, which show sharply less Black population than the level in CD 6. To do this I will focus on the demographic statistics of *the district with second-highest BVAP* in the state's plans, compared to alternatives.

I have used the Python package *GerryChain*, developed in my Lab and openly available to the public since 2018, to generate several ensembles of 100,000 alternative plans each. Population balance and contiguity are enforced throughout the algorithm, and it is implemented with a preference for compactness and for the preservation of counties and municipalities. I performed runs which attempt to prioritize the preservation of certain communities of interest identified in public testimony, and also runs that did not operationalize the COI concept. (For details, see Supplement A.) Ensemble generation made no use of race data and are *neutral* with respect to all other properties except those listed here.

6.1 Statewide

Using neutral ensembles of districting maps, we can compare the properties of a plan to alternative statewide plans that were made under traditional criteria. A histogram showing the distribution of Black population in the *second-highest district* is given in Figure 10. Cracking would tend to show up as unusually low BVAP in the second-highest district. This is exactly what we observe in Figure 10.

Comparing to the neutral ensemble—which was constructed with the same natural and physical geography that faced the legislature, and with the traditional districting principles enforced—illustrates that the cracking that was qualitatively described in the last section does indeed amount to dilution of Black population with respect to a neutral baseline. And we note that the contrast with the SC-NAACP1 and Harpootlian maps, which draw CD 6 with higher BVAP than Enacted2022 (see Table 1), makes it clear that the BVAP dropoff is not merely a function of maintaining CD 6 at near-majority levels.

⁷In this cycle, ensemble evidence has been accepted by courts in North Carolina, Pennsylvania, and Ohio. In the previous cycle, it formed a key component of the evidence in North Carolina and Pennsylvania that resulted in the invalidation of enacted plans in each state. Peer-reviewed publications include [2] [3] [1] and many more.

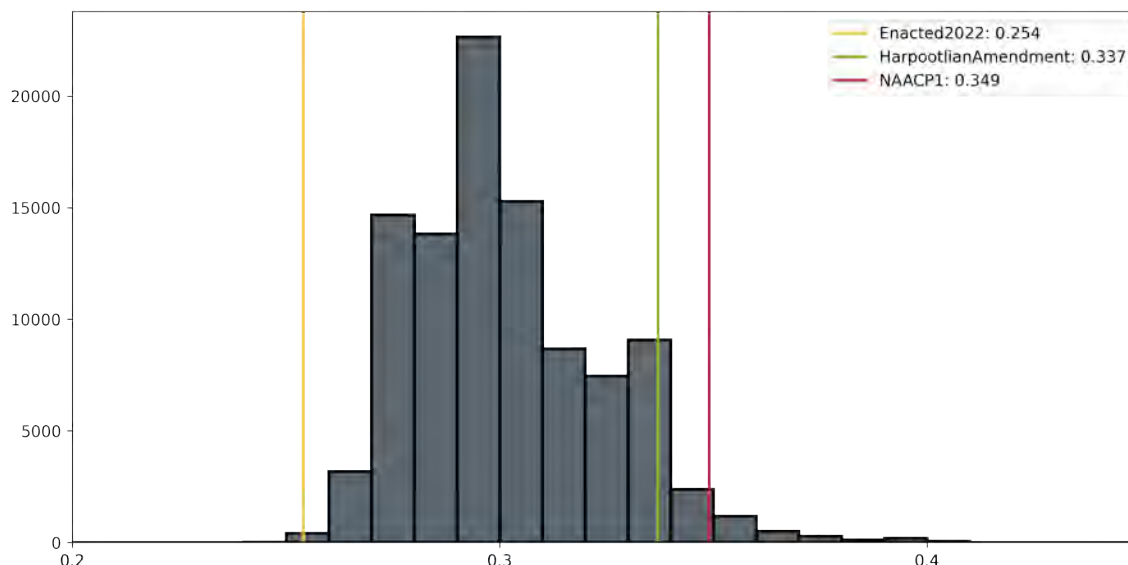


Figure 10: This histogram compares the district with *second-highest* BVAP in three current plans to those from 100,000 alternative plans. Most neutral plans are at or near 30% BVAP in their second highest district, while the state's plan is especially low. The SC-NAACP1 and Harpootlian plans are not cracked compared to the ensemble, even though they maintain CD 6 with BVAP levels above those in the state's plan.

6.2 Focused area

The complaint filed by the SC-NAACP specifically seeks relief for the dilution of Black voters in CD 1, CD 2, and CD 5. These districts cannot be adequately analyzed without the inclusion of CD 6 to the cluster. In order to show how these districts can be re-drawn, I have generated a new ensemble of 100,000 maps that only scrambles these four, preserving the state's CD 2, CD 3, and CD 7 exactly as drawn. In addition, I have identified an example of an alternative map (shown in Figure 11) that maintains CD 6 in nearly its exact configuration while un-cracking CD 5. Importantly, the alternative plan does not create an additional majority-Black district; rather, its CD 5 has just over 30% BVAP—a strengthened additional district, like CD 1 in the SC-NAACP1 alternative plan.⁸

Thus, whether we use a whole-state redraw or a targeted redraw, we find the state's plan to crack the Black population of South Carolina. As this section makes clear, many other possibilities were available to the state.

⁸In the following section, I will explain a metric of the "effectiveness" of a district for Black voters, using four probative elections provided by counsel. In this alternative map, CD 5 does not always have a win for the Black candidate of choice—but that candidate receives at least 47.5% of the vote in each of the four elections, winning outright in one of the four. That performance corroborates the claim that this is a strengthened district for Black voters, and one in which a candidate would likely have to campaign in a way that led to some Black support in order to prevail.

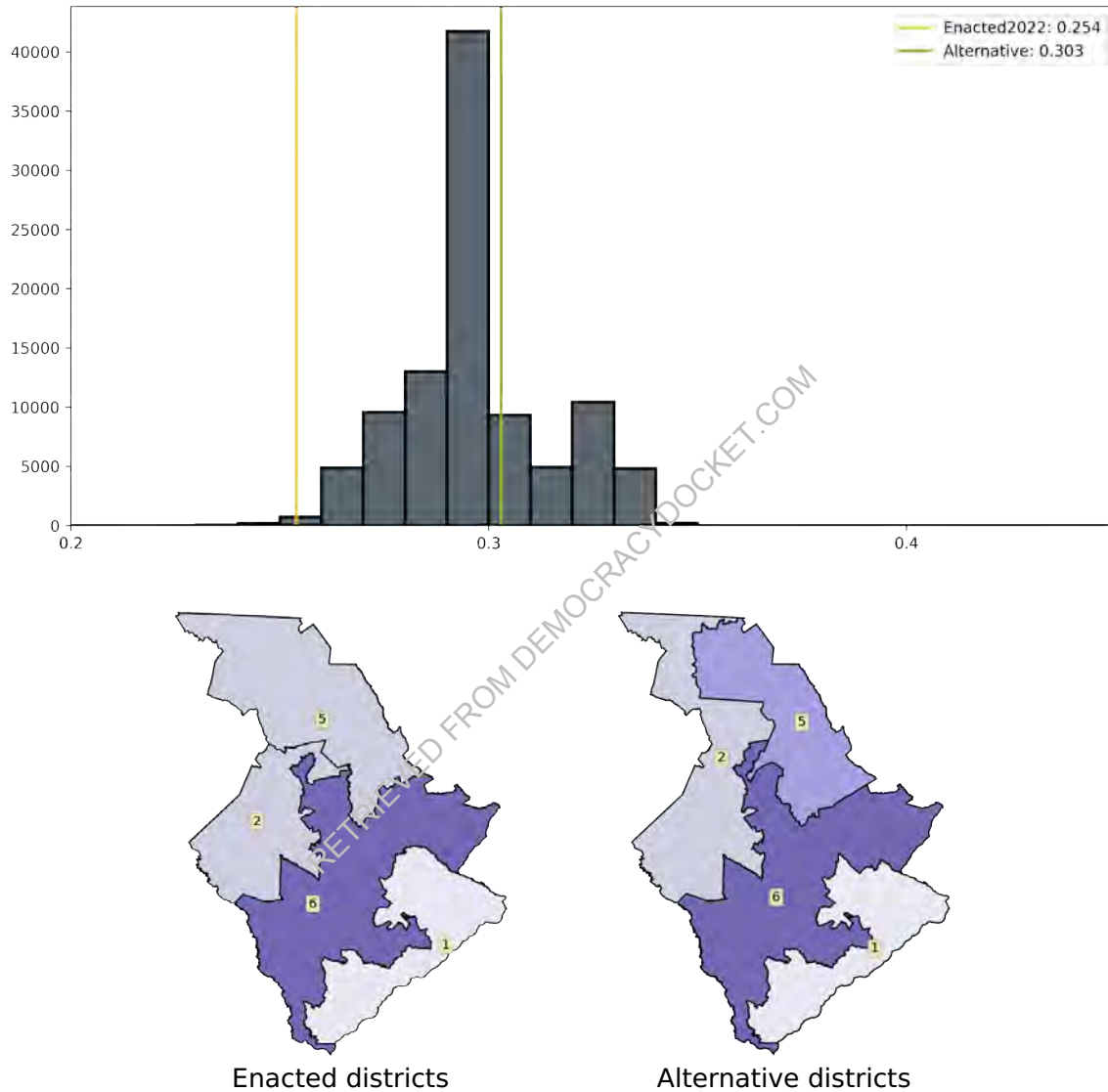


Figure 11: Histogram of BVAP in the second-highest district, comparing the low BVAP observed in the proposed plan to an ensemble of 100,000 sample plans that redraw only districts 1, 2, 5, and 6. An alternative plan is also shown—it leaves CD 6 and therefore CD 1 nearly unchanged, and unpacks this focus area mostly by changing a single (CD 2 / CD 5) boundary line.

7 Electoral opportunity for Black voters

Minority electoral opportunity is ultimately best gauged not by racial proportions in the population, but by an electoral history that shows that candidates of choice can be both nominated and elected. To measure that, we have used four recent statewide elections that were identified by counsel as particularly probative for Black electoral opportunity. These are the Secretary of State and Treasurer elections from 2018 and the U.S. Senator and President elections from 2020. In each case, a Black-identified candidate was on the ballot (including Kamala Harris on the Biden ticket). These elections have also been confirmed by counsel to display racially polarized voting, in which Black voters cohesively support the candidate of choice, while White voters form enough of a bloc to defeat these candidates in each election.

If the Black candidate of choice won in each of the 4 elections in a district, we can label the district as highly *effective* from the point of view of Black electoral opportunity. The overall effectiveness of a 7-district plan is the sum of these 0-4 scores over each district, giving an overall score on a scale of 0-28.

	Black candidates of choice
Secretary of State 2018	Melvin Whittenburg
Treasurer 2018	Rosalyn Glenn
U.S. Senator 2020	Jaime Harrison
President 2020	Joe Biden / Kamala Harris

Table 6: Black candidates of choice were identified in a racially polarized voting analysis provided by counsel.

	Effectiveness (out of 28)	By District						
		1	2	3	4	5	6	7
Previous2012	4	-	-	-	-	-	4	-
Enacted2022	4	-	-	-	-	-	4	-
Harpootlian	6	2	-	-	-	-	4	-
LWVSC	6	2	-	-	-	-	4	-
SC-NAACP1	8	4	-	-	-	-	4	-
SC-NAACP2	8	4	-	-	-	-	4	-
Foster	10	4	-	-	-	-	2	4
Muscatel	4	-	-	-	-	-	4	-
Harrison	6	2	-	-	-	-	4	-
Sukovich	8	4	-	-	-	-	4	-
Roberts	11	2	3	-	4	2	-	-

Table 7: Effectiveness score across each proposed congressional plan in the four elections identified as probative for Black electoral opportunity. The state's plans from 2012 and 2022 confine Black electoral opportunity to a single district, where all four Black candidates of choice would have won the district, while none of them would have won in the other six districts. Only one other map under consideration (Muscatel) limits Black opportunities as starkly. Other plans extend effectiveness to more districts. SC-NAACP1 and SC-NAACP2 are reliably effective in both CD 1 and CD 6, while Harpootlian, for instance, would keep CD 1 within reach.

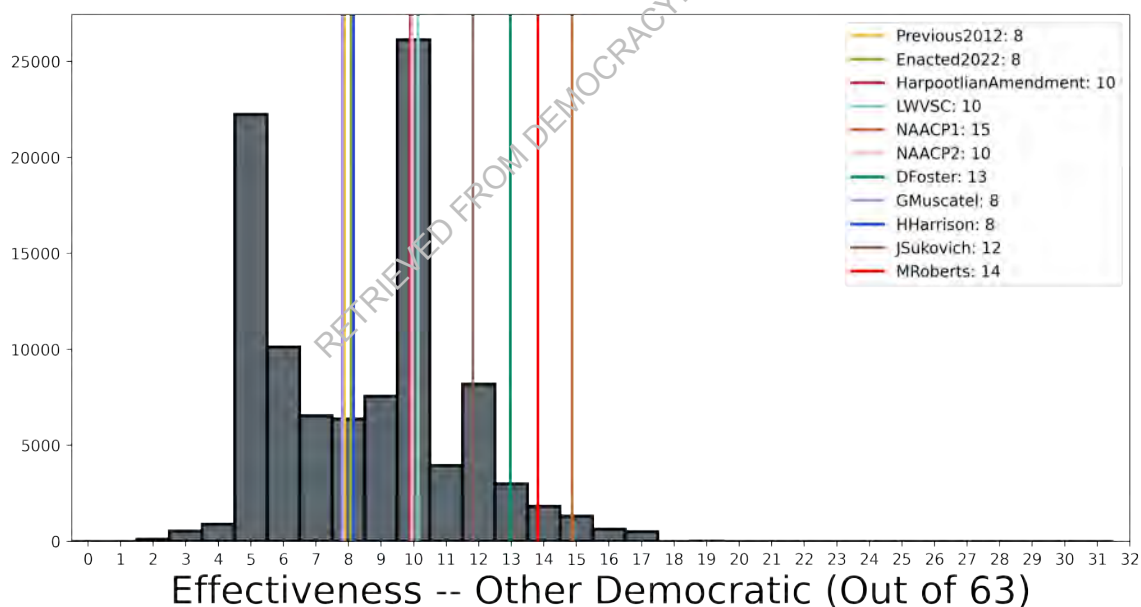
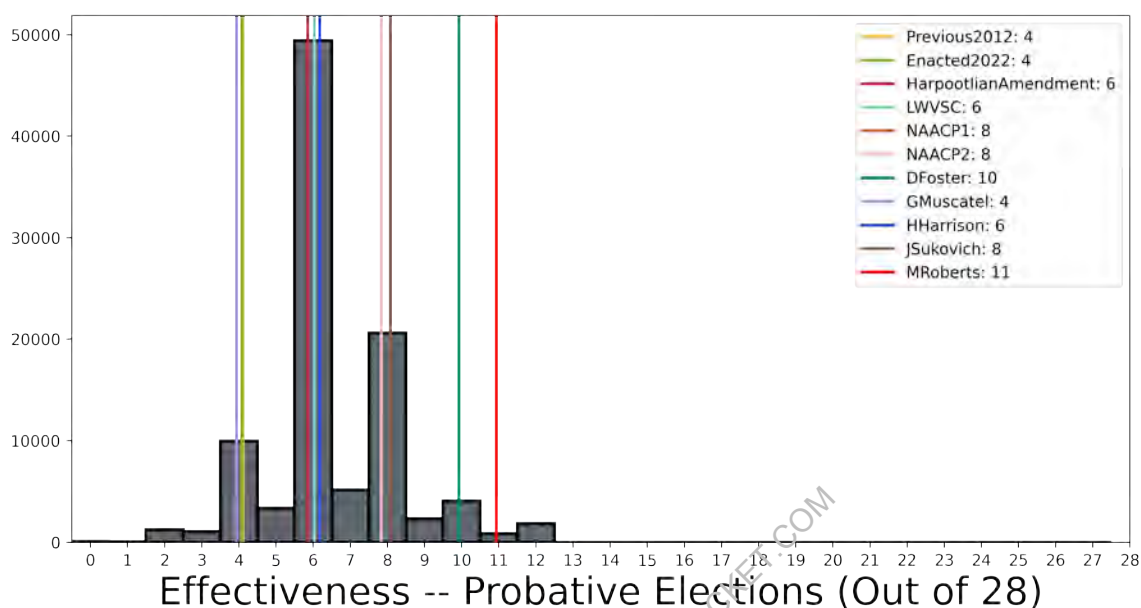


Figure 12: The comparison to 100,000 neutral plans shows that maps with such low levels of opportunity for Black voters are rarely found by chance (top), while the generic Democratic performance is much more typical (bottom). In particular, Previous2012 and Enacted2022 are both in the 12.4th percentile of effectiveness when it comes to the four probative elections for Black voters, but are right near the middle of the distribution (46.9th percentile) in the other seven contests evaluated here.

We can make use of the neutral ensembles presented earlier to consider whether it is possible that such concentration of Black opportunity is merely a function of political geography. We find that it is not. Only 12.4% of maps drawn in a race-neutral fashion (top of Figure 12) have as low an effectiveness score as the state's plan when considering the probative elections. By far the most common outcome for these blindly drawn maps is 6 wins for the Black candidate of choice, with another significant spike at 8. This shows that many alternatives that were available to the legislature—from the SC-NAACP options to the LWV map to the compromise plan represented by the Harpootlian amendment—will tend to allow Black voters an opportunity to elect candidates of choice at a level in keeping with the human and political geography of the state. The state's maps from ten years ago and again from this year are the ones that are demonstrably dilutive, and as we've seen, they submerge traditional principles in order to secure this outcome.

This finding is even much strengthened by considering the wider dataset of all recent statewide general elections (bottom of Figure 12). This time, seven more general elections are evaluated: Attorney General 2018, Governor 2014, Governor 2018, Lt. Governor 2014, President 2016, Secretary of State 2014, Superintendent of Education 2014, U.S. Senator 2014, and U.S. Senator 2016. If we compare the four that are considered probative for Black electoral opportunity against the nine that are not designated in this way, the picture becomes extremely clear.

The state's plans Previous2012 and Enacted2022 are not outliers in their performance in generic partisan races, where they sit very near the middle of the pack; rather, they only stand out in the races with a Black candidate on the ballot, where the preferences of Black voters most diverge from those of White voters. Thus, it is not plausible that the concentration of Black voters in the state's plan was merely a side effect of partisan concerns. The state's plan is quite ordinary (46.9th percentile) in its effectiveness for the generic Democratic voter, but only shows up as unusually ineffective (dropping to the 12.4th percentile) when the races most probative for Black voters are separately considered.

8 Conclusion

By comparing various plans for South Carolina Congressional districting, I find that the state's plan Enacted2022 expressly contravenes the legislature's own Guidelines, which clearly state that "Any proposed redistricting plan that is demonstrated to have the intent or effect of dispersing or concentrating minority population in a manner that prevents minorities from electing their candidates of choice will neither be accepted nor approved." Considering this strong guidance, and the increased Black population in the Columbia and Charleston areas (see Figure 2), we would expect increased electoral opportunities for Black voters to be reflected in the Congressional plan. By each kind of analysis provided above, we see that this is not the case; instead, Black population is cracked across Congressional districts 1, 2, and 5 in a way that demonstrably diminishes Black voters' ability to elect candidates of choice.

The state's plan draws its boundaries with a series of steps that (a) sacrifice traditional districting principles, and (b) harm Black voters by clear dilution of their voting power. These are shown in Section 4.5 and Sections 6.7 respectively. And I do not find these harms to be incidental. Each time I examined a decision with both racial and partisan elements in the design of the state's plan, I found that racial factors predominated over not only traditional principles, but even over partisan ones.

In this report, I have identified indicators of dilution of the Black vote both by showing the comparison to neutral plans and, crucially, by comparison to other plans that were available to the legislature at the time of plan adoption. The alternative provided in the Harpootlian Amendment, particularly, is far more respectful of communities of interest and goes a long way to remediate the vote dilution of the state's plan. The presence of that option—and the state's selection, instead, of a plan with less Black electoral opportunity and generally inferior metrics across the traditional principles—is strong evidence of dilutive intent.

References

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A Generation of ensembles of districting plans

Ensembles of alternative districting plans were made with the open-source Python package GerryChain, which has been publicly available since 2018 [4].

The basic step begins with a graph representing the geographical units of South Carolina, then fuses two districts chosen at random. We draw a random tree (graph with no cycles) that spans the double-district; next, the tree is cut at an edge that creates two complementary balanced pieces, which become the new districts replacing the ones that were fused. The district generation process enforces that every district has population within 1% of ideal district size; if the tree has no cut edge leaving sufficiently balanced pieces, then a new tree is drawn. Contiguity is required throughout, as a consequence of the fact that deleting an edge from a tree always leaves two connected components. Compactness is highly favored throughout this process, because compact districts have far more spanning trees [2].

To choose the random tree, a method called *minimum spanning trees* is employed, using weights that encourage county and subdivision integrity. Within-county edges are given a random weight in $[0, 1]$ while those between counties or county subdivisions receive a weight with a +1 "surcharge." This surcharge is additive, so an edge between different counties and between different divisions have a +2, effectively drawing from $[2, 3]$. I also ran a variant that added a "surcharge" for splitting certain COIs frequently mentioned in the public hearing testimony, as shown below in Figure 13. Supporting selections from the COI testimony have been included in the supplementary sections below.

The random tree is chosen by drawing weights from these intervals and then finding the (typically unique) spanning tree of minimum weight. In addition, when that tree is cut to separate new districts, the algorithm first seeks for a between-county edge as the cut, if it is possible within balance constraints. This promotes the selection of spanning trees that restrict to counties and municipalities in a single connected piece, which will tend to keep counties and municipalities un-split in the districts.

Convergence diagnostics for this kind of process are performed by varying the starting point and the random number seed, as well as by comparing outputs after 10,000 steps to those after 100,000; comparing outputs with and without filters like county/subdivision/COI preservation; and comparing runs with population deviation thresholded at 1% to alternative runs with 2% or 0.5% leeway. Together, these provided me with high confidence that 100,000 steps is enough in this particular districting setting (Congressional districts in South Carolina) to produce stable and reliable statistics. The recombination procedure targets the *spanning tree distribution* on plans. For more information on recombination and convergence heuristics, see especially [2].

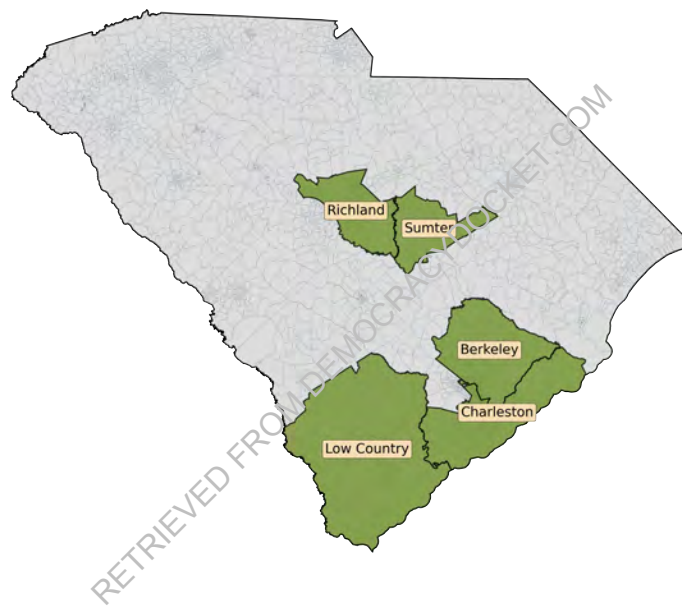


Figure 13: A selection of COs identified in public testimony. For this report, ensembles were generated both *with* and *without* an emphasis on maintaining these COs whole. The differences in BVAP and other measurable properties were minimal.

B Selections from public testimony

Below, I have included selections from the public testimony conducted by the South Carolina legislature and available in full at [7] [10]. The Senate public hearings took place July 27-August 12, 2021. The House public hearings were held from September 8-October 4, 2021.

I have organized these by their relevance to the features of CD 1, CD 2, and CD 5 discussed above in Section [5] I have included the speakers' stated affiliations where available.

Jasper County split

Mary Ann Bromley. "The economic importance of the Jasper Port Project is an excellent example of a shared community of interest for residents of both counties in that area."

Dorchester County split illogically

Tim Lewis, Chair of Dorchester County Democratic Party. "So I'd like to look at Dorchester County specifically, because that is our community of interest... Dorchester County I like to call a donor county... We share five senate representatives. And if you look at that map right there, actually, one of those – two of those areas, just little slivers. So what happens is that we donate our voters to other senate districts so they can get their votes. Well, the challenge with that, of course, is that those small slivers do not really truly have true representation. Those senators and so forth live in other districts. They truly are not represented by those folks... But, I mean, we have two senators that represent us well and I think have the interest of the county and our uniqueness of our county, the uniqueness of Summerville, the uniqueness of St. George in their mind, Senator Stephens and Senator Bennett. Those other areas are donors."

Coastal and Lowcountry COIs disregarded.

Blaine Lotz. "In some ways, the formation of today's First Congressional District was a step in the right direction; that is, having Lowcountry counties, such as Charleston and Beaufort, in single district. Unfortunately, your predecessor republicans played politics by carving out the northwestern quadrant of Beaufort County, largely rural, largely African-American, and largely democratic, and moved it into the single majority/minority congressional district, the Sixth, Jim Clyburn's district. The goal was to [dilute] Beaufort County in the First Congressional District keeping it in republican control. The same thing was done in other First District counties, keeping million-dollar beach homes on the coast in the district, but moving their inland working-class neighbors into the Sixth District."

Scott Anderson, Beaufort Federation of Republican Men. "We also currently have representatives that both understand and act on the values that make the Lowcountry special... Our growth, tourism, coastal – the coastal environment, just to name a few. Just as those in the midlands and the upstate have unique needs, I implore the committee to maintain districts that are representative of our diverse state."

Mayor Bill T. Young, Jr. Mayor of Walterboro. "Colleton County is very divided. We have four senators and four representatives, and none of these elected officials are dependent on Colleton County for their elections, so they do what elected officials do, they pay attention to the areas that elect them. We believe that it's Colleton's turn to have a larger portion of its districts, and I would ask you, on behalf of the people of Walterboro and Colleton County, that you keep Colleton County together as much as possible as a community of interest."

Mayor Steve Murray, Mayor of Beaufort. "I see Beaufort County as a community of interest in terms of our educational challenges, our infrastructure challenges, social and cultural, our historic assets and how we're trying to link those together... [W]hen you look at our challenges around beach erosion, around offshore testing and seismic drilling – seismic testing off of drilling, nesting shorebirds and conservation issues, again, infrastructure around bridges, it is a community of interest as well. So I hope as you're considering drawing those maps, that you would think about Beaufort County as a community of interest and you would think about that coastal district – continue to think about that as a community of interest."

Mayor Tim Goodwin, Mayor of Folly Beach. "South Carolina's beach communities are relatively few in number and small in population, yet we all face unique challenges that is applicable only to beach communities, and they can be quite large."

Council Member Dickie Schweers, Charleston County Council. "What I would like to do is specifically address communities of interest, but specifically coastal communities of interest. ... And what I would ask you is to please continue allowing those districts to properly represent those coastal communities. The commonalities I see, because they're coastal districts, include tourism; housing, and especially housing cost; outdoor recreation; port and shipping activity; boating; hunting; fisheries."

Jerry Ashmore, Port Royal Town Council. "We're a community of interest along the coast. We need to keep coastal communities in a district that share natural resources, beaches, estuaries, and tourism. We're in this together and we all share similar concerns all for the good of the Lowcountry."

Mayor Jane Darby, Mayor of Edisto Beach. "I want to address a little bit further, the community of interest. We know our community has an odd shape... So what I would like to bring is a few more things in the community of interests for our district. The most important factor to consider, and is vastly more important for the welfare of us, is that we all share the same problems, and it's all related [to] a maritime environment."

Jodie Strutek. "Here in Beaufort County, we are at a disadvantage because legislators have used our voters as a political football in the drawing of congressional districts and senate districts. It prevents us from being adequately heard by our representation. We've heard the testimony of my peers tonight. Our communities, specifically subcommunities of color, are split into different districts despite being a part of Beaufort County."

Mayra Rivera-Vazquez, Chair of the Beaufort County Democratic Party. "The Latino community is one of the fastest growing communities in America this decade, and Beaufort County is not an exception. Beaufort County is one of the top five counties with the highest Latino population in the state, with 11.1 percent. Three cities in the county have the largest Latino population in South Carolina, Bluffton with 16.84 percent, Port Royal with 12.55 percent, and Hilton Head with 11.81 percent. The Lowcountry 1st Congressional District has the largest number of Latino voters in South Carolina with 4 percent. As the Senate Subcommittee on Redistricting examines communities of interest as essential criteria to preserving and enhancing the political strength of those communities, the expansion of the Latino population in Beaufort County must be addressed... As South Carolina, we draw lines for electoral district this year. The Latino community in Beaufort County, as a community of interest, cannot afford to sit on the sidelines."

Council Member Steve Murdaugh, Colleton County Council. "I am here speaking on behalf of the citizens of Colleton County... Well, if you want to talk about communities of interest, you already have communities of interest. You have councils of government. We have Lowcountry councils of government. Look at your counties that are there. We're members of the Southern Carolina Economic Development Lines. Look at the counties that are there. We don't have any community ventures with Dorchester or that district. I think that would be a starting point to try to get more of Colleton into a – some of these other districts."

Christine deVries. "But I actually wanted to speak directly to the issues with Beaufort County. We've had several people before, spoke very well to how we're a vibrant place and full of active citizens and that we all believe that Beaufort County should be a community of interest, and I certainly concur with that. I think it's critical that in our redistricting process, that Beaufort County is preserved and enhanced and ensure we do have strong representation, in both the US Congress and the South Carolina Legislature, and that our representation is not diluted by unnecessarily dividing parts of the county between legislative districts."

Queen Quet (Marquetta L. Goodwine). "I am very pleased to have this opportunity to speak on behalf of the Gullah/Geechees that reside on the Sea Islands, in particular as a community of interest. I'm a native of St. Helena Island, also with family roots on Polawana Island and Datha Island; and that's here in Beaufort County, South Carolina. But we also have a kinship with Edisto Island... And it's important for us who are natives here to sustain this very environment, because we are inextricably tied to it. I always tell everyone that the land is our family and the waterways are our bloodline. So we're working on a resiliency project with the EPA for St. Helena Island. And we'd love to see that duplicated throughout these sea islands because of sea level rise; we have intense heat; and, of course, as already mentioned, we're in a hurricane zone as it is. So we need to sustain this coastline, and we thank you-all for doing the work that you're doing as coastal representatives that are there, because I see one of my good buddies there that helped stop the offshore drilling. And I want you-all to make sure that you drill down on these communities of interest and don't leave (speaking Gullah) out there, because we be Gullah/Geechee anointed people and we're so glad if I have a chance to be a part of the process and make sure that you're aware of us and that our cultural community is sustained environmentally and culturally."

Mark Hartley. "I represent the 1st District on the board, and the 1st District is – congressional district is largely coastal. It runs along South Carolina coast from Calibogue Sounds in Jasper County through the coastal portions of Beaufort, Colleton, and Charleston Counties up to the Santee River. As the 1st Congressional District Representative on DNR board, I can attest to the 1st Congressional District is a community of interest. The district's geography and coastal natural resources are unique and some of the most magnificent in the – in the nation... Their community interest arise from their unique geographic and coastal natural resources. They border the Atlantic Ocean with a chain of barrier isles. They have extensive saltwater river – river-run estuaries extending far inland. Virtually all coastal tidelands of South Carolina, which are extremely important for water fowl and other endangered species, are in these two senate districts. They have over 70 miles of protected coastline and over a half million protected acres in the Ace Basin, Cape Romain Wildlife Refuge, Santee Delta, and Winyah Bay."

Meade Dillon. "I am blessed by God to live in what I call the Lowcountry. Yes, I am in Mt. Pleasant; but I can be at the beach in about 15 or 20 minutes, I can be downtown in historic Charleston in about 15 or 20 minutes, or I can be heading up to Moncks Corner or Lake Marion to visit friends on the lake up there, all in a relatively short period of time. And so many of the previous speakers have focused on, oh, Mt. Pleasant, it's a community. Well, guess what? It is not a bubble and I don't stay in it and I think most of those others speakers don't stay in

Mt. Pleasant as well. And so my point is very simple. Senators who have a little piece of Mt. Pleasant and a little piece of the barrier islands and a little piece of the inland, they're going to reflect my community and my interests because they're going to get the whole picture. We have a great variety here in Charleston and in Berkeley and Dorchester County, and so having representatives which have a little piece of all those will help make sure that they really understand the value of living here in the Lowcountry."

William Walker. "What I'm very worried about is a major part of our life blood here in South Carolina and the Lowcountry is the Gullah-Geechee community, and we must be sure that we take care of those communities and that we make sure that the candidates have a shot at nominating and voting for candidates that are going to support interest of the Gullah-Geechee community as well as the African-American community."

Timothy Wyld. "I live in Sun City, which should be in the dictionary as the definition of a community of interest. Unfortunately, I live on the north side of Sun City, and even the map that your wonderful cartographer has drawn over there does not recognize our little section of Sun City that is in James Clyburn's district. We are not contiguous with any county other than Beaufort. We are totally surrounded by Beaufort County. We can't have conversations with our neighbors, our friends, our gym partners, our tennis partners, our golf partners because they all vote in CD1 and we're stuck voting in CD6. It makes absolutely no sense. You can go by any of the criteria you're using, we're a community of interest. We have been set apart because Pulte annexed us to the City of Hardeeville to get lower development costs, and we got stuck in Jasper County as a result. I'm begging you to fix this oversight. It just doesn't make sense."

Representative Jermaine Johnson. "It absolutely makes no sense whatsoever that, you know, we have somebody representing up here that's, you know, down in Charleston or somebody that's in Charleston is representing somebody in Columbia or somebody way down in Edgefield and Aiken and you've got to come down here. This makes no sense."

Michael Sawiki. "I would like to speak to the Committee about the natural geography sometimes connected by water, sometimes connected by land that we along the shore of South Carolina Coast. There is no question that this is one of the most beautiful and pristine environments in the nation. It is a special place because of the many rivers that flow through the marshlands into the sea. These rivers and marshes are alive with hundreds of varieties of fish, shellfish, shrimp, animals and birds of all kind. Many of the creatures that live in the deeper oceans began their lives in the South Carolina marshes and rivers. Some of [] us who live in this beautiful part of the state were fortunate enough to be born here. And many of us came here because of the natural beauty. I think that I speak for most of us who know the importance of protecting the preserve – and preserving what we have here... because elected officials who live and work along the Coast share a common love and understanding for the area and those of us who live here, we would like to see the Low Country be treated as a community of interest when the redistricting takes place."

Willie Terrell, Young Republicans of Beaufort County. "But in a way, I feel like I represent many young people throughout the Low Country. Because up and down the South Carolina coast, our needs, our wants, our aspirations are much of the same. Many of us, like myself, were born and raised in the Low Country. We love it. We like to make it our home and raise our family here. In order to do so we need two things: One, quality education, and, two, opportunities."

Council Member Logan Cunningham, Beaufort County Council and Vice President of the Republican Club. "But I will tell you that the representatives that we've had for this time, or our new representatives, the policies that are put in place here for Beaufort County and the Low Country have made it a desirable and successful place for people to continue to come to... It's about the fact that the values and the conservative policies that we've had here in the Low Country, that have made it successful... We stand here in Beaufort County with our Low Country values. And we're prepared to continue to defend them, because they have been successful here and in the state."

Charleston County split erratically

A.J. Davis. "I live in the southern end of North Charleston right outside of the old Naval base. I consider my community of interest not only that geographic area, but the marginalized African-American populations, both native and adopted, or in local terms, the benyas and the comeyas. I've called Charleston home for the last 20 years... I live in the Chicora Community but share a kindred spirit with most of the southern end of North Charleston south of Park Circle. Like many of the folks who have come before me, I express concern that this process will afford marginalized communities such as mine legitimate, effective political representation. As Ms. Singleton so eloquently put it, it's about more than votes, but the impact to human lives. Due to population changes, communities like mine were havens for members of the African-American populations that have been displaced due to [gentrification], specifically from areas like downtown and West Ashley."

Kelly Gorby. "I'm glad the one gentleman bought up the maps of Charleston County, because as far as the U.S. Congressional District is concerned, that shape is crazy. Charleston County deserved to be in one U.S. Congressional District. North Charleston problems, North Charleston interests should be considered with the rest of Charleston County and not with Columbia. That's where our airport is. That's where our tourists are coming into town. They're sleeping in those hotels. They're shopping at Tanger Outlets. There's really no reason that they shouldn't be considered in our same U.S. Congressional District. So I would also advocate for that."

Emily Mayer. "First, I would like to start with our congressional district lines. Beaufort County is currently split among two different congressional districts... As the population of Beaufort County is well within the limits of what a congressional district can hold, I implore you to find out why this section of Beaufort County has been cut out of being represented by the same congressperson as the rest of their county members, as we are a part of the same community with interests regarding our public educational system. Additionally, Congressional District 1 extends up the shores through Charleston County. But, as you can see on the map, it cuts out North Charleston and then goes in again to Berkeley County. Again, noting that that North Charleston demographic is overwhelming[ly] less white compared to the areas of Charleston and Berkeley Counties that are included in Congressional District 1 all the way to Monks Corner, all the way up in that Berkeley County area, which is 68 percent white. I ask again why this cutout is necessary? If we're talking about continual lines, the shapes of our district, why not make it more continuous to allow communities of the same counties to stay together? These lines don't feel as if they meet the requirements needed... I add to the sentiments that were made earlier that Beaufort County is a community of interest within itself."

Brady Quirk-Garvan. "Charleston and the broader tri-county have seen tremendous growth in the last decade and, despite the global pandemic, it shows no signs of slowing down... Keeping neighborhoods [and] geographic zones together are important not only because it

allows constituents to know their representatives, but because it allows for greater economic progress. When Senators and House members draw elongated districts and stretch districts across rivers, oceans, and county lines, it creates problems when it comes to advocacy for district. It is difficult to be the best advocate for your constituents when a district involves multiple counties and widely different geographic areas. The needs of a dense suburb like Mt. Pleasant and Charleston County are very different from rural Berkeley County, and sometimes their needs are antithetical to one another; and yet we have districts where senators are asked to provide the same level of advocacy to both, and that just doesn't happen. Another example of this is my congressional district, District 6, which runs from here in North Charleston up to Columbia. And I can assure you, living here, that North Charleston is much more intertwined with Charleston and the Lowcountry than it is with the Midlands."

David Quick. "So the slicing and dicing, it ultimately comes down to this gerrymandering stuff... We need our – our congressional district not to stretch all the way down. We've got three hubs on the coast and, let's face it, the coast is one of our big drivers of South Carolina's economy. You've got – you've got the Grand Strand, you've got Charleston, and you've got Hilton Head and Beaufort. These are very distinct hubs. Let's try to think along those hub lines, you know, and those natural boundaries. And, really, let's make – let's make these lines make sense and not confuse voters anymore... And just like so many people said, people in North Charleston have more in common with people in Charleston than they do in Columbia."

Zachary Kronsberg. "I agree with what Mr. Quirk-Garvan said earlier about North Charleston and, frankly, half of downtown having more in common with the rest of Charleston County than they do with Columbia. So I think that it would make sense for them to be in the U.S. Congressional 1st District instead of the 6th District."

Shayna Howell. "I urge you to consider [Charleston] county a community of interest and not split it so many ways...While I appreciate the idea of the coast as a group of residents with shared interests, I believe we would be better served by districts that don't split so many county lines – residents of these coastal counties typically all care about our coastal resources – so their voice will not be diluted."

Emmett Robert Murray Jr. "Where did the input for this ridiculous change come from? Was a blindfold and dart board involved? I have read a [] good deal about gerrymandering, but this is my first time at seeing it up close and personal. I'm sure that this map that I am looking at showing this oddball projection protruding into district 1 must be a misdirected key punch. It is beyond belief that state bean counters have decided that the interest of the West Ashley residents of Charleston Co. and the people of the rural counties of Clarendon, Orangeburg and Darlington are anywhere close to similar. This political anomaly needs to be corrected before it is set in stone."

Lynn Schuler Teague, League of Women Voters South Carolina. "The League plan accurately reflects the diverse population is what is increasingly a network of closely tied satellite communities around a center in urban Charleston. The League proposal shows that much of this important community of interest could easily be kept together in CD 1. The Senate's [draft] map, on the other hand, produces what in our measure is a 14-percentage point partisan gap by slicing and dicing this clear community of interest in unreasonable ways. Charleston itself is split. Adjacent North Charleston would continue to be put into a district with Columbia, more than a hundred miles away, although it is very much a part of the social and economic networks associated with Charleston. James Island and Johns Island would be split. What would the people of South Carolina sacrifice so that the General Assembly can achieve this gerrymander?"

Gloria Aslanidis. "My home is in the City of Charleston and the County of Charleston.... I'm sure Dorchester County is a lovely place to live, but I see no community of interest."

Orangeburg separated from CD 2

Chester Palmer. "[Orangeburg County has] much more in common with Columbia and Richland and Lexington than we do with Charleston. And that's something that you need to consider when you redraw the district lines."

Larry Wagner. "Now, what do those folks down in the tail of Georgia have to do – a commonality with Orangeburg-Calhoun County where we live in St. Matthews?"

State Representative Jerry Govan. "The redistricting process should incorporate more of the City of Orangeburg and more of the nearby suburbs, considering the history of this district... The City of Orangeburg and surrounding areas in Central Orangeburg County should continue to have a voice in their respective areas."

Hook around Columbia

William Maxie. "And so when you go to redistrict this time – and there's been a lot of growth in South Carolina, and y'all have to make a lot of changes – I would urge you to make sure that these districts are fair, obviously, and equitable, but make sure that they make sense geometrically... I mean, you know, the 2nd District is a good example where Representative Wilson is. I mean, it reaches around the City of Columbia, and to what end is that? I mean, do people in downtown Columbia not have that much in common with people from Forest Acres or people right across the river? No, they do. That's where a lot of those people live and a lot of those people work, so, you know, the shape of these districts is important, and y'all really need to make sure that towns and counties stay whole to make sure that our communities of interest are represented. That's not just a legal term. That's just the people that we live with and work with, that we worship with and that we spend all of our time with."

Splitting in and around Columbia

Jonnieka Farr, Co-chair of Columbia Branch of NAACP Political Action Committee and Chair Richland County Democratic Women's Council. "I live in the Northeast Columbia area...I would like for the redistricting committee to ensure that redistricting is not done in such a way that arbitrary lines are drawn splitting neighborhoods"

Lynn Schuler Teague. "CD 2 should not have a finger projecting through Columbia. In Richland County, the effort to get CD 2 to Fort Jackson drives CD 2 through the Black communities of northwest Richland, separating them from neighboring communities to allow the incumbent to "keep" Fort Jackson within "his" district. Why must a legislator have a specific base within his district to protect it in deliberations of the House Armed Services Committee? Also, how does an incumbent's interest constitute a community of interest-especially where it requires violating a clear and very real community of interest of minority voters?"

Sumter COI is not respected

Archie Parnell. "And here we are in Sumter and Sumter is split down the middle. The historic district where I live, three blocks down is a different congressional district. Two blocks up is a different congressional district... And I think there is a community of interest here in

Sumter and I would urge you to continue with your criteria that you've adopted 10 years ago and, hopefully, keep counties together. Now, I realize that these various criteria are not all in one direction. Sometimes they conflict with each other and so you cannot just always have a win/win on everything. But I would urge you that the lines that are drawn in Sumter be redrawn in order to make it more of a unit, more of a community of interest."

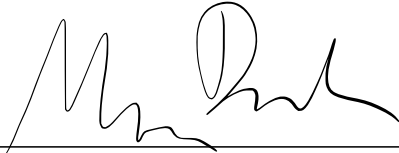
John Reilly. "I'm not in a big populated area, but everything else I do is in Sumter. And everything that people in my neighborhood do is in Sumter. We're attached to Shaw, so that's kind of how we – everything is Sumter oriented, but our representation, if I have anything to say to anybody, is in Richland. Which really doesn't make any sense for us."

Anthony Nyser. "So like I was saying, I've only been a resident of South Carolina, namely Sumter, for a couple of years. The first two years I lived in town was normal. And then when I bought a home at the beginning of this year, I'm wanting to say it's about a three mile difference between the old home and the new home, but I have a completely different representation at all levels. And that's something that was really concerning to me because I still shop at the same Piggly Wiggly. Everyone is Sumter still goes to the same one Starbucks. We all have very, very aligned interests, lifestyles. There's some obvious socioeconomic differences in town, but it's still one town, one community."

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I reserve the right to continue to supplement my report in light of additional facts, testimony and/or materials that may come to light. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed this 11th day of April, 2022.



Moon Duchin

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Moon Duchin

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Mathematics · STS · Tisch College of Civic Life | Tufts University

Education

University of Chicago Mathematics Advisor: Alex Eskin	MS 1999, PhD 2005 Dissertation: <i>Geodesics track random walks in Teichmüller space</i>
Harvard University Mathematics and Women's Studies	BA 1998

Appointments

Tufts University Professor of Mathematics Assistant Professor, Associate Professor	2021— 2011–2021
<i>Principal Investigator</i> MGGG Redistricting Lab	2017—
<i>Senior Fellow</i> Jonathan M. Tisch College of Civic Life	2017—
<i>Director</i> Program in Science, Technology, & Society	2015–2021
University of Michigan Assistant Professor (postdoctoral)	2008–2011
University of California, Davis NSF VIGRE Postdoctoral Fellow	2005–2008

Research Interests

Data science for civil rights, computation and governance, elections, geometry and redistricting.
Science, technology, and society, science policy, census data, technology and law, algorithmic fairness.
Random walks and Markov chains, random groups, random constructions in geometry.
Large-scale geometry, metric geometry, isoperimetric inequalities.
Geometric group theory, growth of groups, nilpotent groups, dynamics of group actions.
Geometric topology, hyperbolicity, Teichmüller theory.

Selected Awards & Distinctions

Research Professor - MSRI Program in Analysis and Geometry of Random Spaces	Spring 2022
Guggenheim Fellow	2018
Radcliffe Fellow - Evelyn Green Davis Fellowship	2018–2019
Fellow of the American Mathematical Society	elected 2017
NSF C-ACCEL (PI) - Harnessing the Data Revolution: Network science of Census data	2019–2020
NSF grants (PI) - CAREER grant and three standard Topology grants	2009–2022
Professor of the Year , Tufts Math Society	2012–2013
AAUW Dissertation Fellowship	2004–2005
NSF Graduate Fellowship	1998–2002
Lawrence and Josephine Graves Prize for Excellence in Teaching (U Chicago)	2002
Robert Fletcher Rogers Prize (Harvard Mathematics)	1995–1996

Applied and Interdisciplinary Publications & Preprints

Political Geometry: Rethinking Redistricting in the U.S. with Math, Law, and Everything In Between

25 chapters, 475 pages. Preprint online. Birkhäuser Books, to appear 2022. (eds. Moon Duchin, Olivia Walch)
see: Introduction, Compactness, Communities of Interest, Clustering, Random Walks, Ranked Choice Voting.

Private numbers in public policy: Census, differential privacy, and redistricting

Harvard Data Science Review, to appear 2022. (with Aloni Cohen, JN Matthews, and Bhushan Suwal)

The (homological) persistence of gerrymandering

Foundations of Data Science, to appear 2022. Online first. (with Thomas Needham and Thomas Weighill)

Implementing partisan symmetry: Problems and paradoxes

Political Analysis, to appear 2022. arXiv:2008.06930

(with Daryl DeFord, Natasha Dhamankar, Mackenzie McPike, Gabe Schoenbach, and Ki-Wan Sim)

Measuring segregation via analysis on graphs

Preprint. arXiv:2212.10708 (with James Murphy and Thomas Weighill)

A reversible recombination chain for graph partitions

Preprint. (with Sarah Cannon, Dana Randall, and Parker Rule)

Ranked choice voting and minority representation

Preprint. Online. (with Gerdus Benade, Ruth Buck, Dara Gold, and Thomas Weighill)

Clustering propensity: A mathematical framework for measuring segregation

Preprint. (with Emilia Alvarez, Everett Meike, and Marshall Mueller; appendix by Tyler Piazza)

Discrete geometry for electoral geography

Preprint. (with Bridget Eileen Tenner) arXiv:1808.05860

Recombination: A family of Markov chains for redistricting

Harvard Data Science Review. Issue 3.1, Winter 2021. Online. (with Daryl DeFord and Justin Solomon)

Census TopDown: The impact of differential privacy on redistricting

2nd Symposium on Foundations of Responsible Computing (FORC 2021), 5:1–5:22. Available online.
(with Aloni Cohen, JN Matthews, and Bhushan Suwal)

Models, Race, and the Law

Yale Law Journal Forum, Vol. 130 (March 2021). Available online. (with Doug Spencer)

Computational Redistricting and the Voting Rights Act

Election Law Journal, Volume 20, Number 4 (2021), 407–441. Available online.

(with Amariah Becker, Dara Gold, and Sam Hirsch)

Mathematics of nested districts: The case of Alaska

Statistics and Public Policy. Vol 7, No 1 (2020), 39–51. (w/ Sophia Caldera, Daryl DeFord, Sam Gutekunst, & Cara Nix)

A computational approach to measuring vote elasticity and competitiveness

Statistics and Public Policy. Vol 7, No 1 (2020), 69–86. (with Daryl DeFord and Justin Solomon)

Locating the representational baseline: Republicans in Massachusetts

Election Law Journal, Volume 18, Number 4, 2019, 388–401.

(with Taissa Gladkova, Eugene Henninger-Voss, Ben Klingensmith, Heather Newman, and Hannah Wheelen)

Redistricting reform in Virginia: Districting criteria in context

Virginia Policy Review, Volume XII, Issue II, Spring 2019, 120–146. (with Daryl DeFord)

Geometry v. Gerrymandering

The Best Writing on Mathematics 2019, ed. Mircea Pitici. Princeton University Press.
reprinted from Scientific American, November 2018, 48–53.

Gerrymandering metrics: How to measure? What's the baseline?

Bulletin of the American Academy for Arts and Sciences, Vol. LXII, No. 2 (Winter 2018), 54–58.

Rebooting the mathematics of gerrymandering: How can geometry track with our political values?

The Conversation (online magazine), October 2017. (with Peter Levine)

A formula goes to court: Partisan gerrymandering and the efficiency gap

Notices of the American Mathematical Society **64** No. 9 (2017), 1020–1024. (with Mira Bernstein)

International mobility and U.S. mathematics

Notices of the American Mathematical Society **64**, No. 7 (2017), 682–683.

 Pure Mathematics Publications & Preprints
Conjugation curvature for Cayley graphs

Journal of Topology and Analysis, to appear 2022. Online first. (with Assaf Bar-Natan and Robert Kropholler)

You can hear the shape of a billiard table: Symbolic dynamics and rigidity for flat surfaces

Commentarii Mathematici Helvetici, Vol 96, Issue 3 (2021), 421–463. Available online.

(with Viveka Erlandsson, Christopher Leininger, and Chandrika Sadanand)

Stars at infinity in Teichmüller space

Geometriae Dedicata, Volume 213, 531–545 (2021). (with Nate Fisher) arXiv:2004.04321

The Heisenberg group is pan-rational

Advances in Mathematics **346** (2019), 219–263. (with Michael Shapiro)

Random nilpotent groups I

International Mathematics Research Notices, Vol. 2018, Issue 7 (2018), 1921–1953.

(with Matthew Cordes, Yen Duong, Meng-Che Ho, and Ayla Sánchez)

Hyperbolic groups

chapter in *Office Hours with a Geometric Group Theorist*, eds. M.Clay, D.Margalit, Princeton U Press (2017), 177–203.

Counting in groups: Fine asymptotic geometry

Notices of the American Mathematical Society **63**, No. 8 (2016), 871–874.

A sharper threshold for random groups at density one-half

Groups, Geometry, and Dynamics **10**, No. 3 (2016), 985–1005.

(with Katarzyna Jankiewicz, Shelby Kilmer, Samuel Lelièvre, John M. Mackay, and Ayla Sánchez)

Equations in nilpotent groups

Proceedings of the American Mathematical Society **143** (2015), 4723–4731. (with Hao Liang and Michael Shapiro)

Statistical hyperbolicity in Teichmüller space

Geometric and Functional Analysis, Volume 24, Issue 3 (2014), 748–795. (with Howard Masur and Spencer Dowdall)

Fine asymptotic geometry of the Heisenberg group

Indiana University Mathematics Journal **63** No. 3 (2014), 885–916. (with Christopher Mooney)

Pushing fillings in right-angled Artin groups

Journal of the LMS, Vol 87, Issue 3 (2013), 663–688. (with Aaron Abrams, Noel Brady, Pallavi Dani, and Robert Young)

Spheres in the curve complex

In the Tradition of Ahlfors and Bers VI, Contemp. Math. **590** (2013), 1–8. (with Howard Masur and Spencer Dowdall)

The sprawl conjecture for convex bodies

Experimental Mathematics, Volume 22, Issue 2 (2013), 113–122. (with Samuel Lelièvre and Christopher Mooney)

Filling loops at infinity in the mapping class group

Michigan Math. J., Vol 61, Issue 4 (2012), 867–874. (with Aaron Abrams, Noel Brady, Pallavi Dani, and Robert Young)

The geometry of spheres in free abelian groups

Geometriae Dedicata, Volume 161, Issue 1 (2012), 169–187. (with Samuel Lelièvre and Christopher Mooney)

Statistical hyperbolicity in groups

Algebraic and Geometric Topology **12** (2012) 1–18. (with Samuel Lelièvre and Christopher Mooney)

Length spectra and degeneration of flat metrics

Inventiones Mathematicae, Volume 182, Issue 2 (2010), 231–277. (with Christopher Leininger and Kasra Rafi)

Divergence of geodesics in Teichmüller space and the mapping class group

Geometric and Functional Analysis, Volume 19, Issue 3 (2009), 722–742. (with Kasra Rafi)

Curvature, stretchiness, and dynamics

In the Tradition of Ahlfors and Bers IV, Contemp. Math. **432** (2007), 19–30.

Geodesics track random walks in Teichmüller space

PhD Dissertation, University of Chicago 2005.

Teaching

Courses Developed or Customized**Mathematics of Social Choice** | sites.tufts.edu/socialchoice

Voting theory, impossibility theorems, redistricting, theory of representative democracy, metrics of fairness.

Have designed and taught variants at entry level and at math-major level.

History of Mathematics | sites.tufts.edu/histmath

Social history of mathematics, organized around episodes from antiquity to present. Themes include materials and technologies of creation and dissemination, axioms, authority, credibility, and professionalization. In-depth treatment of mathematical content from numeration to cardinal arithmetic to Galois theory.

Reading Lab: Mathematical Models in Social Context | sites.tufts.edu/models

One hr/wk discussion seminar of short but close reading on topics in mathematical modeling, including history of psychometrics; algorithmic bias; philosophy of statistics; problems of model explanation and interpretation.

Reading Lab: Classification | sites.tufts.edu/classification

One hr/wk discussion seminar of short but close reading on topics in classifications and taxonomies, including censuses; race and ethnicity; academic disciplines, mathematical and legal definition; chemical elements; species and model organisms; sex and gender.

Geometric Literacy

Module-based graduate topics course. Modules have included: p -adic numbers, hyperbolic geometry, nilpotent geometry, Lie groups, convex geometry and analysis, the complex of curves, ergodic theory, the Gauss circle problem.

Markov Chains (graduate topics course)

Teichmüller Theory (graduate topics course)

Fuchsian Groups (graduate topics course)

Continued Fractions and Geometric Coding (undergraduate topics course)

Mathematics for Elementary School Teachers (inquiry-based course for pre-service teachers)

Standard Courses

Mathematical Modeling and Computation (with Python), Discrete Mathematics, Calculus I-II-III, Intro to Proofs, Linear Algebra, Complex Analysis, Differential Geometry, Abstract Algebra, Graduate Real Analysis

Weekly Seminars Organized

- Geometric Group Theory and Topology
- Science, Technology, and Society Lunch Seminar

Selected Talks and Lectures

AMS Einstein Public Lecture in Mathematics Central Sectional Meeting of the AMS, Omaha, NE	October 2023
Distinguished Plenary Lecture 75th Anniversary Meeting of Canadian Mathematical Society, Ottawa, Ontario	June 2021 <i>online (COVID)</i>
BMC/BAMC Public Lecture Joint British Mathematics/Applied Mathematics Colloquium, Glasgow, Scotland	April 2021 <i>online (COVID)</i>
Radcliffe Fellow Lecture Radcliffe Institute for Advanced Study, Cambridge, MA	November 2018
Gerald and Judith Porter Public Lecture AMS-MAA-SIAM, Joint Mathematics Meetings, San Diego, CA	January 2018
Mathematical Association of America Distinguished Lecture MAA Carriage House, Washington, DC	October 2016
American Mathematical Society Invited Address AMS Eastern Sectional Meeting, Brunswick, ME	September 2016

Named University Lectures

- Loeb Lectures in Mathematics Washington University in St. Louis	April 2022
- Mathematics and Natural Sciences Divisional Lecture Reed College	March 2022
- Parsons Lecture UNC Asheville	October 2020
- Math, Stats, CS, and Society Macalester College	October 2019
- MRC Public Lecture Stanford University	May 2019
- Freedman Memorial Colloquium Boston University	March 2019
- Julian Clancy Frazier Colloquium Lecture U.S. Naval Academy	January 2019
- Barnett Lecture University of Cincinnati	October 2018
- School of Science Colloquium Series The College of New Jersey	March 2018
- Kieval Lecture Cornell University	February 2018
- G. Milton Wing Lectures University of Rochester	October 2017
- Norman Johnson Lecture Wheaton College	September 2017
- Dan E. Christie Lecture Bowdoin College	September 2017

Math/Computer Science Department Colloquia

- Reed College	Dec 2020	- Université de Neuchâtel	Jun 2016
- Georgetown (CS)	Sept 2020	- Brandeis University	Mar 2016
- Santa Fe Institute	July 2020	- Swarthmore College	Oct 2015
- UC Berkeley	Sept 2018	- Bowling Green	May 2015
- Brandeis-Harvard-MIT-NEU	Mar 2018	- City College of New York	Feb 2015
- Northwestern University	Oct 2017	- Indiana University	Nov 2014
- University of Illinois	Sept 2017	- the Technion	Oct 2014
- University of Utah	Aug 2017	- Wisconsin-Madison	Sept 2014
- Wesleyan	Dec 2016	- Stony Brook	March 2013
- Worcester Polytechnic Inst.	Dec 2016		

Minicourses

- Integer programming and combinatorial optimization (two talks) | Georgia Tech May 2021
- Workshop in geometric topology (main speaker, three talks) | Provo, UT June 2017
- Growth in groups (two talks) | MSRI, Berkeley, CA August 2016
- Hyperbolicity in Teichmüller space (three talks) | Université de Grenoble May 2016
- Counting and growth (four talks) | IAS Women's Program, Princeton May 2016

Visiting Lectures

- Election Law | Yale Law School Spring 2022
- Election Law | Harvard Law School Spring 2022
- Privacy, Policy, and the U.S. Census | University of Chicago (CS) Spring 2022
- Optimized Democracy | Harvard (CS) Spring 2021

Science, Technology, and Society

- The Mathematics of Accountability | Sawyer Seminar, Anthropology, Johns Hopkins February 2020
- STS Circle | Harvard Kennedy School of Government September 2019
- Data, Classification, and Everyday Life Symposium | Rutgers Center for Cultural Analysis January 2019
- Science Studies Colloquium | UC San Diego January 2019
- Arthur Miller Lecture on Science and Ethics | MIT Program in Science, Tech, and Society November 2018

Data Science, Computer Science, Quantitative Social Science

- Can Algorithms Bend the Arc Towards Fairness? | Algorithmic Justice Project, UNM/SFI March 2022
- Data Linkage Seminar | Massive Data Institute, McCourt School of Public Policy August 2021
- Mechanism Design for Social Good (MD4SG) Colloquium | MD4SG Initiative November 2020
- Data Science for Social Good (DS4SG) Workshop | Georgia Tech November 2020
- Privacy Tools Project Retreat | Harvard May 2020
- Women in Data Science Conference | Microsoft Research New England March 2020
- Quantitative Research Methods Workshop | Yale Center for the Study of American Politics February 2020
- Societal Concerns in Algorithms and Data Analysis | Weizmann Institute December 2018
- Quantitative Collaborative | University of Virginia March 2018
- Quantitative Social Science | Dartmouth College September 2017
- Data for Black Lives Conference | MIT November 2017

Political Science, Geography, Law, Democracy, Fairness

- The Long 19th Amendment: Women, Voting, and American Democracy | Radcliffe Institute Nov-Dec 2020
- "The New Math" for Civil Rights | Social Justice Speaker Series, Davidson College November 2020
- Math, Law, and Racial Fairness | Justice Speaker Series, University of South Carolina November 2020
- Voting Rights Conference | Northeastern Public Interest Law Program September 2020
- Political Analysis Workshop | Indiana University November 2019
- Program in Public Law Panel | Duke Law School October 2019
- Redistricting 2021 Seminar | University of Chicago Institute of Politics May 2019
- Geography of Redistricting Conference Keynote | Harvard Center for Geographic Analysis May 2019
- Political Analytics Conference | Harvard University November 2018
- Cyber Security, Law, and Society Alliance | Boston University September 2018
- Clough Center for the Study of Constitutional Democracy | Boston College November 2017
- Tech/Law Colloquium Series | Cornell Tech November 2017
- Constitution Day Lecture | Rockefeller Center for Public Policy, Dartmouth College September 2017

Program Development

Principal Investigator MGGG Redistricting Lab mggg.org

Multidisciplinary research lab with postdocs, research staff, and undergraduate researchers drawn from mathematics, computer science, software development, geography, policy. Hosts law student externs. Provided public mapping support for roughly 100 localities after 2020 Census data released.

Support includes NSF Convergence Accelerator, Sloan Foundation, Thornburg Foundation, Arnold Foundation.

Co-Founder, Program Director Science, Technology, and Society Program sts.tufts.edu

Interdisciplinary program offering a major and minor, with ~40 affiliated faculty. Runs popular weekly lunch seminar, Reading Labs on topics from Automation to Representation to Life to Energy.

Organizer Semester Program in *Algorithms, Fairness, and Equity*, Fall 2023

Mathematical Sciences Research Institute, Berkeley CA

Program will host ~50 research members on topics connected to mechanism design, fair partitioning, and fair ML.

Designer Short workshops and training programs

- GeoData Bootcamp 2020 (20 students from around the country)
- Mapping Training 2020 (30 students from around the country)
- Graphs and Networks Workshop 2020 (500 live participants)
- Data for Election Administration online 2021, in-person 2019 (dozens of administrators and scholars)

Program builder Research and mentorship programs

- Voting Rights Data Institute 2018, 2019
Six-week summer research programs hosting 52 and 33 undergraduate and graduate students, respectively, with dozens of visitors from math, CS, law, political science, geography, urban planning, and more.
- Polygonal Billiards Research Cluster 2017, Random Groups Research Cluster 2014
Five-week intensive summer research programs for vertically integrated groups of 12-14 undergraduate, graduate, postdoctoral, and junior faculty researchers, combining experimental and theoretical work.
- Directed Reading Program and DRP Network sites.google.com/view/drp-network/
Co-founded highly successful near-peer mentoring program in 2003 at UChicago. Now exists at >40 math departments as grad-student-run reading program with excellent outcomes for broadening participation in mathematics. Secured NSF grant to expand the program to more campuses and to fund social science research on outcomes.

Graduate Advising in Mathematics

Nate Fisher (PhD 2021), Sunrose Shrestha (PhD 2020), Ayla Sánchez (PhD 2017),
Kevin Buckles (PhD 2015), Mai Mansouri (MS 2014)

Outside committee member for Chris Coscia (PhD 2020), Dartmouth College

Postdoctoral Advising in Mathematics

Principal supervisor Thomas Weighill (2019–2020)

Co-supervisor Daryl DeFord (MIT 2018–2020), Rob Kropholler (2017–2020), Hao Liang (2013–2016)

Selected Professional Service and Public-Facing Work

Program committees and editorial boards

ACM Conference on Fairness, Accountability, and Computing (FAccT)	2022
Symposium on Foundations of Responsible Computing (FORC)	2021
Harvard Data Science Review	since 2019
Advances in Mathematics	since 2018

Committee on Science Policy

American Mathematical Society	2020–2022
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Amicus Brief of Mathematicians, Law Professors, and Students

<i>principal co-authors: Guy-Uriel Charles and Moon Duchin</i>	2019
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Supreme Court of the United States, in *Rucho v. Common Cause* - cited in dissent

Expert work for redistricting litigation

<i>reports, deposition, and/or trial testimony</i>	2018—
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Pennsylvania, North Carolina, Wisconsin, South Carolina, Alabama

Presenter on Public Mapping, Statistical Modeling

National Conference of State Legislatures	2019, 2020
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Committee on The Future of Voting: Accessible, Reliable, Verifiable Technology

National Academies of Science, Engineering, and Medicine	2017–2018
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Committee on the Human Rights of Mathematicians

American Mathematical Society	2016–2019
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Selected Visiting Positions and Residential Fellowships

Research Professor Analysis and Geometry of Random Spaces program Mathematical Sciences Research Institute Berkeley, CA	Spring 2022
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Visiting Professor Department of Mathematics Boston College Chestnut Hill, MA	Fall 2021
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Fellow Radcliffe Institute for Advanced Study Harvard University Cambridge, MA	2018–19
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Member Center of Mathematical Sciences and Applications Harvard University Cambridge, MA	2018–19
--	---------

Visitor Microsoft Research MSR New England Cambridge, MA	2018–19
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Research Member Geometric Group Theory program Mathematical Sciences Research Institute Berkeley, CA	Fall 2016
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Research Member Random Walks and Asymptotic Geometry of Groups program Institut Henri Poincaré Paris, France	Spring 2014
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Exhibit 19

RETRIEVED FROM DEMOCRACYDOCKET.COM

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

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP, and

TAIWAN SCOTT, on behalf of himself and
all other similarly situated persons,

Plaintiffs,

v.

HENRY D. MCMASTER, in his official
capacity as Governor of South Carolina;
THOMAS C. ALEXANDER, in his official
capacity as President of the Senate; LUKE
A. RANKIN, in his official capacity as
Chairman of the Senate Judiciary
Committee; JAMES H. LUCAS, in his
official capacity as Speaker of the House of
Representatives; CHRIS MURPHY, in his
official capacity as Chairman of the House
of Representatives Judiciary Committee;
WALLACE H. JORDAN, in his official
capacity as Chairman of the House of
Representatives Elections Law
Subcommittee; HOWARD KNAPP, in his
official capacity as interim Executive
Director of the South Carolina State Election
Commission; JOHN WELLS, Chair,
JOANNE DAY, CLIFFORD J. EDLER,
LINDA MCCALL, and SCOTT MOSELEY,
in their official capacities as members of the
South Carolina Election Commission,

Defendants.

**Case No. 3-21-cv-03302-JMC-
TJH-RMG**

THREE-JUDGE PANEL

Expert Report of Baodong Liu, Ph.D. re; S.865 (South Carolina's Congressional Map)

April 2, 2022

I. Introduction

I have been retained as an expert by counsel for the Plaintiffs in the above captioned litigation. I have prepared this report pursuant to Federal Rule of Civil Procedure 26(1)(2)(B) regarding S. 865, South Carolina's enacted Congressional Plan.¹

My role as an expert witness regarding the congressional map is threefold. 1) I have been asked to express opinions on whether racially polarized voting (RPV) exists in South Carolina, and whether or not RPV has resulted in the defeat of Black-preferred candidates in South Carolina elections. 2) I have been asked to express my opinions on the effectiveness of the Enacted Congressional Plan in protecting the opportunity of Black voters to elect candidates of their choice, vis-à-vis that of the Plans proposed by the Plaintiffs. 3) Finally, I have also been asked to evaluate whether race plays a greater role than partisanship in the Enacted Plan.

I am being compensated at \$300 per hour for my work on this case. My compensation is not contingent on or affected by the substance of my opinions or the outcome of this litigation. My work in this matter is ongoing, and I reserve the right to amend, modify, or supplement my analysis and opinions.

II. Summary of Professional Qualifications

I am a tenured professor of political science in the Department of Political Science at the University of Utah. I have done extensive research regarding the relationship between election systems and the ability of minority voters to participate fully in the political process and to elect representatives of their choice.

My research has won the Byran Jackson Award for the best study/dissertation about racial voting from the Urban Politics Section of the American Political Science Association, and the Ted Robinson Award from the Southwest Political Science Association. The results of my research have been published in Social Science Quarterly, American Politics Research, Sociological Methods and Research, PS: Political Science and Politics, Urban Affairs Review, Political Behavior, Journal of Urban Affairs, Southeastern Political Review, and American Review of Politics, among other journals. I am also an author or editor of eight scholarly books including Political Volatility in the United States: How Racial and Religious Groups Win and Lose; Solving the Mystery of the Model Minority; The Election of Barack Obama: How He Won, and Race Rules: Electoral Politics in New Orleans, 1965-2006. I have also served as a member of the Board of Directors/Advisors on many national and international organizations such as the National Association for Ethnic Studies, Urban Affairs Review, Journal of Behavioral and Social Sciences, and International Encyclopedia of Political Science (CQ Press).

¹ In this same case, based on a separate schedule for expert disclosures, I have prepared two reports, an initial and rebuttal, regarding South Carolina's enacted House map.

As an expert on RPV analysis, I have published peer-reviewed journal articles and books on the cutting-edge techniques used by academic professionals and supported by courts concerning voting rights cases and the electoral history in the South. I have served as an expert witness for minority plaintiffs in vote dilution cases in states such as Alabama, Arkansas, New York, Louisiana, Utah, and Tennessee. My opinions have been accepted by multiple federal courts (e.g., in New York, Louisiana, and Alabama). Furthermore, I have provided my expertise to Native American Rights Fund, Navajo Nation, and the Lawyers' Committee for Civil Rights Under Law in Washington D.C., and NAACP LDF on census differential privacy policy and methodological issues concerning RPV. I have also been invited to be an instructor of RPV analysis in expert convening programs, organized by such organizations as Native American Rights Fund, Ford Foundation, Southern Coalition for Social Justice, and LDF concerning both the 2010 and 2020 rounds of redistricting.

My applied research and grants have included analyses of ranked choice voting, economic development, racial voting patterns, public school science education, school districts' economic impact on local economy, and various citizen surveys. My grants have come from New America, the National Science Foundation, American Political Science Association, the National Humanities Center, Wisconsin Security Research Consortium, Fond du Lac School District, Johnson Controls, Inc, City of Waupaca (WI), the League of Women Voters, American Democracy Project, and Wisconsin Public Service. I also served as the editor of Urban News for the American Political Science Association's Urban Politics Section, and I was elected as a co-chair of the Asian Pacific American Caucus of the American Political Science Association.

I have served as a commentator or opinion writer for the Salt Lake Tribune, ABC4News, Hinkley Forum, NPR, Associated Press, Daily Utah Chronicle, Milwaukee Sentinel Journal, Daily Caller, and KSL, among other media outlets.

At my university, I served as Associate Chair of the Department of Political Science and the Interim Director of the Ethnic Studies Program, the MLK Committee Chair and a faculty senator.

Attached as **Appendix 1** to this report is a curriculum vitae setting forth more detail about my professional background, which includes a list of cases in which I have testified as an expert by deposition and/or at trial and all publications I have authored or co-authored, including forthcoming publications.

III. Racially Polarized Voting: Definition and Measurement

In *Thornburg v. Gingles* (1986), the U.S. Supreme Court identified three conditions that are necessary to show racial vote dilution under Section 2 of the Voting Rights Act (VRA). The *Gingles* test asks whether: 1) the racial minority group is "sufficiently large and geographically compact to constitute a majority in a single-member district"; 2) the minority group is "politically cohesive" (meaning its members tend to vote for the same candidate); and 3) the "majority votes sufficiently

as a bloc to enable it ... usually to defeat the minority's preferred candidate." In particular, the second and the third preconditions under the *Gingles* indicate the presence of RPV.

Empirically, I used the following two-step operational rules to measure whether a particular election is racially polarized: 1) I first estimate the Black and white group support² for the Black candidate in a biracial election; and 2) if in this biracial election the majority of Black voters cast their vote for the Black candidate, and only a minority of white voters cast their vote for the same Black candidate, then this election is racially polarized.

Since voting in the United States takes place in privacy, the only way to determine whether or not RPV existed in a given election is through statistical procedures. I analyzed the biracial elections based on the Ecological Inference (EI) method developed by Professor Gary King of Harvard University.³ EI is a statistical procedure for estimating voting results of voter groups (in this case grouped by race) and demonstrating the extent to which the race of the voters correlates with voter support for each candidate. EI has been widely used as the most-advanced and reliable statistical procedure for RPV estimates in not only academic research⁴ but also voting rights cases in the last two decades.⁵ To run an EI operation for South Carolina elections, the specific election return data at the precinct level need to be

² Support is defined as over 50% of votes for a particular candidate.

³ See Gary King, A Solution to the Ecological Inference Problem: Reconstructing Individual Behavior from Aggregate Data (Princeton University Press, 1997).

⁴ There are other statistical procedures that have been used in my field (e.g., regression analyses) but are inadequate for the analysis necessary for the RPV analysis I conduct here. For example, a major limitation of Regression analyses is that it may provide unrealistic, even misleading, estimates (e.g., the Black voting group provided a Black candidate with 105.7% of their votes while the non-Black group voted for him/her at the -9.5% level). Regression analyses also unrealistically assume that all Black voters, regardless of which precinct they are assigned, voted at the same rate for the Black candidate in a given election. By comparison, the EI method *always* generates realistic estimates, and it also provides the point estimates for racial voting patterns and the standard errors (or 95% confidence interval) associated with these point estimates, which is to be understood as the uncertainty boundaries beyond the point estimates. The point estimates are to be considered as the most likely vote percentages cast for the Black candidate by different racial groups in a given election.

⁵ See, e.g., Preliminary Injunction Memorandum Opinion & Order, Doc. No. 107, pp. 66-68, 70, 174-75, *Milligan, et al. v. Merrill, et al.*, Case No. 2:21-cv-01530-AMM; *Thomas, et al. v. Merrill, et al.*, Case No. 2:21-cv-01531-AMM (July 24, 2022 N.D. Ala. 2022) (3-judge ct.); *Montes v. City of Yakima*, 40 F.Supp.3d 1377, 1402 (E.D. Wash. 2014); *Bone Shirt v. Hazeltine*, 336 F.Supp.2d 976, 1003 (D. S.D. 2004); *Rodriguez v. Pataki*, 308 F.Supp.2d 346, 387-88 (S.D.N.Y. 2004).

matched with the racial turnout data provided by South Carolina Election Commission.⁶

IV. Opinions

I have formed the following opinions:

Based on the data available at the time of writing this report, voting in South Carolina during the last four election cycles where there is a choice between or among Black and white candidates is “racially polarized” in that Black voters in all seven (7) general Congressional elections I analyzed have expressed a clear preference for the same candidate, and in the elections I analyzed, the preferred candidate by Black voters was a Black candidate. Furthermore, this preference was not shared by the white voters who were the majority of the electorate.⁷ As a result, the Black preferred candidates (BPCs) were typically defeated in biracial elections in South Carolina.

In addition to the 7 general Congressional elections, I also analyzed nine (9) primary elections for Congressional seats in South Carolina. My findings show that while white voters vote as a bloc against Black-preferred candidates (BPCs) in those primary elections, Black voters demonstrated a much higher level of support for Black candidates who showed a potential of winning in primary elections, such as by getting into a runoff or being an incumbent. When a district is configured in a way that there is no chance for a Black candidate to win, Black voters may choose to vote for a white candidate in a Democratic primary.

Finally, I also analyzed six (6) recent state-wide elections. In five of those elections, voters were given a choice between or among Black and white candidates. The sixth election featured a white candidate competing against another white candidate at the top of the ticket. All of those elections have also been racially polarized.

Moreover, based on the empirical data from the most recent four state-wide elections, it is clear that the redistricting maps for South Carolina’s Congressional districts that the two South Carolina NAACP proposed (Plaintiffs’ Plans), but were not enacted, outperform the plan enacted by South Carolina (Enacted Plan) in providing an opportunity for Black voters to elect candidates of choice in Congressional elections in the presence of demonstrated RPV patterns.

⁶ The election return data at the precinct level are available from South Carolina Election Commission (at <https://www.scvotes.gov/election-results>). See **Appendix 3** for the details regarding data acquisition, matching and aggregation.

⁷ Following the 2010 and 2020 redistricting cycles, white voters comprise a majority of the voters in six of South Carolina’s congressional districts (i.e., CDs 1, 2, 3, 4, 5, 7). Under 2010 and 2020 congressional maps, Black voters constitute a majority and plurality, respectively, of one of those seven districts (i.e., CD6).

Based on an empirical analysis, I find that race, rather than presumed party affiliation, is a driving factor in whether voters remain in or are moved in and out of CD 1 in the Enacted Plan.

V. Racially Polarized Voting in South Carolina

In a case challenging a redistricting plan of Congressional districts, such as this one, the empirical evidence of the extent to which racially polarized voting (or lack thereof) has taken place is essential. This is because Plaintiffs' Second Amended Complaint alleges that the Enacted Plan "cracks" Black voters among certain Congressional districts, specifically CDs 1, 2, and 5. Though Plaintiffs have not brought a Section 2 claim, their theory is that the effect of any cracking of Black voters must be considered with the existence of any RPV. If Black voters are cracked and are a minority of voters in a congressional district in which white voters are the majority or supermajority of voters, RPV can function to deny or diminish Black voters' ability to elect or otherwise impact the elections of their preferred candidates. In other words, without RPV, the cracking of Black voters (if proved to be the case) would not have an effect on the opportunity of Black voters to elect candidate of their own choice. If Black and white voters in a disputed jurisdiction usually share the same preference for a particular candidate, or put another way, a sufficient number of white voters cross over usually to support the candidate preferred by Black voters (i.e., no RPV), then regardless how a district composed (including whether Black voters are cracked), the election outcomes should be consistent before and after the redistricting process.

To examine the extent of RPV (or lack of) in South Carolina for Plaintiffs' challenge to certain Congressional districts, recent Congressional elections providing a choice between voting for a white candidate and voting for a minority (in this case, Black) candidate (i.e., biracial elections) are generally considered the most probative for assessing RPV.⁸ These Congressional elections concerning the electoral offices at issue in this matter are called endogenous elections. With the assistance of the Counsel for the Plaintiffs, I was able to identify 7 general elections in which there was both a Black candidate and a white candidate competing in a district in which white voters form the majority during the last four election cycles.

A) Endogenous General Elections

Table 1 shows the results of EI operations on the 7 endogenous general elections I examined between 2014 and 2020. Using the empirical definition of RPV explained above, I examined the levels of racial support for the Black candidates in these 7 Congressional elections. The most important finding is that Black voters have provided majority support for the Black candidates in all of these elections, and their

⁸ Recent, biracial endogenous elections generally are the most probative elections. See, e.g., *Gingles*, 478 U.S. at 80; *Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1020-21 (8th Cir. 2006); *U.S. v. Charleston Cnty.*, 318 F. Supp. 2d 302, 313 (D.S.C. 2002).

preference was not shared by a majority of white voters.⁹ Thus, RPV existed in these 7 elections. As a result of RPV, the Black preferred candidates (BPCs) were all defeated in these endogenous elections.

Table 1: Estimated Racial Support for Black Candidate in Endogenous Elections (General Elections)

Year	Congressional District	Black Candidate	%White Voter Support for Black Candidate (s.e.)	%Black Voter Support for Black Candidate (s.e.)	Black Candidate Won?	RPV?
2020	3	Cleveland	13.21 (.07)	96.61 (.31)	No	Yes
2020	5	Brown	18.22 (.1)	95.31 (.25)	No	Yes
2020	7	Watson	19.78 (.2)	93.67 (.7)	No	Yes
2018	4	Brown	22.65 (.6)	98.58 (.25)	No	Yes
2018	7	Williams	21.81 (.3)	95.45 (.83)	No	Yes
2016	3	Cleveland	12.21 (.13)	65.17 (2.92)	No	Yes
2014	7	Tinubu	16.61 (.22)	97.17 (.52)	No	Yes

B) Endogenous Primary Elections

I also was able to identify 9 partisan primary elections for Congress between 2014 and 2020 which involved at least one Black candidate in South Carolina. **Table 2** shows the RPV results for these 9 primary elections.

In three of these 9 primaries, the majority of Black voters voted for a Black candidate who did not receive the majority vote from the white electorate. Thus, RPV existed in these three elections. Two of these three elections involved Brandon Brown, a Black candidate, who first competed in the Democratic primary in Congressional District (CD) 4 in 2018. Brown won enough of the vote in the primary to move on to the Democratic primary runoff. Brown eventually was defeated in the general election due to RPV (see **Table 1** above). The third primary that revealed a RPV pattern was in CD 6's 2014 Democratic primary in which Representative Clyburn, who is Black, defeated his white opponent, Karen Smith.

⁹ I used the R package to perform RPV analysis through which white and non-white racial group support for the Black candidates were derived based on the merged racial turnout and election return data at the precinct-level (see **Appendix 3** for data source and matching information). The standard errors for racial group support for Black candidates are in the parentheses of **Table 1**.

Table 2: Estimated Racial Support for Black Candidate in Endogenous Elections (Primary Elections)

Year	Congressional District	Primary (Party)	Black Candidate	%White Voters Support for Black Candidate (s.e.)	%Black Voter Support for Black Candidate (s.e.)	Black Candidate Won?	RPV?
2020	1	(Rep)	Mole	5.23 (.1)	24.22 (.99)	No	No
2018	1	(Dem)	Smith	17.93 (.36)	40.55 (.44)	No	No
2018	3	(Dem)	Cleveland	15.31 (.99)	40.24 (.64)	No	No
2018	4	(Dem)	Brown#	8.04 (.65)	50.1 (.66)	Runoff	Yes
2018	4	(Dem/runoff)	Brown##	41.84 (.3)	94.65 (.65)	Yes	Yes
2018	5	(Dem)	Moore###	15.4 (1.9)	18.1 (1.2)	No	No
2014	3	(Dem)	Cleveland	18.35 (1.36)	45.85 (.88)	No	No
2014	6	(Dem)	Clyburn	43.28 (1.11)	94.83 (.28)	Yes	Yes
2014	6	(Rep)	Winn	33.74 (.1)	19.99 (1.6)	No	No

#Brown in 2018 Congressional district 4 Democratic primary received 28.5% of the total votes, and got into a runoff with the leading white candidate (Turner) who received 29.5% of the total votes.

At the time of this report, I did not have access to the racial turnout data from the South Carolina Elections Commission for this runoff. Thus, I used the racial demographics based on the 2020 Census in the RPV estimation.

Moore was one of the two Black candidates in the contest, and the other Black candidate (Ali) received the fewest votes cast (only 13.3%) and, as a minor candidate, was not included in this table.

In the six non-racially polarized elections, two elections (CD 1 of 2020 and CD 6 of 2014) were Republican primaries in which the Black candidates failed to receive support from both white and Black voters and lost the election. In contrast to the racially polarized primaries discussed above, the other four non-racially polarized elections did not involve a Black candidate that was able to make it to runoff or ran as an incumbent. These Democratic primaries took place in CDs 1, 3 and 5 where a Black candidate is very unlikely to win in these racial configurations even if the majority of Black voters supported this candidate.

The above finding concerning primary elections is in line with my own empirical studies of voting patterns in the South in which Black voters are strategic in making their voting decisions.¹⁰ Empirical and quantitative research demonstrates

¹⁰ For a discussion of strategic voting model, see, e.g., Liu, Baodong. 2007. *Race Rules: Electoral Politics in New Orleans, 1965-2006*. Lexington Books; see also Vanderleeuw, James and Baodong Liu, 2002. "Political Empowerment, Mobilization, and Black Voter Roll-off," *Urban Affairs Review* 37 (3): 380-396 (discussing Black voter strategic non-voting); and Hayes, Danny and Seth C. McKee. 2009. "The

that Black voters evaluate the racial composition of a district before casting their votes, and may choose not to support the Black candidate because of the inevitability of Black defeat as a result of white bloc voting in a white-dominant district. The fact that in CD 4, a white voter-dominant district, candidate Brown, who is Black, made it to and won the Democratic primary runoff in 2018 clearly increased the potential to elect Brown in the general election. Notably, based on my research, Brown is the only Black candidate I am aware of to force a runoff after a contested, bi-racial congressional primary election and then be defeated in a contest, bi-racial general election in the last three electoral congressional election cycles. Black voters became much more united behind Brown in both the runoff and the general elections while white voters formed a voting bloc against him and were able to defeat him in the general election.

C) Exogenous Elections

Since the redistricting process involves voters from the whole State of South Carolina, I also examined six elections for statewide elected offices over four recent election cycles. The elections that did not concern the electoral offices at issue in this matter are called exogenous elections. The six statewide exogenous elections in South Carolina were for the 1) U.S. President in 2020, (2) U.S. Senate in 2020, (3) 2018 Secretary of State, (4) 2018 State Treasurer, (5) 2016 U.S. Senate election, and (6) 2014 special U.S. Senate election.

Three of these exogenous elections were biracial, involving both white and Black candidates. The 2020 U.S. President election, however, involved white candidates as the nominees for both major political parties on the top of the ticket.¹¹ Two of these exogenous elections, the 2014 and 2016 Senate elections, featured two Black candidates at the top of the ticket and white candidates as minor-party nominees.

All six exogenous state-wide elections analyzed in this report showed a high level of racially polarized voting, as shown in **Table 3**.

Participatory Effects of Redistricting” American Journal of Political Science 53(4):1006-1021 (discussing how voters engaged in non-voting by avoiding making mistakes in a newly drawn district).

¹¹ The 2020 election did include a Democratic Vice-President nominee, Kamala Harris, who is Black and an Asian American person.

Table 3. Estimated Racial Support for Black Candidate in Exogenous Elections

Year	Election	General/ Primary	Black- preferred Candidate	%White Voter Support for Black- preferred Candidate (s.e.)	%Black Voter Support for Black- preferred Candidate (s.e.)	Black- preferred Candidate Won in SC?	RPV?
2020	US President	G	Biden	23.43 (.00)	97.37 (.1)	No	Yes
2020	US Senate	G	Harrison	23.49 (.00)	98.91 (.12)	No	Yes
2018	Secretary of State	G	Whittenburg	22.53 (.00)	97.10 (.14)	No	Yes
2018	State Treasurer	G	Glenn	21.80 (.00)	97.33 (.00)	No	Yes
2016	US Senate	G	Dixon	14.42 (.00)	93.07 (.18)	No	Yes
2014	US Senate	Special	Dickerson	13.16 (.00)	95.42 (.17)	No	Yes

Specifically, Joseph Biden in the 2020 Presidential election received 97.37% of Black voter support and only 24.43% of white voter support in South Carolina. In the 2020 U.S. Senate election, Jamie Harrison, a Black candidate, ran against the white incumbent Republican candidate, Lindsay Graham. Harrison received 98.91% of Black voter support and 23.49% of white voter support, and was defeated with 44.2% of the total votes cast.

In the 2018 Secretary of State election, Melvin Whittenburg received 97.1% of Black voter support and only 22.53% of white voter support. In the same year, Rosalyn Glenn, a Black candidate competed in the State Treasurer election against a white Republican opponent, Curtis Loftis. Glenn received 97.33% of Black voter support and only 21.8% of white voter support, and was defeated with 42.5% of the total votes cast.

The final two exogenous elections involved U.S. Senator Tim Scott, a Black Republican candidate, who was elected in the 2014 special election and reelected in the 2016 general election. The RPV analysis shows, however, that he was not the preferred candidate of Black voters in South Carolina. Instead, his opponents, Joyce Dickerson in 2014 and Thomas Dixon in 2016, both Black and Democratic candidates, each received more than 90% of Black voter support. Scott was elected primarily because of the white support for him at more than 70% in both

elections. Thus, these two exogenous elections were also highly racially polarized.¹²

VI. Effectiveness Analyses

1. Background

The 2020 Census shows that Black voters are 25.28% of the voting-age population (VAP) in South Carolina. Based on the pure proportional representation derived from almost a quarter of total VAP, this Black voter presence in South Carolina should translate to more than 1.7 Congressional seats out of the total of seven seats designated to South Carolina. White voters are 65.3% of the VAP, which should translate to about 4.6 seats out of the total seven Congressional seats. My empirical analysis of the Enacted Congressional Plan of South Carolina takes a first look at the number of seats that may be won by white candidates in Congressional elections vis-à-vis BPCs.

Based on the extremely high level of RPV demonstrated above, especially in general Congressional elections in South Carolina, it is more likely for white candidates to win in districts where they are the majority of the VAP. Six of seven CDs based on the Enacted Plan have a white-majority VAP. These are CDs 1 through 5 and CD 7 (white VAP of 71.14% (CD 1), 64.06% (CD 2), 74.05% (CD 3), 67.05% (CD 4), 66.49% (CD 5), and 67.12% (CD 7)). More importantly, Black voters are spread out fairly evenly in these six CDs according to the Enacted Plan. Three of these districts (CDs 1, 3, and 4) have Black voters at about 16-19% of the VAP, while the other two (CDs 2 and 7) have Black voters just about 25% of the VAP. These evenly distributed Black voters in the six CDs lead to a clear advantage of white voters as Black voting strength is reduced to minimize their success in winning Congressional elections.

Before I present the empirical findings on the probability of winning for Black-preferred candidates in these six districts (i.e., the effectiveness analysis), it is also necessary to note that there is one district based on the Enacted Plan with a Black VAP share that surpassed that of the white VAP.

CD 6 is a district that has elected its Representative, Jim Clyburn, since 1992. As the House Majority Whip, Mr. Clyburn, a Black incumbent, ran his elections in the district with more than a 52.5% VAP identifying as Black before 2022. The newly Enacted Redistricting Plan reduced the Black VAP level to 46.9%, while increasing the white VAP to 44.6%. This racial compositional change certainly makes white voters more influential than they were prior to 2022.

To examine the effects of the Enacted Plan, vis-à-vis those of the two Plans proposed by the Plaintiffs, I provide the Effectiveness Analyses (EAs) in order to

¹² Both the 2014 and the 2016 U.S. Senate elections analyzed here involved white candidates running as minor-party nominees who received collectively less than 5% of the total votes cast.

show the relative opportunities for Black voters to elect the candidates of their choice in each of the plans. My comparative study of four South Carolina Congressional redistricting plans is based on the data from the four most recent exogenous statewide elections in South Carolina and the racial demographic data from the 2020 census. These four plans are the Enacted Plan that has been passed by the South Carolina Legislature and signed into law by the Governor, S. 865, the Harpootlian Plan,¹³ and the two congressional plans that the Plaintiff South Carolina NAACP proposed during the legislative process.¹⁴

a. What is an Effectiveness Analysis?

An effectiveness analysis is a comparative study of two or more redistricting plans. This comparative study reports the different opportunities for racial minority voters (in this case, Black voters) to elect the candidates of their choice, given how the different redistricting plans have determined the racial configuration of a certain jurisdiction under legal dispute, and the extent to which RPV has affected the election outcomes in the given jurisdiction.

b. State-Wide Elections Used to Conduct an Effective Analysis

To compare the Enacted Plan with the Plaintiffs' Plans, I used four state-wide exogenous elections about which I have reported the RPV findings above—the 2020 Presidential election, the 2020 U.S. Senate election, the 2018 Secretary of State election and the 2018 State Treasurer election. These four elections were state-wide elections that involved all voters in South Carolina and were from the most recent statewide election cycles, and thus can help project how voters will vote in near future elections in South Carolina.

2. Effective Analysis Results

Table 4 shows that both Plaintiff proposed Plans outperform that of the Enacted Plan in providing Black voters an ability to elect BPCs in two districts as compared just one in the Enacted Plan (or the plan implemented following the 2010 census). Both CD 6 and CD 1 have realistic chances to elect BPCs according to either of the Plaintiff's proposed Plans. By comparison, the Enacted Plan not only provides an ability to elect a BPC in only one district (CD 6), but also, as compared to the plan implemented following the 2010 census, the Enacted Plan is likely to be even less effective for Black voters' chance to elect BPCs in CD 1 based on this analysis. It is also worth noting that the Harpootlian Plan also would improve the effectiveness of CD 1 as compared to the Enacted Plan; however it is also less effective than the Plaintiffs' proposed plans. The increase of BVAP to 34% in CD 5 under the Harpootlian Plan would provide the

¹³ [Senate 2021 Redistricting | Plan Proposals \(scsenate.gov\)](https://redistricting.scsenate.gov/planproposals.html) (see Floor Amendment 3 – Harpootlian).

¹⁴ <https://redistricting.schouse.gov/publicsubmissions.html> and <https://redistricting.scsenate.gov/planproposal.html> (see NAACP submissions 1 and 2 on the redistricting pages for both South Carolina's House and Senate).

highest opportunity for Black voters to impact election outcomes by increasing the average percentage vote share for BPCs to 47% (as compared to 41% under the Enacted Plan).

Table 4: Effective Analyses for Enacted Congressional Redistricting Plans, SC¹⁵

District	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
BVAP (original)#	17%	24%	17%	18%	26%	53%	25%
Enacted Plan	17%	25%	18%	19%	25%	47%	25%
Harpootlian Plan	21%	22%	16%	16%	34%	50%	18%
Plaintiff_Plan 1	35%	21%	16%	17%	24%	53%	12%
Plaintiff_Plan 2	24%	20%	18%	19%	20%	50%	25%
WVAP (original)	71%	67%	74%	68%	66%	40%	67%
Enacted Plan	71%	64%	74%	67%	67%	45%	67%
Harpootlian Plan	67%	69%	74%	72%	58%	43%	72%
Plaintiff_Plan 1	54%	70%	74%	70%	67%	40%	78%
Plaintiff_Plan 2	65%	69%	74%	68%	70%	42%	67%
RPV (original)	100%	100%	100%	100%	100%	100%	100%
Enacted Plan	100%	100%	100%	100%	100%	100%	100%
Harpootlian Plan	100%	100%	100%	100%	100%	100%	100%
Plaintiff_Plan 1	100%	100%	100%	100%	100%	100%	100%
Plaintiff_Plan 2	100%	100%	100%	100%	100%	100%	100%
Average % vote for BPC (original)	45%	42%	31%	38%	41%	68%	41%
Enacted Plan	44%	42%	31%	39%	41%	66%	41%
Harpootlian Plan	50%	35%	33%	33%	47%	64%	38%
Plaintiff_Plan 1	53%	36%	32%	35%	40%	65%	42%
Plaintiff_Plan 2	51%	39%	31%	38%	37%	65%	41%

¹⁵ BVAP in this table is measured by any-part BVAP from the 2020 census.

A Further Look at How the CDs Are Reconfigured Under the Enacted Plan

Table 5 provides the detailed sources/changes of each Enacted CD. Voters, based on the Enacted Plan, may find themselves either “remaining in” their prior district, or “being moved out” of their prior district (due to the new assignment of their Voting Tabulation Districts or VTDs). The newly Enacted CD 1, for example, according to Table 5, is composed of VTDs of the Census which were originally located in CD 1 (i.e., voters “remained in” CD 1) and CD 6 (i.e., voters were “moved in” to CD 1 from CD 6).

Table 5 also shows that CD 6 (a district that has lost its status as a district comprised of a majority of Black voters) was indeed a district that was reconfigured heavily by the Enacted Plan. Other than CD 1, which saw VTDs moved to CD 6, CDs 2 and 5 are also the original (2010) districts that contributed to the new configuration in CD 6.

Table 5: How VTDs were moved around based on the Enacted CD Plan?

Enacted District	Voters from original Districts	# of VTDs remained	# of VTDs moved out	# of VTDs split into 1+
1	1, 6	301	32	21
2	2, 6	279	6	16
3	3, 4, 5	331	25	11
4	4, 3	214	3	6
5	5, 4	329	10	8
6	6, 1, 2, 5	340	74	25
7	7, 6	322	2	4

The movements of VTDs may derive from many factors. They may be a result of rebalancing populations following the census (as CD 1 was nearly 12% overpopulated, while CD 6 was 11.59% underpopulated), or consolidating incumbents’ opportunities to stay in office, or something else. The following section will focus specifically on the question about whether or not there is empirical evidence that race rather than the assumed party affiliation of voters determined which voters were moved in and moved out of CDs in the redistricting process of the Enacted Plan.

VII. An Empirical Test of Race v Party

My empirical analysis of party vis-à-vis race starts with the fact that a voter from a given pre-redistricting CD may face one of the two mutually exclusive conditions:

First, the voter is assigned to the same district based on the Enacted Plan. This is because the VTD in which the voter resides is determined by the Enacted Plan to

“remain” in the district. We can call all the VTDs that are determined by the Enacted Plan to remain in the district as the “Core” VTDs of the given district as far as the redistricting is concerned.

Second, the voter is assigned to a different district based on the Enacted Plan. This is because the VTD in which the voter resides is determined by the Enacted Plan to “move out” of the district. We can call all the VTDs that are determined by the Enacted Plan to move out of the district as the “Out” VTDs as far as the redistricting is concerned.

It is also important to point out that as the redistricting decides whether and how to put VTDs into the “Core” or “Out” categories in terms of the pre-redistricting district, new voters are “moved into” the given district from outside of the district. We can call these the “Into” VTDs.

Thus, for a new district that is reconfigured based on the Enacted Plan, we use the three categories of **Core**, **Out**, and **Into** to differentiate all the voters whose new district may be related to the given district one way or another. Once VTDs are classified based on the above categories, we can then examine how different voters are assigned to their respective districts. In particular, we are interested in whether a voter’s racial identity vis-à-vis the presumed partisanship of this voter has a relationship to whether a voter remains in his/her original district (core) or is moved into or out of a district.

Empirically, if race is not a driving factor in the Enacted Plan, then a voter is randomly assigned to a district without any statistically-proven evidence of the association between race and assignment category. The same can be said for partisanship: if partisanship is not a driving factor in the Enacted Plan, then a voter is randomly assigned to a district without any statistically-proven evidence of the association between party affiliation and assignment category.

The Plaintiffs allege that the Enacted Plan violates the Constitution because of the existence of racial (not partisan) gerrymandering and intentional vote dilution. In particular, the Plaintiffs challenge CDs 1, 2 and 5 under these legal theories. The newly reconfigured and enacted CD 1 is located in the Southern region of South Carolina that includes all or parts of six counties (Beaufort, Berkeley, Charleston, Colleton, Dorchester, and Jasper). The City of Charleston, in particular, is the largest city in South Carolina that spreads across both Berkeley and Charleston Counties. With the rapid population growth at the 18.19% rate in Charleston in the last decade, the redistricting process in South Carolina had to consider the effect on the Black community which represents almost 22% of the city’s population.

To empirically examine whether race vis-à-vis party plays a role in the redistricting process for the Enacted Plan involving CDs 1 and 2, I use the racial turnout data from the 2018 Governor’s Democratic primary and the 2018

Governor’s Republican primary from the South Carolina Election Commission. The racial turnout data from these gubernatorial partisan primaries are the most reliable data because in South Carolina (which does not have partisan voter registration data) voters may decide which party to vote for in a partisan primary. The 2018 gubernatorial race involves candidates from both major parties who held competitive primary contests simultaneously. **Table 6** shows the counts of the voters in the Democratic and Republican primaries in the 2018 gubernatorial race. Furthermore, Table 6 lists the crosstabs of party and race for the primaries.

Table 6
Race v Party in CD 1 of Enacted Plan, South Carolina¹⁶

	White_Dem	Black_Dem	White_Rep	Black_Rep
Core	15,825 (17.3%)	10,121 (11.1%)	64,331 (70.3%)	1,236 (1.4%)
Into	524 (9.0%)	2,176 (37.2%)	2,742 (46.8%)	415 (7.1%)
Out	3,651 (22.1%)	3,640 (22.0%)	9,103 (55.0%)	164 (1.0%)

The first row of Table 6 shows clearly that white voters are much more likely to be in the Republican primary whereas Blacks voters are more likely to be in the Democratic primary, in terms of the **Core** category (i.e., those voters whose VTD remained in CD 1 based on the Enacted Plan).¹⁷ Democratic voters are in the first two columns of Table 6 while Republican voters are in the third and fourth columns. The white Democratic voters are 17.3% of the total voters that remained in CD 1 while only 11.1% of these “kept-in” voters are Black Democratic voters.

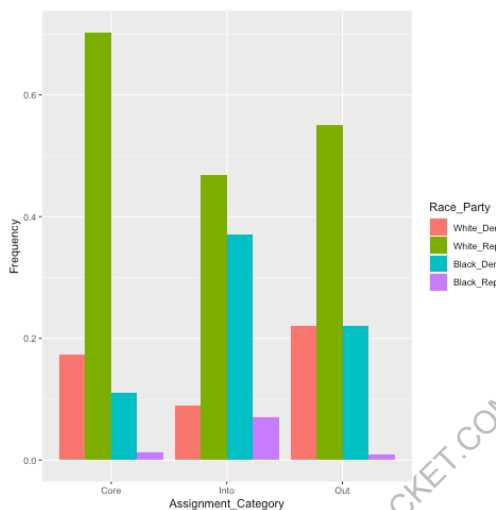
Table 6 also provide more details about the voters who are “moved into” and “moved out of” CD 1 based on the Enacted Plan. Clearly if party rather than race was the driving explanation for why voters were moved out or in CD 1, equal shares of white and Black voters with the same party affiliation would be impacted. But this is not the case based on my analysis.

¹⁶ The cell values of this table are from the 2018 gubernatorial partisan primary data published by the South Carolina Election Commission.

¹⁷ There were also voters who did not vote in these primaries. They are excluded from this empirical analysis because of lack of data on their racial identity and partisan participation.

Figure 1 visualizes the findings presented in Table 6.

Figure 1
Visualizing Race v Party of CD 1 of Enacted Plan, South Carolina



The “Core” category on the left of **Figure 1** shows that white Republicans are clearly the most dominant electoral sub-group and white Democrats are the second largest group in the Enacted CD 1. Black voters, on the other hand, are the smallest in the “Core” category regardless of their partisanship. This finding provides the first indicia that race may be more important than party in the Enacted Plan.

Moving from the left to the right in **Figure 1**, we see the “Into” and “Out” categories. Again, if party rather than race was the driving explanation for why voters were moved out or into CD 1, equal shares of white and Black voters with the same party affiliation would be impacted across each category. **Figure 1** shows, however, that regardless of party participation in the two primary elections analyzed, Black voters, unlike their small shares in the Core category, are much more likely to be moved out or moved into CD 1.¹⁸ In particular, it is through the cracking of Black voters in the Northern Charleston area and moving them into CD 6, and moving in Black voters from CD 6 into CD 1, that the Enacted Plan reveals the cracking of Black voting strength particularly in CD1.

¹⁸ Under the Enacted Plan, Black voters are moved into CD 1 from both Berkeley and Beaufort counties. In both cases, this is because these counties were made whole in CD 1 when they had previously been split under the post-2010 congressional map. In particular, on the surface some effort was made to improve CD 1’s respect for traditional principles by keeping Berkeley County whole. Nonetheless, almost all of the areas moved in to CD 1 are the parts of Berkeley County that were previously in CD 6 which have heavy Black populations. Furthermore, to keep the Black VAP in CD 1 low, the Enacted Plan replaced the Black voters moved in to CD1 from Berkeley by moving out even more Black voters from the Charleston area.

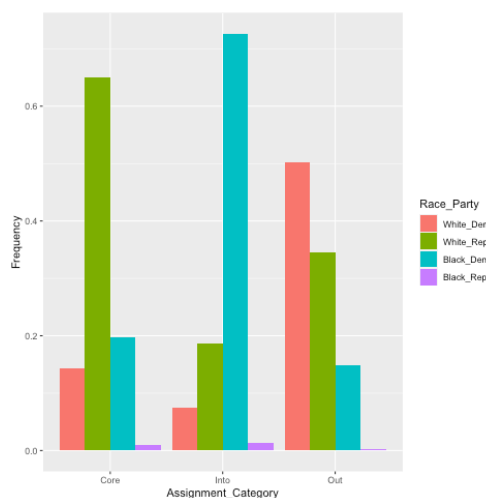
Additionally, my empirical analysis also shows that voters in precincts with large white VAPs who voted in the Democratic primary in 2018 were moved from CD 2, particularly in Richland, into CD 6, though precincts with voters identified as Black Democrats (based on the 2018 primary) were left in CD 2. **Table 7** provides the detailed counts of the voters in the Democratic and Republican primaries in the 2018 gubernatorial race for CD 2. As shown in **Table 7**, there were 14,051 white Democrats that were left in CD 2 after 1,682 white Democrats were moved to CD 6 under the Enacted Plan. In contrast, as many as 19,337 Black Democrats were left in CD 2 and only 496 Black Democrats were moved into CD 6.

Table 7
Race v Party in CD 2 of Enacted Plan, South Carolina

	White_Dem	Black_Dem	White_Rep	Black_Rep
Core	14,051 (14.3%)	19,337 (19.7%)	63,799 (65.0%)	973 (1%)
Into	95 (7.4%)	930 (72.7%)	238 (18.6%)	17 (1.3%)
Out	1,682 (50.3%)	496 (14.8%)	1,158 (34.6%)	10 (.3%)

If party rather than race was the driving explanation for why voters were moved out or left in CD 2, equal shares of white and Black voters with the same party affiliation would be impacted, but that is not what is shown in **Figure 2**. Black Democratic voters and white Democratic voters are the largest sub-groups in the “Into” and “Out” categories. Thus, there is also empirical evidence for the greater role of race than party as far as to how voters were impacted in CD 2.

Figure 2
Visualizing Race v Party of CD 2 of Enacted Plan, South Carolina



VIII. A verification study of race v. party

In this section, I provide a further verification study of the conclusion I made above concerning the greater role that race plays vis-à-vis party in the Enacted Congressional Map. This verification study is derived from an approach adopted by Dr. Stephen Ansolabehere in *Harris v. McCrory*, 159 F. Supp. 3d 600 (M.D.N.C. 2016), aff'd sub nom. *Cooper v. Harris*, 137 S. Ct. 1455, (2017).

Based on Dr. Ansolabehere's approach, the redistricting process involves the decision of drawing voters from a larger base area to assign them to the given district according to the redistricting plan. This larger base area is called the "envelope," which essentially is the collection of counties that encompass all sub areas that voters reside in. As explained above, in the Enacted CD 1, for example, voters are from six counties of South Carolina—Beaufort, Berkeley, Charleston, Colleton, Dorchester, and Jasper. These six counties collectively are called the envelop for CD 1 in the Enacted Map.

To find whether or not race (or party) plays a major role in the Enacted Plan, one can evaluate the probability of voters being assigned to the district of interest. If race is not a driving factor, then white and Black voters in the envelope would have roughly the same probability of being assigned to the district. If, on the other hand, Black voters are found to be assigned to the district with a much higher/lower rate than white voters, then race is proved to be no longer a random factor.

Using 2020 Census data, **Table 8** shows how voters are assigned from the envelop to the district with respect to Enacted CD 1. The first row indicates that voters in all six counties (i.e., the envelope) have a 68.87% chance of being assigned to CD 1. But white voters have a greater probability of being assigned to CD 1 (74.43%) as opposed to Black voters (52.69%).

Table 8: Enacted CD 1 and Assignments of Voters from the Envelope

Group	VAP in Envelope	VAP in District	(% of the Group in Envelope assigned to District)
Total	82,8405	570,538	(68.87%)
White	545,365	405,889	(74.43%)
Black	175,920	92,684	(52.69%)
Hispanic	59,440	38,918	(65.47%)
Other	47,680	33,047	(69.31%)

Again, if we use the 2018 Democratic and Republican Gubernatorial primaries data, we can examine how voters from the envelope are assigned to CD 1 and evaluate whether race plays a bigger role than party in the Enacted Plan. **Table 9** shows the results of this evaluation.

Table 9: Enacted CD 1 and Assignments of Voters—race v. party

Party Primary	Number of Voters in Envelop	Number of Voters in District	(% of Group That is in District)
White_DEM	24,083	16,614	68.99
Black_DEM	25,397	12,864	50.65
White_REP	85,108	68,716	80.74
Black_REP	2,053	1,697	82.67

As shown in **Table 9**, with respect to voters in the same Democratic Party, white Democratic voters (68.99%) are much more likely to be assigned to CD 1 from the envelop than Black Democratic voters (50.65%). With respect to the Republican Party, Black Republican voters are slightly more likely (82.67%) to be assigned to CD 1 than white Republican voters (80.74%). But there are only a total of 2,053 Black Republicans in the envelope. In comparison, there were as many as 25,397 Black Democrats. Thus, the overall probability of Black voters (no matter their party affiliation) of being assigned to CD 1 is much lower than that of white voters.

Table 10 shows how voters are assigned from the envelop to the district with respect to Enacted CD 2. The first row indicates that voters in the envelop have a 73.28% chance of being assigned to CD 2. But white voters have a greater probability of being assigned to CD 2 (83.33%) as opposed to Black voters (53.93%).

Table 10: Enacted CD 2 and Assignments of Voters from the Envelope

Group	VAP in Envelope	VAP in District	(% of the Group in Envelope assigned to District)
Total	768343	563028	(73.28%)
White	432872	360714	(83.33%)
Black	249655	134639	(53.93%)
Hispanic	41120	33556	(81.61%)
Other	44696	34119	(76.34%)

Table 11 shows the results of the crosstabs of party and race for Enacted CD 2. Again, with respect to voters in the same Democratic Party, white Democratic voters (70.87%) are much more likely to be assigned to CD 2 from the envelop than Black Democratic voters (48.81%). With respect to the Republican Party, white Republican voters are also more likely (90.62%) to be assigned to CD 2 than Black Republican voters (68.61%). Thus, the probability of Black voters being assigned to CD 2 (regardless of their party affiliation) is much lower than that of white voters.

Table 11: Enacted CD 2 and Assignments of Voters—race v. party

Party Primary	Number of Voters in Envelop	Number of Voters in District	(% of Group That is in District)
White_DEM	21154	14991	70.87
Black_DEM	45343	22133	48.81
White_REP	74410	67433	90.62
Black_REP	1552	1065	68.61

In sum, this section confirms my findings presented in the previous section about the driving and greater effect that the race of a voter as compared to their party affiliation (based on an analysis of two, recent gubernatorial primaries) determines the assignment of voters to districts in the Enacted Map, particularly for CDs 1 and 2.

IX. Conclusion

The empirical analyses clearly revealed that in 7 out of the 7 general Congressional elections in which Black voters expressed a preference for Black candidates, that preference was not shared by a majority of white voters. This RPV pattern is confirmed not only by these endogenous, biracial general elections, but also by the six statewide exogenous elections during the last three election cycles. Despite the highly cohesive bloc voting by Black voters for the Black preferred candidates, the white majority voters typically voted as bloc to defeat the candidates preferred by Black voters in these elections. Thus, my empirical analysis indicates that the characteristics of “racial polarization,” as defined by the Supreme Court in *Thornburg v. Gingles*, (478 U.S. 30 at 53 n.21), exist in South Carolina’s recent elections.

To address the effect of RPV on the opportunity of Black voters in South Carolina to elect the candidate of their choice, the Plaintiff’s two proposed Plans are clearly more effective than the Enacted Redistricting Plan in providing Black voters the opportunity to elect their preferred candidates in two rather than one congressional districts. Additionally, a plan proposed by a South Carolina Senator Harpootlian, also is more effective than the Enacted Redistricting Plan, though less than Plaintiff’s two proposed Plans, in providing Black voters the opportunity to elect their preferred candidates in two rather than one congressional districts.

Moreover, there is strong empirical evidence that race, rather than presumed party affiliation, is a driving factor in whether voters remain or are moved in and out of the districts challenged by Plaintiffs, particularly CDs 1 and 2, in the Enacted Plan.

X. Appendix

Appendix 1: Curriculum Vita.

Appendix 2: Past Voting Rights Expert Work

Appendix 3: Data Acquisition, Processing and Aggregation Process

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I reserve the right to continue to supplement my report in light of additional facts, testimony and/or materials that may come to light.

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

Executed on: Date: April 6, 2022

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

Baodong Liu, Ph.D.

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Appendix I

Curriculum Vitae

Baodong Liu, Ph.D.

Professor (with Tenure) in Political Science and Ethnic Studies

University of Utah

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PROFESSIONAL EXPERIENCE

Professor of Political Science and Ethnic Studies, affiliated with Asian Studies, 2008-present

Associate Chair, Political Science Department, 2015-2017

Interim Director, Ethnic Studies Program, 2011-2013

University of Utah

Courses taught: Advanced Quantitative Methods (graduate), American Political Behavior (graduate), Race and Political Volatility in the US (graduate/undergraduate), Voting, Election and Public Opinion, Racial and Ethnic Politics, Political Analysis, Asian American Contemporary Issues, Social Justice and Inequality, Asian Pacific American Experiences, Methodology in Ethnic Studies.

TRISS Endowed Professor in Political Science, 2007-2008

Associate Professor (early promotion to associate professor 2005, early tenure 2006)

Assistant Professor, 2002-2005

Department of Political Science

University of Wisconsin-Oshkosh

Courses taught: Race and Ethnicity in American Politics, Politics of Urban Growth, Political Method, State and Local Government, Political Analysis, American Government, National, state and Local Government.

Assistant Professor of Political Science

Department of Political Science

Stephens College, Columbia, Missouri, 1999 - 2002

Courses taught: Urban and Minority Politics, Legislative Process, American Presidency, Campaigning and Lobbying, Macroeconomics, American Government, and Introduction to Statistics.

Consultant, Expert Witness, Principal Investigator, Opinion Writer/Commentator, 2000-present

Provided research services to NAACP LDF, the US Department of Justice, New America, Navajo Nation, Southern Coalition for Social Justice, National Science Foundation, Lawyers' Committee for Civil Rights Under Law, Florida State Legislature, Illinois State Legislature, Wisconsin Security Research Consortium, Fond du Lac School District, Johnson Controls, Inc, City of Waupaca (WI), and Wisconsin Public Service, among others.

Served also as a commentator and/or opinion writer for Salt Lake Tribune, ABC4News, Hinkley Forum, NPR, AP, Daily Utah Chronicle, ETtoday, Chinese Americans, Milwaukee Sentinel Journal, Daily Caller, KSL, among other media outlets.

EDUCATION

Ph.D. in Political Science (1999), University of New Orleans, Louisiana

Dissertation: *Black Candidates, White Voters and Racial Context*

Winner of Byran Jackson Award, Urban Politics Section, American Political Science Association, and Winner of Ted Robinson Award for the best research in race and ethnicity, Southwestern Political Science Association

M.A. in *Political Science* (1995), Oklahoma State University, Stillwater, Oklahoma

LL. B (1987), The East China University of Political Science and Law, Shanghai, China

Post-Doctoral Educational Program Participant

National Science Foundation's "Local Elections in America Project Workshop," Macalester College, Saint Paul, MN (2009)

Methodological Issues in Quantitative Research on Race and Ethnicity, Inter-University Consortium for Political and Social Research (ICPSR), University of Michigan (2006)

Mapping Your City with GIS Workshop, New Urban Research, Madison, Wisconsin (2005)

Jessie Ball duPont Summer Seminars for Liberal Arts College Faculty, the National Humanities Center, Research Triangle, North Carolina (2001)

PROFESSIONAL PUBLICATIONS (contribution is in the order of authors for publications with multiple authors).

A) Books

Liu, Baodong. *Political Volatility in the United States: How Racial and Religious Groups Win and Lose*. (forthcoming, Lexington Books)

Liu, Baodong. Ed. (2018). *Solving the Mystery of the Model Minority: The Journey of Asian Americans in America*. Cognella Academic Publishing.

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Liu, Baodong. (2013). *Understanding the Scientific Method: A Social Science Approach*. University Readers.

Liu, Baodong. (2010). *The Election of Barack Obama: How He Won*. Palgrave Macmillan. Reviewed by Hanes Walton, Jr. (2012) for *The American Review of Politics*.

Liu, Baodong and James Vanderleeuw. (2007). *Race Rules: Electoral Politics in New Orleans, 1965-2006*. Lexington Books. Paperback and Hardback. Reviewed by Peter Burns (2008) for *Urban Affairs Review*; also reviewed by Robert Dupont (2008) for *H-Urban*.

Liu, Baodong. (2002). *Making American Democracy Work: Reforms and Debates*. The McGraw-Hill, Inc.

B) Peer-Reviewed Journal Articles

Liu, Baodong, Porter Morgan and Dimitri Kokoromytis. (forthcoming) "Immigration, Nation-State Contexts and Value Changes of Ethnic Chinese" *Athens Journal of Social Sciences*.

Liu, Baodong, Zachary Stickney, and Nicole Batt. (2020). "Authoritarianism for and against Trump," *Journal of Behavioral and Social Sciences* 7(3): 218-238.

Liu, Baodong. (2018). "The Haitian and Cuban American Electorates in South Florida: Evidence from Ten Federal, State and Local Elections, 2008-2014." *National Political Science Review* 19 (1): 51-60.

Wei, Dennis, Weiyi Xiao, Christopher Simon, Baodong Liu, Yongmei Ni. (2018). "Neighborhood, Race and Educational Inequality." *Cities* 73: 1-13.

Simon, Christopher A., Nicholas P. Lovrich, Baodong Liu, and Dennis Wei. (2017). "Citizen Support for Military Expenditure Post 9/11: Exploring the Role of Place of Birth and Location of Upbringing." *Arm Forces and Society* 44 (4): 688-706.

Liu, Baodong, Dennis Wei, and Christopher A. Simon. (2017). "Social Capital, Race, and Income Inequality in the United States." *Sustainability* 9 (2): 1-14.

Liu, Baodong. (2014). "Post-Racial Politics? Counterevidence from the Presidential Elections, 2004-2012." *Du Bois Review: Social Science Research on Race* 11(2): 443-463.

Liu, Baodong. (2014). "Racial Context and the 2008 and 2012 US Presidential Elections." *Athens Journal of Social Sciences* 1(1): 21-33.

Liu, Baodong. (2011). "Demystifying the 'Dark Side' of Social Capital: A Comparative Bayesian Analysis of White, Black, Latino, and Asian American Voting Behavior." *The American Review of Politics* 32 (Spring): 31-56.

Byron D'Andra Orey, L. Marvin Overby, Pete Hatemi and Baodong Liu. (2011). "White Support for Racial Referenda in the Deep-South." *Politics & Policy* 39 (4): 539-558.

Geoffrey M. Draper, Baodong Liu, and Richard F. Riesenfeld. (2011). "Integrating Statistical Visualization Research into the Political Science Classroom." *Information Systems Education Journal* 9 (3): 83-94.

Liu, Baodong. (2011). "Obama's Local Connection: Racial Conflict or Solidarity?" *PS: Political Science and Politics* 44 (1): 103-105.

Liu, Baodong. (2011). "State Political Geography and the Obama White Vote." *World Regional Studies* 20 (4): 1-15. (in Chinese)

Liu, Baodong, Sharon D. Wright Austin, and Byron D'Andrá Orey. (2009). "Church Attendance, Social Capital, and Black Voting Participation" *Social Science Quarterly* 90 (3): 576-92.

Vanderleeuw, James, Baodong Liu, and Erica Nicole Williams. (2008). "The 2006 New Orleans Mayoral Election: The Political Ramifications of a Large-Scale Natural Disaster." *PS: Political Science and Politics* 41 (4): 795-801.

Liu, Baodong and Robert Darcy. (2008) "Race, Immigration, and Party Strategies in the US Elections," *Íslenska Leiðin*: 33-39.

Liu, Baodong. (2007). "EI Extended Model and the Fear of Ecological Fallacy", *Sociological Methods and Research* 36 (1): 3-25.

Liu, Baodong. (2006). "Whites as a Minority and the New Biracial Coalition in New Orleans and Memphis," *PS: Political Science and Politics* 40 (1): 69-76.

Vanderleeuw, James, and Baodong Liu. (2006). "Racial Polarization or Biracial Coalition? An Empirical Analysis of the Electoral Coalition of Winning Candidates in Urban Elections," *American Review of Politics* 27 (Winter): 319-344.

Liu, Baodong, and James Vanderleeuw. (2004). "Economic Development Priorities and Central City/Suburb Differences," *American Politics Research* 32 (6): 698-721.

Vanderleeuw, James, Baodong Liu, and Greg Marsh. (2004). "Applying Black Threat Theory, Urban Regime Theory, and Deracialization: The Memphis Mayoral Elections of 1991, 1995, and 1999," *Journal of Urban Affairs* 26 (4): 505-519

Liu, Baodong, and James Vanderleeuw. (2003). "Growth Imperative, Postmaterialism and Local Decision-Makers," *Journal of Political Science* 31: 173-96.

Liu, Baodong. (2003). "Deracialization and Urban Racial Context," *Urban Affairs Review* 38 (4): 572-591.

Vanderleeuw, James and Baodong Liu. (2002) "Political Empowerment, Mobilization, and Black-Voter Rolloff," *Urban Affairs Review* 37 (3): 380-96.

Liu, Baodong. (2001). "The Positive Effect of Black Density on White Crossover Voting: Reconsidering the Social Interaction Theory," *Social Science Quarterly* 82 (3): 602-615.

Liu, Baodong. (2001). "Racial Context and White Interests: Beyond Black Threat and Racial Tolerance," *Political Behavior* 23 (2): 157-80.

Liu, Baodong, and James Vanderleeuw. (2001). "Racial Transition and White-Voter Support for Black Candidates in Urban Elections," *Journal of Urban Affairs* 23 (3/4): 309-22.

Liu, Baodong. (2001). "Interests and Opinions among African-Americans: A Test of Three Theories," *the Texas Journal of Political Studies* 21 (2): 113-24.

Liu, Baodong, and James Vanderleeuw. (1999). "White Response to Black Political Power: the Case of New Orleans, 1980-1994." *Southeastern Political Review* 27 (1): 175-188.

C) Book Chapters, Encyclopedia Entries and other Peer-reviewed Articles

Liu, Baodong, Nadia Mahallati, and Charles Turner. (2021). "Ranked-Choice Voting Delivers Representation and Consensus in Presidential Primaries" *Available at SSRN*: <https://ssrn.com/abstract=3822879> or <http://dx.doi.org/10.2139/ssrn.3822879>

Liu, Baodong. "The Growth of Scientific Knowledge through Social Computing Networks" (2021). *The 19th International E-Society Conference Proceedings*.

Liu, Baodong. (2014). "Racial Context and the 2008 and 2012 US Presidential Elections" in Yannis A. Stivachtis and Stefanie Georgakis Abbott, ed. *Addressing the Politics of Integration and Exclusion: Democracy, Human Rights and Humanitarian Intervention*. Athens: Atiner publications. (Also published in *Athens Journal of Social Sciences*.)

Liu, Baodong. (2011). "Mayor" in *International Encyclopedia of Political Science*. CQ Press.

Liu, Baodong. (2011). "Roll-off" in *International Encyclopedia of Political Science*. CQ Press.

Liu, Baodong and Carolyn Kirchhoff. (2009) "Mayor", *Encyclopedia of American Government and Civics*, eds. Michael A. Genovese and Lori Cox Han. New York: Facts on File.

Liu, Baodong and Robert Darcy. (2006). "The Rising Power of Minorities and the Deracialization of U.S. Politics" in Gillian Peele, Christopher J. Bailey, Bruce E. Cain, and B. Guy Peters, ed. *Developments in American Politics 5*. Hampshire, UK: Palgrave Macmillan/Macmillan Publishers.

D) Book Reviews

Liu, Baodong. (2010). Review of Zoltan L. Hajnal, "America's Uneven Democracy: Race, Turnout, and Representation in City Politics" in *American Review of Politics* 31 (summer): 157-160.

Liu, Baodong. (2008). Review of Rodney E. Hero, *Racial Diversity and Social Capital*, in *Urban Affairs Review* 44 (1):146-149.

Liu, Baodong. (2006). Review of Peter Burns, *Electoral Politics Is Not Enough*, in *American Review of Politics* 27 (Spring): 186-189.

Liu, Baodong. (1999). Review of Terry Nichols Clark and Vincent Hoffmann-Martinot (ed), "The New Political Culture," in *American Review of Politics* 20: 99-102.

E). Other Publications/Editorials

Liu, Baodong. (2021). "Asian Americans and Minority Voters: The New Destination of Partisan Competitions?" ETtoday. January 8, 2021. (in Chinese/Taiwanese)

Liu, Baodong. (2020). "Checks and Balances and the End of Trump Legal Battles". ETtoday. Dec. 29, 2020. (in Chinese/Taiwanese)

Liu, Baodong. (2020). "Trump's Legal Battles and the New Beginning of the Electoral Laws?". ETtoday. Nov. 10, 2020. (in Chinese/Taiwanese)

Liu, Baodong and Feng Ling. (2018). "Liberalism or Conservatism: Which One Contributes to America More?" *Chinese Americans*, No. 1565. (in Chinese).

Liu, Baodong. (2018). "The Lawsuit against Harvard and Asian-American Attitude toward Affirmative Action," *Chinese Americans*, No. 1207. (in Chinese).

Liu, Baodong. (2016). “Lu Xun’s Attack on Old Chinese Regime and St. Augustine’s Self Examination,” *Overseas Campus* (in Chinese).

Liu, Baodong. (2015). “Will Christianity Bring about Democracy?” *Overseas Campus* 130 (June): 40-43. (in Chinese)

Liu, Baodong. (2011). “New Ethnic Studies Major at the U: Education for the 21st Century” *Diversity News* 2011 (Fall). <http://diversity.utah.edu/newsletter/fall-2011/ethnic-studies-degree.php>.

Liu, Baodong (2008). “The Urban Politics Field as We Know It.” *Urban News* 22 (1): 1-2.

Liu, Baodong. (2008). “Negative Campaigning a Desperate Strategy,” *The Daily Utah Chronicle*. Guest Column. October 20, 2008.

Liu, Baodong. (2007). “The 2006 Midterm Election: Angry Voters? Yes! Clear Vision? No!” *Wisconsin Political Scientist* XIII (2): 9-10.

Liu, Baodong. (2006). “Midterm Election Results Show No Clear Future Vision.” Guest Column, *Advance-Titan*. Nov. 9, 2006: A5.

Liu, Baodong and James Vanderleeuw. (2003). “Local Policymakers and Their Perceptions of Economic Development: Suburbs, Central Cities and Rural Areas Compared” *Wisconsin Political Scientist* IX (1): 4-7.

SOFTWARE DEVELOPMENT/GRANTS

diaglm, the author of the R software statistical package for diagnosing and visualization of violations of linear and nonlinear statistical modeling, published at GitHub (bblpo/diaglm). 2019.

diagglm, the author of the R software statistical package for diagnosing and visualization of violations of nonlinear statistical modeling, published at github (bblpo/diagglm). 2019.

Principal Investigator, “Authoritarianism in the Global Ethnic Chinese Communities”, a grant proposal supported by University Sabbatical Leave and Asia Center Travel Award. 2020. \$1500

Principal Investigator, with Co-Pi, Mike Cobbs (North Carolina State University) and Richard Engstrom (University of Houston). “Understanding the Support for Ranked-Choice Voting,” initial grant proposal supported by Political Reform Program, New America. Washington D.C. 2020. \$40,000

Co-PI, with Dennis Wei (PI) and Chris Simon. “Amenity, Neighborhood and Spatial Inequality: A Study of Salt Lake County,” Interdisciplinary Research Pilot Program (IRPP), College of Social and Behavioral Science, the University of Utah, 2015. \$10,000.

Co-PI, with Annie Isabel Fukushima (PI). “Victimization, Human Trafficking and Immigrants: Mixed Methods analysis of the Perceptions of Victimhood in U.S. Courts (2000 – 2015)”, submitted to National Institute of Justice, 2015. \$997,407. (rejected)

Co-PI, with Daniel McCool. “The Efficacy of American Indian Voting: A Pilot Project” Research Incentive Grant, College of Social and Behavioral Science, the University of Utah. (2014-). \$7500.

I have provided my Expert Witness Opinions on federal voting rights cases such as *Milligan, et al. v. Merrill, et al.*, Case No. 2:21-cv-01530-AMM and *Thomas, et al. v. Merrill, et al.*, Case No. 2:21-cv-01531-AMM (N.D. Ala. 2021), *Traci Jones et al vs. Jefferson County Board of Education et al*, (N.D. Ala. 2019); *CMA v. Arkansas* (E.D. Ark., 2019); *Alabama State Conference of the NAACP v. Pleasant Grove*, (N.D. Ala. 2018); *Navajo Nation, et al, vs. San Juan County, et al*, (D. Utah, 2012); *League of Women Voters of Florida, et al v. Detzner, et al*, (Fla., 2012); *Anne Pope et. al. v. County of Albany and the Albany County Board of Elections* (N.D.N.Y. 2011); *Radogno, et al v. State Board of Elections, et al*, (N.D. Ill. 2011); *NAACP v. St. Landry Parish et al*, (W.D. La. 2003); *Arbor Hill Concerned Citizens Neighborhood Association et al v. County of Albany* (N.D.N.Y. 2003); *Hardeman County Branch of NAACP v. Frost* (2003).

Expert Instructor, Racially Polarized Voting and Political Participation: EI and EZI. Expert Preparation Program, Community Census and Districting Institute. A grant supported by Ford Foundation and Southern Coalition for Social Justice, Duke University, Durham, North Carolina. 2010.

Principal Investigator, 2010-2012. A Multi-level Analysis of Obama Racial Coalition in 2008 and 2012. A project funded by the PIG grant of College of Social and Behavior Sciences, the University of Utah.

Co-PI. Educational Succession Movements in U.S. Metropolitan Areas, proposal submitted to Seed Grants, the University of Utah. 2009. Rejected.

Recipient, Faculty Sabbatical Grant, 2008. University of Wisconsin Oshkosh, grant offered, but finally declined the offer due to job change.

Grant Director/Faculty Advisor, 2008. The WiscAMP program, National Science Foundation.

Principal Investigator, 2007. Wisconsin Research and Development Capacity Study. A project funded by Wisconsin Security Research Consortium.

Principal Investigator, 2007. The Impact of Industrial Involvement on Science Education in Wisconsin. A project funded by Johnson Control, Inc.

Principal Investigator, 2007. The Impact of Fond du Lac School District on Local Economic Development. A project funded by Fond du Lac School District.

EI Methodologist, 2007. Retrogressive Effects of H.B. No. 1565 on Latino Voters in the Bexar County Metropolitan Water District, TX.

Principal Investigator, 2006. The Impact of Economic Development on Citizen Opinions. A project funded by City of Waupaca, Wisconsin Public Services.

Principal Investigator, 2006. Leading the Big Easy: Will the Biracial Coalition Sustain Katrina? Institute on Race and Ethnicity, University of Wisconsin System. 2006.

Methodological Issues in Quantitative Research on Race and Ethnicity, Inter-University Consortium for Political and Social Research (ICPSR), Institute of Social Research, University of Michigan, 2006.

Off-Campus Program Grant, Faculty Development, the University of Wisconsin-Oshkosh, 2006.

GIS and Social Research, Small Research Grant, Faculty Development Program, the University of Wisconsin-Oshkosh, 2005.

Principal Investigator, Getting the White Votes, American Political Science Association Research Grant, Washington D.C., 2003.

Principal Investigator, A Comparative Study of Urban Elections, Faculty Research Development Grant, the University of Wisconsin-Oshkosh, Oshkosh, Wisconsin, 2004.

Principal Investigator, Getting the White Votes, Faculty Research Development Grant, the University of Wisconsin-Oshkosh, Oshkosh, Wisconsin, 2003.

Advanced Graduate Student Travel Grant, the American Political Science Association, 1999

AWARDS AND HONORS

Nominee for the Career & Professional Development Center, Faculty Recognition Program, University of Utah. 2018.

Winner of A Showcase of Extraordinary Faculty Achievements (for publication of my book, Social Research: Integrating Mathematical Foundations and Modern Statistical Computing. San Diego: Cognella Academic Publishing), With commendation from the J. Willard Marriott Library and the Office of the Vice President for Research. University of Utah. 2016

Nominee for the Social and Behavior Science College Superior Research Award (senior scholar category), nominated by the political science department in both 2011 and 2012.

Professor of Political Science (National 985-Plan Supported Foreign Scholar), Taught Summer Class at School of Government, Nanjing University, Nanjing, China. 2012.

TRISS Endowed Professorship for Excellence, University of Wisconsin Oshkosh, 2007-8

Artinian Award for Professional Development, Southern Political Science Association, 2004

Byran Jackson Award for the best research/dissertation in racial and ethnic politics in an urban setting, Urban Politics Section, the American Political Science Association, 1999

Ted Robinson Award for the best research in race and ethnicity, Southwestern Political Science Association, 1999

Who's Who in America, 2001-2006, Marquis, USA.

Davis Summer Research Grant, Stephens College, 2001

Firestone Baars Grant for Faculty Development, Stephens College, 1999-2001

Vice President Discretion Grant for Research, Stephens College, 2001, 2000

Advanced Graduate Student Travel Grant, the American Political Science Association, 1999

Graduate Student Travel Grant, University of New Orleans, 1997

The Best Graduate Student Paper Award, Department of Political Science, Oklahoma State University, 1993

Pi Sigma Alpha, National Political Science Honor Society, 1994

PROFESSIONAL POSITIONS

Member, Review Board, Journal of Behavioral and Social Sciences, 2019-present

Member, Board of Directors, National Association for Ethnic Studies, 2013-2015

Editorial Board, Urban Affairs Review, 2008-2011

Editorial Advisor, International Encyclopedia of Political Science, CQ Press, 2005-2011

Editor, Urban News, Urban Politics Section, American Political Science Association, 2004-2010

Chair, Urban Politics Program, Southern Political Science Association Annual Convention, 2008

Co-Chair, Asian Pacific American Caucus, American Political Science Association, 2004-2006

Member, American Political Science Association Small Research Grant Committee, 2005

AS A JUDGE OR REVIEWER OF WORKS OF OTHER SCHOLARS FOR ACADEMIC JOURNALS OR PRESSES

2001-present

Perspectives; Politics and Religion; American Political Science Review; Lexington Books; Journal of Behavioral and Social Sciences; The National Science Foundation; Sage Publications, W. W. Norton & Company, Inc; McGraw Hill Publishing; Journal of Politics; National Political Science Review, Political Analysis; Social Science Quarterly; Urban Affairs Review; Political Research Quarterly; Politics and Policy; Journal of Urban Affairs; American Politics Research; Public Opinion Quarterly; Political Behavior; Sociological Methods and Research

PROFESSIONAL AND COMMUNITY SERVICES

Reviewer, University URC Faculty Scholarly Grant Program, 2020

Chair, Faculty Tenure and Promotion Committee, Political Science, 2019-2020

Member, Curriculum Overhaul Committee, Ethnic Studies, 2018-2019

Member, Faculty Tenure and Promotion Committee, Political Science, 2018-2019

Chair, Faculty Tenure and Promotion Sub-Committee, Ethnic Studies, 2017-2018

Member, Graduate Committee, political science department, the University of Utah, 2014-2018

Member, Executive Committee, political science department, the University of Utah, 2014-2018

Faculty Senator, the University of Utah, 2015-2018

Chair, American Politics Field, political science department, the University of Utah, 2014-2018

Member, GC Building Committee, Social Science Lab, 2015-2018

Expert Volunteer for Utah Fair Redistricting Legal Team, 2017

Member, Assistant Vice President for Diversity Search Committee, 2015-2016

Member, Ad Hoc Graduate Committee for Writing, 2015-2016

Chair, Faculty Joint Appointment Search Committee, ethnic studies program and theatre department, the University of Utah, 2014-2015

Member, Betty Glad Foundation Committee, political science department, the University of Utah, 2014-2015

Chair, Awards Committee, National Association for Ethnic Studies, 2014

Faculty Mentor to Junior Faculty, Department of Political Science, 2013-2018

Chair, University of Utah MLK Committee. 2012-2013.

Member, Graduate School Dean Search Committee, 2013.

Member, University Diversity Leadership Team, the University of Utah. 2010-2013.

Member, University Teaching Program Committee, the University of Utah, 2011-2013.

Member, University Diversity Curriculum Committee, Undergraduate Studies, the University of Utah, 2011-2013.

Judge, The Research Day of College of Social and Behavioral Science, 2011-2013.

Member, Organizing Committee, International Conference on Urbanization and Development in China, University of Utah, August 2010.

Member, Retention, Promotion, and Tenure Committee, Department of Political Science, the University of Utah. 2011-2013.

Assistant Director, Ethnic Studies Program, the University of Utah. 2010-2011.

Committee Member, Undergraduate Studies, Department of Political Science, the University of Utah. 2009-2011.

Committee Member, Utah Opportunity Scholarship, the University of Utah, reviewing and making decisions on more than 200 applications. 2009-2010.

Member, Ethnic Studies Positions Exploration Committee, the University of Utah. 2009-2010.

Member, Marketing Committee, Department of Political Science, the University of Utah. 2009-2010.

Guest Speaker, “Obama and the 2008 Presidential Election: A Spatial Analysis” at the Graduate Seminar titled Introduction of Survey Research in Higher Education. College of Education. The University of Utah. Feb. 3, 2009.

Special Speaker, “Obama and the Minimum Winning Coalition” Ethnic Studies Works in Progress Presentation. The University of Utah. Dec., 5, 2008.

Special Speaker, “Election 2008: A Symposium,” Hinckley Institute of Politics, University of Utah. October 6, 2008.

Special Speaker, “Predicting the 2008 Presidential Election Outcomes” Political Science Department, the University of Utah. Sept. 25, 2008.

Political Commentator for reporting from Salt Lake Tribune, AP, EFE Hispanic News Services, Milwaukee Journal Sentinel, WHBY, KFRU radio stations, the Post-Crescent, Oshkosh Northwestern, Columbia Missourian, and the Daily Utah Chronicle. December 1999 to present.

Faculty Representative for University of Wisconsin-Oshkosh, ICPSR, University of Michigan, 2007-2008

Member, Board of Trustees, Wisconsin International School, 2007-2008

Member, UWO Office of Institutional Research Advisory Board, 2007-2008

President, Northeast Wisconsin Chinese Association, 2007 (executive vice president, 2006)

Member, Program Evaluation Committee. College of Letters and Science, University of Wisconsin-Oshkosh, 2007-2008

Member, Political Science Curriculum, Center for New Learning, University of Wisconsin-Oshkosh, 2007-2008

Moderator, Oshkosh City Forum, Mayoral Candidates’ Debates, March 23, 2005

Grant Reviewer, Faculty Development Program. University of Wisconsin-Oshkosh, 2004-2008

Member, African American Minor Counsel. University of Wisconsin-Oshkosh, 2006-2008

Member, Search Committee for University Foundation President. University of Wisconsin-Oshkosh, 2005-2006.

Member, Faculty Senate Libraries & Information Services Committee. University of Wisconsin-Oshkosh, 2005-2008.

Chair/Member, Curriculum Committee, Dept. of Political Science, University of Wisconsin-Oshkosh, September 2002-2008.

Chair, Budget Committee, Dept. of Political Science, University of Wisconsin-Oshkosh, September 2007-2008.

Member, Personal Committee, Dept. of Political Science, University of Wisconsin-Oshkosh, September 2007-2008.

Member, Search Committee, Dept. of Political Science, University of Wisconsin-Oshkosh, September 2002-2008.

Faculty Director, the Stephens College Model UN Team, National Model United Nations Conference, New York, New York, March, 2002.

Chair, Political Science Search Committee, Stephens College. August 2001 to May 2002.

Member, Editorial Advisory Board, Collegiate Press, San Diego, California. 2000 to 2001.

Chair, Harry Truman Scholarship Committee, Stephens College. 2000 to 2002.

Member, Strategic Planning and Budgeting Committee, Stephens College. 2000 to 2002.

CONFERENCE PAPER/PROCEEDINGS

Liu, Baodong. "Racial Prejudice behind the Anti-Affirmative Action Attitude of Asian Americans," paper presented at the Western Political Science Association Annual Conference. San Diego. April 2019.

Liu, Baodong, Porter Morgan and Dimitri Kokoromytis. "Immigration, Nation-State Contexts and Value Changes of Ethnic Chinese" paper presented at the Midwest Political Science Association Annual Conference. Chicago. April 2019.

Baodong Liu. "The Strategical Religious Voter", paper presented at the Midwest Political Science Association Annual Meeting. Chicago, Illinois. April 2018.

Baodong Liu, Nicole Batt and Zackery Stickney. "Authoritarianism for and against Trump", paper presented at the Annual Meeting of Behavioral and Social Sciences, Las Vegas, Nevada. February 2018.

Baodong Liu. "The Strategic Religious Voter", paper presented at the Oxford Symposium on Religious Studies, Oxford, UK. March 2016.

Baodong Liu. "The Political Fate of Religious Minorities in the U.S. Presidential Elections." paper presented at the 19th Annual American Association of Behavioral and Social Sciences. Las Vegas, Nevada. February 2016.

Baodong Liu. "The Political Fate of Religious Minorities in the U.S. Presidential Elections." paper presented at the Hawaii University International Conferences on Arts, Humanities, Social Sciences and Education. Honolulu, Hawaii. January 2016.

Baodong Liu. "Statistical Inference and Visualization of Big Data in Urban Research", paper presented at the 3rd International Conference on China Urban Development, Shanghai, China. June 2015.

Baodong Liu. "Race, Religion, and U.S. Presidential Elections," paper presented at the Annual Convention of National Association for Ethnic Studies, Oakland, California. April 2014.

Baodong Liu. "Racial Context and the 2008 and 2012 US Presidential Elections," paper presented at the 11th Annual International Conference on Politics & International Affairs, Athens, Greece. June 2013.

Baodong Liu. "Deracialization in the Post-Obama Era," presented at the National Black Political Scientist Association Annual Meeting. Las Vegas, Nevada. March 2012.

Baodong Liu. "Obama's Racial Coalition," paper presented at the Southwestern Social Science Association Annual Meeting. Las Vegas, Nevada. March 2011.

Geoffrey M. Draper, Baodong Liu, and Richard F. Riesenfeld. "Integrating Statistical Visualization Research into the Political Science Classroom" Information Systems Educators Conference. 2010. Nashville, Tennessee. October 2010.

Baodong Liu. "Space and Time: An Empirical Analysis of 2008 Presidential Election," paper delivered at the Annual American Political Science Association Conference, Toronto, Canada, September 2009.

Baodong Liu. "Sequential and Spatial Voting: An Analysis of the 2008 Democratic Primaries," paper presented at the 2009 Midwest Political Science Association Annual Conference, Chicago, Illinois, April 2009.

Baodong Liu. "Social Capital, Race, and Turnout," paper presented at the 2008 Midwest Political Science Association Annual Conference, Chicago, Illinois, April 2008.

Baodong Liu and Lori Weber. "Social Capital and Voting Participation," paper presented at the 2008 Southern Political Science Association Annual Meeting, New Orleans, Louisiana, January 2008.

Baodong Liu. "The 2006 New Orleans Mayoral Election," paper presented at the 2007 Midwest Political Science Association Annual Conference, Chicago, Illinois, April 2007.

James Vanderleeuw, Baodong Liu, and Erica Williams. "The Political Ramifications of a Large-Scale Natural Disaster," paper presented at the 2006 annual conference, the American Political Science Association, Philadelphia, September 2006.

Baodong Liu. "EI Extended Model and the Fear of Ecological Fallacy," paper presented at the 2006 Midwest Political Science Association Annual Meeting, Chicago, Illinois, April 2006.

Baodong Liu. "The Fear of Ecological Fallacy and the Methods to Conquer It" paper presented at the Western Political Science Association Annual Meeting, Oakland, CA, April 2005.

Baodong Liu. "The Whites Who Stayed in the City," paper presented at the 2004 Midwest Political Science Association Annual Meeting, Chicago, Illinois, April 2004.

Baodong Liu. "Whites as a Minority and the New Biracial Coalition," paper presented at the 2004 Southern Political Science Association Annual Meeting, New Orleans, Louisiana, January 2004.

Baodong Liu and James Vanderleeuw. "Economic Development Priorities and Central City/Suburb Differences," presented at the 2003 Midwest Political Science Association Annual Meeting, Chicago, Illinois, April 2003.

James Vanderleeuw, Baodong Liu, and Greg Marsh, "Divided Leadership and Racial Reflexivity in Memphis: An Analysis of the 1991, 1995 and 1999 Mayoral Elections," presented at the 2003 Southwestern Political Science Association Annual Meeting, San Antonio, Texas, April 2003.

Baodong Liu. "White Votes Count: The Effect of Black Candidates' Qualifications on White Crossover Voting," paper presented at the 98th American Political Science Association Conference, Boston, Massachusetts, September 2002.

Baodong Liu. "Searching for a 'Qualified' Black Candidate," *Proceedings of the 97th American Political Science Association Conference*, San Francisco California, September 2001.

Baodong Liu. "In Defense of an Ethical Rational Choice Theory," paper delivered at the 2001 Jessie Ball duPont Fund Summer Seminars for Liberal Arts College Faculty, the National Humanities Center, Research Triangle, North Carolina, June 2001.

Baodong Liu. "Reconsidering Social Interaction Theory," presented at the 2001 Western Political Science Association Annual Meeting. Las Vegas Nevada, March 2001.

James Vanderleeuw, Baodong Liu, and John Johnson. "Economic Development Priorities of City Administrators: A Report on a Survey of City Administrators in Texas," presented at the 2001 Louisiana Political Science Association Convention, Lamar Texas, March 2001.

Baodong Liu. "Racial Transition: Explaining the Curvilinear Relationship between Black Density and White Crossover Voting," *Proceedings of the 96th American Political Science Association Conference*, Washington DC, September 2000.

Baodong Liu and James Vanderleeuw. "Racial Transition: Explaining the Curvilinear Relationship between Black Density and White Crossover Voting," presented at the 96th American Political Science Association Conference, Washington DC, September 2000.

Baodong Liu. "Electoral Law and the Russian Party System: A Comparative Study," presented at the 58th Midwest Political Science Association Conference, Chicago Illinois, April 2000.

James Vanderleeuw and Baodong Liu. "Rolling Off in the Context of Context," presented at the 30th Southwestern Political Science Association Conference, Galveston Texas, March 2000.

Baodong Liu. "The Changing Nature of Electoral Competition in Japan." Roundtable Discussant, the 52nd Association of Asian Studies Annual Meeting, San Diego California, March 2000.

Baodong Liu. "Racial Context and White Voting Strategies," presented at the 95th American Political Science Association Conference, Atlanta Georgia, September 1999.

Baodong Liu. "The President's Support in Congress: A Test of U.S. China Policy, 1980-1994," *The 1997 Southern Political Science Association Convention*, Norfolk Virginia, November 1997.

Baodong Liu. "Examining the Race Line: White Voting Behavior in New Orleans, 1980-1994," *The 27th Southwestern Political Science Association Conference*. New Orleans Louisiana, March 1997.

Baodong Liu. "Intrapartisan Defeats and the Nomination Strategies of the Japanese Liberal Democratic Party in the 1993 Election," *The Sixth Annual Graduate Student Research Symposium*. Oklahoma State University. Stillwater Oklahoma, February 1995.

INVITED SPEAKER, ROUNDTABLE/PANEL DISCUSSANT

Baodong Liu. “The 2020 Presidential Election and the Future of American Democracy”, invited lecture given to Chinese Americans on Zoom. September 2020.

Baodong Liu, Michael Cobb, and Richard Engstrom. “Understanding the Support for Ranked-Choice Voting in Two Southern Cities” talk given at the Electoral Reform Research Group, Research Development Conference. Washington D.C. February 2020.

Baodong Liu. ““Nation-State Context and Authoritarian Value Changes of Ethnic Chinese.” Talk given at the workshop of The Clash of Authoritarianisms: Secularism versus Islamism in Turkey, University of Utah. April 2019

Baodong Liu. “Trump’s Voters,” Panel Discussion on Presidential Primaries. Hinckley Institute of Politics. The University of Utah. Salt Lake City, Utah. March 2016

Baodong Liu. “Big Data in the Social Sciences,” The Consortium for Research on China and Asia (CROCA) and Policy at the Podium. The University of Utah. Salt Lake City, Utah. November 2014.

Baodong Liu. “Deracialization in the Historical Perspective,” the National Black Political Scientist Association Annual Meeting. Las Vegas, Nevada. March 2012

“Educating the Best Students in the 21st century: the New Ethnic Studies Major at the University of Utah,” a presentation provided to the University Diversity Division Fall Retreat (March 12, 2011), the Ethnic Studies Program (August, 17, 2011), and the Community Council (September 13, 2011), at the University of Utah.

“Quantitative Analysis: Ecological Inferences and the Voting Rights Law,” a Ford Foundation Project, Duke University. July 24-28, 2010.

“Election 2008: A Symposium,” Hinckley Institute of Politics, University of Utah. October 6, 2008.

“IMMIGRATION TODAY: What are the Issues?” League of Women Voters of the Oshkosh Area Public Forum, November 12, 2007.

Theme Panel: “Bleaching” New Orleans? Power, Race, and Place After Katrina, the American Political Science Association Annual Meeting, Philadelphia, September 2, 2006.

“2006 Midterm Election Preview,” American Democracy Project, the University of Wisconsin, Oshkosh, November 2, 2006.

“Analysis on the 2006 Midterm Election Results,” American Democracy Project, the University of Wisconsin, Oshkosh, November 9, 2006.

“The Politics of New Americans: Studying Asian American Political Engagement,” the American Political Science Association Annual Meeting, Washington, D.C. September 3, 2005.

“Significance of Voting Rights Act,” Lawyers’ Committee for Civil Rights under Law, National Asian Pacific American Legal Consortium, Mexican American Legal Defense and Educational Fund, Washington DC: June 17-18, 2004.

“Protecting Democracy: Defining the Research Agenda for Voting Rights Reauthorization,” the Civil Rights Project, Harvard University, Cambridge, MA. May 10, 2004.

Chair, the Politics of Ethnicity and Self-Determination Panel, International Studies Association-Midwest Conference, St. Louis, Missouri, November 2, 2001.

PROFESSIONAL MEMBERSHIP

Pi Sigma Alpha, National Political Science Honor Society
American Political Science Association
Western Political Science Association
Midwest Political Science Association
Association for Asian American Studies
Association of Chinese Political Studies
Southwestern Political Science Association

Serve as an Advisor/Committee Member for the following Graduate Students

Nicole Batt (Ph.D Dissertation Chair)
Jake Peterson (Ph.D Dissertation Chair)
Matt Haydon (Ph.D. Dissertation Chair)
Porter Morgan (Ph.D. Committee)
Charles Turner (Ph.D Committee)
Geri Miller-Fox (Ph.D Committee)
Alex Lovell (Ph.D Committee)
Samantha Eldrudge (Ph.D Committee)
Leslie Haligan-Park (Ph.D Committee)
Nicole Cline (Master Committee Chair)
Oakley Gordon (Master Committee)
Michael McPhie (Master Committee)

Appendix II

Voting Rights Cases in which I Served as an Expert Witness

Milligan, et al. v. Merrill, et al., Case No. 2:21-cv-01530-AMM and *Thomas, et al. v. Merrill, et al.*, Case No. 2:21-cv-01531-AMM (N.D. Ala. 2021).

Traci Jones et al v. Jefferson County Board of Education et al, (N.D. Ala. 2019).

CMA v. Arkansas, (E.D. Ark. 2019).

Alabama State Conference of NAACP v. Pleasant Grove, (N.D. Ala. 2018).

Navajo Nation, et al, v. San Juan County, et al, (D. Utah 2012).

League of Women Voters of Florida, et al v. Detzner, et al, (Fla. 2012).

Anne Pope et. al. v. County of Albany and the Albany County Board of Elections (N.D.N.Y. 2011).

Radogno, et al v. State Board of Elections, et al, (N.D. Ill. 2011).

NAACP v. St. Landry Parish et al, (W.D. La. 2003).

Arbor Hill Concerned Citizens Neighborhood Association et al v. County of Albany, (N.D.N.Y. 2003).

Hardeman County Branch of NAACP v. Frost, (Tenn. 2003).

Appendix III

Data Acquisition

1. We acquired 2014, 2016, 2018, and 2020 precinct-level shapefiles from the Voting and Election Science Team at the University of Florida. We joined those shapefiles to 2014, 2016, 2018, and 2020 precinct-level election returns from the South Carolina Election Commission, which were processed and cleaned by OpenElections.
 - a. For the 2014 precinct-level election returns, we harmonized and joined those to the 2016 precinct-level shapefile acquired from the Voting and Election Science Team.
 - b. Since absentee and provisional vote was reported at the county level prior to the 2020 general election, we distributed the county-level absentee and provisional vote for each candidate to the precincts in the county, proportional to the share of the candidate's vote total in the county that was reported from each precinct.
2. We acquired 2014, 2016, 2018, and 2020 precinct-level reports of turnout by race and ethnicity from a third party who received them from the South Carolina Election Commission. Since these were not available for the 2014 general election or the 2010 Democratic primary, we downloaded precinct-level reports of turnout broken down by white and nonwhite voters from the South Carolina Election Commission's website.
3. We acquired 2010 precinct-level reports of vote choice for the Democratic primary from the South Carolina Election commission.
4. We acquired 2020 Census Block shapefiles, total population by race and ethnicity, and voting age population by race and ethnicity directly from the Census FTP portal.
5. We acquired 2010 Census Block shapefiles, total population by race and ethnicity, and voting age population by race and ethnicity from the Census FTP portal, using the R package PL94171.
6. We acquired VTD block assignment files and South Carolina congressional district block assignment files for the current plan from the Census website.
7. We acquired incumbent addresses from the Redistricting Data Hub. We then supplemented those with edits to incumbent addresses based on public information and records (e.g., information posted on the South Carolina State House website, South Carolina State Election Commission filings, and South Carolina property records) and input from Plaintiffs' counsel team, which were then geocoded to census blocks.
8. We acquired the enacted Congressional Plan from the South Carolina House of Representatives Redistricting 2021 website.

Data Processing

1. For datasets that were on the 2020 census block level (total population, voting age population, VTD assignment, current/passed/plaintiff State House district assignment), we joined these datasets to the 2020 Census block shapefile.
2. For datasets that were not on the level of the census block (2014, 2016, 2018, and 2020 election returns - precinct; 2014, 2016, 2018, and 2020 turnout reports – precinct), we disaggregated them down to the 2020 census block level. We then joined them to the 2020 Census block shapefile.

3. For data on the level of the 2010 precincts (2010 voting returns, 2010 voter turnout by race and ethnicity), we joined these up to 2010 VTDs cleaned and processed by the Harvard Election Data Archive team. We then disaggregated these down to the level of the 2020 Census blocks.
4. For data on the level of the 2010 Census blocks, we used the Census's block relationship files to pro-rate these to the level of the 2020 Census blocks.

Data Aggregation

1. We aggregated the full block-level dataset up to the level of the 2020 voting districts, taking into account splits of voting districts by the current and passed Congressional Plans.

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Exhibit 20

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Baodong Liu, Ph.D.
The South Carolina State Confvs.McMaster/Alexander

August 4, 2022

Page 1

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

THE SOUTH CAROLINA STATE CONFERENCE OF
THE NAACP, et al.,

Plaintiffs,

vs. CASE NO. 3:21-cv-03302-MBS

TJH-RMG

THOMAS C. ALEXANDER, et al.,
Defendants.

CONGRESSIONAL PLAN LITIGATION

VTC

DEPOSITION OF: BAODONG LIU, PH.D.
(Appearing by VTC)

DATE: August 4, 2022

TIME: 12:21 p.m.

LOCATION: 4231 South 2700 East
Salt Lake City, UT

TAKEN BY: Counsel for the Defendants

REPORTED BY: Susan M. Valsecchi, CRR
Registered Professional Reporter
(Appearing by VTC)

1 report and ask you a few questions about it.

2 Probably more than a few.

3 A. Sure.

4 Q. Moving forward to Page 6 of your
5 report.

6 A. Okay. Page 6, right?

7 Q. Yes, sir, for now.

8 A. Okay.

9 Q. Now, you conducted an RPV analysis of
10 three sets of elections; is that correct?

11 A. Could you repeat that question, please.

12 Q. How many sets of elections did you
13 conduct an RPV analysis of?

14 A. How many sets of elections?

15 Q. Yes.

16 A. Yes, I -- yes, I conducted RPV analysis
17 for endogenous general elections and then
18 endogenous primary elections and then finally
19 exogenous elections.

20 Q. And in each of those elections, the
21 black preferred candidate was a democrat; is that
22 right?

23 A. Well, I believe I had the primary
24 elections where there were Republican -- I mean
25 Republican primaries -- so therefore -- obviously,

1 in the primary, it's Republican only.

2 So, yes, but other than that, in
3 general elections and other primaries, Democratic
4 primary, of course --

5 Q. Okay.

6 A. -- they were Democrats, yes.

7 Q. Let's go to Table 1 on Page 7.

8 A. Okay, I'm here.

9 Q. Is this your table for endogenous
10 general elections?

11 A. Yes, it is.

12 Q. Did all seven of these elections occur
13 in majority white districts?

14 A. Yes.

15 Q. And did all of these elections occur in
16 majority Republican districts?

17 A. Well, that's a great question. Since I
18 don't have any access to party registration data --
19 I don't even know whether South Carolina has any
20 such data -- but it is a good and reasonable
21 assumption that these are Republican districts
22 because winners tend to be Republicans.

23 Q. So in each of these elections, was the
24 black preferred candidate a Democrat?

25 A. Yes.

1 A. In my original report or the rebuttal
2 to Mr. Trende? Because they are a little
3 different.

4 Q. Just here in this report, in your
5 original report.

6 A. Okay, okay, yeah, my original report
7 has the focus that is RPV and then effectiveness
8 analysis and then race versus party. So these are
9 my focus, yes.

10 Q. And so you didn't focus on traditional
11 districting principles in your first report; is
12 that right?

13 A. Yeah, I mean, that was not my -- I
14 mean, of course, I do pay attention to all of these
15 criteria and guidance, but my specialty is to
16 analyze elections and find which plan would give
17 black voters more opportunity to elect a black
18 candidate of their choice.

19 So I'm not a scholar of, say, community
20 of interest or compactness or other principles.
21 I'm super familiar with those things, but by no
22 means I'm eligible to provide my expertise or
23 testimony to the court on those matters.

24 Q. And one more question.

25 Did you provide any analysis or opinion

1 race and politics; is that right?

2 A. Yes, in order to do controlled
3 comparison between race and party, you put them
4 together against each other and see which one gives
5 you a better answer of why they are shaping up as
6 they are.

7 Q. So and I think you said earlier you
8 didn't control for traditional districting
9 principles in your report or in this chart; is that
10 correct?

11 A. Correct.

12 Q. So you didn't control for core
13 preservation? Is that correct?

14 A. There's no way for me to control, no, I
15 didn't.

16 Q. And you didn't control for contiguity?
17 Is that right?

18 A. No.

19 Q. Communities of interest?

20 A. These are topics I'm very familiar
21 with, but those are not my expertise. What you
22 mentioned, maybe they violated those principles,
23 but that's not my expertise.

24 Q. And how about preserving VTDs and
25 avoiding VTD splits; did you control for that here?

1 A. Again, I'm not a demographer. I don't
2 know any geocoding. So I don't know locations.
3 And, you know, all of those specialties belong to
4 other experts.

5 Q. Did you control for protecting
6 incumbents?

7 A. Again, that's -- that's not what this
8 report is about.

9 Q. The last one, how about communities of
10 interest?

11 A. I have paid attention to communities of
12 interest, obviously. Even though I am not an
13 expert to provide qualitative testimony about what
14 kind of community of interest and what interest
15 should be protected legally, historically and so
16 on.

17 But my results speak loud about at
18 least how the black community of interest is not
19 protected in this enacted plan, especially
20 concerning CD 1 and CD 2, so...

21 And I also responded to Mr. Trende's
22 report concerning his argument of community of
23 interest, but I'm not here to provide testimony as
24 an expert on community of interest.

25 Q. All right. I have some more questions

1 method for generating Table 7; is that right?

2 A. Correct.

3 Q. Okay, thank you for confirming that.

4 I'm actually trying to slash several
5 pages of my questions and I think you have just
6 helped me with that, so thank you.

7 A. Thank you. Sure.

8 Q. Dr. Liu, your report notes that the
9 Plaintiffs challenged District 1, 2, and 5 in their
10 complaint; is that right?

11 A. Yes.

12 Q. Did you conduct this empirical study
13 analysis for District 5?

14 A. Yes, I did.

15 Q. And what was the result of that
16 analysis?

17 A. As I reported in this report, CD 1 and
18 CD 2 showed, clearly, race is a factor. It has to
19 be explained in terms of how the enacted plan was
20 put together. However, for CD 5, I didn't find
21 either way, support or not support, across all of
22 these categories. I don't see huge differences, so
23 I just cannot use CD 5 to draw the same conclusion,
24 because the data is not sufficient to show either
25 way.

1 Q. Can you point to me where in your
2 report you said that about CD 5? I may have missed
3 it if it's in here.

4 A. I apologize, no, I didn't say that in
5 my report. I was just saying that my report used
6 the CD 1 and CD 2; however, after I did CD 1 and CD
7 2, using the same method for CD 5, I didn't find
8 anything substantive to report. So that's why it's
9 not here in this report, yeah.

10 Q. Okay. Did you conduct this analysis on
11 any districts in the benchmark plan?

12 A. The benchmark took place, obviously,
13 before 2018, the gubernatorial election. That's
14 the election I used. So, no, it wouldn't even fit.

15 Q. Did you conduct this analysis on any
16 districts in the Harpootlian plan?

17 A. No, because the argument is about the
18 enacted plan.

19 Q. Did you conduct this analysis on any
20 districts in Plaintiff plan 1?

21 A. No, I didn't.

22 Q. Did you conduct this analysis on any
23 districts in Plaintiff plan 2?

24 A. No, I didn't.

25 Q. Let's move on to the verification

1 real district drawn, so the envelope idea is from
2 him. That's why I borrowed his idea.

3 Q. Okay. So other than the fact that
4 Dr. Ansolabehere used party registration and you
5 used voter data from an election, are there any
6 differences, other differences, between your method
7 and his approach?

8 A. That's a good question. I cannot speak
9 for him completely. I read his North Carolina
10 report and I don't recall everything he said.

11 Maybe there are some tiny differences,
12 or even major differences, but I don't have any
13 recognition of his point.

14 I learned from his report and I think
15 it's a pretty neat and factually powerful tool
16 based on the rules of social science inferences.

17 So, yeah, again, I don't want to say on
18 record that there's no difference between us at
19 all, but I borrowed his approach and that's the
20 best I can say.

21 Q. And I think you said that this approach
22 again controls for race and politics; is that
23 right?

24 A. Race and party.

25 Q. Okay. But it doesn't control for any

1 other factors; is that right?

2 A. Yes, my responsibility, especially for
3 this original report, is to distinguish the factor
4 of race versus the factor of party, yes.

5 Q. And so this doesn't control for
6 traditional districting principles, correct?

7 A. Yes, even though they are related. But
8 as I stated earlier, community of interest,
9 obviously, racial interest for black voters, that's
10 part of a broad concept of community of interest.

11 But other than that, compactness, or
12 boundaries and all of those principles, this report
13 doesn't say, doesn't address those.

14 Q. And it also doesn't address core
15 preservation, right?

16 A. Well, oh, that's the point I wanted to
17 kind of remind you and the counsels here today,
18 because it is indeed a verification study, right?
19 So it's just, for me, primarily useful for checking
20 what I did in the earlier analysis, whether I can
21 use this for support or confirm what I found.

22 But in terms of the core, I do believe
23 this approach helps us, also understanding how the
24 core is protected, because the idea of envelope is
25 that here you have all of these counties which are

1 the enacted plan is a partisan gerrymandering?

2 MR. CUSICK: Objection as to form.

3 THE WITNESS: Again, I don't see that.

4 I see obviously there is correlation between
5 party and race. And it's well documented in
6 American literature. Black voters in the
7 south prefer Democratic party. White voters
8 in the south prefer Republican party. But
9 that doesn't take away the fact that race
10 may be more important to explain how these
11 districts are drawn. It's because of race
12 that we see partisan advantage one way or
13 another. So the partisan advantage may be a
14 result of the race-driven redistricting
15 process.

16 So if it's partisan gerrymandering,
17 meaning to make one party more advantageous
18 than other party, one has to show empirical
19 data to prove that.

20 And the way to prove that is to put
21 race and party together and see which one is
22 more robust in explaining the outcome of a
23 redistricting plan.

24 To me, the answer is very clear. It is
25 race that should be more important to be

Exhibit 21

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House Plan 2 Senate Amendment 2

District	Biden	%Biden	Trump	%Trump	Total
1	192611	51.83%	178981	48.17%	371,592
2	129735	36.50%	225731	63.50%	355,466
3	119159	34.68%	224403	65.32%	343,562
4	116289	34.16%	224132	65.84%	340,421
5	166077	46.92%	187856	53.08%	353,933
6	224292	65.60%	117592	34.40%	341,884
7	138091	38.84%	217407	61.16%	355,498

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Exhibit 22

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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

THE SOUTH CAROLINA
STATE CONFERENCE OF
THE NAACP, et al,

Plaintiffs,

vs.

CASE NO.

3:21-CV-03302-MBS-TJH-RMG

THOMAS C. ALEXANDER,
et al,

Defendants.

VIDEOCONFERENCE

DEPOSITION OF: WILLIAM ROBERTS

DATE: July 7, 2022

TIME: 9:35 a.m.

LOCATION: 1310 Gadsden Street
Mahogany Conference Room
Columbia, SC

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: ERIC GLAZIER, Court Reporter

1 drawing?

2 A. My understanding is that race can be a
3 factor, but cannot be the predominant factor in
4 drawing maps.

5 Q. What are some examples of racial
6 gerrymandering, based on your experience and work
7 on redistricting?

8 A. Are you looking for district-specific
9 examples?

10 Q. Can you say that again?

11 A. Could you clarify the question for me?

12 Q. What are some examples in your 20 years
13 of redistricting of examples of racial
14 gerrymandering?

15 A. There's been several court cases. I
16 know some out of North Carolina that involve racial
17 gerrymandering.

18 Q. Do you have any examples of what type
19 of maps or how districts might be drawn that might
20 implicate racial gerrymandering concerns?

21 A. Bizarre shapes.

22 Q. Anything else outside of bizarre
23 shapes?

24 A. Not that I can recall at this moment.

25 Q. What steps did you take to ensure that

1 the maps weren't drawn in a way that might
2 implicate racial gerrymandering concerns?

3 A. We didn't use race as a factor in
4 developing the maps.

5 Q. So as a senate cartographer, your --
6 your testimony is that race was not factored into
7 any of the maps that were created or drawn by the
8 senate for congressional redistricting?

9 A. When we were drawing maps, never did we
10 look at race as a deciding factor into putting a
11 certain VTD or area into a district.

12 Q. I hear you on the deciding factor, but
13 I want to make sure the record's clear. I think
14 you testified initially that race did not play a
15 factor.

16 Could you explain what role race played
17 in drawing districts that you drew for
18 congressional redistricting?

19 A. Can you repeat the question for me?

20 Q. What role did race play in the maps
21 that you drew for congressional redistricting maps
22 or districts?

23 A. I'd say race played very minimal or
24 none at all in the factors that we used to draw the
25 districts.

1 Q. Can you describe why it played a
2 minimal role?

3 A. Because the factors that we were given
4 to use were, don't touch the seventh congressional
5 district, Congressman Clyburn wanted minimal-change
6 plan, and Congressman Wilson wanted to keep Fort
7 Jackson and not go to Beaufort.

8 Q. But you're aware that other criteria --
9 or let me rephrase that.

10 Before redistricting in the senate, do
11 you consider race in any of the other 75 or 100
12 districts that you worked with in drawing maps?

13 A. Yes.

14 Q. And why did you consider race?

15 A. That was really the only data we had,
16 was the Census Bureau that had population and race
17 and demographic information.

18 Q. And so you reviewed the congressional
19 redistricting guidelines, and the three
20 instructions that you were given are not within any
21 of those guidelines, correct?

22 A. That's correct.

23 Q. In congressional districts, under C, it
24 says, race can be a permissible use in
25 redistricting. And you were given instruction that

1 it must play a minimal or no role?

2 A. No, I mean, that's -- that's just the
3 way it worked out. There was no discussion --
4 minimal discussion on race. It really revolved
5 around other data that we had.

6 Q. I guess, how would you assess, then, if
7 maps might -- I mean, let me rephrase that.

8 Did you repeatedly hear concerns in the
9 public record about racial gerrymandering?

10 A. Can you repeat the question?

11 Q. Did you hear concerns in the public
12 record about the maps that were drawn and proposed
13 by the senate and -- sorry.

14 (Off-the-record conference to address a
15 technical issue)

16 BY MR. CUSICK:

17 Q. Just so it's clean for the record,
18 Mr. Roberts, the instruction not to touch
19 Congressional District Seven is not in the
20 congressional redistricting guidelines for the
21 senate, correct?

22 A. That's correct.

23 Q. Nor is a minimal-change map?

24 A. I believe that would be in the
25 guidelines.

1 else from that organization?

2 A. Not that I can recall.

3 Q. And what was the specific request for
4 data?

5 A. We were trying to get election results
6 to map and see the republican-democratic breakdown
7 in the latest elections.

8 Q. Why was that important for
9 congressional redistricting?

10 A. To see what the political make-ups of
11 the districts were under the benchmark as well as
12 what they were going to be under any proposed plan
13 we did.

14 Q. And why was that relevant for you
15 drawing maps?

16 A. With -- that's going to be a question
17 that the members were going to ask, as far as the
18 political make-up of the districts, so we were
19 going to get that information for them before they
20 asked for it.

21 Q. Did members make that ask?

22 A. Can you repeat that? You broke up a
23 little.

24 Q. Did members ask for those breakdowns?

25 A. Yes, multiple times.

1 Q. Did you expect members to ask for BVAP
2 breakdowns?

3 A. Yes. We produce those reports as well.

4 Q. Who made the request for breakdowns for
5 the data -- for the partisan breakdown data from
6 the subcommittee?

7 A. I know for a fact that Senator Campsen
8 requested it, but I believe -- I'd have to go back
9 and look at the notes. I think everybody is
10 provided with the same information. But there was
11 some specific request from Senator Campsen for the
12 information.

13 Q. Did you make it aware to all
14 subcommittee members that you had access to this
15 data?

16 A. Yes.

17 Q. Was that conveyed via email or other
18 means?

19 A. I don't remember how it was conveyed to
20 the members, but everybody knew that we had
21 political data.

22 Q. I think you mentioned that you saw data
23 for the most recent election returns. Did I hear
24 that right?

25 A. Yes. We had election data for the 2020

1 Q. Did anybody else make specific requests
2 for certain data like the one you mentioned with
3 Senator Campsen throughout the process?

4 A. When we discussed maps with members,
5 that was something we typically discussed with
6 them, was the 2020 election performance in each of
7 the districts.

8 Q. You recall discussions with Senator
9 Campsen. Any other discussions about political
10 performance that you participated in with other
11 members?

12 A. Yeah. I had a conversation with
13 Senator Grooms. We had two maps that we were
14 looking at, trying to get some feedback on from
15 him. There was two maps. One of them had a
16 smaller Trump -- republican percentage number in
17 the first congressional district than the other.
18 We showed Senator Grooms both maps. He said he
19 liked both of them very much, but only one of them
20 was going to pass the South Carolina general
21 assembly.

22 Q. Do you have any sense why he liked one
23 map more than the other?

24 A. He said he liked both maps the same,
25 but one was going to pass the South Carolina

1 general assembly and one wasn't.

2 Q. Did he explain why one was and one
3 wasn't?

4 A. He did. He said that the map that had
5 the lower republican -- the lower Trump number
6 would not have passed the South Carolina general
7 assembly.

8 Q. Was this the only political data that
9 you had access to for congressional redistricting,
10 was what was provided by Mr. Benson -- or was it
11 Mr. Benson? Sorry.

12 A. That was the only data that we actually
13 loaded into the mapping system. The state election
14 commission has a large database of previous
15 election results that we downloaded but never
16 pulled into a mapping format.

17 Q. Did you have any other contact with any
18 other senators outside of Senator Grooms who are
19 not part of the redistricting subcommittee about
20 congressional redistricting?

21 A. Not that I can recall at this moment.

22 Q. Do you know if Mr. Terreni or other
23 folks were involved in any, and then you received
24 information about those conversations or contact?

25 A. You'd have to ask them.

1 Q. You said you didn't look at race in the
2 populations that you were moving in and out of CD
3 One and CD Six?

4 A. That's correct. We looked at partisan
5 numbers.

6 Q. Were there any discussions concerning
7 maintaining a majority minority district in CD Six?

8 A. Not that I recall at this point.

9 Q. What about -- you mentioned discussions
10 about political data. Were there any discussions
11 about districts being politically competitive in
12 this initial staff plan?

13 A. Yes, there was.

14 Q. And what did those discussions entail?

15 A. Making the first congressional district
16 a more republican-leaning district than what it was
17 under the benchmark.

18 Q. And who -- who gave that instruction?

19 A. I don't recall who that came from.

20 Q. Is that anywhere in the redistricting
21 criteria?

22 A. Not that I'm aware of.

23 Q. Who would recall where that instruction
24 came from?

25 A. Anyone that's on the mapping team, the

1 core redistricting team.

2 Q. How did you receive instructions such
3 as this, to draw a district a certain way?

4 A. Well, the issue we were running into
5 is, we had to get a large population out of
6 District One. And so we looked at the political
7 information to make the determination of where we
8 were going to pull the population from, which
9 resulted in a more republican-leaning district.

10 Q. But you -- did you say that you got an
11 instruction to make CD One more republican-leaning?

12 A. I wouldn't say it was an instruction.
13 It was just a natural occurrence of what happened
14 when we moved the population that we did.

15 Q. Just so we're on the same page, so did
16 you receive any instruction to make CD One more
17 republican-leaning in this initial staff plan?

18 A. Not specific direction to do that, but
19 given the choice that we made, that was what
20 occurred.

21 Q. Got it. I think I heard you say -- did
22 you use the term, organic?

23 A. I don't think so, but possibly.

24 Q. Did you set out in drawing this first
25 map to make CD One more republican-leaning?

1 A. We had to move a large population out
2 of District One, and we weren't going to pull a lot
3 of republicans out of District One and put them
4 into District Six, so we pulled a lot of democrats
5 out of District One, putting them into District
6 Six, which increased the performance of District
7 One.

8 Q. I hear you on that, but my question is
9 just, did you set out in drawing this initial staff
10 plan to make CD One more republican-leaning?

11 A. Given the fact that we had to remove a
12 large portion of the population from District One
13 to District Six, we did look at the republican and
14 democratic numbers to make a determination of which
15 population to put into District Six.

16 Q. And so just so we're clear, just a yes
17 or no, did you initially set out in drawing this
18 staff plan to make CD One more republican-leaning?

19 A. Yes.

20 Q. Okay. And if you set out to do so,
21 what was that basis on?

22 A. That we had a republican-controlled
23 legislature, and movement of republicans into
24 District Six would make District One a more
25 competitive district, which would then lead to a

1 plan that might not have the votes to pass the
2 general assembly.

3 Q. And so who -- and how did you make that
4 determination or...

5 A. That was discussed amongst staff.

6 Q. And which staff?

7 A. The core redistricting team.

8 Q. Any outside counsel?

9 A. Charlie Terreni.

10 Q. Anyone else?

11 A. Not that I can recall.

12 Q. Can you walk me through how generally
13 you made CD One more competitive, or more
14 republican-leaning?

15 A. Do you have a copy of the benchmark
16 that I can compare to so that I can see exactly
17 what changed between the two?

18 Q. Yes. I can pull up -- give me one
19 second.

20 MR. CUSICK: Mr. Gore, I'm just going
21 to go to the senate home page that lists the
22 benchmark, just to give you a heads-up that that's
23 what I'm going to pull up on the screen, and for
24 your awareness, too, Mr. Roberts.

25 And I'll introduce this as Exhibit 13.

1 (Off-the-record conference)

2 DEFENSE COUNSEL: John, I gave Will my
3 laptop and just put it on the senate page, so you
4 tell him where you want him to go, and just pull it
5 up for him.

6 MR. CUSICK: Oh, yeah.

7 BY MR. CUSICK:

8 Q. Well, I guess, maybe -- maybe if it's
9 easier, Mr. Roberts, if you want to keep up the
10 benchmark plan, and then I can keep up the -- what
11 was Plaintiff's Exhibit 12, I haven't introduced
12 the other one, and then -- would that be helpful
13 for you, looking at -- at the two?

14 A. Yeah, let me get this pulled up real
15 quick.

16 Q. Okay. I think I should have the staff
17 plan back up. And, I guess, you let me know if
18 there's anything else helpful. I'll try to zoom in
19 on CD One here.

20 (Off-the-record conference to address a
21 technical issue)

22 (PLF. EXHIBIT 13, SOUTH CAROLINA
23 CONGRESSIONAL DISTRICTS, was marked for
24 identification.)

25 MR. CUSICK: Let me just put that in

1 right now. Mr. Roberts has it up on his screen.
2 And then I have Plaintiff's Exhibit 12 up on my
3 screen, which is the senate staff plan.

4 DEFENSE COUNSEL: Okay, John. He's got
5 it pulled up now.

6 MR. CUSICK: Great.

7 BY MR. CUSICK:

8 Q. And so, I guess, can you walk me
9 through how you made CD One more
10 republican-leaning?

11 A. Certainly. So the issue we were
12 running into with redrawing the districts is
13 getting a large portion of the population out of CD
14 One into CD Six. Under the benchmark, there was an
15 original -- under the benchmark, there was a cut
16 down through Berkeley County, down on the north
17 side, in between Daniel Island and Hanahan, leading
18 to North Charleston and the peninsula of
19 Charleston.

20 So what we did under the staff plan was
21 reverse that, including more of Berkeley County
22 into the first congressional district, and then
23 pulling the sixth congressional district into
24 Charleston by running through the Saint Andrews,
25 West Ashley area to get to the downtown Charleston

1 peninsula as well as the North Charleston area.

2 Q. Now, did you have some constraints at
3 all with any of the other instructions you were
4 given about CD Seven or Beaufort County being in CD
5 Two, based on what we discussed earlier about the
6 ripple effects of CD districts?

7 A. Yeah, that's correct. Without being
8 able to take Two down to Beaufort or messing with
9 the seventh, I couldn't put people into the ocean,
10 so I had to put them into the sixth.

11 Q. Right.

12 So would it be fair to say there really
13 could only be at least for CD One and Six primarily
14 voters from those areas moved in and out?

15 A. That's correct.

16 Q. In your work in local redistricting --
17 let me rephrase that.

18 Who made the determinations that you
19 just discussed about specific areas to move in and
20 out? For example, who made the decision to move
21 parts of Charleston into CD Seven versus for them
22 to -- or CD Six versus them to stay in CD One?

23 A. Can you repeat that? You've got me a
24 little confused.

25 Q. I guess, who made the determines on

1 which geographical areas to focus on for moving
2 voters? How did you focus on the areas in
3 Charleston County to go into --

4 A. That would have been a group decision
5 that would have been made. Typically when we did
6 the redistricting of the maps, we had a large
7 screen. It was in Senator Rankin's office. I'd be
8 sitting at the computer, drawing, while the
9 attorneys in the back were making recommendations
10 or giving me suggestions on what to do.

11 Q. The attorneys were making suggestions
12 to maximize republican-leaning district CD One?

13 A. Not necessarily. We still had to get
14 the population out of CD One into CD Six.

15 Q. And so who was involved in the
16 decisions for the changes made in moving those in
17 and out?

18 A. That would have been the core
19 redistricting team of Charlie Terreni, Andy
20 Fiffick, myself, Breeden John, and Paula Benson.

21 Q. Do you recall who made any of the
22 suggestions to focus specifically on certain areas
23 in Charleston?

24 A. I don't recall if it was a single
25 individual or a group consensus of what changed.

1 Q. As you were drawing these, did you look
2 at any statewide or county-level voting patterns?

3 A. We looked at the political information
4 typically at the VTD level when making these
5 changes.

6 Q. Did you share with any redistricting
7 subcommittee members that there was a goal to
8 maximize CD One as republican-leaning?

9 A. Can you repeat that question?

10 Q. Did you share with any of the
11 redistricting subcommittee members a goal to
12 maximize CD One to be republican-leaning compared
13 to the benchmark plan?

14 A. I don't recall.

15 Q. Do you think it would have been
16 helpful?

17 A. Possibly.

18 Q. And why?

19 A. To explain some of the questions we got
20 about the way the map worked.

21 Q. Do you recall your testimony earlier
22 about the process being rigged that you heard
23 during public comments?

24 A. Could you repeat that again?

25 Q. Do you recall what we discussed earlier

1 about the redistricting process being rigged that
2 members of the public expressed at different
3 hearings?

4 A. Yes.

5 Q. Do you think it would have been helpful
6 to share that a goal of CD One was maximizing it
7 being republican-leaning?

8 A. I wouldn't say the goal is for us to
9 maximize this. There's other ways to draw it which
10 we could have maximized the republican -- I
11 wouldn't say this is the maximization republican
12 plan from the first, but it was drawn not to dilute
13 the republican percentage in the first.

14 Q. And how did you go on about assessing
15 dilution of republican voters?

16 A. We looked at the benchmark performance
17 compared to the map that we were putting together.

18 Q. When you were looking at specific VTDs
19 that you were moving in and out, did you at all
20 look at race of the voters within those VTDs?

21 A. No, we did not. We looked strictly at
22 the 2020 presidential election results.

23 Q. Was it possible to look at race based
24 on the software you were using?

25 A. That was possible, yes.

1 Q. Was there an instruction not to use or
2 to look at race?

3 DEFENSE COUNSEL: Objection. Asked and
4 answered.

5 A. No, there was no direction not to look
6 at it.

7 Q. And this just might be my own naivety
8 with the software, but is this there -- do you have
9 to turn on displays of different demographic
10 categories that are included in the Maptitude
11 software when you're making changes?

12 A. Yes, it's possible to do that.

13 Q. And so, I guess, what's displayed on
14 the screen when you're making the changes for
15 potential demographic categories that could be
16 shown?

17 A. What we used was basically the total
18 population and the percent -- yeah, percent Biden
19 number, the percent Trump number when we were
20 drawing.

21 Q. And so after this initial proposal was
22 finalized, was there any discussion of BVAP among
23 the districts before it was publicly posted?

24 A. Not that I can recall right now.

25 Q. Who do you consider the primary

1 and moved the lines to follow the natural
2 geographic features around Charleston County.

3 Q. Anything else for the process of
4 incorporating public input?

5 A. With the first congressional district,
6 we also had public input originally in one of the
7 public meetings about the Sun City area of Jasper
8 County wanting to be put in the first congressional
9 district with the Sun City portion of Beaufort
10 County, which is almost right across the road from
11 each other, but it's divided by a county boundary.

12 So we took that into consideration,
13 leading that into -- in the First Congressional
14 District. And that's about all I can recall as far
15 as public input on the first congressional
16 district, which we went through and changed.

17 Q. Before it was publicly posted on
18 January 11th, but after it was -- it was finalized,
19 the drawing part of it, were there any discussions
20 about the BVAP in any of the districts?

21 A. Not that I can recall.

22 Q. Was it shared with anyone else, the
23 final version, before it was publicly posted,
24 outside of the core redistricting team?

25 A. Not that I can recall. It might have

1 Do you recall that?

2 A. Yes.

3 Q. Did I ever draw any maps?

4 A. No.

5 Q. Did I ever direct the drawing of any
6 district lines?

7 A. No.

8 Q. Did I ever share any maps that someone
9 else had drawn?

10 A. No.

11 Q. Okay.

12 Mr. Cusick asked you about public
13 comments that the redistricting project was rigged.
14 Do you remember that conversation?

15 A. Yes, I do.

16 Q. Do you think the process was rigged?

17 A. No.

18 Q. How would you describe the process?

19 A. I'd say it was a pretty transparent
20 process as far as the map drawing and the
21 information that's available to the public. I'd
22 say that politics really drove the decisions that
23 were made on the map.

24 Q. Can you elaborate on that?

25 A. Senator Campsen really played a large

1 role in determining which map made it to the
2 full -- to the -- out of subcommittee, and he
3 really wrestled with the fact that, you know, he
4 was moving a large chunk of Charleston out of the
5 first congressional district, which was his home
6 county. And he was having to determine, do I want
7 more of Charleston or do I want more republican
8 representation in the first congressional district.
9 And so that was a real political decision he had to
10 make.

11 Q. And did he ever tell you which decision
12 he made?

13 A. Yes, he did. He told me he was going
14 with the plan that had the higher Trump percentage
15 over more of Charleston.

16 Q. Now, earlier this morning, you
17 discussed whether you considered BVAP with
18 Mr. Cusick.

19 Do you remember that?

20 A. Yes.

21 Q. And he asked you whether considering
22 BVAP is helpful in drawing a plan and whether you
23 did on past clients.

24 Do you remember that?

25 A. Yes.

1 that right?

2 A. That's correct.

3 Q. And was that political data made
4 publicly available?

5 A. Yes, it was. It was put on the senate
6 redistricting website and was available for
7 downloading.

8 Q. And did the core redistricting team, or
9 you or someone else on that team, generate reports
10 that show partisan data for various plans?

11 A. Yes, a lot of them.

12 Q. And were those made publicly available
13 as well?

14 A. I believe they were included with all
15 the plans that were posted online. I'd have to go
16 back and check, but I'm pretty sure they're all
17 there.

18 Q. Mr. Cusick asked you earlier today
19 about a minimal change instruction that you
20 received from Mr. Fiffick or Mr. Terreni.

21 Do you remember that?

22 A. Yes.

23 Q. And that instruction you received, was
24 it a statewide instruction or was it limited to
25 particular districts?

1 made minimal change just to balance the population.

2 Q. And was District Five a minimal-change
3 district?

4 A. District Five was also a minimal-change
5 district, just to balance the population.

6 Q. Mr. Roberts, did you draw any lines on
7 any maps based upon race?

8 A. No.

9 Q. And did you ever intend to discriminate
10 against anyone when you drew any maps?

11 A. No.

12 MR. GORE: No further questions.

13 MR. CUSICK: I just have two hopefully
14 very brief ones, if that's okay. One's just
15 clarification and then one's just a follow-up on
16 the recommendations.

17 EXAMINATION

18 BY MR. CUSICK:

19 Q. And the clarification question -- and I
20 just want to make sure I'm on the same page.

21 Mr. Gore asked you about considering
22 BVAP when you were drawing -- or considering BVAP
23 when you draw districts?

24 A. Mm-hmm (affirmatively).

25 Q. And do you consider that to be a legal

Exhibit 24

RETRIEVED FROM DEMOCRACYDOCKET.COM

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF SOUTH CAROLINA
3 COLUMBIA DIVISION

4 THE SOUTH CAROLINA)
5 STATE CONFERENCE OF)
6 THE NAACP, et al.,)

7 Plaintiffs,)

Case No. 3:21-CV-03302-MGL-
TJH-RMG

8 vs.)

9 THOMAS C.)
10 ALEXANDER, et al.,)

11 Defendants.)
12)
13)

14 Videotaped Remote Deposition of
15 SENATOR GEORGE EARLE CAMPSSEN, III
16 (Taken by Plaintiffs)
17 Isle of Palms, South Carolina
18 Friday, August 5, 2022
19
20
21
22
23

24 Reported in Stenotype by
25 Lauren M. McIntee, RPR, CRR
Transcript produced by computer-aided transcription

1 A. No. It's a -- both of them said it.
2 Unsubstantiated allegation.

3 Q. Do you recall people testifying --

4 A. I don't think it could be substantiated
5 because I don't think the staff plan was shared with any
6 members. I didn't see it before the staff plan came
7 out. The chairman wanted -- let's just get something
8 out there. We got to -- and we were -- we were in a
9 rush because we were being sued. We were -- we were --
10 and we were accused of being late, and we were late
11 because the census data was -- was late.

12 And yet there was -- there was a lawsuit,
13 wanting -- asking the court to draw up a plan because
14 we're not getting it done, and we were pushing it on the
15 fast track so the staff got a plan, got a plan out there
16 as a working document to start going, and it gets
17 attacked. And I don't -- I never saw it. I don't think
18 anyone saw it, any member saw it.

19 And I may be wrong on that, but -- but -- but
20 number one, I don't think that -- I don't think the
21 staff took race into account when they produced their --
22 their staff plan. I'm confident they didn't. And if
23 no -- if other members didn't look at it, like I didn't
24 have a chance to look at it, they had no basis for
25 making a racial gerrymander accusation.

1 Q. If people during the November 29th
2 subcommittee hearing on that staff plan made claims of
3 racial gerrymandering to that initial staff plan, did
4 you associate that claim with the Democratic talking
5 point?

6 A. No. I associated it as an allegation, as a
7 false allegation that -- because it probably was not --
8 it couldn't -- I didn't think it could be substantiated.
9 I don't -- I didn't think the analysis could have been
10 done because none of us looked at the plan before the
11 staff issued it out. So how can you make that
12 allegation on a plan that you never even really
13 analyzed? That was my point there.

14 Q. If the plan was produced or the plan was
15 publicized on November 23rd and the hearing was held on
16 November 29th, is it your determination that members of
17 the public could not conduct an analysis that would
18 allow them to comment one way or another whether the
19 proposal might implicate concerns of racial
20 gerrymandering?

21 MR. TRAYWICK: Object to the form of the
22 question.

23 THE WITNESS: Like do I -- you want me to
24 answer that?

25 MR. TRAYWICK: Oh, yeah, you can answer. I'm

1 sorry. Anytime I object, unless I instruct you not
2 to answer, please just go ahead and answer.

3 A. Okay. So could you restate the question?

4 BY MR. CUSICK:

5 Q. Sure. So just so for the context. You
6 mentioned that you couldn't understand how somebody
7 could do an analysis or make a determination whether
8 that staff plan might have had concerns of racial
9 gerrymandering. Did I hear that right?

10 MR. TRAYWICK: Object to the form.

11 A. Yes. Yeah.

12 BY MR. CUSICK:

13 Q. And so my question was, if the plan was
14 released on November 23rd to members of the public and
15 then six days later on November 29th the subcommittee
16 held a hearing on that plan, would that have given
17 enough time for members of the --

18 A. Yeah, that could --

19 Q. -- public --

20 A. Well, that could give enough time. I didn't
21 look at the plan, though. I didn't look at the plan
22 until after it was presented at the subcommittee
23 meeting.

24 Q. Right. And so claims of racial
25 gerrymandering by members of the public during that

1 November 29th hearing, you had no basis one way or
2 another to discount those because you had not done any
3 analysis or had not seen the plan?

4 A. Well -- well, I did have a basis because I
5 knew that our staff would not have race as a predominant
6 factor in drawing the plan. I did know that much. So
7 could it -- could a -- could it have been theoretically?
8 Yes. Would our -- would our staff have done that? Not
9 a chance.

10 Q. Could it have been done inadvertently? Does
11 it require an intent?

12 A. I think they are smart enough not to do that
13 inadvertently because they understand the legal
14 framework in which reapportionment -- that
15 reapportionment is subject to.

16 Q. Did you ever ask --

17 A. It's really -- it's really a product of
18 listening to other members. There's members that had
19 unfettered access to the map room. Each member goes in,
20 they tell the staff what they want, what they want to
21 do, and they try to balance everyone's interests, and
22 they come out with a plan. And if -- if the staff
23 produced a racial gerrymandering -- the chances of the
24 staff producing a racial gerrymandering plan out of that
25 process is about zero.

1 Q. Did you ever ask for an analysis of racial
2 gerrymandering or if there are ways to measure whether
3 there might be ways of measuring racial gerrymandering?

4 A. At what point in time? At -- at this
5 subcommittee?

6 Q. At all during the process?

7 A. Oh, yeah. I told the staff the whole
8 process, I said, I want you to tell me if we are
9 violating section -- the Voting Rights Act, if there's
10 any -- if this could be alleged as racial
11 gerrymandering, whether we're diminishing minority
12 voting strength. I said I want y'all to let me know.

13 Q. Could you --

14 A. But I also told them I don't -- but I also
15 told them I don't know -- I don't want to know the B --
16 BVAP numbers and all these when we look at a precinct or
17 we look at a -- I want y'all to be the -- I want y'all
18 to tell me. I want to be colorblind.

19 Q. Why did you want to be colorblind?

20 A. Because I didn't want to run the risk of
21 having someone allege that we -- that I or we drew these
22 districts based upon race.

23 Q. Was it your understanding that if you looked
24 at BVAP numbers in a plan, that you could be accused of
25 that?

1 A. No, but I -- but I wanted to just -- I just
2 let -- let the staff who are good lawyers, who
3 understand the -- the applicable laws that we are
4 subject to and the case law, and I just looked at
5 political numbers. I didn't look at the BVAP numbers.
6 But I -- but I relied upon them to let me know if there
7 was a -- a problem with a potential racial
8 gerrymandering -- racially gerrymandered district of any
9 decision along the way that we make, you let me know.
10 But I want to let y'all be -- be the ones who keep an
11 eye on that.

12 Q. Is this --

13 A. And race matters in communities of interest,
14 for example. And I -- and I brought that to bear. Like
15 I wanted to make sure that St. Helena Island was kept
16 together, that Gullah-Geechee culture down there. And
17 -- but I didn't have to look at BVAP numbers to know
18 that St. Helena needed to be kept in place. I know -- I
19 know -- I know it. I know the culture. I know -- I
20 know, so yeah. I wanted them to -- I wanted the staff
21 to let me know if we were getting in trouble.

22 Q. Is it fair to say that most senators know the
23 racial demographics of the districts that they
24 represent?

25 A. Probably. Close -- I mean, a general sense.

1 A. Yeah.

2 Q. And what was discussed on the call?

3 A. Just what went on, what district, you know
4 whether we're going to be running under the new
5 districts or the old district. And that was an issue up
6 in the air for some period of time.

7 Q. Did she provide any feedback or input on how
8 congressional maps should be drawn during your
9 interactions?

10 A. Not really. I mean, she wanted -- not -- not
11 really. Not -- not about particular areas.

12 Q. What did she want?

13 A. What's that? Well, the original House plan
14 that she was concerned about, that the original plan
15 that the House adopted and then they -- then they
16 adopted a different plan, but she did, she was concerned
17 about that and wanted to know what the House did. And I
18 said I'm not sure what the House did or why. But the
19 political numbers were not favorable for her, and that's
20 what she was concerned about.

21 Q. Do you recall if the phone call occurred
22 generally around the same time as the text message
23 exchange?

24 A. Probably was earlier than that. Probably
25 right after the House passed its first plan. Because

1 that's what -- that's what she expressed concern over.

2 Q. And just to close it out, did you receive any
3 other feedback from any members of her office or anybody
4 representing or working on behalf of her office?

5 A. I communicated with a chief -- with her chief
6 of staff, you know, that -- and then her chief of staff
7 resigned. I think it was a chief of staff, but it
8 was -- she had a chief of staff or a staffer who was
9 kind of a point person on reapportionment resigned. And
10 so really I never -- never heard back, never heard back
11 from her. She resigned shortly thereafter.

12 Q. Did you ever have any interactions with
13 anybody from Congress Member Wilson's office?

14 A. No.

15 Q. Did you ever speak with Congress Member
16 Wilson about redistricting?

17 A. No.

18 Q. Did you ever receive feedback conveyed by
19 Senate staff members or anything about input from
20 Congressman Member Wilson's office?

21 A. I had heard that he had, from staff that he
22 was interested in keeping Fort Jackson in his district
23 because he's -- you know, military base. He's on the
24 Armed Services Committee and that's -- senior member,
25 and that's very important. That's pretty much all I

1 recall with him.

2 Q. What about do you recall or did you have any
3 interaction with anybody on behalf of representative --
4 Congress Member Clyburn's office?

5 A. I didn't -- I heard from -- I know that the
6 staff, the committee staff met with a staff member from
7 Congressman Clyburn's office. That's all I -- that's
8 all I'm aware of on that front.

9 Q. Did the staff convey any feedback or input on
10 how that meeting would impact the maps that they were
11 drawing or considering?

12 A. My recollection is that there was an
13 expression of -- of being kind of okay with what the
14 direction that we were heading in the Senate from their
15 perspective, but that's hearsay. I mean, I may be wrong
16 on that, but that's third -- thirdhand.

17 Q. And who conveyed that to you on the Senate
18 staff side?

19 A. I think it was Andy Fiffick who met with
20 Congressman Clyburn, had met more than once probably
21 with Congressman Clyburn's representative.

22 Q. Did you ever meet with anyone from Congress
23 Member Rice's office?

24 A. No.

25 Q. Did you ever speak with Congress Member Rice

1 plan came out.

2 Q. And so your concern was that it was a
3 Democrat -- Democratic CD1 under that plan --

4 A. Yeah, the political --

5 Q. -- that additional --

6 A. The political numbers were -- were a slightly
7 Democrat district, yeah. When I say "political," I
8 mean, you're looking at the 2020 election, Trump/Biden
9 vote.

10 Q. And so you were following the House
11 congressional redistricting process, would it be fair to
12 say?

13 A. The audio -- the audio, I lost the audio.

14 Q. Sorry. Would it -- would it be fair to say
15 you were following what the House was doing for their
16 congressional redistricting process?

17 A. I really wasn't following it closely at all,
18 but it's just when they produced that plan, it -- it --
19 that caught my attention. And this is very normal in
20 the legislative process to talk to other leaders in the
21 other chamber and, you know, are y'all, are y'all okay
22 to considering something else? Because you're going to
23 end up in conference committee at the end of the day.
24 And so that -- that's -- that's really what I did in
25 response to that.

1 THE VIDEOGRAPHER: We are back on the record
2 at 12:17 p.m.

3 BY MR. CUSICK:

4 Q. Senator Campsen, I want to talk now a bit
5 more, just to fully delineate the roles of some of the
6 Senate subcommittee staff members. How would you
7 describe Mr. Terreni's role for your interactions with
8 him for congressional redistricting?

9 A. Legal counsel, legal advice on pretty much
10 everything having to do with redistricting.

11 Q. Was he the only person that you relied on for
12 legal opinions for any maps that you were considering or
13 discussing?

14 A. Well, I -- I would get the opinion of Andy
15 Fiffick, although he's not as, really as much an expert
16 as Charlie, but Charlie was always the final person that
17 you go to as far as for real legal advice.

18 Q. How would you describe Mr. Roberts' role?

19 A. He was the cartographer, and very important
20 role and is aware of -- but he's not a lawyer, but is
21 aware of very -- very much aware of the law surrounding
22 redistricting. And of course, we get his input on
23 really just the demographic -- not the demographic, but
24 census, the data for each precinct, the -- how many
25 people, what the political numbers are, Biden -- you

1 know, Biden/Trump numbers. So he was the cartographer
2 who provided that information.

3 Q. How about Breeden John?

4 A. Breeden was -- Breeden was really kind of
5 assisting Charlie and Will, I guess I -- was my
6 perception.

7 Q. And when you say "assisting Mr. Terreni,"
8 that's for legal -- for legal advice?

9 A. Yes.

10 Q. For your interactions with them, I know we
11 talked before about BVAP, or black voting age
12 population. Did you instruct them just not to discuss
13 or tell you anything related to racial demographic
14 numbers during your interactions with proposed maps --

15 A. No.

16 Q. -- or discussing proposed plans?

17 A. I told them I don't want -- I don't -- I told
18 them -- I told them don't give me the BVAP numbers for
19 any particular precinct we're looking at, but I want you
20 to -- I want you to let me know if, whenever we run
21 afoul of -- of any -- when we get into trouble making a
22 decision or a -- or a potential, we're considering
23 putting a precinct in the district or not, for example,
24 are we -- are we -- let me know when we're getting in
25 trouble when it comes to Voting Rights Act or any of

1 A. No, and there's nothing in the guidelines to
2 shore up a 5 to 2 Republican/Democrat split that Senator
3 Harpootlian offered either.

4 BY MR. CUSICK:

5 Q. Anything in the guidelines requiring CD1 to
6 be less politically competitive for either party?

7 A. No, that's not in the guidelines.

8 Q. Do you recall shoring up a Republican
9 advantage in CD1 as coming up in the map drawing
10 process?

11 A. Yes. I was -- I took political factors into
12 account, and that was part of the process.

13 Q. Was the partisan gains --

14 A. It wasn't dominant. It didn't control
15 everything, but it was part of the process. I could
16 have drawn a map much more Republican.

17 Q. So would you say partisan gain was something
18 that motivated the map that you drew?

19 MR. TRAYWICK: Object to the form.

20 A. It was a fact- -- it was a factor.

21 BY MR. CUSICK:

22 Q. During any of the times you presented the map
23 publicly, did you ever state that?

24 A. I -- I can't recall whether I did or not.

25 Q. Would there be any reason you wouldn't state

1 did do that, but that was I think in looking -- in a
2 look at the final product as I recall.

3 BY MR. CUSICK:

4 Q. And just about as familiar with the process
5 of sponsoring an amendment, but as the lead -- would it
6 -- would it be fair to say you were the lead sponsor or
7 the sponsor?

8 A. Yes, you could say either.

9 Q. And so for any analyses or review that needed
10 to be conducted, would that have been at your direction?

11 A. The staff would have done that as a matter of
12 course.

13 Q. And they would have conducted the same types
14 of reviews that we've already discussed today about
15 other iterations of maps you've been involved in?

16 A. That's correct. And I certainly asked them,
17 is it defensible or is it going to work? And, so. But
18 I didn't really need to ask them. I knew they would do
19 that analysis.

20 Q. Would you say one of the objectives for CD1
21 was to make it more politically advantageous for
22 Republicans?

23 A. To keep it a Republican district, that was
24 one of the --

25 Q. And what was the process?

1 A. -- goals, it is.

2 Q. And what steps did you take to -- to
3 determine whether it would remain a Republican district?

4 A. Looked at the political numbers as far as the
5 vote counts and among the -- in the precincts for the
6 district. And it really, it really moved the needle
7 very, just very slightly actually. Could have made a
8 lot more Republican, but also would have violated
9 more -- perhaps run afoul of some of the federal law or
10 the redistricting principles that we are subject to.

11 In fact, probably took a little -- probably a
12 lot -- a lot of people say should have been -- been more
13 Republican, but I wanted to honor those principles. And
14 we -- we moved it like a point and a half, one and a
15 half percentage points to the Republican side. It was
16 basically a swing district, and we moved -- the
17 Republican vote went up like one and a half percentage
18 points.

19 Q. Did you consider CD1 a swing district before
20 the new -- the new lines?

21 A. It was -- it was pretty -- pretty close to a
22 swing district, yes. I mean, you had Joe Cunningham was
23 elected and Nancy Mace was elected. It was pretty much
24 a swing, or close to it anyway. The -- so still a
25 Republican district, but close to being a swing, is what

1 I would say it was.

2 Q. And it would have been impossible to maintain
3 it as a swing district, but also balance total
4 population deviation?

5 A. Would that have been possible? I don't know.

6 Q. Anything else you think is helpful in
7 understanding the process for the creation of Senate
8 Amendment 1?

9 A. Is there anything -- could you restate the
10 question?

11 Q. No, just anything else you think that's
12 helpful in understanding what went into or factored into
13 the creation of Senate Amendment 1?

14 A. Well, Senate Amendment 1 did a lot better job
15 of following geographic boundaries versus other --
16 other -- other proposals or iterations that like the
17 House passed. We -- it was -- it was better on that
18 front than what the House had passed.

19 It actually, after the fact, after we passed
20 it learned this, but actually it kept the least numbers
21 because, as staff do when we were accused of racial
22 gerrymandering, but it actually slightly reduced the --
23 it increased the B -- the black voting age population in
24 the 1st and decreased it in the 6th. By small amounts,
25 but so. So there wasn't any kind of packing or stacking

1 A. No.

2 Q. Regarding staff, you don't know at what point
3 in the process they looked at race, right? So it could
4 have been after they drew the plan?

5 A. When they looked at race?

6 Q. To determine compliance with federal law?

7 A. I -- well, I would say that they looked at it
8 periodically throughout the whole process. Because you
9 compare different proposals. You look at them. You
10 have to -- you have to do some -- some level of
11 comparison during that process.

12 Q. Sure, but did it predominate when they were
13 drawing the maps themselves?

14 A. Yes. I mean, it was predominant at the end.

15 Q. -- did race predominate --

16 A. Excuse me?

17 Q. Did race predominate when they were drawing
18 the maps?

19 MR. CUSICK: Just objection, form.

20 A. No.

21 BY MR. TRAYWICK:

22 Q. Earlier on Exhibit 4, would you mind turning
23 to that, please, Senator Campsen? That was the -- or
24 I'm sorry, not Exhibit 4. The submissions policy, yes,
25 I'm sorry, Exhibit 4.

Exhibit 25

RETRIEVED FROM DEMOCRACYDOCKET.COM

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

THE SOUTH CAROLINA
STATE CONFERENCE OF

THE NAACP, et al,
Plaintiffs,

vs.

CASE NO.

3:21-CV-03302-MBS-TJH-RMG

THOMAS C. ALEXANDER,
et al,

Defendants.

VIDEOCONFERENCE

DEPOSITION OF: SHANE MASSEY

DATE: August 2, 2022

TIME: 10:43 a.m.

LOCATION: Edgefield, SC

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: ERIC GLAZIER, Court Reporter

1 A. No, I think -- I think Fort Jackson is
2 definitely a community of interest. There's a
3 large military population at the fort and around
4 the fort, and having them stay together -- and they
5 are all familiar -- I mean, Congressman Wilson has
6 been in that position for 20 years. I mean, having
7 them be represented by the same person that they've
8 always known, I mean -- and I don't think it's
9 specifically spelled out, but I think that's
10 communities of interest and keeping core
11 constituencies together.

12 Q. And protecting republican advantage in
13 Congressional District One, that's not in the
14 guidelines either, is it?

15 A. Well, one of the things in the
16 guidelines was that -- was political -- as part of
17 the communities of interest definition, if I
18 remember, referenced political. And so I think
19 that's part of it. I mean, you know, frankly, not
20 doing that -- not protecting the First is political
21 malpractice.

22 So, I mean, I think you can -- I think
23 it fits into that category that you and I talked
24 about under, I think it was, paragraph A of Roman
25 numeral three. But, you know, from my perspective

1 as a senator, that's something that's very
2 important to me, you know, is -- even though I
3 don't represent anybody who lives in the First,
4 it's important to me that we protect the First, and
5 I suspect that I was not alone in that
6 consideration.

7 Q. You mentioned earlier trying to make
8 sure that Nancy Pelosi isn't Speaker of the House
9 any longer than necessary. Apart from that, why
10 was it important to you to preserve the First, so
11 to speak?

12 A. Isn't that enough?

13 Well, I mean, look, California's not
14 giving up -- not giving republican seats. Right?
15 New Jersey's not giving up seats. Illinois is not
16 giving up seats. I'm not giving up a seat. I
17 mean, I think it would be political malpractice for
18 the republican-controlled legislature to allow
19 for -- especially something like what Senator
20 Harpootlian proposed. But it would be political
21 malpractice to draw a district such that the
22 democrats were more likely to win that district
23 than not.

24 And so I think that it was certainly
25 one of my concerns but, I think, also our

1 obligation to protect the First.

2 Q. Does that really have anything to do
3 with communities of interest?

4 A. Well, I mean, it's part of the
5 definition that they had included in there,
6 political. I think that -- that factors in. I
7 mean, those folks -- most of those folks were -- of
8 course, you know, the First was prob- -- I think,
9 the First was the most overpopulated, so it was the
10 one that had to give up some people. But most of
11 those people have been in that congressional
12 district forever.

13 I mean, the First, as it relates to
14 Charleston, Berkley -- Berkley's been split some,
15 and Dorchester and Beaufort -- Beaufort way back
16 was split, but -- but yeah, I mean, I think that
17 factors into the political communities of interest.
18 But regardless, like I said earlier, I didn't even
19 really know that there were specific guidelines
20 that were developed by the subcommittee. Frankly,
21 I don't care what those guidelines are. I'm not
22 voting for something that's going to give away the
23 First.

24 MR. HIRSCHER: Okay. I want to
25 introduce another exhibit. I might come back to --

1 Q. Do you recall whether there were any
2 particular points that you sought out to make in
3 presenting an opposition to Senator Harpootlian's
4 amendment?

5 A. I read through these comments again
6 yesterday when I was preparing, and what that
7 reminded me of is that what I did -- and I find
8 this hard sometimes, but I listened to Senator
9 Harpootlian and I -- because -- well, when I read
10 the transcript of my comments, I see that I
11 responded to a number of the comments that he made
12 in his remarks or in his colloquies with other
13 senators, things which I would not have been able
14 to prepare for.

15 And so I don't know that anybody gave
16 me talking points to respond to Senator
17 Harpootlian, other than what I had, and then I
18 remember there was some demographic data available
19 in the notebooks that they provided for all of us
20 that I used also in talking about these things.

21 But I think my -- my comments here were
22 mostly in response to the comments that Senator
23 Harpootlian made on the floor minutes earlier.

24 Q. And so what point or points were you
25 setting out to make here?

1 A. Do you want me to read my comments?

2 Q. Not necessarily. I'm asking you,
3 whether from familiarity with reviewing them
4 yesterday, or if you'd like to review them now, or
5 if you happen to personally recall from being there
6 what your objectives were, what points you were
7 trying to make.

8 A. Well, without having to -- without
9 looking back at Senator Harpootlian's comments and
10 the PTSD that would ensue from having to revisit
11 that, it seemed to me that there were two main
12 points that Senator Harpootlian was making, and I
13 tried to address those.

14 It seemed like to me that his first
15 comment, his first point that he was making, was
16 that the maps that were proposed -- which at this
17 point were the maps the senate had just voted to
18 accept. Senator Harpootlian alleged that that map
19 was all about race and that that was, if my
20 understanding from his comments -- his allegation
21 was not that that was the predominant factor. His
22 allegation was that that was the only factor. And
23 so I wanted to address that.

24 And then the second argument -- and I
25 remember this -- Senator Harpootlian spent some

1 time talking about supreme court opinions, and he
2 talked about Shelby in particular, and said that
3 there was no requirement from Shelby that we use
4 the benchmark maps, that we use the 2011 maps, as a
5 starting point.

6 And then he drew the conclusion from
7 that, he extrapolated and went further and said,
8 well, since there's no requirement that we use the
9 2011 maps as a starting point, we shouldn't use the
10 2011 maps as a starting point.

11 And so I wanted to address that I
12 thought that was an incorrect conclusion to draw
13 from Shelby, that just because it's not required
14 doesn't mean you can't do it.

15 So those were the two points that I
16 wanted to make.

17 Q. So to summarize, the two points you
18 wanted to make were, just because it's not required
19 to start from the previous map doesn't mean you
20 can't, and --

21 A. Right.

22 Q. -- the map that was passed was not only
23 about race. Is that --

24 A. Well, I think the first statement you
25 made is correct. Just because Shelby said you

1 don't have to start there doesn't mean you can't
2 start there. Shelby didn't say that you can't
3 start at the original maps, so therefore it was
4 permissible for us to do that.

5 The second part was -- and this is -- I
6 mean, your comment was that I said it wasn't only
7 about race. I would disagree with that. It wasn't
8 about race, period.

9 Like when you look at the First, the
10 issue in the First is not race. There's no reason
11 to -- there's no reason to draw a map based on race
12 in the First. That's not the issue. The issue is
13 growth.

14 And so what I wanted to point out here
15 is that Senator Harpootlian was alleging that the
16 maps were drawn entirely based on race, and I
17 wanted to rebut that, and I did that by looking at
18 the demographic data that had been provided.

19 Senator Harpootlian, I remember, as
20 part of his argument used the term, that we had
21 bleached the First, and I wanted to make the point
22 that if anything, the First was -- under the '22
23 map, was less white than the 2011 map.

24 So his allegations were just wrong.
25 Factually, they're just wrong.

1 suspect, the same in '11. So he's really
2 criticizing the '11 maps that have already been
3 approved.

4 MR. HIRSCHER: It's been almost two
5 hours since we came back from lunch. I've got not
6 too, too much more.

7 (After a recess, proceedings were
8 continued as follows:)

9 BY MR. HIRSCHER:

10 Q. Senator Massey, forgive me if you've
11 already said this. Is it your testimony that race
12 was not considered during the mapmaking process?

13 A. Well, again, I wasn't involved in the
14 mapmaking process. It wasn't part of my
15 consideration. And I think if you look at the
16 statistics, it didn't -- I mean, if that was their
17 goal, they failed miserably, is what it appears to
18 me.

19 Q. So you don't know whether the
20 subcommittee was considering race?

21 A. No, I wasn't involved in any of that,
22 the subcommittee process.

23 Q. Prior to January 19th or so, had you
24 reviewed any race data for any of the proposed
25 maps?

1 voting doesn't necessarily mean that black voters
2 prefer a black candidate and white voters prefer
3 white candidates. It's more about that among black
4 voters, they overwhelmingly prefer a particular
5 candidate, regardless of that candidate's race, and
6 same story for white voters.

7 A. Okay.

8 Q. So having said that, would you agree
9 that analyzing data about how black voters vote as
10 a bloc would be helpful to determine the impact on
11 black voter strength of moving a particular number
12 of black voters from one district to another?

13 MR. TYSON: I'm going to object to the
14 form. That was a pretty convoluted question, so
15 maybe you can help break it out a little bit.

16 MR. HIRSCHER: Yeah, I'm happy to do
17 that.

18 BY MR. HIRSCHER:

19 Q. Do you think it would be helpful in
20 assessing the impact on black voters of moving them
21 from one district to another or placing them in
22 one district or another to analyze how black voters
23 vote?

24 A. Well, I mean, I think that assumes they
25 vote as a bloc, and I don't think that's fair,

1 but -- because I -- I mean, I don't think it's fair
2 to assume that any group votes in a bloc, although
3 sometimes that happens with different groups,
4 but -- look, my goal of this -- and I don't
5 remember this conversation between Campsen and
6 Harpootlian, but I -- from what we've read, what
7 you read to me, I agree with Campsen, and that is,
8 I would prefer that race not be a consideration at
9 all.

10 And so in that respect, I don't think
11 we ought to engage in the analysis that you've
12 asked about in your question, right, because I
13 don't think that's -- I don't know that that's the
14 legislative role.

15 And beyond that, I think with us and
16 with me -- I should probably just speak for me. I
17 mean, the issue in the First, again, was not about
18 race at all. The issue with the First was growth
19 and where that growth is going, where it's likely
20 to go in the future, and what we do now, what's
21 that district going to look like in 2028 not from a
22 racial dynamic, but from a growth dynamic.

23 That was the -- because, look, if
24 republicans lose in the First, it's not going to be
25 because of black voters all voting for democrats.

1 It's going to be because we got a lot of growth
2 coming into that area that's voting for democrats.
3 So I want to know how we're going to manage that.
4 That was my concern.

5 Q. You recall that the Voting Rights Act
6 requires that a map not have the effect of diluting
7 minority voting strength, right?

8 A. I'll take your word for that. I'm
9 not -- by no means an expert on the VRA. I have a
10 general understanding of it.

11 Q. And I understand your position on
12 whether racial groups vote as a bloc, but wouldn't
13 you need to analyze whether racial groups vote as a
14 bloc in order to assess the impact on minority
15 voting strength of any particular map?

16 A. Oh, man, you're getting into more of a
17 legal analysis. I think that's why we hire
18 lawyers. I mean, I don't know the answer to that.
19 I don't know.

20 Q. Do you know whether any
21 district-by-district analysis of the ability of
22 black voters to elect their candidate of choice was
23 conducted?

24 A. I don't.

25 Q. Do you know whether sufficient data was

1 When you started talking -- you were
2 answering a number of questions about January 20th,
3 and when you started talking about race on
4 January the 20th, that was in response to Senator
5 Harpootlian's comments, correct?

6 A. Yeah. I mean, I don't remember ever
7 having any conversation or hearing any conversation
8 about race until now. When Mr. Hirschel was
9 showing me the transcript of January 19, it seems
10 like Senator Harpootlian brought it up on the 19th
11 then too.

12 I just try very hard in general to tune
13 out Dick Harpootlian as much as I can, but -- so I
14 had forgotten the committee conversation, but I
15 remember the conversation about race on
16 January 20th for the floor debate because Senator
17 Harpootlian brought it up, and I was responding to
18 it.

19 Q. But you didn't factor race into your
20 decision to approve the congressional map, correct?

21 A. No, that had no consideration from me.

22 Q. And you don't know of any evidence that
23 the general assembly used race in the crafting of
24 the plan?

25 A. No. And in fact, I think if you look

1 at the results, it shows the exact opposite.

2 Q. What do you mean?

3 A. Well, if you look at the demographic
4 data that we saw from the plan adopted, that the
5 senate adopted, that Mr. Hirschel and I spent some
6 time talking about, it shows that -- I mean, as
7 long as the -- if the data is correct, that there's
8 actually a higher BVAP in the First than under the
9 2011 plan, which is contrary to what Senator
10 Harpootlian was arguing.

11 Q. We're going to look at that chart in a
12 few minutes, but let me just ask you a couple of
13 general questions.

14 You don't think the general assembly --
15 or are you aware of any evidence that the general
16 assembly racially gerrymandered the congressional
17 map?

18 A. No.

19 Q. There were some questions about
20 candidates of choice for minority persons. Do you
21 remember those questions?

22 A. I do.

23 Q. Did you know there's not a Section 2
24 Voting Rights Act claim in the complaint?

25 A. I did not know that.

Exhibit 26

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

THE SOUTH CAROLINA
STATE CONFERENCE OF
THE NAACP, ET AL.,

Plaintiffs,

vs. CASE NO. 3:21-CV-03302-MGL-TJH-RMG

THOMAS C.
ALEXANDER, ET AL.,

Defendants.

VIDEO TELECONFERENCE

DEPOSITION OF: JUSTIN T. BAMBERG

DATE: August 11, 2022

TIME: 11:03 A.M.

LOCATION: Law Offices of
Bamberg Legal
104 Bridge Street
Bamberg, SC

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: LORI S. MORTGE,
Certified Court
Reporter, CCR

1 speaking -- I don't think that's speaking
2 objections, Mr. Ingram. Please continue,
3 Representative Bamberg.

4 THE WITNESS: My -- my position on race
5 is this; okay, as it pertains to the South Carolina
6 State House; okay? I serve with some very amazing
7 people and I serve with some people that I don't
8 even particularly care for; okay? Do I think there
9 are -- or do I think during my tenure in the House
10 there have been racists in the Body? Yes, I do;
11 right? And there was a hot mess going on during the
12 Confederate flag debate; okay?

13 That said, there is a difference -- and
14 I can only speak for me as a State rep in that Body
15 for almost a decade. There is a difference between
16 intentional racism and hyper partisanship if that
17 makes sense. There's a big difference between those
18 two.

19 And do I think that Speaker Lucas, for
20 example, is racist? I do not. Do I think that
21 Speaker Lucas would do anything to purposely try to
22 hurt black people? I do not. Do I think that there
23 is, like, this concerted collective effort by the
24 Republican party at the State House as a whole to be
25 racist or to make decisions to purposely hurt black

1 people? I do not.

2 Do I think there are members who don't
3 care for blacks or there are members who smile in my
4 face but have private conversations in their little
5 circles about things they would never have the balls
6 to say in front of me? I do; right? And, you know,
7 that's -- that's just the thing.

8 Now, that said, do I think that there is
9 legislation that gets passed from time to time that
10 in its legal application and real life may hurt
11 minorities? Yes, I do. Do I wish that more of my
12 Republican cohorts would be able to step outside of
13 the partisan politics piece and stand up with some
14 of us when we say this will be bad for our
15 communities? I absolutely do wish that. But do I
16 think that folks are, like, purposely trying to be
17 racist? I can't -- I can't say that.

18 BY MR. INGRAM:

19 Q. Representative Bamberg, what would you
20 have to see to make an assessment of this sort of
21 racism you're talking about that doesn't exist?

22 MR. MOORE: Objection as to form of the
23 question.

24 THE WITNESS: Yes. So I never said -- I
25 never said racism doesn't exist.

1 BY MR. INGRAM:

2 Q. In the redistricting context, that's
3 what I mean. What would you have to see --

4 MR. MOORE: Object.

5 BY MR. INGRAM:

6 Q. What would you have to see, would you
7 have to hear words? What would you be looking for?

8 MR. MOORE: Objection to the form.

9 THE WITNESS: Can you -- all right. Can
10 you ask that one more time succinctly?

11 BY MR. INGRAM:

12 Q. So your testimony right now is that it
13 is your opinion you did not see the presence of
14 intentional discrimination in the redistricting
15 process; correct?

16 A. Correct.

17 Q. What would you have had to have seen for
18 that opinion to be different? What sort of evidence
19 would you consider to make that alternative
20 assessment that included evidence of racial -- of
21 discrimination that was intentional?

22 MR. MOORE: Objection to the form, calls
23 for a legal conclusion.

24 THE WITNESS: I -- I don't know that --
25 I don't know that I can say what I would need to see

1 in order -- to believe there was racism going on or
2 something like that. It's -- I'm a minority. I've
3 experienced racism personally. I have been involved
4 in legal battles personally that were directly tied
5 to and was the subject of racism; right?

6 You know -- and I know it when I saw it.
7 I think that's the best -- the best way that I can
8 answer that. But I will -- will say that the
9 members of the committee, right, from Jay Jordan,
10 Jason Elliott, Weston Newton, right, Neal Collins;
11 okay?

12 Me and Neal are from completely
13 different worlds. He is a Republican from Pickens
14 County. When I was a kid I wouldn't even dare go to
15 Pickens County; okay? Completely different worlds.
16 Neal is one of my best friends in Columbia and we
17 hash tag DM for L, desk mates for life.

18 It offends me for anybody to hint at the
19 idea or the suggestion that Neal Collins would be a
20 racist or would participate in overtly or purposeful
21 racial decision-making; right? That offends me
22 because I know this man.

23 So yeah, I am very much -- if somebody
24 had something where somebody was, like, we -- we've
25 got to -- this is our chance to get and further

1 suppress black folks, right, something like that,
2 obviously right. But it is 2022 and only utter and
3 complete jackasses are that overtly discriminatory
4 and racist.

5 BY MR. INGRAM:

6 Q. Mr. Bamberg, would you say that racism
7 can exist without sort of explicit mentions of race?

8 MR. MOORE: Objection as to form --
9 objection as to form. You may answer,
10 Representative Bamberg.

11 THE WITNESS: I would agree with that,
12 yes, sir.

13 BY MR. INGRAM:

14 Q. And so do you understand -- do you know
15 the term systemic racism?

16 A. Systemic racism?

17 Q. Yes.

18 A. Yes, sir.

19 Q. Does the -- does everyone in a system
20 have to be racist for systemic racism to exist?

21 MR. MOORE: Objection to form, it calls
22 for a legal conclusion.

23 THE WITNESS: No, sir.

24 BY MR. INGRAM:

25 Q. And so do you think there was a

1 difference between an institution passing
2 discriminatory maps and calling individual
3 legislators racist?

4 MR. MOORE: Objection as to form.

5 THE WITNESS: I -- me, personally, I do
6 not believe that in order for there to be -- this is
7 just my view and I can only speak for me in this
8 moment; okay? Based on my thoughts here right now.

9 I do not believe you -- in order for
10 systemic racism to exist there has to be either
11 people who are making decisions that are, A, okay
12 with systemic racism, right, or B, who know
13 something is racist but will refuse to stand up and
14 say this is not right in speaking to people who look
15 like them.

16 BY MR. INGRAM:

17 Q. And you're saying that neither one of
18 those occurrences took place in the General
19 Assembly?

20 MR. MOORE: Objection as to form. You
21 may answer.

22 THE WITNESS: In -- in what regards?
23 When you say took place in the General Assembly,
24 because that's very broad.

25 BY MR. INGRAM:

1 Q. I'll be more specific. Of the two
2 options that you just laid out, is your testimony
3 that both of those options were not occurring by the
4 members of the redistricting committee?

5 A. My position is that the process of
6 redistricting that myself and my co-committee
7 members undertook, us, the members on the
8 committee, that racism, systemic or otherwise, was
9 not a basis -- and, again, just because the
10 Republican party is mostly white -- I can only speak
11 for me. Just because the Republican party is mostly
12 white, right, and just because the Republican party,
13 particularly on a national level, particularly those
14 who are followers of Donald Trump embrace
15 discrimination, right, and I don't want to sound
16 like I'm not -- I'm a minority. I'm a minority
17 lawyer. We make up, what, half of one percent of
18 attorneys in America; okay?

19 I am a minority in the South Carolina
20 State House and I know how hard it is, right, so I'm
21 not anti-sympathetic or pro racism or anything. I
22 don't like racism -- never have, never will, but I
23 also call it like I see it. And I am not aware of
24 race -- racism playing a role in myself and my
25 co-committee members looking at, drawing or

1 approving any maps.

2 I do -- do I think politics was involved
3 in terms of Republican versus Democrat? I
4 absolutely do. But I will not go as far as to say
5 that anything was done to specifically try to
6 discriminate against minorities or people of color
7 again, in this redistricting process that Justin
8 Bamberg, a State rep, was a part of.

9 Q. And would you say part of your
10 assessment stems from the fact that you did not hear
11 any racially derogatory language or read any
12 racially derogatory statements by your committee
13 members?

14 A. No, I would not say that. I would say
15 that my position on this issue is grounded in for
16 some of the members of this committee having
17 interacted with them on tons of issues over the last
18 almost ten years. I --

19 Q. So, Mr. Bamberg, your assessment
20 essentially --

21 MR. MOORE: Objection. Will you let him
22 finish his statement? Because I don't think
23 Representative Bamberg was finished.

24 Were you finished, Representative
25 Bamberg?

1 remember specifically how I voted.

2 BY MR. INGRAM:

3 Q. So if you don't remember the details of
4 the data regarding, you know, various House seats.

5 A. Correct.

6 Q. How can you say that race was not
7 impermissibly used in the process?

8 MR. MOORE: Objection to the form.

9 THE WITNESS: My comments on race, as I
10 explained earlier, based on everything I was privy
11 to, how grand or how limited, and based on the
12 members of the committee who I know and their
13 actions over time on various issues regarding
14 race -- again, anything in the background, private
15 conversations between people that I don't know they
16 talked, I can't speak to any of that.

17 But, again, do I think that members of
18 my committee -- Jason Elliott, Neal Collins --
19 again, Neal, who when we went to take down the flag
20 left where he was and flew back to South Carolina in
21 the middle of the night to not miss the vote,
22 knowing that him voting to take it down could cost
23 him his seat in Pickens, there's no doubt in my mind
24 that those guys would not go along with purposeful
25 racial discrimination.

1 As far as me remembering data and stuff,
2 I mean, I ain't Albert Einstein. I mean, if I
3 looked at the data and I was going over it, that's
4 one thing and I could comment based on my knowledge
5 of certain counties and stuff. I just don't
6 remember. And I remember more about the House
7 process because I was so intimately involved in
8 that.

9 I had limited input -- I had limited
10 involvement in the map drawing process for the
11 Congressional map than, say, on the House side where
12 I was in the map room looking at census blocks,
13 looking at this, looking at B-maps (phonetic) --
14 looking at whatever. I didn't do that. I did not do
15 any of that with regards to the Congressional
16 drawing of this.

17 BY MR. INGRAM:

18 Q. So if you did not do that on the
19 Congressional side, how can you speak to the
20 integrity of the process?

21 MR. MOORE: Objection as to form.

22 THE WITNESS: Speaking to the integrity
23 of the -- everything I've been speaking to is the
24 integrity of the people involved in the process and
25 the people who make the process. And the integrity

1 of -- again, I can only speak to certain people in
2 certain regards. I can -- I am comfortable saying
3 that the integrity of the members of the committee
4 is such that they would not participate in
5 purposeful, targeted racial discrimination or the
6 support of systemic racism and prejudice towards
7 minorities; right?

8 I dealt with the Speaker at the time,
9 Speaker Lucas. The only Democrat in the House who's
10 probably dealt with him more than me is Todd
11 Rutherford -- Representative Rutherford, the
12 minority leader, Representative Cobb-Hunter. Out of
13 the -- Representative Russell Ott and me, we're
14 probably the top four.

15 And, you know, again, I think there is a
16 difference between hyper partisanship and, again,
17 even the fact that we're sitting here with national
18 groups involved is just like on the Republican
19 process. There's national groups involved and stuff
20 on their side. I can't go, nor will I go and say
21 that these folks were racist or supported racism.
22 I'm not going to say that. That's based on personal
23 interaction, based on the process by which I was a
24 part of?

25 Again, I can't say that XYZ had a

1 private conversation or not or what some other
2 secret strategy might be. I can only speak from my
3 personal knowledge and my personal belief.

4 BY MR. INGRAM:

5 Q. So what would you say to black South
6 Carolinians who believe their vote has been diluted
7 through these maps?

8 MR. MOORE: Obje -- objection as to the
9 form. And apparently, Mr. Ingram, you're attempting
10 to speak for all black South Carolinians. I object
11 to the form of your question.

12 MR. INGRAM: Stop speaking objections,
13 Mark. Let him answer.

14 MR. MOORE: That's not a speaking
15 objection, Mr. Ingram.

16 BY MR. INGRAM:

17 Q. You can answer, Representative Bamberg.

18 A. So to black South Carolinians who feel
19 as though their vote has been suppressed? Is that
20 the question?

21 Q. Yes. What would you tell them?

22 A. I mean, it's the same thing I would tell
23 anybody in any situation is everybody is entitled to
24 feel and think and believe exactly what they want;
25 right? And if someone feels that way, then I always

1 encourage people to make their voice heard. And one
2 way people make their voices heard is through
3 lawsuits like this one; right? And there is a
4 process by which everything will get analyzed by
5 various people; okay?

6 I would tell black South Carolinians who
7 feel as though their vote was suppressed in this
8 process, that to the extent they feel like that
9 Justin Bamberg, not only did he not have anything to
10 do with -- with that or with whatever is making them
11 feel that way, but I had no knowledge of it because
12 if I did and that was going on it wouldn't have
13 happened. That is what I would say -- say to them.

14 I would also say that people -- black
15 people, people who feel as though they don't have a
16 voice, people need to start voting. I would say
17 that. Because voter turnout is horrific in this
18 state and, you know, the census numbers and all of
19 that, all these things are things that we had to
20 work -- I had to work within the confines of certain
21 data and that data is based on people responding to
22 stuff, it's based on people participating; right?

23 Q. Would you say that voter turnout among
24 the black community, given that you're a
25 representative of a black community, is lower

1 because they feel like their voices don't matter?

2 MR. MOORE: Objection as to the form.

3 THE WITNESS: I can say that in Bamberg
4 County where I live, because I am an elected
5 official who is deeply ingrained in my community
6 here, black, white or otherwise, we are always
7 leading the state in voter turnout and that's
8 primaries included. But that's because I make it a
9 point to engage with my constituents.

10 I can't go and say that black people
11 don't vote because they don't feel as though they're
12 included in the process. Some people don't vote for
13 that reason, some people don't vote because they're
14 lazy, some people don't vote because they feel that
15 in the system in general their voice will never
16 matter because of economic influence and power in
17 America. Some people don't vote because -- I don't
18 know, going to the mall is more important.

19 I've spent ten years begging people to
20 vote, ten years. I'm not going to sit here and say,
21 nor do I feel comfortable saying, that the black
22 people that live in my district who don't vote don't
23 vote because they feel as though their vote is
24 suppressed. I am their voice, you know. Are
25 there people in this state -- in certain parts of

1 this state who do think that? Absolutely, and they
2 have every -- as far as I'm concerned they have
3 every right to think that.

4 Again, racism is real, discrimination is
5 real, systemic suppression of minorities and people
6 who historically have lacked power and influence to
7 shape things in our society in a way that best suits
8 them has every right to feel like that in this
9 state.

10 As to this process for this
11 redistricting with the information that I am aware
12 of, I don't feel comfortable saying that. I don't
13 have any information or any -- any claim that that
14 went on.

15 Do I think that with Congressional map
16 drawing there was hyper -- hyper partisan politics
17 involved? I do think there was a degree of hyper
18 partisan politics. There was a big ass fight
19 between Democrats and Republicans in every state in
20 this country in the wave of the Trump era. There's
21 a big fight going on within the Republican party and
22 there's a lot of pulling and scrapping.

23 I am not an individual in government who
24 believes that everything that's done politically by
25 the other party is racist. I think some of it is

1 just their inherent belief system. For example,
2 abortion. Some people just believe that. Do I
3 think they're hypocrites? I 100 percent think
4 they're hypocrites, right, but that doesn't mean
5 people are racist; okay?

6 And to the extent, for example. When I
7 called Congressman Clyburn's office seeking input on
8 the drawing of the maps and no one even calls me
9 back and I'm on the committee, right, he's black and
10 he's the majority leader -- and I'm not criticizing
11 him, he has a team who handles this. I don't know
12 what they were involved in or who they talked to
13 about how our state Congressional maps got drawn. I
14 don't know who Senator Scott's people talked to. I
15 don't know who anybody -- anybody up there -- Joe
16 Wilson, I don't know who all they talked to. None
17 of them talked to me. I would presume they talked
18 to somebody; right?

19 I wish people -- I don't like racism, I
20 don't like discrimination, I don't like the
21 suppression of -- of anybody. Especially people who
22 are like me, because I've had to deal with it. The
23 black population in our state and where they live,
24 right, and it's always -- the most segregated place
25 in this state is church on Sundays; okay? Generally

1 black communities are living with each other, white
2 communities are living with each other, and you have
3 certain places where the communities may be more
4 mixed; right? But that doesn't mean it's easy to
5 draw lines that way. Again, not speaking as to the
6 Congressional maps being drawn, but we had to deal
7 with the same issues on the House side.

8 And the way that the -- the way that
9 maps were drawn as it pertains to the House map
10 drawing process and the actions of the committee
11 members and conversations that were had and the
12 things that were looked at in that process, in
13 order -- in my opinion, for what it's worth, for
14 them to have been purposeful discrimination in the
15 Congressional map drawing process, that would
16 mean -- that would have meant that there was no
17 racial discrimination purposely on the House process
18 and then those same people flipped the script and
19 said we're going to support a system of racial
20 suppression in the Congressional process.

21 BY MR. INGRAM:

22 Q. Mr. Bamberg, are you aware there were
23 legal challenges of both the House maps and the
24 Congressional maps?

25 A. Yes, sir.

Exhibit 27

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

The South Carolina State Conference of the
NAACP, *et al.*

Plaintiffs,

No. 3-21-cv-03302-JMC-TJH-RMG

v.

Alexander, *et al.*

Defendants.

EXPERT REPORT

Kosuke Imai, Ph.D.

April 4, 2022

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I. INTRODUCTION AND SCOPE OF WORK

1. My name is Kosuke Imai, Ph.D., and I am a Professor in the Department of Government and the Department of Statistics at Harvard University. I specialize in the development of statistical methods for and their applications to social science research. I am also affiliated with Harvard's Institute for Quantitative Social Science.

2. I have been asked by counsel representing the plaintiffs in this case to analyze relevant data and provide my expert opinions related to the role that race played in drawing certain districts in South Carolina's Congressional district plan (hereafter "the enacted plan"). To do so, I first conducted a "race-blind" simulation analysis of Districts 1 and 6 to examine how race played a role in determining the boundary of these two districts under the enacted plan.

3. Specifically, I simulate two separate sets of 10,000 alternative boundary lines between Districts 1 and 6 while adhering to other redistricting criteria. These criteria include those specified in the 2021 Guidelines and Criteria for Congressional and Legislative Redistricting adopted by the South Carolina House of Representatives Judiciary Committee and Redistricting Ad Hoc Committee as well as in the 2021 Redistricting Guidelines adopted by the South Carolina Senate Judiciary Committee (hereafter "the South Carolina guidelines"). The first set simulates the entire district boundary of the two districts whereas the second set simulates only the boundary within Charleston County. These localized race-blind simulation analyses allow me to determine whether and to what extent the enacted plan's inclusion or exclusion of Black voters in Districts 1 and 6 played a role in determining the boundary of these two districts beyond the purpose of adhering to the traditional redistricting criteria, including those specified in the South Carolina guidelines.

4. My second simulation analysis addresses the possibility that race was considered for compliance with the Voting Rights Act (VRA) when drawing the enacted plan. Specifically, I simulate 10,000 alternative statewide plans such that District 6 under each simulated plan has the overall Black voting age population (BVAP) proportion between 45% and 50% while adhering

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to other redistricting criteria, including those specified in the South Carolina guidelines.¹ This statewide simulation analysis allows me to determine whether and to what extent the enacted plan's inclusion or exclusion of Black voters played a role in drawing Districts 1, 2, and 5 that surround District 6 beyond the purpose of compliance with the VRA and the traditional redistricting criteria, including those specified in the South Carolina guidelines.

5. I ensured that my simulated plans are generally at least as compliant with the South Carolina guidelines as the enacted plan, on average. To do this, whenever necessary, I instructed the simulation algorithm to split fewer than or an equal number of counties and municipalities in comparison to the enacted plan, on average. In addition, following the enacted plan, I instructed the simulation algorithm to have no incumbency pairing. Thus, these two simulation analyses allow me to determine how race would be treated in districting plans if the districts were drawn under the specified conditions while adhering to other traditional redistricting principles, including those in the South Carolina guidelines.

II. SUMMARY OF OPINIONS

6. My localized race-blind redistricting simulation analysis of Districts 1 and 6 shows that the enacted plan draws their boundary line such that a disproportionately large number of Black voters, particularly those who live in Charleston County, are placed into District 6, leading to an unusually low BVAP proportion in District 1. This simulation analysis demonstrates that race played a significant role beyond the purpose of adhering to the traditional redistricting criteria, including those specified in the South Carolina guidelines.

7. My statewide simulation analysis with the VRA constraint shows that compliance with the VRA cannot explain the above key finding of my localized race-blind simulation analysis: race was a significant factor in drawing the boundary between Districts 1 and 6 under the enacted plan. In addition, this statewide simulation analysis with the VRA constraint demonstrates that the enacted plan unnecessarily cracks Black voters who live in Richland County into Districts 2

1. In this report, I define BVAP as people who are at least 18 years old and any part Black per the Census definition.

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and 6 while also cracking Black voters who live in Sumter County into Districts 5 and 6. Thus, my analysis shows that race also played a significant role in determining the boundaries between District 6 and its other surrounding districts (i.e., Districts 2 and 5) of the enacted plan, beyond the purpose of complying with the VRA and other traditional redistricting criteria, including those specified in the South Carolina guidelines.

III. QUALIFICATIONS, EXPERIENCE, AND COMPENSATION

8. I am trained as a political scientist (Ph.D. in 2003, Harvard) and a statistician (MA in 2002, Harvard). I have published more than 70 articles in peer reviewed journals, including premier political science journals (e.g., *American Journal of Political Science*, *American Political Science Review*, *Political Analysis*), statistics journals (e.g., *Biometrika*, *Journal of the American Statistical Association*, *Journal of the Royal Statistical Society*), and general science journals (e.g., *Lancet*, *Nature Human Behavior*, *Science Advances*). My work has been widely cited across a diverse set of disciplines. For each of the past four years, Clarivate Analytics, which tracks citation counts in academic journals, has named me as a highly cited researcher in the cross-field category for producing “multiple highly cited papers that rank in the top 1% by citations for field and year in Web of Science.”

9. I started my academic career at Princeton University, where I played a leading role in building interdisciplinary data science communities and programs on campus. I was the founding director of Princeton’s Program in Statistics and Machine Learning from 2013 to 2017. In 2018, I moved to Harvard, where I am Professor jointly appointed in the Department of Government and the Department of Statistics, the first such appointment in the history of the university. Outside of universities, between 2017 and 2019, I served as the president of the Society for Political Methodology, a premier academic organization of more than one thousand researchers worldwide who conduct methodological research in political science. My introductory statistics textbook for social scientists, *Quantitative Social Science: An Introduction* (Princeton University Press, 2017), has been widely adopted at major research universities in the United States and beyond.

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10. Computational social science is one of my major research areas. As part of this research agenda, I have developed simulation algorithms for evaluating legislative redistricting since the beginning of this emerging literature. At Harvard, I lead the Algorithm-Assisted Redistricting Methodology (ALARM; <https://alarm-redist.github.io/>) Project, which studies how algorithms can be used to improve legislative redistricting practice and evaluation.

11. Back in 2014, along with Jonathan Mattingly's team at Duke, my collaborators and I were the first to use Monte Carlo algorithms to generate an ensemble of redistricting plans. Since then, my team has written several methodological articles on redistricting simulation algorithms (Fifield, Higgins, et al. 2020; Fifield, Imai, et al. 2020; McCartan and Imai 2020; Kenny et al. 2021).

12. I have also developed an open-source software package titled `redist` that allows researchers and policy makers to implement the cutting-edge simulation methods developed by us and others (Kenny et al. 2020). This software package can be installed for free on any personal computer with a Windows, Mac, or Linux operating system. According to a website that tracks the download statistics of R packages, our software package has been downloaded about 30,000 times since 2016.²

13. In addition to redistricting simulation methods, I have also developed the methodology for ecological inference referenced in voting rights cases (Imai, Lu, and Strauss 2008; Imai and Khanna 2016). For example, my methodology for predicting individual's race using voter files and census data was extensively used in a recent decision by the Second Circuit Court of Appeals regarding a redistricting case (*Clerveaux et al. v. East Ramapo Central School District* No. 20-1668).

14. Previously, I have submitted my expert reports, based on redistricting simulation analyses, to the Congressional and General Assembly redistricting cases in Ohio (*League of Women Voters of Ohio et al. v. Ohio Redistricting Commission et al.* The Supreme Court of Ohio, No. 2021-1449; *League of Women Voters of Ohio et al. v. Ohio Redistricting Commission et*

2. <https://ipub.com/dev-corner/apps/r-package-downloads/> (accessed on January 17, 2022)

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al. The Supreme Court of Ohio, No. 2021–1193; *League of Women Voters of Ohio et al. v. Frank LaRose et al.* The Supreme Court of Ohio, No. 2022–0303). In both cases, the Ohio Supreme court heavily relied upon my analyses in its decisions (*League of Women Voters of Ohio v. Ohio Redistricting Commission*, Slip Opinion No. 2022-Ohio-65; *Adams v. DeWine*, Slip Opinion No. 2022-Ohio-89). I have also submitted expert reports, which utilize redistricting simulation analyses, to the Alabama Congressional redistricting case in the United States District Court Northern District of Alabama Southern Division (*Milligan et al. v. Merrill et al.* No. 2:2021cv01530), the Pennsylvania State House redistricting case in the Supreme Court of Pennsylvania (*Benninghoff v. 2021 Legislative Reapportionment Commission* No. 11 MM 2022), and the Kentucky State House and Congressional redistricting cases (*Graham et al. v. Adams et al.* Commonwealth of Kentucky Franklin Circuit Court Division, No. 22-CI-00047). I have also submitted an expert report on the South Carolina State House redistricting plan in this case.

15. A copy of my curriculum vitae is attached as Exhibit A.

16. I am being compensated at a rate of \$450 per hour. My compensation does not depend in any way on the outcome of the case or on the opinions and testimony that I provide.

IV. METHODOLOGY

17. I conducted simulation analyses to help evaluate whether the enacted plan was drawn using race as a significant factor. Redistricting simulation algorithms generate a representative sample of all possible plans that satisfy a specified set of criteria. These criteria may, for example, include requiring a certain degree of population equality, avoiding pairing of incumbents, drawing compact districts, and limiting the number of counties being split. The resulting simulated plans represent a set of alternative plans that are compliant with these redistricting criteria. One can then evaluate the properties of a proposed plan by comparing it against the simulated plans. If the proposed plan unusually treats particular racial groups in a certain way *when compared to* the ensemble of simulated plans, this serves as empirical evidence that the proposed plan was likely drawn using race as a significant factor.

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18. Furthermore, statistical theory allows us to quantify the degree to which the proposed plan is extreme in terms of racial composition, relative to the ensemble of simulated plans. For example, we can estimate the probability of a race-blind simulated plan packing Black people into a district at least as much as a proposed plan does. If this probability is small, then the proposed plan is a statistical outlier because the enacted plan is highly unlikely to come from the race-blind distribution that is used to generate the simulated plans.

19. A primary advantage of the simulation-based approach is its ability to account for the political and geographic features that are specific to each state, including spatial distribution of voters and configuration of administrative boundaries. Simulation methods can also incorporate each state's redistricting rules, criteria, or guidelines. These state-specific features limit the types of redistricting plans that can be drawn, making comparison across states and over time difficult. The simulation-based approach therefore allows us to compare the enacted plan to a representative set of alternate districting plans subject to South Carolina's administrative boundaries, political realities, and legal requirements. Appendix A provides a brief introduction to redistricting simulation.

A. Simulation Setup

20. My race-blind local simulation analysis focuses on the boundary between Districts 1 and 6. I conducted a race-blind simulation analysis by generating, without consideration of race, a total of 10,000 alternative district boundaries with the following properties, which are based on the South Carolina guidelines and traditional redistricting principles:

- all relevant districts are geographically contiguous
- all relevant districts do not exceed an overall population deviation of $\pm 0.1\%$ ³
- no incumbent is paired with another incumbent

3. This maximal deviation is measured with respect to the ideal population of a congressional district in South Carolina, which is the total population divided by seven, i.e., about 730 people. Although this deviation is greater than what the South Carolina guidelines require, it is an appropriate threshold for my simulation analysis of VTD-level data given that the average VTD population in South Carolina is 2,257. One could further reduce the population deviation of each simulated plan by moving census blocks located on the district boundaries from one district to another, but such adjustments would not materially alter the conclusions of my analysis because the findings are based on patterns of certain Black voting age population of much greater magnitude.

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- all relevant districts are on average at least as compact as the enacted plan (Appendix C)
- the number of split counties is on average no greater than the corresponding number under the enacted plan (see Appendix D)
- the number of split municipalities is on average no greater than the corresponding number under the enacted plan (see Appendix E)
- no race or partisan information was used

In addition, I also generated a separate set of 10,000 alternative district boundaries within Charleston County while keeping the rest of the district boundary identical to the one in the enacted plan. These simulated districts have the same properties as those described above.

21. These race-blind simulated plans were generated by only considering the above criteria, using the merge-split type simulation algorithm with the enacted plan as a starting plan (E. A. Autry et al. 2021; Carter et al. 2019; briefly described in Appendix B). Importantly, the simulation procedure does not use the information about race at all, and hence I call this a “race-blind” simulation analysis. I provide the detailed information about my simulation procedure in Appendix B. These localized race-blind simulation analyses enable me to examine whether and to what extent race was used as a significant factor in determining the boundary between Districts 1 and 6 beyond the purpose of adhering to the above traditional redistricting criteria.

22. I also conducted a separate simulation analysis on the statewide map, which generates a total of 10,000 alternative plans with the following properties, which are based on the South Carolina guidelines and traditional redistricting principles:

- all districts are geographically contiguous
- all districts do not exceed an overall population deviation of $\pm 0.1\%$
- no incumbent is paired with another incumbent
- the overall BVAP proportion of District 6 is kept between 45% and 50%⁴
- all districts are on average at least as compact as the enacted plan (Appendix C)

4. This range was chosen so that it generally matches with the corresponding BVAP proportion under the enacted plan, which is 46.9%.

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- the number of split counties under the simulated plans is on average no greater than the corresponding number under the enacted plan (see Appendix D)
- the number of split municipalities under the simulated plans is on average no greater than the corresponding number under the enacted plan (see Appendix E)
- no partisan information was used

These simulated plans were generated using the same merge-split type simulation algorithm. I provide the detailed information about my simulation procedure in Appendix B. This statewide simulation analysis allows me to determine whether and to what extent race was considered as a significant factor in determining the relevant district boundaries of the enacted plan beyond the purpose of compliance with the VRA and the traditional redistricting criteria, including those specified in the South Carolina guidelines.

23. Like the enacted plan, all of my simulated plans do not pair an incumbent in the same district. Therefore, I name each simulated district by first identifying the incumbent that resides in the simulated district, and naming the simulated district by the district number of that incumbent's district assignment in the enacted plan. This renaming procedure allows me to compare each enacted district with a comparable simulated district, even though the two districts often do not cover the same geographic area.

24. For both the localized and statewide simulation analyses, I can easily generate additional plans by running the algorithm longer, but for the purpose of my analysis, 10,000 simulated plans for each county will yield statistically precise conclusions. In other words, generating more than 10,000 plans, while possible, will not materially affect the conclusions of my analysis.

B. Description of Redistricting Simulation Software

25. In my analysis, I used the two open-source software packages for redistricting analysis, *redist* (Kenny et al. 2020) and *redistmetrics* (Kenny et al. 2022), which implement a variety of redistricting simulation algorithms as well as other evaluation methods and metrics. My collaborators and I have developed these software packages, so that other researchers and the general public can implement these state-of-the-art methods on their own. I supplemented these

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packages with code written primarily to account for the redistricting rules, criteria, and guidelines that are specific to South Carolina. All of my analyses were conducted on a personal computer. Indeed, all of my analysis code can be replicated by running my code on any personal computer once the required software packages, which are also freely available and open-source, are installed.

V. LOCALIZED RACE-BLIND SIMULATION ANALYSIS

26. Using the redistricting simulation methodology described above, I evaluated empirical evidence regarding whether and to what extent race was a significant factor in drawing the relevant districts under the enacted plan beyond the traditional redistricting criteria including those specified in the South Carolina guidelines. Specifically, I simulated two separate sets of 10,000 alternative district boundaries between Districts 1 and 6, using the localized race-blind simulation procedures described in Section IV. The first set simulates the entire district boundary between these two districts while the second set simulates the part of the district boundary that is located within Charleston County.

A. The Boundary between Districts 1 and 6

27. I first show the results of my race-blind simulation analysis that generates 10,000 alternative boundaries between Districts 1 and 6. The left map of Figure 1 shows the precinct-level BVAP in these two districts where a precinct with a greater number of black voters is shaded with a darker color. The right map of the figure displays, for each precinct, the proportion of the 10,000 race-blind simulated plans that assign it to District 1 instead of District 6. A precinct shaded by a darker color means that it is more likely to belong to District 1 under the race-blind simulated plans.

28. The examination of these two maps show that the district boundary of the enacted plan is highly unusual in comparison to the race-blind simulated plans. Specifically, as shown in the left map, the enacted plan splits Charleston County by including a large number of Black voters who live in the western part of the city of Charleston as well as the city of North Charleston into District 6 (indicated by precincts shaded with relatively dark orange color), while assigning

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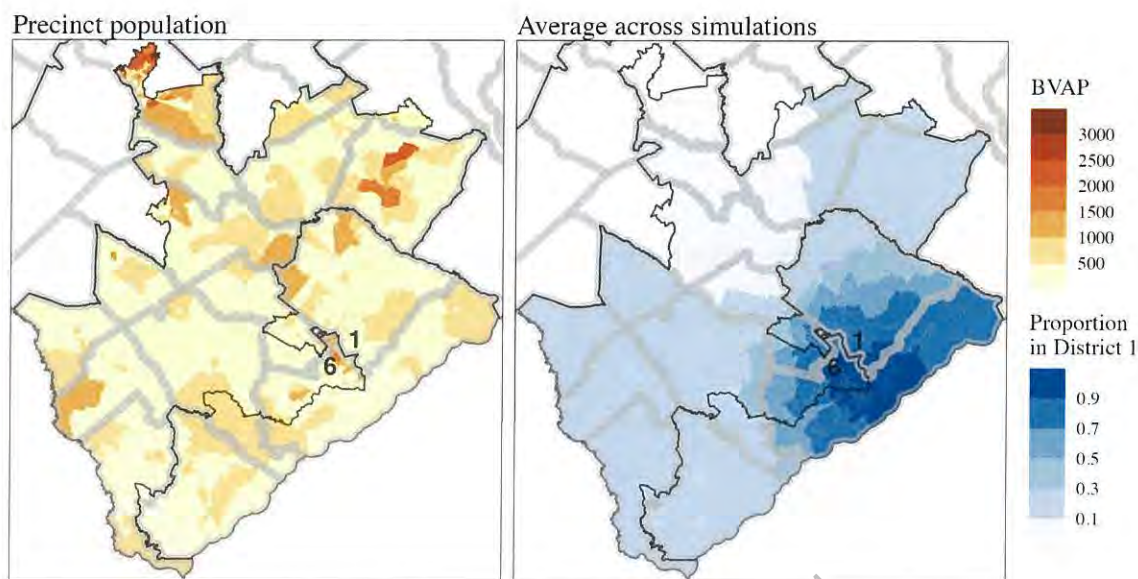


Figure 1: The Boundary between Districts 1 and 6. The left map shows the VTD-level Black voting-age population (BVAP) with the boundary between Districts 1 and 6 demarcated by a solid black line. A VTD with a darker orange color has a greater number of Black voters. The grey lines represent county boundaries. In the right map, each precinct is shaded by the proportion of 10,000 race-blind simulated plans that assign it to District 1. A precinct with a darker blue color is more likely to belong to District 1 under the race-blind simulated plans.

the eastern part of the city of Charleston where few Black voters live to District 1. The right map shows, however, that most of the race-blind simulated plans assign these precincts to District 1 instead of District 6, as indicated by dark blue shade.

29. As a result of this unusual district boundary, the BVAP proportion of District 1 under the enacted plan is only 17.4%, which is much lower than the race-blind simulated plans. As shown in Figure 2, none of my 10,000 race-blind simulated plans (grey histogram) has a lower BVAP proportion for District 1 than the enacted plan (red line). The average difference in the BVAP proportion of District 1 between the enacted and race-blind simulated plans is about 5.8 percentage points, which corresponds to 3.1 standard deviations of the simulated plans. In other words, the enacted plan places a disproportionately large number of Black voters into District 6, lowering the BVAP proportion of District 1.

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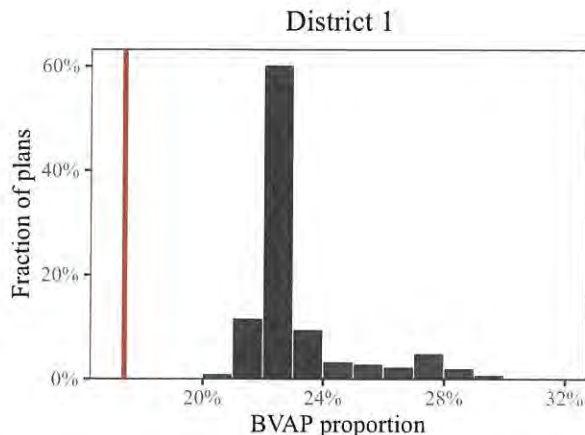


Figure 2: Histogram represents the distribution of the Black voting-age population (BVAP) proportion for District 1, across 10,000 race-blind simulated plans. The red line indicates the corresponding BVAP number under the enacted plan (red vertical line). None of the race-blind simulated plans has a lower BVAP proportion for District 1 than the enacted plan.

B. Charleston County

30. Next, I conduct another race-blind simulation analysis within Charleston County, which contains parts of Districts 1 and 6 under the enacted plan. In this race-blind simulation analysis, I keep the rest of these two districts unchanged from the enacted plan. This means that the only difference between the enacted and simulated plans is how Charleston County is split between Districts 1 and 6. The resulting simulated plans therefore preserve much of these two districts as defined under the enacted plan.

31. The findings are similar to those discussed above. As mentioned earlier (see the left map of Figure 1), the enacted plan splits Charleston County by placing a disproportionately large number of Black voters into District 6, while assigning relatively few Black voters to District 1. As a result, within Charleston County, the BVAP proportion of District 6 (32.1%) is 21.4 percentage points higher than that of District 1 (10.7%).

32. I examine whether this gap in the within-county BVAP under the enacted and race-blind simulated plans is statistically significant by comparing the enacted plan with the 10,000 localized race-blind simulated plans. The gray histogram in Figure 3 represents the distribution

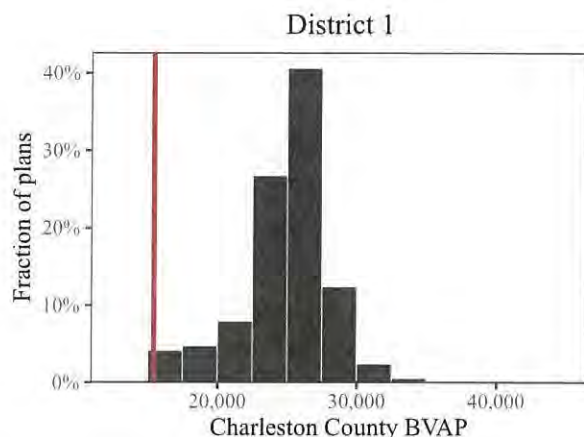
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Figure 3: Histogram represents the distribution of the Black voting-age population (BVAP), across 10,000 race-blind simulated plans, who live in Charleston County and are assigned to District 1. The red line indicates the corresponding BVAP number under the enacted plan.

of Black voters who live in Charleston County and are assigned to District 1. The red vertical line indicates the corresponding BVAP number under the enacted plan. The figure shows that District 1 under the enacted plan contains about 15,400 Black voters who live in Charleston County, while across my 10,000 race-blind simulated plans, District 1 has approximately 24,900 black voters on average. This difference of 9,500 voters, which corresponds to 2.9 standard deviations of the simulated distribution, is statistically significant. In fact, only 0.2% of the 10,000 race-blind simulated plans place fewer Black voters from Charleston County into District 1 than the enacted plan.

33. In sum, my localized race-blind simulation analysis of Charleston County reaches the same conclusion as my other race-blind simulation analysis that a disproportionately large number of Black voters who live in the county are included into District 6, lowering the BVAP proportion of District 1.

VI. STATEWIDE SIMULATION ANALYSIS WITH THE VRA CONSTRAINT

34. I also conducted a statewide simulation analysis to address the possibility that race was considered in drawing the district boundaries of the enacted plan in order to comply with

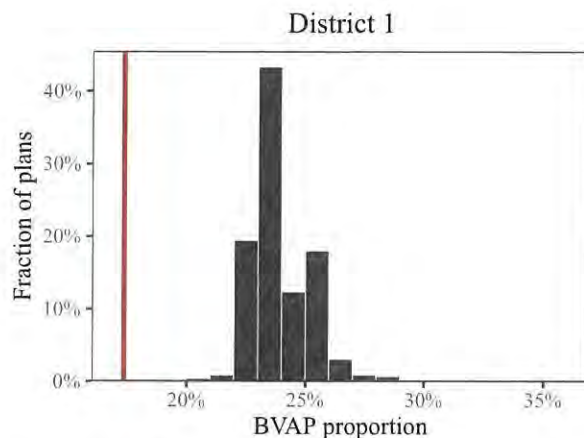
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Figure 4: BVAP Proportion in District 1. Histogram represents the distribution of the Black voting-age population (BVAP) proportion, across 10,000 statewide simulated plans with the VRA constraint, within District 1. The red line indicates the corresponding BVAP proportion under the enacted plan.

the VRA. As explained in Section IV.A, I simulated 10,000 alternative plans that keep the overall BVAP proportion of District 6 between 45% and 50% while adhering to other traditional redistricting principles, including those specified in the South Carolina guidelines. Using these simulated plans, I investigate whether and to what extent race was used as a significant factor, beyond the purpose of compliance with the VRA and other redistricting criteria. I specifically examine the district boundaries in Charleston, Richland, and Sumter Counties, which correspond to the boundaries between District 6 and Districts 1, 2, and 5, respectively.

A. Charleston County (District 1)

35. I begin by comparing the BVAP proportion of District 1 under the enacted plan with the corresponding number under the simulated plans. Figure 4 shows that the BVAP proportion of District 1 is unusually low under the enacted plan (red vertical line; 17.4%) in comparison to the 10,000 simulated plans with the VRA constraint (grey histogram). On average, the BVAP proportion of District 1 under the enacted plan is 6.5 percentage points (4.5 standard deviations of the simulated distribution) lower than the corresponding number under the simulated plans. Indeed, no simulated plan has a lower BVAP proportion for District 1 than the enacted plan, implying that the enacted plan is a statistical outlier in this regard. This finding is consistent with that under the

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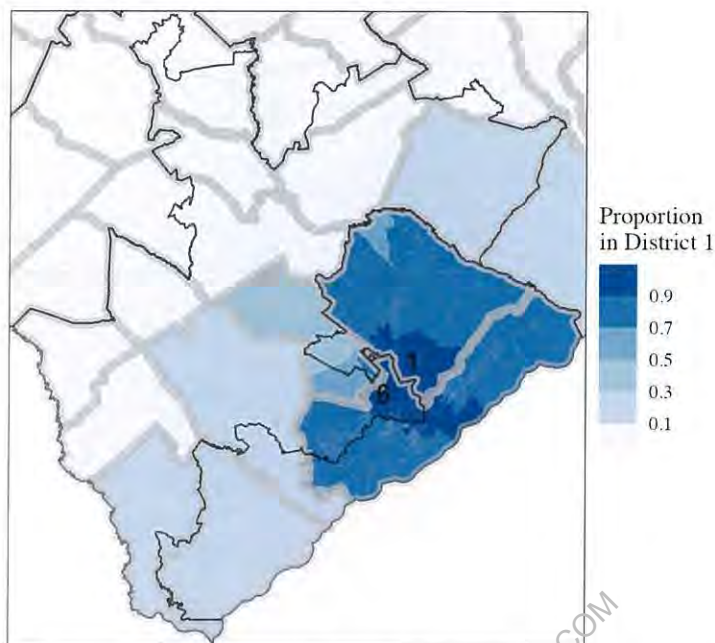


Figure 5: The Boundary of District 1 and 6 in the Statewide Simulation with the Voting Rights Act (VRA) Constraint. In the map, each precinct is shaded by the proportion of 10,000 simulated plans under the VRA constraint that assign it to District 1. A precinct with a darker blue color is more likely to belong to District 1 under the enacted plan. The solid black line demarcates the district boundaries of the enacted plan. The grey lines represent county boundaries.

localized race-blind simulation (shown in Figure 2). Thus, keeping the BVAP proportion of District 6 between 45% and 50% does not materially change the conclusion that the BVAP proportion of District 1 is unusually low.

36. I next show that the unusually low BVAP proportion of District 1 is at least in part due to the way the district boundary is drawn within Charleston County. Figure 5 presents the proportion of the 10,000 simulated plans under the VRA constraint that assign each precinct to District 1. The finding is consistent with that of my localized race-blind simulation analyses shown in Section V (shown in the right map of Figure 1). The way in which the enacted plan splits Charleston County by placing a disproportionately large number of Black voters into District 6 is highly unusual in comparison to the simulated plans. In particular, under the simulated plans, the city of North Charleston where many Black voters live is much more likely to be part of District 1 than District 6 (as indicated by dark blue precincts).

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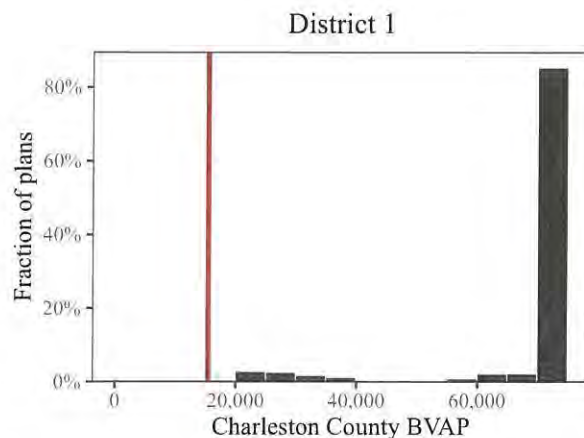


Figure 6: Histogram represents the distribution of the Black voting-age population (BVAP), across 10,000 statewide simulated plans with the VRA constraint, who live in Charleston County and are assigned to District 1. The red line indicates the corresponding BVAP number under the enacted plan.

37. The histogram in Figure 6 further demonstrates this fact by showing the distribution of BVAP who live in Charleston County and are assigned to District 1 under the simulated plans with the VRA constraint. The red vertical line indicates the corresponding number under the enacted plan. Under the simulated plans, a much greater number of Black voters who live in Charleston County are assigned to District 1 in comparison to the enacted plan. In fact, a large spike around 74,600 implies that a vast majority of simulated plans (76.3%) assign the entire county to District 1. In contrast, the enacted plan only places about 15,400 Black voters in District 1, lowering its BVAP proportion. Indeed, only 0.27% of the 10,000 simulated plans places fewer Black voters into District 1 than the enacted plan.

38. In sum, my statewide simulation analysis with the VRA constraint shows that the BVAP proportion of District 1 under the enacted plan is unusually low in part due to the way in which Charleston County is split. This finding implies that race was used as a significant factor in determining the boundary between Districts 1 and 6, especially in Charleston County, beyond the purpose of complying with the VRA and the traditional redistricting criteria.

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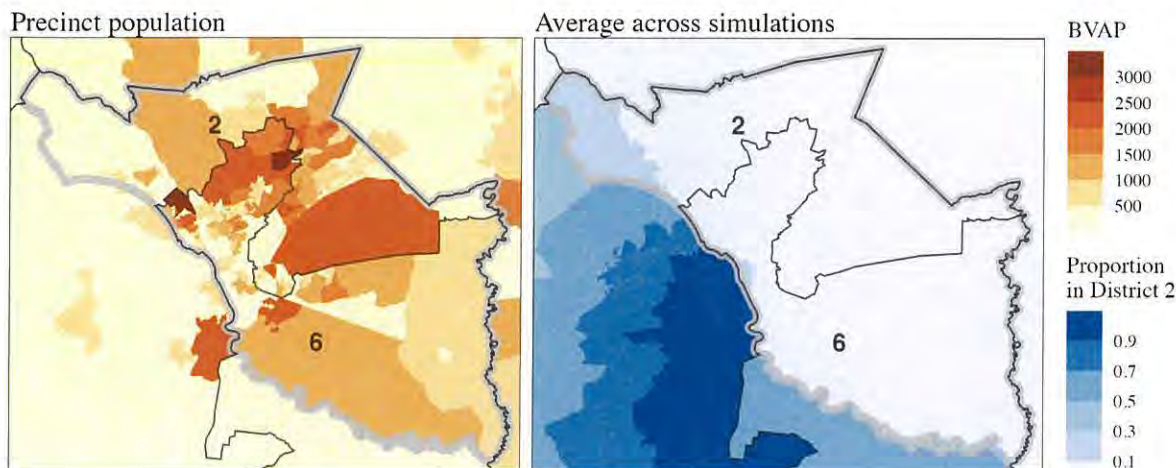


Figure 7: Analysis of Richland County in the Statewide Simulation with the Voting Rights Act (VRA) Constraint. Under the enacted plan, this county consists of Districts 2 and 6, which are demarcated by solid black lines. The grey lines represent county boundaries. The left map shows the precinct-level Black voting-age population (BVAP). In the right map, the districts are shaded by the proportion of 10,000 race-blind simulated plans with the VRA constraint that assign each precinct to District 2. The vast majority of the simulated plans do not include Richland County in District 2.

B. Richland County (District 2)

39. Next, I examine the district boundary in Richland County using the same set of 10,000 statewide simulated plans with the VRA constraint. As shown in the left map of Figure 7, the enacted plan splits this county by including the northern part of the city of Columbia and its environs where a relatively large number of Black voters live into District 6 while assigning the rest of the county to District 2. In other words, the enacted plan cracks Black voters who live in this county into Districts 2 and 6. As a result, within this county, the BVAP proportion of District 6 is 55.4% while that of District 2 is at 37.1%.

40. The enacted plan's decision to crack Black voters by splitting Richland County into Districts 2 and 6, however, is highly unusual when compared to the simulated plans. The right map of Figure 7 shows that many of the simulated plans do not include Richland County in

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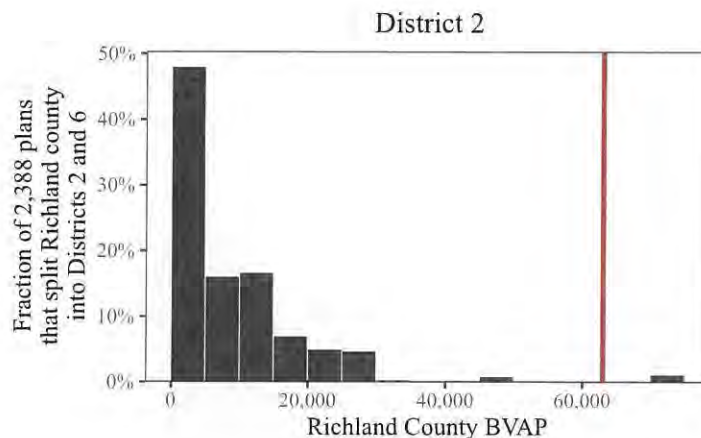


Figure 8: The distribution of Black voting-age population (BVAP) across the subset of plans in which Richland county is split only into Districts 2 and 6. The plans come from statewide plans simulated with the VRA constraint.

District 2 at all (as indicated by light blue color). In fact, 39.4% of the simulated plans do not split Richland County at all and all of these simulated plans assign the entire county to District 6. Even when some simulated plans assign a part of Richland County to District 2, they tend to include the northwestern corner of the county, where very few Black voters live (as indicated by slightly darker blue color), rather than cracking Black voters like the enacted plan does.

41. Although about 23.9% of the simulated plans do divide Richland County into Districts 2 and 6, they do so in a way that is different from the enacted plan. Figure 8 demonstrates this fact by presenting the distribution of BVAP in District 2 among these 2,387 simulated plans that split Richland County into Districts 2 and 6. The grey histogram in the figure shows that these simulated plans place much fewer Black voters in District 2 than the enacted plan. In fact, only 1% of these simulated plans include a greater number of Black voters in District 2 than the enacted plan. The average difference is about 53,900 voters, which corresponds to 4.8 standard deviations of simulated distribution, and is statistically significant. The results are similar even when we include all simulated plans that assign at least some part of Richland County to District 2. Among those simulated plans, only 0.6% of them place a greater number of Black voters who live in Richland County into District 2.

42. Thus, my statewide simulation analysis with the VRA constraint shows that the

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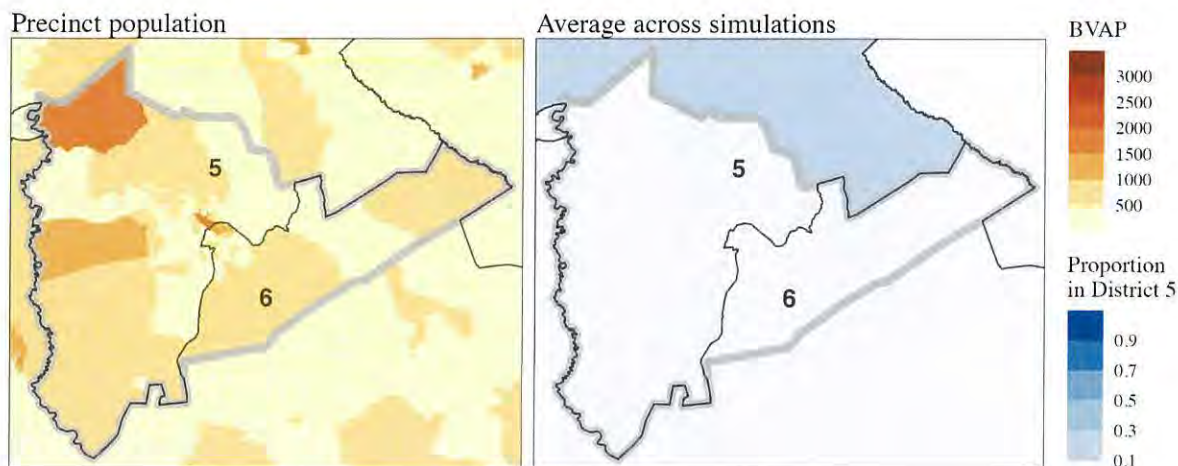


Figure 9: Analysis of Sumter County in the Statewide Simulation with the Voting Rights Act (VRA) Constraint. Under the enacted plan, this county consists of Districts 5 and 6, which are demarcated by solid black lines. The grey lines represent county boundaries. The left map shows the precinct-level Black voting-age population (BVAP). In the right map, the districts are shaded by the proportion of 10,000 race-blind simulated plans with the VRA constraint that assign each precinct to District 5. The vast majority of the simulated plans do not include Sumter County in District 5.

enacted plan unnecessarily cracks Black voters who live in Richland County into Districts 2 and 6. The finding implies that the unusual boundary between Districts 2 and 6 under the enacted plan can neither be explained by compliance with the VRA nor the traditional redistricting criteria.

C. Sumter County (District 5)

43. Finally, I examine the district boundary of Sumter County using the same set of 10,000 statewide simulated plans with the VRA constraint. As shown in the left map of Figure 9, the enacted plan divides Sumter County into Districts 5 and 6 by splitting the city of Sumter, thereby cracking Black voters who live in that area. As a result, about 64% of Black voters who live in Sumter County belong to District 5 while the remaining 36% are assigned to District 6. In contrast, the right map of the figure shows that under the simulated plans with the VRA constraint, no part of Sumter County is likely to belong to District 5 (as indicated by light blue color). Indeed,

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Table 1: Frequency of Pairings of Districts in Sumter County in Statewide VRA Simulation. Only shows combination that appear in 1 percent or more of the 10,000 simulated plans.

Pairings Frequency	
District 6	90.3%
District 6, District 7	4.5%
District 5	2.4%
District 5, District 6	1.2%

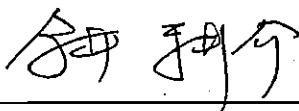
only 6.9% of the simulated plans split Sumter County into multiple districts. Like Richland County, therefore, this shows that it is unnecessary to crack Black voters by splitting Sumter County in order to comply with the VRA.

44. Table 1 further shows the relative frequency of district pairings that occur within Sumter County. The enacted plan's decision to split Sumter County into Districts 5 and 6 is highly unusual. In fact, only 1.2% of the 10,000 simulated plans split Sumter County into Districts 5 and 6, like the enacted plan does. In contrast, a vast majority of the simulated plans assign the entirety of Sumter County to a single district (2.4% for District 5 and 90.3% for District 6) without splitting the county.

45. Thus, my statewide simulation analysis with the VRA constraint shows that the enacted plan cracks Black voters who live in Sumter County into Districts 5 and 6. The finding implies that the unusual boundary between Districts 5 and 6 can neither be explained by compliance with the VRA constraint nor the traditional redistricting criteria.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the forgoing is true and correct:

Executed, this day, April 4, 2022, in Cambridge, Massachusetts.



Kosuke Imai, Ph.D.

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VII. APPENDIX

A. Introduction to Redistricting Simulation

46. In recent years, redistricting simulation algorithms have played an increasingly important role in court cases involving redistricting plans. Simulation evidence has been presented to courts in many states, including Alabama, Michigan, North Carolina, Ohio, and Pennsylvania.⁵

47. Over the past several years, researchers have made major scientific advances to improve the theoretical properties and empirical performance of redistricting simulation algorithms. All of the state-of-the-art redistricting simulation algorithms belong to the family of Monte Carlo methods. They are based on random generation of spanning trees, which are mathematical objects in graph theory (DeFord, Duchin, and Solomon 2021). The use of these random spanning trees allows these state-of-the-art algorithms to efficiently sample a representative set of plans (E. Autry et al. 2020; E. A. Autry et al. 2021; Carter et al. 2019; McCartan and Imai 2020; Kenny et al. 2021). Algorithms developed earlier, which do not use random spanning trees and instead rely on incremental changes to district boundaries, are often not able to do so.

48. These algorithms are designed to sample plans from a specific probability distribution, which means that every legal redistricting plan has certain odds of being generated. The algorithms put as few restrictions as possible on these odds, except to ensure that, on average, the generated plans meet certain criteria. For example, the probabilities are set so that the generated plans reach a certain level of geographic compactness, on average. Other criteria, based on the state in question, may be fed into the algorithm by the researcher. In other words, this target distribution is based on the weakest assumption about the data under the specified constraints.

49. In addition, the algorithms ensure that all of the sampled plans (a) are geographi-

5. Declaration of Dr. Jonathan C. Mattingly, *Common Cause v. Lewis* (2019); Testimony of Dr. Jowei Chen, *Common Cause v. Lewis* (2019); Testimony of Dr. Pegden, *Common Cause v. Lewis* (2019); Expert Report of Jonathan Mattingly on the North Carolina State Legislature, *Rucho v. Common Cause* (2019); Expert Report of Jowei Chen, *Rucho v. Common Cause* (2019); Amicus Brief of Mathematicians, Law Professors, and Students in Support of Appellees and Affirmance, *Rucho v. Common Cause* (2019); Brief of Amici Curiae Professors Wesley Pegden, Jonathan Rodden, and Samuel S.-H. Wang in Support of Appellees, *Rucho v. Common Cause* (2019); Intervenor's Memo, *Ohio A. Philip Randolph Inst. et al. v. Larry Householder* (2019); Expert Report of Jowei Chen, *League of Women Voters of Michigan v. Benson* (2019). Expert Report of Kosuke Imai, *League of Women Voters of Ohio et al. v. Ohio Redistricting Commission et al.* (2021). Expert Report of Kosuke Imai, *Milligan et al. v. Merrill et al.* (2021).

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cally contiguous, and (b) have a population which deviates by no more than a specified amount from a target population.

50. There are two types of general Monte Carlo algorithms which generate redistricting plans with these guarantees and other properties: sequential Monte Carlo (SMC; Doucet, Freitas, and Gordon 2001) and Markov chain Monte Carlo (MCMC; Gilks, Richardson, and Spiegelhalter 1996) algorithms.

51. The SMC algorithm (McCartan and Imai 2020; Kenny et al. 2021) samples many redistricting plans in parallel, starting from a blank map. First, the algorithm draws a random spanning tree and removes an edge from it, creating a “split” in the map, which forms a new district. This process is repeated until the algorithm generates enough plans with just one district drawn. The algorithm calculates a weight for each plan in a specific way so that the algorithm yields a representative sample from the target probability distribution. Next, the algorithm selects one of the drawn plans at random. Plans with greater weights are more likely to be selected. The algorithm then draws another district using the same splitting procedure and calculates a new weight for each updated plan that comports with the target probability distribution. The whole process of random selection and drawing is repeated again and again, each time drawing one additional district on each plan. Once all districts are drawn, the algorithm yields a sample of maps representative of the target probability distribution.

52. The MCMC algorithms (E. Autry et al. 2020; E. A. Autry et al. 2021; Carter et al. 2019) also form districts by drawing a random spanning tree and splitting it. Unlike the SMC algorithm, however, these algorithms do not draw redistricting plans from scratch. Instead, the MCMC algorithms start with an existing plan and modify it, merging a random pair of districts and then splitting them a new way.

53. Diagnostic measures exist for both these algorithms which allow users to make sure the algorithms are functioning correctly and accurately. The original papers for these algorithms referenced above provide more detail on the algorithm specifics, empirical validation of their performance, and the appropriateness of the chosen target distribution.

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B. Implementation Details

54. I conducted three different simulations. For all simulations, I used the merge-split type MCMC algorithm, as described above and implemented in the open-source R package `redist` my collaborators and I developed (Kenny et al. 2020). To name simulated districts, we simulate plans that do not pair two or more incumbents in the same district, using the incumbency constraint whenever necessary.

55. In the first set of simulations involving Districts 1 and 6, I take the precincts that were assigned to District 1 and 6 in the enacted plan and simulate plans that split this area into two congressional districts. This means that districts 2–5 and 7 are not modified. In the Charleston County simulation, I freeze the district assignments of Districts 1 and 6 outside Charleston County as they are in the enacted plan. This means that only the district boundary within the county is simulated while the remaining parts of the relevant districts outside of the county remain unaltered. In the statewide simulation, I do not freeze any districts and simulate plans with 7 congressional districts. Unlike the other two simulations, I use data on race to target specific districts, which I describe below.

56. For each simulation, I generated a total of 10,000 alternative plans by instructing the algorithm so that the resulting simulated plans adhere to the set of redistricting criteria listed in Section IV. Thus, my simulated plans are at least as compliant with these criteria as the enacted plan. Specifically, the 10,000 plans are obtained for each simulation as follows. First, I generated a total of 110,000 to 132,000 plans separately obtained from 10 to 12 parallel Markov chains, each with 11,000 plans. All simulations start the Markov chain with the enacted plan. Second, I discarded the first 1,000 iterations of each Markov chain, a procedure commonly called burn-in, so that initial values do not affect results. Third, in some simulations, I removed plans that still had incumbency pairings so that like the enacted plan all the simulated plans have no incumbency pairing. In the statewide simulation with a VRA constraint, I removed plans in which District 6's BVAP was below 45%. Both of these removals tend to be no more than a trivial proportion of the simulated plans, because of the constraints already encoded in the algorithm. Fourth, I take the

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last 100,000 of the remaining plans. Finally, I kept every 10th plan from these 100,000 plans, a procedure commonly called thinning, resulting in 10,000 simulated plans for each analysis. Below I give the details of the algorithmic inputs for each simulation analysis.

57. Every simulation has a set of constraints so that the resulting simulated plans are compliant with the specified set of redistricting criteria listed in Section IV. Greater values of these strengths generally means that the algorithm is more strongly instructed to sample plans that conform to the selected criterion of interest. The simulations have a default compactness constraint of strength 1. Below, we list additional constraints that are unique to each simulation analysis.

- *Localized District 1 and 6 Simulation:* A soft county split avoidance constraint of strength 0.4, and an incumbency pairing avoidance constraint of strength 1.
- *Localized Charleston County Simulation:* A constraint avoiding splitting municipalities, with a strength of 0.3. The compactness constraint was raised to 1.07.
- *Statewide VRA Simulation:* A custom constraint that penalizes plans in which District 6's BVAP is outside the range of 0.45–0.5. This constraint is given a strength of 8. An incumbency pairing avoidance constraint with a strength of 8 is also added. Finally, there is a soft county split avoid constraint of strength 0.95, and a hierarchical county split constraint that effectively limits the number of counties split to 6.

C. Compactness of the Simulated Districts

58. I measured compactness with the standard metric of Polsby-Popper score (Figure 10) and the fraction of edges kept (Figure 11). According to these measures, the simulated plans are on average at least as compact as the enacted plan.

D. County Splits of the Simulated Districts

59. Figure 12 shows that the number of counties split under the simulated plans (grey histograms) is no greater than that under the enacted plan (red vertical line). The Charleston County simulation is not shown because it only varies the boundary within a single county, so its county splits will be the same as the enacted plan.

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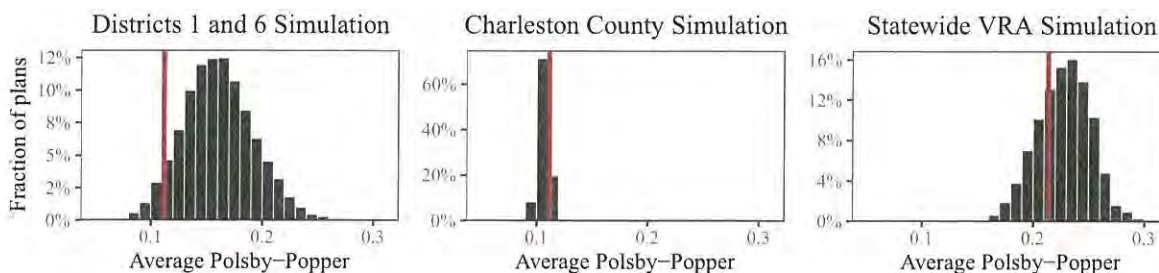


Figure 10: Compactness of Simulations Measured by the Polsby Popper Score. The measure computes the average of the district-level Polsby Popper score for each simulated district. In the Districts 1 and 6 simulation and the Charleston County simulation, there are 2 districts. In the statewide VRA district, there are 7 districts. The histogram represents the compactness of simulated plans while the vertical red line represents the enacted plan. A greater value indicates a more compact redistricting plan.

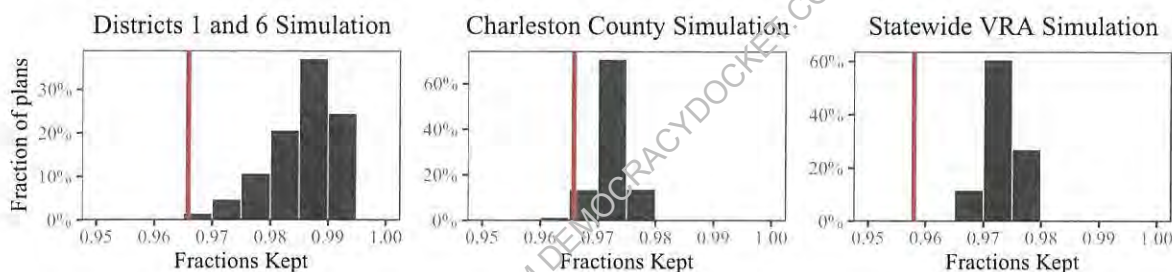


Figure 11: Compactness of Simulations Measured by the Fraction of Edges Kept. The measure computes the fraction of edges kept for each simulated district. The histogram represents the compactness of simulated plans while the vertical red line represents the enacted plan. A greater value indicates a more compact redistricting plan.

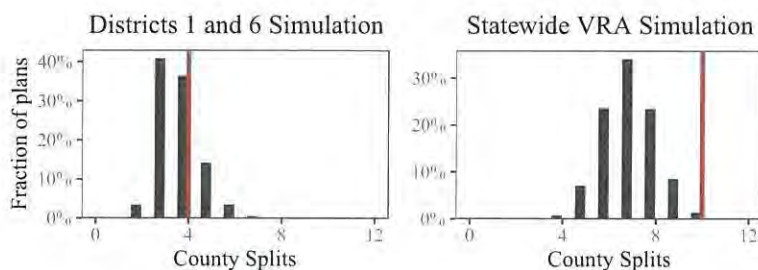


Figure 12: County splits in simulation. The histogram shows the distribution of the number of split counties under the simulated plans while the red vertical line shows the enacted plan. On average, the simulated plans split fewer number of counties than the enacted plan.

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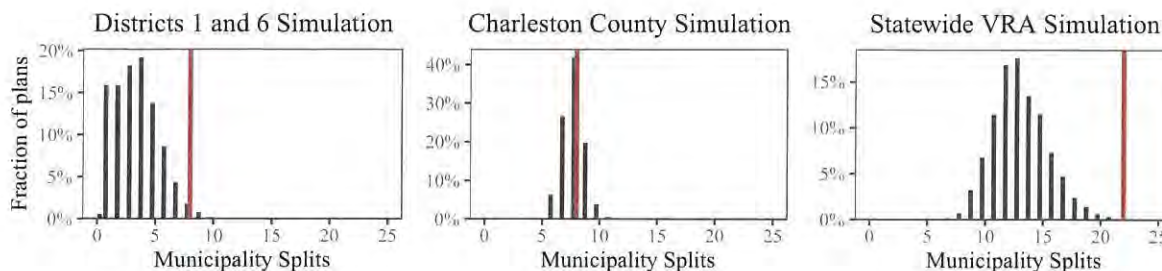


Figure 13: Municipality splits in simulation. The histogram shows the distribution of the number of split municipalities under the simulated plans while the red vertical line shows the enacted plan. On average, the simulated plans split fewer number of municipalities than the enacted plan.

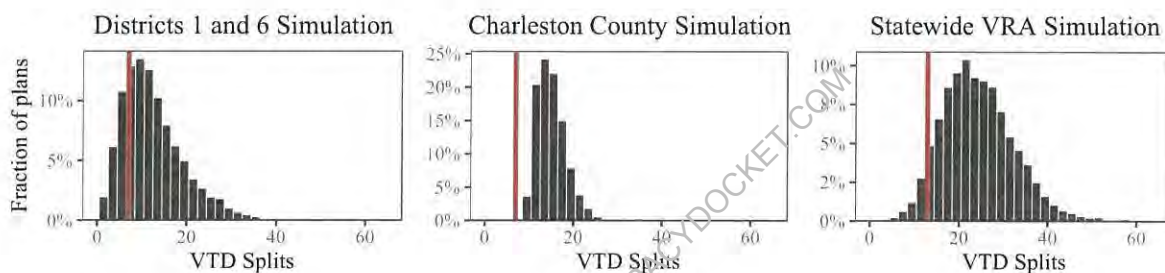


Figure 14: Precinct or Voting Tabulation District (VTD) splits in the simulation. The histogram shows the distribution of the number of split VTDs under the simulated plans while the red vertical line shows the enacted plan.

E. Municipality Splits of the Simulated Districts

60. Figure 13 shows that the number of municipalities split under the simulated plans (grey histograms) is no greater than that under the enacted plan (red vertical line).

F. Precinct Splits of the Simulated Districts

61. Figure 14 show that the number of split precincts or voting tabulation districts (VTDs) among the simulated plans (grey histogram) is generally compatible with that of the enacted plan (vertical red line) but tends to be somewhat higher on average. This is in part due to the fact that many municipalities split VTDs, implying that there often is a direct trade-off between municipality and precinct splits.

G. Data Sources

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G.1. Data Acquisition

62. The 2020 Census Block shapefiles, 2020 Census Place shapefiles, total population by race and ethnicity, and voting age population by race and ethnicity directly were acquired from the Census FTP portal. In this report, when reporting the black voting age population, I count voters in the Census that are any-part black as black.

63. The VTD block assignment files and Census Place block assignment files were acquired from the Census website.

64. The incumbent addresses were acquired from the Redistricting Data Hub and subsequently modified based on public information and records (e.g., South Carolina State Election Commission filings, South Carolina property records) and input from plaintiffs' counsel. These addresses were then geocoded to census blocks.

65. The passed Congressional plan was acquired from the South Carolina House of Representatives Redistricting 2021 website.

66. The 2020 Census place block assignment files (for city and town boundaries) were obtained from the Census website.

G.2. Data Processing

67. For datasets that were on the 2020 census block level (total population, voting age population, VTD assignment, incumbent addresses, congressional district assignment, and census place assignment), these datasets were joined to the 2020 Census block shapefile.

G.3. Data Aggregation

68. The full block-level dataset was aggregated up to the level of the 2020 voting districts, taking into account (a) discontinuities in voting districts (b) splits of voting districts by the proposed Congressional plan and (c) splits of voting districts by cities and towns.

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Kenny, Christopher T., Shiro Kuriwaki, Cory McCartan, Evan Rosenman, Tyler Simko, and Kosuke Imai. 2021. "The Use of Differential Privacy for Census Data and its Impact on Redistricting: The Case of the 2020 U.S. Census." *Science Advances* 7, no. 41 (October): 1–17.

Kenny, Christopher T., Cory McCartan, Benjamin Fifield, and Kosuke Imai. 2020. *redist: Computational Algorithms for Redistricting Simulation*. <https://CRAN.R-project.org/package=redist>.

———. 2022. *redistmetrics: Redistricting Metrics*. <https://CRAN.R-project.org/package=redistmetrics>.

McCartan, Cory, and Kosuke Imai. 2020. "Sequential Monte Carlo for sampling balanced and compact redistricting plans." *arXiv preprint arXiv:2008.06131*.

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EXHIBIT A
Curriculum Vitae

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Kosuke Imai

Curriculum Vitae

March 2022

Contact Information

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Institute for Quantitative Social Science
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Education

Ph.D. in Political Science, Harvard University (1999–2003)
A.M. in Statistics, Harvard University (2000–2002)
B.A. in Liberal Arts, The University of Tokyo (1994–1998)

Positions

Professor, Department of Government and Department of Statistics, Harvard University (2018 – present)

Professor, Department of Politics and Center for Statistics and Machine Learning, Princeton University (2013 – 2018)

Founding Director, Program in Statistics and Machine Learning (2013 – 2017)

Professor of Visiting Status, Graduate Schools of Law and Politics, The University of Tokyo (2016 – present)

Associate Professor, Department of Politics, Princeton University (2012 – 2013)

Assistant Professor, Department of Politics, Princeton University (2004 – 2012)

Visiting Researcher, Faculty of Economics, The University of Tokyo (August, 2006)

Instructor, Department of Politics, Princeton University (2003 – 2004)

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Honors and Awards

1. Invited to read “Experimental Evaluation of Computer-Assisted Human Decision-Making: Application to Pretrial Risk Assessment Instrument.” before the Royal Statistical Society Research Section, London (2022).
2. *Highly Cited Researcher* (cross-field category) for “production of multiple highly cited papers that rank in the top 1% by citations for field and year in Web of Science,” awarded by Clarivate Analytics (2018, 2019, 2020, 2021).
3. *Excellence in Mentoring Award*, awarded by the Society for Political Methodology (2021).
4. *Statistical Software Award* for developing statistical software that makes a significant research contribution, for “fastLink: Fast Probabilistic Record Linkage,” awarded by the Society for Political Methodology (2021).
5. *President*, The Society for Political Methodology (2017–2019). *Vice President and President-elect* (2015–2017).
6. *Elected Fellow*, The Society for Political Methodology (2017).
7. *The Nils Petter Gleditsch Article of the Year Award* (2017), awarded by *Journal of Peace Research*.
8. *Statistical Software Award* for developing statistical software that makes a significant research contribution, for “mediation: R Package for Causal Mediation Analysis,” awarded by the Society for Political Methodology (2015).
9. *Outstanding Reviewer Award* for *Journal of Educational and Behavioral Statistics*, given by the American Educational Research Association (2014).
10. *The Stanley Kelley, Jr. Teaching Award*, given by the Department of Politics, Princeton University (2013).
11. *Pi Sigma Alpha Award* for the best paper presented at the 2012 Midwest Political Science Association annual meeting, for “Explaining Support for Combatants during Wartime: A Survey Experiment in Afghanistan,” awarded by the Midwest Political Science Association (2013).
12. Invited to read “Experimental Designs for Identifying Causal Mechanisms” before the Royal Statistical Society Research Section, London (2012).
13. Inaugural recipient of the *Emerging Scholar Award* for a young scholar making exceptional contributions to political methodology who is within ten years of their terminal degree, awarded by the Society for Political Methodology (2011).
14. *Political Analysis Editors’ Choice Award* for an article providing an especially significant contribution to political methodology, for “Estimation of Heterogeneous Treatment Effects from Randomized Experiments, with Application to the Optimal Planning of the Get-out-the-vote Campaign,” awarded by the Society for Political Methodology and Oxford University Press (2011).

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15. *Tom Ten Have Memorial Award* for the best poster presented at the 2011 Atlantic Causal Inference Conference, for “Identifying Treatment Effect Heterogeneity through Optimal Classification and Variable Selection,” awarded by the Departments of Biostatistics and Statistics, University of Michigan (2011).
16. Nominated for the *Graduate Mentoring Award*, The McGraw Center for Teaching and Learning, Princeton University (2010, 2011).
17. *New Hot Paper*, for the most-cited paper in the field of Economics & Business in the last two months among papers published in the last year, for “Misunderstandings among Experimentalists and Observationalists about Causal Inference,” named by Thomson Reuters’ ScienceWatch (2009).
18. *Warren Miller Prize* for the best article published in *Political Analysis*, for “Matching as Nonparametric Preprocessing for Reducing Model Dependence in Parametric Causal Inference,” awarded by the Society for Political Methodology and Oxford University Press (2008).
19. *Fast Breaking Paper* for the article with the largest percentage increase in citations among those in the top 1% of total citations across the social sciences in the last two years, for “Matching as Nonparametric Preprocessing for Reducing Model Dependence in Parametric Causal Inference,” named by Thomson Reuters’ ScienceWatch (2008).
20. *Pharmacoepidemiology and Drug Safety Outstanding Reviewer Recognition* (2008).
21. *Miyake Award* for the best political science article published in 2005, for “Do Get-Out-The-Vote Calls Reduce Turnout? The Importance of Statistical Methods for Field Experiments,” awarded by the Japanese Political Science Association (2006).
22. *Toppan Prize* for the best dissertation in political science, for *Essays on Political Methodology*, awarded by Harvard University (2004). Also, nominated for American Political Science Association E.F. Schattschneider Award for the best doctoral dissertation in the field of American government and politics.

Publications in English

Books

Imai, Kosuke. (2017). *Quantitative Social Science: An Introduction*. Princeton University Press. Translated into Japanese (2018), Chinese (2020), and Korean (2021).

Stata version (2021) with Lori D. Bougher.

Tidyverse version (forthcoming) with Nora Webb Williams

Llaudet, Elena, and Kosuke Imai. (forthcoming). *Data Analysis for Social Science: A Friendly and Practical Introduction*. Princeton University Press.

Refereed Journal Articles

1. Olivella, Santiago, Tyler Pratt, and Kosuke Imai. "Dynamic Stochastic Blockmodel Regression for Social Networks: Application to International Conflicts." *Journal of the American Statistical Association*, Forthcoming.
2. Fan, Jianqing, Kosuke Imai, Inbeom Lee, Han Liu, Yang Ning, and Xiaolin Yang. "Optimal Covariate Balancing Conditions in Propensity Score Estimation." *Journal of Business & Economic Statistics*, Forthcoming.
3. Imai, Kosuke, Zhichao Jiang, D. James Greiner, Ryan Halen, and Sooahn Shin. "Experimental Evaluation of Computer-Assisted Human Decision-Making: Application to Pretrial Risk Assessment Instrument." (with discussion) *Journal of the Royal Statistical Society, Series A (Statistics in Society)*, Forthcoming. To be read before the Royal Statistical Society.
4. Imai, Kosuke, In Song Kim, and Erik Wang. "Matching Methods for Causal Inference with Time-Series Cross-Sectional Data." *American Journal of Political Science*, Forthcoming.
5. Imai, Kosuke and Michael Lingzhi Li. "Experimental Evaluation of Individualized Treatment Rules." *Journal of the American Statistical Association*, Forthcoming.
6. de la Cuesta, Brandon, Naoki Egami, and Kosuke Imai. (2022). "Experimental Design and Statistical Inference for Conjoint Analysis: The Essential Role of Population Distribution." *Political Analysis*, Vol. 30, No. 1 (January), pp. 19–45.
7. Kenny, Christopher T., Shiro Kuriwaki, Cory McCartan, Evan Rosenman, Tyler Simko, and Kosuke Imai. (2021). "The Use of Differential Privacy for Census Data and its Impact on Redistricting: The Case of the 2020 U.S. Census." *Science Advances*, Vol. 7, No. 7 (October), pp. 1-17.
8. Imai, Kosuke and James Lo. (2021). "Robustness of Empirical Evidence for the Democratic Peace: A Nonparametric Sensitivity Analysis." *International Organization*, Vol. 75, No. 3 (Summer), pp. 901–919.
9. Imai, Kosuke, Zhichao Jiang, and Anup Malani. (2021). "Causal Inference with Interference and Noncompliance in the Two-Stage Randomized Experiments." *Journal of the American Statistical Association*, Vol. 116, No. 534, pp. 632-644.
10. Imai, Kosuke, and In Song Kim. (2021). "On the Use of Two-way Fixed Effects Regression Models for Causal Inference with Panel Data." *Political Analysis*, Vol. 29, No. 3 (July), pp. 405–415.
11. Imai, Kosuke and Zhichao Jiang. (2020). "Identification and Sensitivity Analysis of Contagion Effects with Randomized Placebo-Controlled Trials." *Journal of the Royal Statistical Society, Series A (Statistics in Society)*, Vol. 183, No. 4 (October), pp. 1637–1657.
12. Fifield, Benjamin, Michael Higgins, Kosuke Imai, and Alexander Tarr. (2020). "Automated Redistricting Simulation Using Markov Chain Monte Carlo." *Journal of Computational and Graphical Statistics*, Vol. 29, No. 4, pp. 715–728.

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13. Fifiield, Benjamin, Kosuke Imai, Jun Kawahara, and Christopher T. Kenny. (2020). "The Essential Role of Empirical Validation in Legislative Redistricting Simulation." *Statistics and Public Policy*, Vol. 7, No 1, pp. 52–68.
14. Ning, Yang, Sida Peng, and Kosuke Imai. (2020). "Robust Estimation of Causal Effects via High-Dimensional Covariate Balancing Propensity Score." *Biometrika*, Vol. 107, No. 3 (September), pp. 533–554.
15. Chou, Winston, Kosuke Imai, and Bryn Rosenfeld. (2020). "Sensitive Survey Questions with Auxiliary Information." *Sociological Methods & Research*, Vol. 49, No. 2 (May), pp. 418–454.
16. Imai, Kosuke, Gary King, and Carlos Velasco Rivera. (2020). "Do Nonpartisan Programmatic Policies Have Partisan Electoral Effects? Evidence from Two Large Scale Randomized Experiments." *Journal of Politics*, Vol. 82, No. 2 (April), pp. 714–730.
17. Zhao, Shandong, David A. van Dyk, and Kosuke Imai. (2020). "Propensity-Score Based Methods for Causal Inference in Observational Studies with Non-Binary Treatments." *Statistical Methods in Medical Research*, Vol. 29, No. 3 (March), pp. 709–727.
18. Lyall, Jason, Yang-Yang Zhou, and Kosuke Imai. (2020). "Can Economic Assistance Shape Combatant Support in Wartime? Experimental Evidence from Afghanistan." *American Political Science Review*, Vol. 114, No. 1 (February), pp. 126–143.
19. Kim, In Song, Steven Liao, and Kosuke Imai. (2020). "Measuring Trade Profile with Granular Product-level Trade Data." *American Journal of Political Science*, Vol. 64, No. 1 (January), pp. 102–117.
20. Enamorado, Ted and Kosuke Imai. (2019). "Validating Self-reported Turnout by Linking Public Opinion Surveys with Administrative Records." *Public Opinion Quarterly*, Vol. 83, No. 4 (Winter), pp. 723–748.
21. Blair, Graeme, Winston Chou, and Kosuke Imai. (2019). "List Experiments with Measurement Error." *Political Analysis*, Vol. 27, No. 4 (October), pp. 455–480.
22. Egami, Naoki, and Kosuke Imai. "Causal Interaction in Factorial Experiments: Application to Conjoint Analysis." *Journal of the American Statistical Association*, Vol. 114, No. 526 (June), pp. 529–540.
23. Enamorado, Ted, Benjamin Fifiield, and Kosuke Imai. (2019). "Using a Probabilistic Model to Assist Merging of Large-scale Administrative Records." *American Political Science Review*, Vol. 113, No. 2 (May), pp. 353–371.
24. Imai, Kosuke and In Song Kim. (2019) "When Should We Use Linear Fixed Effects Regression Models for Causal Inference with Longitudinal Data?." *American Journal of Political Science*, Vol. 63, No. 2 (April), pp. 467–490.
25. Imai, Kosuke, and Zhichao Jiang. (2018). "A Sensitivity Analysis for Missing Outcomes Due to Truncation-by-Death under the Matched-Pairs Design." *Statistics in Medicine*, Vol. 37, No. 20 (September), pp. 2907–2922.

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26. Fong, Christian, Chad Hazlett, and Kosuke Imai. (2018). "Covariate Balancing Propensity Score for a Continuous Treatment: Application to the Efficacy of Political Advertisements." *Annals of Applied Statistics*, Vol. 12, No. 1, pp. 156–177.
27. Hirose, Kentaro, Kosuke Imai, and Jason Lyall. (2017). "Can Civilian Attitudes Predict Insurgent Violence?: Ideology and Insurgent Tactical Choice in Civil War" *Journal of Peace Research*, Vol. 51, No. 1 (January), pp. 47–63.
28. Imai, Kosuke, James Lo, and Jonathan Olmsted. (2016). "Fast Estimation of Ideal Points with Massive Data." *American Political Science Review*, Vol. 110, No. 4 (December), pp. 631–656.
29. Rosenfeld, Bryn, Kosuke Imai, and Jacob Shapiro. (2016). "An Empirical Validation Study of Popular Survey Methodologies for Sensitive Questions." *American Journal of Political Science*, Vol. 60, No. 3 (July), pp. 783–802.
30. Imai, Kosuke and Kabir Khanna. (2016). "Improving Ecological Inference by Predicting Individual Ethnicity from Voter Registration Record." *Political Analysis*, Vol. 24, No. 2 (Spring), pp. 263–272.
31. Blair, Graeme, Kosuke Imai, and Yang-Yang Zhou. (2015). "Design and Analysis of the Randomized Response Technique." *Journal of the American Statistical Association*, Vol. 110, No. 511 (September), pp. 1304–1319.
32. Imai, Kosuke and Marc Ratkovic. (2015). "Robust Estimation of Inverse Probability Weights for Marginal Structural Models." *Journal of the American Statistical Association*, Vol. 110, No. 511 (September), pp. 1013–1023. (lead article)
33. Lyall, Jason, Yuki Shiraito, and Kosuke Imai. (2015). "Coethnic Bias and Wartime Informing." *Journal of Politics*, Vol. 77, No. 3 (July), pp. 833–848.
34. Imai, Kosuke, Bethany Park, and Kenneth Greene. (2015). "Using the Predicted Responses from List Experiments as Explanatory Variables in Regression Models." *Political Analysis*, Vol. 23, No. 2 (Spring), pp. 180–196. Translated in Portuguese and Reprinted in *Revista Debates* Vol. 9, No 1.
35. Blair, Graeme, Kosuke Imai, and Jason Lyall. (2014). "Comparing and Combining List and Endorsement Experiments: Evidence from Afghanistan." *American Journal of Political Science*, Vol. 58, No. 4 (October), pp. 1043–1063.
36. Tingley, Dustin, Teppei Yamamoto, Kentaro Hirose, Luke Keele, and Kosuke Imai. (2014). "mediation: R Package for Causal Mediation Analysis." *Journal of Statistical Software*, Vol. 59, No. 5 (August), pp. 1–38.
37. Imai, Kosuke and Marc Ratkovic. (2014). "Covariate Balancing Propensity Score." *Journal of the Royal Statistical Society, Series B (Statistical Methodology)*, Vol. 76, No. 1 (January), pp. 243–263.
38. Lyall, Jason, Graeme Blair, and Kosuke Imai. (2013). "Explaining Support for Combatants during Wartime: A Survey Experiment in Afghanistan." *American Political Science Review*, Vol. 107, No. 4 (November), pp. 679–705. Winner of the Pi Sigma Alpha Award.

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39. Imai, Kosuke and Teppei Yamamoto. (2013). "Identification and Sensitivity Analysis for Multiple Causal Mechanisms: Revisiting Evidence from Framing Experiments." *Political Analysis*, Vol. 21, No. 2 (Spring), pp. 141–171. (lead article).
40. Imai, Kosuke and Marc Ratkovic. (2013). "Estimating Treatment Effect Heterogeneity in Randomized Program Evaluation." *Annals of Applied Statistics*, Vol. 7, No. 1 (March), pp. 443–470. Winner of the Tom Ten Have Memorial Award. Reprinted in *Advances in Political Methodology*, R. Franzese, Jr. ed., Edward Elger, 2017.
41. Imai, Kosuke, Dustin Tingley, and Teppei Yamamoto. (2013). "Experimental Designs for Identifying Causal Mechanisms." (with discussions) *Journal of the Royal Statistical Society, Series A (Statistics in Society)*, Vol. 176, No. 1 (January), pp. 5–51. (lead article) Read before the Royal Statistical Society, March 2012.
42. Imai, Kosuke, and Dustin Tingley. (2012). "A Statistical Method for Empirical Testing of Competing Theories." *American Journal of Political Science*, Vol. 56, No. 1 (January), pp. 218–236.
43. Blair, Graeme, and Kosuke Imai. (2012). "Statistical Analysis of List Experiments." *Political Analysis*, Vol. 20, No. 1 (Winter), pp. 47–77.
44. Imai, Kosuke, Luke Keele, Dustin Tingley, and Teppei Yamamoto. (2011). "Unpacking the Black Box of Causality: Learning about Causal Mechanisms from Experimental and Observational Studies." *American Political Science Review*, Vol. 105, No. 4 (November), pp. 765–789. Reprinted in *Advances in Political Methodology*, R. Franzese, Jr. ed., Edward Elger, 2017.
45. Bullock, Will, Kosuke Imai, and Jacob N. Shapiro. (2011). "Statistical Analysis of Endorsement Experiments: Measuring Support for Militant Groups in Pakistan." *Political Analysis*, Vol. 19, No. 4 (Autumn), pp. 363–384. (lead article)
46. Imai, Kosuke. (2011). "Multivariate Regression Analysis for the Item Count Technique." *Journal of the American Statistical Association*, Vol. 106, No. 494 (June), pp. 407–416. (featured article)
47. Ho, Daniel E., Kosuke Imai, Gary King, and Elizabeth Stuart. (2011). "MatchIt: Non-parametric Preprocessing for Parametric Causal Inference." *Journal of Statistical Software*, Vol. 42 (Special Volume on Political Methodology), No. 8 (June), pp. 1–28.
48. Imai, Kosuke, Ying Lu, and Aaron Strauss. (2011). "eco: R Package for Ecological Inference in 2×2 Tables." *Journal of Statistical Software*, Vol. 42 (Special Volume on Political Methodology), No. 5 (June), pp. 1–23.
49. Imai, Kosuke and Aaron Strauss. (2011). "Estimation of Heterogeneous Treatment Effects from Randomized Experiments, with Application to the Optimal Planning of the Get-out-the-vote Campaign." *Political Analysis*, Vol. 19, No. 1 (Winter), pp. 1–19. (lead article) Winner of the Political Analysis Editors' Choice Award.
50. Imai, Kosuke, Luke Keele, and Dustin Tingley. (2010). "A General Approach to Causal Mediation Analysis." *Psychological Methods*, Vol. 15, No. 4 (December), pp. 309–334. (lead article)

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51. Imai, Kosuke and Teppei Yamamoto. (2010). "Causal Inference with Differential Measurement Error: Nonparametric Identification and Sensitivity Analysis." *American Journal of Political Science*, Vol. 54, No. 2 (April), pp. 543–560.
52. Imai, Kosuke, Luke Keele, and Teppei Yamamoto. (2010). "Identification, Inference, and Sensitivity Analysis for Causal Mediation Effects." *Statistical Science*, Vol. 25, No. 1 (February), pp. 51–71.
53. King, Gary, Emmanuela Gakidou, Kosuke Imai, Jason Lakin, Ryan T. Moore, Clayton Nall, Nirmala Ravishankar, Manett Vargas, Martha María Téllez-Rojo, Juan Eugenio Hernández Ávila, Mauricio Hernández Ávila, and Héctor Hernández Llamas. (2009). "Public Policy for the Poor? A Randomized Ten-Month Evaluation of the Mexican Universal Health Insurance Program." (with a comment) *The Lancet*, Vol. 373, No. 9673 (April), pp. 1447–1454.
54. Imai, Kosuke, Gary King, and Clayton Nall. (2009). "The Essential Role of Pair Matching in Cluster-Randomized Experiments, with Application to the Mexican Universal Health Insurance Evaluation." (with discussions) *Statistical Science*, Vol. 24, No. 1 (February), pp. 29–53.
55. Imai, Kosuke. (2009). "Statistical Analysis of Randomized Experiments with Nonignorable Missing Binary Outcomes: An Application to a Voting Experiment." *Journal of the Royal Statistical Society, Series C (Applied Statistics)*, Vol. 58, No. 1 (February), pp. 83–104.
56. Imai, Kosuke, Gary King, and Olivia Lau. (2008). "Toward A Common Framework of Statistical Analysis and Development." *Journal of Computational and Graphical Statistics*, Vol. 17, No. 4 (December), pp. 892–913.
57. Imai, Kosuke. (2008). "Variance Identification and Efficiency Analysis in Experiments under the Matched-Pair Design." *Statistics in Medicine*, Vol. 27, No. 4 (October), pp. 4857–4873.
58. Ho, Daniel E., and Kosuke Imai. (2008). "Estimating Causal Effects of Ballot Order from a Randomized Natural Experiment: California Alphabet Lottery, 1978–2002." *Public Opinion Quarterly*, Vol. 72, No. 2 (Summer), pp. 216–240.
59. Imai, Kosuke, Gary King, and Elizabeth A. Stuart. (2008). "Misunderstandings among Experimentalists and Observationalists: Balance Test Fallacies in Causal Inference." *Journal of the Royal Statistical Society, Series A (Statistics in Society)*, Vol. 171, No. 2 (April), pp. 481–502. Reprinted in *Field Experiments and their Critics*, D. Teele ed., New Haven: Yale University Press, 2013.
60. Imai, Kosuke, Ying Lu, and Aaron Strauss. (2008). "Bayesian and Likelihood Ecological Inference for 2×2 Tables: An Incomplete Data Approach." *Political Analysis*, Vol. 16, No. 1 (Winter), pp. 41–69.
61. Imai, Kosuke. (2008). "Sharp Bounds on the Causal Effects in Randomized Experiments with "Truncation-by-Death"." *Statistics & Probability Letters*, Vol. 78, No. 2 (February), pp. 144–149.

Kosuke Imai

62. Imai, Kosuke and Samir Soneji. (2007). "On the Estimation of Disability-Free Life Expectancy: Sullivan's Method and Its Extension." *Journal of the American Statistical Association*, Vol. 102, No. 480 (December), pp. 1199–1211.
63. Horiuchi, Yusaku, Kosuke Imai, and Naoko Taniguchi. (2007). "Designing and Analyzing Randomized Experiments: Application to a Japanese Election Survey Experiment." *American Journal of Political Science*, Vol. 51, No. 3 (July), pp. 669–687.
64. Ho, Daniel E., Kosuke Imai, Gary King, and Elizabeth A. Stuart. (2007). "Matching as Nonparametric Preprocessing for Reducing Model Dependence in Parametric Causal Inference." *Political Analysis*, Vol. 15, No. 3 (Summer), pp. 199–236. (lead article) Winner of the Warren Miller Prize.
65. Ho, Daniel E., and Kosuke Imai. (2006). "Randomization Inference with Natural Experiments: An Analysis of Ballot Effects in the 2003 California Recall Election." *Journal of the American Statistical Association*, Vol. 101, No. 475 (September), pp. 888–900.
66. Imai, Kosuke, and David A. van Dyk. (2005). "MNP: R Package for Fitting the Multinomial Probit Model." *Journal of Statistical Software*, Vol. 14, No. 3 (May), pp. 1–32. abstract reprinted in *Journal of Computational and Graphical Statistics* (2005) Vol. 14, No. 3 (September), p. 747.
67. Imai, Kosuke. (2005). "Do Get-Out-The-Vote Calls Reduce Turnout? The Importance of Statistical Methods for Field Experiments." *American Political Science Review*, Vol. 99, No. 2 (May), pp. 283–300.
68. Imai, Kosuke, and David A. van Dyk. (2005). "A Bayesian Analysis of the Multinomial Probit Model Using Marginal Data Augmentation." *Journal of Econometrics*, Vol. 124, No. 2 (February), pp. 311–334.
69. Imai, Kosuke, and David A. van Dyk. (2004). "Causal Inference With General Treatment Regimes: Generalizing the Propensity Score." *Journal of the American Statistical Association*, Vol. 99, No. 467 (September), pp. 854–866.
70. Imai, Kosuke, and Gary King. (2004). "Did Illegal Overseas Absentee Ballots Decide the 2000 U.S. Presidential Election?" *Perspectives on Politics*, Vol. 2, No. 3 (September), pp. 537–549. Our analysis is a part of *The New York Times* article, "How Bush Took Florida: Mining the Overseas Absentee Vote" By David Barstow and Don van Natta Jr. July 15, 2001, Page 1, Column 1.

Invited Contributions

1. Imai, Kosuke. (2022). "Causal Diagrams and Social Science Research." *Probabilistic and Causal Inference: The Works of Judea Pearl*. Geffner, Hector and Dechter, Rina and Halpern, Joseph Y. (eds). Association for Computing Machinery and Morgan & Claypool, pp. 647–654.
2. Imai, Kosuke, and Zhichao Jiang. (2019). "Comment: The Challenges of Multiple Causes." *Journal of the American Statistical Association*, Vol. 114, No. 528, pp. 1605–1610.

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3. Benjamin, Daniel J., *et al.* (2018). "Redefine Statistical Significance." *Nature Human Behaviour*, Vol. 2, No. 1, pp. 6–10.
4. de la Cuesta, Brandon and Kosuke Imai. (2016). "Misunderstandings about the Regression Discontinuity Design in the Study of Close Elections." *Annual Review of Political Science*, Vol. 19, pp. 375–396.
5. Imai, Kosuke (2016). "Book Review of *Causal Inference for Statistics, Social, and Biomedical Sciences: An Introduction*. by Guido W. Imbens and Donald B. Rubin." *Journal of the American Statistical Association*, Vol. 111, No. 515, pp. 1365–1366.
6. Imai, Kosuke, Bethany Park, and Kenneth F. Greene. (2015). "Usando as respostas previsíveis da abordagem list-experiments como variáveis explicativas em modelos de regressão." *Revista Debates*, Vol. 9, No. 1, pp. 121–151. First printed in *Political Analysis*, Vol. 23, No. 2 (Spring).
7. Imai, Kosuke, Luke Keele, Dustin Tingley, and Teppei Yamamoto. (2014). "Comment on Pearl: Practical Implications of Theoretical Results for Causal Mediation Analysis." *Psychological Methods*, Vol. 19, No. 4 (December), pp. 482–487.
8. Imai, Kosuke, Gary King, and Elizabeth A. Stuart. (2014). "Misunderstandings among Experimentalists and Observationalists: Balance Test Fallacies in Causal Inference." in *Field Experiments and their Critics: Essays on the Uses and Abuses of Experimentation in the Social Sciences*, D. L. Teele ed., New Haven: Yale University Press, pp. 196–227. First printed in *Journal of the Royal Statistical Society, Series A (Statistics in Society)*, Vol. 171, No. 2 (April).
9. Imai, Kosuke, Dustin Tingley, and Teppei Yamamoto. (2013). "Reply to Discussions of "Experimental Designs for Identifying Causal Mechanisms"." *Journal of the Royal Statistical Society, Series A (Statistics in Society)*, Vol. 173, No. 1 (January), pp. 46–49.
10. Imai, Kosuke. (2012). "Comments: Improving Weighting Methods for Causal Mediation Analysis." *Journal of Research on Educational Effectiveness*, Vol. 5, No. 3, pp. 293–295.
11. Imai, Kosuke. (2011). "Introduction to the Virtual Issue: Past and Future Research Agenda on Causal Inference." *Political Analysis*, Virtual Issue: Causal Inference and Political Methodology.
12. Imai, Kosuke, Booil Jo, and Elizabeth A. Stuart. (2011). "Commentary: Using Potential Outcomes to Understand Causal Mediation Analysis." *Multivariate Behavioral Research*, Vol. 46, No. 5, pp. 842–854.
13. Imai, Kosuke, Luke Keele, Dustin Tingley, and Teppei Yamamoto. (2010). "Causal Mediation Analysis Using R," in *Advances in Social Science Research Using R*, H. D. Vinod (ed.), New York: Springer (Lecture Notes in Statistics), pp. 129–154.
14. Imai, Kosuke, Gary King, and Clayton Nall. (2009). "Rejoinder: Matched Pairs and the Future of Cluster-Randomized Experiments." *Statistical Science*, Vol. 24, No. 1 (February), pp. 65–72.
15. Imai, Kosuke. (2003). "Review of Jeff Gill's *Bayesian Methods: A Social and Behavioral Sciences Approach*," *The Political Methodologist*, Vol. 11 No. 1, 9–10.

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Refereed Conference Proceedings

1. Svyatkovskiy, Alexey, Kosuke Imai, Mary Kroeger, and Yuki Shiraito. (2016). "Large-scale text processing pipeline with Apache Spark," *IEEE International Conference on Big Data*, Washington, DC, pp. 3928-3935.

Other Publications and Manuscripts

1. Goldstein, Daniel, Kosuke Imai, Anja S. Göritz, and Peter M. Gollwitzer. (2008). "Nudging Turnout: Mere Measurement and Implementation Planning of Intentions to Vote."
2. Ho, Daniel E. and Kosuke Imai. (2004). "The Impact of Partisan Electoral Regulation: Ballot Effects from the California Alphabet Lottery, 1978–2002." Princeton Law & Public Affairs Paper No. 04-001; Harvard Public Law Working Paper No. 89.
3. Imai, Kosuke. (2003). "Essays on Political Methodology," *Ph.D. Thesis*. Department of Government, Harvard University.
4. Imai, Kosuke, and Jeremy M. Weinstein. (2000). "Measuring the Economic Impact of Civil War," Working Paper Series No. 51, Center for International Development, Harvard University.

Selected Manuscripts

1. Ham, Dae Woong, Kosuke Imai, and Lucas Janson. "Using Machine Learning to Test Causal Hypotheses in Conjoint Analysis."
2. Goplerud, Max, Kosuke Imai, Nicole E. Pashley. "Estimating Heterogeneous Causal Effects of High-Dimensional Treatments: Application to Conjoint Analysis."
3. Malani, Anup, Phoebe Holtzman, Kosuke Imai, Cynthia Kinnan, Morgen Miller, Shailender Swaminathan, Alessandra Voena, Bartosz Woda, and Gabriella Conti. "Effect of Health Insurance in India: A Randomized Controlled Trial."
4. McCartan, Cory, Jacob Brown, and Kosuke Imai. "Measuring and Modeling Neighborhoods."
5. Ben-Michael, Eli, D. James Greiner, Kosuke Imai, and Zhichao Jiang. "Safe Policy Learning through Extrapolation: Application to Pre-trial Risk Assessment."
6. Tarr, Alexander and Kosuke Imai. "Estimating Average Treatment Effects with Support Vector Machines."
7. McCartan, Cory and Kosuke Imai. "Sequential Monte Carlo for Sampling Balanced and Compact Redistricting Plans."
8. Imai, Kosuke and Zhichao Jiang. "Principal Fairness for Human and Algorithmic Decision-Making."
9. Papadogeorgou, Georgia, Kosuke Imai, Jason Lyall, and Fan Li. "Causal Inference with Spatio-temporal Data: Estimating the Effects of Airstrikes on Insurgent Violence in Iraq."
10. Eshima, Shusei, Kosuke Imai, and Tomoya Sasaki. "Keyword Assisted Topic Models."

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11. Tarr, Alexander, June Hwang, and Kosuke Imai. "Automated Coding of Political Campaign Advertisement Videos: An Empirical Validation Study."
12. Chan, K.C.G, K. Imai, S.C.P. Yam, Z. Zhang. "Efficient Nonparametric Estimation of Causal Mediation Effects."
13. Barber, Michael and Kosuke Imai. "Estimating Neighborhood Effects on Turnout from Geocoded Voter Registration Records."
14. Hirano, Shigeo, Kosuke Imai, Yuki Shiraito, and Masaki Taniguchi. "Policy Positions in Mixed Member Electoral Systems: Evidence from Japan."

Publications in Japanese

1. Imai, Kosuke. (2007). "Keiryō Seijigaku niokeru Ingateki Suiron (Causal Inference in Quantitative Political Science)." *Leviathan*, Vol. 40, Spring, pp. 224–233.
2. Horiuchi, Yusaku, Kosuke Imai, and Naoko Taniguchi. (2005). "Seisaku Jyōhō to Tōhyō Sanka: Field Jikken ni yoru Kensyō (Policy Information and Voter Participation: A Field Experiment)." *Nenpō Seijigaku (The Annals of the Japanese Political Science Association)*, 2005–I, pp. 161–180.
3. Taniguchi, Naoko, Yusaku Horiuchi, and Kosuke Imai. (2004). "Seitō Saito no Etsuran ha Tohyō Kōdō ni Eikyō Suruka? (Does Visiting Political Party Websites Influence Voting Behavior?)" *Nikkei Research Report*, Vol. IV, pp. 16–19.

Statistical Software

1. Eshima, Shusei, Kosuke Imai, and Tomoya Sasaki. "Keyword Assisted Topic Models." The Comprehensive R Archive Network and GitHub. 2020.
2. Li, Michael Lingzhi and Kosuke Imai. "evalITR: Evaluating Individualized Treatment Rules." available through The Comprehensive R Archive Network and GitHub. 2020.
3. Egami, Naoki, Brandon de la Cuesta, and Kosuke Imai. "factorEx: Design and Analysis for Factorial Experiments." available through The Comprehensive R Archive Network and GitHub. 2019.
4. Kim, In Song, Erik Wang, Adam Rauh, and Kosuke Imai. "PanelMatch: Matching Methods for Causal Inference with Time-Series Cross-Section Data." available through GitHub. 2018.
5. Olivella, Santiago, Adeline Lo, Tyler Pratt, and Kosuke Imai. "NetMix: Mixed-membership Regression Stochastic Blockmodel for Networks." available through CRAN and Github. 2019.
6. Enamorado, Ted, Benjamin Fifield, and Kosuke Imai. "fastLink: Fast Probabilistic Record Linkage." available through The Comprehensive R Archive Network and GitHub. Winner of the Statistical Software Award. 2017.
7. Khanna, Kabir, and Kosuke Imai. "wru: Who Are You? Bayesian Predictions of Racial Category Using Surname and Geolocation." available through The Comprehensive R Archive Network and GitHub. 2015.

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8. Fifeild, Benjamin, Christopher T. Kenny, Cory McCartan, and Kosuke Imai. “redist: Markov Chain Monte Carlo Methods for Redistricting Simulation.” available through The Comprehensive R Archive Network and GitHub. 2015.
9. Imai, Kosuke, James Lo, and Jonathan Olmsted. “emIRT: EM Algorithms for Estimating Item Response Theory Models.” available through The Comprehensive R Archive Network. 2015.
10. Blair, Graeme, Yang-Yang Zhou, and Kosuke Imai. “rr: Statistical Methods for the Randomized Response Technique.” available through The Comprehensive R Archive Network and GitHub. 2015.
11. Fong, Christian, Marc Ratkovic, and Kosuke Imai. “CBPS: R Package for Covariate Balancing Propensity Score.” available through The Comprehensive R Archive Network and GitHub. 2012.
12. Egami, Naoki, Marc Ratkovic, and Kosuke Imai. “FindIt: R Package for Finding Heterogeneous Treatment Effects.” available through The Comprehensive R Archive Network and GitHub. 2012.
13. Kim, In Song, and Kosuke Imai. “wfe: Weighted Linear Fixed Effects Regression Models for Causal Inference.” available through The Comprehensive R Archive Network. 2011.
14. Shiraito, Yuki, and Kosuke Imai. “endorse: R Package for Analyzing Endorsement Experiments.” available through The Comprehensive R Archive Network and GitHub. 2012.
15. Blair, Graeme, and Kosuke Imai. “list: Statistical Methods for the Item Count Technique and List Experiments.” available through The Comprehensive R Archive Network and GitHub. 2011.
16. Tingley, Dustin, Teppei Yamamoto, Kentaro Hirose, Luke Keele, and Kosuke Imai. “mediation: R Package for Causal Mediation Analysis.” available through The Comprehensive R Archive Network and GitHub. 2009. Winner of the Statistical Software Award. Reviewed in *Journal of Educational and Behavioral Statistics*.
17. Imai, Kosuke. “experiment: R Package for Designing and Analyzing Randomized Experiments.” available through The Comprehensive R Archive Network. 2007.
18. Ho, Daniel E., Kosuke Imai, Gary King, and Elizabeth Stuart. “MatchIt: Nonparametric Preprocessing for Parametric Causal Inference.” available through The Comprehensive R Archive Network and GitHub. 2005.
19. Imai, Kosuke, Ying Lu, and Aaron Strauss. “eco: Ecological Inference in 2×2 Tables.” available through The Comprehensive R Archive Network and GitHub. 2004.
20. Imai, Kosuke, and David A. van Dyk. “MNP: R Package for Fitting the Multinomial Probit Model.” available through The Comprehensive R Archive Network and GitHub. 2004.
21. Imai, Kosuke, Gary King, and Olivia Lau. “Zelig: Everyone’s Statistical Software.” available through The Comprehensive R Archive Network. 2004.

Kosuke Imai

External Research Grants

Principal and Co-Principal Investigator

1. National Science Foundation (2022-2025). “Collaborative Research: Understanding the Evolution of Political Campaign Advertisements over the Last Century.” (Accountable Institutions and Behavior Program, SES-2148928). Principal Investigator (with Michael Crespin and Bryce Dietrich) \$538,484.
2. National Science Foundation (2021-2024). “Collaborative Research: Causal Inference with Spatio-Temporal Data on Human Dynamics in Conflict Settings.” (Algorithm for Threat Detection Program; DMS-2124463). Principal Investigator (with Georgia Papadogeorgou and Jason Lyall) \$485,340.
3. National Science Foundation (2021-2023). “Evaluating the Impacts of Machine Learning Algorithms on Human Decisions.” (Methodology, Measurement, and Statistics Program; SES-2051196). Principal Investigator (with D. James Greiner and Zhichao Jiang) \$330,000.
4. Cisco Systems, Inc. (2020-2022). “Evaluating the Impacts of Algorithmic Recommendations on the Fairness of Human Decisions.” (Ethics in AI; CG# 2370386) Principal Investigator (with D. James Greiner and Zhichao Jiang) \$110,085.
5. The Alfred P. Sloan Foundation (2020-2022). “Causal Inference with Complex Treatment Regimes: Design, Identification, Estimation, and Heterogeneity.” (Economics Program; 2020--13946) Co-Principal Investigator (with Francesca Dominici and Jose Zubizarreta) \$996,299
6. Facebook Research Grant (2018). \$25,000.
7. National Science Foundation (2016-2021). “Collaborative Conference Proposal: Support for Conferences and Mentoring of Women and Underrepresented Groups in Political Methodology.” (Methodology, Measurement and Statistics and Political Science Programs; SES-1628102) Principal Investigator (with Jeffrey Lewis) \$312,322. Supplement (SES-1831370) \$60,000.
8. The United States Agency for International Development (2015-2017). “Unemployment and Insurgent Violence in Afghanistan: Evidence from the Community Development Program.” (AID-OAA-A-12-00096) Principal Investigator (with Jason Lyall) \$188,037
9. The United States Institute of Peace (2015-2016). “Assessing the Links between Economic Interventions and Stability: An impact evaluation of vocational and skills training in Kandahar, Afghanistan,” Principal Investigator (with David Haines, Jon Kurtz, and Jason Lyall) \$144,494.
10. Amazon Web Services in Education Research Grant (2014). Principal Investigator (with Graeme Blair and Carlos Velasco Rivera) \$3,000.
11. Development Bank of Latin America (CAF) (2013). “The Origins of Citizen Support for Narcos: An Empirical Investigation,” Principal Investigator (with Graeme Blair, Fabiana Machado, and Carlos Velasco Rivera). \$15,000.

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12. The International Growth Centre (2011–2013). “Poverty, Militancy, and Citizen Demands in Natural Resource-Rich Regions: Randomized Evaluation of the Oil Profits Dividend Plan for the Niger Delta” (RA-2010-12-013). Principal Investigator (with Graeme Blair). \$117,116.
13. National Science Foundation, (2009–2012). “Statistical Analysis of Causal Mechanisms: Identification, Inference, and Sensitivity Analysis,” (Methodology, Measurement, and Statistics Program and Political Science Program; SES-0918968). Principal Investigator. \$97,574.
14. National Science Foundation, (2009–2011). “Collaborative Research: The Measurement and Identification of Media Priming Effects in Political Science,” (Methodology, Measurement, and Statistics Program and Political Science Program; SES-0849715). Principal Investigator (with Nicholas Valentino). \$317,126.
15. National Science Foundation, (2008–2009). “New Statistical Methods for Randomized Experiments in Political Science and Public Policy,” (Political Science Program; SES-0752050). Principal Investigator. \$52,565.
16. National Science Foundation, (2006–2009). “Collaborative Research: Generalized Propensity Score Methods,” (Methodology, Measurement and Statistics Program; SES-0550873). Principal Investigator (with Donald B. Rubin and David A. van Dyk). \$460,000.
17. The Telecommunications Advancement Foundation, (2004). “Analyzing the Effects of Party Webpages on Political Opinions and Voting Behavior,” Principal Investigator (with Naoko Taniguchi and Yusaku Horiuchi). \$12,000.

Adviser and Statistical Consultant

1. National Science Foundation (2016–2017). “Doctoral Dissertation Research: Crossing Africa’s Arbitrary Borders: How Refugees Shape National Boundaries by Challenging Them.” (Political Science Program, SES-1560636). Principal Investigator and Adviser for Co-PI Yang-Yang Zhou’s Dissertation Research. \$18,900.
2. Institute of Education Sciences (2012–2014). “Academic and Behavioral Consequences of Visible Security Measures in Schools” (R305A120181). Statistical Consultant (Emily Tanner-Smith, Principal Investigator). \$351,228.
3. National Science Foundation (2013–2014). “Doctoral Dissertation Research: Open Trade for Sale: Lobbying by Productive Exporting Firm” (Political Science Program, SES-1264090). Principal Investigator and Adviser for Co-PI In Song Kim’s Dissertation Research. \$22,540.
4. National Science Foundation (2012–2013). “Doctoral Dissertation Research: The Politics of Location in Resource Rent Distribution and the Projection of Power in Africa” (Political Science Program, SES-1260754). Principal Investigator and Adviser for Co-PI Graeme Blair’s Dissertation Research. \$17,640.

Invited Short Courses and Outreach Lectures

1. Short Course on Causal Inference and Statistics – Department of Political Science, Rice University, 2009; Institute of Political Science, Academia Sinica, 2014.
2. Short Course on Causal Inference and Identification, The Empirical Implications of Theoretical Models (EITM) Summer Institute – Harris School of Public Policy, University of Chicago, 2011; Department of Politics, Princeton University, 2012.
3. Short Course on Causal Mediation Analysis – Summer Graduate Seminar, Institute of Statistical Mathematics, Tokyo Japan, 2010; Society for Research on Educational Effectiveness Conference, Washington DC, Fall 2011, Spring 2012, Spring 2015; Inter-American Development Bank, 2012; Center for Education Research, University of Wisconsin, Madison, 2012; Bobst Center for Peace and Justice, Princeton University, 2014; Graduate School of Education, University of Pennsylvania, 2014; EITM Summer Institute, Duke University, 2014; Center for Lifespan Psychology, Max Planck Institute for Human Development, 2015; School of Communication Research, University of Amsterdam, 2015; Uppsala University, 2016
4. Short Course on Covariate Balancing Propensity Score – Society for Research on Educational Effectiveness Conference, Washington DC, Spring 2013; Uppsala University, 2016
5. Short Course on Matching Methods for Causal Inference – Institute of Behavioral Science, University of Colorado, Boulder, 2009; Department of Political Science, Duke University, 2013.
6. Lecture on Statistics and Social Sciences – New Jersey Japanese School, 2011, 2016; Kaisei Academy, 2012, 2014; Princeton University Wilson College, 2012; University of Tokyo, 2014

Selected Presentations

1. Distinguished speaker, Harvard College Summer Program for Undergraduates in Data Science, 2021.
2. Keynote speaker, Kansas-Western Missouri Chapter of the American Statistical Association, 2021.
3. Invited plenary panelist, Association for Computing Machinery Conference on Fairness, Accountability, and Transparency (ACM FAccT) 2021.
4. Keynote speaker, Taiwan Political Science Association, 2020.
5. Keynote speaker, Boston Japanese Researchers Forum, Massachusetts Institute of Technology, 2020.
6. Keynote speaker, Causal Mediation Analysis Training Workshop, Mailman School of Public Health, Columbia University, 2020.
7. Keynote speaker, Special Workshop on Evidence-based Policy Making. World Economic Forum, Centre for the Fourth Industrial Revolution, Japan, 2020.

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8. Distinguished speaker, Institute for Data, Systems, and Society. Massachusetts Institute of Technology, 2019.
9. Keynote speaker, The Harvard Experimental Political Science Graduate Student Conference, Harvard University, 2019.
10. Invited speaker, Beyond Curve Fitting: Causation, Counterfactuals, and Imagination-based AI. Association for the Advancement of Artificial Intelligence, Spring Symposium, Stanford University, 2019.
11. Inaugural speaker, Causal Inference Seminar, Departments of Biostatistics and Statistics, Boston University, 2019.
12. Keynote speaker, The Second Latin American Political Methodology Meeting, Universidad de los Andes (Department of Political Science), 2018.
13. Keynote speaker, The First Latin American Political Methodology Meeting, Pontifical Catholic University of Chile (Department of Political Science), 2017.
14. Keynote speaker, Workshop on Uncovering Causal Mechanisms, University of Munich (Department of Economics), 2016.
15. Keynote speaker, The National Quality Registry Research Conference, Stockholm, 2016.
16. Keynote speaker, The UK-Causal Inference Meeting, University of Bristol (School of Mathematics), 2015.
17. Keynote speaker, The UP-STAT Conference, the Upstate Chapters of the American Statistical Association, 2015.
18. Keynote speaker, The Winter Conference in Statistics, Swedish Statistical Society and Umeå University (Department of Mathematics and Mathematical Statistics), 2015.
19. Inaugural invited speaker, The International Methods Colloquium, Rice University, 2015.
20. Invited speaker, The International Meeting on Experimental and Behavioral Social Sciences, University of Oxford (Nuffield College), 2014.
21. Keynote speaker, The Annual Conference of Australian Society for Quantitative Political Science, University of Sydney, 2013.
22. Keynote speaker, The Graduate Student Conference on Experiments in Interactive Decision Making, Princeton University. 2008.

Conferences Organized

1. The Asian Political Methodology Meetings (January 2014, 2015, 2016, 2017, 2018; co-organizer)
2. The Experimental Research Workshop (September 2012; co-organizer)
3. The 12th World Meeting of the International Society for Bayesian Analysis (June 2012; a member of the organizing committee)

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4. Conference on Causal Inference and the Study of Conflict and State Building (May 2012; organizer)
5. The 28th Annual Society for Political Methodology Summer Meeting (July 2011; host)
6. Conference on New Methodologies and their Applications in Comparative Politics and International Relations (February 2011; co-organizer)

Teaching

Courses Taught at Harvard

1. Stat 286/Gov 2003 Causal Inference (formally Stat 186/Gov 2002): introduction to causal inference
2. Gov 2003 Topics in Quantitative Methodology: causal inference, applied Bayesian statistics, machine learning

Courses Taught at Princeton

1. POL 245 Visualizing Data: exploratory data analysis, graphical statistics, data visualization
2. POL 345 Quantitative Analysis and Politics: a first course in quantitative social science
3. POL 451 Statistical Methods in Political Science: basic probability and statistical theory, their applications in the social sciences
4. POL 502 Mathematics for Political Science: real analysis, linear algebra, calculus
5. POL 571 Quantitative Analysis I: probability theory, statistical theory, linear models
6. POL 572 Quantitative Analysis II: intermediate applied statistics
7. POL 573 Quantitative Analysis III: advanced applied statistics
8. POL 574 Quantitative Analysis IV: advanced applied statistics with various topics including Bayesian statistics and causal inference
9. Reading Courses: basic mathematical probability and statistics, applied bayesian statistics, spatial statistics

Advising

Current Students

1. Soubhik Barari (Government)
2. Adam Breuer (Computer Science and Government). To be Assistant Professor, Department of Government and Department of Computer Science, Dartmouth College
3. Jacob Brown (Government). To be Postdoctoral Fellow, Princeton University, followed by Assistant Professor, Department of Political Science, Boston University

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4. Ambarish Chattopadhyay (Statistics). To be Postdoctoral Fellow, Stanford University
5. Shusei Eshima (Government)
6. Georgina Evans (Government). To be Research Scientist, Google Brain
7. Dae Woong Ham (Statistics)
8. Zeyang Jia (Statistics)
9. Christopher T. Kenny (Government)
10. Jialu Li (Government)
11. Cory McCartan (Statistics)
12. Sayumi Miyano (Princeton, Politics)
13. Sun Young Park (Government)
14. Casey Petroff (Political Economy and Government)
15. Averell Schmidt (Kennedy School)
16. Sooahn Shin (Government)
17. Tyler Simko (Government)
18. Soichiro Yamauchi (Government)
19. Yi Zhang (Statistics)

Current Postdocs

1. Eli Ben-Michael
2. Evan Rosenman

Former Students

1. Michael Lingzhe Li (Ph.D. in 2021, Operations Research, MIT). Postdoctoral Fellow, MIT. To be Assistant Professor, Technology and Operations Management Unit, Harvard Business School
2. Alexander Tarr (Ph.D. in 2021, Department of Electrical and Computer Engineering, Princeton University; Dissertation Committee Chair)
3. Connor Jerzak (Ph.D. in 2021, Department of Government, Harvard University). Postdoctoral Fellow, Linkoping University. To be Assistant Professor, Department of Government, University of Texas, Austin
4. Shiro Kuriwaki (Ph.D. in 2021, Department of Government, Harvard University). Postdoctoral Fellow, Stanford University. To be Assistant Professor, Department of Political Science, Yale University

Kosuke Imai

5. Erik Wang (Ph.D. in 2020, Department of Politics, Princeton University). Assistant Professor, Department of Political and Social Change, Australian National University
6. Diana Stanescu (Ph.D. in 2020, Department of Politics, Princeton University). Postdoctoral Fellow, Stanford University
7. Nicole Pashley (Ph.D. in 2020, Department of Statistics, Harvard University). Assistant Professor, Department of Statistics, Rutgers University
8. Asya Magazinnik (Ph.D. in 2020, Department of Politics, Princeton University). Assistant Professor, Department of Political Science, Massachusetts Institute of Technology
9. Max Goplerud (Ph.D. in 2020, Department of Government, Harvard University). Assistant Professor, Department of Political Science, University of Pittsburgh
10. Naoki Egami (Ph.D. in 2020, Department of Politics, Princeton University; Dissertation Committee Chair). Assistant Professor, Department of Political Science, Columbia University
11. Brandon de la Cuesta (Ph.D. in 2019, Department of Politics, Princeton University). Postdoctoral Fellow, Center on Global Poverty and Development, Stanford University
12. Yang-Yang Zhou (Ph.D. in 2019, Department of Politics, Princeton University). Assistant Professor, Department of Political Science, University of British Columbia
13. Winston Chou (Ph.D. in 2019, Department of Politics, Princeton University). Senior Data Scientist at Apple
14. Ted Enamorado (Ph.D. in 2019, Department of Politics, Princeton University; Dissertation Committee Chair). Assistant Professor, Department of Political Science, Washington University in St. Louis
15. Benjamin Fifield (Ph.D. in 2018, Department of Politics, Princeton University; Dissertation Committee Chair). Data Scientist, American Civil Liberties Union
16. Tyler Pratt. (Ph.D. in 2018, Department of Politics, Princeton University). Assistant Professor, Department of Political Science, Yale University
17. Romain Ferrali (Ph.D. in 2018, Department of Politics, Princeton University). Assistant Professor, Aix-Marseille School of Economics
18. Julia Morse (Ph.D. in 2017, Woodrow Wilson School, Princeton University). Assistant Professor, Department of Political Science, University of California, Santa Barbara
19. Yuki Shiraito (Ph.D. in 2017, Department of Politics, Princeton University; Dissertation Committee Chair). Assistant Professor, Department of Political Science, University of Michigan
20. Carlos Velasco Rivera (Ph.D. in 2016, Department of Politics, Princeton University). Research Scientist, Facebook
21. Gabriel Lopez Moctezuma (Ph.D. in 2016, Department of Politics, Princeton University). Assistant Professor, Division of the Humanities and Social Sciences, California Institute of Technology

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22. Graeme Blair (Ph.D. in 2016, Department of Politics, Princeton University). Assistant Professor, University of California, Los Angeles
23. Jaquilyn R. Waddell Boie (Ph.D. in 2015, Department of Politics, Princeton University). Private consultant
24. Scott Abramson (Ph.D. in 2014, Department of Politics, Princeton University). Associate Professor, Department of Political Science, University of Rochester
25. Michael Barber (Ph.D. in 2014, Department of Politics, Princeton University). Associate Professor, Department of Political Science, Brigham Young University
26. In Song Kim (Ph.D. in 2014, Department of Politics, Princeton University). Associate Professor, Department of Political Science, Massachusetts Institute of Technology
27. Alex Ruder (Ph.D. in 2014, Department of Politics, Princeton University). Principal Advisor, Federal Reserve Bank of Atlanta
28. Meredith Wilf (Ph.D. in 2014, Department of Politics, Princeton University). Senior Director, Capital Rx
29. Will Bullock. (Ph.D. candidate, Department of Politics, Princeton University). Senior Researcher, Facebook
30. Teppei Yamamoto (Ph.D. in 2011, Department of Politics, Princeton University; Dissertation Committee Chair). Associate Professor, Department of Political Science, Massachusetts Institute of Technology
31. Dustin Tingley (Ph.D. in 2010, Department of Politics, Princeton University). Professor, Department of Government, Harvard University
32. Aaron Strauss (Ph.D. in 2009, Department of Politics, Princeton University). Former Executive Director, Analyst Institute
33. Samir Soneji (Ph.D. in 2008, Office of Population Research, Princeton University; Dissertation Committee Chair). Associate Professor, Department of Health Behavior at the Gillings School of Global Public Health, University of North Carolina, Chapel Hill
34. Ying Lu (Ph.D. in 2005, Woodrow Wilson School, Princeton University; Dissertation Committee Chair). Associate Professor, Steinhardt School of Culture, Education, and Human Development, New York University

Former Predocs and Postdocs

1. Zhichao Jiang (Postdoctoral Fellow, 2016–2019). Assistant Professor, Department of Biostatistics and Epidemiology, School of Public Health and Health Sciences, University of Massachusetts, Amherst
2. Adeline Lo (Postdoctoral Fellow, 2016–2019). Assistant Professor, Department of Political Science, University of Wisconsin, Madison
3. Yunkyu Sohn (Postdoctoral Fellow, 2016–2018). Assistant Professor, School of Political Science and Economics, Waseda University

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4. Xiaolin Yang (Postdoctoral Fellow, 2015–2017). Research Scientist, Amazon
5. Santiago Olivella (Postdoctoral Fellow, 2015–2016). Associate Professor, Department of Political Science, University of North Carolina
6. Drew Dimmery (Predoctoral Fellow, 2015–2016). Research Scientist, Facebook
7. James Lo (Postdoctoral Fellow, 2014–2016). Assistant Professor, Department of Political Science, University of Southern California
8. Steven Liao (Predoctoral Fellow, 2014–2015). Assistant Professor, Department of Political Science, University of California, Riverside
9. Michael Higgins (Postdoctoral Fellow, 2013–2015). Associate Professor, Department of Statistics, Kansas State University
10. Kentaro Hirose (Postdoctoral Fellow, 2012–2015). Assistant Professor, Waseda Institute for Advanced Studies
11. Chad Hazlett (Predoctoral Fellow, 2013–2014). Associate Professor, Departments of Political Science and Statistics, University of California, Los Angeles
12. Florian Hollenbach (Predoctoral Fellow, 2013–2014). Associate Professor, Department of International Economics, Government and Business at the Copenhagen Business School
13. Marc Ratkovic (Predoctoral and Postdoctoral Fellow, 2010–2012). Assistant Professor, Department of Politics, Princeton University

Editorial and Referee Service

Co-editor for *Journal of Causal Inference* (2014 – present)

Associate editor for *American Journal of Political Science* (2014 – 2019), *Journal of Business & Economic Statistics* (2015 – 2024), *Journal of Causal Inference* (2011 – 2014), *Journal of Experimental Political Science* (2013 – 2017), *Observational Studies* (2014 – present), *Political Analysis* (2014 – 2017).

Editorial board member for *Asian Journal of Comparative Politics* (2014 – present), *Journal of Educational and Behavioral Statistics* (2011 – present), *Journal of Politics* (2007 – 2008, 2019–2020), *Journal of Research on Educational Effectiveness* (2014 – 2016), *Political Analysis* (2010 – 2013), *Political Science Research and Methods* (2019 – present).

Guest editor for *Political Analysis* virtual issue on causal inference (2011).

Referee for *ACM Computing Surveys*, *American Economic Journal: Applied Economics*, *American Economic Review: Insights*, *American Journal of Epidemiology*, *American Journal of Evaluation*, *American Journal of Political Science*, *American Political Science Review*, *American Politics Research*, *American Sociological Review*, *Annals of Applied Statistics*, *Annals of Statistics*, *Annals of the Institute of Statistical Mathematics*, *Biometrics*, *Biometrika*, *Biostatistics*, *BMC Medical Research Methodology*, *British Journal of Mathematical and Statistical Psychology*, *British Journal of Political Science*, *Canadian Journal of Statistics*, *Chapman & Hall/CRC Press*, *Child Development*, *Communications for Statistical Applications and Methods*, *Computational Statistics and Data*

Kosuke Imai

Analysis, Electoral Studies, Econometrica, Econometrics, Empirical Economics, Environmental Management, Epidemiology, European Union Politics, IEEE Transactions on Information Theory, International Journal of Biostatistics, International Journal of Epidemiology, International Journal of Public Opinion Research, International Migration Review, John Wiley & Sons, Journal of Applied Econometrics, Journal of Applied Statistics, Journal of Biopharmaceutical Statistics, Journal of Business and Economic Statistics, Journal of Causal Inference, Journal of Computational and Graphical Statistics, Journal of Conflict Resolution, Journal of Consulting and Clinical Psychology, Journal of Econometrics, Journal of Educational and Behavioral Statistics, Journal of Empirical Legal Studies, Journal of Multivariate Analysis, Journal of Official Statistics, Journal of Peace Research, Journal of Politics, Journal of Research on Educational Effectiveness, Journal of Statistical Planning and Inference, Journal of Statistical Software, Journal of Survey Statistics and Methodology, Journal of the American Statistical Association (Case Studies and Applications; Theory and Methods), Journal of the Japanese and International Economies, Journal of the Japan Statistical Society, Journal of the Royal Statistical Society (Series A; Series B; Series C), Law & Social Inquiry, Legislative Studies Quarterly, Management Science, Multivariate Behavioral Research, National Science Foundation (Economics; Methodology, Measurement, and Statistics; Political Science), Natural Sciences and Engineering Research Council of Canada, Nature Machine Intelligence, NeuroImage, Osteoporosis International, Oxford Bulletin of Economics and Statistics, Pharmaceutical Statistics, Pharmacoepidemiology and Drug Safety, PLOS One, Policy and Internet, Political Analysis, Political Behavior, Political Communication, Political Research Quarterly, Political Science Research and Methods, Population Health Metrics, Population Studies, Prevention Science, Proceedings of the National Academy of Sciences, Princeton University Press, Psychological Methods, Psychometrika, Public Opinion Quarterly, Quarterly Journal of Economics, Quarterly Journal of Political Science, Review of Economics and Statistics, Routledge, Sage Publications, Scandinavian Journal of Statistics, Science, Sloan Foundation, Springer, Sociological Methodology, Sociological Methods & Research, Statistical Methodology, Statistical Methods and Applications, Statistical Methods in Medical Research, Statistical Science, Statistica Sinica, Statistics & Probability Letters, Statistics in Medicine, Systems Biology, U.S.-Israel Binational Science Foundation, Value in Health, World Politics.

University and Departmental Committees

Harvard University

Department of Government

Mmeber, Senior Lecturer Search Committee (2021-2022)
 Member, Curriculum and Educational Policy Committee (2020-2021)
 Member, Second-year Progress Committee (2019-2020)
 Member, Graduate Placement Committee (2019-2020)
 Member, Graduate Admissions Committee (2018-2019)
 Member, Graduate Poster Session Committee (2018-2019)

Department of Statistics

Kosuke Imai

Chair, Senior Faculty Search Committee (2021–2022)
 Member, Junior Faculty Search Committee (2018–2019)
 Member, Second-year Progress Committee (2018–2019, 2020–2021)

Princeton University

University

Executive Committee Member, Program in Statistics and Machine Learning (2013–2018)
 Executive Committee Member, Committee for Statistical Studies (2011–2018)
 Member, Organizing Committee, Retreat on Data and Information Science at Princeton (2016)
 Member, Council of the Princeton University Community (2015)
 Member, Search Committee for the Dean of College (2015)
 Member, Committee on the Library and Computing (2013–2016)
 Member, Committee on the Fund for Experimental Social Science (2013–2018)
 Member, Personally Identifiable Research Data Group (2012–2018)
 Member, Research Computing Advisory Group (2013–2018)
 Member, Task Force on Statistics and Machine Learning (2014–2015)

Department of Politics

Chair, Department Committee on Research and Computing (2012–2018)
 Chair, Formal and Quantitative Methods Junior Search Committee (2012–2013, 2014–2015, 2016–2017)
 Chair, Reappointment Committee (2015–2016)
 Member, Diversity Initiative Committee (2014–2015)
 Member, American Politics Junior Search Committee (2012–2014)
 Member, Department Chair's Advisory Committee (2010–2013, 2015–2016)
 Member, Department Priority Committee (2012–2013, 2014–2015, 2016–2017)
 Member, Formal and Quantitative Methods Curriculum Committee (2005–2006)
 Member, Formal and Quantitative Methods Junior Search Committee (2009–2010, 2015–2016)
 Member, Formal and Quantitative Methods Postdoc Search Committee (2009–2018)
 Member, Graduate Admissions Committee (2012–2013)
 Member, Reappointment Committee (2014–2016)
 Member, Space Committee (2014–2016)
 Member, Undergraduate Curriculum Committee (2014–2015)
 Member, Undergraduate Exam Committee (2007–2008)
 Member, Undergraduate Thesis Prize Committee (2005–2006, 2008–2011)

Center for Statistics and Machine Learning

Executive Committee Member (2016–2018)
 Member, Search Committee (2015–2017)

Kosuke Imai

Services to the Profession

National Academies of Sciences, Engineering, and Medicine

Committee on National Statistics, Division of Behavioral and Social Sciences and Education, Panel on the Review and Evaluation of the 2014 Survey of Income and Program Participation Content and Design (2014–2017)

National Science Foundation

Proposal Review Panel (2020)

The Society for Political Methodology

President (2017–2019)

Vice President and President Elect (2015–2017)

Annual Meeting Committee, Chair (2011)

Career Award Committee (2015–2017)

Program Committee for Annual Meeting (2012), Chair (2011)

Graduate Student Selection Committee for the Annual Meeting (2005), Chair (2011)

Miller Prize Selection Committee (2010–2011)

Statistical Software Award Committee (2009–2010)

Emerging Scholar Award Committee (2013)

American Statistical Association

Journal of Educational and Behavioral Statistics Management Committee (2016 – present)

Others

External Review Committee member, Department of Political Science, University of Rochester (2022)

External Expert, Department of Methodology, London School of Economics and Political Science (2017)

Memberships

American Political Science Association; American Statistical Association; Midwest Political Science Association; The Society for Political Methodology.

Expert Reports

1. Milligan *et al.* v. Merrill *et al.* United States District Court for the Northern District of Alabama, Case No. 2:2021cv01530
2. League of Women Voters of Ohio *et al.* v. Ohio Redistricting Commission *et al.* The Supreme Court of Ohio, Case No. 2021–1449

Kosuke Imai

3. League of Women Voters of Ohio *et al. v. Ohio Redistricting Commission et al.* The Supreme Court of Ohio, Case No. 2021-1193
4. League of Women Voters of Ohio *et al. v. Frank LaRose et al.* The Supreme Court of Ohio, Case No. 2022-0303
5. The South Carolina State Conference of the NAACP, *et al. v. McMaster, et al.* United States District Court for the District of South Carolina Columbia Division, Case No. 3-21-cv-03302-JMC-TJH-RMG
6. Benninghoff *v. 2021 Legislative Reapportionment Commission.* The Supreme Court of Pennsylvania, Case No. 11 MM 2022
7. Graham *et al. v. Adams et al.* Commonwealth of Kentucky Franklin Circuit Court Division, Case No. 22-CI-00047

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Exhibit 28

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Kosuke Imai, PhD
The South Carolina State Confvs.McMaster/Alexander

August 8, 2022

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

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP,
et al.,

Plaintiffs,

vs. CASE NO. 3:21-cv-03302-MGL-TJH-RMG
THOMAS C. ALEXANDER,
et al.,

Defendants.

DEPOSITION OF: KOSUKE IMAI, PhD (Via VTC)
DATE: August 8, 2022
TIME: 11:04 a.m.
LOCATION: Cambridge, MA
TAKEN BY: Counsel for the Senate Defendants
REPORTED BY: SOLANGE RUIZ-URIBE, Court Reporter
Via Videoteleconference

1 plan and then generating different -- start
2 generating different plans by modifying it.

3 Whereas the SMC is really about
4 starting from a blank slate and start building one
5 district at a time.

6 Q. Thank you. So I want to start with the
7 third sentence in the abstract of this paper.

8 A. Okay.

9 Q. And I'm just going to read that out loud.
10 It says: For successful application sampling
11 methods must scale to large maps with many
12 districts, incorporate realistic legal constraints
13 and accurately and efficiently sample from a
14 selected target distribution. Unfortunately, most
15 existing methods struggle in at least one of these
16 areas.

17 So my first question, Dr. Imai, did I
18 read that correctly?

19 A. That's correct.

20 Q. Do you agree that simulation analysis must
21 incorporate realistic legal constraints?

22 A. I agree.

23 Q. And the next sentence says that: Most
24 existing methods struggle in at least one of these
25 areas.

1 Q. Do you agree that for simulation plans to
2 be instructive they have to comply with legal
3 requirements for redistricting plans generally?

4 A. I disagree.

5 Q. Explain that, please.

6 A. Simulations can be used in many different
7 purposes. So for example, you could see the impact
8 of, you know, what would happen if you take out one
9 particular requirement. And so depending on the
10 goal of the analysis, a different set of constraints
11 can be imposed.

12 And also, I'm not a lawyer so I don't
13 really make judgment about whether those
14 constraints, how they correspond to the legal
15 requirements. They are informed by legal
16 requirements but I don't make any judgment about the
17 viability in the legal sense. The constraints are
18 mathematical constraints and they are what they are.
19 Nothing more, nothing less.

20 Q. So is it fair to say, Dr. Imai, that you
21 did not analyze whether any of your simulation plans
22 are legal?

23 A. I'm not a lawyer so my analysis does not
24 draw any legal conclusions.

25 Q. Okay. And I just understand the scope of

1 your analysis.

2 A. Right.

3 Q. You didn't do anything to try to determine
4 whether your plans were legal, correct?

5 A. Yeah. No, I didn't do that.

6 Q. Now, Dr. Imai, I believe your report
7 mentions the South Carolina House and Senate
8 redistricting criteria; is that right?

9 A. That's correct.

10 Q. So let's go to tab five of your binder.

11 A. Okay.

12 Q. Which is the House Redistricting Criteria.

13 A. All right. Tab five. Okay. House, yes.
14 Okay.

15 Q. And I'm going to mark this as Exhibit Six.

16 (Defendant's Exhibit No. 6, SOUTH CAROLINA
17 HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE
18 REDISTRICTING AD HOC COMMITTEE 2021 GUIDELINES AND
19 CRITERIA FOR CONGRESSIONAL AND LEGISLATIVE
20 REDISTRICTING, was marked for identification.)

21 BY MR. GORE:

22 Q. And I hope I can figure out how to
23 introduce it. Okay. Dr. Imai, do you recognize
24 this document?

25 A. Yes.

1 additional considerations on the Senate guidelines,
2 letter B is constituent consistency and it lists:
3 Preserving the cores of existing districts.

4 Did the algorithm consider preserving
5 the cores of existing districts in generating plans?

6 A. So to the extent that, you know, I
7 instructed the algorithm to avoid incumbents pairing
8 and to the extent that my race plan simulations, for
9 example, freezes, you know, all the districts other
10 than Districts 1 and 6 and in the case of second
11 race-blind simulation it freezes everything other
12 than Charleston County.

13 So in that sense, you know, there are
14 constraints that have implications of cores of
15 existing districts, preservation.

16 Q. Did you --

17 A. But the analysis I presented in my final
18 report did not directly use, you know, previous --
19 the benchmark plan.

20 Q. And so your analysis did not include a
21 constraint for preserving the cores of districts,
22 correct?

23 A. Not directly.

24 Q. And likewise, it did not include a
25 constraint for keeping incumbents' residences in

1 districts with their core constituents, correct?

2 A. Yeah, incumbents weren't paired but there
3 was no constraint that directly, you know, that
4 needs a definition of what the core constituency of
5 incumbents are. And that information was not
6 available so I did not include that either.

7 Q. And as we discussed before, the districts
8 in your simulation plans had the same numbers as
9 districts in the enacted plan but may cover
10 different geography; is that right?

11 A. That's correct, depending on, you know,
12 this will change across analysis and, you know, I
13 have three analyses. So first two analyses are
14 probably much bigger overlap than statewide
15 analysis, for example, but yeah.

16 Q. So for example, wouldn't that also mean
17 that because the districts encompass different
18 geography they encompass different populations and
19 voters, correct?

20 A. That's correct, different people in
21 different areas.

22 Q. And speaking with this page, communities
23 of interest --

24 A. Uh-huh.

25 Q. Did you include any constraint for

1 communities of interest?

2 A. So again, only to the extent that, you
3 know, things like administrative boundaries, like
4 counties and municipalities overlap with these
5 interest and to the extent that, you know, incumbent
6 residence wasn't paired, but there is no definition
7 of communities of interest available so I didn't use
8 that.

9 Q. So there was no direct constraint on
10 communities of interest, correct?

11 A. That's correct to the extent that --

12 Q. Okay.

13 A. Yeah, I don't have, you know, definitions
14 of what these communities are.

15 Q. And so you didn't assign a strength to
16 communities of interest, correct?

17 A. Right, because there is no mathematical,
18 you know, geographical definition of communities of
19 interest so I didn't assign that constraint directly
20 to this.

21 Q. And so you also didn't assign a strength
22 to preserving the course of existing districts,
23 correct?

24 A. That's correct. For the reason that I
25 explained that in order to isolate the role that

1 race played in determining the districts of enacted
2 plan that I didn't want to include any plan
3 including the benchmark plan.

4 Q. And similarly, you didn't assign a
5 strength to keeping incumbents residences in
6 districts with their core constituents, correct?

7 A. Right. So the weights are for just the
8 avoidance of incumbent pairing and not with respect
9 to their core constituents because they are not --
10 that definition was not available to me.

11 Q. Okay. Let's look down at letter E,
12 minimizing divisions of voting precinct boundaries?

13 A. Uh-huh.

14 Q. Did you program a constraint in the
15 algorithm for VTD splits or precinct splits?

16 A. Let's me double check. Yeah, I don't
17 think so. It's no a listed in paragraph 57, which
18 is not -- yeah.

19 Q. And I don't believe it's listed in
20 paragraphs 20 or 22 either.

21 A. Yeah, I wanted to double check, yeah. I
22 don't think I imposed that constraint.

23 Q. So let's go to -- can we go to figure 14
24 on page 27 of your report?

25 A. Yes.

1 Q. And again, you didn't review any public
2 testimony, comment or legislative testimony about
3 splitting or repairing the split in Charleston
4 County, correct?

5 A. No.

6 Q. And did you analyze the political effect
7 of placing all of Charleston County in District 1
8 with Nancy Mace?

9 A. I did not use any partisan data in my
10 analysis.

11 Q. And did you analyze what changes to the
12 map would have been required in other parts of the
13 state if all the Charleston was placed in
14 District 1?

15 A. Can you repeat the question again? Sorry.

16 Q. Sure. So if you -- Charleston County, if
17 you place Charleston County in District 1?

18 A. Uh-huh.

19 Q. In the enacted plan, you would have to
20 make changes to other districts in order to equalize
21 population, correct?

22 A. That's correct.

23 Q. All right. And did you do any analysis of
24 that other than to recognize if that's true?

25 A. Yeah, that's true but I didn't do any

1 A. No, I look at the enacted plan.

2 Q. Thank you. You answered my next question.

3 So Dr. Imai, you base your simulation
4 constraints on the published South Carolina
5 guidelines for the House and Senate, right?

6 A. Yeah, I don't know whether they are
7 published but those two guidelines that were given
8 to me.

9 Q. And in those two guidelines was there any
10 indication, for example, that core preservation
11 should be prioritized over other criteria?

12 A. No. I believe that it was listed as
13 additional constraint in Senate guideline I think
14 and may not be even directly mentioned in the House
15 guideline or at least it was not priority, listed as
16 a priority.

17 Q. Thank you. And you testified -- well, why
18 did you choose not to incorporate core preservation,
19 if you can explain again?

20 A. Right. So the goal of my analysis, the
21 entire report, the goal of the entire report was to
22 examine whether race played a significant role in
23 drawing district boundaries of the enacted plan and,
24 if so, how that happened. And to do that I need to
25 isolate the impact of race, like the role that race

1 played from other traditional redistricting criteria
2 and some of the rules in the -- mentioned in the
3 guideline.

4 If I incorporate any product does not
5 have to be benchmark plan, but if I incorporate any
6 plan in my simulation analysis, it will basically
7 carry all the factors that went into that particular
8 plan. So in order to isolate the race as a factor I
9 did not use this through my analysis that I did not
10 use any plan including the previous plan.

11 Q. Thank you. Now, you recall Mr. Gore asked
12 you some questions about the use of partisanship
13 data in your simulation, right?

14 A. Yes.

15 Q. And you explained that you didn't do
16 any -- you didn't use partisanship information; is
17 that right?

18 A. Right.

19 Q. And we just covered this, but you read the
20 guidelines, right?

21 A. Uh-huh, yes, I did.

22 Q. Did anything in the guidelines suggest to
23 you that your simulation should have accounted for
24 Nancy Mace's election chances, for example?

25 A. I didn't see any mention of that. Yeah, I

1 did not see any specific instruction about use of
2 election outcomes.

3 Q. Did anything suggest to you that it was
4 important for the map makers to enact a map that
5 favored Republicans?

6 A. I don't analyze intent of map drawer so I
7 can't, you know, say what they have thought about
8 but the guideline didn't specify, you know, specific
9 use of electoral outcome or electoral chance of
10 politicians and that wasn't, you know, even -- a
11 political consideration wasn't an additional
12 consideration and so I took other more traditional
13 redistricting criteria as priority.

14 MR. CEPEDA: Thank you, Dr. Imai. I have
15 no more questions.

16 EXAMINATION

17 BY MR. GORE:

18 Q. I have just a couple of questions of
19 redirect, Dr. Imai.

20 A. Okay.

21 Q. Now, you said you haven't attempted to
22 analyze the intent or motives of the map drawer or
23 legislators, correct?

24 A. That's correct.

25 Q. And so you don't have an opinion one way

1 or the other as to whether the map drawer or the
2 legislators considered politics even if politics is
3 not in the guidelines, correct?

4 A. That's right. I don't have any opinion on
5 that.

6 Q. Do you have a view or opinion on whether
7 the map drawer or the legislators considered Nancy
8 Mace's reelection prospect whether or not that's
9 listed in the guidelines?

10 A. No, I don't have any opinion on that.

11 Q. And do you have any opinion or view on
12 whether the map drawer or legislators wanted a plan
13 that would elect six Republicans regardless of
14 whether that's in the guidelines?

15 A. I don't have any opinion on that.

16 Q. And Dr. Imai, is keeping Charleston in a
17 single district anywhere in the guidelines?

18 A. I don't think so, there is no specific
19 counties being mentioned.

20 Q. How about keeping Richland in a single
21 district?

22 A. I don't think so.

23 Q. And how about keeping District 6's BVAP
24 between 45 percent and 50 percent?

25 A. Those numbers are not specifically

Exhibit 29

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

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP, and

TAIWAN SCOTT, on behalf of himself and
all other similarly situated persons,

Plaintiffs,

v.

THOMAS C. ALEXANDER, in his official
capacity as President of the Senate; LUKE A.
RANKIN, in his official capacity as
Chairman of the Senate Judiciary Committee;
JAMES H. LUCAS, in his official capacity as
Speaker of the House of Representatives;
CHRIS MURPHY, in his official capacity as
Chairman of the House of Representatives
Judiciary Committee; WALLACE H.
JORDAN, in his official capacity as
Chairman of the House of Representatives
Elections Law Subcommittee; HOWARD
KNAPP, in his official capacity as interim
Executive Director of the South Carolina
State Election Commission; JOHN WELLS,
Chair, JOANNE DAY, CLIFFORD J.
EDLER, LINDA MCCALL, and SCOTT
MOSELEY, in their official capacities as
members of the South Carolina Election
Commission,

Defendants.

**Case No. 3-21-cv-03302-JMC-
TJH-RMG**

**Expert Report Evaluating South
Carolina's Congressional Map of
Dr. Jordan Ragusa**

April 11, 2022

RECEIVED FROM DEMOCRACYDOCKET.COM

Introduction

I am an Associate Professor in the Department of Political Science at the College of Charleston in Charleston, South Carolina. I began my career as an Assistant Professor in the fall of 2011 and was awarded tenure in 2017. I teach undergraduate classes on American politics, Congress, American political development, national elections, research methodology, and statistical computing. I also teach a graduate course on statistics in the Master of Public Administration program. At the College, I serve in two administrative roles: as the Associate Chair of my department and as the Research Director for a political economy and market process center in the School of Business.

I received my Ph.D. in political science from the University of Florida in 2011. Additionally, in 2006 and 2007 I took courses on statistical methods for social research at the University of Michigan. My graduate coursework spanned two fields: American politics and quantitative research methodology. I have published a dozen peer-reviewed articles on legislative politics, political parties, national elections, political economy, and South Carolina politics. I have also published two co-authored books: “First in the South: Why South Carolina’s Presidential Primary Matters” (2020, *University of South Carolina Press*) and “Congress in Reverse: Repeals from Reconstruction to the Present” (2020, *University of Chicago Press*).

I am frequently asked to provide expert commentary on American politics. I have been quoted in *The New Yorker*, *USA Today*, *The Post & Courier*, and *The State* and have appeared on *South Carolina ETV*, *South Carolina Public Radio*, *National Public Radio*, *Bloomberg TV*, *Matter of Fact with Soledad O’Brien* and several local news channels. I have published roughly thirty op-eds/editorials in newspapers such as *The Washington Post*, *The Post & Courier*, and *The State*. My public scholarship also includes consulting work for several organizations including the City of Charleston Police Department, Charleston County Human Resources, Lowcountry Local First, and the Alliance for Full Acceptance.

A copy of my curriculum vitae is attached as Exhibit A. I have written a report and provided testimony by deposition on South Carolina’s State House map in this case, *South Carolina State Conference of the NAACP v. Alexander*, No. 3:21-cv-03302 (D.S.C.).

I have been hired by the plaintiffs’ counsel to examine whether race was a significant factor in the drafting of South Carolina’s map for the U.S. House. I am retained at the rate of \$250 per hour. My compensation does not depend in any way on the results of the case, or on the opinions and testimony I provide.

District VTD Change

Methodology

In this report I examine whether race was a significant factor in the composition of the redrawn South Carolina Congressional map. I do so with data on the 2000+ voting tabulation districts (VTDs) in the state. Better known as “precincts,” voting tabulation districts are administrative units where election results are reported. Further, VTDs are often receive special consideration from mapmakers during redistricting. For example, in its redistricting guidelines, the South Carolina House cites precinct lines as “evidence of communities of interest to be balanced” while the state Senate recommends “minimizing division of voting precinct boundaries.”¹ For these reasons, VTDs are common units of analysis in redistricting research.²

In the analysis the three independent variables (factors that may explain how the lines were redrawn) are race, partisanship, and precinct size. I measure a precinct’s racial composition using publicly available Census data from 2020. Specifically, I record the Black voting age population (BVAP) of each VTD in the state.³ Because they vary in size, in my analysis I also include a variable that records each precinct’s total voting age population. I obtained these data from the 2020 Census as well. Finally, I measure a VTD’s partisanship using the number of votes for Joe Biden in the 2020 general election.⁴ I obtained these data from SCVotes.gov, the official website of the South Carolina Election Commission.

In my analysis the key question is whether any of the above factors explain how lawmakers drew each district’s boundaries. I answer this question with three statistical models. In each model, the dependent variable (the outcome being analyzed) is whether a VTD was included or excluded from the redrawn district.

Model #1 analyzes which VTDs surrounding the district were moved into the redrawn district.⁵ In this analysis, the population is every VTD outside the old district but within the “county envelope.” For example, under the old map CD #1 included portions of five counties: Beaufort, Berkeley, Charleston, Colleton, and Dorchester. In this example, the VTDs in these five counties, but outside the old district, represent the county envelope—precincts that could be added to the redrawn district without crossing county borders and/or significantly reconfiguring the district. At issue is whether the VTDs moved into the redrawn district differ in systematic ways from those kept out of the new district.

¹ See Section VII in the South Carolina House of Representatives’ “2021 Guidelines and Criteria for Congressional and Legislative Redistricting” and Section III in the South Carolina Senate’s “2021 Redistricting Guidelines.”

² For example, see “Expert Report of Stephen Ansolabehere” in *Cooper v. Harris* (2013) or “Do Redistricting Commissions Avoid Partisan Gerrymanders?” by Best, Lem, Magleby and McDonald in the journal *American Politics Research* (2021).

³ Data are available at: <http://data.census.gov/>. See table “P3: Race for the Population 18 and Over.” In the calculation I include any person who self-identified as Black, including Black in combination with any other category.

⁴ Data are available at: <https://www.scvotes.gov/election-results>.

⁵ If a district was drawn into a new county, those observations are included in the analysis among the positive outcomes as well as precincts added to the district from the county envelope. For example, in the redrawn map CD #1 was extended into a tiny portion of a sixth county: Jasper.

Model #2 analyzes the opposite outcome—the decision to remove a precinct from the district. In this analysis, the population consists of all VTDs within the old district’s configuration. For example, in the prior map, CD #2 comprised roughly 300 precincts. In the redistricting process, these VTDs were either kept in the redrawn district or were moved out of the district. At issue is whether the VTDs moved out of the redrawn district differ in systematic ways from those kept in the district.

Finally, Model #3 combines both approaches. It examines which VTDs were moved into and kept in the redrawn district versus those kept out/moved out. Substantively, this model looks at the full range of choices available to mapmakers—to keep VTDs in the district and alter others. In other words, this model captures the decision to redraw some portions of a district and not redraw others. It also captures, in part, how the district was drawn in the previous redistricting cycle. For example, of the roughly five hundred VTDs that could have been selected for the redrawn CD #3, roughly three-fourths were kept in the district or were moved in from the county envelope outside the district. At issue is whether the VTDs moved into and kept in the district differ in systematic ways from those kept out and moved out of the district.

All three models were estimated using multivariate logistic regression.⁶ In simple terms, multivariate logistic regression is used when the dependent variable is binary (1/0) and the researcher wants to study the possible effect of one or more independent variables. In the analysis, the three independent variables will be statistically insignificant if they do not correlate with how the district lines were drawn. An insignificant BVAP variable suggests that race does not explain the district’s configuration, an insignificant Biden Vote variable indicates that partisanship does not explain the district’s design, and an insignificant Total VAP variable suggests that precinct size does not explain the district’s configuration. In contrast, a statistically significant coefficient would indicate that race, partisanship and/or precinct size correlate in a meaningful way with how the district lines were drawn, and this correlation is unlikely to have been caused by chance.

A key feature of this approach is that it allows me to statistically disentangle the effect of each factor. For example, any correlation between race and how the district lines were drawn could be due, instead, to partisan motivations. After all, race and partisanship are highly correlated in South Carolina.⁸ Likewise, because race is measured using number of Black voters, race and precinct size correlate as well. In this respect, perhaps mapmakers selected precincts based on their raw size, not the number of Black voters specifically. Statistically speaking, this analysis will reveal whether race

⁶ Because models #1 and #2 have small sample sizes and/or few events per variable in a few cases, I used the *firthlogit* command in Stata 17 to estimate these models. Following recommendations in the analysis of rare events, this routine reduces the amount of statistical bias compared to standard logistic regression. See for example “Bias Reduction of Maximum Likelihood Estimates” by Firth in the journal *Biometrika* (1993) or a recent simulation study “No Rationale for 1 Variable Per 10 Events Criterion for Binary Logistic Regression Analysis” by van Smeden et al. in the journal *BMC Medical Research Methodology* (2016). Because Model #3 combines both models, and therefore has much larger sample sizes and number of events per variable, I used the standard *logit* command in Stata 17.

⁷ In models #1 and #2, the positive outcome (coded 1) indicates a VTD was moved into/out of the district and the reference outcome (coded 0) indicates the VTD was kept out/kept in the district. In model #3 the positive outcome (coded 1) indicates that VTD was moved into/kept in the district and the reference outcome (coded 0) indicates that VTD was moved out/kept out of the district.

⁸ According the 2020 Cooperative Election study, 76.3% of Black respondents from South Carolina said they identify as Democrats, compared to just 5.1% who call themselves Republicans. Likewise, 29.8% of White respondents said they identify as Democrats, compared to 52.2% who call themselves Republicans.

explains how lawmakers redrew the map controlling for the other two factors. In other words, any significant effect of race cannot be explained away as a proxy effect of partisanship or precinct size.

Another measure of significance is the question of “how much” a variable affects some outcome. Although related, a statistically significant effect can nevertheless be small in magnitude. Statisticians refer to substantive significance as an “effect size.” I therefore compute the probability a VTD was chosen for a redrawn district varying only its racial makeup.⁹ In particular, in a series of figures derived from each of the models described above, I plot the probability of selection varying a precinct’s BVAP from 100 to 1500 Black voters.¹⁰

Notably, partisanship and precinct size are set to their mean in each figure. Substantively speaking, these figures show whether VTDs of average size and average partisanship—but varying numbers of Black voters—had the same probability of being selected for the redrawn district. If race was not a substantively important factor in the district’s composition, VTDs with 100 Black voters should have about the same chance of being included in the redrawn district as VTDs with 1500 Black voters. A perfectly flat line in the figure would indicate no effect of race. Alternatively, lines with a steep slope would reveal that the size of the Black population had a substantively large effect on the probability of selection (and by how much).

Results

I discuss the results by district in the pages below.¹¹ All tables and figures can be found at the bottom of this report. In the tables, a positive sign on the BVAP variable indicates that VTDs with a large Black population were *more* likely to be: moved in (Model #1), moved out (Model #2), and moved into and kept in the redrawn district (Model #3). Conversely, a negative sign on the BVAP variable indicates that VTDs with a large Black population were *less* likely to be: moved in (Model #1), moved out (Model #2), and moved into and kept in the redrawn district (Model #3).

All in all, the results show, quite consistently, that race was a significant factor in the construction of South Carolina’s enacted map. In the tables, the BVAP variable is statistically significant in twelve of the eighteen models (67%) estimated.¹² In other words, in a large majority of cases, a precinct’s Black population reliably predicts whether it was included or excluded from the redrawn district. As discussed earlier, these effects cannot be dismissed as a byproduct of partisan redistricting or normal variation in precinct size. Furthermore, the BVAP variable is numerically large in several cases, indicating that race was not just statistically significant, but substantially significant at the same time. I ultimately conclude that race factored into the design of five of the seven districts (CD #1, CD #2, CD #3, CD #5, and CD #6).

⁹ I compute these probabilities using the *margins* command in Stata 17. Although the BVAP coefficient in each model also reveal the effect size of race, the number does not have a straightforward interpretation. Indeed, because logistic regression uses a non-linear link function (i.e. a logit), the coefficients represent the effect of a 1-unit change in the independent variable on the log odds of the outcome.

¹⁰ In South Carolina the Black population is unevenly distributed across districts. For example, CD #6 has several VTDs with more than 1500 Black voters and relatively few under 100, while CD #1 has several VTDs with less than 100 Black voters and relatively few above 1500. I therefore selected 100 to 1500 because it contains the bulk of the data in each district and therefore provides a standardized baseline for comparison.

¹¹ In the tables, each coefficient was scaled per 100 persons.

¹² As explained in detail below, there is no analysis of CD #7 due to the lack of observations. I therefore estimated a total of eighteen models: three each for six districts.

CD #1

Looking at Table 1 for CD #1, race was a significant factor in two models. Model 2 reveals that Black voters were significantly more likely to be moved out of the redrawn district while Model 3 shows that Black voters were significantly less likely to be moved into and kept in the district. In this respect, the results in Table 1 point in the same direction: Black voters were excluded from the redrawn district. Figure 1 presents the effect size for the BVAP variable in the three models. In the middle panel, we can see that VTDs with 100 Black voters had only a 13% chance of being moved out of the district, compared to 60% for VTDs with 1500 Black voters. In the bottom panel, we can see that VTDs with 100 Black voters had an 80% chance of being moved into or kept in the district, which compares to just 11% for VTDs with 1500 Black voters. Simply put, Figure 1 reveals that precincts of average size and average partisanship had very different probabilities of being included in the redrawn district depending on their racial composition.

I therefore conclude that race was an important factor in the design of the 1st district. All in all, the results indicate that Black voters were excluded from the district in both a statistically significant and substantively consequential fashion.

CD #2

In the analysis of CD #2, race was a significant factor in all three models. Looking at Table 2, Model 1 shows that Black voters were significantly less likely to be moved into the redrawn district while Model 2 reveals that Black voters were significantly less likely to be moved out of the district. Although they point in opposite directions, Figure 2 shows us that these effects are not equivalently sized and thus do not cancel out in the aggregate. Namely, we can see from the slope of each plot line that race had a much larger effect on the VTDs moved into the district (top panel) compared to VTDs moved out of the district (middle panel). In the top panel, VTDs with 100 Black voters had a 36% chance of being moved into the district, compared to just 8% for VTDs with 1500 Black voters. At the same time, Model 3 in Table 2 reveals that Black voters were less likely to be moved into and kept in the district. In the bottom panel of Figure 2, we can see that VTDs with 100 Black voters had an 90% chance of being moved into or kept in the district, compared to just 25% for VTDs with 1500 Black voters. Figure 2 therefore reveals that precincts of average size and average partisanship had very different probabilities of being included in the redrawn district depending on their Black population.

I therefore conclude that race was an important factor in the design of the 2nd district. According to the results, Black voters were excluded from the redrawn district in both a statistically significant and substantively consequential fashion.

CD #3

Looking at Table 3 for CD #3, we can see that race was a significant factor in two models. Model 1 reveals that Black voters were significantly more likely to be added to the redrawn district while Model 3 reveals that Black voters were significantly more likely to be moved into and kept in the district. In this respect, the results in Table 3 point in the same direction: Black voters were added to and kept in the redrawn district. Figure 3 presents the effect size for the BVAP variable in the three models. In the top panel, we can see that VTDs with 100 Black voters had a 15% chance of

being moved into the district, compared to 35% for VTDs with 1500 Black voters. In the bottom panel, VTDs with 100 Black voters had a 65% chance of being moved into or kept in the district, compared to 90% for VTDs with 1500 Black voters. Simply put, Figure 3 reveals that precincts of average size and average partisanship had very different probabilities of being included in the redrawn district depending on their racial composition.

I therefore conclude that race was an important factor in the design of the 3rd district. All in all, the results indicate that Black voters were added to and kept in the district in both a statistically significant and substantively consequential fashion.

CD #4

In the analysis of CD #4, the BVAP variable is not statistically significant in any of the three models. I therefore conclude that race was not a significant factor in the district's composition.

CD #5

Looking at Table 5 for CD #5, race was a significant factor in two of models. Model 1 reveals that Black voters were significantly less likely to be added to the redrawn district while Model 3 indicates that Black voters were significantly less likely to be moved into and kept in the district. In this respect, the results in Table 5 point in the same direction: Black voters were excluded from the redrawn district. Figure 5 presents the effect size for the BVAP variable in the three models. In the top panel, we can see that VTDs with 100 Black voters had a 38% chance of being moved into the district, compared to <1% for VTDs with 1500 Black voters. In the bottom panel, VTDs with 100 Black voters had a 76% chance of being moved into or kept in the district, compared to 52% for VTDs with 1500 Black voters. Figure 5 therefore reveals that precincts of average size and average partisanship had very different probabilities of being included in the redrawn district depending on their Black population.

I therefore conclude that race was an important factor in the design of the 5th district. According to the results, Black voters were excluded from the redrawn district in both a statistically significant and substantively consequential fashion.

CD #6

In the analysis of CD #6, race was a significant factor in each of the models. Looking at Table 6, Model 1 shows that Black voters were significantly less likely to be added to the redrawn district while Model 2 reveals that Black voters were significantly less likely to be moved out of the district. Although they point in opposite directions, Figure 6 shows us that these effects are not equivalently sized and thus do not cancel out in the aggregate. Namely, we can see from the slope of each plot line that race had a larger effect on the VTDs moved out of the district (middle panel) compared to VTDs moved into the district (top panel). In the middle panel, VTDs with 100 Black voters had a 33% chance of being moved out of the district, compared to just 4% for VTDs with 1500 Black voters. At the same time, Model 6 in Table 6 reveals that Black voters were more likely to be moved into and kept in the district. In the bottom panel of Figure 6, we can see that VTDs with 100 Black voters had an 27% chance of being moved into or kept in the district, which compares to 85% for VTDs with 1500 Black voters. Simply put, Figure 6 reveals that precincts of average size and

average partisanship had very different probabilities of being included in the redrawn district depending on their racial makeup.

I therefore conclude that race was a meaningful factor in the design of the 6th district. All in all, the results indicate that Black voters were added to and kept in the district in both a statistically significant and substantively consequential fashion.

CD #7

In the 7th district there were not enough observations to conduct a meaningful analysis (and thus there are no tables and figures below). First, the district, newly created after the 2010 census, is almost entirely within whole counties. For this reason, there are fewer than a dozen VTDs in the county envelope outside the old district. Second, the district's boundaries were only slightly redrawn this cycle. According to the data, there were just a handful of VTDs added to or removed from the redrawn district. I am therefore unable to determine whether race was a factor in the district's configuration.

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Table 1: Analysis of CD #1

Variables	Model 1 VTDs Moved In	Model 2 VTDs Moved Out	Model 3 VTDs Moved In/Kept In
Biden Vote	0.13	0.39***	-0.11
BVAP	-0.10	0.18***	-0.28***
Total VAP	-0.02	-0.14***	0.12***
Constant	-0.81*	-2.06***	0.56*
N	133	369	502

*** p<0.01, ** p<0.05, * p<0.1

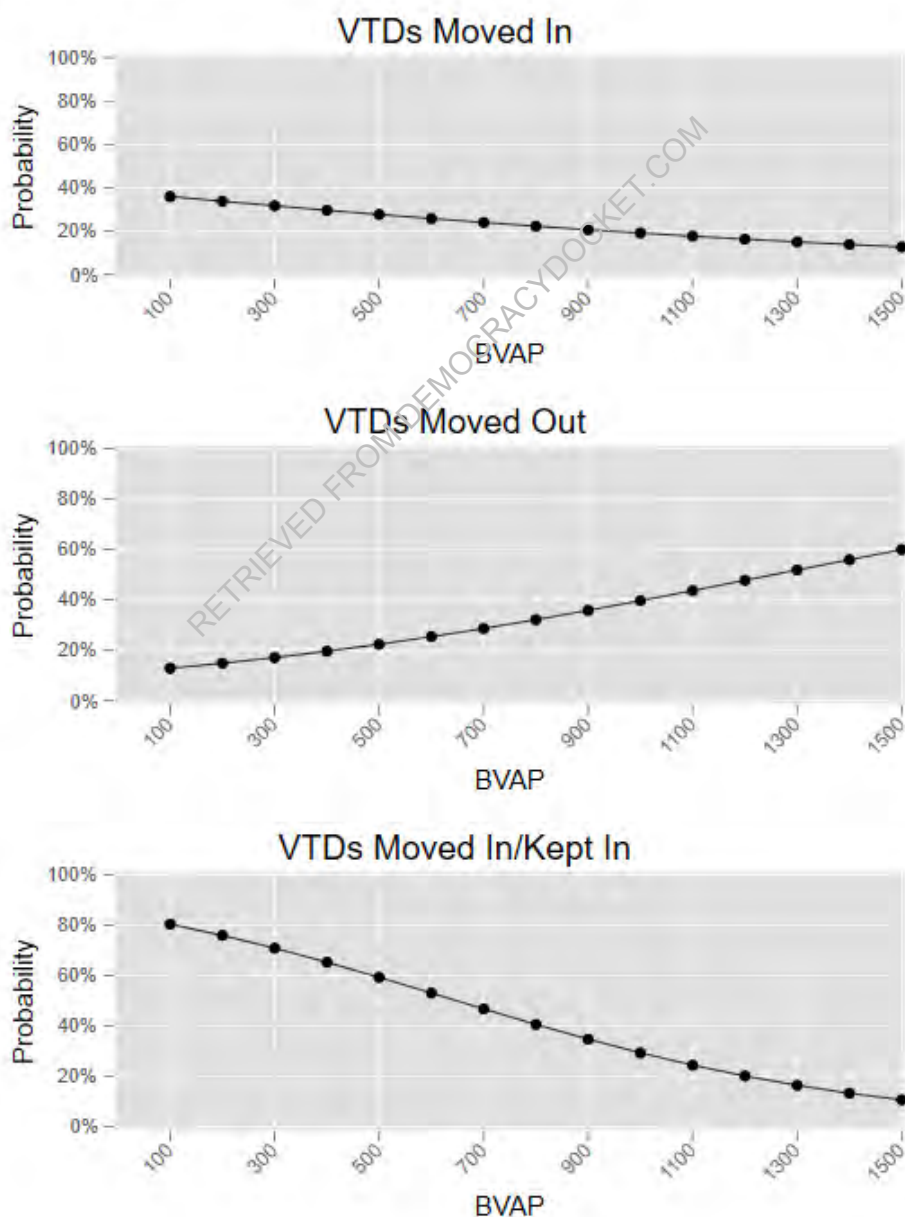
Figure 1: CD #1

Table 2: Analysis of CD #2

Variables	Model 1 VTDs Moved In	Model 2 VTDs Moved Out	Model 3 VTDs Moved In/Kept In
Biden Vote	0.34***	0.32**	0.04
BVAP	-0.18**	-0.52*	-0.31***
Total VAP	<-0.01	-0.17***	0.17***
Constant	-3.08***	-0.87	-0.03
N	128	295	423

*** p<0.01, ** p<0.05, * p<0.1

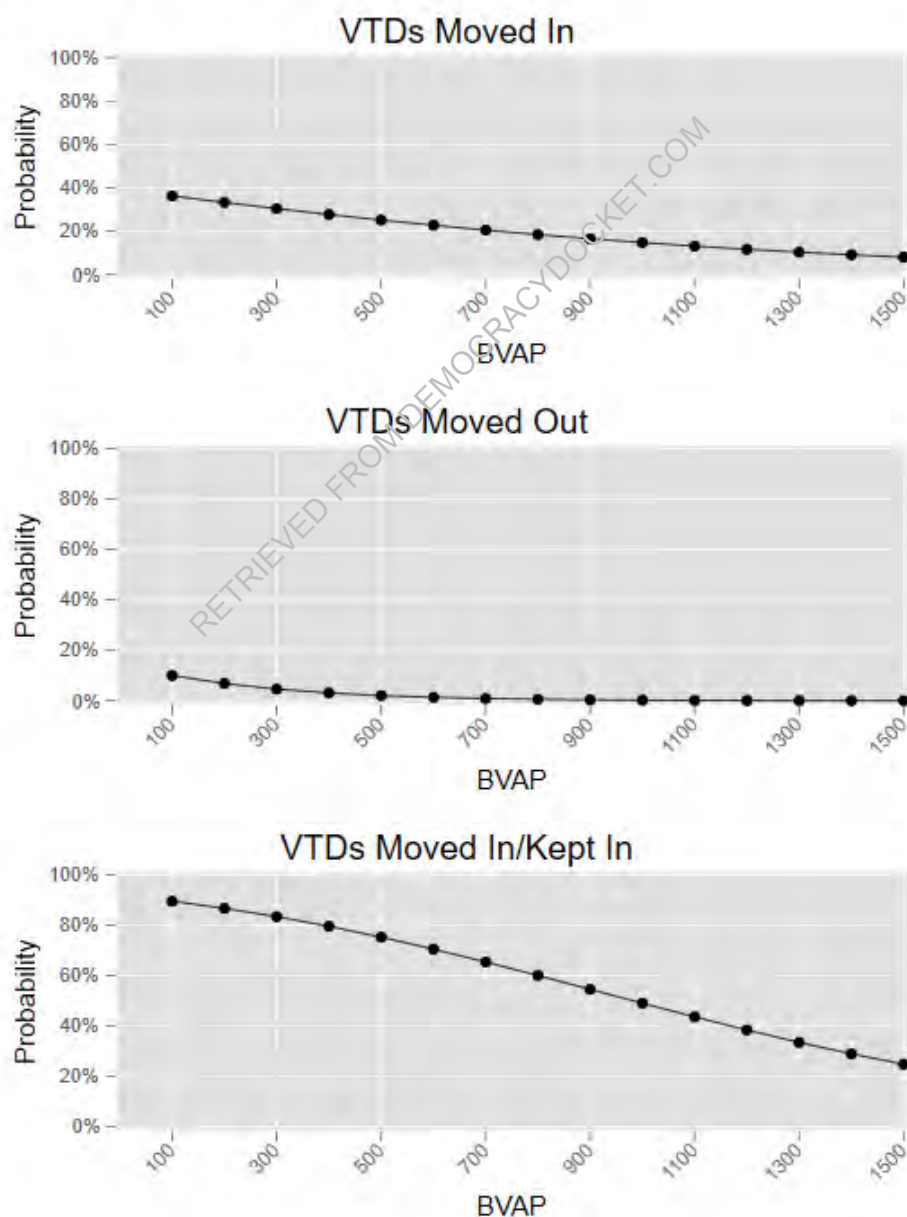
Figure 2: CD #2

Table 3: Analysis of CD #3

Variables	Model 1 VTDs Moved In	Model 2 VTDs Moved Out	Model 3 VTDs Moved In/Kept In
Biden Vote	-0.32**	0.89***	-0.72***
BVAP	0.17*	0.08	0.22***
Total VAP	-0.24***	-0.16***	-0.02
Constant	3.79***	-6.15***	3.80***
N	161	339	500

*** p<0.01, ** p<0.05, * p<0.1

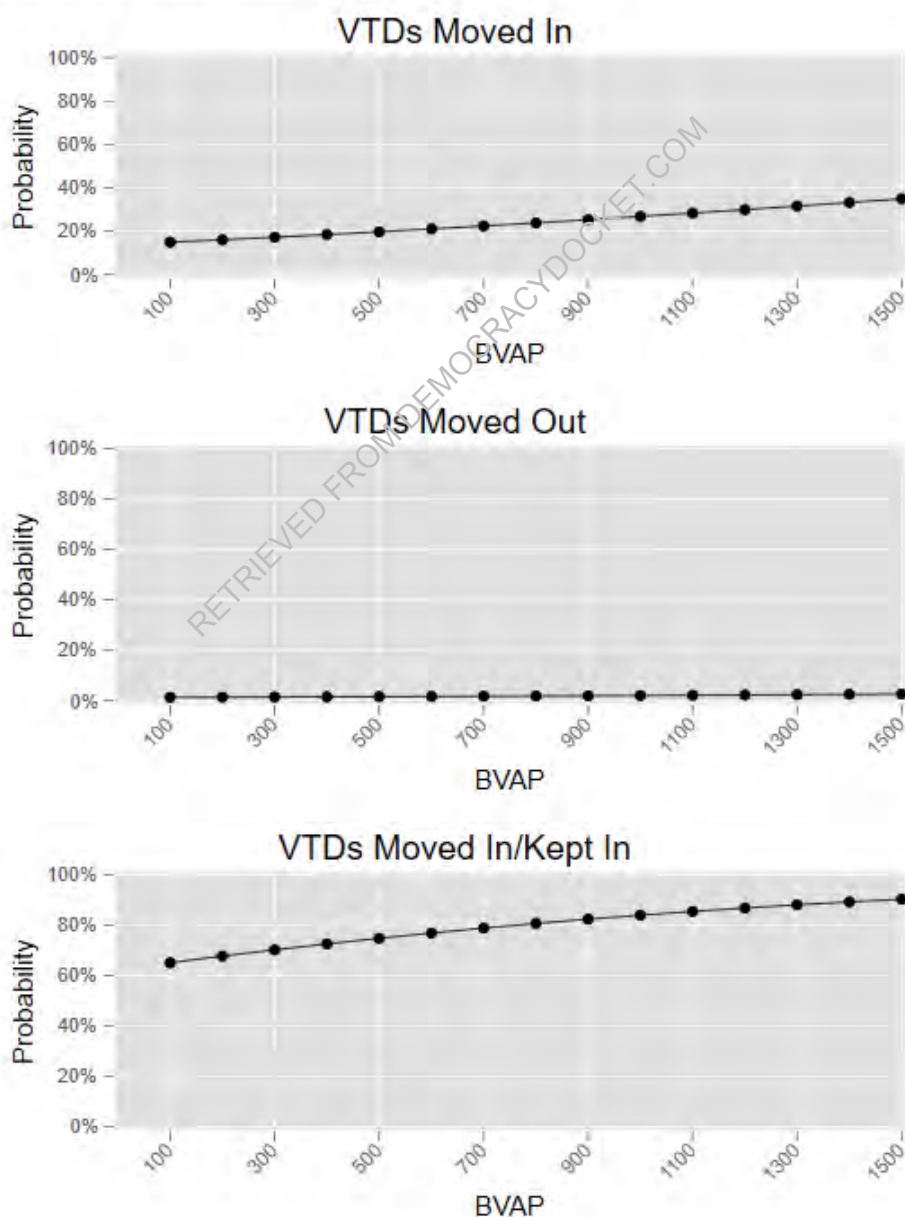
Figure 3: CD #3

Table 4: Analysis of CD #4

Variables	Model 1 VTDs Moved In	Model 2 VTDs Moved Out	Model 3 VTDs Moved In/Kept In
Biden Vote	0.46	0.02	0.06
BVAP	0.45	-0.19	0.09
Total VAP	-0.22	-0.02	-0.01
Constant	-2.62	-1.57**	1.30**
N	28	231	259

*** p<0.01, ** p<0.05, * p<0.1

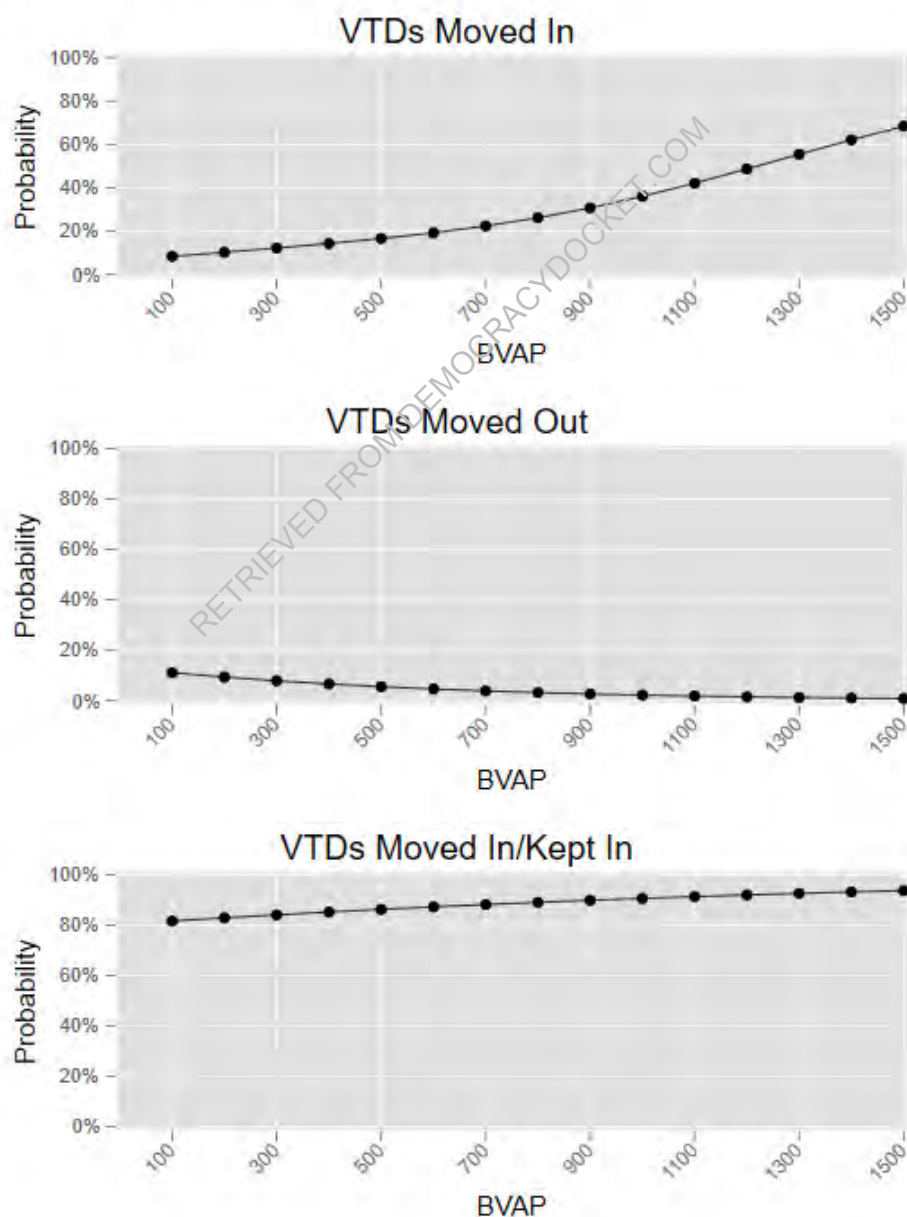
Figure 4: CD #4

Table 5: Analysis of CD #5

Variables	Model 1 VTDs Moved In	Model 2 VTDs Moved Out	Model 3 VTDs Moved In/Kept In
Biden Vote	0.29*	0.02	0.10*
BVAP	-0.51***	0.02	-0.08**
Total VAP	0.01	-0.12***	-0.03*
Constant	-1.76***	-0.89**	1.25***
N	122	362	484

*** p<0.01, ** p<0.05, * p<0.1

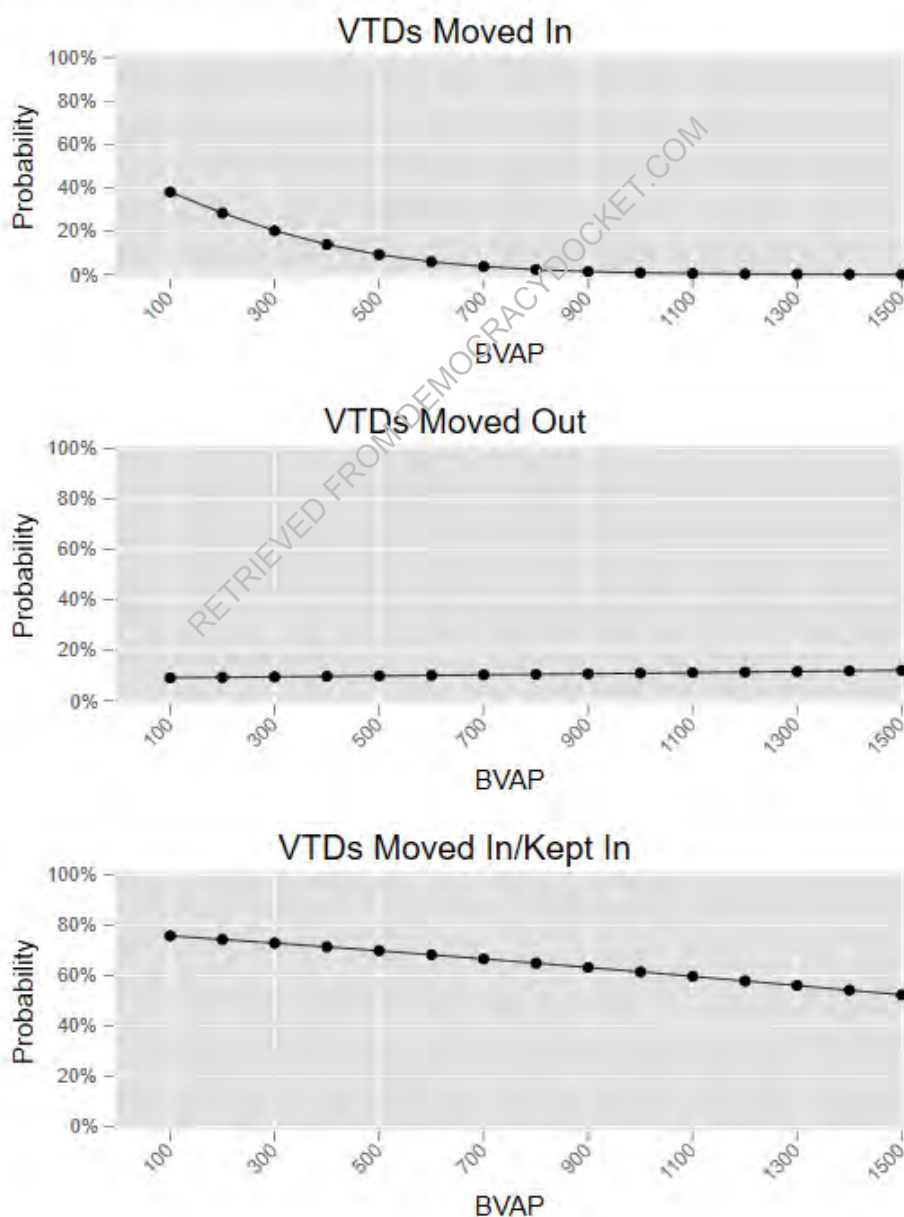
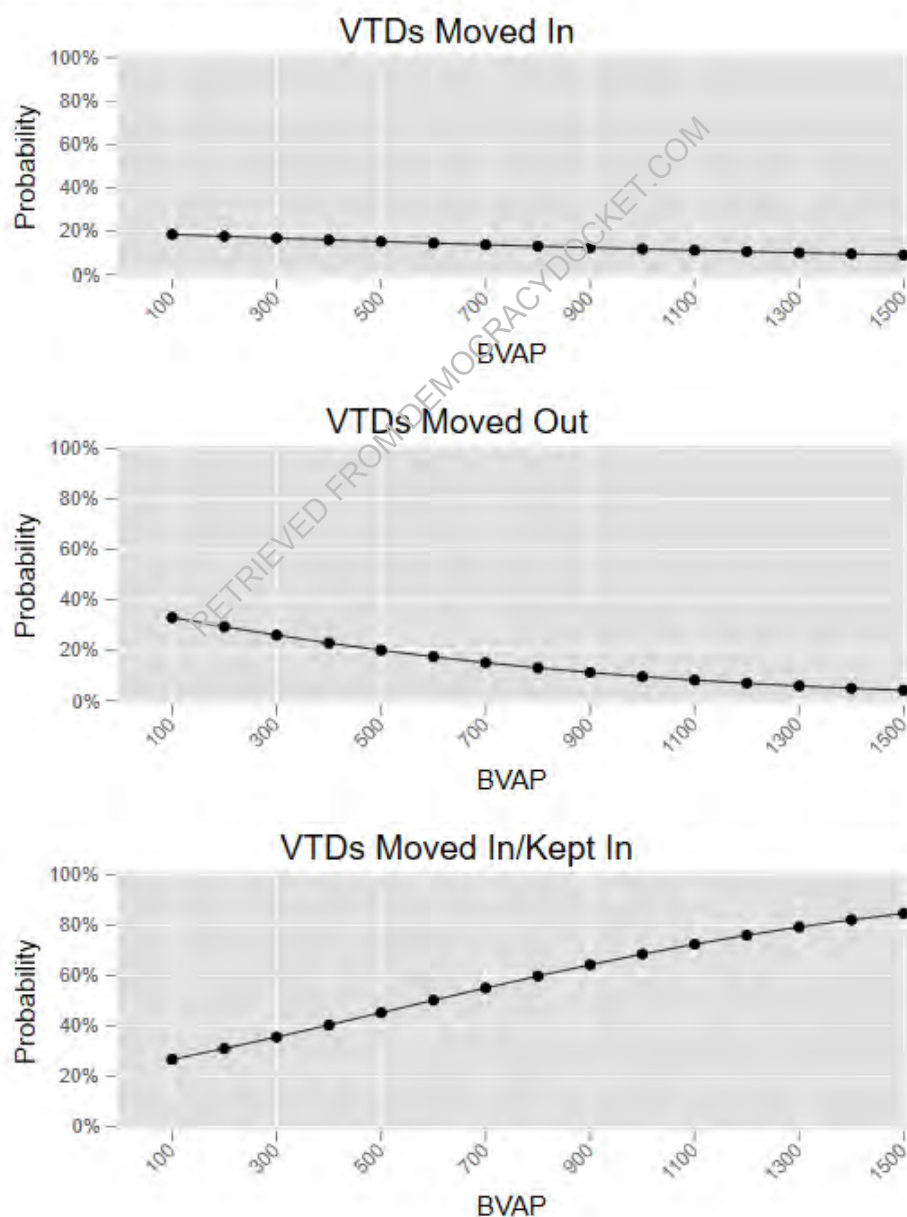
Figure 5: CD #5

Table 6: Analysis of CD #6

Variables	Model 1 VTDs Moved In	Model 2 VTDs Moved Out	Model 3 VTDs Moved In/Kept In
Biden Vote	0.26***	0.27***	-0.10**
BVAP	-0.06*	-0.21***	0.25***
Total VAP	-0.09***	<-0.01	-0.11***
Constant	-1.54***	-2.02***	0.68***
N	572	408	980

*** p<0.01, ** p<0.05, * p<0.1

Figure 6: CD #6

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



Dr. Jordan Ragusa
April 11, 2022
Charleston, South Carolina

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EDUCATION Ph.D., M.A., Political Science, University of Florida, 2011
Fields: American Politics | Quantitative Methods
★ High Pass Award on Quantitative Methods Qualifying Exam
★ Dissertation: “Resolving Differences: Bicameral Disagreement and Reconciliation in the Postreform Congresses” (Lawrence C. Dodd, advisor)

B.S., Secondary Education, Bowling Green State University, 2005
Minors: Political Science | American History

ADDITIONAL EDUCATION University of Michigan, ICPSR, 2006 & 2007
Courses: Time Series Analysis, Categorical Analysis, Regression II, Matrix Algebra

POSITIONS & PROFESSIONAL EXPERIENCE Political Science Department, College of Charleston
Associate Chair, 2019 - present
Associate Professor, 2017 - present
Director, American Politics Research Team, 2015 - present
Assistant Professor, 2011 - 2017

Center for Public Choice and Market Process, College of Charleston
Research Director, 2019 - present
Senior Fellow, 2021 - present
Fellow, 2012 - 2021

Editorial Board, Political Research Quarterly, 2018 - present

Contributor, LegBranch.com, 2017 - 2019 | Christian Science Monitor, 2014 - 2017

Instructor, University of Florida, 2009 - 2011

BOOKS Ragusa, Jordan M., and Nathaniel Birkhead. 2020. “Congress in Reverse: Repeals from Reconstruction to the Present.” *University of Chicago Press*. ([Link to Book.](#))

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[†]= DENOTES STUDENT
CO-AUTHOR

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CO-AUTHOR

Cooper, Chris, Gibbs Knotts, and Jordan M. Ragusa. 2016. "The Constrained Governor: Gubernatorial Decision-Making and Senate Appointments." *Political Research Quarterly* 69(3): 482-94. ([Link to Published Article.](#))

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†= DENOTES STUDENT
CO-AUTHOR

Cook, Emily†, Martin, Jeff†, and Jordan M. Ragusa. "Locked, Loaded, and Legislating: An Examination of Gun Owners in Congress."

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EDITORIALS,
& OTHER
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BOOK REVIEWS	<p>Ragusa, Jordan M. 2018. Meinke's "Leadership Organizations in the House of Representatives: Party Participation and Partisan Politics." <i>Journal of Politics</i> 80 (1): e9-e10.</p> <p>Ragusa, Jordan M. 2017. Devine and Kopko's "The VP Advantage: How Running Mates Influence Home State Voting in Presidential Elections." <i>Political Science Quarterly</i> 132 (1): 194-195.</p> <p>Ragusa, Jordan M. 2015. Volden and Wiseman's "Legislative Effectiveness in the United States Congress: The Lawmakers." <i>Political Science Quarterly</i> 130 (4): 778-780.</p>
INVITED PRESENTATIONS	<p>"Undemocratic Democracy: the Filibuster and Electoral College" Keynote address for the Charleston chapter of the League of Women Voters, Charleston, SC, April 2021.</p> <p>"Polarization and the 2020 Presidential Election" Presented at Clemson University, organized by the South Carolina Humanities Electoral Initiative, Clemson, SC, November 2020.</p> <p>"Congress in Reverse: Repeals from Reconstruction to the Present." Presented at Coastal Carolina University, Conway, SC, February 2020.</p> <p>"First in the South: Why South Carolina's Presidential Primary Matters." Presented at Coastal Carolina University, Conway, SC, February 2020.</p> <p>"First in the South: Why South Carolina's Presidential Primary Matters." Presented at the University of South Carolina, Columbia, SC, February 2020.</p> <p>"First in the South: Why South Carolina's Presidential Primary Matters." Presented at The Citadel, Charleston, SC, February 2020.</p> <p>"First in the South: Why South Carolina's Presidential Primary Matters." Presented at Winthrop University's John C. West Forum, Rock Hill, SC, January 2020.</p> <p>"#NeverTrump: Why Republican Members of Congress Support and Oppose Donald Trump." Presented at the United States Military Academy, West Point, NY, October 2018.</p> <p>"From Enactment to Repeal: Partisan Disagreements & the Fate of Landmark Laws (1877-2012)." Presented at the Negotiating Agreement in Congress Conference, organized by the Social Science Research Council, held in New York, NY, October 2017.</p> <p>"Do the Rich Deserve a Tax Cut?" Presented at the Conference on the Social Legitimacy of Targeted Welfare, organized by Bart Meuleman, Femke Roosma, Tim Reeskens, and Wim van Oorschot, held at the University of Leuven, Brussels, Belgium, January 2016.</p> <p>"Coordination and Partisanship in Modern Conference Committees." Presented at the Conference on Bicameralism organized by David Rohde and Bruce Oppenheimer and sponsored by the Political Institutions and Public Choice Program at Duke, March 2009.</p>
CONFERENCE ATTENDANCE (PAST 5 YEARS)	<p><i>Citadel Symposium on Southern Politics</i>, 2020. <u>Discussant</u> for "The South in Congress."</p> <p><i>Southern Political Science Association</i>, 2020. <u>Program Chair</u> for the Legislative Politics Section. <u>Paper</u> "Voting Behavior and Gun Control in Congress." <u>Panel Chair</u> for "Polarization in Congress."</p> <p><i>South Carolina Political Science Association</i>, 2019. <u>Book Panel</u> "First in the South: The Case for the South Carolina Primary" (with Gibbs Knotts). <u>Discussant</u> for "Money, Satisfaction, and Fake News."</p>

CONFERENCE ATTENDANCE (PAST 5 YEARS)	<p><i>Public Choice Society</i>, 2018. <u>Book Panel</u> "From Enactment to Repeal: Examining the Post-Passage Fate of Landmark Laws" (with Nate Birkhead).</p> <p><i>Citadel Symposium on Southern Politics</i>, 2018. Paper "GOP Bellwether: Explaining South Carolina's Predictive Ability in Republican Nominating Contests" (with Gibbs Knotts).</p> <p><i>Southern Political Science Association</i>, 2018. <u>Paper</u> "From Enactment to Repeal: When and Why Repeals Happen" (with Nate Birkhead). <u>Discussant</u> for "Legislative Capacity." <u>Panel Chair</u> for "Polarization and Political Speech."</p> <p><i>American Political Science Association</i>, 2017. <u>Paper</u> "From Enactment to Repeal: When and Why Repeals Happen" (with Nate Birkhead).</p> <p><i>Southern Political Science Association</i>, 2017. <u>Paper</u> "From Enactment to Repeal: Measuring Repeal Significance" (with Nate Birkhead). <u>Paper</u> "I'm With Her? Why Republican Lawmakers Refused to Endorse Their Party's Nominee" (with Lauren Johnson and Deon McCray).</p>
ACADEMIC AWARDS	<p>Outstanding Reviewer Award in 2019, Political Research Quarterly.</p> <p>Nominated by the Department of Political Science for the University of Florida's 2010-2011 Best Graduate Student Teacher Award.</p> <p>Best Graduate Student Paper in 2010, Florida Political Science Association, for "Chamber Hopping in the US Congress."</p> <p>High Pass on Political Methodology Ph.D. Qualifying Exam</p> <p>Best Graduate Student Paper in 2008, Florida Department of Political Science, for "Contextual and Institutional Explanations of Macro-Level Policy Change: 1951-2002."</p>
FELLOWSHIPS AND GRANTS	<p>Research Fellow, Center for Public Choice and Market Process (\$66,000 total), 2012-present</p> <p>Social Science Research Council, Negotiating Agreement in Congress Grant (\$10,000), 2017</p> <p>College of Charleston Faculty R&D Grant (\$2,650), 2013</p> <p>Dirksen Center Congressional Research Award (\$2,000), 2012</p> <p>College of Charleston HSS Dean's Discretionary Research Award (\$5,000 total), 2012, 2016, 2018, 2019</p>
FELLOWSHIPS AND GRANTS	<p>Various University of Florida Fellowships and Grants, 2007-2011</p> <p>Prestage-Cook Travel Award, Southern Political Science Association, 2008</p>
COLLEGE & DEPARTMENT SERVICE	<p>Associate Chair, Department of Political Science, College of Charleston 2019-present</p> <p>Research Director, Center for Public Choice and Market Process, College of Charleston, 2019-present</p> <p>Faculty Senate, College of Charleston, 2020-present</p>

COLLEGE &
DEPARTMENT
SERVICE

Founder and Director, American Politics Research Team, College of Charleston, 2015-present

College Ad Hoc Committee on Gun Violence, 2021-present
★ Committee Secretary, 2021-present

College Student Affairs and Athletics Committee, 2013-17
★ Committee Chair, 2015-17

Political Science Intellectual Life Committee, 2014-17 & 2018-19
★ Committee Chair, 2015-17 & 2018-19

William V. Moore Undergraduate Research Conference Committee, 2018-2020

Department Curriculum Committee, 2011-13, 2014-17 & 2019-present
★ Committee Chair, 2019-present

Department Graduate School Faculty Advisor, 2011-17

Faculty Advisor: South Carolina Student Legislature (2011-17), College Democrats (2012-17),
College of Charleston Debate Team (2014-17)

PROFESSIONAL
SERVICE &
MEMBERSHIPS

Editorial Board Member, *Political Research Quarterly*, 2018-present

Program Chair, Campaigns and Elections Section, *Southern Political Science Association*, 2021 &
2015

Program Chair, Legislative Politics Section, *Southern Political Science Association*, 2020 & 2015

Committee Member, Pi Sigma Alpha Award, *Southern Political Science Association*, 2013

Journal Referee: *American Political Science Review*, *American Journal of Political Science*, *The Journal of Politics*, *Legislative Studies Quarterly*, *American Politics Research*, *British Journal of Political Science*, *Political Research Quarterly*, *The Journal of Law and Courts*, *Social Science Quarterly*, *Publius*, *Environment and Planning*

Professional Memberships: *American Political Science Association*, *Midwest Political Science Association*, *Southern Political Science Association*

TECHNICAL
SKILLS

Stata, SPSS, Qualtrics, Excel, L^AT_EX, HTML, WordPress, Prezi

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Exhibit 30

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Jordan M. Ragusa , Ph.D.
The South Carolina State Confvs.McMaster/Alexander

June 28, 2022

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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

THE SOUTH CAROLINA STATE CONFERENCE OF
THE NAACP, et al.,
Plaintiffs,
vs. CASE NO. 3:21-cv-03302-MBS
TJH-RMG
THOMAS C. ALEXANDER, et al.,
Defendants.

VTC
DEPOSITION OF: JORDAN M. RAGUSA, PH.D.
(Appearing by VTC)
VOLUME II (Pages 176 - 344)
DATE: June 28, 2022
TIME: 10:03 a.m.
LOCATION: College of Charleston
Charleston, SC
TAKEN BY: Counsel for the Defendants
REPORTED BY: Susan M. Valsecchi, CRR
Registered Professional Reporter
(Appearing by VTC)

1 versus whether -- how many of those there were
2 versus the last time, did you?

3 A. I don't report precinct splits in my
4 analysis, no.

5 Q. You didn't look at compactness, right?

6 A. That's right.

7 Q. You didn't look at the core retention,
8 right?

9 A. I would qualify that. I would say the
10 core retention is part of Model 2 in my analysis.
11 If you're asking whether I report core retention
12 statistics, I do not.

13 Q. You said that you looked at some
14 communities of interest. You argued, I think, that
15 it was baked in there because it talked about the
16 county, and you looked at it, what the county was,
17 and then whatever the numbers might be in the VTDs,
18 but you didn't look at anything beyond just those
19 kind of generic or general communities of interest
20 did you?

21 MR. FREEDMAN: Object to form.

22 THE WITNESS: What I would say is that
23 by looking at counties, that in part
24 encompasses communities of interest.

25 By looking at the district as it was

1 previously drawn and all the VTDs contained
2 within the prior district, that in part gets
3 at communities of interest. And by looking
4 at demographic factors, like partisanship
5 and race and precinct size, that, in a way,
6 gets at communities of interest.

7 But to your earlier question, on very
8 granular levels, looking at neighborhoods,
9 no, that is not something contained in my
10 analysis.

11 BY MR. TYSON:

12 Q. And so you didn't look at political
13 subdivision boundaries that were protected either,
14 did you?

15 MR. FREEDMAN: Object to form.

16 THE WITNESS: Not explicitly, although
17 splits and repaired splits are included in
18 my analysis.

19 BY MR. TYSON:

20 Q. But more importantly, one of the most
21 important aspects that you didn't look at was
22 public input, correct?

23 MR. FREEDMAN: Objection, form.

24 THE WITNESS: I did not review the
25 transcripts or the live proceedings of

1 citizen input, that's correct.

2 BY MR. TYSON:

3 Q. So you'd agree that your analysis
4 doesn't tell anything close to the whole story of
5 how the congressional plan was constructed, right?

6 MR. FREEDMAN: Object to form.

7 THE WITNESS: I don't agree with that.

8 BY MR. TYSON:

9 Q. Well, we just went through seven things
10 that you didn't even look at. How can you say
11 that, Dr. Ragusa? Help me.

12 MR. FREEDMAN: Object to form.

13 THE WITNESS: Well, one thing I would
14 note is that it's either the Senate or the
15 House, or perhaps both, among the
16 redistricting criteria, they state quite
17 specifically that the factors are not
18 ranked, that it's not the case that some are
19 more important than others. And so I don't
20 know how you can make a determination about
21 the overall percentage of what is
22 permissible or impermissible.

23 My analysis speaks to a very specific
24 question, which is whether or not race was a
25 factor in the design of the district. Given

1 the 14th and 15th Amendments in the Voting
2 Rights Act, that's a pretty important
3 consideration.

4 BY MR. TYSON:

5 Q. No, that's right, but we've spent now
6 three or four hours, but there were a lot of other
7 considerations that you haven't taken the time to
8 go figure out as to why the mapmakers drew
9 Congressional District 6 the way that they did, or
10 Congressional District 1 the way that they did,
11 correct?

12 MR. FREEDMAN: Object to form.

13 THE WITNESS: Again, I think a lot of
14 those factors are part and parcel to the
15 analysis, but to your point, some of them
16 are not things that I looked at
17 specifically.

18 BY MR. TYSON:

19 Q. Yeah, and so I guess that's the part
20 that I'm trying to get to. I mean, I understand
21 that you look at numbers and numbers don't lie and
22 you pull data for your statistical modeling and you
23 conclude that race was a factor, right?

24 MR. FREEDMAN: Object to form.

25 THE WITNESS: In the design of five of

Exhibit 31

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

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP, and

TAIWAN SCOTT, on behalf of himself and
all other similarly situated persons,

Plaintiffs,

v.

THOMAS C. ALEXANDER, in his official
capacity as President of the Senate; LUKE
A. RANKIN, in his official capacity as
Chairman of the Senate Judiciary
Committee; JAMES H. LUCAS, in his
official capacity as Speaker of the House of
Representatives; CHRIS MURPHY, in his
official capacity as Chairman of the House
of Representatives Judiciary Committee;
WALLACE H. JORDAN, in his official
capacity as Chairman of the House of
Representatives Elections Law
Subcommittee; HOWARD KNAPP, in his
official capacity as interim Executive
Director of the South Carolina State Election
Commission; JOHN WELLS, Chair,
JOANNE DAY, CLIFFORD J. EDLER,
LINDA MCCALL, and SCOTT MOSELEY,
in their official capacities as members of the
South Carolina Election Commission,

Defendants.

**Case No. 3-21-cv-03302-MBS-
TJH-RMG**

THREE-JUDGE PANEL

Expert Report of Joseph Bagley, Ph.D.

I. CREDENTIALS

I am an Assistant Professor of History at Perimeter College, Georgia State University. My specific area of study is United States constitutional and legal history, politics, and race relations, with a focus on the South. I earned a Ph.D. in 2013 from Georgia State and a M.A. (2007) and B.A. (2004) from Auburn University. My first book, *The Politics of White Rights: Race, Justice, and Integrating Alabama's Schools*, was published in November 2018 by the University of Georgia Press in the *Politics and Culture of the Twentieth Century South* series. My current projects include a book manuscript examining the history of the struggle for voting rights in the South, focusing on Alabama, Georgia, and South Carolina. I am also developing, in concert with colleagues at GSU Downtown, a grant proposal for a National Endowment for the Humanities "Public Humanities Discussions" series focused on citizenship rights and obligations in Georgia and in America.

My academic work has been cited in the *Case Western Law Review*, the *Journal of Urban History*, *Rural Sociology*, the *Alabama Civil Rights and Civil Liberties Law Review*, and in the *New York Times Magazine* (NYTM). My doctoral thesis, "School Desegregation, Law and Order, and Litigating Social Justice in Alabama," which formed the basis of my book manuscript, was quoted multiple times by Pulitzer Prize winner Nikole Hannah-Jones in her September 6, 2017 piece in the NYTM, "Resegregation in Jefferson County."¹ I have also written book and manuscript reviews for, among others, the University Press of Kansas, *Law and History Review*, the *Journal of Southern History*, the *Alabama Review*, *Mississippi Historical Quarterly*, *Georgia Historical Quarterly*, *Urban History*, and *History of Education Quarterly*.

I have been certified as an expert by courts in all previous voting rights litigation wherein I have been retained and presented as a testifying expert. I recently submitted two reports – an initial report and a rebuttal report – and testified at a preliminary injunction hearing in *Milligan v. Merrill* (N.D. Ala.), an ongoing redistricting case involving Alabama's Congressional districts. In a memorandum order and opinion granting a preliminary injunction, the Court found that "Dr. Bagley" was a "credible expert witness," who "prepared [a] lengthy, detailed report that set forth substantial evidentiary bases for [his] opinion in a manner that [was] consistent with [his] expertise and applicable professional methods and standards." The Court cited my report and testimony 32

¹ Wendy Parker, "Why Alabama School Desegregation Succeeded (And Failed)," 67 *Case Western Law Review*, 1091 (2017); Rebecca Retzlaff, "Desegregation of City Parks and the Civil Rights Movement: The Case of Oak Park in Montgomery, Alabama," *Journal of Urban History* 47.4, 715 (2019); Erika Frankenberg, "The Impact and Limits of Implementing Brown: Reflections from Sixty-Five Years of School Segregation and Desegregation in Alabama's Largest School District," 11 *Alabama Civil Rights and Civil Liberties Law Review*, 33 (2019); Bryan Mann, "Segregation Now, Segregation Tomorrow, Segregation Forever? Racial and Economic Isolation and Dissimilarity in Rural Black Belt Schools in Alabama," *Rural Sociology* 86.3, 523 (2021). Nikole Hannah-Jones, "The Resegregation of Jefferson County," *The New York Times Magazine*, Sept. 6, 2017.

times and observed that “[a]t the preliminary injunction hearing, Dr. Bagley explained at a high level the bases for the detailed opinions on these issues that appear in his report.” (*Milligan*, Jan. 24, 2022, pp. 80, 185). I also submitted a report, testified in a deposition and at trial, and was cited favorably in the court’s opinion in *People First of Alabama v. Merrill*, 491 F. Supp. 3d 1076 (N.D. Ala. 2020). The Court in *People First* cited to my report 26 times and quoted directly from my testimony at trial *Id.* at 1106.² I have submitted previously in this litigation a report and rebuttal report pertaining to the Plaintiffs’ claims challenging State House districts.

I am compensated at the rate of \$150 per hour for my work in preparing this report. This compensation is not dependent upon my findings, and my opinions stated in this report do not necessarily represent the sum total of my opinions in this matter, which are subject to change upon further research or findings. I append to this report a C.V.

II. PURPOSE, METHODOLOGY, SUMMARY FINDINGS

Plaintiffs in this case asked me to examine the enactment of Senate Bill 865 (“S. 865”), which established South Carolina’s Congressional districts using the 2020 Census results when it was signed into law as Act 118. I have been asked to consider that process alongside any relevant history of voting discrimination against Black South Carolinians. This report accordingly places the South Carolina General Assembly’s enactment of S. 865 within a wider historical and contemporaneous context and considers whether this history, the ongoing record of discrimination, and the legislative sequence of events may support an inference of discriminatory intent.

Experts in cases alleging intentional racial discrimination often follow guidelines set forth by the Supreme Court in *Village of Arlington Heights v. Metropolitan Housing Corp.*, 429 U.S. 252 (1977). In *Arlington Heights*, the Court acknowledged that it was unusual, even at that time, to find direct evidence of discriminatory intent. The Court advised that, when assessing the constitutionality of state action relative to discriminatory intent, courts may conduct a “sensitive inquiry into such circumstantial and direct evidence of intent as may be available” by considering factors that may be relevant to ascertaining intentional discrimination, including (1) “The impact of the official action – whether it bears more heavily on one race than another”; (2) “The historical background of the decision . . . particularly if it reveals a series of official actions taken for invidious purposes”; (3) “The specific sequence of events leading up to the challenged decision . . .”; (4) “Departures from the normal procedural sequence . . .”; (5) and “The legislative or administrative history . . . especially where there are contemporary statements by members of the decision-making body, minutes of its meetings, or reports.” *Id.* at 265-266.

As a historian, under this framework, I analyzed the second, third, fourth, and fifth *Arlington Heights* factors. The historical background, the legislative sequence of events, the legislature’s procedures, and the statements made in the S. 865’s legislative history examined herein are relevant to a court’s assessment of whether the General Assembly’s actions in enacting Congressional districts (“CDs”) 1, 2, and 5 are part of a continuum of South Carolina’s

² 467 F.Supp.3d 1179 (N.D. Ala. 2020).

longstanding acts of discrimination in voting and redistricting, particularly against Black South Carolinians.

In examining this, as a historian, I am guided by the common standards of historiography. Relying on these standards, this report draws upon existing historiographical works; public documents from the South Carolina General Assembly’s websites, such as video recordings and transcripts of legislative committee meetings, floor debate, and public hearings from June 2021 through January 2022; other information from the state’s redistricting websites for the House and Senate; newspaper and journalistic articles; court opinions, briefs, and memoranda; public statements; and scholarly articles and books on voting rights in South Carolina. These are common sources for scholars in the humanities and the social sciences to reference, and I weigh all of these against one another, as is common in the field.

Based on my review of the evidence – the historical background of voting discrimination in South Carolina against Black citizens, the legislative history of S. 865, the irregularities in the drafting and passing of S. 865, and the statements by legislators during this process – I conclude that this all supports a strong inference of discriminatory motive, though I decidedly resist reaching the final conclusion, which is for the Court to do.

III. HISTORICAL BACKGROUND

a. Pre-Civil War

South Carolina’s historical background is relevant and cannot be detached from understanding S. 865’s enactment. The State of South Carolina has a long and largely undisputed history of discrimination against its Black citizens, especially when it comes to voting. The Court in *Colleton County Council v. McConnell* in 2001 observed, “The redistricting process in South Carolina has historically been a troubled one,” and it found there to be, in that case, “extensive documentation of the history of voting-related racial discrimination in South Carolina, which was submitted largely as a stipulation among the parties.” 201 F. Supp. 2d 618, 641-42, 649, Fn. 1 (D.S.C. 2001). I will very briefly summarize this well-documented and judicially recognized history before examining the state’s more recent history of discrimination, particularly with respect to redistricting cycles. This is relevant to the ongoing effort to achieve equal political participation for Black South Carolinians that continues today.

The colony of South Carolina was founded by wealthy, white sugar planters from Barbados who introduced to the British North American colonies the concept of replacing white indentured servant labor with Black African enslaved labor. These planters pioneered the growing of rice in the Low Country and became the richest individuals in the American colonies thanks to the labor of hundreds of thousands of enslaved Black people brought in as chattel from parts of sub-Saharan Africa and the Caribbean. These planters were among the most ardent supporters of what became the American Revolution and later, the American Civil War, in no small measure because of their interest in maintaining their practice of enslaving Black people for incredible profit. Conversely, Black South Carolinians like Robert Smalls were among the most active in seeking escape from bondage and joining “contraband” camps, like Port Royal and Hampton, Virginia, and serving in

the forces of the Union while seeking freedom during the Civil War, per the terms of the Emancipation Proclamation.³

b. Reconstruction

When the Civil War ended, the white government of the state of South Carolina led the way in enacting “Black Codes” – laws restricting the rights of freedmen, or formerly enslaved people. These laws violated what became the concept of equal protection, embodied ultimately in the Fourteenth Amendment, which invalidated them. Historian Eric Foner has described the Black Codes adopted by South Carolina as the “first and most severe” of all of those enacted in the former Confederacy. Foner described South Carolina’s as “in some respects even more discriminatory” than Mississippi’s because it “barred” Black people “from following any occupation other than farmer or servant except by paying an annual tax of \$10 to \$100 (a severe blow to the free Black community of Charleston and to former slave artisans),” and it “required blacks to sign annual contracts and included elaborate provisions regulating relations between ‘servants’ and their ‘masters,’ including labor from sunup to sundown and a ban on leaving the plantation.” South Carolina added a “vagrancy” law punishing unemployed Black people and “persons who lead idle or disorderly lives.”⁴

The brazenness of these laws moved members of the U.S. Congress to oppose the terms of President Lincoln’s and, subsequently, President Johnson’s Reconstruction plans and to reset the process with a focus on the rights of freedmen. Under the terms of “Radical Republican” Congressional Reconstruction, including the ratification of the 14th and 15th Amendments, and the renewed military occupation of the South, South Carolina saw its Black majority elect candidates, including Smalls, to office at the state and federal level. White backlash against these gains, however, would soon place South Carolina in the vanguard when white Democratic lawmakers, elected via violence and fraud, pursued legally-cemented white supremacy and the complete disenfranchisement of Black citizens.⁵

Beginning in the late 1860s and into the 1870s, white Democrats used voter fraud, intimidation, and violence, including the murder of numerous duly-elected Black state legislators, as well as low-grade guerilla warfare, to reverse the gains that Black citizens had made under Radical Republican auspices. White Democrats began to take back control of certain offices, including at the state level, and began enacting laws that made it difficult for Black people to register and vote, including a re-registration mandate and the consolidation of voting precincts, making travel to polling places more difficult.⁶

³ John J. Navin, *The Grim Years: Settling South Carolina, 1670-1720* (Columbia: University of South Carolina Press, 2019); Cate Lineberry, *Be Free or Die: The Amazing Story of Robert Smalls' Escape from Slavery to Union Hero* (New York: St. Martin's Press, 2017).

⁴ Eric Foner, *Reconstruction: America's Unfinished Revolution* (New York: Harper Collins, 1988), pp. 199-200.

⁵ Foner, *Reconstruction*, pp. 305-6.

⁶ Foner, *Reconstruction*, pp. 570-72, 589, 594, 599; Orville Vernon Burton, *The Age of Lincoln* (New York: Hill and Wang, 2007), pp. 269, 293, 307-10.

c. Redemption

The efforts of the immediate post-war period accelerated when white Democrats like Wade Hampton, Ben Tillman, and the so-called “Red Shirts” formed “rifle gangs,” like Tillman’s own Sweetwater Sabre Club, and initiated the “redemption” of the state of South Carolina. They orchestrated what one recent scholar has described as a “coordinated campaign of terror” and another has called a “violent rampage.”⁷ This terrorism and violence were designed to undo the advancements made following the Civil War, during the brief period that W.E.B. DuBois called Black Reconstruction, in order to prevent Black people from voting and to purge the state of the Republican Party. As Dr. Peter Lau has described, “[i]n turning back the revolutionary implications of Reconstruction and fighting to restore white supremacy as a legal and historical fact of life in South Carolina, the state’s white supremacist leadership, along with its counterpart in Mississippi, was unsurpassed.”⁸

Tillman spearheaded an effort in the 1890s to completely disenfranchise Black citizens of South Carolina and further entrench white supremacy. The state first eliminated its system of home rule in favor of a state legislative delegation system. This allowed white registered voter majorities, in conjunction with the white-controlled state government, to preclude the possibility of local Black electoral success. Then, in 1895, the South Carolina Constitutional Convention adopted a new state constitution establishing white supremacy. It provided for a poll tax, a literacy test that would be administered by appointed registrars with unlimited discretion, and other provisions that would disenfranchise Black citizens for generations. It also established Jim Crow segregation. It remains the state’s operative constitution to this day.

Systematic violence aimed at quashing any Black political participation continued. In 1898, events in and around the community of Phoenix, in Greenwood County, according to Dr. Lau, “announced that the unfolding terms of legalized white supremacy would be maintained by any means necessary.” As Lau describes, “[f]or a period of several days, some three hundred armed white men . . . roamed the countryside, seeking out, torturing, and then murdering those they deemed Republican activists.” At least twelve Black people were killed, and many more fled the state in response to the violence.⁹

⁷ Joseph Crespino, *Strom Thurmond’s America* (New York: Hill and Wang, 2012), pp. 15-16; Richard Rothstein, *The Color of Law: A Forgotten History of How our Government Segregated America* (New York: Norton, 2017), pp. 40-41.

⁸ Peter F. Lau, *Democracy Rising: South Carolina and the Fight for Black Equality since 1865* (Lexington: University Press of Kentucky, 2021), pp. 15-19.

⁹ Lau, *Democracy Rising*, pp. 19-21; see also Matthew H. Jennings, “The Phoenix Riot,” *Encyclopedia of South Carolina*, University of South Carolina Institute for Southern Studies, <https://www.scencyclopedia.org/sce/entries/phoenix-riot/>.

d. From the Redemption to the Voting Rights Act

By the twentieth century, South Carolina was a one-party state and, as the political scientist V.O. Key explained, it adopted a white, localized “friends and neighbors” approach to politics. Black people were not only legally shut out of the process but were subjected to ongoing violence in the form of lynching. According to historian Joseph Crespino, between 1904 and 1918, “a lynching took place in South Carolina, on average, every four months.” Crespino further cautions, “This, of course, accounted only for murders that were actually reported. Many were never discovered, and white men regularly killed blacks with impunity.” According to the Equal Justice Initiative, between the years of 1877 and 1950, there were 191 reported lynchings in the state of South Carolina.¹⁰

Key described South Carolina as “an extreme case” when it came to “the race question” in politics. He wrote, “South Carolina’s preoccupation with the Negro stifles political conflict. Over offices there is conflict aplenty, but the race question muffles conflict over issues latent in the economy of South Carolina.” It functioned as a “diversion” from other issues, in other words. Key observed, “Mill worker and plantation owner alike want to keep the Negro in his place,” and he described a “consensus by which the Negro is kept out of politics” owing to the fact that, were the “Negro” not kept out of politics, “[o]ne crowd or another would be tempted to seek his vote.”¹¹

Key explained how “latent bipartisanship [was] smothered by racism.” It was “the Negro question,” he wrote, that “suppressed the tendency of the two-party system to reassert itself after Reconstruction.” Tillman, Key describes, “drew cheers and votes from the white mill workers (who held a virtual monopoly of mill jobs) by his extraordinary appeals to race prejudice, and at the same time drew quiet and effective support from mill owners.” Key argues that this relative absence of class conflict in South Carolina politics was a function of a united white desire to forestall “the return of the Negro in politics,” meaning a desire to move permanently beyond the realities of Black Reconstruction, when the state’s Black majority was briefly able to enjoy access to the franchise and elect representatives of its choice.¹²

By 1902, there were *no* Black elected officials left at the state level, and Black voter registration was a fraction of what it had been at the height of Congressional reconstruction. South Carolina state law also enshrined the “white primary” until World War II. White supremacy was the order of the day until that time.¹³ When the Supreme Court outlawed the white primary in 1944, South Carolina suppressed Black suffrage by creating a so-called private primary. The

¹⁰ V.O. Key, *Southern Politics in State and Nation* (New York: Sage, 1949), pp. 130-131; Crespino, *Strom Thurmond’s America*, 16-17; Equal Justice Initiative, “Lynching in America,” South Carolina, <https://lynchinginamerica.eji.org/explore/south-carolina>.

¹¹ Key, *Southern Politics in State and Nation*, pp. 130-131.

¹² Key, pp. 142-44.

¹³ J. Morgan Kousser, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South, 1880-1910* (New Haven: Yale University Press, 1974), pp. 17, 27, 79-91, 145-51, 188, 232.

governor called a special session of the legislature in order to remove all laws relating to primaries, and voters ratified a constitutional amendment erasing any language regarding primaries from the state's constitution such that the Democratic Party's exclusion of Black people would have no connection to any official state action. The NAACP challenged these actions in federal court, and the court found that the changes were made "solely for the purpose of preventing the Negro from gaining a right to vote" and thus violated the Fourteenth and Fifteenth Amendments of the U.S. Constitution.¹⁴ The South Carolina legislature then applied the state's literacy test to primary elections and provided for the statewide use, in primaries, of an anti-single-shot or full-slate voting requirement and a majority-vote requirement, devices intended to dilute the strength of the "bloc" vote, meaning the Black vote.¹⁵

In the late 1940s, South Carolina's Strom Thurmond led a charge of southern white Democrats out of the party in protest of President Harry Truman's nascent overtures to civil rights. Truman had been motivated by the senseless maiming of Black veteran Isaac Woodard at the hands of a white sheriff outside Aiken, South Carolina in 1946. As the nominee of the States' Rights Democrats, or Dixiecrats, in 1948, Thurmond opposed Truman and won a significant number of southern votes. He subsequently rejoined the party but, in response to the national party's embrace of similar efforts under Presidents Kennedy and Johnson, Thurmond pioneered what has been described as a "northern strategy," an attempt to force the rest of the country to face the kind of scrutiny of racial discrimination that the South had faced. And Thurmond put together a core set of political issues – opposition to any and all civil rights reform; opposition to social welfare spending; opposition to labor organization; strident anti-communism; appeals to the religious Right – that scholars now assert were at the heart of a conservative counterrevolution that went hand-in-hand with the ongoing flight of white voters from the Democratic Party to the Republican Party.

In the 1950s and 1960s, South Carolina was also at the center of the battle over segregated schools. One of the trial court cases that came under the umbrella of *Brown v. Board* originated in the state. Indeed, Judge J. Waties Waring's dissent in *Briggs v. Elliott* heavily influenced the Supreme Court when it finally held that legally mandated segregation of public schools was unconstitutional.¹⁶ South Carolina and other southern states reacted with "massive resistance," using any means deemed 'legally' feasible to avoid even token desegregation. This included, in South Carolina's case, a renewed claim to the state's power of "nullification" of federal authority,

¹⁴ *Elmore v. Rice*, 72 F.Supp. 517, 527 (E.D. S.C. 1947), *aff'd sub nom Rice v. Elmore* 165 F.2d 387 (4th Cir., 1947), *cert. denied*, 333 U.S. 875 (1948).

¹⁵ Numan Bartley, *The New South, 1945-1980: The Story of the South's Modernization* (Baton Rouge: Louisiana State University Press, 1995), pp. 15, 26-29; Orville Vernon Burton et al., "South Carolina," in Chandler Davidson and Bernard Grofman, eds, *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990* (Princeton, N.J.: Princeton University Press, 1994), pp. 191-232, pp. 195-99.

¹⁶ *Briggs v. Elliott*, 98 F. Supp. 529, 538-48 (E.D.S.C. 1951); Richard Gergel, *Unexampled Courage: The Blinding of Sgt. Isaac Woodard and the Awakening of President Harry S. Truman and Judge J. Waties Waring* (New York: Farrar, Strauss, and Giroux, 2019).

harkening back to the so-called Tariff of Abominations that slaveholding lawmakers had rejected in 1828 due to their interests in exporting cash crops grown by the enslaved.¹⁷

South Carolina resisted desegregation so effectively that by 1964 it remained one of only two states in the old Confederacy to maintain completely segregated schools. The state also orchestrated the effective banishment of the organization deemed responsible for *Brown*, the NAACP. The state did this using old laws designed to combat the Ku Klux Klan and other white supremacist groups, and using alterations of old barratry and champerty laws. The latter were developed from the common law, designed to prevent the solicitation of litigants and to punish attorneys or firms that profited from repeated and frivolous litigation.¹⁸ The state also called on the NAACP to produce membership rolls, which it refused to do, knowing that this would form the basis for economic reprisal. And it charged the organization with being a foreign corporation that had not met the requirements for doing business in the state and, as such, had been “soliciting” plaintiffs for profit in violation of the barratry and champerty laws. A state court imposed a fine that the organization could not pay and refused it the administrative means to rectify the situation even if it could.¹⁹

When the Voting Rights Act was passed in 1965, there were *no* Black public officials in South Carolina, despite Black voter registration sitting at 37 percent. The State of South Carolina was the first state to challenge the constitutionality of the act. It of course lost, meaning that under Section 4’s coverage provision, South Carolina would be required to seek Section 5 preclearance review. In effect, this meant that any voting changes that state or local officials in South Carolina sought to implement would have to be pre-approved by a federal court or by the U.S. Department of Justice, which would assess whether or not the proposed changes were intentionally discriminatory or potentially retrogressive in their effect.

The state’s literacy test and provision requiring prospective voters to demonstrate “understanding” of a portion of the U.S. Constitution as read by a registrar were invalidated and abolished. White elected officials conceded an increase in Black voter registration and turned their attention to vote dilution practices. County governing bodies across the state switched to at-large

¹⁷ Clive Webb, *Massive Resistance: Southern Opposition to the Second Reconstruction* (New York: Oxford University Press, 2005), pp. 28-32; Burton, *The Age of Lincoln*, p. 58.

¹⁸ As explained by a legal scholar, analyzing these laws in 1959, “Striking directly at the ability and ubiquity of the NAACP’s legal staff, Georgia, Mississippi, South Carolina, Tennessee, and Virginia have adopted statutes redefining and tightening the common law offenses of barratry, champerty, and maintenance. Barratry is the ‘habitual stirring up of quarrels and suits.’ Champerty describes a situation where a person with no real interest in a particular piece of litigation assists one of the actual parties by money or service in return for a share of the expected proceeds of the case. Maintenance is the more general term that encompasses ‘officious intermeddling in a suit which in no way belongs to one, by maintaining or assisting either party, with money or otherwise, to prosecute or defend it.’” (footnotes omitted) Walter F. Murphy, “The South Counterattacks: The Anti-NAACP Laws,” *The Western Political Quarterly* Vol. 12, No. 2 (June 1959): pp. 371-390, p. 374, [accessed from JSTOR](#).

¹⁹ Bartley, *The New South*, pp. 162-62.

voting systems, with multimember districts and numbered posts, as they had done across the South during the “redemption” when rolling back Reconstruction-era Republican rule.²⁰

Bringing back the dilutive voting practices would, over decades, lead to myriad Section 5 objections.²¹ In single-member district elections, Black voters in majority Black areas had an opportunity to elect candidates of their choice. White elected officials switched to at-large elections to avoid that possibility. In a pure at-large system, all candidates would compete with each other for the seats up for election, and all voters could cast as many votes as there were seats at issue. They were not required to cast all of their available votes. If five seats were open, for example, the five candidates with the most votes won. This allowed a group of voters to engage in “single-shot” voting, or casting one vote for the same candidate and not casting any of their remaining votes for candidates competing with that preferred candidate.

Single-shot voting provided minority voters with a better opportunity, though by no means a certainty, of winning one seat. Separating at-large seats in a multi-member body by divisions (numbered posts/places) for electoral purposes, however, enhanced the already dilutive potential of at-large election systems by precluding a minority group from single-shot voting, since each contest was head-to-head. The majority vote rule for determining a winner in each contest further ensured control of the electoral outcome in favor of the majority group, i.e. white people.

I proceed below to a discussion of the State of South Carolina’s efforts to redistrict from the 1960s to the present, first focusing on the state legislature and then the U.S. Congress, with some overlap in the 1980s and 1990s cycles I include a summary of local governmental entities’ efforts in seeking, via the state legislature, to enact local electoral changes that ran afoul of the U.S. Justice Department’s preclearance standards. I present this in the context of the South Carolina electorate’s shift from majority white Democrat, in the preceding decades, to majority white Republican, from the mid-2000s to the present.²²

e. Redistricting from 1960 - 1990

Renewed interest in dilutive voting structures coincided with the beginnings of judicial oversight of legislative redistricting under both the mantle of the one-person/one-vote standard adopted by the Court in *Reynolds v. Sims* (1964) and the auspices of Section 2 of the Voting Rights Act of 1965. Facing the probability of a sharp increase in Black voter registration, numerous governing bodies in South Carolina opted for dilutive at-large voting practices with multi-member districts, numbered posts, and majority vote requirements. The Justice Department began to

²⁰ Burton et al., “South Carolina,” pp. 200-202.

²¹ See generally, Justice Department, Civil Rights Division Section 5 Objection Letters, South Carolina, <https://www.justice.gov/crt/voting-determination-letters-south-carolina>.

²² J. Morgan Kousser, *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction* (Chapel Hill: University of North Carolina Press, 1999), pp. 139, 337-38, 347-48, 351, 475.

interpose objections to many of these practices, including one devised for the South Carolina legislature.²³

In the immediate aftermath of *Reynolds*, a federal court in *O'Shields v. McNair*, 254 F. Supp. 708 (D.S.C. 1966) ordered South Carolina's Senate to reapportion itself. At the time, each of the state's 46 counties had one senator, elected at-large, a system that failed to meet the one-person/one-vote standard. The legislature devised a plan that replaced some single-member districts under the county-based plan with multimember districts with white voter majorities. The court in *O'Shields* approved that plan on a strictly interim basis, at which time the legislature modified the plan using just five single member districts and 15 multimember districts with white-voter majorities and a majority vote requirement. The state's congressional delegation included six members of the U.S. House of Representatives at that time – all of whom were white. In fact, the state did not elect a single Black congressional member between 1897 and the 1990s.²⁴

Following the 1970 Census, the legislature took up its duty to reapportion and redistrict and this time was required to submit proposed changes to the Justice Department. The legislature passed Act No. 932 in Nov. 1971, adopting a plan for the reapportionment of the state Senate. The state submitted the act to the Attorney General for preclearance review. While that was pending, several suits were filed in federal court challenging the plan as violative of the Fourteenth and Fifteenth Amendments of the U.S. Constitution.²⁵

While those cases were consolidated before a three-judge court, under the styling of *Twiggs v. West*, in March of 1972, the Justice Department blocked Act No. 932. The Assistant Attorney General concluded that the “combination of multi-member districts, numbered posts, and majority vote (run-off) requirement” was likely to result in “an abridgement of minority voting rights.”²⁶ The court in *Twiggs* then held that the act would produce a malapportioned body and gave the legislature the opportunity to enact a new plan (*Twiggs*, unreported, Apr. 7, 1972).

The legislature then passed Act. 1205, which the *Twiggs* court upheld in May 1972. The following month, the Assistant Attorney General indicated, in a lengthy letter, that he determined that the plan produced by Act. 1205 was violative of the Fifteenth Amendment, but he indicated that, out of deference to the court, the Attorney General would not object to the Senate plan.²⁷

²³ I discuss the localized objections below, in order to keep the discussion of redistricting compact and concurrent. *Reynolds v. Sims*, 377 U.S. 533 (1964); Burton et al., “South Carolina,” pp. 200-202.

²⁴ *O'Shields v. McNair*, 254 F. Supp. 708, 715-16.

²⁵ *Twiggs v. West*, Civ. Ac. No. 71-1106 (D.S.C. 1972).

²⁶ David L. Norman, Assistant Attorney General, Civil Rights Div., to Hon. Daniel R. McCleod, Attorney General, State of South Carolina, March 6, 1972, U.S. Dept of Justice, Civil Rights Division Section 5 Objection Letters, <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/SC-1000.pdf>.

²⁷ David L. Norman, Assistant Attorney General, Civil Rights Div., to Hon. Daniel R. McCleod, Attorney General, State of South Carolina, June 30, 1972, U.S. Dept of Justice, Civil Rights Division Section 5 Objection Letters, <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/SC-1010.pdf>.

Some of the *Twiggs* plaintiffs then filed a separate action in the District Court in South Carolina, asking that the Attorney General be compelled to enter an objection. The court entered that order, and the Attorney General objected to Act 1205.²⁸ The District of Columbia Circuit Court upheld the District Court decision, and a new suit was filed seeking an injunction against the use of the plan established by Act 1205. The District Court in that case held that the Attorney General's failure to render an objection within the 60-day window afforded by Section 5 satisfied Section 5's requirements and dismissed the complaint. The Supreme Court upheld the decision.²⁹

South Carolina's efforts to redistrict its state House of Representatives in the 1970s also involved Justice Department objections and lengthy litigation. By that time, Black citizens in South Carolina had begun to capitalize on their ability to register and vote, due in large part to the Voting Rights Act, and they had organized by forming the United Citizens Party in 1969. The group was so successful in turning out Black voters that the Democratic Party made some limited overtures, including supporting the nomination of a few Black candidates in areas with significant Black populations in Charleston and Columbia in the 1970 House elections. Three of those candidates won election that fall and became the first Black representatives in the state House since the Tillman-orchestrated "redemption" of the late 19th Century.³⁰

Three representatives out of 124 was still grossly disproportionate, however, given that South Carolina's Black population at the time constituted approximately 30 percent of the electorate. Black plaintiffs subsequently challenged the redistricting plan adopted by the state House in Act 1205, citing the use of multimember districts and the anti-single-shot law.³¹ The court upheld the plan but not the anti-single-shot law, though the state simply replaced the latter with a numbered place law. The Justice Department, in the same letter in which it deferred to the court vis-à-vis the Senate plan in Act 1205, objected to the application of the numbered place law to contests throughout the state, including the state House of Representatives.³²

Elections were held in 1972 under the state's plan for the state House, and the number of Black representatives increased from three to four, as noted above. The following year, the U.S. Supreme Court, in *Stevenson v. West*, reversed the trial court's decision to uphold the House's use of multimember districts with numbered posts.³³ The legislature once again produced a plan that used such devices, leading the Justice Department to register an objection due to the "submergence of significant concentrations of Negro voters into large majority multi-member districts and the magnification of this dilution of Negro voting strength by the numbered post and majority vote requirement." The state finally relented and redistricted using single-member districts. In 1974, 13

²⁸ *Harper v. Kleindienst*, 362 F.Supp. 742 (D.S.C. 1973); J. Stanley Pottinger, Assistant Attorney General, Civil Rights Div. to Hon. Daniel McLeod, Attorney General, State of South Carolina, July 30, 1973, <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/SC-1040.pdf>.

²⁹ *Morris v. Gressette*, 425 F.Supp. 331, D.S.C. 1977, aff'd 432 U.S. 491 (1977).

³⁰ Willie M. Legette, "The South Carolina Legislative Black Caucus, 1970-1988," *Journal of Black Studies* 30, No. 6 (July 2000), pp. 839-858, pp. 840-43.

³¹ *Johnson v. West*, No. 72-680 (D.S.C. 1972).

³² Norman to McLeod, June 30, 1972, supra, fn. 30.

³³ 413 U.S. 902 (1973).

Black candidates were elected to the state House. The Senate remained comprised *only* of white members. The South Carolina congressional delegation also remained exclusively white, then comprised of two Senators and six members of the U.S. House.³⁴

The presence of Black representatives in the state House led white legislators to abandon the longstanding system of legislative appointment of local governing bodies. As the authority to elect such bodies was handed back to counties, some switched to single-member district plans while others opted for at-large systems, most of them using dilutive devices like numbered posts, staggered terms, overly-large districts, and majority vote requirements. The Supreme Court had already declared that such systems, which enhance the ability of the quantitative majority to control election outcomes, also “enhanced the opportunity for racial discrimination.” *White v. Regester*, 412 U.S. 744, 766 (1973). The Supreme Court would soon determine that the dilutive impact of those kinds of enhancing factors constituted a continuing practical impediment to the opportunity of black voting minorities to elect candidates of their choice.³⁵

The Justice Department registered dozens of objections to these kinds of changes and more throughout the 1970s, 1980s, and 1990s, and plaintiffs brought suits challenging these actions in the courts.³⁶ As a result, more county commissions and city councils began adopting single-member electoral methods, particularly after lengthy, costly, and well-publicized litigation in Edgefield and Sumter Counties ultimately resulted in the blocking of at-large practices. This occurred around the same time as Congress amending the Voting Rights Act in 1982 to include a discriminatory results standard, as opposed to the racially discriminatory intent standard announced by the Supreme Court in *City of Mobile v. Bolden*.³⁷

After the 1980 Census, and the South Carolina General Assembly’s submission of plans for redistricting for the state House and Senate, the Justice Department found in the state’s House plan “noticeable dilution or fragmentation of the minority vote in Florence County (Proposed District Nos. 59, 62, 63), Richland County (Proposed District Nos. 70, 72, 73, 74, 75, 76, 79), Lee County (Proposed District Nos. 50, 65, 66), Allendale-Bamberg-Barnwell Counties (Proposed District Nos. 90, 91), and Jasper-Beaufort Counties (Proposed District No. 122).” The Justice Department also noted that it was aware of alternate proposals that “would have avoided the fragmentation and dilution of minority voting strength in each of the referenced areas,” and it noted

³⁴ Legette, “The South Carolina Legislative Black Caucus, 1970-1988,” pp. 841-42; J. Stanley Pottinger, Asst Attorney General for Civil Rights, to Hon. Daniel R. McLeod, Attorney General, State of South Carolina, Feb. 14, 1974, U.S. Dept of Justice, Civil Rights Division Section 5 Objection Letters, <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/SC-1070.pdf>.

³⁵ Thornburg v. Gingles, 478 U.S. 30, 39-40, 80 (1986).

³⁶ See generally Civil Rights Division, Section 5 Objection Letters, South Carolina, <https://www.justice.gov/crt/voting-determination-letters-south-carolina>; I summarize these below.

³⁷ *Mobile v. Bolden*, 446 U.S. 55 (1980); *Blanding v. Dubose*, 509 F.Supp. 1334 (D.S.C. 1981); *McCain v. Lybrand*, 465 U.S. 236 (1984); *Burton et al.*, “South Carolina,” pp. 208-11.

having “received complaints alleging that such alternate proposals were rejected for racially discriminatory reasons.”³⁸

The General Assembly submitted its state Senate plan for preclearance and sought a declaratory judgment in the D.C. District Court. It then moved forward with the election process for the 1984 primaries under the assumption that the plan would pass muster. The Justice Department objected to that action, as did the appellate court, and the state was enjoined from moving forward.³⁹ Private litigants then filed suit in the District Court in South Carolina seeking an interim plan imposed by the court. The court provided such a plan, but the state passed a new law establishing a plan of its own. That plan included 10 districts with majority Black populations, 7 of which had majority Black voting age populations. That was the plan ultimately used in elections in 1984, and four Black senators were elected to serve Districts 7, 19, 39, and 42.⁴⁰ Two other Black senators were elected, in 1988 and 1990, to represent District 30 and District 45, respectively. The South Carolina congressional delegation remained all white.⁴¹

Following the 1990s Census, the legislature passed new redistricting plans for the state House and Senate. Then-governor Carroll Campbell vetoed both plans, arguing that both would fail Section 5 preclearance review, particularly given the results standard embodied in the 1982 VRA amendment. Campbell noted that the plans did not create additional majority-minority districts, reduced the number of Black voters in existing minority districts, and cracked the Black voting population at the expense of white incumbents and at the expense of creating additional majority-minority districts. The governor’s actions were characterized by his opponents as “cynical,” meaning that they believed that he supported more majority-minority districts only because that would mean more safely white districts that Republicans could win.⁴²

Unable to override the vetoes or pass new plans, the state legislative redistricting process ended up in federal court again. In *Burton v. Sheheen*, a three-judge court ordered the use of a plan for the Senate establishing 11 districts with majority Black populations, 10 of which had majority

³⁸ William Bradford Reynolds, Asst Attorney General, Civil Rights Division, to Hon. Daniel R. McLeod, Nov. 18, 1981, Civil Rights Division Section 5 Objection Letters, <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/SC-1460.pdf>; Legette, “The South Carolina Legislative Black Caucus, 1970-1988,” pp. 858-59.

³⁹ *State of South Carolina v. United States*, 585 F. Supp. 418, D.D.C. (1984); William Bradford Reynolds, Assistant Attorney General, Civil Rights Division, to Terrell Glenn, March 20, 1984, Civil Rights Division Section 5 Objection Letters, <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/SC-1540.pdf>.

⁴⁰ These were not quite the first Black representatives to serve in the South Carolina Senate. I. DeQuincey Newman was elected from Orangeburg in a special election in 1983; see Leggette, “The South Carolina Legislative Black Caucus,” p. 843.

⁴¹ John C. Ruoff and Herbert E. Buhl, “Voting Rights in South Carolina, 1982-2006,” *University of Southern California Review of Law and Social Justice* 17.2 (Spring 2008), pp. 643-711, pp. 673-75.

⁴² William E. Rone, Jr., “Will Proportional Representation Improve Government,” *The State* (Columbia, S.C.), Feb. 9, 1992, p. 2D; Valerie Bauerlein, “S.C. Redistricting Finalized Relatively Fast,” *The State*, March 25, 2002.

Black voting age populations. Seven Black senators were elected under the plan that fall of 1992. The *Burton* court adopted a plan for the state House that included 28 majority-minority districts, 23 of which contained Black voting age majorities. Eighteen Black House members were elected under the plan that fall.⁴³

f. Redistricting, 1980 - Present

Following the 1980 Census, the South Carolina General Assembly failed to pass a congressional redistricting plan, with the House and Senate failing to come to agreement on a map. The South Carolina State Conference of Branches of the NAACP filed suit, as did two other individual plaintiffs, urging a three-judge federal court to adopt one of several submitted plans. The NAACP submitted three plans, two of which would create a majority-Black Sixth Congressional district (“CD 6”). The Court determined that the county splits in the NAACP plans were “radical” and opted to order the adoption of a modified version of a plan passed by the state House.⁴⁴

The South Carolina General Assembly again failed to pass a congressional redistricting plan following the 1990 Census. Plaintiffs filed suit, and that case ended up before the court in *Burton*. As was the case in the 1980s, the state House and Senate each passed congressional redistricting plans but could not come together to pass one as the full assembly. The court in *Burton* determined that none of the plans submitted by parties was sufficient and, as with the state House and Senate plans, drew its own, though it also acknowledged that no parties disputed the need to draw, for the first time, a majority-minority district. CD 6 was thus drawn with a majority Black population.⁴⁵

That fall, Jim Clyburn was elected to the U.S. Congress in the newly redrawn 6th Congressional District, becoming South Carolina’s first Black representative in Washington in nearly 100 years. The campaign, which pitted Clyburn against a white Republican, was described in the media as having been “tinged with racial controversy.” A television ad supporting Chase featured a distorted photo of Clyburn described by his campaign manager as “reminiscent of the vaudeville days when black people were not allowed to perform and white actors were made up with blackface with their eyes rolled back and lips popped out.” The photo was placed on a “Welfare Express” card. Clyburn himself called it “a not-so-subtle way of injecting race” into the campaign and insisted that the photo made him look “like Buckwheat.”⁴⁶

⁴³ *Burton v. Sheheen*, 793 F. Supp. 1329 (D.S.C. 1992); Ruoff and Buhl, “Voting Rights in South Carolina, 1982-2006,” pp. 676-82.

⁴⁴ S.C. State Conference of Branches, et al. v. Riley, 533 F. Supp. 1178, 1182 (D.S.C. 1982).

⁴⁵ *Burton*, at 1367.

⁴⁶ Lisa Key, “Black Turnout Called Key to Sixth District Win,” *The State*, Oct. 29, 1992; Lisa Greene, “Race Issue Heats Up Clyburn, Chase Attacks,” *The State*, Nov. 1, 1992; Lisa Greene, “Clyburn Makes History, Promises to Work for All,” *The State*, Nov. 4, 1992; Clejette Pickett, “NAACP Threatens Lawsuit over District 2 Voting Lines,” *The Item*, Oct. 28, 1992.

The Supreme Court vacated *Burton* the following year on the grounds that the District Court had not thoroughly considered a Section 2 analysis. The legislature then passed a state House plan in 1994. Governor Campbell allowed the bill to become law without his signature so that it could go before the Justice Department for preclearance review. The Attorney General objected to the plan, in part, on account of its packing and cracking of Black populations. Assistant Attorney General Deval Patrick wrote in his objection letter, “We cannot preclear those portions of a plan where the legislature has deferred to the interests of incumbents while refusing to accommodate the community of interest shared by insular minorities.” This problem was typically associated, Patrick wrote, with “the unnecessary fragmentation of minority communities or the needless packing of minority constituents into a minimal number of districts in which they can expect to elect candidates of their choice.”⁴⁷

The *Burton* court deferred to the legislature, though with a deadline. Before the deadline expired, a coalition of legislators in the South Carolina Legislative Black Caucus and the Republican Party, which was in the process of siphoning off white legislators from the Democratic Party, passed through a plan that would increase the number of majority-minority districts by nine. Black Caucus members felt like they had been taken advantage of by white Democrats and agreed with Republicans to draw more heavily white districts that white Republicans could win and more majority-minority districts that Black candidates could win. As Columbia’s *The State* wrote, looking back, “Facing extinction, some white Democrats bolted for [the Republican Party].”⁴⁸ The Civil Rights Division did not object to this plan, and it was adopted just before the deadline established by the court in *Burton* had passed. The General Assembly also adopted a congressional redistricting plan that reflected the plan drawn by the court in *Burton*. CD 6 under that plan had a Black population of 61 percent and a Black voting age population (“BVAP”) of 58 percent.⁴⁹

In the fall of 1994, the same year, 24 Black legislators were elected to the state House, but a challenge was brought to the state House plan based on the Supreme Court’s decisions in *Shaw v. Reno* (1993) and *Miller v. Johnson* (1995). These cases challenged majority-minority districts under a racial gerrymandering theory; a framework which requires a plaintiff to show that race predominated in the development of those districts without a legally sufficient justification like compliance with the Voting Rights Act. The court in *Smith v. Beasley* in 1996 held that race had predominated to an unacceptable degree in drawing 6 of the 9 new districts. The state House redistricted again to reflect the court’s finding and adopted a plan under which all but one of the new Black legislators elected under the final *Burton* plan were reelected.⁵⁰

⁴⁷ Deval Patrick, Asst Attorney General, Civil Rights Division, to Hon. Robert Sheheen, Speaker of the South Carolina House of Representatives, May 2, 1994, Civil Rights Division Section 5 Objection Letters, <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/SC-1980.pdf>; Ruoff and Buhl, “Voting Rights in South Carolina,” pp. 676-82.

⁴⁸ Cindi Ross Scoppee, “A House Divided Sweats Out Remap,” *The State*, May 12, 1994; Gina Smith, “Endangered Species: South Carolina Democrats,” *The State*, Feb. 6, 2011; Tim Flatch, “Elections Expected to Give Republicans ‘Working Control’ of State House,” *Greenville News*, Nov. 9, 1994.

⁴⁹ Rouff, “Voting Rights in South Carolina,” pp. 707-08.

⁵⁰ *Smith v. Beasley*, 946 F. Supp. 1174 (D.S.C. 1996); Ruoff and Buhl, “Voting Rights in South Carolina,” pp. 680-82.

The impact of *Shaw* and *Miller* was felt in the South Carolina Senate's efforts as well. The Senate passed a plan in 1995 that created two new majority-minority Senate districts. In *Smith v. Beasley*, the court held that not only were those two districts the product of impermissible racial predominance, but so was one additional district. The Senate then passed a plan, in 1997, that no longer provided for Black majorities in the two districts created in the 1995 plan. The Justice Department objected to the boundaries of one of the districts, observing, "[T]here are alternative configurations that would minimize the reduction in black voting strength in District 37," and that some of these were "available to the state" and would have "substantially address[ed] the *Smith* court's constitutional concerns," without "significantly diminish[ing] black voting strength in neighboring senate districts." The Justice Department also objected to the plan on the grounds that it represented a "clear violation" of Section 2 of the Voting Rights Act. Senate redistricting thus ended up back before the *Smith* court, which then ordered the implementation of its own plan, based in part on the 1997 plan and in part on the 1984 plan, with the court's own modifications. Special elections were held that fall, and Black South Carolinians lost a seat in the Senate, District 37.⁵¹

Plaintiffs also brought a *Shaw/Miller* challenge against the drawing of the new CD 6, filing *Leonard v. Beasley* in late 1996. The parties in that case reached a settlement whereby the defendants conceded that drawing CD 6, as it was, required subordinating traditional redistricting principles to "racial considerations," and the plaintiffs conceded that "the State has a compelling state interest in adopting [a] congressional plan that does not have the purpose, effect or result of providing minority citizens with less opportunity than other members of the electorate to elect representatives of their choice."⁵²

Following the 2000 Census, the General Assembly passed redistricting plans for the state House and Senate and for the state's congressional districts, but then-Governor Jim Hodges, a white Democrat, vetoed the bill, H.3003. The governor argued that the state legislative plans lacked sufficient "opportunity" districts for Black voters, and that the congressional map split too many counties. The head of the state's Legislative Black Caucus, Rep. Joe Neal, argued that the plans for the state legislature, in particular, were conducive to the election of candidates espousing extreme positions due to a lack of competition. The process ended up again before a three-judge federal court, with multiple parties filing suit under one-person/one-vote claims of malapportionment, due to the impasse.⁵³

⁵¹ Isabell Katz Pinzler, Asst Attorney General, Civil Rights Division, to Hon. John W. Drummond, April 1, 1997, Civil Rights Division Section 5 Rejection Letters, <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/SC-2090.pdf>; Ruoff and Buhl, "Voting Rights in South Carolina," pp. 675-77.

⁵² *Leonard v. Beasley*, No.3:96-03640 (D.S.C. Aug. 6, 1997); Ruoff, "Voting Rights in South Carolina," pp. 707-08.

⁵³ "Democrats Push for Influence in Redistricting," Associated Press, *Orangeburg Times-Democrat*, Sept. 11, 2001; Bauerlein, "S.C. Redistricting Finalized Relatively Fast," *The State*, March 25, 2002.

In 2002, the court in *Colleton County Council v. McConnell*, took special note of the “overwhelming” evidence of what was by then being called racially polarized voting, or what had been up to that point referred to as “bloc voting,” a term carried over from colormasked denunciations of the nascent Black vote in the 1950s and 1960s. 201 F. Supp. 2d 618, 623-36, 642 (D.S.C. 2002). Racially polarized voting occurs when a minority group votes as a block for a particular candidate who is then defeated by non-minority voters, who are usually voting as a bloc against those candidates of choice of the minority. The court in *Colleton* adopted a plan for the state Senate that included 11 majority Black districts, 10 of which had a majority BVAP, and one opportunity district that sat just below 50 percent. The court’s plan for the state House established 31 majority Black districts, of which 28 were majority in BVAP.

The General Assembly modified the court’s plans in 2003, and those plans were precleared under the standard of Section 5 – non-retrogression. In addressing the need for a new congressional plan, the *Colleton* court acknowledged that the “benchmark” plan, drawn by the court in *Burton* in 1992 and amended and adopted by the General Assembly in 1994, had been challenged under *Shaw/Miller* as an unconstitutional plan but that a settlement had been reached wherein there was no ruling on the constitutionality of the plan. The state defendants had agreed to concede that racial considerations had predominated in drawing the plan if a new suit was brought. But the court further acknowledged that no Section 2 claim was being brought in the current case. All parties and the court had agreed, though, that Section 2 required maintenance of CD 6 as a majority-minority district. CD 6 had also lost 68,000 or so in population and would need to take in BVAP in order to remain a majority-minority district. The court held, then, that “§ 2 and § 5 of the Voting Rights Act require the maintenance of CD 6 as a majority-minority district. We believe the minority population in the core areas of CD 6, as drawn by the court, is sufficiently compact and shares a sufficiently strong community of interest to warrant being a majority-minority district” (*Colleton County Council*, at 665).

Following the 2010 Census, South Carolina gained a U.S. congressional seat. The General Assembly enacted Acts 72 and 75 (both in 2011) establishing redistricting plans for the state legislature and Congress, respectively. The state legislative plans passed with biracial support, indicating some measure of cooperation between Black legislators and white Republicans, but also drawing the ire of Black and white Democrats who insisted that the plans packed Black voters into majority-minority districts in order to “bleach out” white Republican districts, meaning to give them a large enough percentage of white voters that candidates would not have to campaign for Black votes at all.⁵⁴

The bills were signed by Governor Nikki Haley, and the plans were precleared by the Obama Justice Department under the standard of non-retrogression. The congressional plan maintained the majority Black CD 6, at 53 percent, and created the new CD 7 in the growing Pee Dee, in Horry and Georgetown Counties. Rep. Gilda Cobb-Hunter, a Black Democrat in the state

⁵⁴ Jim Davenport, “Democrat: GOP District Plan ‘Electoral Apartheid,’” *The Greenville News*, June 16, 2011; Liz Carey, “Redistricting Plan One Step Closer to Final,” *Anderson Independent Mail*, June 17, 2011.

House, argued that this represented packing CD 6 unnecessarily when a second Black opportunity district could have been drawn using some of the BVAP in CD 6 and Black populations that were cracked among the remaining districts. Cobb-Hunter described a compromise reconciling conflicting state House and Senate plans for the new congressional map as a “fait accompli” at the time and said, “I hope for the people of South Carolina that this plan ends up in court.” Plaintiffs indeed brought suit, alleging Fifteenth Amendment violations against all three plans and racial gerrymandering and Section 2 violations in the enactment of the state House and congressional plans.⁵⁵

With respect to the racial gerrymandering claims, the three-judge federal court in *Backus v. South Carolina* found that the “Defendants were able to disprove that race was the predominant factor by demonstrating that their decisions adhered to traditional race-neutral principles.” 857 F. Supp. 2d 553, 560, D.S.C., *aff’d* 133. S.Ct. 156, 2012. The court found the expert report and testimony of plaintiffs’ expert Dr. Michael McDonald to be lacking in credibility, particularly in that Dr. McDonald failed to consider the race-neutral redistricting guidelines adopted in the General Assembly’s relevant committees and subcommittees when he concluded that race had predominated in the drawing of the approved maps. The court also found that while the testimony of state Rep. Bakari Sellers, state Senator Brad Hutto, U.S. Rep. Clyburn, and others “strongly suggested” that race was a factor in the drawing of district lines, plaintiffs failed to establish that it was the *predominant* factor (at 565).

The *Backus* court concluded that the plaintiffs, in District Judge Patrick Duffy’s words, “focused too much on changes that increased the BVAP in certain districts and not enough on how traditional race-neutral principles were subordinated to race in making those changes. This approach,” the court held, “risks ignoring that race might have been an unintended consequence of a change rather than a motivating factor” (at 565). According to the court, this also “ignore[d] that race can be – and often must be – a factor in redistricting,” because South Carolina was “a covered jurisdiction under [Sections 4 and 5 of] the Voting Rights Act” (Id). The court shot down the plaintiffs’ Section 2 claims on the basis that they had not met the first “precondition” of the *Gingles* framework: “Plaintiffs have not shown that, absent the districting scheme imposed by the House and Congressional plans, African-Americans could form a majority of voters in another potential district” (567).

The *Backus* court similarly found that the plaintiffs failed to prove either discriminatory intent or effect. The court wrote, “There is no convincing direct evidence indicating that the General Assembly drew the district lines for the purpose of diluting Plaintiffs’ voting strength. Nor do the totality of the facts yield an inference that the General Assembly acted with such a discriminatory purpose. More importantly,” it continued, “Plaintiffs have failed to prove a discriminatory effect. They offered no evidence demonstrating how the House and Congressional

⁵⁵ Jim Davenport, “S.C. Legislators Seek U.S. House District Line Support,” *Anderson Independent Mail*, July 26, 2011; Tim Smith, “District Splits Upset Minorities,” *Greenville News*, July 28, 2011; Gina Smith, “Senate Passes Surprise Plan for Seventh Congressional District,” *The Herald* (Rock Hill, S.C.), June 29, 2011.

plans dilute their votes. . . . There was no expert testimony describing how the House and Congressional plans minimized or cancelled out minority voting potential” (568-69). As to the 15th Amendment claims, the court in *Backus* held, “[b]ecause Plaintiffs have offered no evidence, nor have they argued, that any Plaintiff was denied the ability to vote, the Court finds that the House and Congressional plans do not violate the Fifteenth Amendment” (570).

g. Section 5 Challenges and the Shift in Political Affiliation

The white flight from the Democratic Party to the Republican Party that had begun with Thurmond and the Dixiecrats continued, erratically, and less thoroughly, in South Carolina than elsewhere in the old Confederacy, into the 2010s.⁵⁶ As political scientists Merle and Earl Black have described, white folks in South Carolina initially remained loyal to the Democratic Party in state and local elections after they began to vote for candidates like Thurmond or Republicans Barry Goldwater and Richard Nixon for president. That began to change in the 1990s, and by the new millennium, white flight to the Republican Party and Black identification with the Democratic Party was significant enough that there were almost no Black Republicans and few remaining white Democrats in the South Carolina General Assembly.⁵⁷

This remains the case in South Carolina today, though Republican Senator Tim Scott does represent the state in Washington. Mr. Scott was elected to the state legislature in 2009, won a seat in CD 1 in the U.S. House of Representatives in 2011, and was subsequently appointed by Governor Nikki Haley to the U.S. Senate seat vacated by Jim DeMint in 2011. He won a special election in 2014 and a full-term election in 2016. Democratic Judge Donald Beatty has also been elected by the General Assembly to the state Supreme Court (2007) and to the Chief Justiceship of that Court (2017). South Carolina maintains more white Democrats in its state legislature than surrounding states. The white southern exodus from the Democratic Party to the Republican Party, nationally, has been nonetheless repeatedly shown to be substantially the result of racial animus and backlash against the national Democratic Party’s embrace of civil rights and social welfare spending. South Carolina’s congressional delegation was all Democratic as of 1899. It became all-

⁵⁶ Crespino, *Strom Thurmond’s America*, pp. 3-11. See also Dan Carter, *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics*, 2nd ed. (Baton Rouge: Louisiana State University Press, 2000); Dan Carter, *From George Wallace to Newt Gingrich: Race in the Conservative Counterrevolution, 1963-1994* (Baton Rouge: Louisiana State University Press, 1999); Kevin Kruse, *White Flight: Atlanta and the Making of Modern Conservatism* (Princeton, NJ: Princeton University Press, 2005); Matthew Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton U.P. 2007); Joseph Crespino, *In Search of Another Country: Mississippi and the Conservative Counterrevolution* (Princeton U.P., 2009); Thomas Sugrue, *Sweet Land of Liberty: The Forgotten Struggle for Civil Rights in the North*, (New York: Random House, 2008); Thomas Sugrue, *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit* (Princeton U.P., 2014); Michelle Nickerson and Darren Dochuk, *Sunbelt Rising: The Politics of Space, Place, and Region* (Philadelphia: University of Pennsylvania, 2014); and Lisa McGirr, *Suburban Warriors: The Origins of the New American Right* (Princeton: Princeton University Press, 2001).

⁵⁷ Merle and Earl Black, *The Rise of Southern Republicans* (New York: Belknap Press of Harvard, 2002), pp. 115-17, 296-97, 317.

white Republican, excepting Mr. Clyburn, in 2011. Mr. Cunningham served from 2019 to 2021. Recently, Mike Reichenbach, a Black Republican, replaced the venerable Hugh Leatherman in the Senate, winning a special election in Florence County.

By 2012, the Justice Department had objected to South Carolina state and local election changes 122 times.⁵⁸ Many of those involved redistricting, but others were aimed at blocking dilutive practices at the local level, many of which involved local governing bodies in the congressional districts that Plaintiffs in this case allege cracking of Black voters. In CD 2, this included Aiken County, which was blocked from using numbered posts in all multi-member bodies in the county and from maintaining at-large positions on the school board. The city of Barnwell was blocked from using at-large elections with staggered terms for aldermen and from using a majority vote requirement for mayor and city council.⁵⁹

Beaufort County was blocked from using at-large elections for county council. The city of North Charleston was twice blocked from using at-large elections for its city council. It was likewise blocked, more than once, from making racially selective and dilutive annexations, accepting only white areas to the point of leaving “‘doughnut holes’” of Black neighborhoods unannexed.⁶⁰ The city of Charleston was blocked from reducing its Black majority city council districts in 2001 and from making racially selective and dilutive annexations. The town of McClellanville in Charleston County was also blocked from making racially selective and dilutive annexations. The town of Hollywood was blocked from using a majority vote requirement for election to the town council. Charleston County was blocked from using, for its charter council, multi-member districts, at-large elections, a majority vote requirement, residency requirements, and numbered posts. It was likewise blocked from changing the method of electing the Board of Trustees for its school board from non-partisan to partisan elections and eliminating plurality victories by requiring head to head contests with a majority votes requirement.⁶¹

The City of Gaffney was blocked from switching to at-large elections for its Board of Public Works. Cherokee County was blocked from reducing the number of members of its school board. Chester County was blocked from switching to at-large election of the county Board of Directors with a majority vote requirement. The city of Chester was blocked from having unduly high candidate filing fees for city council and mayor. Fairfield County was blocked from increasing the number of members of its school board by adding members appointed by the county’s legislative delegation. Kershaw County was blocked from switching from the method of filling school board vacancies to avoid the election of a Black member by way of a referendum. Lancaster County was blocked from switching to at-large elections for its board of education and for its county commissioners and school board, as was the city of Lancaster, twice, for its city

⁵⁸ Civil Rights Division, Section 5 Objection Letters, South Carolina, <https://www.justice.gov/crt/voting-determination-letters-south-carolina>.

⁵⁹ Id.

⁶⁰ One objection was withdrawn when the city annexed some of the Black neighborhoods.

⁶¹ Civil Rights Division, Section 5 Objection Letters, South Carolina, <https://www.justice.gov/crt/voting-determination-letters-south-carolina>.

council. The city of Lancaster was also blocked from instituting a majority vote requirement for judicially contested elections. The town of Bishopville in Lee County was blocked from staggering the terms of its town council in order to prevent single-shot voting. Lee County itself had its county council and school board redistricting blocked. The town of Batesburg-Leesville in Lexington and Saluda Counties was blocked from implementing a majority vote requirement for elections for mayor and town council. Finally, the Richland-Lexington School District No. 5 was blocked from adopting numbered posts and a majority vote requirement.⁶²

Orangeburg County was blocked from implementing a racially dilutive redistricting plan for its county council, and the town of Norway in Orangeburg County was blocked from maintaining at-large election of its mayor. The town of North was blocked from making racially selective annexations. Richland County was blocked from reducing the number of seats on its county council to the detriment of Black voters.⁶³

Spartanburg County was blocked from switching from an elected to an appointed board of education. The city of Greer in Greenville and Spartanburg Counties had its redistricting blocked. Sumter County was blocked from adopting at-large for its school board and county council. Sumter also had its 2001 redistricting for county council blocked. The city of Sumter was blocked from making racially selective annexations. Union County had its 2002 redistricting blocked. York County was blocked from adopting at-large elections for its county council. The city of York had a redistricting plan blocked. The city of Rock Hill was blocked from adopting a majority vote requirement for its city council and from making racially selective annexations. Rock Hill also had its 1990s redistricting plan blocked.⁶⁴

Many of these objections came between the passage of the VRA and its renewal in the 1980s. But eleven of these Section 5 objections came after the last DOJ objection to a statewide South Carolina redistricting plan in 1997, and between 1997 and 2013 there were also two Section 2 DOJ lawsuits filed, successfully challenging electoral methods for the City of Charleston's City Council and Georgetown County's School District.⁶⁵

The final Section 5 objection in 2011 was aimed at the state legislature's passage of a strict voter photo identification law. The Justice Department concluded that the state had submitted no evidence of its stated concern in the passage of the legislation, to wit: voter fraud, and it concluded that the state had done nothing to address the obviously disparate racial impact that the law would have if enacted. Assistant Attorney General Thomas Perez wrote, "Until South Carolina succeeds in substantially addressing the racial disparities described above . . . the state cannot meet its burden of proving that, when compared to the benchmark standard, the voter identification

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ See *United States v. Charleston Cty.*, 316 F. Supp. 2d 268, 272 (D.S.C. 2003), *aff'd sub nom. United States v. Charleston Cty., S.C.*, 365 F.3d 341 (4th Cir. 2004); see *United States v. Georgetown County School District*, No. 2:08-cv-00889 (D.S.C. 2008).

requirements proposed . . . will not have a retrogressive effect.”⁶⁶ The state applied for a declaratory judgment from the D.C. District Court. Then-Circuit-Judge Brett Kavanaugh wrote for the court in allowing the law to go into effect only with significant modification. While preclearing the law with a “reasonable impediment” exemption process, the court rejected the state’s attempt to require a reasonable impediment form be notarized because of its likely racially discriminatory harm. In a concurring opinion, Circuit Judge John Bates argued that this litigation demonstrated the continuing utility of Section 5 review, which was nonetheless suspended in *Shelby County v. Holder*.⁶⁷

South Carolina has been accused of having an unduly strict voter registration deadline. It was forcibly brought into compliance with the “Motor Voter” or “NVRA” Act in 1993. The state has also recently been cited for requiring prospective voters to include their full Social Security number on voter registration applications. The state also enforces a restrictive felony disenfranchisement law and has been accused of obstructing the proper counting of college students and inmates. It is also one of approximately 15 states that has refused to adopt “no excuse” absentee voting and refuses early in-person voting for all voters. The state also requires a supporting witness requirement. These kinds of strictures, in the context of the COVID-19 pandemic, led Black citizens to file suit citing an undue and disproportionate burden. For the June 2020 primary, for example, the state was compelled to relax its witness requirement, partly because the court recognized that the pandemic had disproportionately affected Black citizens.⁶⁸

Black voters in South Carolina have also endured extremely long wait times due to a combination of poor election administration, polling place closures, and other facts. Before the 2020 elections, wait times were abysmal. In the 2012 general election, South Carolina was reportedly tied for having the second worst polling place wait times in the country, with an average wait time of 25 minutes; Black voters disproportionately experience longer wait times within the state.⁶⁹ By comparison, the national average wait time was 13 minutes, and two-thirds of voters nationally waited less than 10 minutes.⁷⁰

⁶⁶ Assistant Attorney General Thomas E. Perez to C. Havird Jones, Assistant Deputy Attorney General, Dec. 23, 2011, Civil Rights Division, Section 5 Objection Letters, https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/1_111223.pdf.

⁶⁷ Mark A. Posner, “Current Conditions of Voting Rights Discrimination in South Carolina,” Leadership Conference on Civil and Human Rights, <https://andstillvote.org/wp-content/uploads/2021/09/South-Carolina-HHRG-117-JU10-Wstate-HendersonW-20210816-SD016.pdf>, p. 5; *South Carolina v. United States*, 898 F. Supp. 2d 30 (D.D.C. 2012), at 38, 41, 53-4.

⁶⁸ Posner, “Current Conditions of Voting Rights Discrimination in South Carolina,” p. 4; *Thomas v. Andino*, --- F. Supp. 3d ---, 2020 WL 2617329 (D.S.C. May 25, 2020).

⁶⁹ Posner, “Current Conditions of Voting Rights Discrimination in South Carolina,” p. 4.

⁷⁰ Rachel Weiner, “How Long Did You Wait to Vote? Depends on Your race,” *Washington Post*, April 3, 2013, citing Charles Stewart III, “Waiting to Vote in 2012,” *Journal of Law and Politics*, April 1, 2013, <https://www.washingtonpost.com/news/the-fix/wp/2013/04/08/how-long-did-you-wait-to-vote-depends-on-your-race/>.

These realities are inseparable from the state of South Carolina's history of violence and disenfranchisement aimed at its Black citizens. Those citizens fought into the present century to remove the Confederate flag from the dome of the state capitol. A fight that, tellingly, and very recently, bitterly divided the General Assembly along racial lines. Lawmakers opted to remove the flag to a Confederate monument, as opposed to the top of the state house.⁷¹ This is a state that reacted to Black Reconstruction with systematic violence and complete disenfranchisement. It resisted any and all efforts to roll that back in the first half of the Twentieth Century, especially through the enactment of vote denial schemes. Following the passage of the Voting Rights Act, the state and its governing localities, acting in concert through legislators in Columbia, pursued myriad vote dilution systems, many of which were struck by the Civil Rights Division of the Justice Department under Section 5 preclearance. More recently, there have been Section 2 cases litigated and a Section 5 objection to the photo ID law and backlash against long lines and other restrictions on absentee voting.

Plaintiffs of course also brought many challenges to the state's reapportionment efforts. Right before the passage of S. 865 in 2022, Rep. Govan described how the redistricting process had been challenged every single cycle since Black citizens had first won the right to actually vote and elect candidates of choice in the 1970s.⁷² In his opinion, what is happening now is simply more of the same. Based on the documented historical and contemporaneous patterns of voting rights discrimination against Black South Carolinians, the historical record supports a discriminatory motive animating the enactment of S. 865.

IV. THE SEQUENCE OF EVENTS AND DEPARTURES FROM NORMAL PROCESS

The sequence of events during the redistricting process reveals transparency concerns, procedural norm departures, and inconsistencies in legislative action. As described in the legislative history below, members of the public, as well as legislators on the committees in charge of the redistricting process, had little time to review proposed maps before hearings, because staff proposed maps would sometimes be published days before hearings or just before long holiday breaks. Numerous members of the public and of the committees that were tasked with producing maps complained that they lacked access to the actual map drawing process. The public was given opportunities to weigh-in via public hearings, but it is unclear how much weight their testimony was given, nor is any insight given into how those comments impacted amendments and changes to proposed maps. Committee members reported being blindsided by the appearance of maps and being at a loss for why certain changes would have taken place. Finally, leadership refers to a swell of support for two members of Congress representing Charleston that is simply not supported by the evidence available to the public. No one supported that at the Charleston public Senate hearing, and almost no one mentioned it in public testimony thereafter.

⁷¹ Stephanie McCrummen, "Confederate Flag Comes Down on South Carolina's Statehouse," *Washington Post*, July 10, 2015.

⁷² See p. 42, *infra*.

a. The First Senate Redistricting Subcommittee Meeting, June 2021

On July 20, 2021, the South Carolina Senate Judiciary Committee's Redistricting Subcommittee met for the first time in order to be briefed by Judiciary Committee staff counsel Charlie Terreni and Paula Benson. The General Assembly ensured that there were both Republicans and Democrats represented on the Subcommittee and that the various regions of the state, as reflected in congressional districts, had representation. The role of staff was revealed to be that of real-time and behind-the-scenes support for leadership and key-decision-makers. Staff played a fundamental, though often obscured, role in the process, and they appear not to have been as available to committee members beyond the leadership.

The Senate Subcommittee was tasked with adopting redistricting plans for both the state's legislative and congressional districts. The results of the 2020 Census revealed that South Carolina experienced significant, and uneven, population growth since 2010, especially effecting the state's congressional districts. In particular, the Census data revealed that CD 1 was almost 12% overpopulated and that CD 6 was almost 12% underpopulated.⁷³

Members of the Senate Subcommittee included Charnain Luke Rankin and fellow Republican representatives Chip Campsen, Tom Young, Scott Talley, and Democratic representatives Ronnie Sabb, Margie Bright Matthews, and Dick Harpootlian. Senators Sabb and Matthews were the only Black legislators named to the 7-member committee. Mr. Terreni gave members a rundown of Census data, and Ms. Benson informed them of the schedule of public hearings. These would be held in order to collect testimony on COIs in South Carolina. In addition to Mr. Terreni and Ms. Benson, Chairman Rankin introduced staff members Will Roberts and Breeden John as individuals entrusted with drawing maps.⁷⁴

In the Subcommittee's initial press release on July 16, Chairman Rankin is quoted, "[t]he members of our bipartisan subcommittee represent a wide range of different experiences and perspectives. I look forward to our working together on a redistricting process that is fair and equitable to all South Carolinians." The release continued:

Districts for the S.C. General Assembly and the U.S. House of Representatives are redrawn every ten years, after the census is taken, to meet the requirements of federal and state law. This process ensures that members of the S.C. General Assembly and South Carolina's members to the U.S. House of Representatives are elected from districts with

⁷³ Judiciary Committee Press Release, Aug. 12, 2021, <https://redistricting.scsenate.gov/docs/Press%20Release%20-%20Senate%20Judiciary%20Redistricting%20Subcommittee%20-%20Census%20Data%20Available%20on%20S.C.%20Redistricting%20Website.pdf>; Census Legacy Data, House Ad Hoc Committee Website, <https://redistricting.schouse.gov/demographicprofile.html>.

⁷⁴ South Carolina State Legislature, Video Archive, <https://www.scstatehouse.gov/video/archives.php>; South Carolina Senate Judiciary Committee, Meeting Information, <https://redistricting.scsenate.gov/meetinginfo.html>.

approximately the same population. The public is urged to attend the public hearings that will be held across the state.⁷⁵

A second press release describes the purpose of the public hearings: “The mission of these public hearings is to receive testimony and gather information about how people see the areas in which they live and what factors need to be considered when the Senate Districts and the Congressional Districts are redrawn.”⁷⁶

b. The First House Ad Hoc Committee Meeting

On August 3, 2021, the House Redistricting Ad Hoc Committee met for the first time. As with the Senate Subcommittee, the Ad Hoc Committee was tasked with adopting guidelines for redistricting, with gathering input from the public, and with overseeing the process of drawing congressional and state legislative districts to replace the malapportioned maps of the last post-2010 redistricting cycle. And, again as with the Senate Subcommittee, much of the technical work done in the redistricting process was handled by staff; in the House’s case, this meant, especially, Emma Dean.⁷⁷

Members named to the Committee included Chairman Jay Jordan and fellow Republican representatives Neal Collins, Jason Elliot, Brandon Newton, and Weston Newton, and Democratic members Justin Bamberg, Patricia Moore Henegan, and Beth Bernstein. Representatives Bamberg and Henegan were the only Black members of the Committee. Representative Brandon Newton subsequently withdrew from the committee upon the birth of his child.

At the inaugural meeting, Chairman Jordan listed the committee’s proposed guidelines for the redistricting process. The guidelines were adopted without debate. Rep. Weston Newton asked what data the committee would be working with, and Chairman Jordan explained that it would have the Census legacy data for use in public hearings and that the Committee would not get the final tabulations from the Census Bureau until September, with maps being made in October of 2021. He did not indicate who would be drawing the maps, either to begin with or to the extent that subsequent changes would be made.

⁷⁵ Senate Judiciary Committee Press Release, July 16, 2021, <https://redistricting.scsenate.gov/docs/Press%20Release%20-%20Senate%20Judiciary%20Redistricting%20Subcommittee%2007-16-21.pdf>.

⁷⁶ Senate Judiciary Committee Press Release, July 20, 2021, <https://redistricting.scsenate.gov/docs/Press%20Release%20-%20Senate%20Judiciary%20Redistricting%20Subcommittee%2007-20-21.pdf>.

⁷⁷ South Carolina Legislature, Video Archives by Meeting Time, <https://www.scstatehouse.gov/video/archives.php>; South Carolina House of Representatives, Ad Hoc Redistricting Committee, <https://redistricting.schouse.gov/index.html>.

c. The Senate Hearings and Second Senate Redistricting Subcommittee Meeting

The Senate Redistricting Subcommittee met for the second time on September 17, 2021, and unanimously adopted guidelines for redistricting.⁷⁸ It had held public hearings by that point, in July and August, across the state: in Aiken, Conway, Orangeburg, Beaufort, Florence, Greenville, Rock Hill, Sumter, and Columbia. The Subcommittee was accepting real-time and written public testimony, though without any comment or any feedback pertaining to how that input would be assessed. Members of the public held forth on issues ranging from county and precinct splits to concerns about packing and cracking Black communities to consideration of Communities of Interests (“COIs”) and incumbency. Many of them offered very specific guidance as to how they felt the legislature ought to draw certain districts. The Subcommittee members, having toured the state and heard from its citizens, as would the members of the House Ad Hoc Committee, brought their respective takeaways from these hearings to the September meeting. This meeting revealed that there were serious transparency concerns among the Senate Subcommittee as well as fundamental disagreement about how to handle the process with respect to the drawing of the congressional map.⁷⁹

At this meeting, Sen. Harpootlian, a white Democrat and former Columbia prosecutor who litigated the *Backus* case in 2010, made note of the Supreme Court’s 2013 decision in *Shelby County v. Holder* and noted that, with the end of the Justice Department’s preclearance requirements, the state was no longer bound by the principle of non-retrogression in terms of majority-minority districts. He argued that the committee ought to acknowledge that the existing congressional districts were “misshapen” since they had been redrawn in the 1990s, prior to the Court’s decision in *Shaw v. Reno*, in order to “pack Black voters” into the 6th District so that Black voters could, for the first time, have the chance to elect candidates of their choice to Congress. Sen. Harpootlian also expressed concern that the committee’s work might become a form of “Kabuki theater,” in which the only real concern was that incumbents were able to secure reelection. He proposed adopting the principles set forth in *Thornburg v. Gingles*, the 1986 case establishing the guidelines for a Section 2 vote dilution claim, and subsequent litigation as part of the committee’s guidelines.

To bolster his argument regarding non-retrogression, Sen. Harpootlian asked the Senate Subcommittee staff if they had conducted or planned to conduct racially polarized voting analyses. These analyses, he explained, would allow the committee to see what percentage of the Black voting age population (BVAP) would be necessary for minority voters to elect candidates of choice where white voters routinely blocked those choices by bloc voting against Black voters’ preferred candidates. He termed the failure to conduct them “willful blindness.” Sen. Harpootlian insisted

⁷⁸ Senate Redistricting Guidelines,
<https://redistricting.scsenate.gov/docs/Senate%20Redistricting%20Guidelines%20Adopted%209-17-21.DOCX>.

⁷⁹ Senate Redistricting Subcommittee Meeting, Sept. 17, 2021,
<https://redistricting.scsenate.gov/meeting/subcommittee.html?date=091721>.

that, without these data analyses, the Senate would not be able to successfully meet a challenge in court under Section 2 of the Voting Rights Act.

Sen. Matthews joined in these concerns. Mr. Terreni replied that he did not think it would be productive at that time to conduct such analyses, given that it would open up the “peril” of having to “meet certain racial targets” when those did not necessarily need to be met. Sen. Harpootlian asked, “Are we going to wait for somebody to sue us?” And he expressed hope that the committee was not going to “cook this up in a back room.” Mr. Terreni insisted that certain data would be made available on the staff website, but that no analyses need be conducted unless the plan adopted by the legislature was challenged in court under Section 2. Sen. Sabb asked when that data would be made available, and Mr. Terreni responded that he did not yet have a timeframe for that. He noted that he was awaiting information on contests between white and Black candidates in order to make that data available, though racially polarized voting analysis would not be limited to such contests as Black voters might sometimes prefer white candidates, even, in some cases, over Black candidates.

Sen. Harpootlian continued to advocate for guidelines that would acknowledge the state of South Carolina’s history, which he said was characterized by “using unconstitutional principles to deny African Americans the right to participate in a meaningful way in the political process.” He argued that not replacing the maps dating back to the 1990s with newly redrawn maps based upon RPV analysis would result in perpetuating “the sins of the past.” Sen. Matthews proposed amending the guidelines regarding COIs to reflect that COIs included cultural and linguistic ties, citing especially the Gullah-Geechee community in her district. This amendment passed. Sen. Harpootlian’s amendment regarding *Gingles* and “its progeny” also passed, with the committee amending the language of section I-B of the guidelines to read, “A redistricting plan for the General Assembly or Congress must not have either the purpose or the effect of diluting minority voting strength and must otherwise comply with Section 2 of the Voting Rights Act, as expressed through *Thornburg v. Gingles* and its progeny, and the Fourteenth and Fifteenth Amendments to the U.S. Constitution.” These were the only two amendments to the guidelines to be brought and passed at this meeting of the subcommittee based upon public testimony at the summer public hearings.

Before the September meeting concluded, Sen. Harpootlian asked the staff if any technical assistance could be rendered to members of the public who wished to submit map proposals, citing especially concerns from his constituents about the highly technical nature of composing such plans and the format in which they were required to be submitted. Mr. Terreni insisted that staff did not have the resources for that, referred the Senator to the website *Dave’s Redistricting*, and noted the availability to testify at public hearings and to beseech one’s state representative to visit the “map room.” Sen. Harpootlian asked if the public had access to the staff’s map room, to which the answer was no. Sen. Campsen argued that such access would tax the abilities of staff and that the public had the opportunity to testify at hearings. Sen. Harpootlian concluded, “I know we won’t let average citizens look under the tent and figure out what’s going on.” The Subcommittee left the window for the adoption of public submissions open through the end of October and resolved to meet again in November. The House, Chairman Rankin acknowledged, was working on a much slower timeline regarding redistricting and, according to the Chairman, was not being as

transparent as the Senate was in the process. There were no further legislative hearings on redistricting for nearly two months.

d. The House Public Hearings

Legislative sessions aside, over the course of September and through the first week of October 4, the House Ad Hoc Committee held hearings and heard public testimony in Myrtle Beach, Florence, York, Greenville, North Charleston, Bluffton, Aiken, Greenwood, Orangeburg, and Columbia. Like the Senate Subcommittee hearings, citizens testified about COIs that they either wanted to keep or make whole, or at the very least avoid numerous splits in those communities. They expressed, among other things, concern about minority representation and the ability of Black voters to have an equitable opportunity to elect their candidates of choice. A number of representatives in the state House appeared at these hearings and expressed similar concerns.⁸⁰

As I discuss in greater detail below, it is unclear how much weight testimony from these hearings was given in the drawing of maps by staff members. Neither staff nor the Committee provided a collection of written public testimony for the public to access. Nor did it create any COIs mapping based on oral and/or written testimony. During the hearings, Committee members offered no thoughts, responses to comments, assurances to concerns raised, and provided no information about next steps, nor did they make any mention of any mechanisms for how feedback would be incorporated. Chairman Jordan explained during the final meeting in Columbia, “[A]s I’ve told ten prior meetings, just so everyone understands, we are here to receive information. This is a forum for you, the public, to express to the committee the issues and concerns that you have related to redistricting. While I and other members of the Committee may occasionally make a comment or ask a question, we’ll strive to limit our speaking so that we can maximize the time available to you. We traditionally have asked folks to keep the comments to around five minutes.”

Most Committee members appear to have given almost no weight to input received at these initial hearings. The amendments brought and proposals put forth, in other words, do not reflect the myriad comments of the public. Some Committee members would be moved by later testimony, but their concerns are not supported by the initial feedback provided at these hearings, at least with respect to the subcommittee’s congressional plan. Black committee members would subsequently cite some of this testimony to support their congressional proposals. White committee members would make claims about public input, in general, wildly out of line with what was said at the hearings, referring instead to submitted written testimony that was not made available to the public. The Senate subcommittee made public commentary submitted at its hearings available, but none of it supports assertions, for example, that voters wanted two representatives for Charleston or that voters valued the “Tri-County” COI above other considerations.

⁸⁰ South Carolina House of Representatives Ad Hoc Redistricting Committee Website, <https://redistricting.scsenate.gov/meeting/subcommittee.html?date=091721>.

e. The Third Meeting of the Senate Redistricting Subcommittee

On November 12, 2021, the Senate Redistricting subcommittee met to hear public feedback on the Senate staff plan adopted on Nov. 4, but also to hear from members of the public who had submitted congressional redistricting plans of their own. The feedback on the submitted congressional plans focused on avoiding packing and cracking Black populations, and thus diluting the strength of Black citizens' votes.⁸¹

Dakota Forster of Stanford University spoke first regarding a plan that she had submitted. She described it as adhering to the one-person, one-vote standard deviation, minimizing county and precinct splits, creating one majority-minority district and two Black opportunity districts, and keeping Charleston whole. Lynne Teague of the League of Women Voters spoke next, accompanied by veteran map-drawer John Ruoff. Ms. Teague explained that the League understood that most of the population that had shifted or grown was concentrated in congressional districts 1 and 6, and she indicated that its primary concern was that minority voters would have a fair and equitable ability to elect candidates of their choice. She noted some flaws in the existing map configuration, including a Congressional District (CD) 6 that was "packed" with Black voters, and a split in Charleston that separated North Charleston from the more coastal areas to the south. She and Mr. Ruoff explained that they drew a map that avoided such splits and gave no consideration to incumbency protection.

Chairman Rankin, with advice from Mr. Terreni, asked Mr. Ruoff why part of Berkeley County was in the CD 7 with Horry County and asked if Mr. Ruoff had heard any testimony in the public from folks in Berkeley who wanted to be paired with Horry. Mr. Ruoff said that he had not, but that his primary concern was keeping the Charleston metropolitan area whole and making sure each district got the numbers that they needed. He added that all congressional districts will have some discontinuities of interest and cited a few examples, suggesting that any district could be criticized for such discontinuities. Ms. Teague added, "I think at the extremes we can say they're real things like North Charleston belongs with Charleston. I mean, that's real. But yes, every congressional district will have diverse communities of interest within it." These were among the first of what would become myriad comments asking the legislative committees to keep Charleston whole, despite past splits. Lawmakers referred to these past splits in defense of subsequent plans, while at the same time lauding "improvements," such as making other communities, like Orangeburg, whole.

Brett Bursey spoke next, representing the South Carolina Progressive Network Education Fund. Mr. Bursey explained that having a packed CD 6 since the 1990s, when majority-minority districts were deliberately drawn for the first time, had subsequently allowed the legislature to

⁸¹ South Carolina Senate Redistricting Subcommittee, Transcripts and Video. Nov. 12, 2021, <https://redistricting.scsenate.gov/meeting/subcommittee.html?date=111221>.

crack the Black population elsewhere and ensure that only CD 6 could elect a Black preferred candidate. He argued that, given the percentage of the population of the state that is Black, when CD 7 was created after the 2010 Census, that district should have at least been competitive. Mr. Bursey insisted that the “weight of the Black vote is three-fifths of the white vote” in the state, which he compared to the Three Fifths Comprise from the 1789 Philadelphia Convention and the U.S. Constitution. He argued that by conducting RPV analysis and departing from the existing paradigm, one could draw a map that had multiple districts that were competitive for Black voters. He explained that his organization had submitted such a map in which CDs 1, 2, 5, and 6 were competitive. There were no questions for Mr. Bursey.

Brenda Murphy followed, representing the South Carolina NAACP, along with Somil Trevedi of the American Civil Liberties Union and Leah Aden of the NAACP Legal Defense and Educational Fund. Ms. Murphy asked the subcommittee to avoid packing Black voters into one district and then cracking them elsewhere, to consider not just one majority-minority district, but the possibility of opportunity districts, to consider conducting RPV analysis to determine where such opportunity districts might be, and to consider proportionality.

Ms. Aden echoed these concerns, especially the call to conduct and consider RPV analysis to help the committee avoid packing and cracking when correcting the severe malapportionment between CDs 6 and 1. She also noted that in terms of proportionality, the state had 29 percent BVAP, but Black voters only had representation in 14 percent of the state’s congressional delegation. Ms. Aden explained that the two plans submitted by the NAACP “maintain CD 6 as a Section 2 compliant opportunity district where Black voters are a majority and do not needlessly elevate CD 6 Black population.” Ms. Aden told the subcommittee that these maps and others presented prior to her testimony demonstrated without doubt that “it’s possible to preserve CD 6 while also ensuring the influence and the voice of black people in areas outside of CD 6. There are far too many options on the table that this subcommittee has available to it to ensure that.” Mr. Trevedi followed, speaking specifically to the NAACP’s second map, which he described as a “least change” map when it came to all districts besides CDs 1 and 6. When adjusting those districts, he explained that the NAACP was keen to avoid packing and cracking, and diluting the voting strength of Black voters in CD 1.

Eric Johnson of the South Carolina Coalition of Black Communities was next. He explained that Black South Carolinians had been fighting for their rights to vote from chattel slavery through literacy tests and, more recently, the enactment of vote dilution mechanisms. He called for greater transparency in the redistricting process and insisted that redistricting affected policy at the end of the day, citing better wages, relief for those in food deserts, and support for anti-hate crime laws and issues of concern for Black voters. Heather Odom of the same organization followed and asked the Committee to avoid dilution of Black voting strength and to avoid any form of gerrymandering.

With that, Chairman Rankin concluded the meeting by directing staff to draft a plan to present to the Committee. He advised the public, “look for notices about the next Subcommittee and full Committee meeting which we will be setting over the next day or two with an intent of

advancing this effort both on the Senate plan and the congressional plans to the full Committee with again my goal that we conclude our work in the month of November.”

f. The Fourth Meeting of the Senate Redistricting Subcommittee

Senate Judiciary Committee staff drafted a congressional plan and published that plan on Tuesday, November 23, 2021, the week of the Thanksgiving holiday, making it available to members of the committee at that time. The Senate Redistricting Subcommittee met again on November 29, the Monday following the holiday. Legislators questioned the timing of this process, arguing that the release of the map prior to a holiday was a deliberate procedural departure and wondering why an RPV analysis had not been conducted. Lawmakers also insisted that they had had no role whatsoever in the process of drafting the map. Public feedback was overwhelmingly negative. It was also revealed that a national partisan group had submitted some sort of input to the members of the staff, unbeknownst to Democratic members of the Committee.⁸²

At the onset of the meeting, staff member and cartographer Will Roberts explained the plan to the Committee members as a “minimal change” plan in which the primary concern was adjusting populations in CDs 6 and 1 to adhere to the one-person, one-vote principle. Sen. Matthews indicated that she had not had adequate time to analyze the map and that she wanted to know why Charleston was “carved up” between CDs 1 and 6. Sen. Harpootlian echoed those concerns and indicated that he would like to see an RPV analysis that showed staff did not pack CD 6 with BVAP beyond what was necessary.

The Subcommittee then heard public feedback on the map, beginning with former Congressman Joe Cunningham, a white Democrat, who won the seat in CD 1 in 2018 by one percentage point, then lost it in 2020 by roughly the same margin. Mr. Cunningham described the proposed map as “awful” and a blatant racial gerrymander whose “sole purpose” was to ensure Republican victories in all six congressional districts but CD 6 by cracking Black voters and other voters who would tend to vote for Black-preferred candidates. He stated his belief that no actual Committee members had anything to do with drawing the map, that it was more likely drawn by a “partisan hack” from Washington D.C. Committee members Senators Matthews and Harpootlian then added that they had not been consulted by staff about this proposed draft map. Mr. Cunningham also argued that the timing of the map’s release and the holding of this meeting were further evidence of things being done “in the dark.”

Sen. Matthews agreed and said that not only had she not been consulted, but that she had not had adequate time to examine the map, though she was able to see, she said, that Black voters had been “carved out” of certain areas in order to pack and crack them. She added that there were issues that came up during numerous public hearings that had not been addressed, it appeared. Sen. Matthews specifically noted that Sun City residents in Jasper County wanted to be with Beaufort

⁸² South Carolina Senate Judiciary Committee, Nov. 23, 2021, <https://www.scstatehouse.gov/video/archives.php>.

and that Charleston residents wanted Charleston whole and yet, she said, Black voters were “carved out” of Charleston while “more affluent areas” were put into CD 1. Sen. Matthews explained that she would like to ask staff whom they consulted with to develop that proposed map because, she said, it was certainly not her. Regarding the timing, she said, “On Tuesday, when I received notice [of the map’s publication and of this meeting], my office was winding down; I knew I had depositions, this morning – this afternoon, and had to be in court this morning. I had to cancel everything immediately, because this is critically important, because it astounded me that no more notice was – was – should have – was given.”

Sen. Harpootlian then asked Mr. Roberts if the Committee had any input from either sitting members of Congress or any outside groups in the development of the proposed congressional map. There follows an exchange between the two wherein Mr. Roberts is largely inaudible because his microphone is not turned on, something noted by Mr. Cunningham, who was present but also could not hear. Eventually, it was established that staff had heard from Congressman Joe Wilson and a representative of Congressman Jim Clyburn. Sen. Harpootlian asked if they had talked with any other members of the state’s congressional delegation, to which Mr. Roberts replied, “Not since this map has been out.” He likewise said that staff had heard from “some outside groups” after the map was published and that insofar as they might have heard from such groups prior to the publication of the map, it would not have affected the drawing of the map. By the end of the meeting, it was established that the Committee had input, prior to the publication of the map, from Adam Kincaid, Executive Director of the National Republican Redistricting Trust.

Sen. Harpootlian said that this was what Mr. Cunningham had meant earlier by indicating his belief that a “partisan hack had influenced the map drawing,” and Sen. Harpootlian said, “[t]hey had more say in the design than I did, and I’m on this Committee.” Mr. Cunningham added that this kind of communication was happening “in the dark.” Sen. Campsen said that he had not “really” had any input either, suggesting that he had at least some input, and said that this was not a final plan in any case. At that point, the Subcommittee moved on to further public testimony.

Lynne Teague and John Ruoff appeared again on behalf of the League of Women Voters. Ms. Teague argued that the Senate map respected neither COIs nor political subdivisions. She said that even though it was being described by Mr. Roberts as a “minimal change” map, it was problematic because, for example, Charleston should not be split and North Charleston should not be put with Columbia in CD 6. She added that Black communities were split along municipal lines that had themselves been drawn for discriminatory purposes. She noted what she described as a “finger” reaching out to grab Fort Jackson for the CD 2, represented by Congressman Wilson, who serves on the Armed Services Committee. She suggested that perhaps the congressman would be interested in protecting Shaw Air Force Base or Parris Island Marine Corps Recruiting Depot.

Mr. Ruoff followed and explained that in the 1990s, oddly shaped districts were drawn that brought Black population centers together so that Black voters could elect their preferred candidates, in many cases, for the first time. He added, “We know a lot more about electable Black districts than we did” back then and reminded the Committee that this was why RPV analysis was so important. He said that drawing such districts was no longer necessary to meet the requirements of the Voting Rights Act. He then explained his understanding of map-drawing as making a series

of hierarchical policy choices, citing the inclusion of Fort Jackson as an example and then asking, rhetorically, where on the list of policy choices was it to take a competitive district, CD 1, and make it safely Republican.

Sen. Harpootlian asked Mr. Ruoff if he believed the proposed Senate map to have represented a deliberate choice to take “most African American voters” and put them in CD 6 while keeping white voters in CD 1. Mr. Ruoff agreed, adding that it was his opinion that this was, then, in the Senator’s words, “a race-based reapportionment plan to benefit incumbency.” Two other members of the public spoke in opposition to the proposed plan, citing packing and cracking, and a lack of transparency, before the meeting was adjourned with Sen. Campsen reminding the committee that this was not a final plan.

g. House Redistricting Ad Hoc Committee Meeting, December 16, 2022

The House Ad Hoc Committee met on December 16, 2021, to discuss congressional redistricting after staff had posted and made available a working draft staff plan for the first time just three days earlier on December 13. Chairman Jordan indicated that the staff had received four plans from the public and was aware of the Senate’s proposed plan. With that, the Committee began hearing public testimony on its proposed map. This hearing revealed a general public perception that the House staff plan, while not perfect, was superior to the Senate staff plan, along with a call from Beaufort residents to hear their concerns. Five individuals, most from Hilton Head, spoke in opposition to moving Beaufort County out of CD 1. They argued that it was part of a coastal COI with Charleston and shared concerns of hurricane response, flood relief, environmental stewardship, and shared ecology.⁸³

Ms. Teague spoke and indicated that the House staff plan was superior to the Senate’s plan but that it still had some problems in her mind. She argued that all of Charleston belonged in the Low Country CD 1, noting that this would make CD 1 what it ought to be, meaning “naturally competitive.” She indicated that the BVAP in the House plan was far too high in CD 6 and said that, in her view, there needed to be a greater respect for the Pee Dee and Midlands as regional COIs. She took issue with bringing the Charlotte suburbs all the way down into Richland.

Mr. Cunningham also spoke and, like Ms. Teague, said that, while flawed, the House staff map was certainly superior to the Senate staff map. He described the latter as “blatant gerrymandering,” reiterated his opinions that he shared with the Senate Redistricting Committee and said that his former constituents were “livid” about it. Regarding the House staff map, he said this map also seemed to “start” by splitting Charleston and then making the numbers work after that. In his opinion, there was no reason other than race to do this.

h. House Redistricting Ad Hoc Committee Meeting, December 29, 2021

⁸³ South Carolina House of Representatives Ad Hoc Redistricting Committee, <https://www.scstatehouse.gov/video/archives.php>.

When the House Redistricting Committee met on December 29, 2021, Chairman Jordan explained, “Because of your feedback and important public input, we have released multiple options for these Federal Congressional Districts.” He noted that the initial draft staff plan for congressional districts was posted on Monday, December 13, along with the Senate’s staff plan, “as a point of comparison, and to receive input on.” He noted the December 16 meeting and the receipt of written submissions. He explained, “In response to those plans, we heard from many members of the public, concerned with the inclusion of Beaufort County in the Second Congressional District. As a result, on December 22nd, we posted an alternative draft staff plan, which attempts to address the concerns that we heard from the public, such as in Beaufort. The alternative staff plan also includes some positive features from the Senate’s draft plan, as well.”⁸⁴

This meeting featured surprise and confusion among legislators and members of the public alike. People wondered why a second map was produced by staff to begin with, much less two days before a major holiday and long weekend. They seemed unsatisfied with the explanation supplied by Chairman Jordan, and also questioned why the plan so closely mirrored the widely criticized Senate plan, particularly when the House’s initial plan met with at least tacit approval. This meeting also reveals where the leadership of the Committee, or perhaps of the legislature in general, seems to have chosen to prioritize certain guidelines above others and the concerns of certain communities over others. The public began to call for the unification of Charleston in a single CD, but that proposal never gained any traction, unlike the concerns from Beaufort. No outcry at all called for jettisoning the House plan for the Senate plan.

Ms. Teague of the League of Women Voters spoke in opposition to the new map, calling it an “obvious racial and partisan gerrymander” and noting that it scored worse in most measures than the original House map. She noted that it was incredibly similar to the Senate’s map, which she said the Senate Redistricting Committee had “wisely” not acted upon after it received a flurry of very negative feedback. She argued that the “most obvious” example of racial gerrymandering was the splitting of Charleston and the reduction of the BVAP in CD 1 vis-à-vis the original House plan. She said, regarding Beaufort being in CD 1, that it did not need to be an either/or situation with Charleston being whole but that, if it was, then Charleston being whole ought to take precedence.

Two students from the College of Charleston, speaking separately, echoed those thoughts and indicated their belief that Charleston should be whole and with the Low Country. One referred to the “gutting” of Black voters in CD 1 as “unethical.” Brenda Murphy spoke on behalf of the state NAACP. She also criticized what she characterized as the unnecessary splitting of Charleston, as well as Richland and Sumter, and the dilution of Black voting strength in general, but especially in CD 1. She also noted that the new map had been published on December 22, right before the Christmas holiday. Gloria Aslandis also appeared and identified herself as a longtime resident of West Ashley who could not see any reason to put her area into CD 6. She further insisted that there was no need to split Charleston County at all.

⁸⁴ South Carolina House of Representatives Ad Hoc Redistricting Committee, <https://www.scstatehouse.gov/video/archives.php>.

With public testimony concluded, Rep. Bernstein questioned the need for staff to draft an entirely new plan and indicated that she had not known such a plan was being drafted in the first place. Representative Bernstein said, “I think it’s important as the Committee just to get some questions answered, if possible. Because the last time we met as a public -- in this public forum, we had a map that we took feedback from -- public testimony and some feedback from. And then last week, as I was out of town, a new map was drafted unbeknownst to me, I’m not sure about the other members of the Committee. And so, I’ve -- I guess I think it is pertinent, and prudent, to make -- to ask certain questions of why an alternative map was drawn.” Chairman Jordan replied, “I can tell you, and you might remember, today we’ve heard a lot from Charleston. The previous public input we heard a tremendous amount from the folks of Beaufort with, I guess I would consider it, alternative testimony to these two different plans. It seems to me both -- both Beaufort and pieces of Charleston want the same thing -- or want two different things. I would tell you that this alternative plan is largely after consideration of the comments we received -- staff received, from the original public hearing, back on December, I believe, it was the 13th -- or 16th.”

Representative Bernstein asked the chairman if any outside groups or sitting members of Congress had been consulted. Chairman Jordan replied, “I would tell you that as staff drew both plans, they had the benefit of lots of different testimony during the course of our roadshow back in the fall. As well as multiple proposals from individual and national groups of their own proposals. And had the benefit of the Senate plan going out first, and receiving input by way of individuals, as well as national groups. So, I would say -- I guess the answer is, the staff had the benefit of those different elements in drafting both our versions.” Representative Bernstein followed up, “So that would be yes, some national partisan groups were consulted?” Chairman Jordan replied, “I don’t know that I would say they were consulted. I would say their plans and input were received, and as a result were available for consideration.”

Representative Bernstein asked if any sitting members of Congress had been consulted. Chairman Jordan replied that “at any appropriate time,” staff could “get to the bottom” of whether or not any members of Congress had been consulted before the map was released to the public. Rep. Bernstein reiterated that she had not seen the map until it was released or even been made aware that it was being created. She said that she was concerned about the new map because it “really replicates more of the Senate map, which received numerous complaints, and vocalized concerns. And I just don’t know why we are even entertaining this alternative map, unbeknownst to me as a Committee member.”

Chairman Jordan said that the new map was a “opportunity for a starting point.” He explained, “We’ve had folks from Beaufort come and say, ‘we don’t like the original plan.’ We’ve heard from folks from Charleston say, ‘we don’t like parts of this plan.’ You know, so it’s a -- I would say, it’s a starting point for the conversation for the Committee to consider the pros and cons of the different concepts of where these district lines need to be drawn. And my plan and opinion on this has been the same from the beginning, we need to take -- we need to push out a starting point, give everyone an opportunity to weigh in on their opinion on the different versions, we need to digest all that. And then, once we regather, you know, I’m sure we’ll go through the process just like we do on a regular piece of legislation, someone will make a motion for this

version, the other version, or a different version that we receive, between now and our next meeting. And then from there, we'll send it to the full Judiciary, to continue on its journey."

Representative Bernstein said that if the staff's proposed maps were "starting points," then she saw no need to put forth an entirely new map. She added, "I think the alternative map really, does not have any competitive districts drawn at all. And I don't think that is the purpose of our Committee to draw districts like we have on the alternative map. And I wanted to make sure that I've vocalized and voiced those concerns." She thanked Chairman Jordan for the opportunity to express her concerns and concluded, "And we will continue this discussion."

Representative Henegan asked when the Committee would next meet. Chairman Jordan replied, "Give me till the end of the day to figure that out. Obviously, with New Year's coming, it won't be this week. It will – it will either be the end of next week, or the very beginning of the following week, trying to work with everybody's schedules. Of course, we have session looming, and we have a – obviously, a timeliness issue with moving this process forward as quickly as we can." Representative Bernstein then asked if the Committee would be voting on a map at the next meeting, to which Chairman Jordan replied, "I would say most likely that is the case," adding, "Again, given the timeliness of the issue, we have the full House coming back into session on the 11th, so for planning purposes, obviously, things could change, but I would plan on us attempting to have a meeting in which we could vote on a proposal."

i. House Redistricting Ad Hoc Committee Meeting and Meeting of the Full House Judiciary Committee, January 10, 2022

The House Ad Hoc Committee next met on January 10, 2022. When the video and transcript of this meeting begin, this meeting is already in progress, with Chairman Jordan and representative Rep. Bernstein evidently having picked up their discussion from the previous meeting regarding the need for the staff's second/alternative map, which Rep. Bernstein says she will oppose. Rep. Newton indicated that he had constituents telling him that they preferred to remain in CD 1. Rep. Bernstein asked if there was a way to have both Charleston and Beaufort whole and in the same CD, to which Chairman Jordan replied, "I don't think the math works in that scenario." Rep. Newton noted that CD 1 was overpopulated and agreed with Chairman Jordan that the numbers would not accommodate all of Beaufort and all of Charleston. Rep. Bernstein said that she thought it was of paramount importance, in any case, to keep Charleston whole, particularly because, in her mind, North Charleston, which has a significant Black population, was cut out and put into CD 6 because CD 6 is a majority-minority district. Representative Rep. Newton and Chairman Jordan noted that that is simply the way it was on the previous map.⁸⁵

j. Full House Judiciary Committee Meeting, Same Day, January 10, 2022

⁸⁵ South Carolina House of Representatives Ad Hoc Redistricting Committee, <https://www.scstatehouse.gov/video/archives.php>.

After the Subcommittee adjourned, the full House Judiciary Committee convened, with Rep. Weston Newton presiding in lieu of Chairman Chris Murphy. This was among a number of procedural irregularities in the redistricting process. Rep. John King, a Black Democratic representative, immediately took issue with this, arguing that, as First Vice-Chair of the Committee, he ought to be the one presiding over the meeting, not Rep. Newton. Rep. Newton disagreed and said he was presiding on the written instructions of Chairman Murphy. Rep. King said that this was a violation of the rules and expressed his intention to dispute in writing the validity of the meeting, which nonetheless went forth. Beyond this, the meeting featured questions again about the necessity of staff producing a new map based on the concerns of Beaufort residents when Charleston residents also stated concerns, and when the initial staff map was supposed to be a “starting place” after all.⁸⁶

Chairman Jordan explained the Committee’s work to that point, indicating that the alternate staff plan had been put forth in response to the public comments from Beaufort residents, a majority white community, wanting to stay in CD 1. Rep. King noted that Rep. Bernstein had been told in the previous meeting that it would not be possible for both Beaufort and Charleston to be wholly included in CD 1. He indicated that he believed that it was, in fact, possible. He argued that the removal of North Charleston was “strategic” and racially motivated and insisted that that area “carved out” did not constitute a COI with Richland County. He added that too many Black voters had been “plopped” into CD 6 so that there were no other competitive congressional districts and said that this was a “slap in the face” to Black voters. Rep. Bernstein agreed, saying that she believed Beaufort and Charleston could be kept whole in a district and said, “After hearing the concerns of some of the Beaufort County residents, we could have had a discussion, worked on maybe looking at the numbers. But instead, a staff plan alternative map, very similar to the controversial Senate map, was proposed and presented to the Committee at the same time it was presented to the public. And then we took some testimony on that, and we heard some likewise criticism on this alternative map.”

Rep. Collins responded, explaining that he was “sensitive to the racial aspect” and that he would say “it’s kind of the opposite,” meaning that the staff had done the opposite of packing. He noted that the BVAP in the NAACP and LWV plans was higher for CD 6 than the staff map. Rep. King responded to this assertion by saying that packing had to be considered alongside cracking elsewhere, which, he said, the staff’s plan did (i.e., crack Black voters elsewhere), whereas the LWV and NAACP’s plans did not. Representative Rep. Wetmore asked Rep. Jordan if it was true that the Committee had heard from people from Charleston asking to be kept whole. He said that they had but that they there were not as many people in number as people from Beaufort; there was no quantification of the people speaking to Charleston as compared to Beaufort.

Rep. Thigpen questioned the reasoning for creating an entirely new map based on complaints from residents of one community (i.e., Beaufort). What made one county’s concerns, he asked, “rise to the level” of triggering a whole new map. He asked why the staff could not have

⁸⁶ South Carolina State Legislature House Judiciary Committee, South Carolina House of Representatives Ad Hoc Redistricting Committee, <https://www.scstatehouse.gov/video/archives.php>.

simply amended the existing map and, noting that the Committee had received consistent feedback from residents of Charleston asking to be kept whole, asked why staff did not produce a third alternative map doing that. The second map was, in any case, he said, “less clear, less vetted, [and] took less time [to produce].” He suggested that there was perhaps information that the Committee members did not have, that other persons or groups had been weighing in, or that there was some distinction about the residents of Beaufort County which afforded them special treatment. Chairman Jordan replied that great weight was accorded to Beaufort because they had just been moved into CD 1 in the previous cycle, and it was not fair to send them back. The alternative staff plan was adopted and given a favorable report by a vote of 13-6, with no Black members voting aye.⁸⁷

k. Full House of Representatives, January 12, 2022

House Resolution 4781/Senate Bill 865 came to the floor of the House of Representatives on January 12, 2022. The debate on the floor further revealed Black legislators’ concerns about transparency and public concern about the House’s adoption of the widely-criticized Senate congressional plan. It also demonstrates the legislative leadership’s tendency to weigh some guidelines and some testimony more heavily than others. The concerns of residents of Beaufort, primarily Hilton Head, are given great weight, whereas the concerns of residents of Charleston, are brushed aside with explanations that existing boundaries, “constituent consistency,” and prior approval hold sway.⁸⁸

Chairman Jordan summarized the process up to that point. He explained that, after the staff posted the initial plan on December 13th, 2021, it was determined that this “presented a fairly significant change to the landscape of South Carolina’s congressional districts. While the Senate’s plan,” he explained, “more closely resembled the congressional districts that were enacted ten years ago.” He then claimed that, after the hearing on Dec. 16, at which five people spoke in opposition to moving Beaufort out of CD 1, staff received “hundreds of pages of written testimony” expressing that same concern. He noted that this correspondence “vastly outnumbered” concerns from other areas. This, he said, was the impetus for the alternative plan put out by staff on Dec. 22. He later responded to a question from Rep. Thigpen, saying that “roughly 85 percent” of comments received by the Committee were from Beaufort residents wanting to stay in CD 1. This plan returned Beaufort to CD 1 and, Rep. Jordan explained, “[m]ore closely aligns with the Senate’s original staff draft plan, and as a result of the configuration of the congressional districts as approved by the 2011 plan.” The chairman explained, “I think it’s important to take into consideration that, unlike our House map, the congressional map is the one that we must undertake together with our colleagues in the Senate. We do not have total autonomy over this map, and without agreement, we would have been unable to adopt a congressional plan.”

⁸⁷ Voting no were Reps Bernstein, King, Thigpen, Wetmore, Wheeler, and McKnight. Not voting were Reps Bamberg, Henegan, Rose, and Chairman Murphy.

⁸⁸ South Carolina House of Representatives, <https://www.scstatehouse.gov/video/archives.php>.

Chairman Jordan took questions, all of which came from Black members who opposed the plan for a variety of reasons, most of which had been raised in proceedings prior to that point. Rep. King asked why Rep. Brandon Newton had not been replaced by someone else from CD 5, he himself being from CD 5 and also being the senior member of the Judiciary Committee. Representative King argued that not replacing Rep. B. Newton meant that there was no voice for CD 5 on the Committee and suggested that the reason Rep. B. Newton had not been replaced was because he, Rep. King, would have been the obvious replacement and, in his opinion, leadership did not want him on the Committee. Chairman Jordan argued that Rep. King brought his concerns about the maps to the Judiciary Committee and had input in that way. Rep. Cobb-Hunter asked about the splitting of Charleston and what the BVAP of the new CD 1 one would be under this map. Chairman Jordan said that Charleston was split in the existing plan and that the loss of BVAP in CD 1 was the result of a “ripple effect” when accounting for population shifts.

Rep. Garvin stated that he had watched all of the public hearings and that he recalled a preponderance of people saying that the Committee ought to make Charleston whole. He asked why those concerns were not addressed while those of the Beaufort residents were. Chairman Jordan explained that the staff ultimately did not want to “ping-pong” Beaufort back out of CD 1 after their recently being put into the district (for the post 2010 map) and that they made a “compelling argument” about being part of a coastal COI. Rep. Garvin replied that, in his opinion, Charleston and North Charleston were an even more logical COI and that putting North Charleston with Richland in CD 6 made less sense than putting Beaufort with the west Midlands. Rep. Garvin also expressed concern with the “process,” especially the adoption of a Senate plan that had been “wildly criticized.” He asked if outside groups had perhaps requested the change. Chairman Jordan said, “[n]o partisan group, national or otherwise, were involved in the drafting of this plan.” He added, “[a]nd I don’t know that it would have made sense right out the gate to push out a version that simply looked like the Senate version.” And he concluded, “[w]e pushed out a version, we had a hearing on it, we had -- as I’ve already stated, a large amount of input given to us from the public. We listened to the public, and we put another version up.”

Rep. Krystle Matthews spoke in support of Rep. King and indicated that, in her understanding of the rules, the process to which Chairman Jordan had repeatedly referred was not followed in that Rep. Weston Newton should not have chaired the meeting on January 10. She also spoke to Representative Rep. Cobb-Hunter’s concern with Charleston, saying, “[w]hat Rep Cobb-Hunter was asking you was, were the communities of color split? And I don’t know if you know this about me, but I’m really particular about being clear. So, let me be very clear, it was split. The 1st Congressional District was given the white areas of Charleston County, and Congressional District 6 was given the black areas of Charleston County, predominantly.” Chairman Jordan cautioned against focusing on any one small area and argued that, compared to the existing map, CD 6 was not packed.

Rep. Cobb-Hunter questioned the assertion that the Committee’s guidelines had been applied uniformly and asked Chairman Jordan if the staff had conducted a Section 2 (Voting Rights Act) analysis. Chairman Jordan replied, “[t]o my knowledge, to answer your question specifically, we did everything in compliance with the law that we were told and required to do.” Rep. Cobb-Hunter said, “[t]hat’s a nice lawyer answer. ‘I’m not a lawyer. So, does that mean yes, you all did

a Section 2 analysis? Or no, you did not?” Chairman Jordan leaned down to confer with Ms. Dean and replied, “[r]ight. To my knowledge, we did everything we possibly needed to do under the terms of the law.” Rep. Cobb-Hunter said that she would take that as a “no,” to which Chairman Jordan replied for a third time, “[t]o my knowledge, we complied with every aspect of the law.”

Rep. Thigpen asked about the BVAP in CD 1 in the alternate staff map versus the original, and Chairman Jordan indicated that it went from 22.27 percent to 15.67 percent. Rep. McDaniel indicated that she had heard from quite a few Charleston residents who wanted Charleston whole and asked why staff did not produce an alternate map that contained both Beaufort and a whole Charleston and build around that, since a great deal of public input seemed to also support making Charleston whole in addition to just putting Beaufort back into CD 1. Chairman Jordan replied that “[y]ou have to start somewhere,” and that staff chose to start with the existing map when it drafted the alternate plan.

Rep. King repeated his assertion claim that the January 10, 2022, Judiciary Committee meeting was held in violation of House rules and constituted a breach of decorum. He added that he believed the Ad Hoc Committee was created in the first place to remove the redistricting process from the Elections Committee, of which he is a member. He joined those who acknowledged repeated calls from the public to make Charleston whole and argued that this was not considered because the Charleston split was the starting point for cracking Black areas and packing them into the 6th CD 6. He argued that the election of Mr. Cunningham in 2018, a white Democrat in CD1, was the impetus for the changes, saying, “[a]ll because there’s been a Democrat there before, we’ve got to go in there and we’ve got to make sure that no Democrat don’t win that congressional seat no more.” He argued that the lack of competitiveness in the state was responsible for a lack of responsiveness on the part of the state congressional delegation to the needs of Black voters and insisted that the “craziness” that went on in the state house was driving people from the state.

Rep. Matthews rose to offer solidarity, saying that she was “utterly disturbed” by “what happened to you,” meaning that Rep. King had not been allowed to chair the January 10 meeting of the Judiciary Committee when that was his rightful place to do so. Rep. Gilliard raised a point of information asking if what Rep. King had said regarding his right to chair the meeting instead of Rep. Weston Newton, affected the bill being considered. Speaker Lucas indicated that the issue should have been handled at the Committee level and that there was nothing he could do on the floor. Mr. Thigpen offered his support for Rep. King, who reiterated his argument and noted with disdain that most of his Republican colleagues had left the floor after being admonished by the Speaker for talking and not paying attention. Rep. Cobb-Hunter rose again to reiterate her belief that a Section 2 analysis should have been done and to also lament that no Republican members were paying attention.

A vote was held to advance to the third reading, with 73 ayes, all Republicans, and 35 nays, all Democrats. No Black members voted aye. Rep. Govan rose and added that he too was disappointed that no Republicans were paying attention and gave his support to Rep. King, noting that the Speaker had to confer with the Clerk on that matter because the House was a body of rules. He then said, “[t]he fact of the matter is this, for the past 50 years, in the state of South Carolina, the redistricting process has required court intervention and prolonged litigation. Let me say that

again,” he added, “because I want you to understand this. For the past 50 years, the way we have handled this process has ended up in court, because we didn’t do it the right way. And at some point, ladies and gentlemen, this has got to stop.” Rep. Govan then summarized the various challenges to the redistricting process going back to the election of the first Black representatives since Reconstruction in the 1970s. A vote was held subsequently, and the bill passed 74-35, with Rep. Justin Bamberg, having previously not voted, switching his vote to no and Rep. Chris Hart casting the lone aye vote as a Black member.

1. Final Senate Judiciary Redistricting Subcommittee Meeting re: Congressional Districts

The Senate Judiciary Redistricting Subcommittee met a final time on January 13, 2022, regarding congressional redistricting. The purpose was to receive public input on two amendments representing two separate plans. Amendment 1 (“SA1/H2” or Senate Amendment 1, House Plan 2) was the plan advanced by the House, which was the original Senate plan with some modifications made by the House. Amendment 2 (“SA2/WC,” or Senate Amendment 2, Whole County Plan) was introduced by Sen. Harpootlian. This plan kept Charleston and Beaufort whole and in CD 1, and it kept Richland whole and in CD 6. The BVAP of CD 6 was 48.59, slightly higher than that of SA1/H2, but the BVAPs of CDs 1, 2, and 5 were 20.57, 21.29, and 33.05, respectively. At the hearing, 48 people provided testimony. Of those, 31 supported SA2/WC, and 17 supported SA1/H2. Of those supporting SA2/WC, 20 said that they wanted the legislature to keep Charleston whole, and 9 of those said that they were happy to see Charleston and Beaufort together in one CD despite previous assertions that this was not possible.⁸⁹

Of those supporting SA1/H2, ten said that they wanted to keep the “Tri-County” of Charleston, Dorchester, and Berkeley together. Several supporters of SA2/WC questioned the value of this maintenance of a Tri-County area if it did not include all of Charleston and noted that no Charlestonians had said they wanted to be included with Dorchester and Berkeley, only the other way around. One pointed out that nearly half of those supporting the Tri-County idea were local elected officials, whereas the vast majority, if not the entirety, of those supporting the idea of a whole Charleston were constituents, not public officials. Another supporter of SA2/WC noted that several people who had testified in support of SA1/H2 had said that their support was based upon keeping Beaufort in CD 1, despite the fact that SA2/WC also kept Beaufort whole in CD 1. A few supporters of SA2/WC noted that the plan laid out therein would likely avoid costly and “embarrassing” litigation that would possibly lead to a federal court drawing districts for the state, whereas the plan laid out in SA1/H2 would possibly not.

Attorney Joseph Opperman testified, indicating that he had been retained by Sen. Harpootlian to draw a map, this being the SA2/WC map. Mr. Opperman indicated that the weakness of his map was that it used a 4-person deviation, though he noted that no plan had been struck by a court for this reason and that this would be easily fixable by way of amendment in any

⁸⁹ South Carolina State Senate Redistricting Subcommittee, South Carolina House of Representatives Ad Hoc Redistricting Committee, <https://www.scstatehouse.gov/video/archives.php>.

case. He argued that his map hewed to traditional regions, maintained the core of districts, and only contained 6 county splits, compared to 10 in S1/H2. He argued that his plan “clearly and unquestionably” complied with Section 2, whereas he believed SA1/H2 had some “bizarre choices” that might come under scrutiny. Mr. Opperman argued, “[t]hose shapes can only be reasonably explained by an overarching racial -- a predominant and overarching racial policy. The point of which would be to concentrate black voting power in District 6 for the fig leaf of legal compliance, and otherwise diminish and destroy black voting power in every other part of the state.” He continued, “[t]here is no other reasonable explanation for the lines in either the House plan that was passed, or Senate Amendment. Race is the only plausible explanation for that, which suggests a predominant racial motive in those draws, which of course is unconstitutional.” Mr. Opperman indicated that he was submitting written testimony to the Subcommittee. No action was taken by the Committee at that time.

m. Final Full Senate Judiciary Committee Meeting re: Congressional Districts

The Senate Judiciary Committee as a whole met on January 19, 2022, to consider adopting a congressional redistricting plan in light of the testimony provided at the earlier meeting of the reapportionment Subcommittee. This meeting illuminated the two sides of the redistricting debate in South Carolina, when it came to Congress, starkly. Republicans wanted to maintain the status quo with CD 6 as a majority-minority district and keep the other districts, especially the First, limited in terms of BVAP. Democrats argued that, since the Supreme Court had signaled an end to the Preclearance era of the Voting Rights Act, and since RPV analysis had been used during that period to determine what constituted racially competitive districts, state legislatures could start from scratch and begin drawing districts anew for the first time since the 1990s, limiting Black VRA districts to what RPV analysis said would allow election of a minority preferred candidate and limiting the ability of white legislators to pack white districts to get radical white candidates elected. The South Carolina General Assembly demurred.⁹⁰

Lawmakers made claims that do not appear to be supported by the publicly available facts. No one at the initial Senate public hearings at Charleston, Orangeburg, or Columbia said anything about wanting two congressmen from Charleston. None of them mentioned keeping the communities together that Sen. Campsen mentions. There was some support for keeping Beaufort in CD 1 and for keeping the so-called Tri-County together with Charleston, but even at the Senate and House public hearings and meetings held after maps were released, there was no support for two representatives in the U.S. Congress for Charleston.

Sen. Campsen presented SA1/H2 and was questioned by Democrats. Sen. Hutto asked why Charleston was split, saying that he was aware of maps that kept it whole or at least kept it out of Richland. Sen. Campsen insisted that it had been this way since the 1990s and was approved by the courts in the *Backus* decision. Sen. Hutto asked why the City of Charleston had to be split when other cities like Greenville and Spartanburg were kept whole. Sen. Campsen replied, “[w]ell, we’re

⁹⁰ South Carolina State Senate Judiciary Committee, South Carolina House of Representatives Ad Hoc Redistricting Committee, <https://www.scstatehouse.gov/video/archives.php>.

following – this is a – you know, a least amount of change with regards to that dynamic of the Sixth District.” He added that another concern was constituent consistency.

Sen. Stephens then questioned Sen. Campsen when the latter explained that geographical boundaries were used in drawing the split between CD 1 and CD 6 in Charleston. Sen. Stephens asked why the southern portions of Colleton and Jasper were not given the same consideration, and Sen. Campsen said that the consideration in that regard was COIs. In that same vein, Sen. Matthews asked if Sen. Campsen considered it more important to keep CDs districts the same or to “follow the flow” of the Census Data, which showed that people were moving to the coast. Sen. Campsen insisted that equal weight was afforded to those factors, along with others in the guidelines.

Sen. Matthews also said that the Committee “sat . . . through several hours’ worth of public hearings. And I seem to remember, as I took copious notes like yourself, that we had speaker after speaker -- and I understand some folks have gotten together and had folks to send in written comments. But I sat through, and I listened over and over to a lot of the folks that came before our Committee that said, number one, they wanted to keep Charleston -- they thought that the -- one of the proposed maps that kept Charleston whole went along with the principle of keeping that community of interest together. Were you present at those hearings,” she asked Sen. Campsen replied, “[w]ell, I’ve, I’ve heard that and I’ve also heard people say they -- they’d rather have two congressmen representing them than one.”

Sen. Campsen repeated this assertion later when asked the same question by Sen. Sabb. Sen. Sabb asked, “[w]ould you agree with me, particularly in the last hearing that we had, that the vast majority of the comments that we had centered around the question as to whether or not Charleston ought be whole and whether or not the plan and -- and specifically the plan that’s before us now ought be the operative plan because of the -- what do you call it, the tri-county group, Berkeley, Charleston, and -- and Dorchester and their economic relationship.” Sen. Campsen replied:

A majority did that, voted -- or expressed opinions in that fashion. Although we -- we also have a lot of input from e-mails and other way -- other -- and letters and that have equal weight. Just because you weren’t on the Zoom meeting -- the Zoom meeting is not weighted heavier. And so I -- it’s my understanding we have a lot of diverse opinions on that, that -- which one is weighted more, I’m not completely sure. But I do know that there is a lot more input from folks who like being represented by two members of Congress instead of one because two advocates is better than one. I mean, I’ve heard that from -- from constituents as well. So we can’t let the Zoom meeting be the -- the final -- the final determination of what type of input the public wants because I understand there’s a lot of other input that’s received electronically.

Sen. Sabb followed up, “[b]ut did the vast majority of the written communication center around a desire to either keep those three counties together or keep Charleston whole? I mean, so were those fairly consistent with what we heard on the Zoom call?” Sen. Campsen replied, “I really can’t answer that. I know there’s been a lot of input -- both ways.” Sen. Kimpson added that he

represented more people in Charleston than anyone else in the Senate and that it was his belief that the people of Charleston wanted to be kept whole.

Sen. Matthews followed up on that line of questioning by echoing some of the public testimony whereby people explained that, while a number of people from the so-called Tri-County expressed their desire to be with Charleston, no one from Charleston returned that sentiment. She also echoed public testimony wherein people noted that most of the people calling to remain in the Tri-County were public elected officials. Sen. Campsen said that was not his recollection and began listing various Tri-County economic alliances, to which Sen. Matthews responded by listing similar entities from counties elsewhere that had been split, including Colleton. She concluded that, in her opinion, SA1/H2 was a gerrymandered map that deliberately went into Charleston and West Ashley and put Black voters into CD 6 via a “funky boot print.” Sen. Campsen noted that CD 6 needed to pick up population, to which Sen. Matthews replied that those numbers could have come from Berkeley or elsewhere.

Sen. Harpootlian noted that, since the *Shelby County v. Holder* decision and the elimination of the Department of Justice Department’s preclearance process, there was no longer a need to focus on non-retrogression and that states could go back to the drawing board rather than maintaining the districts as drawn beginning in the 1990s, when, he explained, the focus was on creating majority-minority districts. He explained that in that case, states would want to conduct RPV analyses and asked if this had been considered. Sen. Campsen said that “that’s something that would happen if and when a plan is litigated. . . . A plaintiff, if they were to file suit against this, would -- would provide [that].” Sen. Harpootlian said, “But assuming we’re trying to avoid a lawsuit, wouldn’t it have been productive to get racial bloc voting analysis done” Sen. Campsen said, “Well, I have it -- it would have resulted in us perhaps taking race into account and having racial targets” Senator Harpootlian asked, would that not be “Acceptable under Gingles?” Senator Campsen replied, “No. That’s -- that’s an analysis that -- that the Court is -- is to apply. But we are -- we are to not take race primarily into account in drawing this.” Senator Harpootlian emphasized, “Primarily,” to which Sen. Campsen replied, “I took it hardly at all into account.” Sen. Harpootlian replied by referring to “page after page” of racial data in the notebooks given to Committee members. Senator Campsen said, “The staff have -- I mean, they -- they provide that,” and he insisted that he “wanted to be colorblind.”

Sen. Harpootlian continued to question Sen. Campsen, pointing out the number of county and municipal splits in his plan and its use of water for contiguity. He asked if Sen. Campsen had considered using land for contiguity in those cases and, if so, was there evidence of that in writing. Sen. Campsen said no, that he had had discussions with staff, as presumably had Sen. Harpootlian, to which the latter replied, “Not me. I had to pay somebody,” referring to Joseph Opperman, who testified at the January 13, 2022, Redistricting Committee meeting regarding SA2/Whole-County map introduced by Sen. Harpootlian. Sen. Campsen said that Sen. Harpootlian did not have to retain someone, to which Sen. Harpootlian replied, “Oh, I think so. I think I had to because we are about to do something, perpetuate a racist scheme for the next 10 years, which we had to live with. One of the reasons I ran -- the major reason I ran for the Senate was that we would not replicate this race-based gerrymandering, and that’s what this plan does.”

Sen. Malloy expressed his belief that the bill should not advance to the floor of the Senate on that day because it needed more discussion. He pointed out that, because of the posture or status of the bill, it would advance to the House immediately rather than receiving second and third readings that would provide the usual time to digest and discuss. Chairman Rankin expressed his desire to have a vote, nonetheless. Sen. Malloy entered a motion to carry the bill over, but that failed. And The bill subsequently passed out of the Committee by a party-line vote of 14-8, with all Back members voting no.

n. The Senate Floor, January 20, 2022

Chairman Rankin began his introduction of the plan coming out of the Senate Judiciary Committee by indicating that the Redistricting Subcommittee had received “over 1,000 written comments” in addition to the testimony taken at the public hearings. He then gave way to Senators Massey and Campsen for descriptions of the various elements of the map. This material was not made available to the public. The Senate did release to the public written input it received at public hearings, unlike the House, but it did not release this supposed mountain of evidence that weighs heavily in favor of consideration of Beaufort feedback and “Tri-county” feedback as opposed to Charleston feedback. There is nothing in the available public record to support this. No one at the Charleston public hearing of the Senate Subcommittee mentioned a preference for two representatives.⁹¹

Sen. Campsen reiterated the characterization that this was a “minimal change” plan and that one of the primary concerns was “constituent consistency.” He addressed the accusations of partisan gerrymandering by comparing 2020 election figures in what was by then being called the “benchmark,” or existing plan, to the one then before the Senate. And he addressed accusations of racial gerrymandering by noting that the BVAP in CD 1 remained roughly the same as it was in the existing plan. He addressed allegations of packing by noting that the BVAP in CD 6 was less in the proposed plan than what it was in the existing plan. He noted that the “coastal” and Tri-County COIs were kept together and that the splits in Charleston followed waterways.

Sen. Grooms asked why Charleston was split when it had been wholly tied to Berkely and Dorchester since the nation’s founding. Sen. Campsen said that it had been split since the 1990s and that he prioritized the Tri-County COI and keeping Beaufort in CD 1 and also keeping two representatives for Charleston for the purposes of federal funding for the area. Sen. Scott pointed out the preponderance of county splits affecting CD 6 and the fact that Columbia and Charleston were the only “urban cores” split in the plan. He asked for a document with county split information and was told to consult the website, which he had already done. He was told that Mr. Roberts would get the information for him.

Sen. Matthews had the Redistricting Committee’s guidelines distributed to the chamber and noted that the word “benchmark” was not included. She noted that minimizing city and county

⁹¹ South Carolina State Senate, South Carolina House of Representatives Ad Hoc Redistricting Committee, <https://www.scstatehouse.gov/video/archives.php>.

splits was included and noted that SA1/H2 contained more city and county splits than both the existing plan and SA2/WC. She noted that “90 percent” of the people who testified before the Committee, in her recollection, were concerned with either staying with Charleston or keeping it whole. She added that it “matters not about your race” in Charleston and that Sen. Campsen had had to “go in and snake in or salamander into” Charleston and West Ashley because of “how those folks voted.” She argued that the population numbers that CD 6 needed following the 2020 census could instead have come from Clarendon, Orangeburg, upper Dorchester, Berkeley, or Colleton, or some combination thereof. Sen. Campsen insisted that he had followed geographical boundaries.

Sen. Harpootlian argued that the legislature had been freed from the “handcuffs” of the preclearance, non-retrogression standard by *Shelby County* and asked if Sen. Campsen had done any analysis to see what could be done to “clean up” the “weird” shapes of what he characterized as gerrymandered districts. He asked Sen. Campsen if he considered keeping Charleston whole, given the amount of testimony that the Committee had heard to that effect. Sen. Campsen said no, that he would rather have two representatives for Charleston and that it was good to have a representative from each party. Sen. Harpootlian noted that Congressman Mendel Rivers represented the unified metropolitan area for decades. He insisted that the split was perpetuated because it allowed legislators to keep most of the white portion of Charleston in CD 1 and most of the Black portion in CD 6, which he said was a racial gerrymander. Sen. Campsen repeated his assertion that he did not consider race at all, to which Sen. Harpootlian repeated his question regarding the ubiquity of BVAP charts provided to legislative members. Sen. Hutto asked Sen. Campsen if there were retrogression standards that needed to be considered “now that the rules have changed,” to which Sen. Campsen replied no.

Sen. Malloy rose to register again his objection to moving forward with a vote. He noted again that there would be no second or third reading and said, “We had about an hour and change of discussion” and that they had been repeatedly told that “the information is online” on the website. He argued that that was not nearly enough time and consideration for something as important as a redistricting bill. He said that there had been a measure of bipartisan cooperation in 2010 because they had more time to consider things. And he noted that the process was so rushed this time that legislators were arguing on the floor over who had received what information. He concluded, “I didn’t sign up for this.”

Sen. Kimpson repeated his assertion that the people of Charleston, of whom he represented more than any other legislator, “unequivocally” wanted to be placed wholly into CD 1 and not into a “hodgepodge” district as in SA1/H2. He said that Sen. Campsen’s argument regarding two representatives fell short. He said the idea that Congressman Clyburn and Congresswoman Mace were “in lockstep” was incorrect. He noted that Congressman Clyburn was the only member of the state’s delegation to vote for the American Rescue Act, which was set to provide the state with billions of dollars for the kinds of programs that Sen. Campsen was talking about when supporting his claim that two representatives were better for Charleston. He concluded by stating his belief that SA1/H2 represented a plan designed by the national Republican Party. The Senate subsequently voted 26-15 to adopt SA1/H2. All Black members voted no.

Sen. Harpootlian then introduced SA2/WC. He described the existing configuration of districts as “remedial” in nature in that the map that was drawn in the 1990s was part of a policy of drawing majority-minority districts in order to get Black candidates of choice elected when it was recognized that there were patterns of racial block voting preventing that from being the case. He argued, “[b]ut a remedial measure is like a cast, and if you leave the case on the body too long, it atrophies.” He explained, “[a]nd that’s what’s happened in our state and that, Senator from Charleston, is what’s wrong with using a benchmark of what we did and had to do, where we maximized and packed in order to elect an African-American, which is no longer, in my opinion, necessary.” He added, “[a]nd by not doing that . . . racial block voting analysis we talked about earlier, you don’t know and I don’t know what you could have done to change that benchmark and start over.” He indicated that the state’s Regulatory and Fiscal Affairs agency conducted such analysis in a preliminary fashion when assisting local governing bodies on redistricting and added that there was no reason to, as Sen. Campsen suggested, wait for litigation in order to have a plaintiff submit such an analysis. He also explained that, in his experience, white legislators had responded to the 1990s packing by cracking and “whitewashing” remaining districts. The result in South Carolina, he argued, was “a Frankenstein monster” of a benchmark plan that was created to meet an “arcane political goal.”

Sen. Harpootlian then explained that SA1/H2 had appeared “out of nowhere” in the Subcommittee and that neither he nor Senators Matthews or Sabb had had any input into it whatsoever. He said, “We never discussed it. We were never called back in the map room. We were never asked anything about the contours of it. It just appeared, you know, sort of an immaculate deception, if you will. It was created in a back room, literally in a back room.” Speaking to Sen. Matthews, he said, “We showed up, they handed us a plan. I think you, Senator Sabb and I were astonished to see what obviously required a huge amount of time and effort to put together and it just -- it was a fait accompli.” He noted that Committee members were told, at the same meeting, when he asked about input from outside from outside groups, that the National Republican Redistricting Trust had submitted a plan “that we never saw.”

Sen. Massey argued that SA1/H2 did not pack CD 6, that CD 1’s BVAP was essentially unchanged, the SA2/WC took Fort Jackson from Congressman Wilson and split the Savannah River environmental site. He motioned to table, which carried, 26-13, with Senators Malloy and Williams being the only two Black members to vote aye.⁹² Sen. Harpootlian briefly introduced the League of Women Voters’ plan, which failed by a voice vote. Sen. Hutto introduced one of the NAACP’s plans, which failed on a 27-12 vote, with Senator Allen being the lone aye vote among Black members and Senators Malloy and Kevin Johnson not voting. Sen. Scott introduced a plan that he argued did not pack poor voters into CD 6 and instead provided the opportunity for economic growth for the poorer regions of the state. Sen. Bennett argued that the plan split Dorchester three ways and motioned to table, which carried 27-11, with Senator Karl Allen being the lone Black member voting aye, Senator Malloy not voting, and Senator Kevin Johnson having been granted leave. So quick was Sen. Bennett to dismiss the plan that Sen. Scott was compelled

⁹² Senator Darrell Jackson had leave.

to say, before finishing, “You’re going to move to table it no matter what I put up here. At least wait till I sit down.”

On January 26, 2022, the House voted 72-33 to concur in the Senate’s amendment. Robert Williams was the lone Black member to vote aye, with Reps. Alexander, Bamberg, Hosey, J.A. Moore, and Rutherford not voting. Governor McMaster signed S. 865’s into law later that day.

V. SUMMARY OF INFORMATION FOR THE COURT TO CONSIDER

The historical background of this law reveals, unquestionably, evidence of discrimination against Black citizens in South Carolina, especially in regard to voting rights, even very recently. The sequence of events and legislative history surrounding S. 865’s enactment also reveal procedural and substantive departures, as well as statements and actions by members of the decision-making body that offers evidence of support for a finding of discriminatory intent.

I reserve the right to continue to supplement my declarations in light of additional facts, testimony and/or materials that may come to light. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on: 4/11/2022

Joseph Bagley

Joseph Bagley, PhD

Joseph Bagley, PhD
Curriculum Vitae



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Education

PhD, History, 2013, Georgia State University
 "School Desegregation, Law and Order, and Litigating Social Justice in Alabama, 1954-1974"
MA, History, 2007, Auburn University
BA, History, 2004, Auburn University

Major Publications

The Politics of White Rights: Race, Justice, and Integrating Alabama's Schools
(University of Georgia Press, Nov. 2018)

Teaching and Administrative Experience

Honors Program Coordinator, Perimeter College, Georgia State University, 2019 – Present

Assistant Professor, Perimeter College, Georgia State University, 2017 – Present (5/4/2 Load)

AAS 1142, African American History since 1865
AAS 2010, Introduction to Africana Studies
HIST 1111, Survey of World History to 1500
HIST 1112, Survey of World History since 1500
HIST 2110, Survey of United States History

Lecturer, Georgia Perimeter College, 2015 – 2017 (6/6/2 Load)

HIST 1112, Survey of World History since 1500
HIST 2111, Survey of U.S. History to 1865; HIST 2112, Survey of U.S. History since 1865
HIST 2110, Survey of U.S. History

Visiting Lecturer, Georgia State University, 2013 – 2015 (4/4/2 Load)

HIST 2110, Survey of United States History

Graduate Instructor of Record, Georgia State University, 2009 – 2013 (1/1/1 Load)

HIST 1112, Survey of World History since 1500
HIST 2110, Survey of United States History

Graduate Teaching Assistant,

Georgia State University, 2008-2009, 2013

HIST 1112, Survey of World History since 1500; HIST 2110, Survey of United States History
HIST 3000, Introduction to Historical Studies; HIST 4990, Historical Research (co-taught)

Auburn University, 2004-2008

HIST 1010, Survey of World History to 1789; HIST 1020, Survey of World History since 1789

Joseph Bagley, PhD
Curriculum Vitae



Invited Talks

Symposium on the Struggle for Black Freedom, Georgia State University, Perimeter College, Keynote Address, February 11, 2020, "The Struggle for Black Voting Rights: from Reconstruction to *Right Now*."

Georgia State University Constitution Day Event, September 18, 2019, "'To Abridge and Deny': Vote Dilution, Section 5 Preclearance, and Undermining the 15th Amendment."

Auburn University Critical Studies Working Group, College of Education, April 12, 2019, "*Teach Us All*, The Little Rock Nine, and Contemporary School Segregation."

League of Women Voters of Greater Jefferson County, February 21, 2019, "School Desegregation in Alabama."

Auburn University Caroline Marshall Draughon Center for the Arts and Humanities, January 29, 2019, Book Talk.

Alabama Department of Archives and History, *Alabama in the Age of Aquarius* Symposium, August 19, 2016, "Desegregating Alabama's Schools: the Montgomery Experience."

Alabama Department of Archives and History, Monthly Lecture Series, May 15, 2014, "Now a Single Shot Can Do It': *Lee v. Macon County Board of Education* and School Desegregation in Alabama."

Notable Citations

Nikole Hannah-Jones, "[The Resegregation of Jefferson County](#)," *The New York Times Magazine*, Sept. 6, 2017.

Wendy Parker, "[Why Alabama School Desegregation Succeeded \(And Failed\)](#)," *67 Case Western Law Review*, 1091 (2017).

Rebecca Retzlaff, "[Desegregation of City Parks and the Civil Rights Movement: The Case of Oak Park in Montgomery, Alabama](#)," *Journal of Urban History* 47.4, 715 (2019).

Erika Frankenberg, "[The Impact and Limits of Implementing *Brown*: Reflections from Sixty-Five Years of School Segregation and Desegregation in Alabama's Largest School District](#)," *11 Alabama Civil Rights and Civil Liberties Law Review*, 33 (2019).

Bryan Mann, "[Segregation Now, Segregation Tomorrow, Segregation Forever? Racial and Economic Isolation and Dissimilarity in Rural Black Belt Schools in Alabama](#)," *Rural Sociology* 86.3, 523 (2021).

Expert Witness

Milligan v. Merrill (N.D., Ala. 2021), Submitted an expert report, Certified as an expert, Testified at hearing for preliminary injunction (Ruling pending)

People First v. Merrill (N.D., Ala. 2020), Submitted an expert report, Certified as an expert, testified in deposition and at trial, Findings adopted by the Court in opinion ([479 F.Supp. 3d 1200](#))

Joseph Bagley, PhD Curriculum Vitae



Service

Newton Academic Community Engagement, 2019-present
Chair, Search Committee, Lecturer in History, Fall 2019
Search Committee, Adjunct Faculty in African American Studies, Summer 2019
Search Committee, Faculty Associates to Center for Excellence in Teaching and Learning, Summer 2018
Search Committee, Lecturers in History, Spring 2018
Panthers Vote Presidential Election Panel, Fall 2016
History 2110 Assessment Committee for the Georgia State-Georgia Perimeter Consolidation, 2016 - 2017
Consultant, Shiloh Community Restoration Foundation, Notasulga, Alabama, 2014 - 2015
Coordinating Committee, First Annual Atlanta Graduate Student Conference in History, Emory University, 2012

Conference Presentations

“‘We Have Had a Dream, Too’: School Desegregation Litigation, Racial Innocence, and Politics in Alabama,”
Organization of American Historians Annual Conference, St. Louis, Missouri, April 16, 2015.

“‘Life, Liberty, and the Pursuit of Alabama’s Happiness’: School Desegregation, the ‘Law and Order’ Narrative,
and Litigating Social Change in Alabama, 1954-75,” Midwest Political Science Association Annual
Conference, Chicago, Illinois, April 12, 2013.

“Black Alabamians’ Efforts to Desegregate Schools, 1954-1963: Civil Rights, Litigation, and the Road to *Lee. v. Macon*,” presented at the University of Alabama History Department’s Graduate Conference on Power and Struggle, March 3, 2012.

Solicited Manuscript and Book Reviews

Outside Reader for Book Manuscript, Brian K. Landsberg, *Revolution by Law: The Federal Government and the Desegregation of Alabama Schools*, University of Kansas Press (Spring 2021)

Camille Walsh, *Racial Taxation: Schools, Segregation, and Taxpayer Citizenship, 1869-1973* (UNC Press, 2018),
The Alabama Review (Pending, Spring 2021)

Outside Reader for Essay Manuscript for *Urban History* (Fall, 2019), Anonymous

Stephanie R. Rolph, *Resisting Equality: The Citizens’ Council, 1954-1989* (LSU Press, 2018), in *The Journal of Mississippi History* (Fall, 2019)

Wayne A. Weigand and Shirley A. Weigand, *The Desegregation of Public Libraries in Jim Crow South: Civil Rights and Local Activism* (LSU Press, 2018), in *Georgia Historical Quarterly* (Summer, 2019)

Leeann G. Reynolds, *Maintaining Segregation: Children and Racial Instruction in the South, 1920-1955* (LSU Press, 2018), in *The Alabama Review* (Summer, 2019)

Outside Reader for Essay Manuscript for *History of Education Quarterly* (Fall, 2018), Anonymous

James Turner, *Selma and the Liuzzo Murders: The First Modern Civil Rights Convictions* (University of Michigan Press, 2018), in *Law and History Review, The Docket*, Vol. 1, Issue 2 (August, 2018)

Joseph Bagley, PhD
Curriculum Vitae



Solicited Manuscript and Book Reviews Cont.

Tracy E. K'Meyer, *From Brown to Meredith: The Long Struggle for School Desegregation in Louisville, Kentucky, 1955—2007* (University of North Carolina Press, 2013), in *The Journal of Southern History* 80, No. 4 (Nov, 2014): pp. 1019-20

Frank Sikora, *The Judge: The Life and Opinions of Alabama's Frank M. Johnson, Jr.* (New South Books, 2007), in *The Alabama Review* 61, No. 2 (April, 2008): 153-4

Awards

- John M. Matthews Distinguished Dissertation Award, 2013, Georgia State University

Examination Fields

- 19th-20th Century United States History
- United States Legal and Constitutional History
- History of South Africa

Professional Organizations

- Organization of American Historians
- American Historical Association
- American Society for Legal History
- Southern Historical Association
- Alabama Historical Association

Languages

- Spanish: Reading, Good
- French: Reading, Good

Exhibit 32

RETRIEVED FROM DEMOCRACYDOCKET.COM

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

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP, *et al.*,

Plaintiffs,

v.

HENRY D. MCMASTER, *et al.*,

Defendants.

Case No. 3:21-cv-03302-JMC-TJH-RMG

Expert Report of Sean P. Trende

RETRIEVED FROM DEMOCRACYDOCKET.COM

I. Qualifications

Professional Experience:

I serve as Senior Elections Analyst for RealClearPolitics. I joined RealClearPolitics in January of 2009 after practicing law for eight years. I assumed a fulltime position with RealClearPolitics in March of 2010. RealClearPolitics is a company of around 50 employees, with its main offices in Washington D.C. It produces one of the most heavily trafficked political websites in the world, which serves as a one-stop shop for political analysis from all sides of the political spectrum and is recognized as a pioneer in the field of poll aggregation. It produces original content, including both data analysis and traditional reporting. It is routinely cited by the most influential voices in politics, including David Brooks of *The New York Times*, Brit Hume of Fox News, Michael Barone of The Almanac of American Politics, Paul Gigot of The Wall Street Journal, and Peter Beinart of The Atlantic.

My main responsibilities with RealClearPolitics consist of tracking, analyzing, and writing about elections. I collaborate in rating the competitiveness of Presidential, Senate, House, and gubernatorial races. As a part of carrying out these responsibilities, I have studied and written extensively about demographic trends in the country, exit poll data at the state and federal level, public opinion polling, and voter turnout and voting behavior. In particular, understanding the way that districts are drawn and how geography and demographics interact is crucial to predicting United States House of Representatives races, so much of my time is dedicated to that task.

Publications and Speaking Engagements:

I am currently a Visiting Scholar at the American Enterprise Institute, where my publications focus on the demographic and coalitional aspects of American Politics. I am also the author of *The Lost Majority: Why the Future of Government is up For Grabs and Who Will Take It*. In this book, I explore realignment theory. It argues that realignments are a poor concept that should be abandoned. As part of this analysis, I conducted a thorough analysis of demographic and political trends beginning in the 1920s and continuing through the modern times, noting the fluidity and fragility of the coalitions built by the major political parties and their candidates.

I also co-authored the 2014 Almanac of American Politics. The Almanac is considered the foundational text for understanding congressional districts and the representatives of those districts, as well as the dynamics in play behind the elections. PBS's Judy Woodruff described the book as "the oxygen of the political world," while NBC's Chuck Todd noted that "Real political

junkies get two Almanacs: one for the home and one for the office.” My focus was researching the history of and writing descriptions for many of the newly-drawn districts, including tracing the history of how and why they were drawn the way that they were drawn. I was assigned South Carolina as one of my states. I have also authored a chapter in Larry Sabato’s post-election compendium after every election dating back to 2012.

I have spoken on these subjects before audiences from across the political spectrum, including at the Heritage Foundation, the American Enterprise Institute, the CATO Institute, the Bipartisan Policy Center, and the Brookings Institution. In 2012, I was invited to Brussels to speak about American elections to the European External Action Service, which is the European Union's diplomatic corps. I was selected by the United States Embassy in Sweden to discuss the 2016 elections to a series of audiences there and was selected by the United States Embassy in Spain to fulfill a similar mission in 2018. I was invited to present by the United States Embassy in Italy, but was unable to do so because of my teaching schedule.

Education:

I am currently enrolled as a doctoral candidate in political science at The Ohio State University. I have completed all my coursework and have passed comprehensive examinations in both methods and American Politics. In pursuit of this degree, I have also earned a Master’s Degree in Applied Statistics. My coursework for my Ph.D. and M.A.S. included, among other things, classes on G.I.S. systems, spatial statistics, issues in contemporary redistricting, machine learning, non-parametric hypothesis tests and probability theory.

In the winter of 2018, I taught American Politics and the Mass Media at Ohio Wesleyan University. I taught Introduction to American Politics at The Ohio State University for three semesters from Fall of 2018 to Fall of 2019, and again in Fall of 2021. In the Springs of 2020 and 2021, I taught Political Participation and Voting Behavior at The Ohio State University. This course spent several weeks covering all facets of redistricting: How maps are drawn, debates over what constitutes a fair map, measures of redistricting quality, and similar topics. I am teaching this course this semester as well.

Prior Engagements as an Expert:

In 2021, I served as one of two special masters appointed by the Supreme Court of Virginia to redraw the districts that will elect the Commonwealth’s representatives to the House of Delegates, state Senate, and U.S. Congress in the following decade. The Supreme Court of Virginia

accepted those maps, which were praised by observers from across the political spectrum. “New Voting Maps, and a New Day, for Virginia,” *The Washington Post* (Jan. 2, 2022), available at <https://www.washingtonpost.com/opinions/2022/01/02/virginia-redistricting-voting-maps-gerrymander/>; Henry Olsen, “Maryland Shows How to do Redistricting Wrong. Virginia Shows How to Do it Right,” *The Washington Post* (Dec. 9, 2021), available at <https://www.washingtonpost.com/opinions/2021/12/09/maryland-virginia-redistricting/>; Richard Pildes, “Has VA Created a New Model for a Reasonably Non-Partisan Redistricting Process,” *Election Law Blog* (Dec. 9, 2021), available at <https://electionlawblog.org/?p=126216>.

In 2019, I was appointed as the court’s expert by the Supreme Court of Belize. In that case I was asked to identify international standards of democracy as they relate to malapportionment claims, to determine whether Belize’s electoral divisions (similar to our congressional districts) conformed with those standards, and to draw alternative maps that would remedy any existing malapportionment.

I served as a Voting Rights Act expert to counsel for the Arizona Independent Redistricting Commission in 2021 and 2022.

I previously authored an expert report in *Dickson v. Rucho*, No. 11-CVS-16896 (N.C. Super Ct., Wake County), which involved North Carolina’s 2012 General Assembly and Senate maps. Although I was not called to testify, it is my understanding that my expert report was accepted without objection.

I also authored an expert report in *Covington v. North Carolina*, Case 5 No. 1: 15-CV-00399 (M.D.N.C.), which involved almost identical challenges in a different forum. Due to what I understand to be a procedural quirk, where my largely identical report from Dickson had been inadvertently accepted by the plaintiffs into the record when they incorporated parts of the Dickson record into the case, I was not called to testify.

I authored two expert reports in *NAACP v. McCrory*, No. 1:13CV658 (M.D.N.C.), which involved challenges to multiple changes to North Carolina’s voter laws. I was admitted as an expert witness and testified at trial. My testimony discussed the “effect” prong of the Voting Rights Act claim. I did not examine the issues relating to intent.

I authored reports in *NAACP v. Husted*, No. 2:14-cv-404 (S.D. Ohio), and *Ohio Democratic Party v. Mated*, Case 15-cv-01802 (S.D. Ohio), which dealt with challenges to various Ohio voting laws. I was admitted and testified at trial in the latter case (the former case settled). The judge in

the latter case ultimately refused to consider one opinion, where I used an internet map-drawing tool to show precinct locations in the state. Though no challenge to the accuracy of the data was raised, the judge believed I should have done more work to check that the data behind the application was accurate.

I served as a consulting expert in *Lee v. Virginia Board of Elections*, No. 3:15-cv-357 (E.D. Va. 2016), a voter identification case. Although I would not normally disclose consulting expert work, I was asked by defense counsel to sit in the courtroom during the case and review testimony. I would therefore consider my work de facto disclosed.

I filed an expert report in *Mecinas v. Hobbs*, No. CV-19-05547-PHX-DJH (D. Ariz. 2020). That case involved a challenge to Arizona's ballot order statute. Although the judge ultimately did not rule on a motion *in limine* in rendering her decision, I was allowed to testify at the hearing.

I authored two expert reports in *Feldman v. Arizona*, No. CV-16-1065-PHX-DLR (D. Ariz.). Plaintiffs in that case challenged an Arizona law prohibiting the collection of voted ballots by third parties that were not family members or caregivers and the practice of most of the state's counties to require voters to vote in their assigned precinct. My reports and testimony were admitted. Part of my trial testimony was struck in that case for reasons unrelated to the merits of the opinion; counsel for the state elicited it while I was on the witness stand and it was struck after Plaintiffs were not able to provide a rebuttal to the new evidence.

I authored an expert report in *Pascua Yaqui Tribe v. Rodriguez*, No. 4:20-CV-00432-TUC-JAS (D. Ariz.), which involved early voting. My expert report and testimony were admitted at trial.

I authored expert reports in *A. Philip Randolph Institute v. Smith*, No. 1:18-cv-00357-TSB (S.D. Ohio), *Whitford v. Nichol*, No. 15-cv-421-bbc (W.D. Wisc.), and *Common Cause v. Rucho*, NO. 1:16-CV-1026-WO-JEP (M.D.N.C.), which were efficiency gap-based redistricting cases filed in Ohio, Wisconsin, and North Carolina.

I have only been excluded as an expert once, in *Fair Fight v. Raffensperger*. The judge concluded that I lacked sufficient credentials to testify as an expert in election administration.

I authored an expert report in the cases of *Ohio Organizing Collaborative, et al v. Ohio Redistricting Commission*, et al (No. 2021-1210); *League of Women Voters of Ohio, et al v. Ohio Redistricting Commission*, et al (No. 2021-1192); *Bria Bennett, et al v. Ohio Redistricting Commission*, et al (No. 2021-1 198). That case was decided on the written record.

I authored two expert reports in the consolidated cases of *NCLCV v. Hall* and *Harper v. Hall* (21 CVS 15426; 21 CVS 500085), two political/racial gerrymandering cases. My reports and testimony were admitted.

I authored two expert reports in the consolidated cases of *Montana Democratic Party v. Jacobson*, DV-56-2021-451 (Mont. Dist. Ct.). These cases involve the elimination of same-day registration, use of student identification to vote, and the restriction of ballot collection.

I authored an expert report on behalf of amicus curiae in the consolidated cases of *Carter v. Chapman* (No. 464 M.D. 2021) and *Gressman v. Chapman* (No. 465 M.D. 2021), which were redistricting cases before the Supreme Court of Pennsylvania.

I filed an expert report in *Harkenrider v. Hochul*, (No. E2022-0116CV), which is a partisan gerrymandering challenge to New York's enacted Congressional and state Senate maps. My reports and testimony were admitted.

I filed an expert report in *Szeliga v. Lamone*, Case No. C-02-CV-21-001816 (Md. Cir. Ct.) and *In the Matter of 2022 Legislative Redistricting of the State*, Misc. No. 25 (Md. Ct. App.), political gerrymandering cases in Maryland. My reports and testimony were admitted.

I filed an expert report in *Graham v. Adams*, (No. 22-CI-00047) (Ky. Cir. Ct.), a political gerrymandering case. I was admitted as an expert and allowed to testify as trial.

I filed an expert report in *NAACP v. McMaster*, (No. 3:21-cv-03302-JMC-T,11-1- RMG), which is a racial gerrymandering challenge to South Carolina's enacted state House maps.

II. Scope of Engagement

I have been retained by Jones Day on behalf of their clients, defendants in the above matter, to evaluate South Carolina's Congressional Districts, enacted by the South Carolina General Assembly and signed by their governor, Henry McMaster [hereinafter "Enacted Plan" or "Enacted Map"]. This map replaces the previous map, in effect from 2012 to 2020 [hereinafter "Benchmark Plan"]. I have been retained and am being compensated at a rate of \$400.00 per hour to provide my expert analysis of the various factors that were employed in the enacted plan.

III. Summary of Opinions

Based on the work performed as addressed in the following sections of the report, I hold to the following opinions to a reasonable degree of professional certainty:

- The Enacted Map is contiguous and complies with equal-population requirements.

- The Enacted Map generally reflects only modest changes from the Benchmark Plan, which this Court upheld against racial gerrymandering and other challenges in *Backus*.
- The Enacted Map retains high percentages of the cores of all of the Benchmark Districts. Those percentages range from 82.84% in District 1 to 99.96% in District 7, and five districts retain more than 94% of their cores.
- The Enacted Map reduces the number of split counties from 12 in the Benchmark Plan to 10 in the Enacted Plan.
- The Enacted Map significantly reduces the number of voting tabulation district splits from 65 in the Benchmark Plan to 13 in the Enacted Plan. In other words, the Enacted Plan repairs 52 precincts that were split in the Benchmark Plan.
- The Enacted Plan's districts compare favorably to the Benchmark Plan's Districts on four common compactness measures.
- The Enacted Plan's changes to the district line between Districts 2 and 6 are largely explained by the repairing of precincts that were split in the Benchmark Plan.
- The Enacted Plan's changes to the district line between Districts 5 and 6 are largely explained by the repairing of precincts that were split in the Benchmark Plan.
- The Enacted Plan's changes to the district line between Districts 1 and 6 follow natural geographic boundaries and make two counties, Berkeley County and Beaufort County, whole, while adding a portion of Jasper County to District 1.
- The Enacted Plan's changes to the district line between Districts 1 and 6 have a minimal effect on District 1's racial composition but increase its Republican vote share by nearly three net percentage points on the two-party 2020 presidential election results.

IV. Data Relied Upon and Construction of Datasets

For purposes of this report, I reviewed and/or relied upon the following materials:

- The 2021 Senate Redistricting Guidelines (Sept. 17, 2021);
- The 2021 House Guidelines and Criteria for Congressional and Legislative Redistricting (Sept. 17, 2021);
- This Court's opinion in *Backus v. South Carolina*, 857 F. Supp. 2d 553 (2002);

- This Court’s opinion in *Colleton County Council v. McConnell*, 201 F.Supp.2d 618 (2012);
- Block assignment files for the previous congressional district lines and current district lines, available at <https://redistricting.scsenate.gov/planproposal.html>;
- Shapefiles for South Carolina census blocks, precincts, and counties downloaded from the Redistricting Data Hub, available at <https://redistrictingdatahub.org/>;
- Shapefiles for historic congressional districts, maintained by at <https://cdmaps.polisci.ucla.edu/>
- Public hearings transcripts, available at <https://redistricting.scsenate.gov/meetinginfo.html>.
- Other documents referenced in this report.

Obviously calculating racial categories is crucial for the analysis called for by this sort of lawsuit, particularly of Black voters in South Carolina. Unfortunately, this is a more complicated endeavor than it may seem at first blush. The census allows individuals to select multiple races, and different sources will use different combinations of identity to define a person’s race. In addition, people of all races may identify as Hispanic. For purposes of this report, I define “Black” and “BVAP” using the same non-Hispanic Black categorization utilized by the South Carolina General Assembly to draw the Enacted Plan.

Because election data are made available at the precinct level, most of the district-wide election data is accurate. When precincts are split, however, it is necessary to estimate how many votes a candidate earned from each portion of the precinct. This is accomplished by taking the precinct-wide votes for each candidate and assigning them to census blocks. Rather than simply dividing by the number of blocks, analysts usually weight each precinct by some number. Here, votes are assigned proportionally to the voting age population in each block. Separate sums for each portion of the precinct are then calculated by adding up the blocks in each precinct segment. Different approaches and weighting mechanisms can produce marginally different results.

All shapefiles are projected using the WGS 84 projection.

V. Analysis of South Carolina's Congressional Districts

Overview

This Court has identified multiple legitimate goals that the South Carolina legislature may pursue when redistricting, including (1) recognizing communities of interest; (2) preserving district cores; (3) respecting county and municipal boundaries, as well as geographical boundaries; (4) keeping incumbents' residences in their districts. In addition, both the House and the Senate add the following factors: (1) compliance with federal law and United States Constitution, with particular attention to the Voting Rights Act of 1965 and equal protection clause of the 14th Amendment; (2) equal population; (3) contiguity; and (4) compactness. The House guidelines further specify that county, municipal, and precinct boundaries may be relevant when considering communities of interest; the Senate guidelines make minimizing the number of splits at those three levels separate criteria. This Court concluded in *Colleton County* that preserving cores of districts is generally the cleanest expression of the General Assembly's intent to group persons into communities of interest. This report otherwise does not deal with communities of interest directly.

Contiguity and Equal Population

At the end of the 2010s, the Benchmark Plan had become malapportioned. It had not, however, become uniformly so. As we can see in Table 1, most of the districts deviated from their ideal population of 731,204 residents by less than 5%. The two exceptions were District 1, which had 87,689 extra residents and was overpopulated by 11.99%, and District 6, which had lost population, was underpopulated by 11.59% and needed to gain 84,741 residents.

Table 1: S.C. District Populations, Benchmark Plan

District Number	Population	Deviation
1	818,893	87,689
2	721,829	-9,375
3	706,785	-24,419
4	760,233	29,029
5	736,286	5,082
6	646,463	-84,741
7	727,936	-3,268

In response to this, and the fact that the map easily elected Republicans to Congress in five of the seven districts, the Republican-controlled General Assembly passed the Enacted Map, which Gov. Henry McMaster, also a Republican, signed into law on January 26, 2022. The resulting plan is contiguous and minimizes population deviations consistent with traditional principles and the U.S. Constitution.

Table 2: S.C. District Populations, Enacted Plan

District Number	Population	Deviation
1	731,203	-1
2	731,203	-1
3	731,204	0
4	731,204	0
5	731,204	0
6	731,204	0
7	731,203	-1

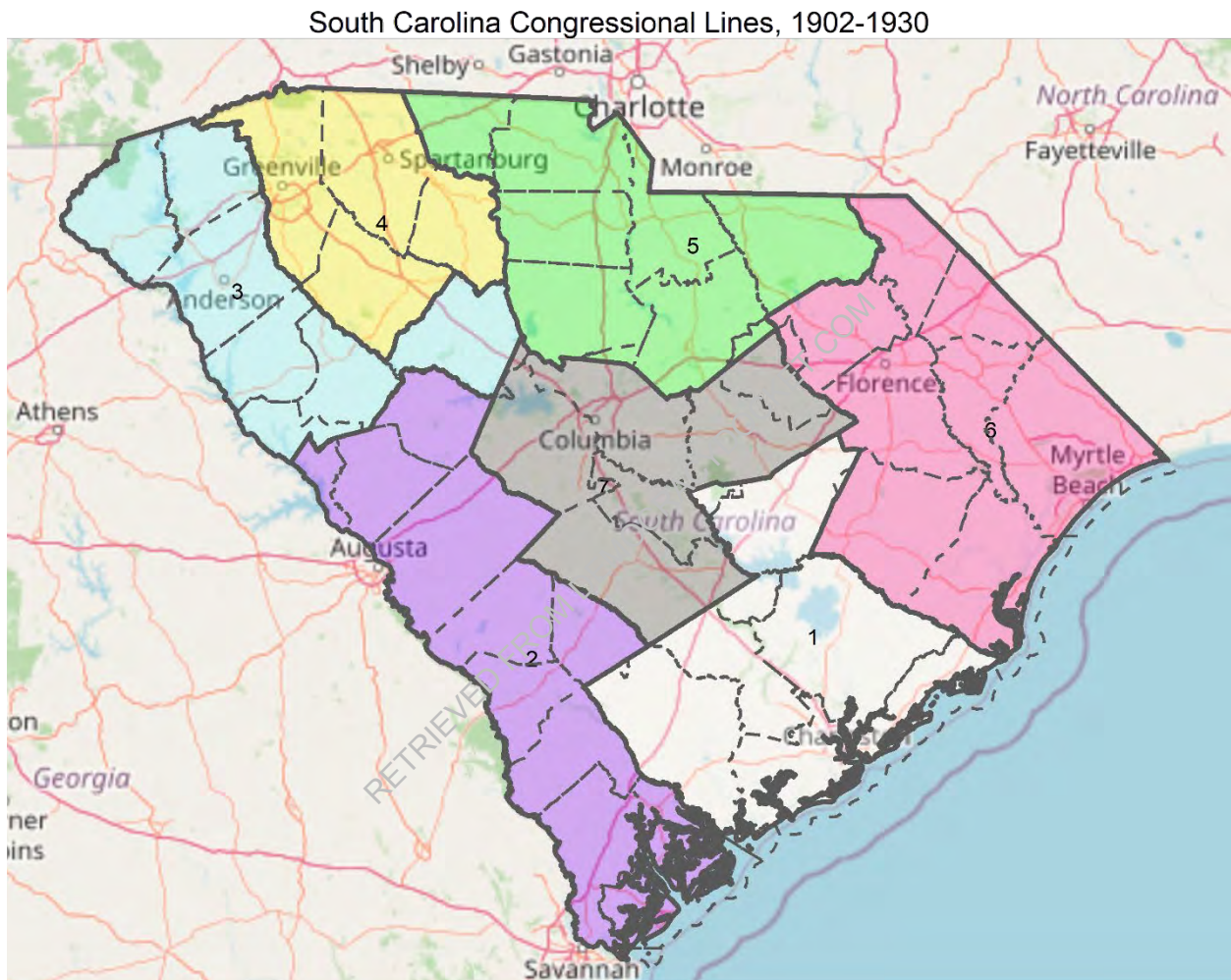
Respecting County, Municipal, and Precinct Boundaries

The map generally respects administrative boundaries to a substantially greater extent than the preceding map. The previous map split 12 counties, while also traversing 65 voting districts. The Enacted Plan reduces the number of split counties to 10. Six of those splits occur on the boundaries between Districts two through seven, which is only one more split than the realistic minimum number of county splits between six districts. District 1 and District 6 split four counties between them, for reasons described below. The Enacted Plan also reduces the number of split precincts to 13, from 65. *Compare* [House Plan 2 Senate Amendment 1 Political Subdivision Splits Between Districts\(2\).pdf \(scsenate.gov\)](#), with [Benchmark Congressional Political Subdivision Splits Between Districts.pdf \(scsenate.gov\)](#).

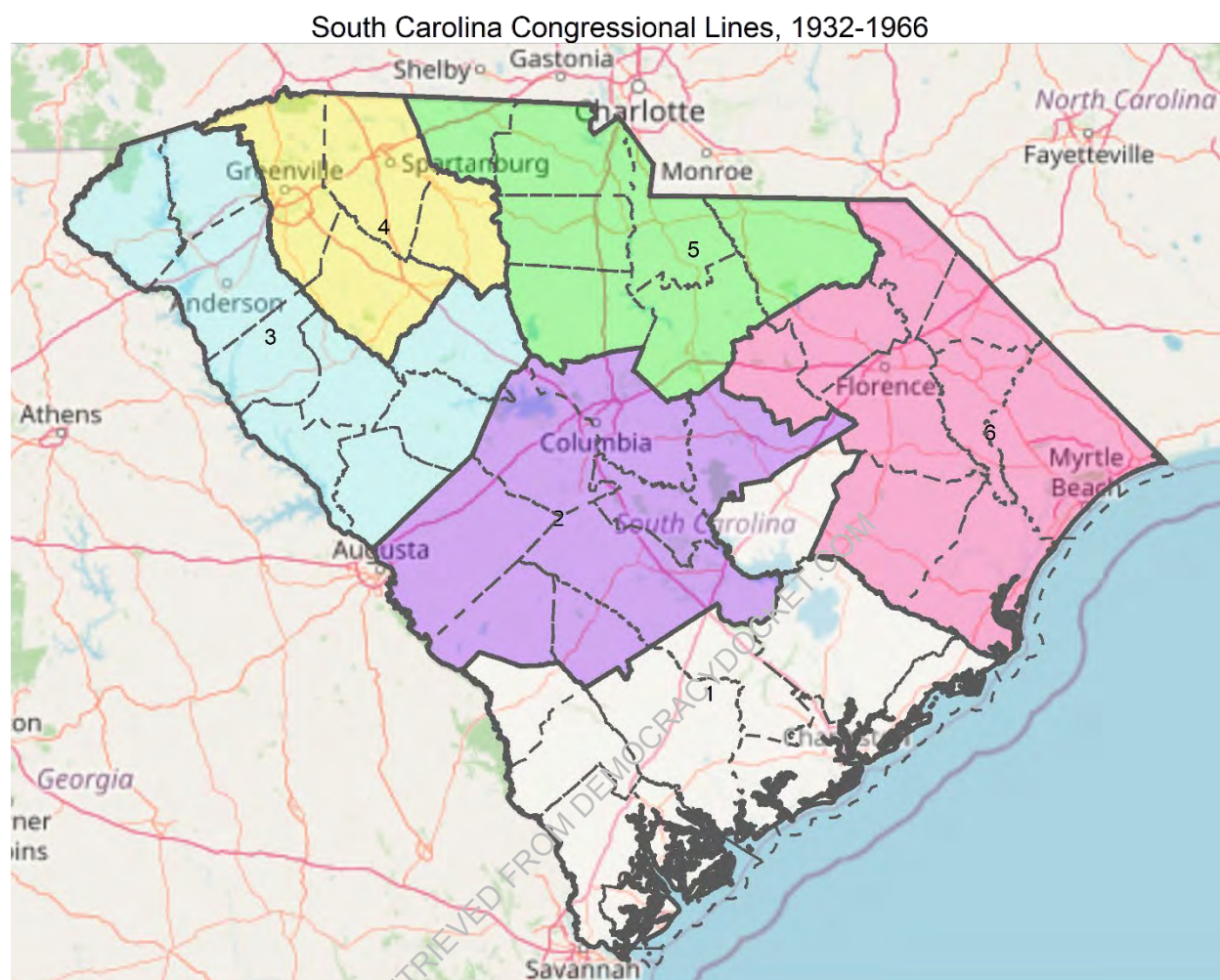
Preservation of District Cores

Despite significant changes to population, and the addition/subtraction of districts, South Carolina's district cores have remained surprisingly consistent over the past century. Going back to the early 1900s, the 1st District was anchored in Charleston, the 2nd District was anchored in Beaufort and the counties along the Georgia border. The 3rd District was anchored in Anderson,

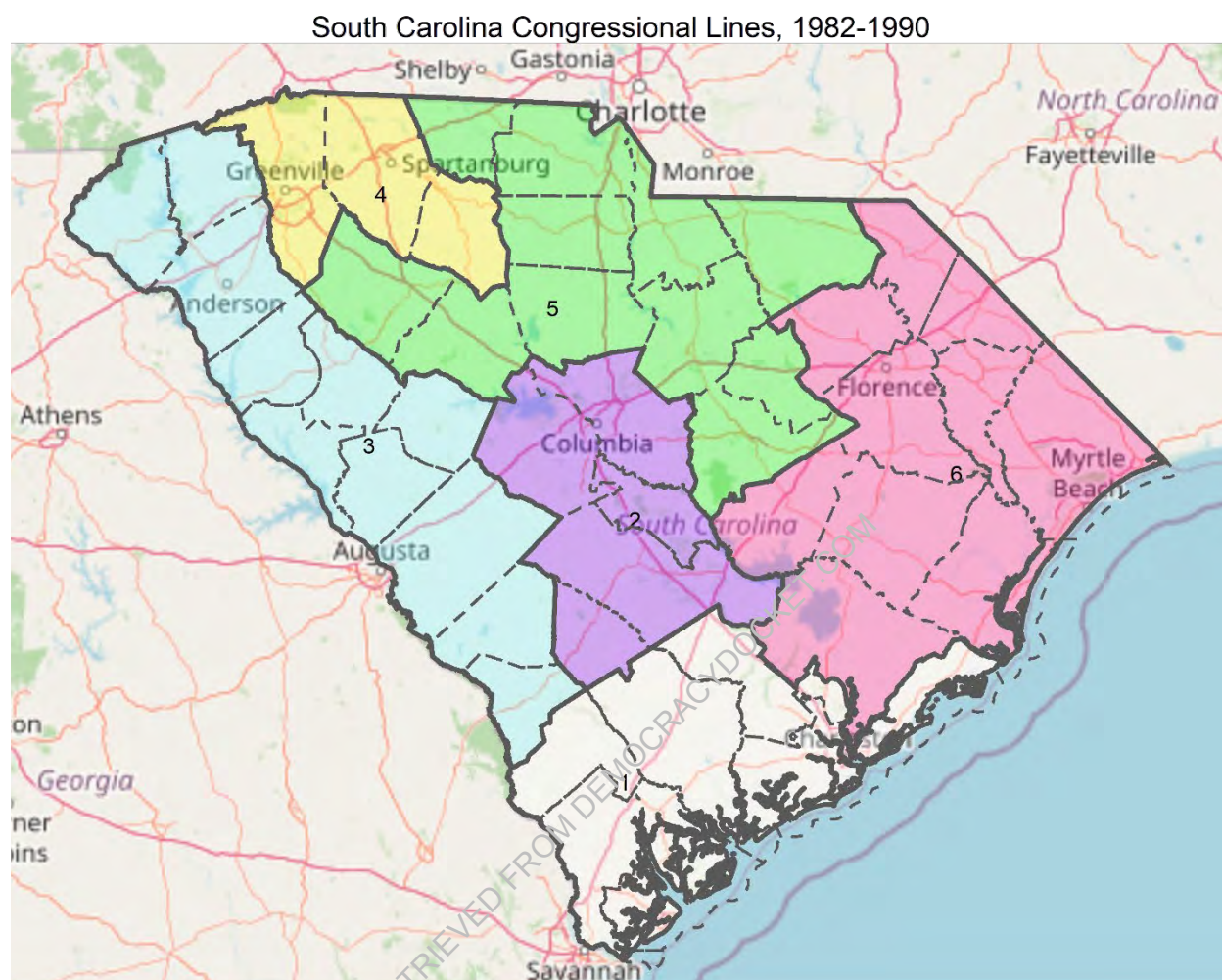
the 4th District combined Greenville and Spartanburg, the 5th District was anchored in then-rural northern South Carolina, the 6th in Myrtle Beach and the Pee Dee region, and the 7th in Columbia. There was, of course, a political balance struck, as three of the state's districts were anchored north of the Fall Line, three south of the Fall Line, and one in the Capitol, which is on the Fall Line.



In 1932, South Carolina lost a district. The Second and Seventh Districts were combined, creating a district based in Charleston stretching to the Georgia border.

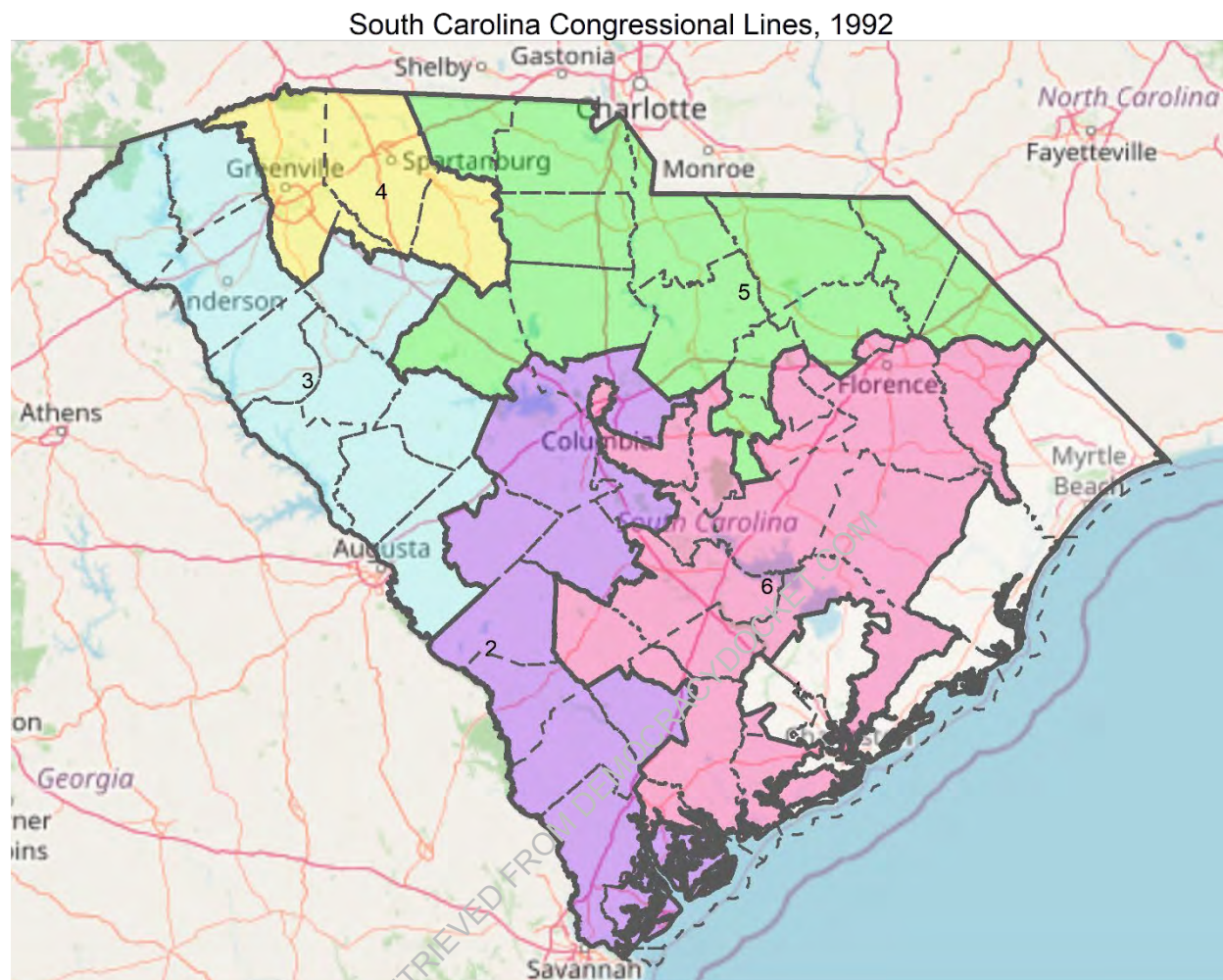


This basic arrangement of districts would endure for 60 years, even after *Baker v. Carr* and its progeny required equipopulous districts. The 1982 map would look very much recognizable to a map-drawer who had been involved in drawing lines earlier in the century.



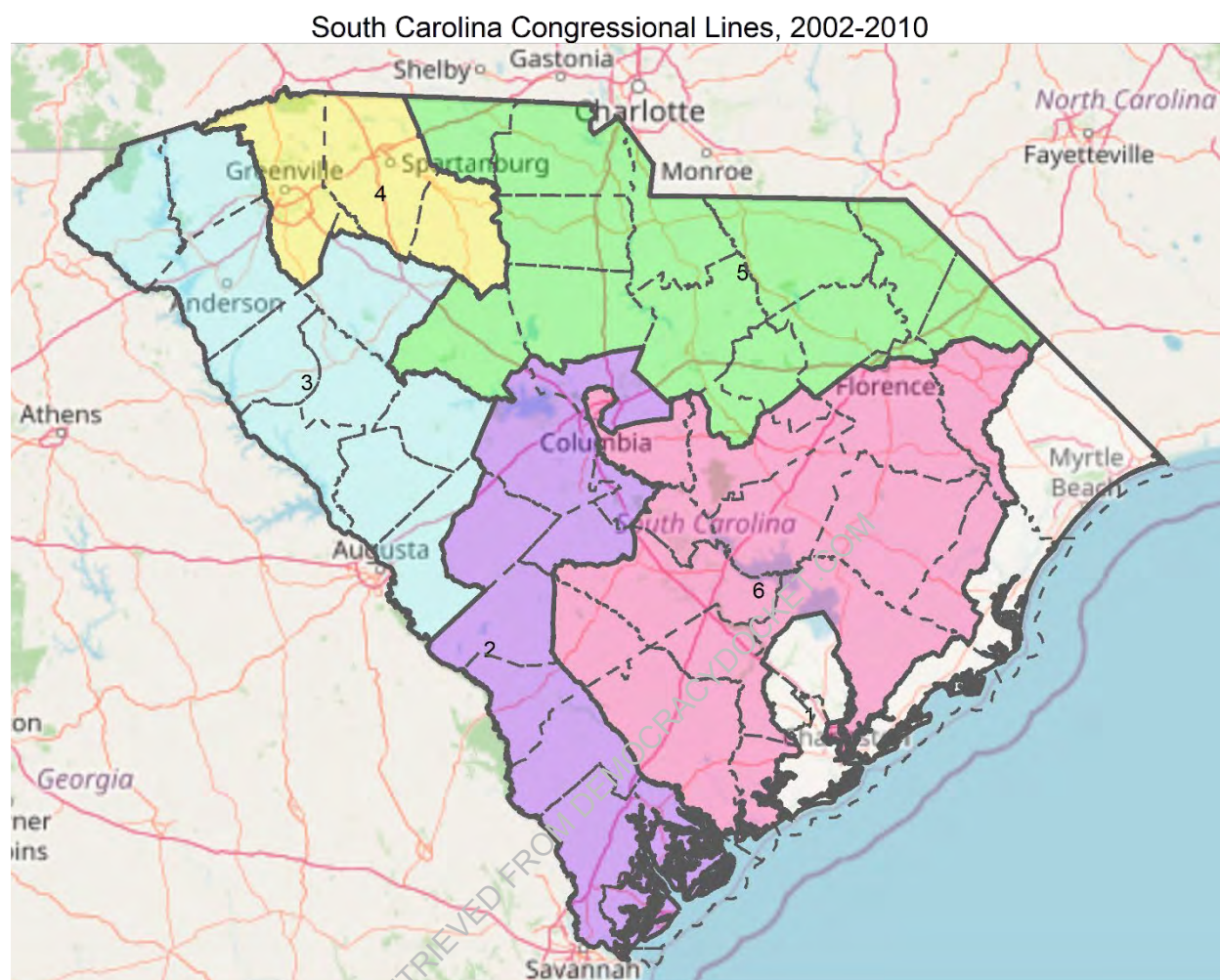
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In 1992, South Carolina reorganized the Lowcountry districts, in part to create an ability-to-elect district. It succeeded in this regard, as the 6th District elected Rep. Jim Clyburn, the first African-American member of Congress from South Carolina since 1897. Even then, there was much continuity in the maps. The Upstate districts as well as the Fifth District remained mostly unchanged. The First was still anchored in Charleston, although it was reoriented along the coast toward Horry County. The Second District was given its now-distinctive “hook” shape, and extended along the Georgia border. It was ultimately struck down as a racial gerrymander; the lines were slightly modified in 1994 and remained in place for the remainder of the decade.

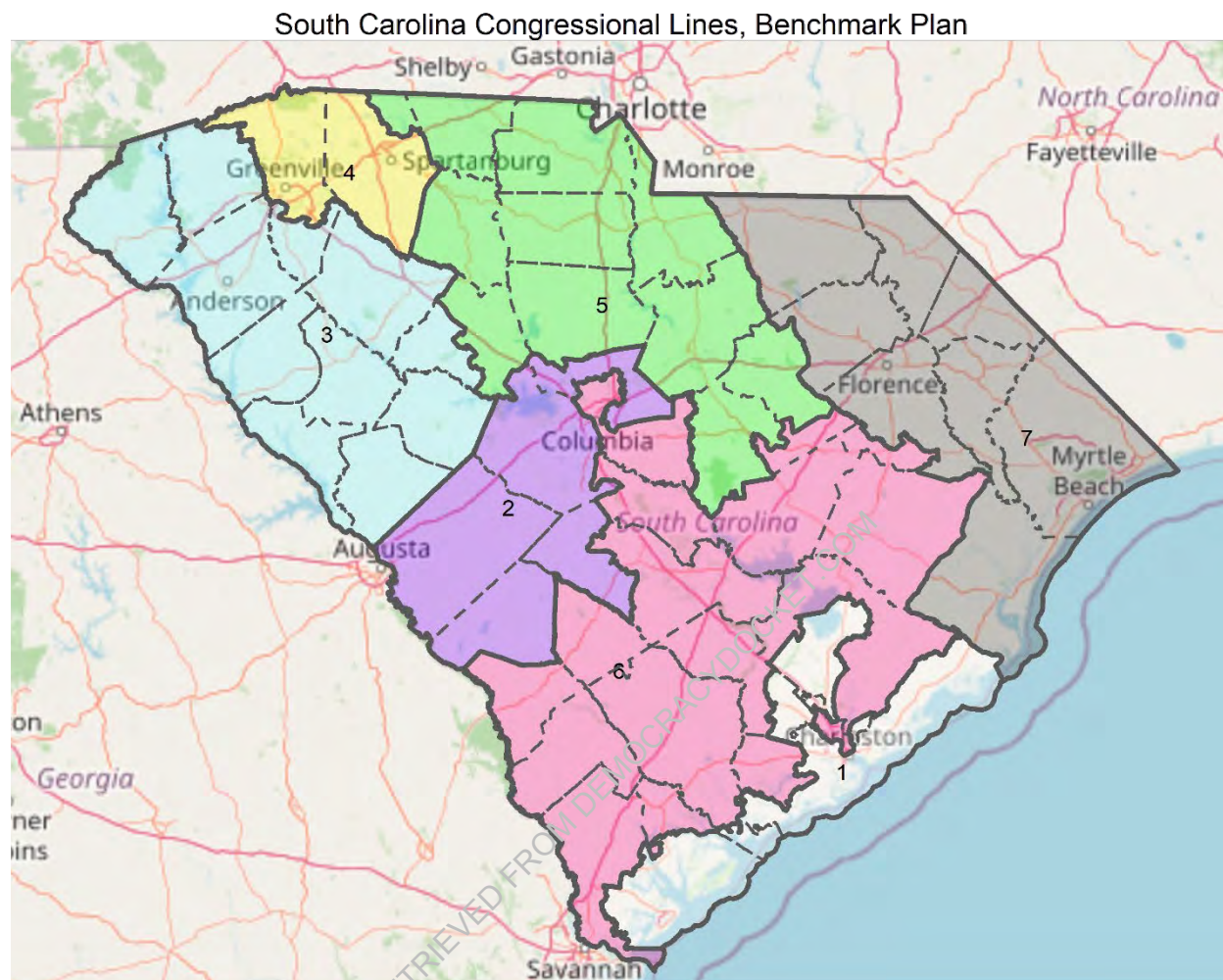


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In 2002, the Republican-controlled General Assembly and Democratic governor deadlocked over a plan, leaving it to this Court to draw the lines for the Congressional districts. While the court-drawn map smoothed out the lines, it retained largely the same map that had been in place.

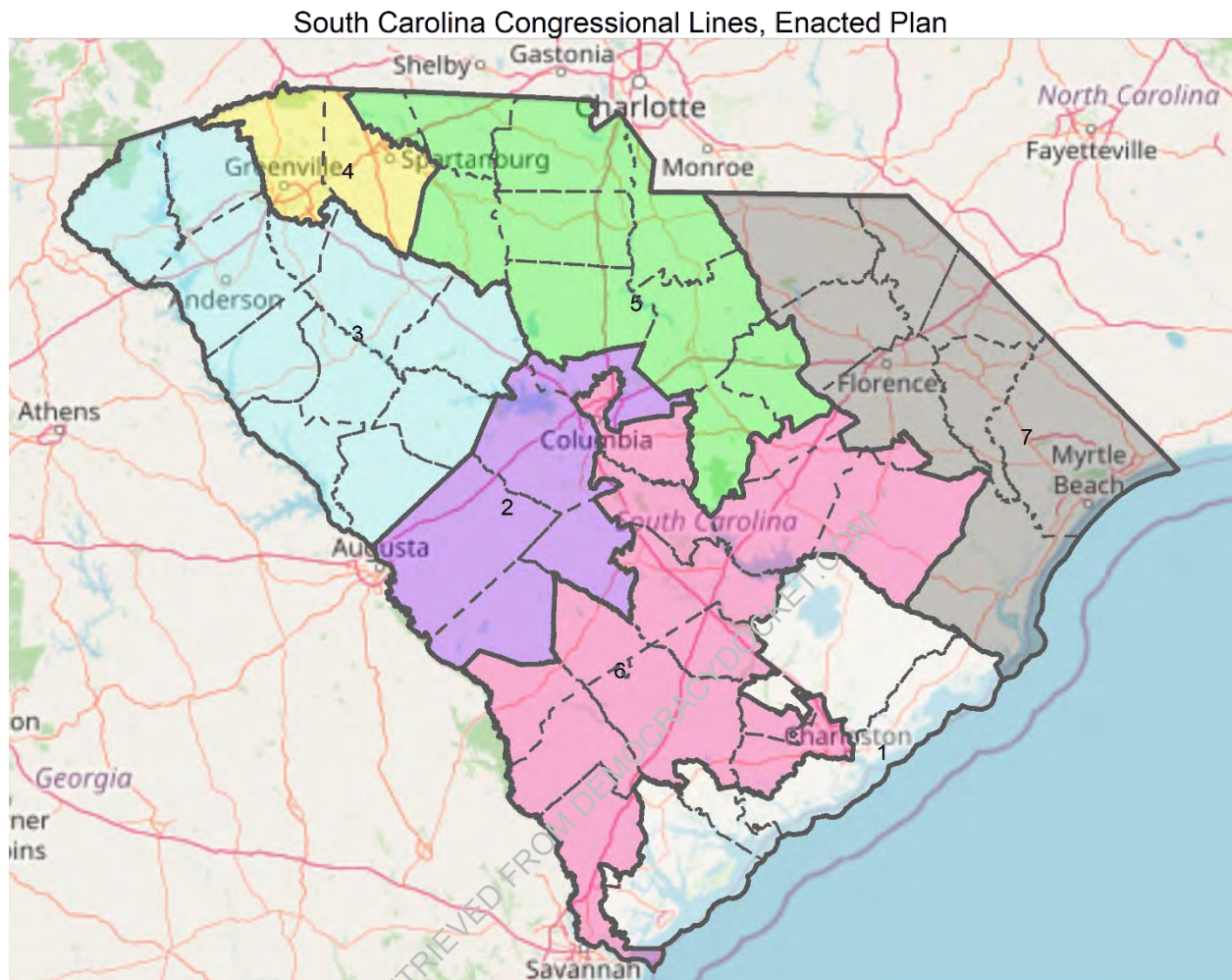


For the redistricting held in the wake of the 2010 census, Republicans controlled the legislature as well as the governorship. Population growth also led to the state gaining a seat in congressional redistricting. The General Assembly ultimately opted to create a district in the Pee Dee region and Myrtle Beach, effectively recreating the old 6th Congressional District.



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For the most part, the Enacted Plan makes only minor changes to the Benchmark Plan. All seven districts retain roughly their same “footprint,” or cores. The boundaries between District 1 and District 6 see the most changes. This is unsurprising, given that these districts were required to lose and gain a large number of residents, respectively; these changes are explored in more detail below. The Second District remains based in Columbia. The Third District is based around Anderson, while the Fourth connects Greenville and Spartanburg. The Fifth District’s population is centered around York County, which is increasingly comprised of suburbs of Charlotte, while the Seventh is anchored in Myrtle Beach and the Pee Dee region.



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Table 2 gives the “core retention” statistics for the state’s congressional districts. Core retention – which both this Court’s decisions and the redistricting guidelines promulgated by the General Assembly identified as a legitimate consideration – is the percentage of a district’s residents who are kept in a district from one redrawing to the next.

Table 3: Core Population Retention, S.C. Districts

District Number	% Retained
1	82.84%
2	98.01%
3	98.02%
4	94.34%
5	94.38%
6	87.55%
7	99.96%

Five of the state's seven districts have very high core retention rates, retaining over 94% of their populations from the Benchmark Plan, with District 7 retaining almost 100% of its core. Even the 1st and 6th districts retain a large share of their populations, with the Sixth approaching 90% retention and the 1st retaining over 80% of its core.

Table 4 gives a different perspective on these numbers. It shows the number of residents who are moved between districts. The left column represents districts that gave residents to other districts; these recipients are represented in columns. This table is best read in rows.

Table 4: Population Movements by District, 2012-2022 Lines

From	To						
	1	2	3	4	5	6	7
1	—	—	—	—	—	140,489	—
2	—	—	—	—	—	14,397	—
3	—	—	—	14,001	—	—	—
4	—	—	7,111	—	35,919	—	—
5	—	—	31,309	—	—	10,038	—
6	52,799	23,771	—	—	346	—	3,553
7	—	—	—	—	—	286	—

The largest two transfers of residents come from the boundary between District 1 and District 6. The former sheds 140,489 residents to the latter, while District 6 loses 52,799 residents to the former. District 2 sheds 14,397 residents to District 6, while gaining 23,771 residents back

from that district. The rest of the changes are marginal; the Third gives 14,001 residents to the Fourth District, while gaining back 7,111 residents from the Fourth and 31,309 residents from the Fifth District. In addition to the changes described above, the Fourth District donates 35,919 residents to the Fifth District. The Fifth District donates 10,038 residents to the Sixth, while receiving 345 residents back from it. The Seventh donates 286 residents to the Sixth and receives 3,553 residents back.

Compactness

There are many proposed ways to measure to the idea of “compactness,” and each captures a different aspect of the concept. Reock scores, for example, ask how well the district fills a circle drawn to bound the district; as a district becomes more circular and less elongated, its Reock score improves. The Convex Hull Score ask a similar question, but uses a polygon – a figure with straight sides and angles – to bound the district instead of a circle. The Polsby-Popper score takes a different approach and asks whether a district would fill a circle with the same perimeter/circumference as the district; this punishes districts with inlets and appendages. The Inverse Schwartzberg score has a similar motivation; it is calculated by taking the ratio of the perimeter of the district to the circumference of a circle with the same area as the district.

There are, again, dozens of proposed metrics. I utilize the four above because they give a look at different aspects of compactness for the district. Regardless, the compactness of the Enacted Plan is similar to that of the Benchmark Plan and of other plans since the creation of the current Sixth District in 1992.

Consider first Reock Scores. We cannot directly compare districts dating back to the 1982 redistricting, because of the differing number of districts. We can, however, compare districts in the Enacted Plan to those in the Benchmark Plan.

Table 5: Compactness Scores, Benchmark and Enacted Plans

District Number	Reock		Polsby-Popper		I. Schwartzberg		Convex Hull	
	Benchmark	Enacted	Benchmark	Enacted	Benchmark	Enacted	Benchmark	Enacted
1	0.196	0.290	0.101	0.148	0.318	0.385	0.588	0.705
2	0.470	0.443	0.168	0.164	0.410	0.405	0.727	0.721
3	0.446	0.432	0.329	0.345	0.573	0.587	0.858	0.849
4	0.378	0.359	0.254	0.234	0.504	0.484	0.797	0.774
5	0.331	0.295	0.213	0.229	0.461	0.479	0.756	0.780
6	0.426	0.365	0.080	0.075	0.283	0.274	0.656	0.577
7	0.343	0.346	0.301	0.299	0.548	0.547	0.789	0.796

For all of these metrics, higher numbers represent more compact districts. As you can see, for the most part, these districts have roughly the same scores across metrics. The 1st District is made somewhat more compact using the Reock and Convex Hull Scores, and the 6th somewhat less compact, but overall, the numbers are comparable. Using the perimeter-based metrics, the districts all have similar compactness scores.

As Table 6 shows, the average compactness scores for the plan are comparable to those we saw in the previous plan and are almost as compact as the scores in the pre-1992 redistricting map.

Table 6: Average Compactness Scores, 1982 - 2022 S.C. Districts

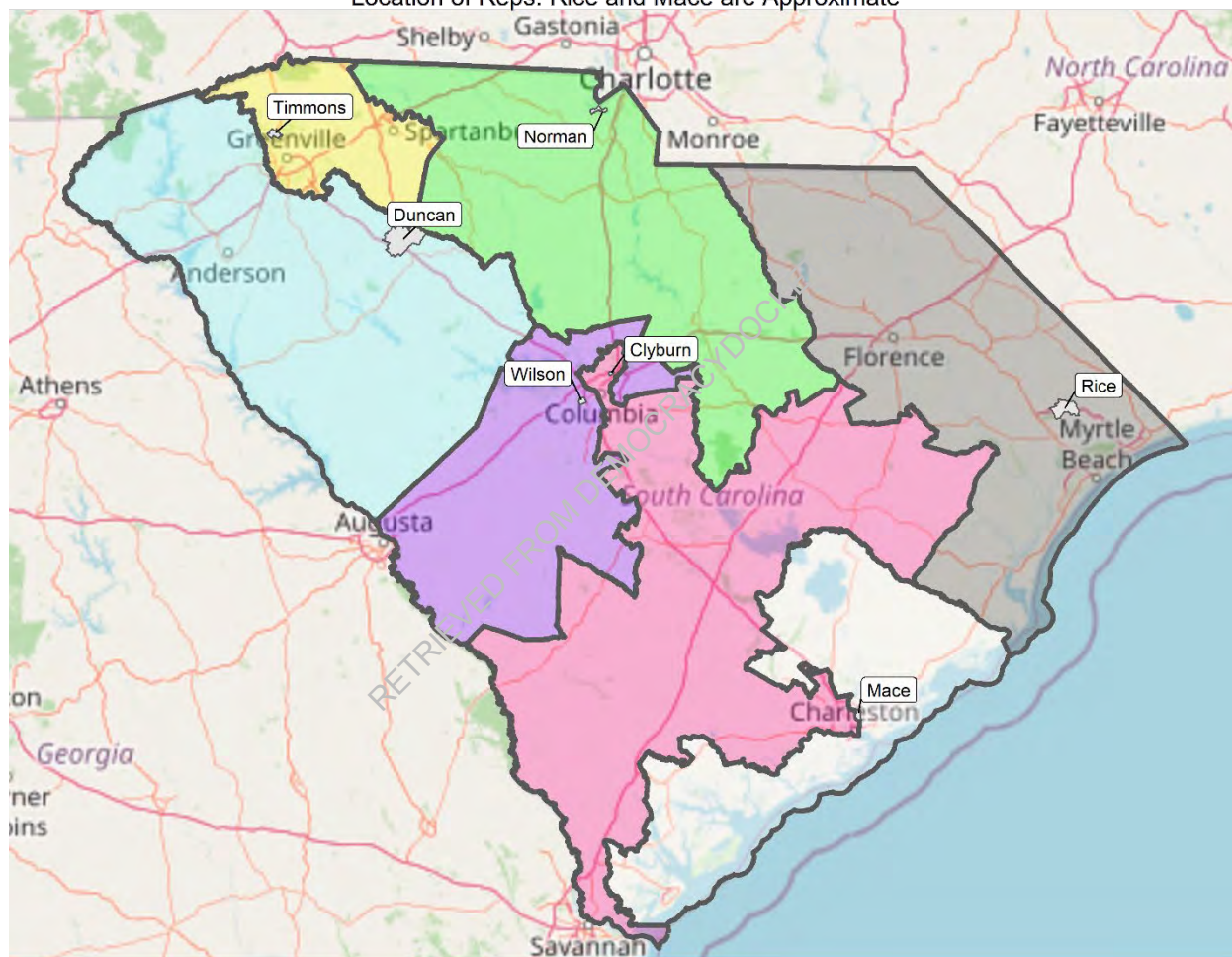
Year	Reock	Polsby-Popper	I. Schwartzberg	Convex Hull
1982	0.382	0.233	0.454	0.737
1992	0.318	0.125	0.318	0.664
2002	0.319	0.161	0.366	0.676
2012	0.370	0.207	0.443	0.739
2022	0.361	0.214	0.452	0.743

Incumbent Protection

As the following map demonstrates, the Enacted Plan ensures that representatives are not placed in the same districts. Note that the precise precincts in which Representatives Mace and Rice live have not been provided, so their locations are approximated from public information about their residences.

South Carolina Congressional Lines, Enacted Plan, Incumbents Precincts Labeled

Location of Reps. Rice and Mace are Approximate



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Racial Demographics and Politics

We will examine more closely changes in the individual districts below, but at a global level, the recent redistricting results in minimal changes to the Black Voting Age Populations (BVAPs) of the districts.

Table 7: BVAP Share, Old and New S.C. Districts			
District	BVAP, Old	BVAP, New	Difference
1	16.6%	16.7%	0.2%
2	23.1%	24.5%	1.4%
3	16.9%	17.1%	0.2%
4	17.8%	18.4%	0.7%
5	25.1%	24.0%	-1.0%
6	51.4%	45.9%	-5.5%
7	24.8%	24.8%	0.0%

Districts 1, 3, 4, and 7 see almost no changes in their racial demographics. Districts 2 and 5 see modest changes to their racial compositions, while the Black Voting Age population of District 6 is reduced by 5.6 percentage points as part of increasing the total population in that district to the level of population equality.

The political composition of these districts is likewise mostly unchanged, with two exceptions. Table 8 shows the results of the 2020 Biden-Trump election, with third parties excluded.

Table 8: Biden 2-Party Vote Share, Old and New S.C. Districts

District	Biden Percent, Old	Biden Percent, New	Difference
1	47.0%	45.6%	-1.4%
2	44.2%	44.6%	0.4%
3	31.0%	31.0%	0.0%
4	39.6%	40.6%	1.0%
5	41.6%	40.8%	-0.8%
6	67.8%	66.3%	-1.6%
7	40.6%	40.6%	-0.0%

Most of the districts see their Democratic vote shares remain stable, which is unsurprising given the high degree of core retention overall. The First District sees President Biden's vote share drop from 47% to 45.6%, while the Sixth sees his share drop from 67.8% to 66.3% -- the latter is still comfortably Democratic. The change in the First District is more politically consequential, as described below.

Table 9 shows how voters were moved between districts, broken down by partisanship. Again, most of the changes are fairly marginal. Between Districts 6 and District 1, the latter shed 10,808 Biden voters to the former, mostly in the Charleston area, while picking up a net of 3,242 Biden votes back from the Sixth, mostly in Berkeley County.

Table 9: Net Movement of Biden Voters by District, 2012-2022 Lines

From	To						
	1	2	3	4	5	6	7
1	-	-	-	-	-	10,808	-
2	-	-	-	-	-	2,755	-
3	-	-	-	698	-	-	-
4	-	-	-945	-	-8,220	-	-
5	-	-	-3,211	-	-	212	-
6	3,242	5,485	-	-	89	-	-498
7	-	-	-	-	-	-18	-

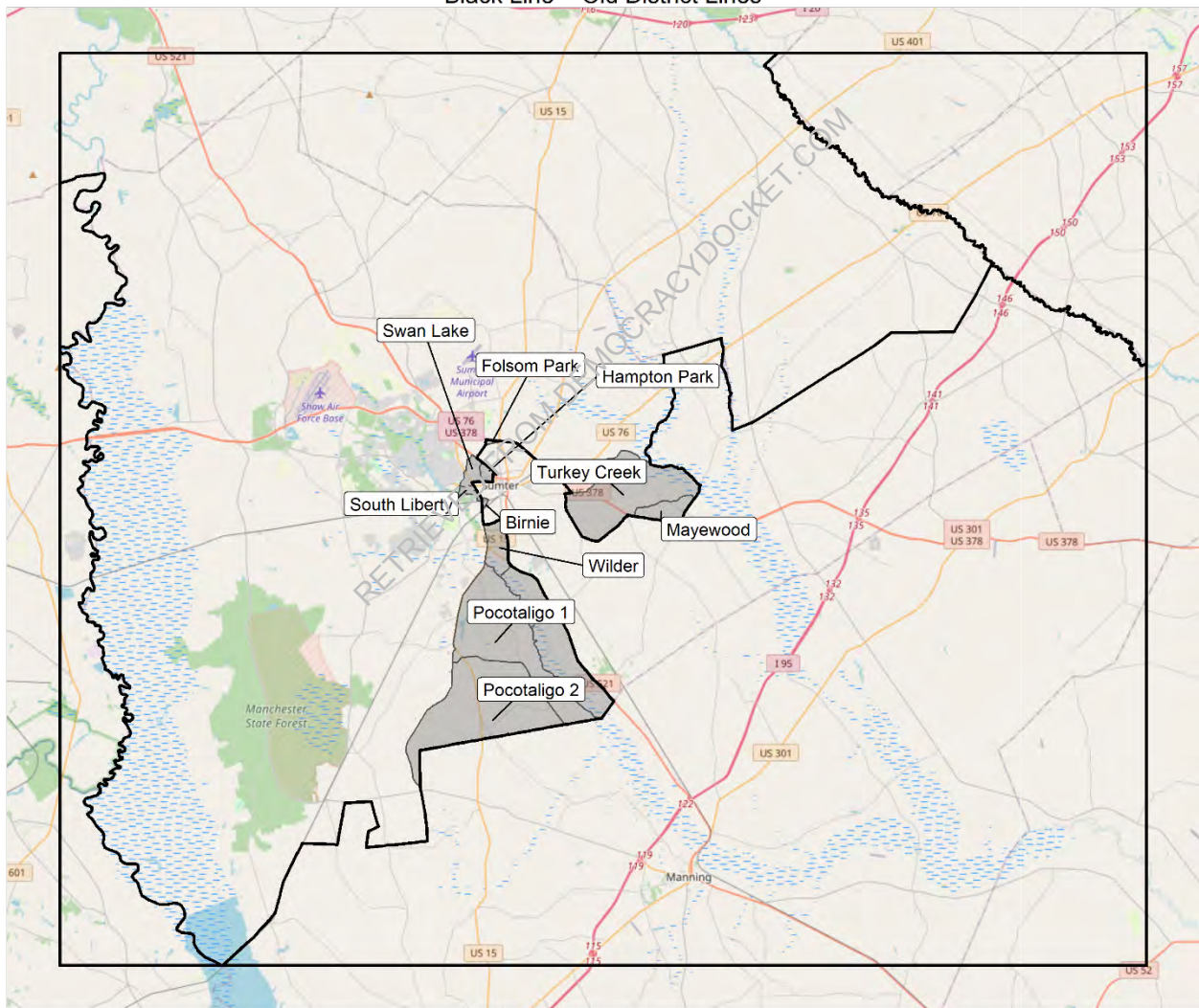
Specific Changes to South Carolina's Congressional Districts

The District 5 - District 6 Boundary: Sumter County

We first look at the changes made to the boundary between District 5 and District 6 in Sumter County. Sumter County has a population of 105,556 according to the last census, 81,402 of whom were of voting age. Of those residents of voting age, 46.3% are non-Hispanic White, while 45.7% are Black.

The Enacted Map moves a total of 10,384 residents. The shifts are depicted below:

Sumter Area, Moved Precincts Shaded
Black Line = Old District Lines



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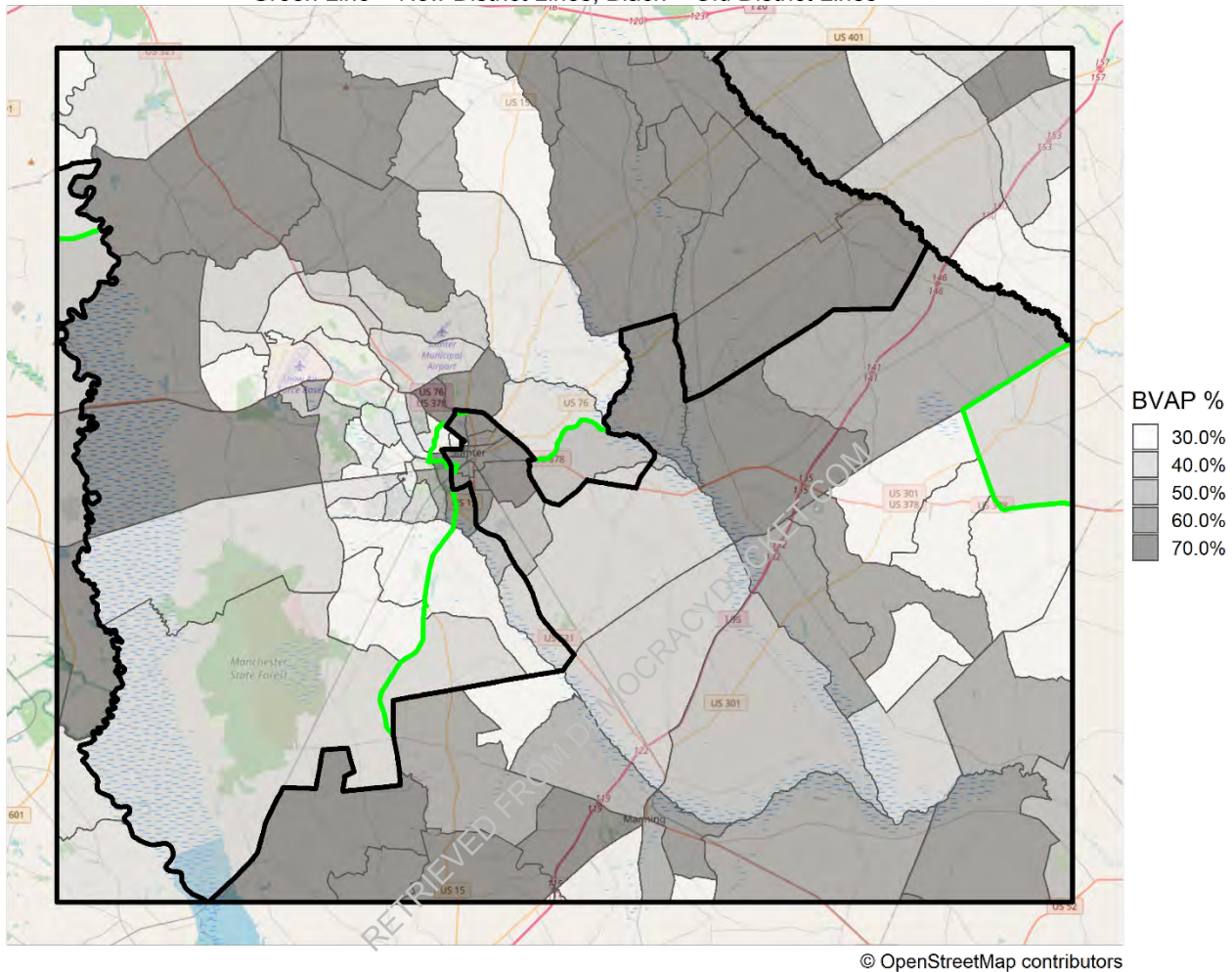
Most of these residents live in precincts that were split by the Benchmark Plan and are made whole by the Enacted Plan. The changes also tend to smooth the boundary between the districts. The pair of shaded precincts to the east of Sumter reflect the Mayewood and Turkey Creek precincts. Portions of these precincts also lie to the west of the old District 6, adjacent to the Pocotaligo 1 District. These portions are joined into a single district in the Enacted Plan. The map also adds Wilder, Pocotaligo 1 and Pocotaligo 2 as whole precincts to the Sixth District, smoothing the boundaries between the two districts. The 7,299 residents added to the Sixth District here are 51.8% non-Hispanic White and 41.3% Black.

In the city of Sumter itself, the map drawers made the South Liberty and Hampton Park precincts whole within the Sixth District, and added the Swan Lake precinct, which smooths the boundary between the Fifth and Sixth. A portion of the Birnie Precinct, which is already split in the Benchmark Plan, is also added to the Sixth. Overall, 2,739 residents, of whom 2,221 are of voting age, are added to the Sixth District. Of these, 62.3% are non-Hispanic White, and 30.7% are Black.

The map also moves a small sliver of the Folsom Park precinct to the Fifth District, making that precinct whole, and some census blocks in the Birnie Precinct to the Fifth. This totals 346 residents, of whom 235 are of voting age. They are 93.6% Black and 5.1% non-Hispanic White.

The following map shows the old and new district boundaries in Sumter County, superimposed over the precincts in Sumter County. These precincts are shaded by the BVAP shares in each precinct.

Sumter Area, Precincts Colored By BVAP
Green Line = New District Lines, Black = Old District Lines

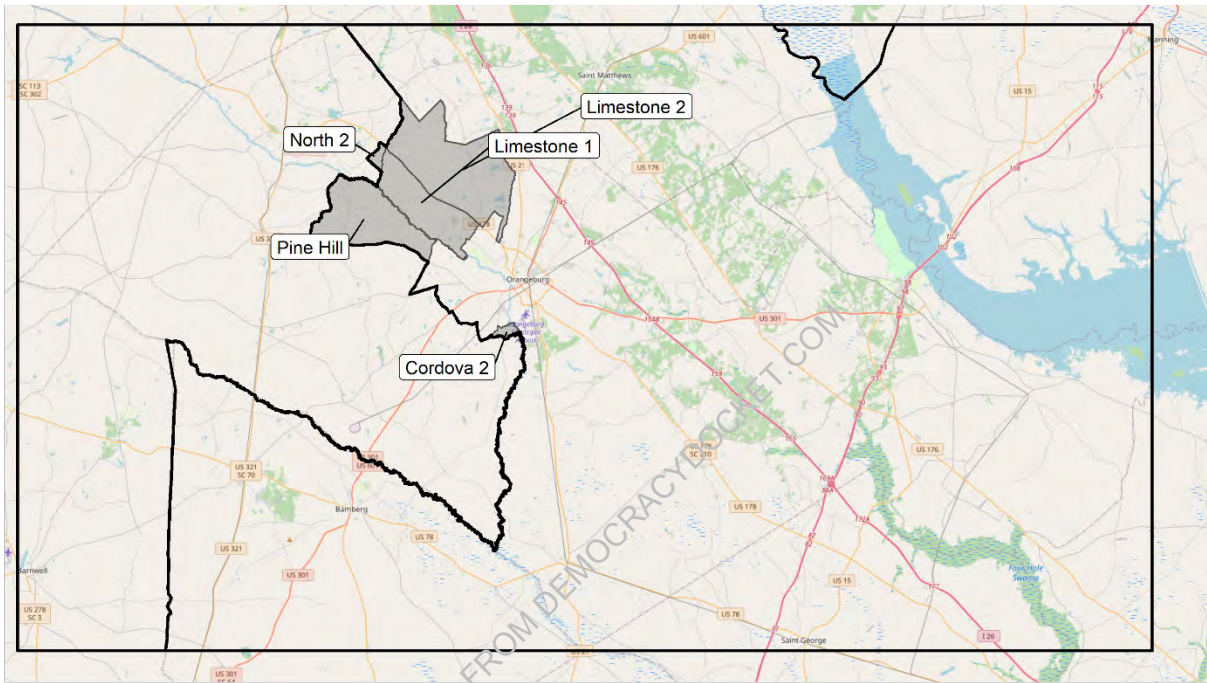


The District 2- District 6 Boundary: Orangeburg County

The Enacted Plan also makes changes to the boundary between District 2 and District 6 in Orangeburg. Orangeburg County had 84,223 residents in the 2020 census count. Of these, 66,567 are of voting age. The Voting Age Population is 59.9% Black and 34.9% non-Hispanic White.

The changes to the boundary in Orangeburg are illustrated in the following map:

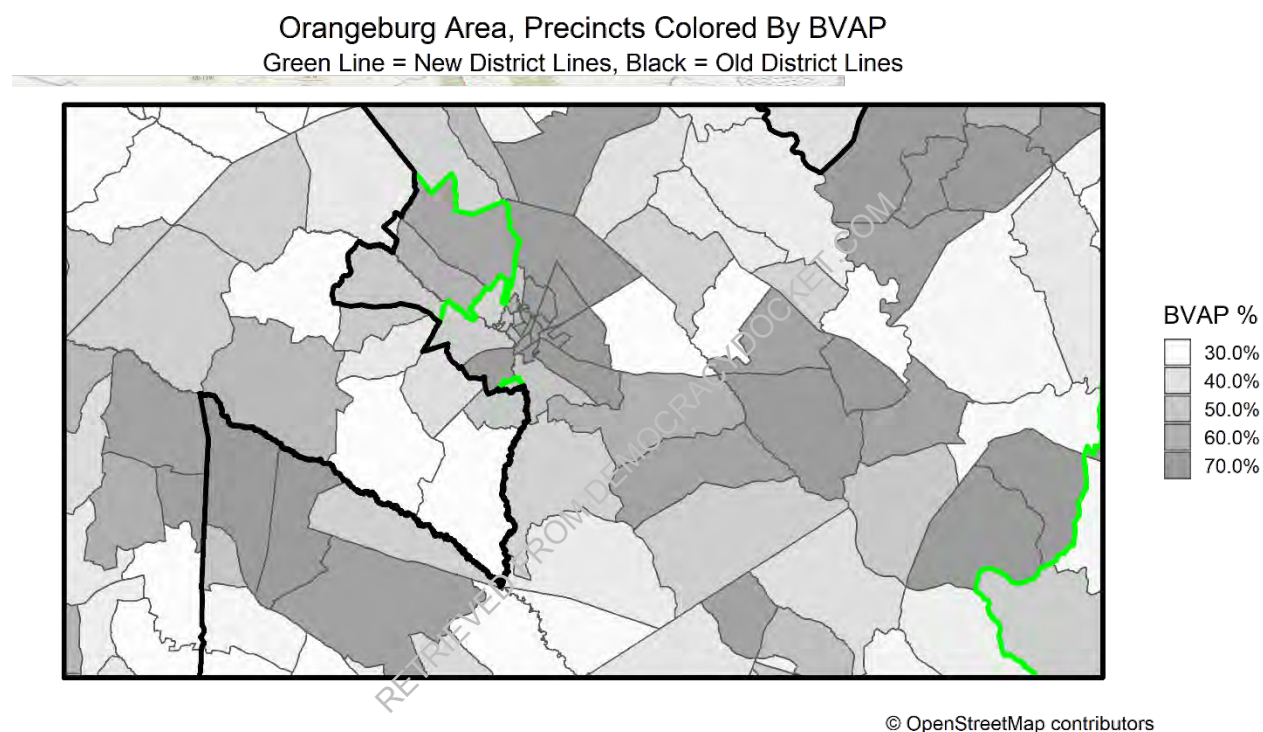
Orangeburg Area, Moved Precincts Shaded
Black Line = Old District Lines



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In total, five precincts, or portions of precincts, are changed. South of Orangeburg, a small portion of Cordova 2 precinct is moved to the Second District, making that precinct whole. Northwest of Orangeburg, a portion of North 2 precinct and a portion of Pine Hill precinct are also assigned to the Second, making those precincts whole. Finally, Limestone 1 and 2, the only precincts in the area not also contained at least partially within the Orangeburg city boundaries, are also assigned to the Second District.

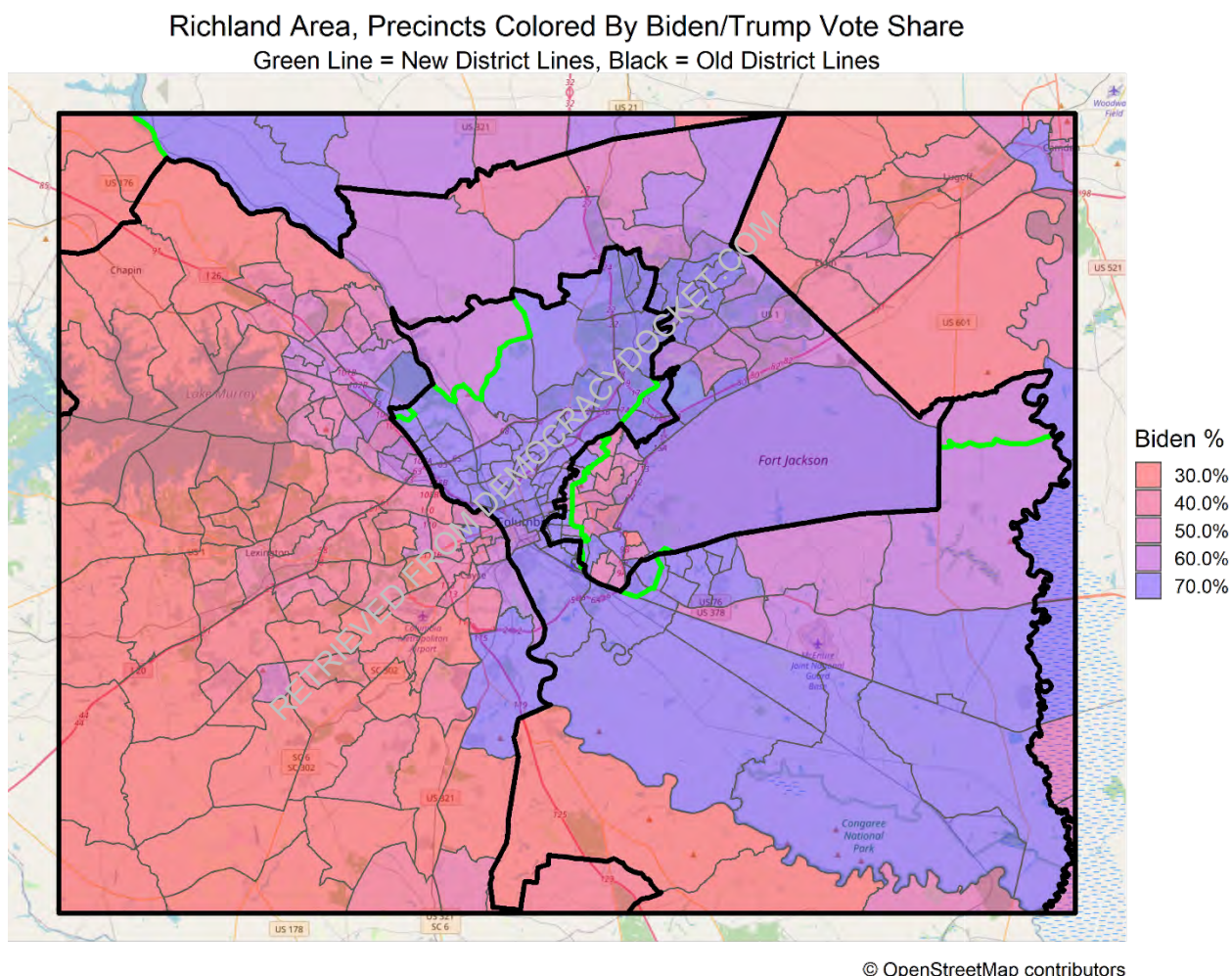
Overall, 5,973 residents are moved, of whom 4,522 are of voting age. These voting-age residents are 60.9% Black and 31.9% non-Hispanic White. The old and new boundaries between the two districts are reflected in the following map, while the precincts are shaded by their BVAP.



The District 2- District 6 Boundary: Richland County

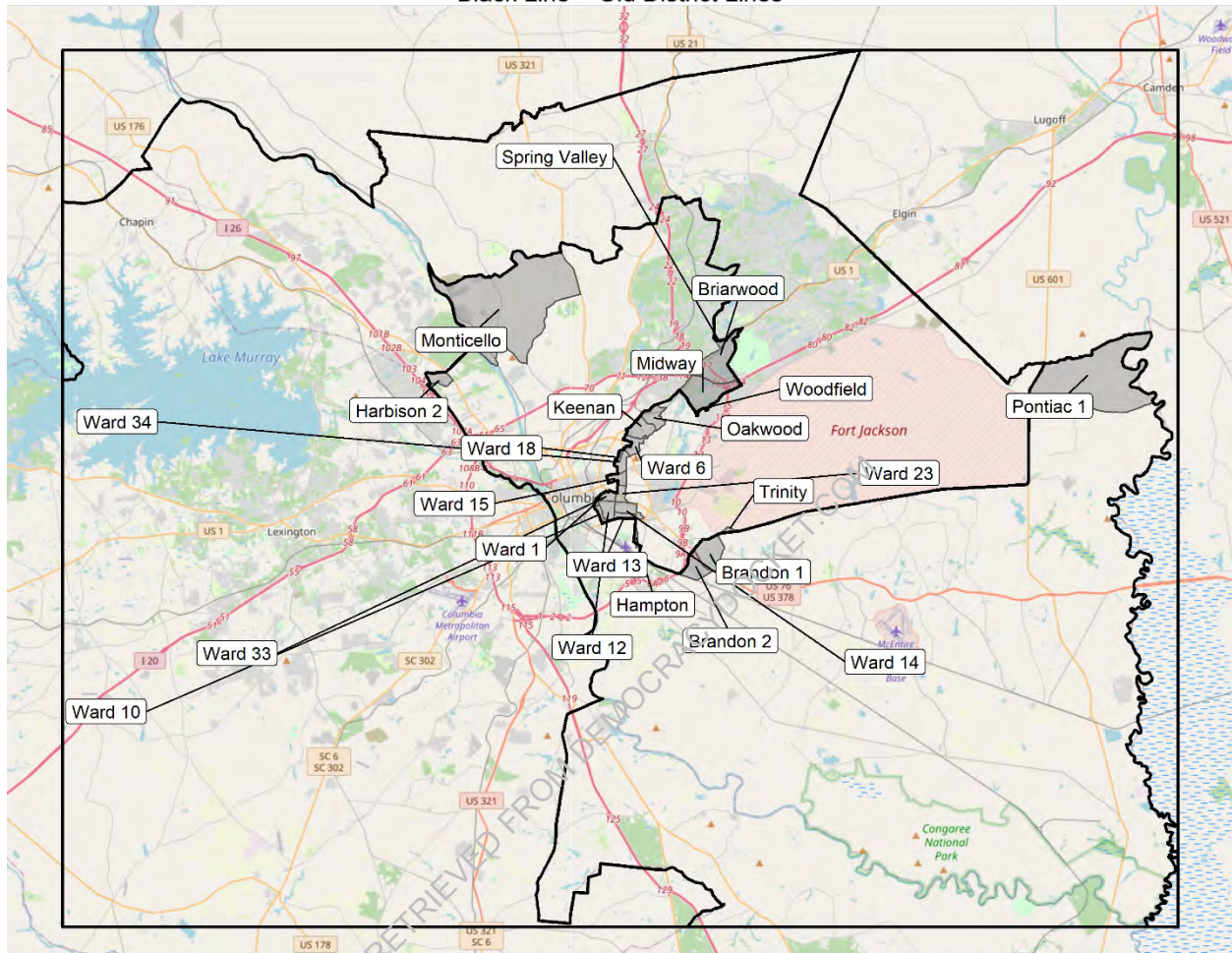
The map also changes the boundary between District 2 and District 6 in Richland County. Richland County includes the capital city of Columbia. It has 416,417 residents, of whom 327,481 are of voting age. 44.4% of these residents of voting age are Black, while 44.3% are non-Hispanic White.

The boundary between the two districts gives a distinctive “hook” shape to the Second District. The following map demonstrates the reason for retaining this hook shape. It superimposes the lines from the Benchmark Plan and Enacted Plan over the precincts in the county, shaded by two-party presidential vote share. The Second District wraps around to take Fort Jackson into District 2, which is represented by Joe Wilson, a member of the House Armed Services Committee.



The changes to the lines here mostly make precincts whole, or add Democratic-leaning voters to the Sixth District, which needed to gain population. They are shaded in the following map:

Richland Area, Moved Precincts Shaded
Black Line = Old District Lines



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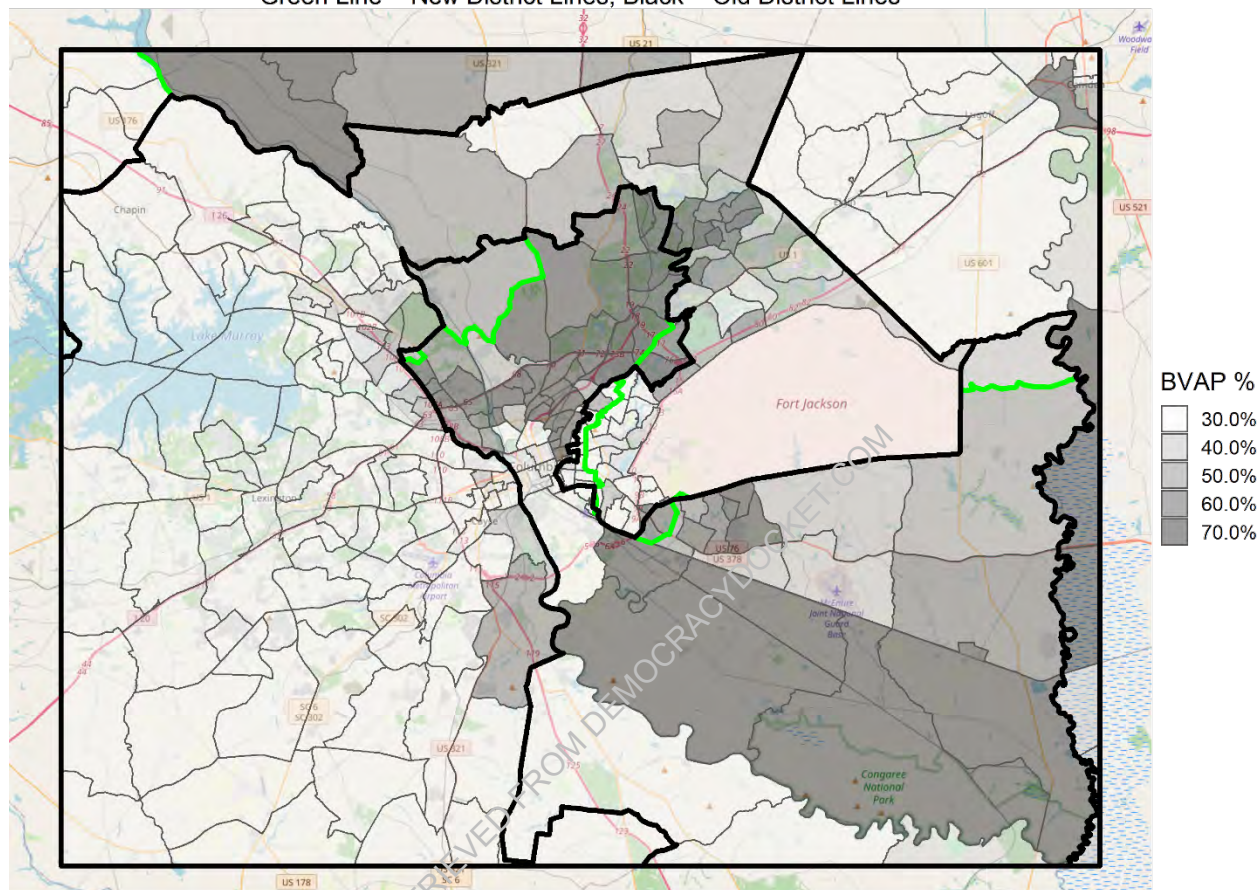
To the east of Fort Jackson, a portion of the Pontiac 1 precinct is moved from the Sixth District to the Second, making that precinct whole. To the south of Ft. Jackson, parts of Brandon 1 and 2 precincts are moved to the Second, making those precincts whole. To the north of Ft. Jackson, a portion of Briarwood precinct is added to the Second District, making it whole; Midway precinct is added to the Second, making the boundary between the two a smooth line. A portion of Spring Valley precinct is also added to the district. On the northwest side of the city, portions of Harbison 2 precinct and Monticello are added to the Second, making those precincts whole.

Overall, 17,798 people are moved from the Sixth to the Second here, of whom 13,585 are of voting age. Of these, 60.9% are Black, and 24.1% are non-Hispanic White.

The map also shifts several precincts, or portions of precincts, located west of downtown Columbia from the Second to the Sixth District. Of these, nine shifts make precincts or wards whole. This shifts 14,397 residents, of whom 11,918 are of voting age. These residents are 79.2% non-Hispanic White, and 13% Black. However, they are also heavily Democratic, having cast an estimated 67% of their votes for Joe Biden. Included in these changes, some blocks are moved in the Hampton precinct, with 52 residents of Block 1004 moved to the Second District (55.6% of the VAP of this group are White), while 360 residents are moved to the Sixth District (65% of the VAP of this group are White). A map of the old and new lines superimposed over the precincts in Richland County, shaded by race, is provided below:

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Richland Area, Precincts Colored By BVAP
Green Line = New District Lines, Black = Old District Lines



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The District 1-District 6 boundary: Charleston Area

When the First District was drawn in 2012, it was not politically competitive. Republicans had held the seat since 1980. In the 2008 presidential election, the district voted for John McCain over Barack Obama by 13 points, and in 2012 it went for Mitt Romney by an 18-point margin. *See Barone, et al, The Almanac of American Politics, 2014 1485 (2013).* The Cook Political Report gave the district an 11-point Republican lean.

Over the course of the decade, however, the district became increasingly competitive. In 2016, Donald Trump's vote margin fell to 14 points, even as he improved upon Romney and

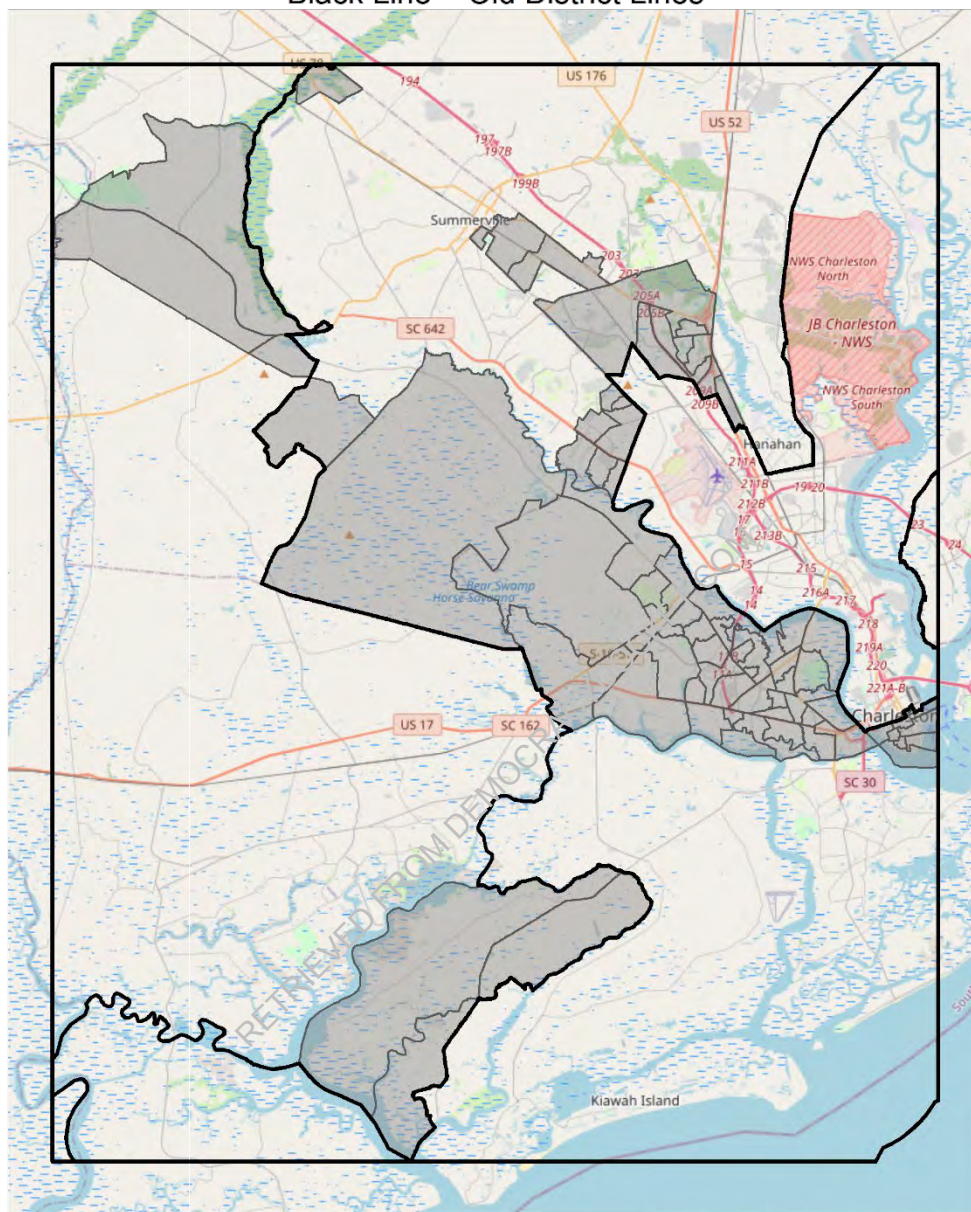
McCain's national vote shares. Cohen & Barnes, *The Almanac of American Politics*, 2018 1681 (2017). In 2018, incumbent Republican congressman Mark Sanford lost the Republican primary to Katie Arrington. Arrington, in turn lost the district to Democrat Joe Cunningham in the 2018 election by a 3,982-vote margin. In 2020, Cunningham lost the district to Republican Nancy Mace by a margin of 5,415 votes. At the same time, as shown in Table 5 above, Donald Trump carried the district by just six points, putting it in the range of competitive territory.

Population growth in the First required it to shed residents under the Enacted Plan. This shedding was done in a way that improves Republican prospects in the district. In particular, Table 8 above shows that the changes resulted in a 1.4% decrease in Joe Biden's vote percentage in District 1. That decrease corresponds to a 1.4% increase in Donald Trump's vote percentage (excluding third parties). Thus, all told these shifts result in a total change to the margin between the Democrat and Republican vote shares in District 1 of almost 3% in favor of Republicans, outstripping Joe Cunningham's margin over Arrington.

First, map drawers made Berkeley County whole, and placed it all within the First District. Berkeley County has 229,861 residents, of whom 173,949 are of voting age. Of these, 22.6% are Black, while 62.8% are non-Hispanic White. In 2020, this county voted for former President Trump by an 11-point margin. However, the residents of the shifted portions of Berkeley County are different politically than the rest of Berkeley County; they voted for President Joe Biden by roughly a 2,200-vote margin.

Second, map drawers made changes in Charleston and Dorchester counties. The peninsula on which Charleston sits is placed wholly within the Sixth District under the Enacted Plan, as is the portion of Charleston County to the northwest of the city. To the west, the boundary is moved from the Ashley River to Wappoo Creek, adding the West Ashley area to the Sixth. Portions of Dorchester County close to the city are also added to the Sixth. The changes are illustrated in the following map:

Charleston Area, Moved Precincts Shaded Black Line = Old District Lines



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Third, map drawers made Beaufort County whole and added a small portion of Jasper County in District 1.

Changes to Districts 1 and 6 bring the district line into conformity with natural geographic boundaries. The Cooper River separates the Charleston Peninsula in District 6 from Daniel Island (which the Enacted Plan makes whole) in District 1. The Charleston Harbor separates the Charleston Peninsula from Mount Pleasant in District 1. The Stono River and Wappo Creek separate James Island and Johns Island in District 1 from St. Andrews in District 6. And the


Wadmalaw River in Charleston County separates Wadmalaw Island in District 1 from St. Paul's in District 6.

All told, 140,489 residents are moved from the First to the Sixth, of whom 113,531 are of voting age. Of these voting-age residents, 63.9% are non-Hispanic White, while 23.4% are Black. This compares to an overall combined BVAP in Charleston and Dorchester Counties of 22.5%, so the net effect of these moves on the racial composition of these districts is minimal. But moving these residents reduces the Democratic performance in District 1 appreciably, as these residents voted for Joe Biden by an 18% margin. Another 5,309 voters are moved in from the 6th district to the 1st; these voters are 64% non-Hispanic White, and voted slightly for President Trump.

As noted above, when combined the population swaps between Districts 1 and 6 make the First District on net three points more Republican on the two-party vote share. Significantly, this exceeds former Representative Cunningham's vote share in the district in 2018. By reducing President Biden's vote share to 45.6%, in a year in which he won 52% of the two-party vote nationally, the General Assembly likely moved the district out of competitive territory and into reliably Republican territory, at least in the short term.

VI. Conclusion

The Enacted Map generally reflects only modest changes from the map that was in effect from 2012-2020 and comports with traditional districting principles identified by this Court and the General Assembly. The Enacted Map retains high percentages of the cores of all of the Benchmark Districts, which the Court upheld against racial gerrymandering and other challenges in *Backus*. To the extent the Enacted Map changes district lines, most districts changed only marginally, and those changes either smooth out existing lines or make precincts whole. The one exception is the First District. The changes in the First do little to change the racial composition of that district, but make it meaningfully more Republican in light of its recent electoral history.



Sean P. Trende

4/18/2022

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Exhibit 33

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

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP, *et al.*,

Plaintiffs,

v.

HENRY D. MCMASTER, *et al.*,

Defendants.

Case No. 3:21-cv-03302-JMC-TJH-RMG

Rebuttal Report of Sean P. Trende

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I. Response to Dr. Imai

I have been asked by counsel to respond to the Expert Report of Kosuke Imai, Ph.D., dated April 4, 2022 (“Imai Report”). Dr. Imai runs three sets of simulations. The first set of simulations utilizes all of the precincts, or portions of precincts, contained in Districts 1 and 6 in the Enacted Plan (the “Districts 1 and 6 Ensemble”). The second set of simulations utilizes only the precincts in Charleston County, after “freezing” the precincts outside of Charleston County into Districts 1 and 6 (the “Charleston Ensemble”). The final set of simulations utilizes all statewide precincts, requires that the Sixth District have a BVAP of between 45% and 50%, and creates statewide seven-district maps (the “Statewide Ensemble”). The 10,000 alternative maps produced contain districts that are contiguous, avoid incumbency pairing, achieve, on average, the same compactness as the Enacted Plan, and on average result in no more municipal and county splits than the corresponding number under the Enacted Plan.

Dr. Imai concludes as follows:

- None of his simulations of Districts 1 and 6 place the Black Voting Age Population (BVAP) as low as 17.4%, which is District 1’s BVAP in the Enacted Plan. The BVAP of the Enacted Plan is 3.1 standard deviations from the average BVAP of the Districts 1 and 6 Ensemble.
- For the Charleston simulations, only 0.2% of the plans assign a lower BVAP to District 1 than the simulated plans. District 1’s BVAP of the Enacted Plan is 2.9 standard deviations from the average BVAP of the Charleston Ensemble.
- For the statewide simulations, the BVAP of the First District is about 4.5 standard deviations lower than that found in the average Statewide Ensemble plan. The BVAP of the Second District is about 4.8 standard deviations lower than that found in the average Statewide Ensemble plan. Dr. Imai further shows that almost none of his plans split Sumter County between District 5 and District 6. Dr. Imai concludes that the boundaries in the Enacted Plan “can neither be explained by compliance with the VRA constraint nor the traditional redistricting criteria.” Imai Report ¶¶ 38, 42, 45.

Dr. Imai’s simulations, however, do not support his conclusions and inferences because Dr. Imai does not adequately control for all of the traditional redistricting criteria. As detailed in the Expert Report of Sean P. Trende (“Trende Report”), this Court (in *Colleton County* and

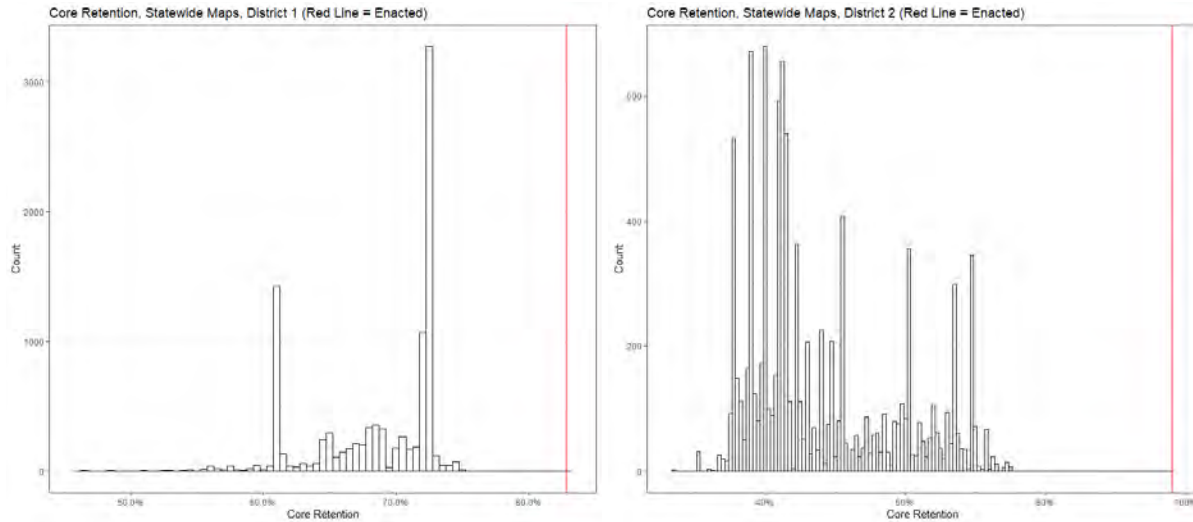
Backus), the Senate Guidelines, and the House Guidelines all recognize many traditional criteria that the General Assembly may follow in drawing redistricting plans. Dr. Imai's simulations, however, do not address, much less control for, several such criteria. His conclusions regarding the purported use of race in the Enacted Plan, therefore, are not adequately supported.

A. Dr. Imai's Simulations Do Not Control For Core Retention.

The first traditional principle recognized by this Court, the Senate Guidelines, and the House Guidelines for which Dr. Imai does not control is core retention. As noted in the Trende Report, the cores of the districts have been surprisingly consistent in South Carolina for over 100 years. The unusual boundaries of which Dr. Imai's Report complains, such as the "hook" shape in Richland County, the split of Sumter County, and the divvying up of Charleston and some of its suburbs, have been features of the South Carolina map for 40 years. The Enacted Plan continues this tradition: it preserves over 94% of the cores of five districts, including almost 100% of District 7's core, as well as nearly 90% of District 6's core and over 80% of District 1's core, even though those two districts had significant population deviations under the 2020 Census results.

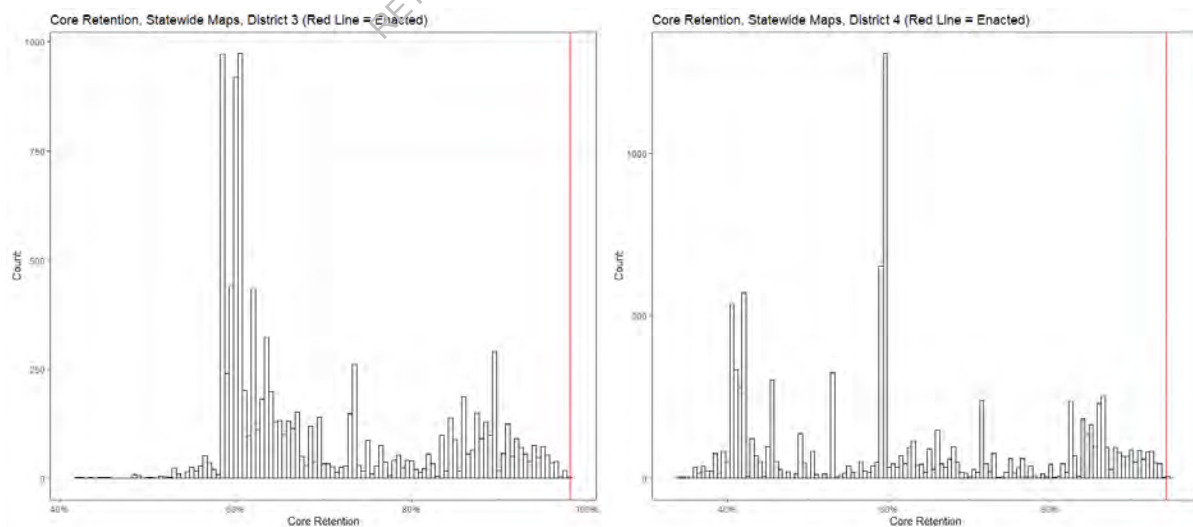
Dr. Imai provided his code and the results of his simulations to counsel, which I then executed on my computer. Using his maps, I was able to extract the districts to which each precinct was assigned in every map in Dr. Imai's Statewide Ensemble, as well as their populations. Next, I matched the precincts to their district assignment under the Benchmark Plan. From this data, it was a simple task to determine to which "ensemble district" residents of each district in the Benchmark Plan were assigned in Dr. Imai's Statewide Ensemble plans. I treated the district with the largest proportion of residents of each Benchmark Plan district as the "core" district for the Statewide Ensemble maps. I created histograms of the core retention rates in each of the Statewide Ensemble maps.

As noted in the Trende Report, the Enacted Plan retains 82.8% of District 1's core. None of the Statewide Ensemble maps has this rate of core retention. Likewise, District 2 has a core retention rate of 98.01% under the Enacted Plan. None of the Statewide Ensemble maps even approaches this rate of core retention.



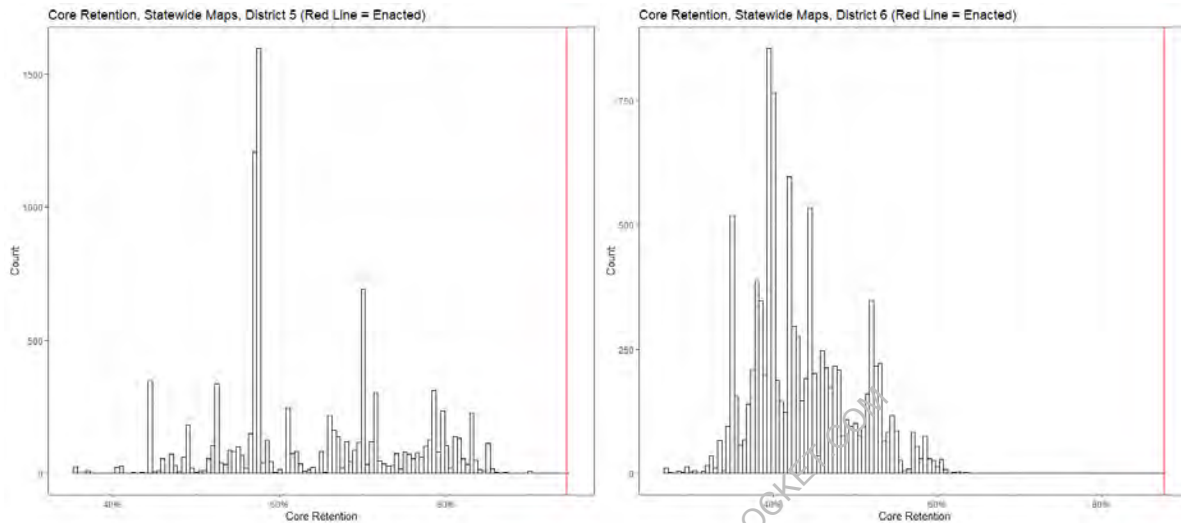
In fact, in the Statewide Ensemble, District 1 features a mean core retention rate of 68.5%. The Enacted Plan's core retention rate in District 1 is three standard deviations above that. In the Statewide Ensemble, District 2 features a mean core retention rate of 48%. The Enacted Plan's core retention rate in District 2 is 4.68 standard deviations above that.

Districts 3 and 4 show similar results. The Statewide Ensemble features a mean core retention rate of 69.5% in District 3. The Enacted Plan's retention of 98.02% of District 3's core is 2.34 standard deviations above that. The Statewide Ensemble features a mean core retention rate of 62.1% in District 4. The Enacted Plan's retention of 94.34% of District 4's core is 1.88 standard deviations above that.

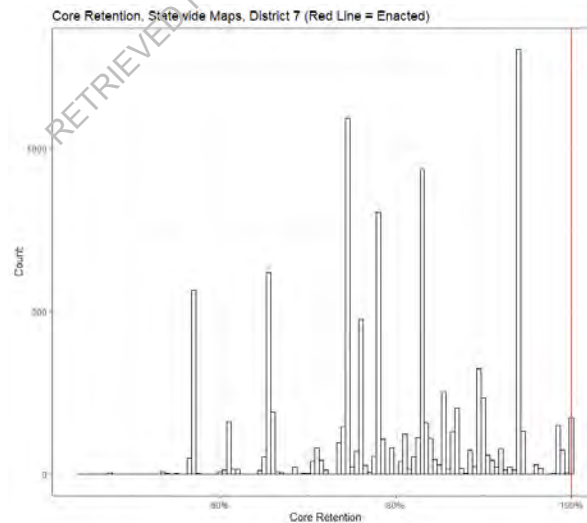


Districts 5 and 6 show even more pronounced effects. The Statewide Ensemble has a mean core retention rate of 63.8% in District 5. The Enacted Plan's retention of 94.38% of District 5's

core is 2.8 standard deviations above that. The Statewide Ensemble has a mean core retention rate of only 43.6% in District 6. The Enacted Plan's retention of 87.55% of District 6's core is 7.06 standard deviations above that. In fact, over half of Congressman Jim Clyburn's constituents would be new to him in 80.9% of the Statewide Ensemble's plans.

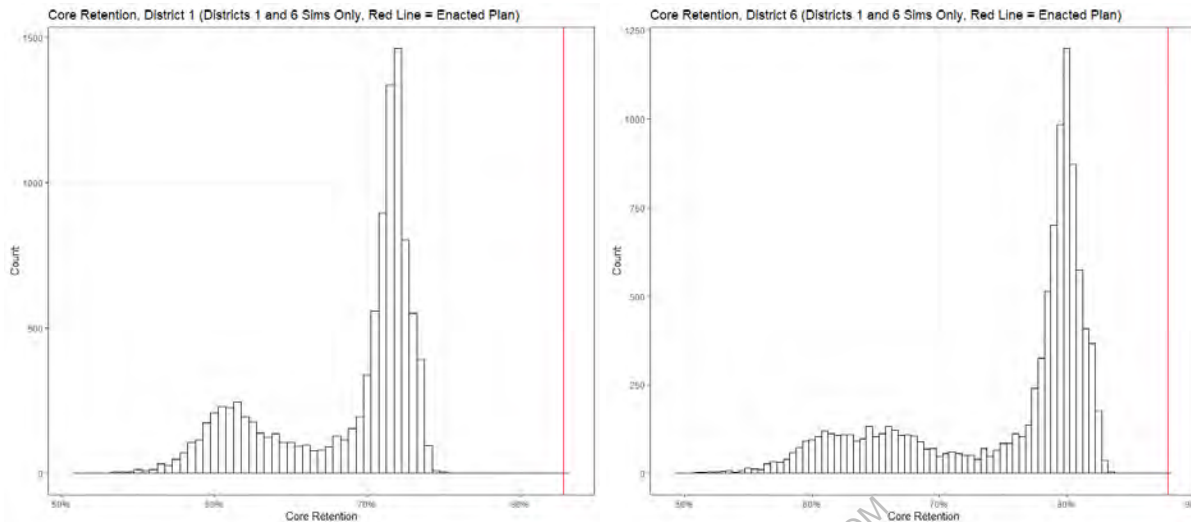


The Statewide Ensemble has a mean core retention rate of 80.1% in District 7. Some of the ensemble districts even reach the Enacted Map's core retention of almost 100%. Nevertheless, the average ensemble plan's core retention is 1.76 standard deviations below the Enacted Map's retention of 99.96% of District 7's core.



The Districts 1 and 6 Ensemble plans also retain less of the core of districts than the Enacted Plan on average. In District 1, the Districts 1 and 6 Ensemble achieves an average core retention 2.97 standard deviations lower than the Enacted Plan's core retention. In District 6, the Districts 1

and 6 Ensemble achieves an average core retention one standard deviation lower than the Enacted Plan's core retention.

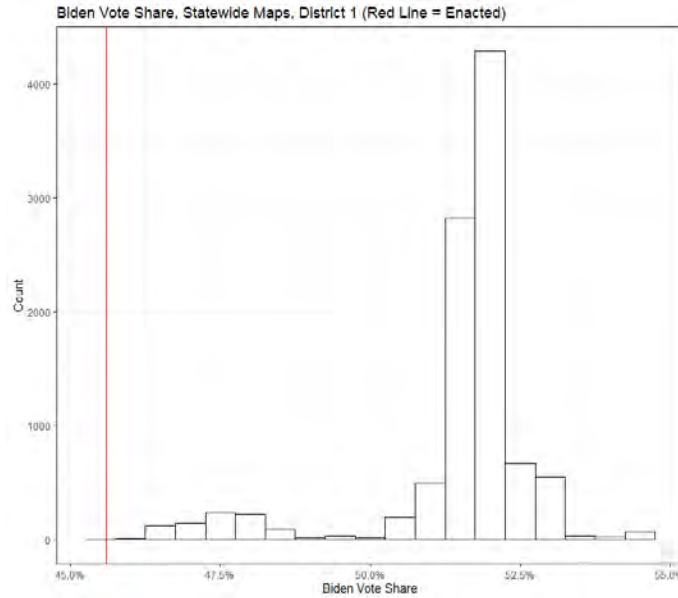


B. Dr. Imai's Simulations Do Not Address Partisanship Or Politics

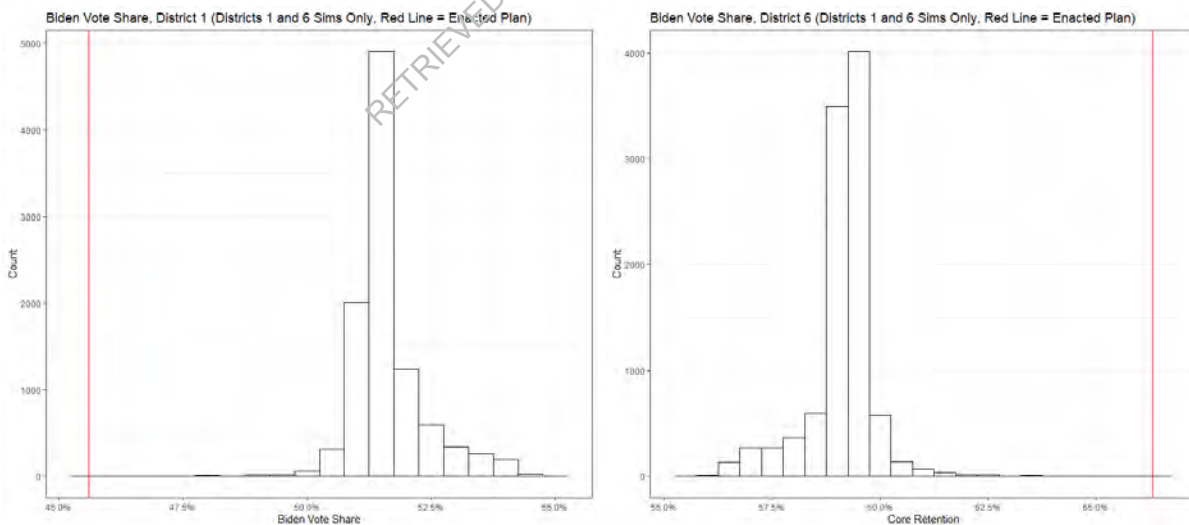
Dr. Imai admits that he did not use partisan information in his simulations. He therefore offers no analysis to show that race rather than politics motivated the General Assembly's drawing of the Enacted Plan.

As explained in the Trende Report, by the end of the 2010s, the First District was increasingly marginal territory for Republicans; a Democrat had won election in District 1 in 2018; and Republican Rep. Nancy Mace was vulnerable in a year that was unfavorable for Republicans. Under the Enacted Plan, the Democratic vote share in this district decreased by 1.4%, while the BVAP increased by only 0.2%. The Democratic vote share in Enacted District 1 is 45.6% on the Biden 2020 number.

The Statewide Ensemble, by contrast, consistently produces more Democratic districts for Rep. Mace. In fact, 91% of the Statewide Ensemble districts in which Mace was placed were carried by President Joe Biden in 2020. President Biden's vote share in the Enacted Plan's First District is almost six points lower than his average vote share in the Statewide Ensemble district where Rep. Mace is placed, or 4.5 standard deviations lower. Notably, this is the only district where the Enacted Map diverges from the Statewide Ensemble substantially in terms of partisanship.

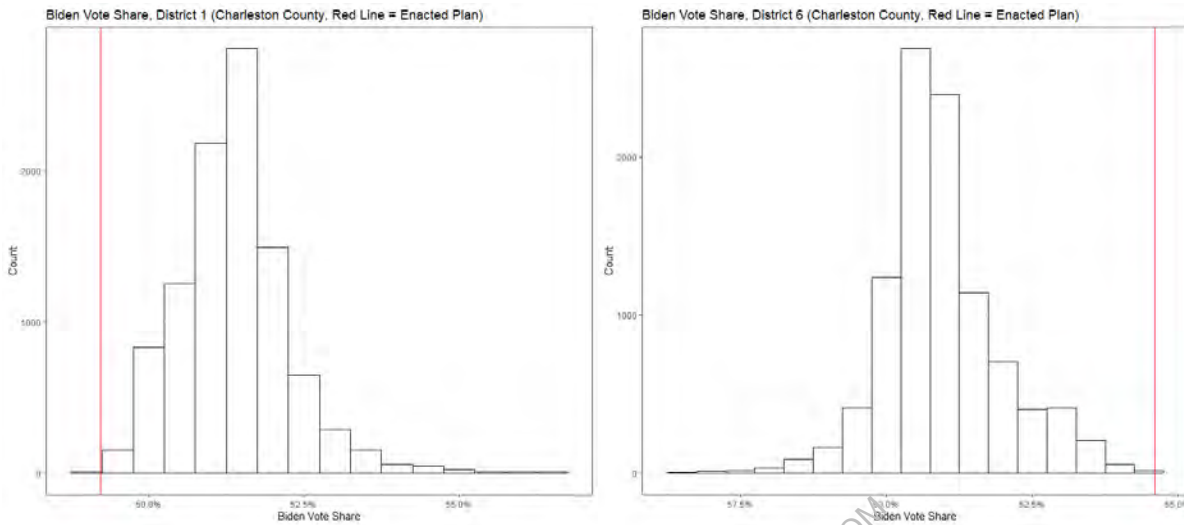


Likewise, the Districts 1 and 6 Ensemble consistently produces districts that increase President Biden's vote share in the district assigned to Rep. Mace (District 1). In every Districts 1 and 6 Ensemble map, President Biden's vote share increased over the Benchmark Plan. President Biden's vote share in Enacted District 1 is eight standard deviations lower than the average District 1 in the Districts 1 and 6 Ensemble. At the same time, President Biden's vote share in Enacted District 6 is 9.7 standard deviations higher than the average District 6 in the Districts 1 and 6 Ensemble.

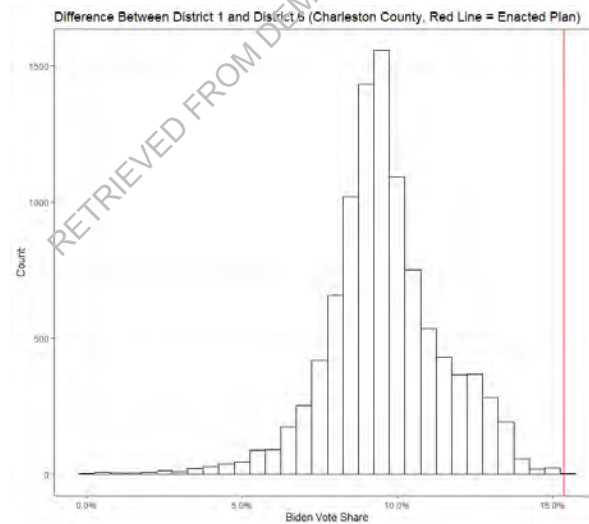


In the Charleston Ensemble, President Biden's vote share is almost always higher in the Charleston portion of District 1 (defined as the district with the lower Democratic vote share) than in the Charleston portion of Enacted District 1, and almost always lower in the Charleston portion

of District 6 than in the Charleston portion of Enacted District 6. These are differences of 2.4 and 3.2 standard deviations, respectively.



Finally, the difference in partisanship between the portions of District 1 and District 6 contained in Charleston County is about 15.6% in the Enacted Plan; the Charleston Ensemble places that difference at around 10 points on average. This is a difference of about 3.1 standard deviations.



C. Dr. Imai's Analysis Misses the Forest for the Trees

In short, reasons unrelated to race can explain why South Carolina legislators avoided maps similar to Dr. Imai's ensemble maps. In particular, legislators were likely drawing from a different distribution of maps – ones with higher core retention rates overall and lower Democratic performances in the First District in particular – than Dr. Imai's ensembles create.

But it is also important not to lose sight of the forest for the trees here. The South Carolina General Assembly was not drawing its maps on a blank slate. The Enacted Maps are substantially similar to the Benchmark Plan. A total of 40,000 residents are swapped between Districts 2 and 6, many of whom are moved as a result of reducing the number of precinct splits. A total of 10,300 residents are swapped between Districts 5 and 6, mostly for similar reasons. The changes between Districts 1 and 6 reflect in significant part the need to equalize population in those two districts.

Perhaps most importantly, the Enacted Plan's changes result in only minimal differences in the BVAPs of the districts Plaintiffs challenge. District 1's BVAP increases from 16.6% to 16.7%. District 2's BVAP increases from 23.1% to 24.5%. District 5's BVAP decreases from 25.1% to 24%. District 6—which Plaintiffs have not challenged—experienced a decline from 51.4% to 45.9% BVAP, as it took on large numbers of voters to achieve equal population, including white Democratic voters from District 1.

II. Response to Dr. Ragusa

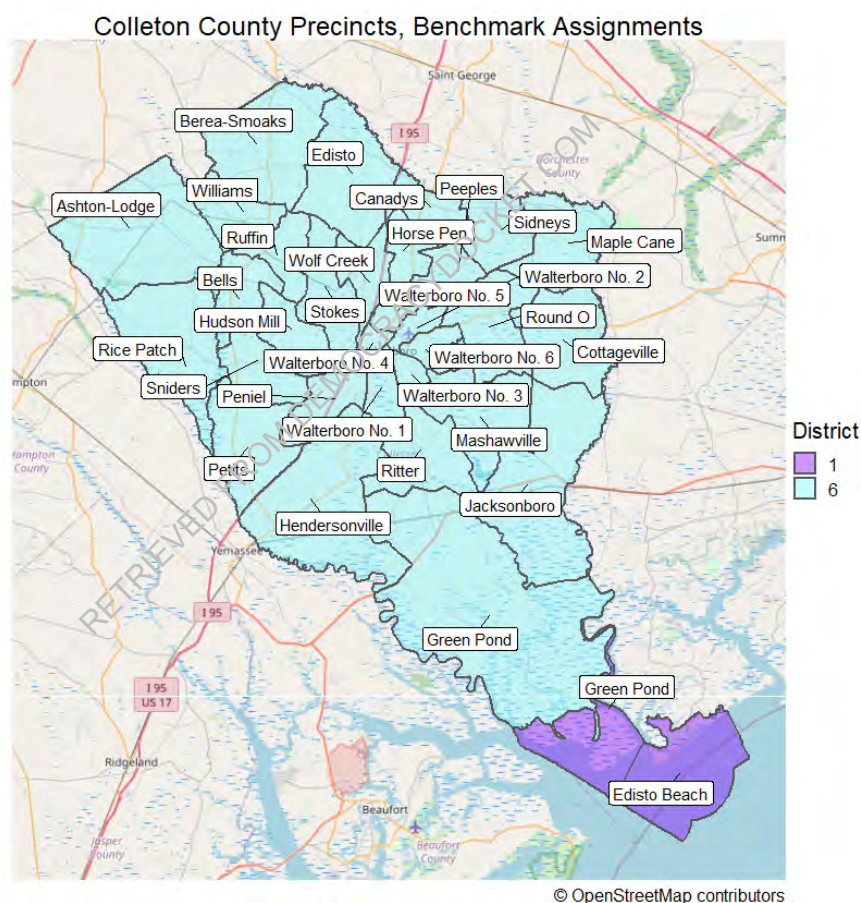
I have also been asked to respond to the Ragusa Report. Dr. Ragusa's approach is to take a district as it was previously drawn, examine the counties that this benchmark district occupied, and then examine all precincts in the counties that district traverses. He runs three tests. First, he tests whether the precincts with higher BVAPs within the given counties were more or less likely to be moved into a district than those with lower BVAPs. Second, he tests whether precincts with higher BVAPs within a district were more likely or less likely to be moved out of the district than precincts with lower BVAPs. Finally, he takes a combined approach, testing precincts moved in/kept in versus precincts moved out/kept out.

All three approaches suffer from the same infirmities. First, Dr. Ragusa's predictor variable is the *count* of Black residents of voting age in a precinct rather than the *percentage* of Black residents of voting age in the precinct. Counts can be misleading, however. Consider a precinct with five Black residents of voting age, with a total VAP of five. Now consider a precinct with five Black residents of voting age, with a total VAP of 500. Adding each of those precincts to a district with a BVAP of 17% would have different effects on that BVAP, but Dr. Ragusa's approach would treat the decision to add or not to add one of those precincts to a district the same as the decision to add or not to add the other.

Second, Dr. Ragusa fails to control for the myriad traditional districting criteria that have been described elsewhere in this report and the Trende Report. In other words, he doesn't control

for district core retention, reducing precinct splits, preserving communities of interests, or keeping municipalities or counties intact. For example, it makes little sense to ask why a precinct in Lexington County was kept in District 2 while a precinct in Richland County was taken out, without also considering the fact that Lexington County is kept intact in District 2, as it has been for almost 100 years, while Richland County is not.

This leads to the third, most serious problem with Dr. Ragusa's analysis: It doesn't consider contiguity. Dr. Ragusa's concept of a county envelope treats all precincts within a county equally, while some may not even be accessible to the map maker without a substantial reconfiguration of the district. Consider Colleton County:

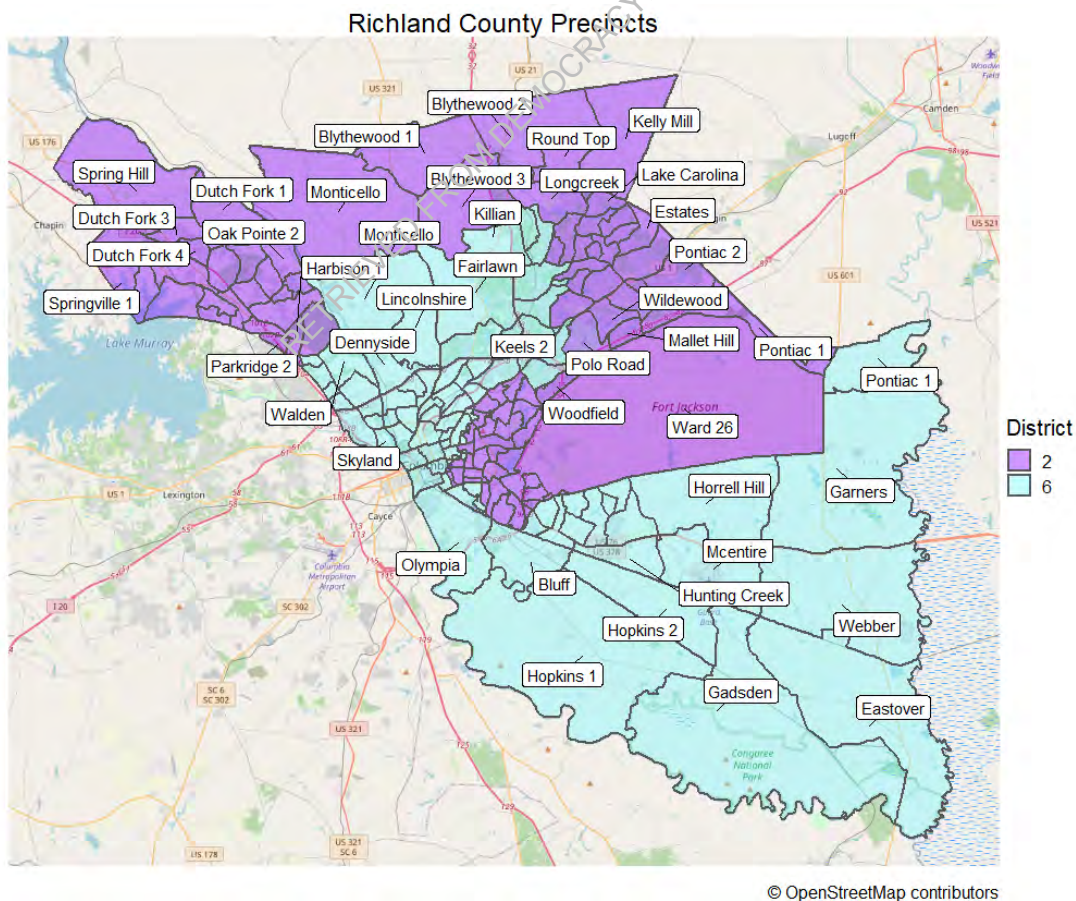


Dr. Ragusa's approach asks "Why didn't the mapmaker include the Berea-Smoaks precinct in District 1?" Dr. Ragusa's approach suggests that there is potential racial significance to this decision because, when viewed in a vacuum, this precinct contains the third-highest BVAP in the county, and one of the higher BVAPs in the "county envelope" for District 1. But obviously the decision whether to include Berea-Smoaks precinct in District 1 requires a great many more considerations than simply the 500 Black residents of voting age of the precinct: Because districts

must be contiguous, to include this precinct in District 1 would require either sending a finger-like extension along the county edge, adding 10,000 new residents to the district, or adding the whole county of approximately 38,000 residents. Moreover, it also would require a corresponding change or changes elsewhere in District 1 to remove an equal number of residents in order to maintain population equality. In short, that precinct cannot be added to District 1 in isolation, so it makes little sense to think of the decision to include it or not include it without considering the other changes necessary to do so.

Relatedly, Dr. Ragusa's approach would treat the decision to exclude this precinct as equivalent to the decision to exclude the Jacksonboro precinct, notwithstanding the fact that the latter is actually adjacent to the portion of District 1 in the Enacted Plan. Finally, the approach would likely attach significance to the decision to add the remainder of the Green Pond precinct – a heavily Black area of the county – to District 1, when in reality that decision makes the precinct whole.

Likewise, consider Richland County.



Dr. Ragusa's approach would consider the decision to keep the Monticello precinct in District 2 solely in terms of racial and political considerations, while overlooking the obvious: Excluding it would render District 2 non-contiguous and require a significant redraw. Likewise, the decision to exclude Olympia precinct from District 2 also keeps District 6 contiguous. Similarly, the decision to exclude the non-contiguous Hopkins 2 precinct can't be treated as equivalent to the decision to exclude contiguous Horrell Hill. Yet this is exactly what Dr. Ragusa's approach does. It is unclear what can truly be gained from an analysis that does not consider contiguity and, in fact, fails to reflect the realities of map drawing.

/s/ Sean P. Trende 5/4/2022
Sean P. Trende

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Exhibit 34

RETRIEVED FROM DEMOCRACYDOCKET.COM

User:

Plan Name: House Plan 2 Senate Amendment 1

Plan Type:

Core Constituencies

Tuesday, January 11, 2022

9:07 AM

From Plan: **Benchmark Plan****Plan: House Plan 2 Senate Amendment 1,
District 1 --****731,203 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_ DOJ_Blk]
Dist. 1	678,404 (92.78%)	56,504 (94.82%)	471,479 (94.52%)	110,005 (84.46%)	527,859 (92.52%)	36,738 (94.40%)	382,731 (94.29%)	79,606 (83.44%)
Dist. 6	52,799 (7.22%)	3,087 (5.18%)	27,328 (5.48%)	20,240 (15.54%)	42,679 (7.48%)	2,180 (5.60%)	23,158 (5.71%)	15,794 (16.56%)
Total and % Population		59,591 (8.15%)	498,807 (68.22%)	130,245 (17.81%)	570,538 (78.03%)	38,918 (5.32%)	405,889 (55.51%)	95,400 (13.05%)

**Plan: House Plan 2 Senate Amendment 1,
District 2 --****731,203 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_ DOJ_Blk]
Dist. 2	707,432 (96.75%)	49,591 (96.42%)	441,354 (98.79%)	175,417 (92.09%)	544,921 (96.78%)	32,326 (96.33%)	355,993 (98.69%)	126,856 (92.00%)
Dist. 6	23,771 (3.25%)	1,843 (3.58%)	5,414 (1.21%)	15,071 (7.91%)	18,107 (3.22%)	1,230 (3.67%)	4,721 (1.31%)	11,035 (8.00%)
Total and % Population		51,434 (7.03%)	446,768 (61.10%)	190,488 (26.05%)	563,028 (77.00%)	33,556 (4.59%)	360,714 (49.33%)	137,891 (18.86%)

**Plan: House Plan 2 Senate Amendment 1,
District 3 --****731,204 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_ DOJ_Blk]
Dist. 3	692,784 (94.75%)	39,232 (92.28%)	501,154 (95.56%)	122,224 (91.98%)	547,550 (94.85%)	25,306 (92.28%)	408,491 (95.56%)	91,039 (92.10%)
Dist. 4	7,111 (0.97%)	543 (1.28%)	5,143 (0.98%)	1,062 (0.80%)	5,155 (0.89%)	369 (1.35%)	3,858 (0.90%)	699 (0.71%)
Dist. 5	31,309 (4.28%)	2,737 (6.44%)	18,160 (3.46%)	9,589 (7.22%)	24,592 (4.26%)	1,747 (6.37%)	15,135 (3.54%)	7,110 (7.19%)
Total and % Population		42,512 (5.81%)	524,457 (71.73%)	132,875 (18.17%)	577,297 (78.95%)	27,422 (3.75%)	427,484 (58.46%)	98,848 (13.52%)

**Plan: House Plan 2 Senate Amendment 1,
District 4 --****731,204 Total Population**

Core Constituencies

House Plan 2 Senate Amend

From Plan: **Benchmark Plan**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 3	14,001 (1.91%)	2,973 (3.83%)	5,743 (1.23%)	4,791 (3.37%)	10,081 (1.78%)	1,822 (3.58%)	4,535 (1.20%)	3,394 (3.26%)
Dist. 4	717,203 (98.09%)	74,680 (96.17%)	462,877 (98.77%)	137,299 (96.63%)	555,331 (98.22%)	49,066 (96.42%)	374,564 (98.80%)	100,751 (96.74%)
Total and % Population	77,653 (10.62%)	468,620 (64.09%)	142,090 (19.43%)	565,412 (77.33%)	50,888 (6.96%)	379,099 (51.85%)	104,145 (14.24%)	

Plan: House Plan 2 Senate Amendment 1,
District 5 --

731,204 Total Population

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 4	35,919 (4.91%)	2,091 (5.25%)	27,661 (5.90%)	4,135 (2.27%)	27,435 (4.88%)	1,337 (5.25%)	21,738 (5.81%)	2,906 (2.15%)
Dist. 5	694,939 (95.04%)	37,728 (94.73%)	441,247 (94.10%)	177,873 (97.55%)	535,015 (95.08%)	24,144 (94.75%)	352,401 (94.19%)	132,080 (97.69%)
Dist. 6	346 (0.05%)	6 (0.02%)	12 (0.00%)	324 (0.18%)	235 (0.04%)	1 (0.00%)	12 (0.00%)	220 (0.16%)
Total and % Population	39,825 (5.45%)	468,920 (64.13%)	182,332 (24.94%)	562,685 (76.95%)	25,482 (3.48%)	374,151 (51.17%)	135,206 (18.49%)	

Plan: House Plan 2 Senate Amendment 1,
District 6 --

731,204 Total Population

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 1	140,489 (19.21%)	10,229 (22.42%)	85,236 (23.03%)	35,629 (10.19%)	113,531 (19.35%)	7,017 (22.49%)	72,601 (27.77%)	26,617 (9.88%)
Dist. 2	14,397 (1.97%)	529 (1.16%)	11,135 (3.66%)	2,001 (0.57%)	11,918 (2.03%)	378 (1.21%)	9,447 (3.61%)	1,552 (0.58%)
Dist. 5	10,038 (1.37%)	409 (0.90%)	5,214 (1.71%)	4,076 (1.17%)	7,762 (1.32%)	280 (0.90%)	4,253 (1.63%)	2,973 (1.10%)
Dist. 6	565,994 (77.41%)	34,451 (75.52%)	202,319 (66.54%)	307,825 (88.04%)	453,319 (77.26%)	23,520 (75.39%)	174,996 (66.94%)	238,087 (88.40%)
Dist. 7	286 (0.04%)	1 (0.00%)	153 (0.05%)	122 (0.03%)	230 (0.04%)	1 (0.00%)	124 (0.05%)	97 (0.04%)
Total and % Population	45,619 (6.24%)	304,061 (41.58%)	349,653 (47.82%)	586,760 (80.25%)	31,196 (4.27%)	261,421 (35.75%)	269,326 (36.83%)	

Plan: House Plan 2 Senate Amendment 1,
District 7 --

731,203 Total Population

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 6	3,553 (0.49%)	90 (0.25%)	2,244 (0.48%)	1,132 (0.58%)	2,724 (0.46%)	66 (0.28%)	1,752 (0.44%)	846 (0.58%)

Core Constituencies

House Plan 2 Senate Amend

From Plan: **Benchmark Plan****Plan: House Plan 2 Senate Amendment 1,
District 7 --****731,203 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_ DOJ_Bl]
Dist. 7	727,650 (99.51%)	36,114 (99.75%)	464,675 (99.52%)	195,072 (99.42%)	586,016 (99.54%)	23,596 (99.72%)	393,465 (99.56%)	145,390 (99.42%)
Total and % Population		36,204 (4.95%)	466,919 (63.86%)	196,204 (26.83%)	588,740 (80.52%)	23,662 (3.24%)	395,217 (54.05%)	146,236 (20.00%)

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Exhibit 35

RETRIEVED FROM DEMOCRACYDOCKET.COM

User:

Plan Name: NAACP Congressional 1

Plan Type:

Core Constituencies

Wednesday, November 10, 2021

11:41 AM

From Plan: **Enacted Congress B-V-C****Plan: NAACP Congressional 1, District 1 --****731,203 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Blk]
Dist. 1	381,872 (52.23%)	33,188 (57.12%)	226,613 (60.47%)	93,076 (36.11%)	287,539 (51.08%)	21,104 (55.97%)	179,895 (59.16%)	65,670 (34.29%)
Dist. 2	20,589 (2.82%)	520 (0.89%)	10,352 (2.76%)	9,050 (3.51%)	15,964 (2.84%)	339 (0.90%)	8,421 (2.77%)	6,710 (3.50%)
Dist. 6	266,631 (36.46%)	22,817 (39.27%)	111,255 (29.69%)	123,010 (47.73%)	211,273 (37.53%)	15,292 (40.55%)	94,176 (30.97%)	94,619 (49.40%)
Dist. 7	62,111 (8.49%)	1,578 (2.72%)	26,504 (7.07%)	32,590 (12.65%)	48,143 (8.55%)	973 (2.58%)	21,606 (7.10%)	24,528 (12.81%)
Total and % Population		58,103 (7.95%)	374,724 (51.25%)	257,726 (35.25%)	562,919 (76.99%)	37,708 (5.16%)	304,098 (41.59%)	191,527 (26.19%)

Plan: NAACP Congressional 1, District 2 --**731,203 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Blk]
Dist. 2	524,213 (71.69%)	36,114 (72.11%)	362,648 (74.02%)	95,989 (62.26%)	405,596 (70.77%)	23,183 (71.71%)	292,428 (73.14%)	68,819 (60.40%)
Dist. 3	156,159 (21.36%)	10,309 (20.58%)	94,652 (19.32%)	46,294 (30.03%)	124,456 (21.72%)	6,558 (20.29%)	78,389 (19.61%)	35,913 (31.52%)
Dist. 5	31,309 (4.28%)	2,737 (5.46%)	18,160 (3.71%)	9,589 (6.22%)	24,592 (4.29%)	1,747 (5.40%)	15,135 (3.79%)	7,110 (6.24%)
Dist. 6	19,522 (2.67%)	925 (1.85%)	14,471 (2.95%)	2,311 (1.50%)	18,488 (3.23%)	841 (2.60%)	13,878 (3.47%)	2,089 (1.83%)
Total and % Population		50,085 (6.85%)	489,931 (67.00%)	154,183 (21.09%)	573,132 (78.38%)	32,329 (4.42%)	399,830 (54.68%)	113,931 (15.58%)

Plan: NAACP Congressional 1, District 3 --**731,204 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Blk]
Dist. 3	550,626 (75.30%)	31,896 (69.30%)	412,245 (78.35%)	80,721 (66.19%)	433,175 (75.81%)	20,570 (68.54%)	334,637 (78.74%)	58,520 (65.79%)
Dist. 4	153,334 (20.97%)	13,689 (29.74%)	96,639 (18.37%)	32,393 (26.56%)	116,813 (20.44%)	9,176 (30.58%)	76,318 (17.96%)	23,832 (26.79%)
Dist. 5	27,244 (3.73%)	438 (0.95%)	17,279 (3.28%)	8,839 (7.25%)	21,422 (3.75%)	264 (0.88%)	14,061 (3.31%)	6,603 (7.42%)
Total and % Population		46,023 (6.29%)	526,163 (71.96%)	121,953 (16.68%)	571,410 (78.15%)	30,010 (4.10%)	425,016 (58.13%)	88,955 (12.17%)

Core Constituencies

NAACP Congressional 1

From Plan: **Enacted Congress B-V-C****Plan: NAACP Congressional 1, District 4 --****731,204 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 3	0 (0.00%)	0 (0.00%)	(0.00%)	(0.00%)	(0.00%)	(0.00%)	(0.00%)	(0.00%)
Dist. 4	606,899 (83.00%)	63,625 (91.22%)	399,042 (80.93%)	110,103 (85.52%)	471,108 (83.12%)	41,596 (91.56%)	323,842 (81.36%)	80,524 (85.51%)
Dist. 5	124,305 (17.00%)	6,121 (8.78%)	94,006 (19.07%)	18,640 (14.48%)	95,687 (16.88%)	3,833 (8.44%)	74,213 (18.64%)	13,648 (14.49%)
Total and % Population		69,746 (9.54%)	493,048 (67.43%)	128,743 (17.61%)	566,795 (77.52%)	45,429 (6.21%)	398,055 (54.44%)	94,172 (12.88%)

Plan: NAACP Congressional 1, District 5 --**731,203 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 5	417,851 (57.15%)	27,106 (67.39%)	273,160 (58.52%)	91,195 (49.66%)	318,916 (56.20%)	17,315 (67.12%)	217,251 (57.43%)	66,443 (49.17%)
Dist. 7	313,352 (42.85%)	13,115 (32.61%)	193,591 (41.48%)	92,431 (50.34%)	248,523 (43.80%)	8,484 (32.88%)	161,005 (42.57%)	68,697 (50.83%)
Total and % Population		40,221 (5.50%)	466,751 (63.83%)	183,626 (25.11%)	567,439 (77.60%)	25,799 (3.53%)	378,256 (51.73%)	135,140 (18.48%)

Plan: NAACP Congressional 1, District 6 --**731,205 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 2	177,027 (24.21%)	13,486 (40.34%)	79,493 (28.75%)	72,379 (18.60%)	135,279 (23.59%)	9,182 (40.34%)	64,591 (28.00%)	52,879 (17.87%)
Dist. 5	135,577 (18.54%)	4,472 (13.38%)	62,016 (22.43%)	63,275 (16.26%)	106,752 (18.62%)	3,012 (13.23%)	51,129 (22.17%)	48,359 (16.34%)
Dist. 6	332,897 (45.53%)	13,604 (40.69%)	96,826 (35.01%)	210,026 (53.96%)	264,795 (46.18%)	9,432 (41.44%)	83,562 (36.23%)	162,227 (54.81%)
Dist. 7	85,704 (11.72%)	1,869 (5.59%)	35,206 (13.82%)	43,511 (11.18%)	66,600 (11.61%)	1,133 (4.98%)	31,387 (13.61%)	32,527 (10.99%)
Total and % Population		33,431 (4.57%)	276,541 (37.82%)	389,191 (53.23%)	573,426 (78.42%)	22,759 (3.11%)	230,669 (31.55%)	295,992 (40.48%)

Plan: NAACP Congressional 1, District 7 --**731,203 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 1	437,021 (59.77%)	33,545 (60.74%)	330,102 (59.87%)	52,558 (59.41%)	353,851 (59.04%)	22,651 (61.07%)	275,437 (58.85%)	40,553 (60.23%)
Dist. 6	27,413 (3.75%)	2,131 (3.86%)	14,765 (2.68%)	9,245 (10.45%)	22,508 (3.76%)	1,432 (3.86%)	13,023 (2.78%)	7,047 (10.47%)
Dist. 7	266,769 (36.48%)	19,553 (35.40%)	206,527 (37.46%)	26,662 (30.14%)	222,980 (37.20%)	13,007 (35.07%)	179,591 (38.37%)	19,735 (29.31%)
Total and % Population		55,229 (7.55%)	551,394 (75.41%)	88,465 (12.10%)	599,339 (81.97%)	37,090 (5.07%)	468,051 (64.01%)	67,335 (9.21%)

Core Constituencies

NAACP Congressional 1

From Plan: **Enacted Congress B-V-C**

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Exhibit 36

RETRIEVED FROM DEMOCRACYDOCKET.COM

User:

Plan Name: NAACP_Congressional_2

Plan Type: NAACP_Congressional_2

Core Constituencies

Friday, October 29, 2021

8:45 AM

From Plan: **Enacted Congress B-V-C****Plan: NAACP_Congressional_2, District 1 --****731,205 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 1	529,863 (72.46%)	37,290 (64.72%)	358,573 (79.23%)	101,062 (56.55%)	415,801 (72.32%)	24,782 (64.32%)	292,145 (78.66%)	74,776 (55.91%)
Dist. 2	81 (0.01%)	0 (0.00%)	1 (0.00%)	77 (0.04%)	52 (0.01%)	(0.00%)	(0.00%)	52 (0.04%)
Dist. 6	162,748 (22.26%)	15,725 (27.29%)	70,125 (15.49%)	69,902 (39.11%)	125,470 (22.52%)	10,552 (27.39%)	60,345 (16.25%)	53,145 (39.74%)
Dist. Unassigned	38,513 (5.27%)	4,600 (7.98%)	23,873 (5.27%)	7,670 (4.29%)	29,603 (5.15%)	3,195 (8.29%)	18,916 (5.09%)	5,771 (4.31%)
Total and % Population		57,615 (7.88%)	452,572 (61.89%)	178,711 (24.44%)	574,926 (78.63%)	38,529 (5.27%)	371,406 (50.79%)	133,744 (18.29%)

Plan: NAACP_Congressional_2, District 2 --**731,201 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 1	245,652 (33.60%)	25,730 (42.84%)	166,189 (34.68%)	39,620 (25.95%)	191,929 (33.66%)	16,462 (42.58%)	137,695 (35.11%)	27,802 (24.97%)
Dist. 2	376,707 (51.52%)	25,993 (43.28%)	256,690 (53.57%)	72,599 (47.54%)	291,540 (51.12%)	16,764 (43.36%)	207,523 (52.92%)	51,832 (46.55%)
Dist. 3	732 (0.10%)	50 (0.08%)	336 (0.07%)	306 (0.20%)	547 (0.10%)	35 (0.09%)	284 (0.07%)	196 (0.18%)
Dist. 6	106,338 (14.54%)	8,231 (13.71%)	54,366 (11.35%)	40,074 (26.24%)	84,636 (14.84%)	5,364 (13.87%)	45,212 (11.53%)	31,439 (28.24%)
Dist. Unassigned	1,772 (0.24%)	53 (0.09%)	1,575 (0.33%)	97 (0.06%)	1,608 (0.28%)	35 (0.09%)	1,464 (0.37%)	77 (0.07%)
Total and % Population		60,057 (8.21%)	479,156 (65.53%)	152,696 (20.88%)	570,260 (77.99%)	38,660 (5.29%)	392,178 (53.63%)	111,346 (15.23%)

Plan: NAACP_Congressional_2, District 3 --**731,203 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 2	72,574 (9.93%)	5,449 (12.76%)	47,174 (9.05%)	16,483 (12.13%)	56,556 (9.77%)	3,465 (12.65%)	38,291 (8.98%)	12,192 (12.03%)
Dist. 3	631,345 (86.34%)	34,577 (80.99%)	458,202 (87.91%)	111,507 (82.05%)	500,854 (86.51%)	22,238 (81.15%)	374,801 (87.89%)	83,259 (82.17%)
Dist. 4	2,450 (0.34%)	121 (0.28%)	1,993 (0.38%)	186 (0.14%)	1,978 (0.34%)	84 (0.31%)	1,656 (0.39%)	127 (0.13%)
Dist. 5	20,068 (2.74%)	1,731 (4.05%)	11,304 (2.17%)	6,482 (4.77%)	15,803 (2.73%)	1,126 (4.11%)	9,544 (2.24%)	4,736 (4.67%)

Core Constituencies

NAACP_Congressional_2

From Plan: **Enacted Congress B-V-C****Plan: NAACP_Congressional_2, District 3 --****731,203 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Blk]
Dist. 6	758 (0.10%)	19 (0.04%)	686 (0.13%)	19 (0.01%)	641 (0.11%)	7 (0.03%)	591 (0.14%)	15 (0.01%)
Dist. Unassigned	4,008 (0.55%)	798 (1.87%)	1,875 (0.36%)	1,230 (0.91%)	3,095 (0.53%)	482 (1.76%)	1,552 (0.36%)	994 (0.98%)
Total and % Population		42,695 (5.84%)	521,234 (71.28%)	135,907 (18.59%)	578,927 (79.17%)	27,402 (3.75%)	426,435 (58.32%)	101,323 (13.86%)

Plan: NAACP_Congressional_2, District 4 --**731,205 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Blk]
Dist. 3	65,046 (8.90%)	6,456 (8.39%)	41,897 (8.85%)	13,440 (9.72%)	49,107 (8.73%)	4,176 (8.29%)	32,919 (8.65%)	9,772 (9.71%)
Dist. 4	639,844 (87.51%)	67,689 (87.94%)	416,528 (87.99%)	117,808 (85.19%)	493,840 (87.82%)	44,311 (87.98%)	335,981 (88.29%)	86,050 (85.51%)
Dist. 5	3,772 (0.52%)	231 (0.30%)	2,507 (0.53%)	701 (0.51%)	2,828 (0.50%)	164 (0.33%)	1,965 (0.52%)	437 (0.43%)
Dist. Unassigned	22,543 (3.08%)	2,598 (3.38%)	12,440 (2.63%)	6,335 (4.58%)	16,579 (2.95%)	1,714 (3.40%)	9,662 (2.54%)	4,372 (4.34%)
Total and % Population		76,974 (10.53%)	473,372 (64.74%)	138,284 (18.91%)	562,354 (76.91%)	50,365 (6.89%)	380,527 (52.04%)	100,631 (13.76%)

Plan: NAACP_Congressional_2, District 5 --**731,204 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Blk]
Dist. 2	43,176 (5.90%)	1,610 (3.71%)	35,101 (7.07%)	3,905 (2.60%)	32,366 (5.76%)	982 (3.53%)	27,020 (6.83%)	2,666 (2.42%)
Dist. 3	597 (0.08%)	20 (0.05%)	445 (0.09%)	93 (0.06%)	431 (0.08%)	20 (0.07%)	320 (0.08%)	63 (0.06%)
Dist. 4	91,347 (12.49%)	7,081 (16.30%)	59,846 (12.05%)	19,234 (12.82%)	72,031 (12.82%)	4,762 (17.11%)	48,897 (12.37%)	14,506 (13.18%)
Dist. 5	583,867 (79.85%)	34,203 (78.73%)	390,956 (78.74%)	125,954 (83.93%)	447,457 (79.66%)	21,768 (78.22%)	311,005 (78.67%)	92,167 (83.77%)
Dist. 6	1,429 (0.20%)	61 (0.14%)	1,171 (0.24%)	138 (0.09%)	1,173 (0.21%)	44 (0.16%)	998 (0.25%)	103 (0.09%)
Dist. Unassigned	10,788 (1.48%)	466 (1.07%)	8,992 (1.81%)	746 (0.50%)	8,274 (1.47%)	254 (0.91%)	7,094 (1.79%)	522 (0.47%)
Total and % Population		43,441 (5.94%)	496,511 (67.90%)	150,070 (20.52%)	561,732 (76.82%)	27,830 (3.81%)	395,334 (54.07%)	110,027 (15.05%)

Plan: NAACP_Congressional_2, District 6 --**731,204 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Blk]
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Core Constituencies

NAACP_Congressional_2

From Plan: **Enacted Congress B-V-C****Plan: NAACP_Congressional_2, District 6 --****731,204 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Blk]
Dist. 2	208,003 (28.45%)	14,373 (40.11%)	97,916 (33.93%)	82,840 (22.25%)	159,298 (27.59%)	9,771 (39.61%)	79,456 (32.75%)	60,665 (21.37%)
Dist. 3	607 (0.08%)	50 (0.14%)	284 (0.10%)	220 (0.06%)	477 (0.08%)	37 (0.15%)	236 (0.10%)	161 (0.06%)
Dist. 5	118,447 (16.20%)	4,083 (11.39%)	54,544 (18.90%)	54,536 (14.65%)	93,448 (16.18%)	2,741 (11.11%)	44,964 (18.53%)	41,874 (14.75%)
Dist. 6	338,879 (46.35%)	12,844 (35.84%)	107,369 (37.21%)	206,185 (55.38%)	271,399 (47.00%)	9,025 (36.59%)	92,989 (38.33%)	159,579 (56.20%)
Dist. 7	420 (0.06%)	4 (0.01%)	90 (0.03%)	321 (0.09%)	341 (0.06%)	4 (0.02%)	84 (0.03%)	248 (0.09%)
Dist. Unassigned	64,848 (8.87%)	4,481 (12.50%)	28,345 (9.82%)	28,189 (7.57%)	52,478 (9.09%)	3,089 (12.52%)	24,899 (10.26%)	21,405 (7.54%)
Total and % Population		35,835 (4.90%)	288,548 (39.46%)	372,291 (50.91%)	577,441 (78.97%)	24,667 (3.37%)	242,628 (33.18%)	283,932 (38.83%)

Plan: NAACP_Congressional_2, District 7 --**731,203 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Blk]
Dist. 2	77 (0.01%)	2 (0.01%)	37 (0.01%)	34 (0.02%)	53 (0.01%)	1 (0.00%)	32 (0.01%)	17 (0.01%)
Dist. 5	57 (0.01%)	3 (0.01%)	17 (0.00%)	33 (0.02%)	50 (0.01%)	2 (0.01%)	14 (0.00%)	32 (0.02%)
Dist. 6	3,322 (0.45%)	91 (0.25%)	2,269 (0.49%)	855 (0.44%)	2,595 (0.44%)	60 (0.25%)	1,834 (0.46%)	634 (0.43%)
Dist. 7	726,076 (99.30%)	35,083 (99.62%)	463,364 (99.19%)	194,893 (99.47%)	584,814 (99.32%)	23,576 (99.60%)	392,430 (99.23%)	145,272 (99.47%)
Dist. Unassigned	1,671 (0.23%)	42 (0.12%)	1,472 (0.32%)	113 (0.06%)	1,308 (0.22%)	32 (0.14%)	1,157 (0.29%)	94 (0.06%)
Total and % Population		36,221 (4.95%)	467,159 (63.89%)	195,928 (26.80%)	588,820 (80.53%)	23,671 (3.24%)	395,467 (54.08%)	146,049 (19.97%)

Exhibit 37

RETRIEVED FROM DEMOCRACYDOCKET.COM

User:

Plan Name: House Plan 2 Senate Amendment 2

Plan Type:

Core Constituencies

Tuesday, January 11, 2022

3:18 PM

From Plan: **Benchmark Plan****Plan: House Plan 2 Senate Amendment 2,
District 1 --****731,205 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_ DOJ_Blk]
Dist. 1	536,611 (73.39%)	44,697 (66.46%)	382,460 (81.75%)	80,443 (50.55%)	430,840 (73.61%)	29,984 (66.63%)	318,587 (81.20%)	60,832 (50.53%)
Dist. 6	194,594 (26.61%)	22,561 (33.54%)	85,385 (18.25%)	78,688 (49.45%)	154,450 (26.39%)	15,014 (33.37%)	73,746 (18.80%)	59,547 (49.47%)
Total and % Population		67,258 (9.20%)	467,845 (63.98%)	159,131 (21.76%)	585,290 (80.04%)	44,998 (6.15%)	392,333 (53.66%)	120,379 (16.46%)

**Plan: House Plan 2 Senate Amendment 2,
District 2 --****731,204 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_ DOJ_Blk]
Dist. 2	480,482 (65.71%)	33,941 (69.17%)	331,038 (68.54%)	88,349 (53.70%)	371,456 (65.15%)	21,700 (69.27%)	266,982 (68.03%)	63,243 (52.09%)
Dist. 3	192,169 (26.28%)	11,955 (24.36%)	116,488 (24.12%)	57,736 (35.10%)	152,719 (26.78%)	7,615 (24.31%)	96,244 (24.53%)	44,450 (36.61%)
Dist. 5	58,553 (8.01%)	3,175 (6.47%)	35,439 (7.34%)	18,428 (11.20%)	46,014 (8.07%)	2,011 (6.42%)	29,196 (7.44%)	13,713 (11.30%)
Total and % Population		49,071 (6.71%)	482,965 (66.05%)	164,513 (22.50%)	570,189 (77.98%)	31,326 (4.28%)	392,422 (53.67%)	121,406 (16.60%)

**Plan: House Plan 2 Senate Amendment 2,
District 3 --****731,203 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Blk	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_ DOJ_Blk]
Dist. 3	514,616 (70.38%)	30,250 (59.78%)	390,409 (74.53%)	69,279 (58.40%)	404,912 (70.70%)	19,513 (58.78%)	316,782 (74.61%)	49,983 (57.68%)
Dist. 4	216,587 (29.62%)	20,356 (40.22%)	133,407 (25.47%)	49,342 (41.60%)	167,842 (29.30%)	13,681 (41.22%)	107,782 (25.39%)	36,676 (42.32%)
Total and % Population		50,606 (6.92%)	523,816 (71.64%)	118,621 (16.22%)	572,754 (78.33%)	33,194 (4.54%)	424,564 (58.06%)	86,659 (11.85%)

**Plan: House Plan 2 Senate Amendment 2,
District 4 --****731,201 Total Population**

Core Constituencies

House Plan 2 Senate Amend

From Plan: **Benchmark Plan**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 4	543,646 (74.35%)	56,958 (85.42%)	362,274 (72.13%)	93,154 (76.31%)	420,079 (74.41%)	37,091 (85.93%)	292,378 (72.47%)	67,680 (76.32%)
Dist. 5	187,555 (25.65%)	9,720 (14.58%)	139,964 (27.87%)	28,921 (23.69%)	144,501 (25.59%)	6,075 (14.07%)	111,085 (27.53%)	20,997 (23.68%)
Total and % Population		66,678 (9.12%)	502,238 (68.69%)	122,075 (16.70%)	564,580 (77.21%)	43,166 (5.90%)	403,463 (55.18%)	88,677 (12.13%)

Plan: House Plan 2 Senate Amendment 2,
District 5 --

731,204 Total Population

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 5	403,825 (55.23%)	24,429 (71.15%)	246,369 (60.14%)	108,869 (43.50%)	310,081 (54.93%)	15,721 (70.85%)	196,815 (59.62%)	81,079 (43.45%)
Dist. 6	13,876 (1.90%)	320 (0.93%)	5,381 (1.31%)	7,841 (3.13%)	10,429 (1.85%)	221 (1.00%)	4,333 (1.31%)	5,635 (3.02%)
Dist. 7	313,503 (42.87%)	9,586 (27.92%)	157,913 (38.55%)	133,555 (53.37%)	244,024 (43.23%)	6,247 (28.15%)	128,948 (39.06%)	99,884 (53.53%)
Total and % Population		34,335 (4.70%)	409,663 (56.03%)	250,265 (34.23%)	564,534 (77.21%)	22,189 (3.03%)	330,096 (45.14%)	186,598 (25.52%)

Plan: House Plan 2 Senate Amendment 2,
District 6 --

731,205 Total Population

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 2	241,347 (33.01%)	16,179 (45.62%)	121,455 (41.36%)	89,069 (24.23%)	185,383 (32.16%)	11,004 (44.78%)	98,458 (40.08%)	65,165 (23.26%)
Dist. 5	86,353 (11.81%)	3,550 (10.01%)	42,845 (14.59%)	35,320 (9.61%)	66,773 (11.58%)	2,364 (9.62%)	34,693 (14.12%)	26,374 (9.41%)
Dist. 6	397,332 (54.34%)	15,551 (43.85%)	126,530 (43.09%)	240,100 (65.33%)	319,620 (55.44%)	11,091 (45.13%)	110,273 (44.89%)	186,335 (66.52%)
Dist. 7	6,173 (0.84%)	186 (0.52%)	2,820 (0.96%)	3,051 (0.83%)	4,709 (0.82%)	116 (0.47%)	2,252 (0.92%)	2,259 (0.81%)
Total and % Population		35,466 (4.85%)	293,654 (40.16%)	367,540 (50.26%)	576,485 (78.84%)	24,575 (3.36%)	245,676 (33.60%)	280,133 (38.31%)

Plan: House Plan 2 Senate Amendment 2,
District 7 --

731,203 Total Population

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 1	282,282 (38.61%)	22,036 (44.59%)	174,255 (34.96%)	65,191 (45.99%)	210,550 (36.26%)	13,771 (43.47%)	136,745 (32.92%)	45,391 (43.98%)
Dist. 6	40,661 (5.56%)	1,045 (2.11%)	20,021 (4.02%)	17,963 (12.67%)	32,565 (5.61%)	671 (2.12%)	16,287 (3.92%)	14,465 (14.02%)

Core Constituencies

House Plan 2 Senate Amend

From Plan: **Benchmark Plan****Plan: House Plan 2 Senate Amendment 2,
District 7 --****731,203 Total Population**

	Population	[Hispanic Origin]	NH_Wht	NH_DOJ_Bl	[18+_Pop]	[H18+_Pop]	[NH18+_Wht]	[NH18+_ DOJ_Bl]
Dist. 7	408,260 (55.83%)	26,343 (53.30%)	304,095 (61.02%)	58,588 (41.33%)	337,513 (58.13%)	17,234 (54.41%)	262,389 (63.16%)	43,344 (42.00%)
Total and % Population		49,424 (6.76%)	498,371 (68.16%)	141,742 (19.38%)	580,628 (79.41%)	31,676 (4.33%)	415,421 (56.81%)	103,200 (14.11%)

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit 38

RETRIEVED FROM DEMOCRACYDOCKET.COM

User:

Plan Name: Benchmark Congressional with 2020 Data

Plan Type:

Political Subdivision Splits Between Districts

Thursday, January 13, 2022

8:43 AM

Split Counts

Number of subdivisions split into more than one district: Number of splits involving no population:

County	12	County	0
Voting District	65	Voting District	13

Number of times a subdivision is split into multiple districts:

County	12
Voting District	65

County	Voting District	District	Population
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Split Counties:

Beaufort SC		1	174,409
Beaufort SC		6	12,708
Berkeley SC		1	200,765
Berkeley SC		6	29,096
Charleston SC		1	301,216
Charleston SC		6	107,019
Colleton SC		1	1,253
Colleton SC		6	37,351
Dorchester SC		1	141,250
Dorchester SC		6	20,290
Florence SC		6	13,876
Florence SC		7	123,183
Greenville SC		3	71,416
Greenville SC		4	454,118
Newberry SC		3	6,410
Newberry SC		5	31,309
Orangeburg SC		2	18,421
Orangeburg SC		6	65,802
Richland SC		2	220,020
Richland SC		6	196,127
Spartanburg SC		4	306,115
Spartanburg SC		5	21,882
Sumter SC		5	86,353
Sumter SC		6	19,203

Split VTDs:

Beaufort SC	Burton 1D	1	706
Beaufort SC	Burton 1D	6	2,526
Beaufort SC	Chechessee 1	1	1,772
Beaufort SC	Chechessee 1	6	0
Berkeley SC	Cordesville	1	0
Berkeley SC	Cordesville	6	1,777
Berkeley SC	Daniel Island 2	1	2,413
Berkeley SC	Daniel Island 2	6	100

Political Subdivision Splits Between Districts

Benchmark Congressional wit

County	Voting District	District	Population
Berkeley SC	Daniel Island 3	1	2,658
Berkeley SC	Daniel Island 3	6	0
Berkeley SC	Foster Creek 1	1	1,863
Berkeley SC	Foster Creek 1	6	0
Berkeley SC	Foster Creek 3	1	2,732
Berkeley SC	Foster Creek 3	6	0
Berkeley SC	Hanahan 4	1	2,486
Berkeley SC	Hanahan 4	6	0
Berkeley SC	Hanahan 5	1	2,435
Berkeley SC	Hanahan 5	6	394
Berkeley SC	Sedgefield 2	1	0
Berkeley SC	Sedgefield 2	6	5,590
Berkeley SC	The Village	1	3,173
Berkeley SC	The Village	6	376
Berkeley SC	Yellow House	1	2,535
Berkeley SC	Yellow House	6	1,237
Charleston SC	Charleston 8	1	127
Charleston SC	Charleston 8	6	1,570
Charleston SC	Charleston 9	1	198
Charleston SC	Charleston 9	6	1,191
Charleston SC	Deer Park 3	1	2,726
Charleston SC	Deer Park 3	6	2,045
Charleston SC	North Charleston 28	1	556
Charleston SC	North Charleston 28	6	2,482
Charleston SC	Wadmalaw Island 2	1	800
Charleston SC	Wadmalaw Island 2	6	642
Colleton SC	Green Pond	1	0
Colleton SC	Green Pond	6	1,105
Florence SC	Hannah	6	353
Florence SC	Hannah	7	654
Florence SC	Prospect	6	10
Florence SC	Prospect	7	654
Greenville SC	CAROLINA	3	0
Greenville SC	CAROLINA	4	2,657
Greenville SC	DONALDSON	3	0
Greenville SC	DONALDSON	4	2,250
Greenville SC	MOORE CREEK	3	4,838
Greenville SC	MOORE CREEK	4	732
Greenville SC	RAINTREE	3	4,553
Greenville SC	RAINTREE	4	671
Greenville SC	SIMPSONVILLE 5	3	1,557
Greenville SC	SIMPSONVILLE 5	4	2,226
Greenville SC	SIMPSONVILLE 6	3	0
Greenville SC	SIMPSONVILLE 6	4	3,936
Greenville SC	SYCAMORE	3	2,433
Greenville SC	SYCAMORE	4	1,924
Newberry SC	Beth - Eden	3	403

Political Subdivision Splits Between Districts

Benchmark Congressional wit

County	Voting District	District	Population
Newberry SC	Beth - Eden	5	930
Newberry SC	Hartford	3	1,831
Newberry SC	Hartford	5	0
Newberry SC	Helena	3	52
Newberry SC	Helena	5	1,069
Newberry SC	Johnstone	3	5
Newberry SC	Johnstone	5	929
Newberry SC	Newberry Ward 3	3	0
Newberry SC	Newberry Ward 3	5	1,519
Orangeburg SC	Cordova 2	2	2,401
Orangeburg SC	Cordova 2	6	221
Orangeburg SC	North 2	2	1,766
Orangeburg SC	North 2	6	3
Orangeburg SC	Pine Hill	2	947
Orangeburg SC	Pine Hill	6	703
Richland SC	Brandon 1	2	443
Richland SC	Brandon 1	6	3,147
Richland SC	Brandon 2	2	451
Richland SC	Brandon 2	6	3,299
Richland SC	Briarwood	2	45
Richland SC	Briarwood	6	4,344
Richland SC	Hampton	2	1,765
Richland SC	Hampton	6	1,066
Richland SC	Harbison 2	2	1,308
Richland SC	Harbison 2	6	557
Richland SC	Keenan	2	1,432
Richland SC	Keenan	6	1,121
Richland SC	Monticello	2	1,334
Richland SC	Monticello	6	1,144
Richland SC	North Springs 3	2	2,439
Richland SC	North Springs 3	6	424
Richland SC	Pontiac 1	2	4,474
Richland SC	Pontiac 1	6	118
Richland SC	Spring Valley	2	3,721
Richland SC	Spring Valley	6	149
Richland SC	Trinity	2	219
Richland SC	Trinity	6	2,311
Richland SC	Ward 1	2	188
Richland SC	Ward 1	6	5,995
Richland SC	Ward 10	2	614
Richland SC	Ward 10	6	1,377
Richland SC	Ward 13	2	920
Richland SC	Ward 13	6	1,868
Richland SC	Ward 15	2	1,117
Richland SC	Ward 15	6	154
Richland SC	Ward 18	2	179
Richland SC	Ward 18	6	1,847

Political Subdivision Splits Between Districts

Benchmark Congressional wit

County	Voting District	District	Population
Richland SC	Ward 23	2	872
Richland SC	Ward 23	6	436
Richland SC	Ward 33	2	1,009
Richland SC	Ward 33	6	379
Richland SC	Ward 34	2	928
Richland SC	Ward 34	6	548
Richland SC	Ward 6	2	1,159
Richland SC	Ward 6	6	675
Richland SC	Woodfield	2	4,889
Richland SC	Woodfield	6	169
Spartanburg SC	Cherokee Springs Fire Station	4	339
Spartanburg SC	Cherokee Springs Fire Station	5	2,502
Spartanburg SC	Lake Bowen Baptist	4	5,674
Spartanburg SC	Lake Bowen Baptist	5	929
Spartanburg SC	Swofford Career Center	4	5,385
Spartanburg SC	Swofford Career Center	5	3
Sumter SC	BIRNIE	5	693
Sumter SC	BIRNIE	6	544
Sumter SC	FOLSOM PARK	5	2,708
Sumter SC	FOLSOM PARK	6	272
Sumter SC	HAMPTON PARK	5	760
Sumter SC	HAMPTON PARK	6	301
Sumter SC	MAYEWOOD	5	165
Sumter SC	MAYEWOOD	6	1,558
Sumter SC	SOUTH LIBERTY	5	197
Sumter SC	SOUTH LIBERTY	6	613
Sumter SC	TURKEY CREEK	5	607
Sumter SC	TURKEY CREEK	6	1,079

Exhibit 39

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Transcription of Video File:

20211129SJudiciaryRedistrictingSubcommittee11582_1

Date: November 29, 2021

Video Runtime: 1:32:48

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1 CHAIRMAN RANKIN: For the record, we
2 see lots of familiar faces in this audience.
3 We have as our court reporter today Ms.
4 Bostrom (phonetic). For the record, Ms.
5 Bostrom is waiving at us acknowledging her.
6 Speakers, if you will, as I've said, each of
7 these, when you are speaking to us, make
8 sure that the court reporter is able to take
9 what you're saying. Some speak faster than
10 others, so Attorney Cunningham, I doubt this
11 will be a problem for you, but sometimes
12 folks talk too fast, and the court reporter
13 gets overwhelmed. And so, pay attention to
14 her. If I'm not cueing you, look for her to
15 as well.

16 Again, I'm Luke Rankin, I'm from Horry
17 County, I represent the good folks down
18 there. And I am blessed to chair this
19 committee and this subcommittee today. As
20 at each of these that we've had, both the
21 public hearings and the subcommittee
22 meetings, I'm joined with a host of folks
23 live and via Zoom. To my right, Senator
24 Chip Campsen from Charleston, Senator Young
25 from Aiken is appearing by Zoom. Senator

1 Sabb to my left, from Williamsburg. Senator
2 Margie Bright Matthews to my far right from
3 Colleton. Senator Scott Talley is
4 downstairs in another commission meeting.
5 And Senator Dick Harpootilan way over yonder
6 to the left. Again, a bipartisan group,
7 representing the Senate and all parts of the
8 state.

9 A little recap, again, we -- in July,
10 met to organize. Then on the 27th of July
11 through August the 12th, ten public hearings
12 were conducted, where we received testimony
13 across the state about communities of
14 interest. August 12th, we made the newly
15 released census data available on our
16 redistricting website. Then on the
17 September 17th meeting, we adopted
18 guidelines and a public submissions policy.
19 Again, likewise put on the redistricting
20 website. Then from the 17th of September
21 through August-- October 8th, we received
22 public admissions -- submissions rather, of
23 proposed Senate district plans. Last month,
24 the 21st of October, we received testimony
25 about those submissions. Staff was directed

1 to develop a proposed Senate staff plan,
2 again, based upon the information that we
3 received from those sources. Thereafter, on
4 the 4th of November, we adopted the Senate
5 staff plan. November 12th, we received
6 testimony on the Senate staff plan, as well
7 as the proposed congressional plans.

8 And so, today, we are going to hear
9 first, a presentation about the
10 congressional plan. And at this time, our
11 would famous, world-renowned cartographer,
12 Will Roberts, will give us a brief
13 description of that congressional plan.

14 SENATOR MATTHEWS: Mr. Chair?

15 CHAIRMAN RANKIN: Yes, ma'am?

16 SENATOR MATTHEWS: I want to make sure
17 I have your timeline correct. This
18 committee has not adopted the conger--
19 proposed congressional plan?

20 CHAIRMAN RANKIN: Correct.

21 SENATOR MATTHEWS: Okay. Thank you.

22 CHAIRMAN RANKIN: Alright, Mr. Roberts?

23 MR. ROBERTS: Thank you, Mr. Chairman.

24 At the last subcommittee meeting, staff was
25 charged with creating a Congressional

1 District plan proposal. And we have done
2 our homework, and we released that staff
3 plan with a press release, and on the
4 redistricting website, on Tuesday November
5 23rd. The plan that staff has proposed is
6 what I would call a minimal change plan.
7 Our goal was to bring the Congressional
8 Districts back into deviation compliance,
9 while maintaining the core constituencies of
10 the districts. And with this plan, we have
11 accomplished that.

12 The current districts have a total plan
13 deviation of 23.58%, the plan that staff has
14 proposed has a zero percent deviation --
15 total plan -- total plan deviation. The
16 major change in the Congressional Districts
17 through this redistricting process, was
18 really between Districts 1 and District 6.
19 District 1 now includes east -- portions of
20 eastern Berkley County, all of Hanahan, and
21 the Daniel Island portion of Berkley County.
22 And those are areas that are currently in
23 Congressional District 6.

24 District 6 still includes the majority
25 of the City of Charleston and North

1 Charleston area, but now includes
2 significant portions of John's Island and
3 West Ashley that are currently in
4 Congressional District 1. Also, District 1
5 extends further down the coast to include a
6 portion of Jasper County, reflecting
7 testimony we heard at the public hearings
8 about the growth and communities of interest
9 in the low country area.

10 Some quick highlights of other
11 districts. District 2 fixes some precinct
12 splits in Richland County, as well as making
13 a few swaps. It also includes the --
14 District 2 picks up the Limestone area of
15 Orangeburg County, and that was done after
16 hearing comments at a public hearing in
17 Orangeburg earlier on this year. District
18 3, Newberry County is made whole.
19 Otherwise, mostly minor changes to the
20 current district, to accommodate shifts in
21 population. District 4 picks up some
22 precincts on the south side of Greenville
23 County from District 3, out towards the
24 Simpsonville area. District 5, it includes
25 more of the area in Boiling Springs and

1 Cowpens area, shifting the border between
2 Districts 5 and District 3 -- I'm sorry,
3 District 4, southwest towards the City of
4 Spartanburg. District 6, in addition with
5 the changes with District 1, also picks up a
6 few districts -- a few precincts in Sumter
7 County that are currently in District 5, and
8 the midlands area is largely unchanged, just
9 with some precinct tweaks. District 7 is
10 large -- really largely unchanged from the
11 current districts, it does pick up a few
12 districts from District 6 around the south
13 side of Florence County.

14 And Mr. Chairman, that's a brief
15 overview of the congressional plan the staff
16 has proposed for the subcommittee.

17 CHAIRMAN RANKIN: Alright. Very good.

18 SENATOR MATTHEWS: Mr. Chair?

19 CHAIRMAN RANKIN: Thank you.

20 SENATOR MATTHEWS: Mr. Chair?

21 CHAIRMAN RANKIN: We are -- Senator
22 Matthews?

23 SENATOR MATTHEWS: Sorry about
24 interrupting. We just received this, and I
25 understand ever -- we are under crunch on

1 this -- we received this notice of this
2 hearing on the Tuesday before last--
3 Thanksgiving, last week with the proposal.
4 And I -- and I can tell you, I'm a little
5 worried about the timeline, but we going to
6 work through that. I would ask that so that
7 when -- but -- if we can give it -- gather
8 information on what these districts looked
9 like before the data that the staff has,
10 that would show us what the congressional
11 plans looked like before the drawing. Since
12 District 1 and District 6 fall squarely in
13 my six counties, I think I would need to
14 look at that, to analyze why Charleston
15 County was cut up and -- the way it was, and
16 why there were carvings that were further
17 away from District 6 into this map. If I
18 can get that information, it would really
19 help us when we hear the testimony.

20 CHAIRMAN RANKIN: Alright, very good.

21 SENATOR HARPOOTILAN: Mr. Chairman?

22 CHAIRMAN RANKIN: Senator Harpootilan?

23 SENATOR HARPOOTILAN: And I share

24 Senator Bright Matthews concerns, we
25 actually got this the Tuesday before

1 Thanksgiving. And I've had some opportunity
2 to look at it, but I have significant
3 questions about how this was done, in that
4 the sixth district for instance, still goes
5 from the Atlantic Ocean to Lake Murray,
6 which doesn't make -- and I mean, if you
7 look at the definition of gerrymander in the
8 dictionary, you're probably going to find
9 this district next to it. I'm concerned how
10 this was done, and I think that while we're
11 going to hear from these folks today, we
12 need to hear from staff folks in an -- in a
13 separate meeting, where we can ask them very
14 probing questions about how this was done,
15 why this was done. And it appears to me
16 there's a racial overlay here. I'm -- at
17 least from the little bit I -- I mean,
18 obviously, I haven't had a chance to crunch
19 the numbers I -- the way I want to -- it
20 concerns me.

21 And Mr. Chairman, you understand I have
22 not discussed that in any pejorative way, on
23 any other plan that this Subcommittee has
24 looked at. And I'm not -- certainly not --
25 accusing the staff of anything untoward, it

1 may -- just may be that the result that they
2 came up with is racially skewed. And I
3 think that we need to be very conscious
4 about the fact of -- about the issue of
5 packing African Americans into one district.
6 Thank you.

7 CHAIRMAN RANKIN: Okay, thank you.
8 Alright, and let's -- unless there are other
9 comments from the Subcommittee members?
10 Let's go to the speakers, and three here by
11 -- to testify in person, I'm going to take
12 this list out of order, because respectfully
13 Ms. Teague, Mr. Ruth, you all have been
14 here, done this. You are fixtures here.
15 Mr. Cunningham, come on up if you will. You
16 are not a fixture, at least physically. Not
17 calling anybody a potted plant, mind you,
18 but welcome. And I trust you're not going
19 to be hanging around, you're going to be
20 getting back on the road. So, you have 19
21 seconds to speak. That's not -- it's a
22 joke. But floor is yours, and welcome. Do
23 you --

24 MR. CUNNINGHAM. I appreciate it. What
25 -- how much time do I have allotted, Mr.

1 Chairman? As (inaudible) --

2 CHAIRMAN RANKIN: As little as you
3 need, and no more than ten minutes.

4 CONGRESSMAN CUNNINGHAM: Okay.

5 CHAIRMAN RANKIN: Raise your right
6 hand, if you will? Do you swear, affirm to
7 tell -- do we swear these witnesses here?
8 Forgive me. Have I been doing that?

9 UNIDENTIFIED SPEAKER: I don't think --

10 UNIDENTIFIED SPEAKER 2: No.

11 CHAIRMAN RANKIN: Yeah, you know what?
12 I'm confused.

13 SENATOR MATTHEWS: (Inaudible).

14 CHAIRMAN RANKIN: Lynn, have we sworn
15 you before? I don't think so. I'm in --
16 I'm in --

17 CONGRESSMAN CUNNINGHAM: I can tell
18 you, everything I say will be the truth.

19 CHAIRMAN RANKIN: No.

20 CONGRESSMAN CUNNINGHAM: So, --

21 CHAIRMAN RANKIN: Unless you slip, you
22 do not need to do that, I'm in the wrong
23 commission meeting. Floor is yours,
24 welcome.

25 CONGRESSMAN CUNNINGHAM: Thank you,

1 Chairman Rankin. Members of the
2 subcommittee, it's an honor to be here with
3 you today on a very pressing matter as it
4 relates to our very own democracy. I'm Joe
5 Cunningham, and from early 2019 to just
6 earlier this year, I had the -- the great
7 honor of representing the first
8 Congressional District in the United States
9 congress. And I've got to tell you that
10 representing the first Congressional
11 District was, you know, it was the greatest
12 honor in my life. And throughout my
13 service, I got to know the first
14 Congressional District very well. And the
15 history, the people, the communities big and
16 small, black and white, wealthy and working
17 class. And I know first-hand how important
18 representation really is.

19 And I drove here this morning from
20 Charleston to tell you something that you
21 already know. Which is that the proposed
22 map today, particularly the first
23 Congressional District, stinks. It's
24 terrible. It is --

25 UNIDENTIFIED SPEAKER 3: I'm so sorry

1 to interrupt your presentation. Could you
2 back up your microphone just a little bit
3 here? (Inaudible), try now.

4 CONGRESSMAN CUNNINGHAM: I want --

5 UNIDENTIFIED SPEAKER 3: I'm so sorry.

6 CONGRESSMAN CUNNINGHAM: -- yeah, I
7 want to make sure they can hear me though.

8 UNIDENTIFIED SPEAKER 3: Yeah,
9 (inaudible).

10 SENATOR RANKIN: (Inaudible) we can
11 year you too much.

12 CONGRESSMAN CUNNINGHAM: Well, okay.

13 SENATOR RANKIN: (Inaudible).

14 CONGRESSMAN CUNNINGHAM: I -- I want to
15 make sure that everybody can hear me,
16 because this is important. The maps are
17 awful. They are just -- they -- I mean,
18 they make no sense, unless of course the
19 sole purpose of these maps is to make it
20 harder for a republican to lose. See, ten
21 years ago, this body intentionally drew the
22 first district to make it virtually
23 impossible for a democrat to win. And
24 although the district, you know, has always
25 been based in Charleston, this body made

1 sure that the significant black population
2 would be packed into the sixth Congressional
3 District. And despite the incredible
4 diversity of Charleston County, you all made
5 sure that the first was almost entirely
6 white. Thus, a safe republican district.

7 Well, until 2018, when I became the
8 first democrat to win that district in 40
9 years. And despite the district being
10 designed intentionally so that democrat
11 could not win, I was able to win a district
12 that Donald Trump carried by 13 points. And
13 just last year, I lost it by a single point
14 in one of the closest elections of the
15 entire country.

16 Now, let's face it, you know, the folks
17 in Washington D.C. really don't like
18 competition. They don't like close races.
19 They want -- they want safe elections. They
20 want reliable elections. They want to make
21 sure that what happened in 2018 in the first
22 Congressional District, never, ever happens
23 again. Even if they have to cheat or rig
24 the system to make sure that happens.

25 In my time as a candidate, and as a

1 member of Congress, I saw up close and
2 personal how the district was just chopped
3 up, based upon one thing, race. You could
4 drive down Chapel Street, the old district
5 boundary -- the current district boundary
6 right now, and look on one side and see
7 African American community, and the other
8 side see a white community. The white
9 community was in the first Congressional
10 District, and the black committee was in the
11 sixth Congressional District. You could not
12 draw it any clearer than driving down Chapel
13 Street. And I thought that that was the
14 best of gerrymandering. But low and behold,
15 I'm surprised, because look if
16 gerrymandering was an art, this proposed
17 plan would be a Picasso. You all have taken
18 it to the nth degree.

19 I just want to drop in some highlights
20 here. Despite all that diversity in the low
21 country, this plan gives the first
22 Congressional District the lowest black
23 population of any district in the state. It
24 takes the College of Charleston out of the
25 first Congressional District. This is

1 supposed to be the low country district, and
2 the College of Charleston has been removed.
3 The only thing left of the peninsula in
4 Charleston, is the nearly all white million-
5 dollar homes south of Broad. That's all
6 that's been left.

7 You took out most of John's Island.
8 That's an area that's rich in civil rights
9 history for a significant black population.
10 But mysteriously, kept nearly all white
11 Kiawah and Seabrook islands. I wonder why.

12 For some reason, the first District
13 does not represent an entire county. When I
14 represented the first District, I had five
15 parts of five different counties. And now
16 under these proposed maps, there's six parts
17 of six different counties, because why not?
18 Just throw a sixth in there. No one -- no
19 one can look at this map with a straight
20 face and say that it makes any sense.
21 Nobody. Nobody can look at it honestly, and
22 say that it makes any sense. And say that
23 it's good for our democracy.

24 This map only spurs questions.
25 Questions like, why are suburban Mount

1 Pleasant and West Ashley in two different
2 districts? Why is Charleston County split
3 into two different districts? One for white
4 residents and one for black residents. Why
5 are the College of Charleston and the
6 University of South Carolina, which are
7 separated by over a hundred miles, in the
8 same Congressional District? We know why.
9 Everyone here knows why. Everyone on this
10 committee knows why. Because the people who
11 drew this map, it's just a game. It's just
12 a political game, and it's just about
13 winning, because ten years ago, this body
14 drew a safe republican district, and by the
15 end of the decade it became a swing
16 district. And this proposed map moves the
17 goalpost yet again, to make it as hard as
18 possible for a democrat to win.

19 I'm here asking today, why are you so
20 afraid of competition? I'm not asking you
21 to draw a democratic district, I'm asking
22 you to draw a district that makes sense.
23 Because this map makes no sense, unless your
24 sole objective is to rig an election so that
25 one side cannot win. I don't know who drew

1 this map, I don't. I -- but I know one
2 thing, it wasn't any of you. This map --
3 and it wasn't any of your staff either.
4 This map was drawn by a partisan hack in
5 Washington D.C. That's who it was drawn by.
6 Somebody with the help of incumbent members
7 of Congress, to make themselves safer.
8 People hellbent on serving themselves,
9 instead of serving the people they're
10 elected to represent.

11 I would ask you to listen to the people
12 in the first Congressional District, not
13 some partisan hack from Washington D.C., who
14 could care less about South Carolina. I'm
15 asking you to put your Country, put your
16 State, above your own political party. Do
17 what's right, rip up this map, and start
18 over by using the input that you solicited
19 across this state. This map is not even
20 worth the paper that it's printed on. And I
21 -- I would say that if you want a majority
22 so bad in the United States House of
23 Representatives, go earn it. Go win it with
24 your policy ideas, go win it with your
25 vision. But don't cheat, and don't steal.

1 I can tell you that when I left
2 Congress earlier this year, our country has
3 never been more divided. And there's a lot
4 of reasons that point to that, but partisan
5 gerrymandering, the process that each of you
6 are engaged in today, is a big part of it.
7 It's ripping our country apart at the
8 fabric. It's why we're more divided than
9 ever. And for decades, you know,
10 legislators have bent over backwards to
11 eliminate competitive Congressional
12 Districts, and create safe districts, where
13 it's impossible to lose the general
14 election. And what's been the result? You
15 have a Congress that cannot function, and
16 I've seen it. I have lived it. You got the
17 far left, and you got the far right up there
18 in Washington D.C., trying to tackle some of
19 our country's most pressing problems, but
20 yet they cannot even agree on what day it
21 is. Working across the aisle for members of
22 Congress, has become a four-letter word,
23 because the only thing they have to worry
24 about is winning a primary, and the results
25 of general elections are predetermined.

1 When I represented the first District,
2 I can't tell you how many people came up to
3 me and said, "I -- I feel like my vote
4 doesn't even matter. I -- you know, I feel
5 -- why vote? Why should I vote? Why should
6 I partake democracy? I feel like the -- you
7 know, the die has been cast." And you know
8 what? They have a -- they have a damn good
9 point. When you look at these congressional
10 maps, and these lines that have been drawn
11 by a partisan hack in Washington D.C., and
12 released to the general public hours before
13 Thanksgiving break, with a public hearing
14 called hours after Thanksgiving break ends?
15 The whole process reeks. And South
16 Carolinian's deserve a hell of a lot better.

17 You've got two options. You know, you
18 can pour kerosene on the fire that's up in
19 Washington D.C. -- the dumpster fire that
20 exists -- because nobody can leave this
21 committee room and condemn the partisanship
22 in Washington D.C., and at the same time,
23 put the stamp of approval of partisan
24 gerrymandering that lays before us. You
25 can't do that. So, you can watch the

1 parties continue to move to the extremes.
2 The far left, the far right, and nothing
3 gets done, and our infrastructure crumbles,
4 all health care prices go up. All the
5 problems that need to get solved, go
6 ignored. Or -- or you can simply ignore the
7 partisan hacks in Washington D.C., you can
8 say, "to hell with what they want." And
9 focus on what the people of South Carolina
10 want. Fair maps, keeping communities of
11 interest together, not dividing communities
12 based upon the color of their skin. Not
13 packing black voters into one district. The
14 future of this country, the future of this
15 state, and our politics, rest entirely in
16 your hands. And I would beg that you handle
17 it with care. I yield back.

18 CHAIRMAN RANKIN: Alright, questions of
19 Mr. Cunningham? Representative Cunningham?
20 Otherwise, -- yes, ma'am, Senator?

21 SENATOR MATTHEWS: Just a couple of
22 questions. Joe, you know, we've had to work
23 together a lot for the better of South
24 Carolina many times. But I listen to our
25 cartographer talk, and yes, you're exactly

1 correct as it relates to the scheduling and
2 timing. I want you to know that as a member
3 of this Subcommittee -- and I've tried to be
4 present and work with the committee as much
5 as possible -- I was not involved in the
6 preparation of this map at all. No input
7 into the six counties that I've represented
8 over the years. Because the first glaring
9 problem that I see is yes, we went to public
10 hearings, and one or -- and in my area, I
11 paid much, much more attention.

12 If you looked at the bottom of the map,
13 where it refers to Sun City. Sun City in
14 Jasper County, and that leads from Hilton
15 Head. We heard it over and over when we
16 went there, that Sun City, the area that
17 includes Palmetto Bluffs, Margaritaville,
18 all of those areas down there, they spec--
19 even though they're at Jasper County per
20 say, they felt that they had more in common
21 with Beaufort. Hilton Head area. So,
22 therefore the committee on the Senate maps,
23 we all understood that they needed -- that
24 part of Jasper, which grew very much, needed
25 to be with Beaufort. So, it makes no sense

1 in this map why just the opposite was done
2 on this congressional map. So, I agree with
3 you on that. And out of candor, I want to
4 make sure that it's on the record that I
5 agree.

6 As far as Charleston County, I
7 represent Charleston County too. I
8 represent this side of Main Road in
9 Charleston County. I don't understand why
10 on this map, those black voters in
11 Charleston County were carved out, and the
12 more affluent areas went to make this a more
13 representative map, where repub-- a
14 republican could be elected. I'm also
15 concerned about the BVAP and the WVAP on
16 this, and how it totally switches. Out of
17 this, the -- the percentages that we have,
18 it gives this first Congressional District
19 from what I'm seeing, it totally makes it an
20 electable and secure republican district. I
21 go by the affluence, I go by the districts,
22 and the community. I understand your
23 concern, but I want you to know as a member
24 of this committee, I don't agree with this
25 map, I haven't had an opportunity to view,

1 I'm still going to inquire of staff who they
2 consulted with in drafting this map, because
3 I would think that since six and one go
4 straight through my six counties, that I
5 would have at least had some input into this
6 map.

7 Last part, I want to say this. On
8 Tuesday, when I received notice, my office
9 was winding down, I knew I had depositions
10 this morning -- this afternoon, and had to
11 be in court this morning. I had to cancel
12 everything immediately, because this is
13 critically important, because it astounded
14 me that no more notice was -- was -- should
15 have -- was given. But we're all here.
16 We're going to figure out how we work
17 through this big disparity, and this
18 protection of the first Congressional
19 District. The last --

20 CONGRESSMAN CUNNINGHAM: And I --

21 SENATOR MATTHEWS: -- question --

22 CONGRESSMAN CUNNINGHAM: -- and I
23 appreciate your work on that, Senator Margie
24 Bright Matthews.

25 SENATOR MATTHEWS: -- how is it -- in

1 it -- in looking at these numbers, how is it
2 that with the -- now with the new drawing of
3 this first Congressional District, somehow
4 it has the lowest black population of any
5 Congressional Districts?

6 CONGRESSMAN CUNNINGHAM: That's what
7 happens when you draw lines based upon race.
8 And that's exactly what was done ten years
9 ago, when I talk about downtown Charleston,
10 and that's exactly what happened today.
11 Because there's -- there's no -- this is not
12 excusable at all. And this happens in other
13 states, this isn't relegated to just the
14 State of South Carolina, but it doesn't make
15 it right anywhere.

16 SENATOR MATTHEWS: Well, did you notice
17 on this proposed map, that they took out
18 West Ashley? A very -- not necessarily
19 black or white but voted democratic. And
20 they also removed all the black parts of the
21 Sea Islands. Those are communities of
22 interest, they basically have the same
23 concerns that you ran on, which was
24 protecting our coastland.

25 CONGRESSMAN CUNNINGHAM: And West

1 Ashley has a hell of a lot more in common
2 with James Island than it does with
3 Columbia.

4 SENATOR MATTHEWS: Thank you.

5 SENATOR HARPOOTILAN: If I might, I'm
6 (inaudible) --

7 CHAIRMAN CAMPSSEN: The Senator from
8 Columbia?

9 SENATOR HARPOOTILAN: You're
10 recognizing me. I thought you had a
11 question.

12 CHAIRMAN CAMPSSEN: I'm in char-- I'm in
13 charge now.

14 SENATOR MATTHEWS: Oh.

15 CHAIRMAN CAMPSSEN: Temporarily.

16 SENATOR MATTHEWS: Big chief.

17 SENATOR HARPOOTILAN: I'll be very
18 careful then. Senator we -- I mean,
19 Senator, Congressman, were you consulted by
20 our staff in anyway?

21 CONGRESSMAN CUNNINGHAM: No, the first
22 time I learned about these maps, when it was
23 released online mere hours before
24 Thanksgiving holiday.

25 SENATOR HARPOOTILAN: Can staff

1 confirmed they talked to any Congressman
2 about this map? Staff, Will, anybody?

3 MR. ROBERTS: (Inaudible) wait a
4 minute, this was all communicated to
5 (inaudible).

6 SENATOR HARPOOTILAN: To who? No, no,
7 --

8 MR. ROBERTS: This map was pushed out
9 (inaudible) --

10 SENATOR HARPOOTILAN: Prior -- prior to
11 it being, were they consulted in the
12 formulation of this map? Any Congressman?

13 MR. ROBERTS: Senate staffers were, at
14 one time I think it was (inaudible).

15 SENATOR HARPOOTILAN: A Congressman was
16 -- prior to this map being drawn,
17 Congressman was consulted and had input?

18 MR. ROBERTS: The input was very
19 little.

20 SENATOR HARPOOTILAN: Was what?

21 MR. ROBERTS: Very little.

22 SENATOR HARPOOTILAN: Well, that's
23 fine, who was that Congressman?

24 MR. ROBERTS: Senator Wilson called us
25 and asked us about (inaudible).

1 SENATOR HARPOOTILAN: Congressman
2 Wilson?

3 MR. ROBERTS: Yes, sir.

4 SENATOR HARPOOTILAN: Okay. No other
5 Congressman was --

6 MR. ROBERTS: Dalton --

7 SENATOR HARPOOTILAN: -- consulted?

8 MR. ROBERTS: -- Dalton Tresvant, with
9 Congressman Clyburn's office came
10 (inaudible).

11 SENATOR HARPOOTILAN: Okay. Anybody
12 else?

13 MR. ROBERTS: Not that I recall.

14 SENATOR HARPOOTILAN: Never heard form
15 Nancy Mayes, never heard from (inaudible) --
16 any of the others?

17 MR. ROBERTS: Not since -- not since
18 this map has been out.

19 SENATOR HARPOOTILAN: Any input from
20 people outside our state organization?
21 People from Washington? People from --

22 MR. ROBERTS: No.

23 SENATOR HARPOOTILAN: -- independent
24 groups?

25 MR. ROBERTS: We received (inaudible)

1 some input from some outside groups
2 afterwards.

3 SENATOR HARPOOTILAN: Like who?

4 MR. ROBERTS: After our -- the map was
5 published.

6 SENATOR HARPOOTILAN: But not prior to?

7 MR. ROBERTS: If we did, it didn't
8 affect the map.

9 SENATOR HARPOOTILAN: No, I'm not
10 asking you what affected. Did you receive
11 input from any outside group before the map
12 was published?

13 MR. ROBERTS: Yes, sir.

14 SENATOR HARPOOTILAN: What groups are
15 those?

16 MR. ROBERTS: Some Republican
17 (inaudible) D.C. (Inaudible).

18 SENATOR HARPOOTILAN: And the name of
19 it?

20 MR. ROBERTS: I don't remember.

21 SENATOR HARPOOTILAN: Anybody that's on
22 staff remember the name of that group?

23 MR. ROBERTS: I -- I can pull it
24 (inaudible). Public -- it came to my Senate
25 email address, so it was all (inaudible).

1 SENATOR HARPOOTILAN: Well, and they
2 gave input to you, or who?

3 MR. ROBERTS: They submitted
4 (inaudible).

5 SENATOR HARPOOTILAN: And that --
6 that's not listed on our folks that had
7 comment?

8 MR. ROBERTS: It came in after the
9 published solutions. (Inaudible)
10 consideration it was negligible because it
11 came in way after the published solutions
12 (inaudible).

13 SENATOR HARPOOTILAN: But was -- did
14 the staff have a chance to look at it?

15 MR. ROBERTS: Yes, sir.

16 SENATOR HARPOOTILAN: And it was a
17 republican -- an official republican
18 organization?

19 MR. ROBERTS: It was a republican
20 organization out of D.C. (inaudible). I
21 just received an email, and that's it.

22 SENATOR HARPOOTILAN: Can we have the
23 name of that organization?

24 MR. ROBERTS: We can find it for you,
25 sir.

1 SENATOR HARPOOTILAN: Okay, before this
2 meeting's over?

3 MR. ROBERTS: Sure.

4 SENATOR HARPOOTILAN: Okay.

5 CONGRESSMAN CUNNINGHAM: I'm sorry,
6 Senator, I'm having a hard time hearing it.
7 What --

8 SENATOR HARPOOTILAN: I'm sorry.

9 CONGRESSMAN CUNNINGHAM: -- what -- was
10 it said that the only members of Congress or
11 staff, that were consulted were majority
12 whip, --

13 SENATOR HARPOOTILAN: Wilson.

14 CONGRESSMAN CUNNINGHAM: -- Jim
15 Clyburn, --

16 SENATOR HARPOOTILAN: Wilson --

17 CONGRESSMAN CUNNINGHAM: -- and --

18 SENATOR HARPOOTILAN: -- Joe Wilson.

19 CONGRESSMAN CUNNINGHAM: -- Joe Wilson?

20 SENATOR HARPOOTILAN: Yes.

21 CONGRESSMAN CUNNINGHAM: And that is
22 it? That's what the --

23 SENATOR HARPOOTILAN: That's --

24 CONGRESSMAN CUNNINGHAM: -- records
25 stating? That no other member of Congress,

1 or their --

2 SENATOR HARPOOTILAN: No other member -

3 -

4 CONGRESSMAN CUNNINGHAM: -- staff, --

5 SENATOR HARPOOTILAN: -- of Congress,

6 but there was --

7 CONGRESSMAN CUNNINGHAM: -- was

8 consulted?

9 SENATOR HARPOOTILAN: -- we just --

10 some independent republican group submitted

11 a plan, they indicate had no negli-- it had

12 negligible result -- negligible impact. But

13 I certainly would like to see that plan,

14 find out who those folks were, and whether

15 there was any communication from them other

16 than that email to people that were involved

17 --

18 CONGRESSMAN CUNNINGHAM: So, --

19 SENATOR HARPOOTILAN: -- in drawing

20 these maps.

21 CONGRESSMAN CUNNINGHAM: So, the

22 members of Congress were consulted about the

23 lines, but the members of this committee,

24 tasked with drawing these lines, were not.

25 Is that correct?

1 SENATOR HARPOOTILAN: Correct. Never
2 heard about it till we saw it after it had
3 been published. I -- I didn't, I don't
4 think Senator Sabb did either.

5 SENATOR SABB: No.

6 SENATOR HARPOOTILAN: Maybe our
7 republican brothers and sisters?

8 MR. ROBERTS: (Inaudible) scrolling on
9 the contact list. (Inaudible) if you go
10 right, you can see the staffers that
11 received the information that (inaudible).

12 SENATOR HARPOOTILAN: What's the
13 republican organization?

14 MR. ROBERTS: I'm going to pull that
15 right now, we didn't talk -- I didn't speak
16 to them.

17 SENATOR HARPOOTILAN: But this -- with
18 this -- okay, I've been given a list of
19 Congress people, this was after the map was
20 finalized?

21 UNIDENTIFIED SPEAKER 3: This has been
22 throughout the redistricting process.
23 They've been given all the meeting notices
24 the same time you all have been.

25 SENATOR HARPOOTILAN: But I guess what

1 I want to know is, did they have input in
2 the composition of this map verbally, or by
3 email, or any other way, prior to its being
4 distributed to us last Tuesday?

5 MR. ROBERTS: No.

6 UNIDENTIFIED SPEAKER 3: (Inaudible).

7 MR. ROBERTS: (Inaudible) I explained
8 (inaudible).

9 SENATOR HARPOOTILAN: Just Wilson and
10 Clyburn?

11 MR. ROBERTS: Wilson and Clyburn, yes
12 sir. They reached out to us, it came in
13 after (inaudible).

14 SENATOR HARPOOTILAN: And this
15 republican organization's name?

16 MR. ROBERTS: I'm pulling it right now.

17 SENATOR HARPOOTILAN: Okay, that's
18 fine. Thank you.

19 CONGRESSMAN CUNNINGHAM: Is that a
20 republican organization in South Carolina?

21 SENATOR HARPOOTILAN: No, it's out of
22 D.C.

23 CONGRESSMAN CUNNINGHAM: Oh, out of
24 Washington D.C.?

25 SENATOR HARPOOTILAN: That would be the

1 people you're talking about --

2 CONGRESSMAN CUNNINGHAM: Yeah.

3 SENATOR HARPOOTILAN: -- from D.C., I
4 suspect.

5 CONGRESSMAN CUNNINGHAM: Partisan hack,
6 yeah.

7 SENATOR HARPOOTILAN: Right, partisan
8 hacks, yes. I just want to know whether
9 it's the Republican Congressional committee,
10 or whether it's some Koch brothers, or some
11 extreme Q-Anon organization.

12 CONGRESSMAN CUNNINGHAM: So, they had
13 more of a say in the design of the districts
14 than the very own constituents in the
15 districts that are being drawn?

16 SENATOR HARPOOTILAN: They had more of
17 a say in the design than I did, and I'm on
18 this committee.

19 CONGRESSMAN CUNNINGHAM: Yeah.

20 SENATOR HARPOOTILAN: And that's what
21 upsets me, is that some independent
22 republican group is allowed to let them know
23 what they think, but I'm not. Never saw the
24 congressional plan, never asked for my
25 input.

1 CONGRESSMAN CUNNINGHAM: Why is that,
2 you think?

3 SENATOR HARPOOTILAN: Well, I'm a guy
4 that just gave up my district, District 20,
5 and sent it to Charleston, because that's
6 where the population growth has been,
7 because -- and allowed three Senators to be
8 totally within the bounds of Richland
9 County, that's why I did that, because it's
10 the right thing to do, whether or not I get
11 re-elected. This is not about me coming
12 back, it's about the people of the state
13 having representatives they pick, not that
14 the Congressman or Senator's pick. It's not
15 the other way around. It's -- we don't pick
16 our constituents, we shouldn't -- our
17 constituents should pick us, and that's
18 what's wrong with this plan. That's all I
19 have.

20 CONGRESSMAN CUNNINGHAM: I just want to
21 echo Senator Margie Bright Matthews comment
22 about the timing of this, and the process of
23 being -- something being done in the dark.
24 Things are typically only done in the dark
25 that want to remain hidden, and we're trying

1 to shine light here into this process, and
2 the -- or the lack thereof.

3 CHAIRMAN CAMPSEN: Okay, any other
4 questions? Comments? Thank you.

5 CONGRESSMAN CUNNINGHAM: Thank you for
6 your time.

7 CHAIRMAN CAMPSEN: Thank you. Okay,
8 next is Lynn Teague. And I just -- I would
9 like, as Ms. Teague, you come to the -- to
10 the podium, but I would like to emp-- just
11 make it clear that this is a staff generated
12 map. And so, the staff -- I didn't really
13 have any input into it either, Senator, and
14 it's something that the staff has proposed,
15 we're taking public input, and it can
16 change. So, I just want those who are
17 watching, and interested in the process to
18 realize that is the process. And it's not
19 final, it's not even close to final, it is a
20 first iteration produced by the staff. Ms.
21 Teague?

22 MS. TEAGUE: Thank you, Senator. And
23 thank you all of hearing us once more. We
24 are fixtures, John and I, so great to see
25 you all again. However, we are disappointed

1 by the Congressional proposal. We're -- we
2 find it disappointing that we can't be as
3 positive about it as we were about your
4 proposal for the Senate map. Everyone who's
5 engaged on this issue knows that the bit
6 changes had to be CD 1 and 6, because of the
7 population shifts. We drew our map, which I
8 -- we discussed in the last hearing, without
9 reference to any voting history, or other
10 partisan or incumbent data. And in doing
11 so, we drew around genuine communities of
12 interest and political subdivisions. And
13 what we found when we did that was that we
14 had a voting rights district in District 6,
15 as usual, and we had five non-competitive
16 districts. Even the league of women voters,
17 you know, drawing objective maps, can't --
18 could not -- well, we didn't try, but they
19 didn't -- not turn out to be what you would
20 call competitive. There was one naturally
21 competitive district in our map, and I think
22 in any map, that really focuses on
23 communities of interest and political
24 subdivisions, and that's CD 1. In our map,
25 while we did not do it with those data, to

1 make it turn out that way, it's within one
2 percentage point on our estimated partisan
3 gap, instead of something closer to 14 in
4 this map.

5 And we believe this map does not adhere
6 to communities of interest or political
7 subdivisions. It embodies some of the
8 problems that were already present in the
9 map. You know, Will, you mentioned that,
10 you know, it was a minimal change, and
11 that's true in the sense that North
12 Charleston is still there with Columbia.
13 North Charleston should not be with
14 Columbia. North Charleston is part of a
15 very coherent community of interest with
16 Charleston and the other satellite commun--
17 cities and suburbs growing around the
18 Charleston area.

19 And so, what would the people of South
20 Carolina lose if this map were adopted?
21 Well, first of all, of course their votes
22 would not mean much in November. I mean,
23 regardless of which party their favoring.
24 The -- the outcome would be pretty certain,
25 barring extraordinary circumstance. I mean,

1 there's always a possibility of a miracle,
2 but -- in any case, the bigger issue then
3 becomes the push that this does add to
4 extremism in our politics. You've heard us
5 talk about that before, it's a big concern
6 for the League, that extreme districts
7 product extreme politics that are harming
8 our country.

9 So, we have other concerns as well.
10 There are places where to follow municipal
11 or county lines, black communities are split
12 at the boarder of CD 6, and we don't believe
13 they need to be. Very often, the municipal
14 boundaries are drawn with intentional
15 discriminatory processes, and this simply
16 continues that. We don't like CD 2 having a
17 finger projecting through Columbia over to
18 Fort Jackson, that's there now, but we don't
19 like it now, we don't like it in its
20 proposed form. The effort to get CD 2 to
21 Fort Jackson, drives CD 2 through the black
22 communities of Northwest Richland,
23 separating them from neighboring communities
24 to allow the incumbent to keep Fort Jackson
25 within his district. Why must a legislator

1 have a specific base within his district to
2 protect it in deliberations with the House
3 Armed Services committee? We don't think
4 so. I mean, we would hope that the
5 Congressman from South Carolina would
6 protect Shaw, would protect Paris Island,
7 would be protecting major military
8 installations across the state. And we note
9 that the staff plan does not do a good job
10 on splitting counties. And that the county
11 splits are not necessary to achieve equal
12 population -- it's about twice ours -- and
13 so there's clearly another agenda there.

14 If this plan were enacted, for the next
15 ten years, many South Carolinians would find
16 that their vote was unnecessarily wasted.
17 And without even one competitive district
18 where candidates must speak to a diverse
19 electorate in order to win, the potential
20 for real dialogue about real issues, both on
21 the coast and throughout our state, would be
22 greatly diminished. A district that is a
23 fair representation of the diverse
24 community, and the increasingly urbanized
25 low country would not solve all of our

1 political problems, but not doing so will
2 surely amplify those problems. We ask you
3 to consider options that are less damaging
4 to voter rights, and to reasonable political
5 dialogue. John, would you like to comment?

6 CHAIRMAN CAMPSSEN: Mr. Ruth?

7 MR. RUTH: I'm feeling sorry for Will
8 sitting there having to take all of this
9 abuse, having been in that map drawer seat.
10 The reality in drawing maps is that it is a
11 series of policy choices. And you know, the
12 good book tells us that where your treasure
13 lies, so lies your heart. I think in map
14 drawing, where your lines lie, so lie your
15 heart. The reality is, that there are
16 problematic aspects to this map. Some of
17 them have been discussed, including the --
18 taking the historically black population in
19 the city of Charleston and combining it with
20 Columbia. Now be clear, I've defended
21 Congressional District 6 since we first drew
22 it in the 1990s. And I was involved where
23 we were trying to -- having contests over
24 who could get the highest BVAP by adding
25 this little community and that little

1 community.

2 We know a lot more about electable
3 black districts than we did in 1990, when we
4 were operating off of poor rules of thumb.
5 You don't need to go into Charleston in
6 order to draw an opportunity district for
7 African American voters to be able to elect
8 a candidate of their choice. And that's the
9 real goal of drawing a voting rights
10 district. You don't need to do it.

11 What are other policy choices that were
12 made? Now, I have set in Federal court,
13 having judges demand of me, how many excess
14 county splits do you have in your map?
15 Well, we offered you an -- and alternative,
16 you may not have liked parts of it, but we
17 offered you an alternative that did not take
18 six into -- into Charleston, and that had
19 only six split counties, different from the
20 -- the 13 in this plan. Because this plan
21 really chops off the bottom of all those
22 counties along the coast, the counties that
23 Senator Bright Matthews represents.

24 The other issue in addition to those
25 that -- you know, let me point to some

1 particular places where for example, making
2 the choices that were made results in the
3 cracking of black communities. If you look
4 at the City of Sumter, for example. And
5 using the city limits in Sumter, rather than
6 making Sumter whole, means that there are
7 black communities that are cheek by jowl,
8 inside the city to outside the city, but
9 they are split. Those communities are
10 cracked, reducing their ability to have a
11 voice in the policy direction of their
12 Congress person. If you look at that hook
13 that goes across into Richland County, to
14 get Congress -- Congress Member Wilson to
15 Fort Jackson, it does that by driving right
16 through a series of African American
17 communities that are split off from their
18 neighbors in adjoining precincts, to
19 accomplish a goal that is unclear to me
20 where in the hierarchy of policy choices
21 that should fit. And if protecting bases is
22 the point, the only base I've heard much
23 noise about lately closing is Paris Island.
24 Our proposal to Congress Member Wilson into
25 Beaufort County, where he could predict

1 Paris Island better, if we believe that
2 that's where the clout is needed.

3 So, a series of policy choices were
4 made. And one of the results of that,
5 perhaps the intent, but one of the results
6 is that you take a district that was
7 historically competitive and you tun it into
8 a no longer competitive district. And where
9 does that fit in the list of your
10 priorities? Thank you.

11 CHAIRMAN CAMPSEN: Thank you, Mr. Ruth.
12 Any questions for Mr. Ruth?

13 SENATOR MATTHEWS: Unfortunately, me.

14 CHAIRMAN CAMPSEN: Okay, the Senator
15 from Colleton.

16 SENATOR MATTHEWS: Mr. Ruth, if you
17 would, can you -- I'm going to ask a couple
18 of questions, and I just want you to notch
19 it down to normal people's understanding of
20 this. It's like your doctor of maps or
21 something. If you would, give this
22 committee your just snapshot view of why
23 this proposed staff map has the BVAP
24 representation that it does. Because I'm
25 looking at a B -- a WVAP here versus the

1 BVAP, and from the first District, all the
2 way to the seventh, with the exception of
3 the sixth Congressional District, the WVAPs
4 exceed 66.49%. Tell us what does that mean?

5 MR. RUTH: Well, I mean, there are
6 rules of thumb about, you know, what are
7 going to be in South Carolina, electable and
8 non-electable districts for a democratic
9 candidate, and African American candidate.
10 I have not done a partisan analysis of these
11 districts in the way that I've done in court
12 cases in the past.

13 SENATOR MATTHEWS: And if -- and if we
14 follow that you have not done a partisan
15 analysis, that's good, because that's where
16 I was leading. Not every African American
17 is a democrat, so as not every white person
18 -- or non-black person -- a republican. So,
19 going along that line, when you look at this
20 map, it also follows that why then would
21 there be like a salamander, or a snatch it
22 approach, carving out a portion of
23 Charleston?

24 MR. RUTH: Well, --

25 SENATOR MATTHEWS: Tell me that makes

1 sense? Given the --

2 MR RUTH: It --

3 SENATOR MATTHEWS: -- the --

4 MR. RUTH: -- it makes sense if I were
5 trying to create an opportunity district for
6 African American voters to elect a candidate
7 of their choice, and I had no options.

8 SENATOR MATTHEWS: Right. And you do -
9 - and I'm sure you've studied the census.
10 And the coastline areas, Charleston, Mount
11 Pleasant, Jasper County, those areas -- I'm
12 not talking about the top of the state where
13 we got Charlotte and all of that area -- but
14 the coastal part of South Carolina has been
15 one of the fastest growing areas of South
16 Carolina.

17 MR. RUTH: Absolutely.

18 SENATOR MATTHEWS: And you and I -- I'm
19 going to make an assumption, and it's not
20 always true. Property values on the coast
21 tend to be some of the highest property
22 values in the state.

23 MR. RUTH: Yes.

24 SENATOR MATTHEWS: And those voters,
25 not always, but some have moved from down --

1 up north, from north down to the coast,
2 those vote-- voters have a greater
3 propensity for voting conservatively?

4 MR. RUTH: In general, although I think
5 it -- I think you would be surprised at some
6 of the places where there are more
7 democratic votes than --

8 SENATOR MATTHEWS: I said that with --

9 MR. RUTH: -- people with a
10 (inaudible).

11 SENATOR MATTHEWS: -- a caveat.

12 MR. RUTH: Yeah.

13 SENATOR MATTHEWS: Because yes, I think
14 our gr-- biggest democratic party -- our
15 county party, is in the Sun City area. So,
16 yes you are exactly right. However, when
17 you view this map, what substantively can
18 you give, considering the coastline? And
19 I'm sorry, that's my biggest concern here,
20 first and sixth. When you look at this map,
21 what concrete, substantives changes or
22 concerns do you have? If you could give us
23 that in three sentences or less, I would
24 appreciate it.

25 MR. RUTH: Clearly, it's a least change

1 map. Will, wasn't woofing to you about
2 that.

3 SENATOR HARPOOTILAN: A what?

4 SENATOR MATTHEWS: It's a --

5 MR. RUTH: Wasn't woofing.

6 SENATOR MATTHEWS: -- minimal change.

7 MR. RUTH: Selling woof tickets.

8 SENATOR HARPOOTILAN: Woofing.

9 Woofing, okay. I didn't understand what the
10 word was.

11 SENATOR MATTHEWS: Given the census,
12 and what -- I'm biggest -- given the census
13 changes in Charleston County, it's not --
14 there's -- you -- it's your position there's
15 not a lot of change?

16 MR. RUTH: Well, obviously, when you
17 have all of that census population, when you
18 try to draw a least change map, you're going
19 to have a lot of change.

20 SENATOR MATTHEWS: Okay.

21 SENATOR HARPOOTILAN: (Inaudible).

22 MR. RUTH: You know, that's math.

23 SENATOR MATTHEWS: I get it. But you
24 hadn't really said anything.

25 MR. RUTH: Well, --

1 SENATOR MATTHEWS: That's okay.

2 MR. RUTH: -- you don't -- you don't
3 need to bring the sixth Congressional
4 District into Charleston at all --

5 SENATOR MATTHEWS: Thank you.

6 MR. RUTH: -- to have an opportunity
7 district for African American voters.

8 SENATOR MATTHEWS: Thank you. That's all
9 I wanted.

10 CHAIRMAN CAMPSSEN: Okay, any other
11 questions?

12 SENATOR HARPOOTILAN: Yes, yes.

13 CHAIRMAN CAMPSSEN: The Senator from
14 Columbia?

15 SENATOR HARPOOTILAN: So, your plan,
16 when I say, "your," the League of Women
17 Voters plan had Charleston County whole,
18 correct? Mostly whole?

19 MR. RUTH: Yes.

20 SENATOR HARPOOTILAN: Okay. Richland
21 whole?

22 MR. RUTH: Yes.

23 SENATOR HARPOOTILAN: Orangeburg whole?

24 MR. RUTH: Yes.

25 SENATOR HARPOOTILAN: Sumter whole?

1 MR. RUTH: Yes.

2 SENATOR HARPOOTILAN: Williamsburg
3 whole?

4 MR. RUTH: Yes.

5 SENATOR HARPOOTILAN: I'm trying to
6 think of what other --

7 SENATOR SABB: Clarendon?

8 SENATOR HARPOOTILAN: What?

9 SENATOR SABB: Clarendon.

10 SENATOR HARPOOTILAN: Clarendon whole?

11 MR. RUTH: Yes.

12 SENATOR HARPOOTILAN: And so, -- and
13 that was based on the idea that county lines
14 meant something, correct?

15 MR. RUTH: Yes.

16 SENATOR HARPOOTILAN: And County lines
17 mean something because that's really the
18 next -- I mean other than the state setting
19 revenue or taxes, that's where most taxes
20 come from, correct? Through the county?

21 MR. RUTH: Yes.

22 SENATOR HARPOOTILAN: And so, it -- the
23 idea, for instance, in -- in what happened
24 to my district in the plan -- which is not
25 what you all proposed -- but what happened

1 to my district is, it went to Charleston
2 because that's where the populat-- where
3 there was population growth. And Richland
4 County got to keep three Senators totally
5 within their boundaries, is that correct?

6 MR. RUTH: Yes.

7 SENATOR HARPOOTILAN: So, that's a
8 rational decision to try to keep county
9 boundaries consistent -- consistently
10 together, correct?

11 MR. RUTH: Yes. Let me -- you know,
12 historically of course, you know, we had one
13 Senator from each county.

14 SENATOR HARPOOTILAN: Right.

15 MR. RUTH: And if there is one
16 constitutional principle, even though our
17 Constitution has been somewhat voided on
18 that point by one person, one vote -- it's
19 that you keep counties together, unless you
20 have a compelling state interest in not
21 doing that.

22 SENATOR HARPOOTILAN: Well, so -- and
23 that's a great -- a great concept. When you
24 look at what they've done -- what this plan
25 has done to Charleston County, it carves it

1 up in a -- what I say -- I mean, I say,
2 "bizarre," would you disagree with me? If -
3 - if you didn't take in --

4 MR. RUTH: My tolerance for bizarre is
5 a lot high-- a lot lower than yours.

6 SENATOR HARPOOTILAN: So, when I say,
7 "bizarre," I mean if you disregard
8 incumbency, if you disregard race, if you
9 disregard those kinds of things, it doesn't
10 make any geographic sense, does it?

11 MR. RUTH: No.

12 SENATOR HARPOOTILAN: Okay. So, it --
13 it is not done on the basis of ensuring one
14 man, one vote, is it?

15 MR. RUTH: No.

16 SENATOR HARPOOTILAN: It's done purely
17 based -- not purely, but significantly based
18 on race, is it not? Do they not take most
19 African American voters in Charleston
20 County, and put them in the sixth?

21 MR. RUTH: Yes.

22 SENATOR HARPOOTILAN: Okay, that would
23 be race?

24 MR. RUTH: Yes.

25 SENATOR HARPOOTILAN: And then they

1 keep the white voters in the first?

2 MR. RUTH: Yes.

3 SENATOR HARPOOTILAN: Or move them into
4 the first?

5 MR. RUTH: Or disproportionately so.

6 SENATOR HARPOOTILAN: Right. So, that
7 would be a race-based reapportionment plan
8 to benefit incumbency, would it not?

9 MR. RUTH: Certainly, the benefitting
10 incumbency would seem to be the higher
11 priority there.

12 SENATOR HARPOOTILAN: But the benefit
13 to --

14 MR. RUTH: But to do that -- I mean, I
15 --

16 SENATOR HARPOOTILAN: But to do --

17 MR. RUTH: -- you weren't involved in
18 the 2000 case as I recall, --

19 SENATOR HARPOOTILAN: No.

20 MR. RUTH: -- but at one point, one of
21 the republican lawyers, Bob Hunter, just
22 sort of stepped up -- we were almost in
23 recess at that point -- and -- and said to
24 the court, "I don't know if you realize how
25 odd this state is. Everywhere else we keep

1 -- we keep score by party, in South Carolina
2 you keep score by race." Yeah, we don't
3 register by party, we register by race. And
4 anyone who does politics in South Carolina,
5 when looking at a map, looks at the racial
6 proportions to get a sense of the political
7 proportions. Now, there are places that
8 doesn't particularly work, places in
9 Richland County for example, and in
10 Charleston County. But the way -- one of
11 the ways in which you effectuate that
12 partisan protection is by counting by race,
13 no doubt.

14 UNIDENTIFIED SPEAKER 4: Woo.

15 SENATOR HARPOOTILAN: And is that, I
16 mean, constitutionally infirm?

17 MR. RUTH: Well, you know, the
18 Constitution -- the courts says that the
19 Constitution allows you to draw by race, as
20 long as it's narrowly tailored.

21 SENATOR HARPOOTILAN: Well, is it in
22 your opinion narrowly tailored, in what's
23 been done in Charleston County?

24 MR. RUTH: No.

25 SENATOR HARPOOTILAN: Okay, thank you.

1 CHAIRMAN CAMPSSEN: Any other questions
2 for Mr. Ruth? Okay, thank you. Okay, next
3 we have some who want to test-- who want to
4 testify by Zoom.

5 MS. BENSON: Uh-huh.

6 CHAIRMAN CAMPSSEN: Mike McCabe, are you
7 there?

8 UNIDENTIFIED SPEAKER 3: He's away.
9 He's on.

10 MS. BENSON: He's not on? He's not
11 online.

12 CHAIRMAN CAMPSSEN: Mike McCabe is not
13 online, and --

14 MS. BENSON: Cedric -- Cedric Blain--
15 yeah, he is -- he is. Cedric Blain-Spain.

16 CHAIRMAN CAMPSSEN: Cedric Blain-Spain,
17 are you there?

18 MS. BENSON: Yeah, he's up there.

19 CHAIRMAN CAMPSSEN: Okay, you're --

20 MR. BLAIN-SPAIN: Yes.

21 CHAIRMAN CAMPSSEN: -- you're up. Thank
22 you, welcome.

23 MR. BLAIN-SPAIN: Thank you so much.

24 Greetings to the (inaudible) Judi--

25 Judiciary Redistricting Subcommittee. Thank

1 you for this opportunity to address you this
2 morning. Wow, after hearing from your
3 colleagues, other committee members, and the
4 testimony thus far, the law of divine
5 oneness, means that everything we do has a
6 ripple effect, and impacts the collective
7 not just ourselves. To call upon these
8 principles -- this principle, excuse me --
9 for self-improvement, simply remember that
10 your actions both matter and make a
11 difference. The law of cause and effect,
12 also known as the law of karma, states that
13 any action calls a reaction. Wilder says
14 that whatever you put out, good or bad, you
15 get right back. To harness the power of
16 this law, be aware how your actions and
17 decisions are affecting not just yourself,
18 but everyone around you, and focus on
19 dismissing negative energy in favor of
20 positive.

21 Individually and collectively, this
22 Senate Judiciary Redistricting Subcommittee,
23 as all others, whether locally, State
24 (inaudible) or Federal, are responsible to
25 ensure no matter the loopholes,

1 Constitution, voting rights act, and all
2 other those laws that seem to be in this
3 process manipulated. Ultimately, your
4 individual integrity is on display, as one
5 of the most powerful committees every ten
6 years. This committee, and votes to adopt
7 whatever map, will have a far greater
8 impact, and -- on the innumerable lives of
9 those who are impacted by cracking and
10 packing, that evil gerrymandering. More
11 importantly and effectively, whether those
12 elected and appointed in those districts are
13 still in office afterwards shall surely reap
14 the consequences of the repercussions of
15 drawing and redrawing district lines to
16 choosing your, and the others that are not
17 on this committee, voters. Rather than the
18 voters having the supreme opportunity to
19 choose in their elected officials from
20 competitive districts, with the most
21 contiguous lines possible.

22 One thing we know, and regardless of
23 what any one of the committee members and
24 those elected in the South Carolina general
25 assembly, and specifically the Senate, it

1 gives hope to the poor and silences the
2 wicked. God does not take the side of
3 rulers, nor favors the rich against the
4 poor, for he created everyone. As you go
5 through this process, it is my duty to speak
6 to you, to set the oppressed and all the
7 voters of South Carolina free, to let this
8 state and the nation know that no man, even
9 though we have remanence through the courts
10 for these and any other fair-- unfair maps
11 and districts that are drawn, and the way
12 these lines are -- and maps are proposed.

13 Those that will adopt unfair to
14 residents, and these lines were drawn
15 against certain ethnicities, you would have
16 picked a fight with God of all creation, and
17 the Universe, -- not man, not human -- shall
18 you reward you good, bad, or indifferent.
19 What you send out into the Universe
20 eventually comes back, whether you see it,
21 believe it or not, it comes back, and you're
22 rewarded for your deeds. Martin Luther King
23 said, and it was quoted, "but let justice
24 roll down as waters in righteousness as a
25 mighty stream." The prophet Amos was

1 saying, as most of the Hebrew profits were
2 saying, that what God wants is justice, and
3 right living, rather than religious ceremony
4 and talk for their own sake. May I ask of
5 the residents of Horry County, and the
6 entire South Carolina, for you to go back
7 and redraw fair U.S. Congress Congressional,
8 State senate, and for those -- even though
9 this is not the House meeting -- for those
10 in the House, districts without cracking and
11 packing. Draw contiguous lines.

12 Why should Horry County be split with
13 five senate districts? 28, 30, 32, 33, and
14 34. I believe this (inaudible) body was
15 presented with maps that have more
16 contiguous lines, competitive seats.

17 Remember what goes around comes around
18 quicker than ever in these states. And if
19 these districts aren't drawn right, while
20 you and others may get re-elected, and for
21 those of your social and economic circle--
22 circles get terms, they won't be pleasant.
23 Eventually, you become most miserable,
24 because the Universe never forgets.

25 Majority is not always right. The fact

1 that many people are in support of wrong
2 things goes not make the thing right. After
3 all, the number of persons with poor
4 reasoning capacity is higher than those with
5 better reasoning capacity. I don't read, or
6 care about the majority stance on a
7 particular issue before expressing mine. I
8 look at the issues, we look at the maps, we
9 look at South Carolina, and the testimonies
10 that have been presented thus far, and even
11 -- it's disheartening to sit here and listen
12 at your own colleagues on this distinguished
13 panel, and in the subcommittee, to say that
14 their lack of input on -- in these maps, and
15 the process thus far. There are more
16 foolish people than there are wise people.
17 People who think deeply and critically are
18 fewer compared to those with poor thinking.
19 I can handle the majority, but can't handle
20 my conscious. How do you rest? How would
21 this body, and even in the joint assembly,
22 in the full Senate and House, how would you
23 rest within your conscious to know that this
24 committee has allowed elected officials to
25 continue to pick their voters, than their

1 voters -- as I heard one of your colleagues
2 say -- to be fair about.

3 Whenever you find yourself on the side
4 of the majority, it is time to reform,
5 pause, and reflect. Wrong does not cease to
6 be wrong because the majority share in it.
7 You are personally responsible for becoming
8 more ethical than the society you grew up
9 in. Remember integrity is what you do when
10 no one is watching, it is doing the right
11 thing all the time. Even -- it may work to
12 your disadvantage -- if it works to your
13 disadvantage, excuse me. Integrity is
14 keeping your word, it is an internal
15 compass. A runner that directs you where
16 you know you should go, when everything
17 around you is pulling you in a different
18 direction. In life we aim to please our
19 God, not the popular opinion nor status quo
20 with man.

21 Horry County, yes, we know it can be
22 very complex at times, but we ask that you
23 go back and draw lines that we are not
24 cracking and packing here in Horry County.
25 If the gerrymanded map pass out of this

1 redistricting committee in South Carolina,
2 and across -- things that are going on
3 across the U.S., you become illegal, but not
4 criminal to a certain extent. Sort of like
5 non-legal, non-compliant legislatures and
6 counsels would choose voters, over voters
7 choosing their elected officials.

8 Gerrymandering, no matter the
9 difference, than the latest incident of a
10 string of grab-and-go flash mob theft, and
11 organized robbery plaguing cities across
12 America these days. Police had described
13 the incidents as flash mob theft, while
14 they're actions is too legal -- illegal, you
15 use redistricting loopholes in many cases,
16 outright redistricting grab-and-go.
17 District and geographical mob theft to get
18 the numbers you want to ensure you get the
19 districts you want, regardless of how the
20 constituents suffer at the cost of good old
21 boy, and good old girl systems. Like those
22 grab-and-go flash mob thieves, they took
23 what they wanted, but failed to realize that
24 in this circle of life are climbing the
25 ladder of life. What goes around, again,

1 comes around. What goes up, must come down.
2 You eventually meet the fate of your
3 decisions, the law or retribution. I ask
4 you, as others that have presented and will
5 present later on in this testimony, further
6 testimony, that the South Carolina Senate Re
7 -- Judiciary committee on Redistricting go
8 back.

9 It's easy to put the blame, and just
10 because they are employees, these are staff
11 maps. It's easy to shuck the blame on
12 someone else, but each of you -- each of
13 you, we look to you. The voter apathy of
14 (inaudible) South Carolina is at an all-time
15 low, and across this nation, because people
16 feel that elected officials do what they
17 want to do, so why go to the polls? Why
18 even care anymore? But we ask you that you
19 have this opportunity to do right by South
20 Carolina, by the Senate Districts. So, my
21 grandfather used to say -- he was our pastor
22 -- "and as the good book says, 'don't let
23 the sun go down on your wrath.'" You have a
24 chance now, to live in the sunlight, but
25 keep your shade clean. To do the right

1 thing by South Carolinians, by each Senate
2 District here in South Carolina, and I ask
3 you again to please go back to the drawing
4 board with your staff, and with you
5 individually and collectively.

6 And I thank you. And I want to
7 believe, I did not see the face with what
8 privilege was seeing who it was, but I
9 believe it was Senator Doc-- Dick
10 Harpootlian. I want us to thank him for
11 what he said -- if it wasn't him, please
12 excuse me, because I did not see them --
13 that giving up his seat and what he said.
14 He'd rather for the voter to choose him,
15 than he to choose the voters. And I ask
16 this committee to do the same thing. Be
17 respectful for your colleagues, be
18 respectful to the citizens of South
19 Carolina. You've been presented with maps
20 with competitive districts, I ask you to go
21 back and look at the maps that groups,
22 individuals -- and I see Mr. Ruth is there
23 with Ms. Teague -- they have all presented
24 maps and others. Go back and look at those
25 maps. You have this opportunity to do the

1 right thing, and you are able to have
2 competitive districts here in South
3 Carolina.

4 Why continue to follow the parroted
5 crowd? And in -- in the end, you then loose
6 out. What profit a man to gain the whole
7 world and loose his own soul? You have been
8 presented with competitive district maps,
9 look at those maps. Go back to the drawing
10 board. Because at one point in your life,
11 you're going to come to the point, and all
12 of these things you've done that will affect
13 South Carolina for ten years. Will you be
14 able to live with yourself? While the short
15 term may be good, the rewards of your
16 friends, and those throughout the state that
17 look at this for political and economic
18 gain, you yourselves have to live with you
19 and your families. And why put a curse upon
20 yourself and your families? Because of the
21 evil decisions to go along with these
22 gerrymandered maps.

23 I ask again, to go back to the drawing
24 board and please redraw the maps in the
25 Senate districts of Horry County, and the 46

1 counties of South Carolina with more
2 competitive districts, with the competitive
3 districts that you have been presented with.
4 Again, I yield back, thank you Senate
5 Judiciary Committee for this time, and we
6 look forward to continuing working with you.
7 And we would like to see these fair maps
8 coming out of South Carolina. Thank you so
9 very much.

10 CHAIRMAN CAMPSSEN: Okay, thank you.
11 Thank you, Mr. Blain-Spain. Any questions?
12 There being none, next is Jonah Simmons?

13 SENATOR HARPOOTILAN: Mr. Chairman?
14 Mr. Chairman, could I say something?

15 CHAIRMAN CAMPSSEN: The Senator -- the
16 Senator from Columbia? Let me put on the
17 record, earlier I asked staff who they had
18 gotten submissions from, and they have just
19 given me the information. Adam Kincaid of
20 The National Republican -- let me make sure
21 I get this correct -- The National
22 Republican Redistricting Trust submitted a
23 plan, or some material, I just want to get
24 that into the record. That is prior to us
25 seeing the plans. Now, to what extent that

1 impacted them would be something that we can
2 inquire into later. Or at the appropriate
3 time, if it happens, a court could inquire -
4 - require depositions. So, I would ask
5 staff to make sure they keep any record of
6 any contact, email, phone call, or whatever
7 they've had by any external or internal
8 group concerning the formulation of these
9 plans. Thank you.

10 CHAIRMAN CAMPSEN: Thank you. Mr.
11 Jonah Simmons? Are you -- are you there?

12 MR. SIMMONS: Yes, sir. Hello.

13 CHAIRMAN CAMPSEN: Okay. Tell us who -
14 - where you're from, who you represent, if
15 you represent any one other than yourself.

16 MR. SIMMONS: My name is Jonah Simmons,
17 I am in South -- in South Carolina Senate
18 District 8, Ross Turner. South Carolina
19 House District 24, Bruce Bannister. I
20 represent myself at this time.

21 CHAIRMAN CAMPSEN: Thank you.

22 MR. SIMMONS: Yes, sir. Listening to
23 these three testimonies, I appreciate what
24 I've heard. You know, as elected officials,
25 as you are servants of the State, of course

1 you don't intend to make this process
2 opaque, you don't intend to exclude people,
3 exclude your own constituents from this
4 process. They may feel like they are being
5 excluded, but surely you don't intend to
6 make -- to make that feeling happen. But
7 I'm sure that you just -- that they
8 Committee simply did not think of how to
9 make this process more available to people,
10 for example, putting signs up on the
11 highways and heavily trafficked areas weeks,
12 months in advance. To say, "hey, this event
13 -- this -- these meetings are happening at
14 these times, at these locations, here's the
15 number to call," so that people can attend.
16 So that, if it happens during a religious
17 holiday, someone can contact in and say,
18 "hey, I want to be involved, but this is
19 happening during a religious holiday. This
20 needs to be change -- moved to a different
21 date." Or sending out emails, sending out
22 TV advertisements, YouTube advertisements,
23 putting bulletins in different locations to
24 get the word out as much as possible.

25 I'm sure that this was just -- that the

1 Committee members just had not thought of
2 these things, because of course, you would
3 not want to exclude the community from this
4 process. It was just an unintentional
5 effect of your otherwise busy work, to make
6 people feel that they could not get
7 involved. Or you know, otherwise, through
8 your networks, letting people know, "hey,
9 this is happening at this time," so that in
10 a previous meeting that I was in, I didn't -
11 - I should not have had to find out through
12 a Sunrise member -- a Sunrise Movement
13 Member about this meeting 40 minutes before
14 it was happening.

15 I'm sure that was unintentional on the
16 Committee's part. Or you know, letting
17 fellow com-- fellow Committee members know
18 what the documentation was showing. I'm
19 sure there was unintentional to only have
20 partisan organizations have a say in it,
21 like the republican organization that was
22 brought up earlier. But now that you -- now
23 that you have some ideas of how to do these
24 things, how to make it more available for --
25 for the general community, that this can be

1 fixed in the future.

2 Now, I have a message to the audience.

3 What can you all do to improve the

4 transparency of this process, so that this

5 committee, while they figure out ways to

6 improve the transparency, for example,

7 following the advice I just gave, how can

8 you help to increase the transparency of

9 this? To encourage the transparency of

10 this? To get your friends, family, and co-

11 workers involved, to let them know about how

12 -- why this process is important? For

13 example, when you get an email saying this

14 is -- an ev-- this event is happening at

15 this time, posting it on social media,

16 letting people know, these are the

17 politicians who will be at this meeting, and

18 this is how, you know, this is why this is

19 happening, this is how this is happening,

20 this is how to get involved. And maybe

21 posting videos of this on social media

22 maybe? You know, there's different options

23 about how to get the word out about this,

24 and to inform people about the -- about the

25 process.

1 I very much appreciate what I've heard
2 from the other constituents, from the other
3 -- from the other speakers, from what I've
4 heard from the Subcommittee members. It's
5 been very informative for me, and I will be
6 sure to inform my friends and family about
7 how this -- how this process has been going,
8 so they can get an understanding of it
9 themselves.

10 I very much hope that I have been able
11 to provide some advice to the Committee that
12 you can use, to make it clear to the people
13 that you are not just trying to make this an
14 opaque process that constituents are not
15 able to participate in. And to help us to
16 have confidence that all of the committee
17 members, not just those in the majority, or
18 that, you know, that all members of this
19 committee are in fact concerned about making
20 sure everyone feels heard, everyone feels
21 like they can be easily included. And yeah,
22 I hope I was able to provide some -- some
23 constructive criticism. Thank you very
24 much.

25 CHAIRMAN CAMPSEN: Thank you, Mr.

1 Simmons. Is any -- any questions --

2 UNIDENTIFIED SPEAKER 5: (Inaudible).

3 CHAIRMAN CAMPSSEN: -- for Mr. Simmons?

4 Okay, thank you. Okay, I stated this
5 previously, but I'll state it again, that
6 this was the first look at a staff generated
7 Congressional District plan. The purpose of
8 the -- of the hearing today, with regards to
9 that Congressional District plan, was to
10 receive public input and have the public to
11 review that plan. And we have done that, so
12 we -- we will not take any action on
13 adopting or -- or voting on the plan at this
14 point. And so, we will remove -- we will
15 move next to a review of the -- of the
16 Senate staff plan and suggested amendments
17 to that plan. And I'll turn it over to Mr.
18 Will Roberts, who can explain the plan
19 briefly and the amendments.

20 MR. ROBERTS: Thank you, Mr. Chairman.

21 CHAIRMAN CAMPSSEN: Excuse me, I need --
22 just to be clear, this is on the South
23 Carolina Senate plan.

24 MR. ROBERTS: Thank you, Mr. Chairman.

25 The Senate plan that was developed by staff,

1 and adopted by this Subcommittee as the
2 working document, is a plan that tries to
3 limit the number of split counties. Limit
4 the number of split VTDs, and tries to keep
5 communities of interest together, as well as
6 following traditional redistricting
7 principles.

8 The staff plan accomplishes that, with
9 having 19 whole counties, and only five
10 split precincts, while balancing out the
11 populations of the districts, so the overall
12 plan deviation is 9.96%. One of the major
13 significant changes in the staff-- the
14 Senate staff plan occurs in the midlands, as
15 well as the Charleston area with the
16 relocation of District 20. Staff released
17 the senate plan on November 4th, 2021, and
18 received testimony on the Senate staff plan
19 on November 12th, 2021. After receiving
20 testimony at the November 12th meeting,
21 there have been some suggestions to the map,
22 and we have one comprehensive amendment to
23 make the im-- to make the changes to the map
24 that impacts four areas in the state.

25 CHAIRMAN CAMPSEN: Yeah, very good.

1 Okay, are there any -- any questions or
2 comments?

3 SENATOR MATTHEWS: I just wanted
4 (inaudible) --

5 CHAIRMAN CAMPSEN: Senator from
6 Colleton?

7 SENATOR MATTHEWS: I -- we received the
8 information, can we just get a minute to
9 look at it?

10 MR. ROBERTS: Yes, ma'am.

11 SENATOR MATTHEWS: It just is being
12 dropped on our desk.

13 CHAIRMAN CAMPSEN: Yes, what -- okay,
14 Will, would you walk us through the
15 amendments, please? The amendment, sorry.

16 MR. ROBERTS: Yes, sir. Mr. Chairman,
17 the first part of this amendment is going to
18 be in the Beaufort County area, and the
19 districts affected by this amendment are
20 going to be Senate District 43, that's
21 Senator Campsen, Senate District 45, which
22 is Senator Matthews, and Senate District,
23 which is Senator Davis. The precincts that
24 are being changed is Chechessee number one,
25 it moves from Senate District 46 to Senate

1 District 43. The Burton 1A precinct is
2 moving from Senate District 43 to Senate
3 District 45. And the Beaufort number three
4 precinct, in downtown Beaufort area is
5 moving from Senate District 45 to Senate
6 District 43. With these changes, all three
7 impacted districts still maintain a
8 population deviation below five percent.

9 CHAIRMAN CAMPSEN: Okay. And any
10 questions or comments?

11 SENATOR HARPOOTILAN: Is Margie happy?

12 CHAIRMAN CAMPSEN: She is happy, is my
13 understanding. But I'll let her speak for
14 herself.

15 SENATOR HARPOOTILAN: Not long, but
16 just a yes or no, would be fine.

17 SENATOR MATTHEWS: I have consented to
18 it, happy is really relative.

19 SENATOR HARPOOTILAN: Just yes or no?

20 SENATOR MATTHEWS: I consented to it
21 (inaudible).

22 SENATOR HARPOOTILAN: Oh my god, okay
23 fine.

24 CHAIRMAN CAMPSEN: Okay, and so next
25 you want to move to the Midlands?

1 MR. ROBERTS: That's correct. So, the
2 next amendment -- the next portion of the
3 amendment we have is in the central Savannah
4 River area, as well as the Midlands area.
5 And that's doing to involve Senate District
6 number 3, Senate District number 4, Senate
7 District number 10, Senate District 18,
8 Senate District 23, Senate District 25, and
9 Senate District 40.

10 The first change in this amendment is
11 going to be precinct Anderson 6-1 and
12 Anderson 2-1, those are moving from Senate
13 District 4 to Senate District 3. In
14 Greenwood County, we have Sparrows Grace
15 Precinct, Shoals Junction Precinct, Hodges,
16 and Glendale moving from District 10 to
17 District 4. In Saluda, we've got the Mason
18 Precinct, as well as the Sergeant's Precinct
19 moving from District 10 to 25. In Lexington
20 County, we've got River Bluff moving from
21 Senate District 18 to Senate District 10, we
22 also have the Faith Church precinct moving
23 from Senate District 20-- 23, to District
24 10.

25 One of the changes we also have in this

1 area is going to be Pelion 1, Pelion 2, and
2 Mack-Edisto precinct, moving from Senate
3 District 40 to Senate District 23. As well
4 as this change, in the Midlands area, we
5 have the Mims and Fairview Precincts in
6 Lexington, moving from Senate-- from Senate
7 District 23 to Senate District 40, we have
8 the Oat Grove precinct in Aiken moving from
9 Senate District 25 to Senate District 40.
10 And we moved the Batesburg Precinct in
11 Lexington to Senate-- from Senate District
12 25 to Senate District 23. Again, with the -
13 - the changing of the precincts in this, all
14 the impacted districts are below the five
15 percent deviation threshold adopted by the
16 Subcommittee.

17 SENATOR HARPOOTILAN: Mr. Chairman? I
18 have --

19 CHAIRMAN CAMPSER: The Senator from
20 Columbia?

21 SENATOR HARPOOTILAN: -- I have one
22 question, this would put Pelion back in
23 Senator Shealey's district?

24 MR. ROBERTS: That's correct.

25 SENATOR HARPOOTILAN: Thank God. Thank

1 you.

2 CHAIRMAN CAMPSSEN: Yes. Okay, any
3 further questions? Okay, now we'll move to
4 the Greenville-Spartanburg area.

5 MR. ROBERTS: The Greenville-
6 Spartanburg change in this amendment is
7 between Senate District 12, with Senator
8 Talley, Senate District 13 which is Senator
9 Martin, E.P. Todd Elementary would move from
10 District 12 to District 13, and the Circle
11 Creek precinct would move from District 13
12 to District 12. With this population
13 change, both districts still maintain a
14 population deviation below five percent.

15 CHAIRMAN CAMPSSEN: Any questions or
16 comments? Thank you. And now we'll move to
17 Sumter County.

18 MR. ROBERTS: For this change in this
19 amendment, this impacts District 35, which
20 is Senator McElveen, and Senate District 36,
21 which is Senator Kevin Johnson. We're
22 moving to Cherryville Precinct and Saint
23 Paul Precincts from District 36 to District
24 35. And we're moving Morris College,
25 Hampton Park, and Oswego from 35 to 36.

1 With this population change, both districts
2 maintain a population within that five
3 percent deviation threshold.

4 SENATOR MATTHEWS: Just one question.

5 CHAIRMAN CAMPSSEN: The Senator from
6 Colleton?

7 SENATOR MATTHEWS: Just as before,
8 you've already consulted with both Senators
9 Johnson and McElveen, and they've both
10 consented to this change?

11 MR. ROBERTS: Yes, they have.

12 SENATOR MATTHEWS: Thank you.

13 CHAIRMAN CAMPSSEN: Okay, so are those
14 all-- any other -- any other aspects of this
15 amendment that needed to be explained?

16 MR. ROBERTS: That-- that's all I have.

17 CHAIRMAN CAMPSSEN: Okay. Are there any
18 comments or questions?

19 SENATOR MATTHEWS: I would --

20 CHAIRMAN CAMPSSEN: From members? The
21 Senator from Colleton?

22 SENATOR MATTHEWS: -- I don't think we
23 have any questions, we've been -- we have
24 been discussing this for some -- these
25 changes for quite some time. I would move

1 adoption of amendment number one to -- one
2 the areas that have been discussed.

3 CHAIRMAN CAMPSSEN: Okay.

4 SENATOR MATTHEWS: That would be
5 Beaufort, C-S-R-A Midlands, and Greenville-
6 Spartanburg, as well as Sumter County.

7 CHAIRMAN CAMPSSEN: Okay, we have a --
8 we have a motion, do we have a second?

9 SENATOR HARPOOTILAN: I have a --
10 second, and I have a question.

11 CHAIRMAN CAMPSSEN: Second from Senator
12 from Columbia, and a question.

13 SENATOR HARPOOTILAN: I want to make
14 sure that Senator Hutto has reviewed these
15 and signed off? Consented?

16 SENATOR SABB: (Inaudible) consented to
17 it (inaudible) intentions?

18 MR. FIFFICK: (Inaudible) he
19 (inaudible) just do the (inaudible). He
20 picks up two or three (inaudible). So, let's
21 just say the intention (inaudible).

22 SENATOR HARPOOTILAN: I just texted
23 him. Let me just (inaudible). Hold on, one
24 second. He's calling --

25 MR. FIFFICK: (Inaudible).

1 SENATOR HARPOOTILAN: -- he's calling
2 right now, hold on. If you give me two
3 seconds.

4 CHAIRMAN CAMPSSEN: We'll stand at ease.

5 SENATOR HARPOOTILAN: Hold on, one
6 second. Andy, tell him what we're doing.

7 MR. FIFFICK: (Inaudible) --

8 SENATOR HARPOOTILAN: Oh.

9 MR. FIFFICK: -- (inaudible).

10 SENATOR HARPOOTILAN: Hold on, hold on.

11 MR. FIFFICK: (Inaudible).

12 SENATOR HARPOOTILAN: Can you hear him?

13 MR. FIFFICK: I can.

14 SENATOR HARPOOTILAN: Okay, good.

15 MR. FIFFICK: (Inaudible). He's
16 calling.

17 SENATOR HARPOOTILAN: Yeah, call him.
18 He's going to call him right now. You got a
19 cell phone?

20 MR. FIFFICK: (Inaudible).

21 SENATOR HARPOOTILAN: (Inaudible) yeah,
22 he's calling.

23 CHAIRMAN CAMPSSEN: Did you have your
24 questions answered?

25 SENATOR HARPOOTILAN: It's being

1 answered right now.

2 CHAIRMAN CAMPSSEN: Okay, we --

3 SENATOR HARPOOTILAN: I'm just talking
4 to Senator Hutto. (Inaudible) --

5 CHAIRMAN CAMPSSEN: Okay, we'll remain
6 at ease.

7 SENATOR HARPOOTILAN: You got him?

8 MR. FIFFICK: It just says,
9 (inaudible).

10 SENATOR MATTHEWS: I don't have a
11 problem with amending my motion subject to
12 the approval of Senator Hutto.

13 SENATOR HARPOOTILAN: Fine, second.

14 CHAIRMAN CAMPSSEN: Okay. So, we have a
15 motion up-- reserving all rights to ask for
16 this to be changed at full committee. We
17 have a motion for adoption of amendment
18 number one to the Senate Redistricting Plan.
19 And we have a second?

20 SENATOR HARPOOTILAN: Second.

21 CHAIRMAN CAMPSSEN: Any discussion?
22 Being no discussion, we'll move immediately
23 to a vote. All in favor indicate by saying,
24 "aye."

25 ALL: Aye.

1 CHAIRMAN CAMPSSEN: Opposed?

2 SENATOR YOUNG: Aye.

3 SENATOR MATTHEWS: Oh, that scared me.

4 CHAIRMAN CAMPSSEN: That's -- Senator
5 Young voted aye as well?

6 UNIDENTIFIED SPEAKER 5: (Inaudible).

7 CHAIRMAN CAMPSSEN: Opposed? None being
8 opposed, that's a unanimous vote. Okay, and
9 next we will have a -- we -- other business
10 in the future, this is a future process. We
11 will have a subsequent subcommittee meeting
12 to review the proposed congressional plans.
13 Of course, again, this was the staff's
14 proposed plans for any meaningful input from
15 the members of the committee, or the senate.
16 And send forth a recommendation to the full
17 Judiciary Committee, but we will have a
18 subsequent subcommittee meeting on that, the
19 congressional plan.

20 At the full judiciary committee
21 meeting, we'll adopt the proposals for the
22 State Senate, and the Congressional Plan, if
23 it is out of Subcommittee at that time, for
24 a report to the full Senate.

25 SENATOR HARPOOTILAN: Mr. Chairman?

1 Could I ask a question (inaudible)?

2 CHAIRMAN CAMPSSEN: The Senator from
3 Columbia?

4 SENATOR HARPOOTILAN: So, as I
5 understand it, we're coming back full -- the
6 Senate's coming back next Monday, am I
7 correct about that?

8 CHAIRMAN CAMPSSEN: That's correct.

9 SENATOR HARPOOTILAN: To take up these
10 plans?

11 CHAIRMAN CAMPSSEN: That is correct.

12 SENATOR HARPOOTILAN: Do you have any
13 idea as to when we would be having an
14 additional Subcommittee meeting, or a full
15 committee meeting?

16 MS. BENSON: Mr. Chairman, I've heard -
17 - Mr. Chairman?

18 CHAIRMAN CAMPSSEN: Staff has heard
19 Friday, is that right perhaps?

20 MS. BENSON: Or -- or Thursday, yes.

21 CHAIRMAN CAMPSSEN: Thursday or Friday
22 of these week, perhaps.

23 SENATOR HARPOOTILAN: I would only ask
24 that --

25 MS. BENSON: Oh, Jesus.

1 SENATOR HARPOOTILAN: -- and not that
2 I'm in any hurry, but that we know as soon
3 as possible, because if -- and if in fact,
4 staff is going to amend what we just heard
5 about the Congressional Plan, I would like
6 to see it before Thursday or Friday, before
7 we're asked to vote on it. Does that make
8 sense?

9 CHAIRMAN CAMPSSEN: That makes sense.

10 SENATOR MATTHEWS: Just a --

11 SENATOR HARPOOTILAN: Thank you.

12 CHAIRMAN CAMPSSEN: And we will relay
13 that to the Chairman, who will be calling
14 the shots actually on that, not me.

15 SENATOR HARPOOTILAN: Well, I just -- I
16 just think that we have -- not that we were
17 short time -- when we got this proposed plan
18 in the middle of the Thanksgiving holiday,
19 put a crimp on our ability to really do any
20 real analysis on it. Although, what I saw I
21 didn't like. I'm sure the staff will have
22 some modifications to it before we see it
23 next time, and we're going to need some time
24 to digest those.

25 CHAIRMAN CAMPSSEN: Okay. We'll relay

1 that to the Chairman; the staff has heard
2 that loud and clear.

3 UNIDENTIFIED SPEAKER 6: (Inaudible).

4 SENATOR HARPOOTILAN: Okay, alright.

5 SENATOR MATTHEWS: Mr. --

6 CHAIRMAN CAMPSSEN: The Senator from
7 Colleton?

8 SENATOR MATTHEWS: Mr. Acting Chair,
9 thank you. Just a quick question for -- to
10 further elaborate on our planning. I know
11 that we have to be in session on Monday --
12 is it Monday? Yes.

13 CHAIRMAN CAMPSSEN: Correct.

14 SENATOR MATTHEWS: So, before this can
15 be presented on the floor -- and I
16 understand we've got to get this done
17 because the calendar is rolling -- then when
18 do I -- I know this committee -- this
19 subcommittee -- is planning to meet sometime
20 this week. When will the general Judiciary
21 Committee -- when is it proposed that that
22 committee will meet? Because I don't
23 imagine it can go to the floor until the
24 Judiciary -- full Judiciary meets.

25 MS. BENSON: (Inaudible).

1 SENATOR MATTHEWS: Because quite a few
2 of us, there's NBCSL in Col-- in Atlanta
3 this week, quite a few of us have been
4 approved by the Senate and the House to go
5 to that. And I'm just trying to make sure
6 we get it scheduled.

7 CHAIRMAN CAMPSSEN: Well, it's my
8 understanding that the full committee maybe
9 --

10 MS. BENSON: Out?

11 CHAIRMAN CAMPSSEN: -- I'm going -- I'm
12 going to let Ms. Benson address that,
13 because she's had discussions with the
14 Chairman.

15 MS. BENSON: Mr. Chairman, as I
16 understand, the consideration is that the
17 full committee may meet on the same day that
18 the subcommittee --

19 SENATOR MATTHEWS: Sort of like they
20 did --

21 MS. BENSON: -- meets --

22 SENATOR MATTHEWS: -- in the House?

23 MS. BENSON: Yes.

24 SENATOR MATTHEWS: Okay.

25 MS. BENSON: And the dates I have heard

1 spoken about were Thursday and Friday. I
2 suppose Monday is a possibility.

3 SENATOR MATTHEWS: We go into session
4 at what time on Monday?

5 UNIDENTIFIED SPEAKER 7: One o'clock.
6 One (inaudible).

7 SENATOR MATTHEWS: And the House --

8 MS. BENSON: One --

9 SENATOR MATTHEWS: -- is in session
10 tomorrow?

11 MS. BENSON: Yes.

12 SENATOR MATTHEWS: Okay, thank you.

13 CHAIRMAN CAMPSSEN: And again, I would
14 remind all committee members that, you know,
15 we -- this is --

16 SENATOR MATTHEWS: We got to do it.

17 CHAIRMAN CAMPSSEN: Yeah, we need to do
18 it, we need to get it done. We also got the
19 census data like five months late too, which
20 --

21 SENATOR MATTHEWS: Right.

22 CHAIRMAN CAMPSSEN: -- put us behind on
23 the ti-- as far as the time schedule. So,
24 that's one factor that's contributing to
25 this -- to this somewhat compressed --

1 SENATOR MATTHEWS: (Inaudible).

2 CHAIRMAN CAMPSSEN: -- schedule. Okay,
3 any other comments or questions? If there
4 be none, we'll stand adjourned. Thank you
5 for your participation.

6 AUTOMATED SPEAKER: Goodbye.

7 (End of recording.)

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1 CERTIFICATE

2
3 - - -
4

5 I, Alexandria Brobst, Transcriptionist,
6 do hereby certify that I was authorized to
7 and did listen to and transcribe the
8 foregoing recorded proceedings and that the
9 transcript is a true record to the best of
10 my professional ability.

11
12 Dated this 27th day of December, 2021.
13

14 *Alexandria Brobst*
15

16 _____
17 Alexandria Brobst
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Exhibit 40

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Benchmark Congressional Districts with 2020 Data
Partisan Analysis

District	Biden	%Biden	Trump	%Trump	Total Votes
1	196,335	46.97%	221,669	53.03%	418,004
2	158,169	44.22%	199,541	55.78%	357,710
3	101,631	30.93%	226,915	69.07%	328,546
4	140,260	39.59%	214,025	60.41%	354,285
5	150,076	41.55%	211,107	58.45%	361,183
6	194,538	67.90%	91,989	32.10%	286,527
7	145,245	40.79%	210,856	59.21%	356,101

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Exhibit 41

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Joseph Bagley, PhD
The South Carolina State Confvs.McMaster/Alexander

June 29, 2022

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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION
THE SOUTH CAROLINA STATE CONFERENCE OF
THE NAACP, et al.,

Plaintiffs,

vs. CASE NO. 3:21-CV-03302-MBS
TJH-RMG
THOMAS C. ALEXANDER, et al.,
Defendants.

VIDEO TELECONFERENCE
DEPOSITION OF: JOSEPH BAGLEY, PhD
DATE: June 29, 2022
TIME: 10:00 a.m.
LOCATION: Virtual - Zoom
TAKEN BY: Counsel for the Senate
Defendants
REPORTED BY: Roxanne Easterwood, RPR

1 largely that a lot of that, obviously, was behind
2 the scenes and unavailable.

3 Q. Is it your position that every line in
4 a redistricting plan must have every single
5 criteria articulated to justify it?

6 A. Not necessarily.

7 Q. Do you believe that Chairman Rankin
8 harbors racist motives?

9 A. No. I don't know what is in the
10 chairman's heart, anymore than I do, you know,
11 Chairman Jordan or anyone else. Probably more
12 importantly, let me say, that's not what I've been
13 asked to ascertain.

14 Q. Have you ever met any of them?

15 A. I have not.

16 Q. Dr. Bagley, just a few general
17 questions before getting into the more specifics
18 of your report.

19 Did you consider anything other than
20 race in formulating your opinions in this matter?

21 A. Sure. You know, I've looked at the
22 guidelines that were adopted by both bodies. I
23 have considered any motives that they might have
24 had.

25 Q. Did you consider politics?

1 Q. I mean, what is your opinion? That's
2 why I'm deposing you today, to find out what your
3 opinions are.

4 A. My opinion is that there is quite a
5 bit of evidence here that the court could use to
6 reach a finding of discriminatory intent.

7 Q. You agree that it's the court's job to
8 conduct the Arlington Heights analysis, correct?

9 A. Yes.

10 Q. Can you please explain what you mean
11 by "procedural irregularities"?

12 A. So departures from normal practice,
13 departures from, sort of, best practices and good
14 government and so on. And in this case, in
15 particular, things that members of these
16 legislative committees have flagged themselves as
17 irregularities.

18 Q. Are you familiar generally with the
19 legislative process in South Carolina, how a bill
20 becomes a law?

21 A. Generally, yes.

22 Q. Have you ever been part of
23 redistricting before?

24 A. You mean before this cycle?

25 Q. Yes.

1 A. Of course not. No. I just present
2 that as one of a number of examples.

3 Q. Dr. Bagley, do you have any opinions
4 as to whether the map drawing process, this cycle,
5 differed in any way procedurally from the previous
6 cycles in South Carolina?

7 A. Could you restate it, Mr. Traywick,
8 I'm sorry?

9 Q. Sure. I'll be glad to.
10 Do you have any opinions as to whether
11 the map drawing process this cycle differed in any
12 material way from the previous cycles in South
13 Carolina?

14 A. I understand it was generally
15 analogous. There were some differences in terms
16 of, like, time of day meetings were held, maybe.
17 The things that we're talking about here, like the
18 example with Representative King.

19 I'm, obviously, familiar with the
20 dispensation of Backus. You know, general
21 awareness of the hearings that were held in that
22 cycle and the process. Obviously, not as
23 intimately familiar with that cycle as this one.

24 But I'm not asked to opine on that
25 cycle anyway or regardless, just insofar as it's

1 lack of transparency?

2 A. I'm not privy to any private
3 conversations that they may have had.

4 Q. Would that affect your analysis if
5 there was, in fact, coordination?

6 A. Sure.

7 Q. Obviously, you said you weren't
8 retained to analyze the last cycle's redistricting
9 process, correct?

10 A. No. Systematically, no. I discuss it
11 in the report as part of this history of getting
12 us up to the present.

13 Q. So you don't have any opinions
14 regarding whether this process was consistent with
15 prior practice or whether it was abnormal?

16 A. I understand that there is probably a
17 general consistency, but what I'm being asked to
18 do is review the record relevant to this cycle and
19 identify, you know, what's asked for in the
20 Arlington Heights framework.

21 Q. Just so I'm clear -- I want to make
22 sure. This is my only time or might be the only
23 time to talk to you -- your three objections that
24 I wrote down are that, you know, some members said
25 on the record they didn't know where maps came

1 from, some maps were dropped around the holidays,
2 and Representative King complained that he did not
3 preside over the Judiciary Committee meeting for
4 the House.

5 Are there any other examples that you
6 claim demonstrate procedural departure from the
7 normal procedure?

8 A. If there are, they're in the report.
9 I don't remember everything that I flagged as a
10 potential procedural departure in the report. So
11 I couldn't speak to that with 100 percent
12 certainty without flipping through that whole
13 "Sequence of Events" section.

14 Q. Is it your opinion that those three
15 examples render the process invalid under an
16 Arlington Heights factor?

17 A. No. I think they're simply among the
18 things that a court would consider.

19 Q. You agree that this process was
20 generally consistent with prior cycles, correct?

21 A. I think there are elements of it that
22 were.

23 Q. I have written down "generally
24 analogous" and "general consistency." Do you
25 disagree with those prior statements?

1 A. I would say, in terms of hearings --
2 the public hearings being held, members of the
3 public coming forward and saying, "There's been
4 packing and cracking of black voters," members of
5 the legislator saying the same, people expressing,
6 you know, transparency concerns and that kind of
7 thing, yes.

8 Q. Can you concede that everyone had an
9 opportunity to be heard in this redistricting
10 cycle?

11 A. I think there was wide opportunity for
12 the submission of input or feedback, yes.

13 Q. Thank you.

14 Do you concede it would be unworkable
15 to draft a map live with all 306 legislators in
16 the room?

17 A. Sure. Yes.

18 Q. Do you concede it would have been even
19 more unworkable to draw a map live with all 124
20 House members in the room?

21 A. Absolutely.

22 Q. Do you concede it would have been
23 unworkable for map drawer to draw a map live in
24 front of members of the public with conflicting
25 views?

1 Q. Is it your contention that the same
2 standards apply to your recitation of the history
3 as to your review of the current legislative
4 record?

5 A. Yes. But I would say we're looking
6 at -- it's not just any one public hearing. It's
7 not just any one meeting of any one subcommittee
8 or committee. It's just as you enumerated
9 earlier, this wide swath of hearings and meetings
10 and, again, a chorus of voices of members of the
11 public and members of these legislative committees
12 within the historical context that I have
13 provided.

14 Q. Sure. Within that sort of wide range
15 of hearings, is it your contention that the
16 process is generally consistent with prior cycles?
17 Did I hear that correctly, or generally analogous?

18 A. In terms of holding public hearings
19 across the state to receive input and then members
20 of the public expressing that they thought not a
21 lot of input had actually been acted upon.

22 Q. Aside from that, how about legislative
23 procedures? Are you familiar with legislative
24 procedure in South Carolina or not?

25 A. Generally speaking, yes.

1 Q. Any departures there?

2 A. Not in terms of, you know, a bill
3 being introduced in one House or the other and
4 eventually passing out of that entire body.

5 Q. So in looking at that factor, would
6 you agree that the court has to look at the
7 totality of the circumstances?

8 A. Yes.

9 Q. I don't want to get into the history;
10 let me make clear on the front end, Dr. Bagley.
11 I'm certainly not here disputing South Carolina's
12 troubled history as relating to race, particularly
13 relating to the Civil War and these others eras.

14 In looking at this section, it's a
15 little light on sources. I want to know where you
16 obtained information. Entire paragraphs cite one
17 footnote. Is every sentence in those paragraphs
18 related to the sources?

19 A. Yes. So a pretty common practice for
20 me is not to litter a paragraph with footnotes.
21 So the first paragraph in a section is
22 introductory, apart from the quotation from
23 Colleton.

24 The second paragraph goes to
25 Footnote 3. It looks like there are two

1 Assembly's redistricting decisions in this case?

2 A. Well, the framework asks us to look at
3 the history of discrimination, and it asks us to
4 present to the court this big picture, this broad
5 mosaic.

6 If you're discussing the history of
7 voting rights in South Carolina, I mean, to me
8 it's highly relevant that there were these number
9 of objections. You know, that it -- it wasn't
10 that long ago. I mean, a lot of the players, for
11 example, in the 1980s are among some of the same
12 now.

13 Even regardless of that, even, as you
14 say, that's 40 years ago, we're asked to look at
15 the history and to present that as part of these
16 reports. So this is simply a part of that.

17 Q. Right. But you know the history has
18 got to be probative of the decision at issue,
19 right? So I'm trying to ascertain what you think
20 the link is there. Where is the hook?

21 A. Well, I mean, I'm not being asked to
22 draw a direct line between one Section 5 objection
23 from 1981 and the plan at issue here. Again, this
24 is just part of a broader picture. It's part of
25 what would be relevant to a court's determination.

1 earlier, a lot of that, you know, passes through
2 the General Assembly.

3 Q. With the local delegation, right? I
4 mean, let's -- didn't you agree that that's the
5 way things go?

6 A. I understand it's common practice for
7 deference to local delegations, sure.

8 Q. When is the most current local
9 objection you reference?

10 A. The most recent would have been
11 shortly before Shelby County. The very last one
12 was the photo ID law in 2011. So probably 2010,
13 if memory serves.

14 Q. That was upheld in part, correct?

15 A. The photo ID, yes, after it was
16 modified.

17 Q. Yes, sure, just to take away a certain
18 element of proof if somebody for some strange
19 reason didn't have an ID, right?

20 A. If I remember correctly, the court
21 said -- or there was a concurring opinion that
22 said this is telling, this is why we need
23 Section 5, because if there hadn't been this
24 challenge to this, they would not have gone back
25 and modified to have the reasonable impediment

1 the record that's just not there.

2 Q. Certainly members of the public were
3 free to attend the meeting in person, right?

4 A. Correct.

5 Q. On Page 38, at the very top -- we went
6 through this earlier -- are you suggesting it was
7 a procedural irregularity for Representative
8 Newton to preside over the Judiciary Subcommittee
9 meeting at the request of Chairman Chris Murphy
10 instead of John King?

11 A. Representative King certainly thought
12 that, as did others who later expressed solidarity
13 with him in that matter.

14 Q. So just because John King did not
15 personally preside over a meeting, that renders
16 the process suspect? Is that your contention?

17 A. That was the contention of multiple
18 members of the General Assembly.

19 Q. Was that even relating to the map that
20 got passed?

21 A. You cut out, sorry.

22 Q. Sorry about that.

23 Was that committee meeting even
24 related to the actual map that was ultimately
25 enacted by the General Assembly?

Exhibit 42

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Message

From: Senate Redistricting [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C314E5EA85E441A9858EEF7E9B46C813-SENATE REDISTRICTING]
Sent: 1/19/2022 4:47:03 PM
To: Lea Williams [Amaris2021@outlook.com]
Subject: RE: Please support for Senate Amendment 1 Map

Good afternoon,

We have received your testimony and have submitted it to the Committee. Your written testimony will be included in the record.

Thank you for your participation,

Madison Faulk

From: Lea Williams <Amaris2021@outlook.com>
Sent: Wednesday, January 19, 2022 12:44 PM
To: Senate Redistricting <Redistricting@scsenate.gov>
Subject: Please support for Senate Amendment 1 Map

To whom it may concern,

Although I did not write these points I agree with all of them. Please support Senate Amendment 1 map for redistricting.

1. Charleston has always been with Berkeley and Dorchester in the same Congressional District. Local economies and other communities of interests are aligned and intertwined;
2. Historically, Charleston has had two Congressional representatives to advocate for the residents' well-being, regardless of whether they are Republican or Democrat. Our voices will be stronger with two rather than with one. The "Whole Charleston" concept doesn't really make sense if we want more visibility in Washington;
3. All of Charleston has little in common with inland counties of Colleton and Jasper, and
4. Senate Amendment 1 map resembles the current CD1 boundaries, which were upheld by Obama's DOJ a decade ago. Senate Amendment 2 map is more about political gerrymandering than helping minority residents.

Lea Williams
722 Byrd Garden Road
Charleston, SC 29414

Message

From: Senate Redistricting [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C314E5EA85E441A9858EEF7E9B46C813-SENATE REDISTRICTING]
Sent: 1/20/2022 9:08:43 AM
To: Pam Madaio [pamadaio1112@gmail.com]
Subject: RE: Pass the whole county map

Good morning,

We have received your testimony and have submitted it to the Committee. Your written testimony will be included in the record.

Thank you for your participation,

Madison Faulk

-----Original Message-----

From: Pam Madaio <pamadaio1112@gmail.com>
Sent: Monday, January 17, 2022 07:53 PM
To: Senate Redistricting <Redistricting@scsenate.gov>
Subject: Pass the whole county map

I oppose the house approved map because it intentionally divides counties like Charleston in an effort to eliminate competition. Separating Johns Island and West Ashley from the rest of Charleston County, and instead lumping them in with Columbia, a city 100 miles away, is blatant gerrymandering and undermines the ability of voters to elect officials who can fairly represent them.

I support the senate Amendment 2 map (whole county map). I urge you to act with integrity and do what is morally right.

Pamela Madaio
Seabrook Island
Sent from my iPhone

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Exhibit 43

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adopted 8.3.21

**South Carolina House of Representatives
Judiciary Committee
Redistricting Ad Hoc Committee**

**2021 Guidelines and Criteria for
Congressional and Legislative Redistricting**

The South Carolina House of Representatives, the House Judiciary Committee, and the Redistricting Ad Hoc Committee have the authority to determine the criteria that the South Carolina House of Representatives will use to create Congressional and legislative districts. Therefore, the Redistricting Ad Hoc Committee of the South Carolina House of Representatives adopts these guidelines and criteria.

I. Constitution of the United States

Redistricting plans shall comply with the United States Constitution, the Equal Protection Clause of the Fourteenth Amendment, and the opinions of the Supreme Court of the United States.

II. Federal Law

Redistricting plans shall also comply with federal law and the Voting Rights Act of 1965, as amended. Pursuant to the Voting Rights Act of 1965, and in accordance with the opinions of the Supreme Court of the United States, race may be a factor considered in the creation of redistricting plans, but it shall not be the predominant factor motivating the legislature's decisions concerning the redistricting plan and shall not unconstitutionally predominate over other criteria set forth in these guidelines. The dilution of racial or ethnic minority voting strength is contrary to the laws of the United States and of the State of South Carolina, and also is against the public policy of this state. Any proposed redistricting plan that is demonstrated to have the intent or effect of dispersing or concentrating minority population in a manner that prevents minorities from electing their candidates of choice will neither be accepted nor approved.

III. State Law

Except as otherwise required by federal law, redistricting plans also shall comply with the South Carolina Constitution, the laws of this state, and the opinions of the South Carolina Supreme Court.

IV. Equal Population/Deviation

- a. The population of the Congressional and legislative districts will be determined based solely on the enumeration of the 2020 federal decennial census pursuant to the United States Constitution, Article I, Section 2, and the Equal Protection Clause of the Fourteenth Amendment.
- b. The number of persons in Congressional districts shall be as nearly equal in population as is practicable. The ideal population for Congressional districts shall

be 731,204. In every case, efforts shall be made to achieve strict equality or produce the lowest overall range of deviation possible when taking into consideration geographic limitations.

- c. Legislative districts shall have substantial equality of population. The ideal population for a South Carolina House of Representatives district shall be 41,278. In every case, efforts should be made to limit the overall range of deviation from the ideal population to less than five percent, or a relative deviation in excess of plus or minus two and one-half percent for each South Carolina House district. Nevertheless, any overall deviation greater than five percent from equality of population among South Carolina House districts shall be justified when it is the result of geographic limitations, the promotion of a constitutionally permissible state policy, or to otherwise comply with the criteria identified in these guidelines.

V. Contiguity

Congressional and legislative districts shall be comprised of contiguous territory. Contiguity by water is sufficient. Areas which meet only at the points of adjoining corners are not considered contiguous.

VI. Compactness

Congressional and legislative districts should be reasonably compact in form and should follow census geography. Bizarrely-shaped districts are to be avoided except when required by one or more of the following factors: (a) census block geography; (b) natural geography including water; (c) efforts to comply with the standards delineated above in Section IV; and/or (d) efforts to comply with the Voting Rights Act of 1965, as amended. Compactness may require the division of population concentrations when to do otherwise would mean dramatically altering the character of a district or would require tortuous configuration of an adjoining district.

Compactness should be judged in part by the configuration of prior plans. Compactness should not be judged based upon any mathematical, statistical, or formula-based calculation or determination.

VII. Communities of Interest

Communities of interest should be considered in the redistricting process. A variety of factors may contribute to a community of interest including, but not limited to the following: (a) economic; (b) social and cultural; (c) historic influences; (d) political beliefs; (e) voting behavior; (f) governmental services; (g) commonality of communications; and (h) geographic location and features. Communities of interest should be considered and balanced by the Redistricting Ad Hoc Committee, the House Judiciary Committee, and the South Carolina House of Representatives. County boundaries, municipality boundaries, and precinct lines (as represented by the Census Bureau's Voting Tabulation District lines) may be considered as evidence of communities of interest to be balanced, but will be given no greater weight, as a matter of state policy, than other identifiable communities of interest.

It is possible that competing communities of interest will be identified during the redistricting process. Although it may not be possible to accommodate all communities of interests, the Redistricting Ad Hoc Committee, the House Judiciary Committee, and the South Carolina House of Representatives will attempt to accommodate diverse communities of interest to the extent possible.

VIII. Incumbency Consideration

Incumbency may be considered in the reapportionment process. Reasonable efforts may be made to ensure that incumbent legislators remain in their current districts. Reasonable efforts may be made to ensure that incumbent legislators are not placed into districts where they will be compelled to run against other incumbent members of the South Carolina House of Representatives. However, incumbency considerations shall not influence the redistricting plan to such an extent as to overtake other redistricting principles.

IX. Priority of Criteria

- a. In establishing Congressional and legislative districts, all criteria identified in these guidelines should be considered. However, if there is a conflict among the requirements of these guidelines, the requirements addressed in Sections I, II, III, and IV herein should be given priority.
- b. If application of the criteria set forth in these guidelines will cause a violation of applicable constitutional, federal, or state law, and there is no other way to conform to the criteria without such violation of law, deviations from the criteria are permitted. However, any deviation from the criteria shall not be any more than necessary to avoid the violation of law, and the remainder of the redistricting plan shall remain faithful to the criteria.

X. Public Input

The Redistricting Ad Hoc Committee should make reasonable efforts to be transparent and allow public input into the redistricting process.