

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)**

BALTIMORE COUNTY BRANCH OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE,
et al.,

Plaintiffs,

v.

BALTIMORE COUNTY, MARYLAND,
et al.,

Defendants.

Civil Action No. 1:21-cv-03232-LKG

**DEFENDANT BALTIMORE COUNTY'S
NOTICE OF CORRECTED SUPPLEMENTAL DECLARATION**

On March 17, 2022, pursuant to this Court's March 11, 2022 Order, ECF 62, Defendant Baltimore County, Maryland, submitted a Supplemental Brief in Support of Motion for Approval of Proposed Redistricting Map and to Modify Preliminary Injunction. ECF 67. Attached thereto was a Supplemental Declaration of Dr. James G. Gimpel, PhD, ECF 67-2. Baltimore County, Maryland, hereby submits a correction to that Supplemental Declaration, attached as **Exhibit 1**.

This corrected exhibit presents an adjusted performance analysis of the proposed map prepared by Plaintiffs' expert, William Cooper (the "Cooper Map"). Although the numbers were slightly different, the overall results of the performance analysis remain the same. The underlying documents and data on which Dr. Gimpel relied and used in analyzing the Cooper Map were provided to Plaintiffs on March 19, 2022.

WHEREFORE, Defendant Baltimore County, Maryland, respectfully submits this Notice of Corrected Supplemental Declaration of Dr. James G. Gimpel, PhD.

Dated: March 20, 2022

Respectfully submitted,

/s/ Melissa O. Martinez

Ava E. Lias-Booker (Fed. Bar No. 05022)

Melissa O. Martinez (Fed. Bar No. 28975)

MCGUIREWOODS LLP

500 E. Pratt Street, Suite 1000

Baltimore, Maryland 21202-3169

(410) 659-4400

(410) 659-4599 Fax

alias-booker@mcguirewoods.com

mmartinez@mcguirewoods.com

Kathryn M. Barber (Admitted *Pro Hac Vice*)

MCGUIREWOODS LLP

Gateway Plaza

800 East Canal Street

Richmond, VA 23219-3916

(804) 775-1000

(804) 775-1061 Fax

kbarber@mcguirewoods.com

***Counsel for Defendant Baltimore County,
Maryland***

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of March, 2022, a copy of the foregoing Notice of Corrected Supplemental Declaration was served via the Court's CM/ECF system upon all counsel of record.

/s/ Melissa O. Martinez

Melissa O. Martinez

Exhibit 1

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CORRECTED SUPPLEMENTAL DECLARATION OF DR. JAMES G. GIMPEL, PHD.

1. I am over the age of eighteen years and fully competent to testify to the facts and matters set forth herein based upon my personal knowledge.

2. This Supplemental Declaration evaluates the map for Baltimore County Council districts, drawn by the Plaintiffs' expert, Mr. William Cooper, and submitted on March 10, 2022. The Plaintiffs' proposed map was filed in response to the County's proposal to enlarge the Black and minority population of a district on the western side of the County (District 2), adjacent to the present majority-Black district (District 4) (see Figure 1). Both of these proposals are, in turn, a response to the February 22, 2022 Order of the United States District Court of Maryland granting a preliminary injunction directing that the Council "...create a County redistricting plan that includes either an additional majority-Black County District, or an additional County District in

which Black voters otherwise have an opportunity to elect a representative of their choice.” (Memorandum Opinion and Order, 22-23, *Baltimore County Branch of the NAACP v. Baltimore County, Maryland*. Civil Action No. 21-cv-03232-LKG, February 22, 2022).

3. This Declaration supplements my declarations dated January 31, 2022 and March 8, 2022. ECF 34-7 and ECF 57-6.

4. The Council’s proposed map is pictured in Figure 1, alongside the Plaintiffs’ map. In the right hand map an arrow indicates the location of District 2, that together with District 4, is subject to the most sweeping changes in the new proposal. The alterations are visible by simple inspection. The Plaintiffs’ District 2 now creates a narrow corridor thrusting northwestward up toward the community of Owings Mills along I-795 and then uses MD Route 140 (Reisterstown Road) as a southern boundary. Below this corridor, the western boundary of District 2 is moved outward from the well-recognized boundary of I-695 into Milford Mill and Randallstown, a new boundary being created from Rolling Road, Windsor Mill Road and Old Court Road. The corresponding loss of population in District 4 by these shifts requires a northward movement of that District upward along the Carroll County border into what has traditionally been part of District 3. The need to restore population equality also requires that District 4’s northeastern boundary be shifted downward back toward the innermost suburbs north of Owings Mills Road and Garrison Forest Road, to stop at Greenspring Valley Road (MD Route 130). This downward thrust back toward the inner ring suburbs is perhaps the most sweeping change proposed in the Plaintiffs’ map.

5. The changes described in the above text are more easily summarized in visual form in Figure 2. The crosshatched areas show the major alterations just described: large tracts of land

and population never before a part of District 4. Unlike the County's map, in which white Democrats will cross over to support Black candidates, this shift in the District 4 electorate will weaken the electoral security of the current incumbent, Council Chairman Julian Jones, inviting challenges from the newly encompassed areas in addition to the challenges that have traditionally originated from candidates residing in the Randallstown, Reisterstown, and Owings Mills communities that have traditionally been the District 4 core. The tracts of land added from District 3 are conservative and Republican areas, not likely to matter much in a Democratic primary but perhaps exerting a marginal force in general elections. Any partisan political gains in this redraw are modest, though new challenges are likely to emerge at the Democratic nomination stage.

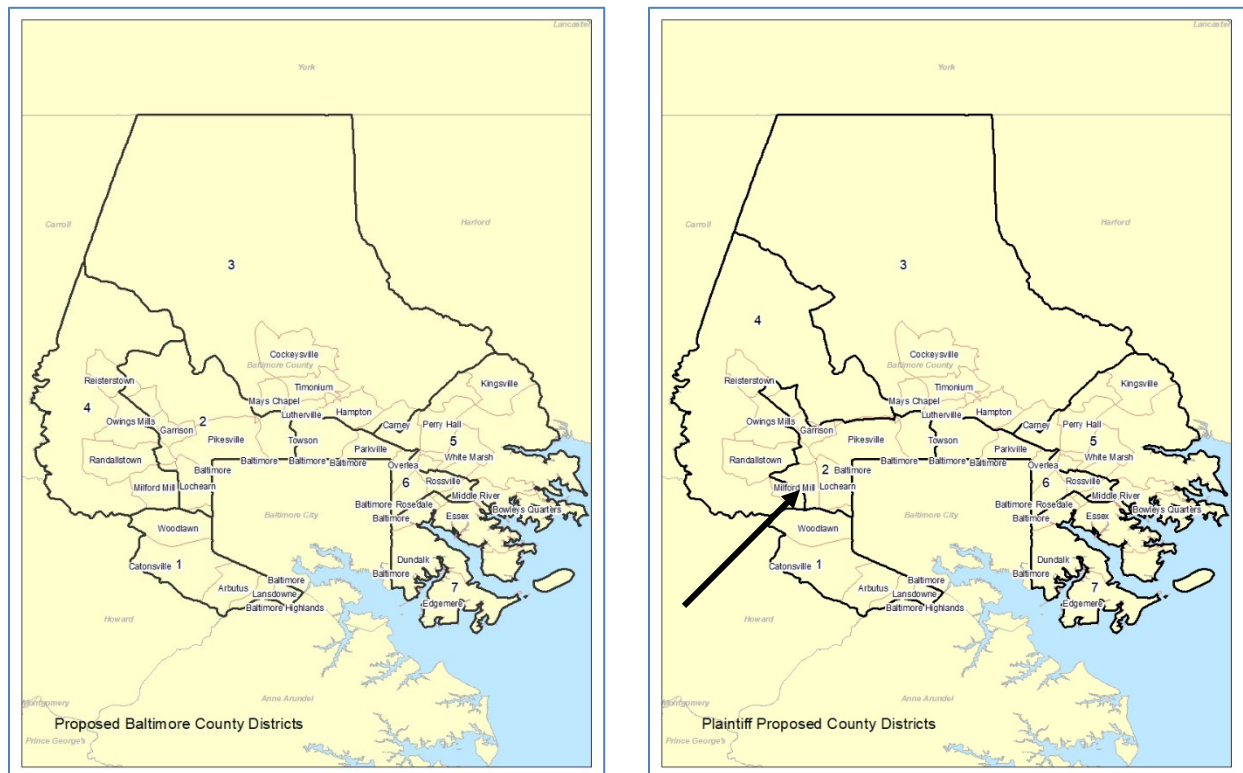


Figure 1. Proposed Baltimore County Council Districts and Plaintiffs' Counterproposal, in Response to February 22, 2022, Court Order, March 2022



Figure 2. Location of Changes in Plaintiffs' Proposed Map from the County Council's Proposed Map, March 2022

6. Core retention figures offer another way of analyzing the proposed changes, estimating how much of a constituency is lost by an aggressive redistricting scheme. These figures are presented in Table 1, below, offering comparisons from the 2010 redistricting cycle to several 2020 proposals, as well as comparing the 2020 proposals to each other. As indicated in previous declarations, the County Council's remedial map retained an average of 82 percent of the core

constituency of the 2010 districts, with significant changes coming in Districts 5, 6, 2 and 4. The Plaintiffs' new map lowers this to an average of 77 percent core retention, with far more substantial changes coming to District 2 and District 4. Specifically, core retention is reduced in District 2 from 81 to 67 percent (-14). Core retention is reduced in District 4 from 83 to 67 percent (-16). These changes are reflected in the rightmost column comparing the Council proposal to the Plaintiffs' proposal. District 2 maintains 86 percent of its proposed population in the Plaintiffs' map, and District 4 loses the 16 percent just mentioned, dropping to a retention rate of 84. Because it is a sparsely populated area, District 3 loses a small share of its residents if the Plaintiffs' proposal is adopted over the Council alternative, about 0.8 percent.

Table 1. Core Retention Across Redistricting Plans Showing Continuity in Representation					
	2000 to 2010	2010 to Original 2020	2010 to Council Proposed Map	2010 to Plaintiffs' Map	Council Proposed Map to Plaintiffs' Map
District 1	0.999	1.000	0.985	0.984	1.000
District 2	0.938	0.988	0.810	0.674	0.861
District 3	0.888	0.988	0.955	0.947	0.992
District 4	0.950	1.000	0.832	0.668	0.840
District 5	0.765	0.510	0.563	0.592	1.000
District 6	0.713	0.556	0.582	0.577	1.000
District 7	0.904	1.000	0.998	0.997	1.000
Average	0.880	0.863	0.818	0.777	0.956
Cell entries show proportion of the residents in the district from the comparison plan (previous decade, or alternative map) carried over to the new or proposed plan. Estimates use adjusted 2020 block data.					

7. In previous rounds of redistricting, the County Council has placed an emphasis on minimizing the disruption in the relationship between representatives and the represented. This

policy has resulted in traditionally high core retention rates as the focus is placed squarely on rebalancing the population to ensure the one-person-one-vote standard. A plan that drops core retention below 80 percent, without the justification of population balance, is considered an unusual step.

Compliance with Traditional Redistricting Principles

8. The compactness scores are not, on average, different across the two plans, but the average obscures the consequential changes in the specifically targeted districts (see Table 2). District 2 is considerably less compact in the Plaintiffs' proposed map than it is in the County Council's alternative (.37 to .27 on PP Score). Corresponding new distortions are now observable in the shape of District 4, inevitable since they share so much common boundary. Though District 3 becomes slightly more compact in the Plaintiffs' new map, this occurs in an area that is so sparsely settled as to not be appreciably noticeable by a councilmember trying to reach constituents. If a councilmember is traveling from Towson, for instance, to the farm country above Reisterstown in the first place, a couple of miles will make little difference in who you can practically meet-up with. On the other hand, closer into the Baltimore City boundary, a two-mile adjustment in where boundaries extend will make the difference between holding a single town meeting and scheduling multiple ones. Making a District's constituency less accessible in a highly populated area through boundary reconfiguration is very different than doing so out in the country where distances are construed differently.

Table 2. Compactness Tests County Council Proposed Map and Plaintiffs' Proposed Map				
Districts	County Proposed Districts		Plaintiff's Proposed Districts	
	PPTest	STest	PPTest	STest
District 1	0.482	0.694	0.482	0.695
District 2	0.370	0.608	0.272	0.521
District 3	0.575	0.758	0.535	0.732
District 4	0.325	0.570	0.253	0.503
District 5	0.140	0.374	0.140	0.374
District 6	0.266	0.515	0.266	0.515
District 7	0.067	0.259	0.067	0.259
Average	0.318	0.540	0.288	0.514
PPTest=Polsby Popper Test; STest=Schwartzberg Test. In both cases, larger numbers indicate more compact districts.				

9. The Plaintiffs' proposed map divides six Baltimore County precincts and fourteen census places (see Table 3). The specific communities that are split are shaded in red in Figure 3, below. Although these divisions are largely consistent with those occurring in the Council's proposal, additional splits are drawn in Garrison and Pikesville, lying in the area of greatest boundary adjustment and population.



Figure 3. Location of Census Places Split in Plaintiffs' Proposed Map

Population and Minority Voting Age Population

10. The population percentages for the Plaintiffs' remedial map are calculated from the Census adjusted block data available from the State of Maryland Redistricting website.¹ These block population figures are aggregated to the Plaintiffs' proposed districts and presented in Table

¹ <https://redistricting.maryland.gov/Pages/data.aspx>, accessed March 16, 2022.

2. A comparison table for the County Council's proposed map is present in my first supplemental declaration. Consistent with the other figures throughout this report, the table shows that the biggest changes are slated for Districts 2 and 4.

11. In District 2, the County Council's proposal created a crossover district with 41.2 percent Black voting age population and a 54.2 percent non-white majority. This goal was accomplished by making modest changes to District 4, reducing the black voting age population to 61 percent and the non-white majority percentage to 75.2 percent. The Plaintiffs' plan (see Table 2) goes much further by reducing the District 4 voting age black population to barely over 50 percent, and creating a 51.6 percent black voting age population in District 2. These are sufficiently low black percentages to invite brisk primary competition for the Democratic primary nomination and see the defeat of black candidates. This is not about winning a general election battle, as that's rarely in doubt. If the standard is what it takes to defeat a Republican in these districts, the sizable Democratic majorities ensure that even with smaller black voting age population shares. Instead, this is about the dangers to minority representation of low black thresholds in nomination contests.

Table 2. White and Minority Population Percentages for Baltimore County Council Districts in Plaintiffs' Proposal										
Total Population										
District	% Hispan	% NHWhite	% NHBlack	% NHNatam	% NHAsian	% NHHawpi	% NHOther	% NH2Race	% Non-White	% Minority (no2 race)
1	8.7	46.6	27.7	0.2	11.6	0.02	0.6	4.5	53.4	48.9
2	6.8	34.4	51.3	0.2	3.6	0.02	0.6	3.2	65.6	62.5
3	5.6	74.9	7.6	0.1	7.6	0.04	0.4	3.7	25.1	21.4
4	6.2	32.0	52.1	0.1	5.1	0.03	0.6	3.7	68.0	64.2
5	4.8	62.1	18.9	0.2	9.2	0.03	0.4	4.3	37.9	33.6
6	7.0	50.8	31.5	0.2	5.9	0.03	0.5	4.2	49.2	45.0
7	11.0	61.0	19.5	0.6	1.9	0.03	0.5	5.5	39.0	33.5
Voting Age Population										
District	% Hisp VAP	% White VAP	% Black VAP	% Natam VAP	% Asian VAP	% Hawpi VAP	% Other VAP	% 2Race VAP	% Non-White VAP	% Minority (no2 race)
1	7.3	49.9	27.4	0.2	11.2	0.03	0.5	3.6	50.1	46.6
2	5.7	35.7	51.6	0.2	3.7	0.02	0.5	2.6	64.3	61.7
3	4.6	77.6	7.1	0.1	7.4	0.05	0.4	2.8	22.4	19.6
4	5.3	35.2	50.5	0.1	5.1	0.03	0.5	3.1	64.8	61.6
5	4.0	66.4	16.9	0.2	8.9	0.03	0.3	3.3	33.6	30.4
6	6.1	54.1	29.9	0.2	5.9	0.02	0.4	3.3	45.9	42.6
7	8.8	66.0	17.9	0.6	2.0	0.03	0.4	4.3	34.0	29.8
Source: State of Maryland Adjusted 2020 Population, Blocks File https://redistricting.maryland.gov/Pages/data.aspx										

Political Performance and the Plaintiffs' Proposal

12. Analysis of the political performance of Districts 4 and 2 in the Plaintiffs' proposal do not reveal striking differences over the results obtaining under the County Council map for the elections examined in the February 22nd hearing. This is because the county is lopsidedly Democratic at 55%, with 25% Republican, and approximately 20% independent and third-party registrants, according to recent registration figures. Moreover, the Republican registrants are not concentrated primarily in Districts 1, 2 and 4, but elsewhere; fully one-in-four of the County's

Republican registrants reside in just one of the seven districts: District 3. More than 72 percent of Republican registrants are situated on the County's north and east sides, collected in Districts 3, 5, 6 and 7. The upshot is that changing a general election outcome when shifting around majority Democratic populations on the County's *west* side will not be easy to accomplish. Not surprisingly, then, even with the shifts in Districts 2 and 4 in the Plaintiffs' plan, the results for party registration as of November 2018 are largely the same. District 2 becomes marginally more Democratic in its registration than presently, and District 4 slightly less so, but both are well over 65 percent in their Democratic share of registrants at the time of the 2018 general election.

13. Under the proposed boundary changes, then, most *general* election outcomes do not change under the Plaintiffs' plan. Under the rare circumstances under which a Republican runs competitively both statewide and in the County, as in Governor Hogan's reelection in 2018, the Plaintiffs' redraw of District 2 does reduce his bare majority to a minority, 51.3% to 47%. Under such hyper-competitive circumstances, the redrawn boundaries change the outcome from a Democratic loss to a win, but ordinarily the contests in District 2 are not settled by a point or two. Far more often, the Democratic candidate has run well ahead of the Republican throughout the western side of the County and the outcome is known well in advance. A useful illustration is offered by tabulations from the 2014 gubernatorial contest under the two plans. Comparisons for District 2 show that the Democratic nominee, Anthony Brown, runs ahead of Republican Larry Hogan 55% to 43% in the Council's remedial map, and marginally more in the Plaintiffs map: 59% to 41% -- but these are comfortable victories for the Democratic nominee, either way.

14. As for the Democratic primaries, in the 2016 U.S. Senate primary between Chris Van Hollen and Donna Edwards, Edwards still loses under the Plaintiffs' map in District 2: 54%

to 42%, compared with a 56% to 39% loss under the County's remedial map. Certainly, the Plaintiffs' map does not get Edwards much closer to victory. This is because the Edwards loss, as in the losses of so many other candidates in Maryland and elsewhere, had little to do with how boundaries are configured. She performed poorly nearly everywhere, not just in Baltimore County, winning just three counties statewide. A far more aggressive redraw of District 2 would be required to see her pull even, much less win.

15. In summary, there are no gains to be had in the Plaintiffs' map over the opposition party in a county so decidedly Democratic. One might imagine a more radical redraw that might seek to unseat one of the two council Republicans – specifically the incumbent in District 3 with its far greater concentration of Republicans -- but that does not happen with the Plaintiffs' present changes to the northernmost parcels of District 4. Though there are no gains in this map over the minority Republicans, there is a great deal to lose in endangering Black representation in District 4 by inviting more competition into Democratic primaries. Some candidates may choose retirement over the risk of defeat under such circumstances, but the outcome may well be the same – less Black representation, not more.

Executed on March 20, 2022.

A handwritten signature in black ink, reading "James G. Gimpel". The signature is fluid and cursive, with the first name "James" and last name "Gimpel" clearly legible, and "G." as a middle initial.

Dr. James G. Gimpel, PhD.