IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA NORFOLK DIVISION

Latasha Holloway, et al.,

Plaintiffs,

v.

Case No. 2:18-cv-0069

City of Virginia Beach, et al.,

Defendants.

DEFENDANTS' SUBMISSION IN RESPONSE TO COURT'S MAY 12, 2021, ORDER

COME NOW the Defendants, by counsel, and, in response to the Court's May 12, 2021 Order (Dkt. 252) (the "Remedial Order"), hereby offer the following submission.

Defendants are continuing to prosecute their appeal consistent with their legal rights. *See* 28 U.S.C. § 1292(a)(1). As expressed in their appeal papers, Defendants respectfully disagree with the Court's liability ruling (Dkt. 242) (the "Opinion"). However, for purposes of the remedial phase only—and without waiving any rights, including the right to challenge the liability ruling on appeal before and after final judgment—Defendants are proposing two plans designed as remedial plans consistent with the legal and factual premises of the Opinion, within the confines of demographic and other practical realities inherent in this remedial phase. Nothing in this filing, or in any other of Defendants' remedial filings, should be read as a waiver of any position, legal or factual, Defendants are pressing on appeal, and any assertions consistent with or endorsing the Opinion's legal and factual findings are made for the sake of argument, at the remedial phase, only.

1. Experts hired to assist with preparation of remedial submissions.

Defendants have retained two experts to assist with this submission: Kimball W. Brace, to draw proposed districts, (*see* Exhibit 1 – Affidavit of Kimball W. Brace ("Brace Aff.")), and, Dr. Lisa R. Handley, to evaluate the political performance of those districts (*see* Exhibit 2 – Affidavit of Lisa R. Handley ("Handley Aff.")).¹ Both types of expertise—map drawing and map analysis—are necessary for drawing remedial districts and the City will rely on Mr. Brace and Dr. Handley throughout this remedial phase to prepare and evaluate proposed plans.

2. The City is afforded priority and deference in fashioning a remedial plan and no such opportunity will exist until after 2020 Census data is released.

As detailed in Defendants' Response in Opposition to Plaintiffs' Motion to Modify the Remedial Briefing Schedule (Dkt. 257) ("Defendants' Response to Plaintiffs' Motion to Modify"), the City of Virginia Beach is afforded both priority and deference in fashioning a remedial plan in this matter. (*See id.* at 2.) No Party or Special Master can propose a legally acceptable final remedy until after 2020 census data are released. (*See id.* at 2-6; *see also* Plaintiffs' Reply (Dkt. 258) ("Plaintiffs agree that the Court should not rely upon ACS data alone to issue its final remedial plan[.]")); *see also* Brace Aff. ¶¶15-17; Handley Aff. ¶12 (noting that the percentages of minorities in the proposed districts vary, sometimes by as much as three percentage points, depending on which set of population projections are being reported and it will not be until the PL 94-171 2020 census data is released later this year that we will be able to

¹ This court is familiar with Mr. Brace from the liability phase of this case. Dr. Handley is a renowned expert, practitioner and academic in the areas of redistricting and voting rights. Dr. Handley's clients have included the U.S. Department of Justice, civil rights organizations (American Civil Liberties Union, Lawyers' Committee for Civil Rights Under Law), state redistricting commissions, and scores of state and local jurisdictions. In addition, she has served as an expert in dozens of redistricting and voting rights court cases. Dr. Handley has conducted hundreds of racial bloc voting analyses across the country, including analyses of voting patterns by race and ethnicity. *See* Handley Aff. Ex. A (resume of Dr. Handley).

determine with any certainty the minority demographics of any proposed remedial districts); *see also id.* ¶28 (noting that the PL 94-171 2020 census data is important to "ensure the districts satisfy equal population requirements and to gauge the demographic composition of the proposed districts."). Defendants will not have an adequate opportunity to redistrict the City Council until they are able to do so using 2020 census data. (*See* Dkt. 257 at 6-8.)

As detailed in Defendants' Response to Plaintiffs' Motion to Modify, Defendants propose a tight briefing schedule lasting seven weeks following the release of 2020 census data. (Dkt. 257 at 8-10.) Should the release of 2020 census data usable for redistricting occur prior to September 30, 2021, then Defendants' proposed schedule should be adjusted commensurately. Defendants are not interested in "paralyz[ing] the remedial process until the winter," as characterized by Plaintiffs in their reply brief. (Dkt. 258 at 8.) Defendants are only interested in ensuring that the City has an adequate opportunity to redistrict following 2020 census data release.

3. Defendants' preliminary proposed remedial concept plans.

Defendants submit two different concept plans for the Court's consideration as detailed below.² In the case of the 7-3 Concept Plan, the plan adheres closer to Virginia policy choices by remaining consistent with the challenged plan to the extent possible while addressing the violation found in the Opinion. (Brace Aff. ¶¶ 6, 20.) Finally, these plans honor the principles underlying Section 2 of the Voting Rights Act. In this way, these proposed concept plans would

² As noted, Defendants propose these maps assuming the validity of the Opinion for the sake of advancing remedial proceedings and not out of any concession that the Opinion was correct as a matter of fact or law. Among other things, Defendants are concerned that maps drawn to achieve a coalitional goal lack a firm basis in evidence under the Voting Rights Act, which does not authorize coalitional claims, and Defendants are concerned that the lack of cohesive voting among distinct minority groups in Virginia Beach further undermines any basis in evidence for these districts. But, as explained, Defendants acknowledge that the remedial phase is not the proper forum to relitigate liability.

best fulfill this Court's remedial mandate. *See, e.g., Personhuballah v. Alcorn*, 155 F. Supp. 3d 552, 564-565 (E.D. Va. 2016).

It bears repeating that these concept plans cannot be finalized until after 2020 census data is released and available for map drawing, and the map drawing by Mr. Brace and performance analysis by Dr. Handley are updated to reflect that data. Further, meaningful challenges exist in drawing remedial majority minority districts that will perform to elect the candidates of choice as defined by the Opinion. Defendants propose that these maps could form the starting point of remedial plans drawn using 2020 census data after it becomes available, and after Mr. Brace, Dr. Handley, and any other experts involved in the case, including any Special Master, are able to conduct final analyses and bring a proposed remedial plan to finality.

a. The 7-3 Concept Plan

The first concept plan includes 7 single-member districts, and 3 super wards (in addition to the mayoral seat which will remain at-large) (the "7-3 Concept Plan"). (Brace Aff. ¶¶19-20, Exs. B and C (map showing 7-3 Concept Plan)). This electoral structure adheres closer to Virginia policy decisions by being more similar to the existing system except without the three at-large seats. Each district seat is elected by residents within each district, and each super ward seat is elected by residents within each super ward. (Brace Aff. ¶20b.) In this system, every resident in Virginia Beach would be represented by one district seat, one super ward seat, and the mayor. (Brace Aff. ¶20c.)

The principal purpose of the 7-3 Concept Plan was to achieve the equal racial opportunity the Court's Opinion identifies as the legal requirement for a Virginia Beach redistricting plan, and this entailed drawing districts with sufficient percentages of voters from the various minority communities to qualify as opportunity districts within the meaning of the district court's opinion. (*See* Brace Aff. ¶6.) A subsidiary purpose was to follow traditional districting criteria to the

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extent possible given the predominant goal of compliance with the Court's Opinion. (Brace Aff. ¶6.) The districts are as compact as possible, they follow precinct boundaries, the districts respect communities of interest, and avoid pairing incumbents except when necessary. (Brace Aff. ¶¶8, 20e, 20f.) The only incumbent pairing in the 7-3 Concept Plan is the pairing of incumbents John Moss and Louis Jones who reside in the same precinct and therefore it was not possible to draw them in separate districts in a whole-precinct plan. (Brace Aff. ¶20f.)

Incumbent terms have been respected in the 7-3 Concept Plan. As detailed in the following table, each incumbent who is not paired has a "home" district or super ward that matches the term of service of their current seat. (Brace Aff. ¶20f.) There is one open district due to the necessary pairing and so incumbent Rouse has an option of whether he would like to run for reelection in Super Ward 1 or District 1. (Brace Aff. ¶20f.) The plan yields two majority minority districts (District 1 and District 3) and one majority minority Super Ward (Super Ward 1). (Brace Aff. ¶20d.)

Incumbent Terms and Seats in 7-3 Concept Plan					
Incumbent	Up for Reelection	Seat in 7-3 Concept Plan			
Abbott	November 2024	District 2			
Berlucchi	November 2024	District 4			
Henley	November 2022	District 7			
Jones*	November 2022	Super Ward 2			
Moss*	November 2022	Super Ward 2			
Rouse	November 2022	Super Ward 1 [^] or			
		District 1 [^]			
Tower	November 2022	District 6			
Wilson	November 2024	Super Ward 3			
Wood	November 2022	District 5			
Wooten	November 2024	District 3 [^]			

*Incumbents paired due to residing in same precinct. ^Majority-minority district/super ward.

(Brace Aff. ¶20f.)

b. The 10-1 Concept Plan

The second concept plan is a 10-district plan where each district seat is elected by residents within each district (the "10-1 Concept Plan"). (Brace Aff. ¶¶21-22, Exhibit D) (map showing 10-1 Concept Plan). In this system, every resident in Virginia Beach would be represented by one district seat and the mayor. (Brace Aff. ¶22b.) Because this plan has more districts in it, the geography of each district is smaller than the 7-3 Concept Plan districts. (Brace Aff. ¶22b.)

The principal purpose of the 10-1 Concept Plan was to achieve the equal racial opportunity the Court's Opinion identifies as the legal requirement for a Virginia Beach redistricting plan, and this entailed drawing districts with sufficient percentages of voters from the various minority communities to qualify as opportunity districts within the meaning of the district court's opinion. (Brace Aff. 96.) A subsidiary purpose was to follow traditional districting criteria to the extent possible given the predominant goal of compliance with the Court's Opinion. (Brace Aff. 96.) The districts are as compact as possible, they follow precinct boundaries, the districts respect communities of interest, and avoid pairing incumbents except when necessary. (Brace Aff. ¶¶8, 22d.) There are two incumbent pairings in the 10-1 Concept Plan. (Brace Aff. ¶22e.) First, incumbents John Moss and Louis Jones reside in the same precinct and so unpairing them is not possible in a whole-precinct plan. (Brace Aff. ¶22e.) Second, incumbents James Wood and Guy Tower reside in the northeast corner of the City where opportunities for separating them are limited in a 10-district plan where water borders the north and east sides of the district, and multiple incumbents live just over the western border of the district (incumbents Jones and Moss) and the southwestern border (incumbent Berlucchi). (Brace Aff. ¶22e.) The need to draw more districts within the geography of Virginia Beach to

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create a 10-district plan as opposed to a 7-district plan made it more difficult to avoid pairing incumbents. (Brace Aff. ¶22f.)

Incumbent terms have been respected in the 10-1 Concept Plan. As detailed in the following table, each incumbent who is not paired has a "home" district that matches the term of service of their current seat. The 10-1 Concept Plan yields three majority minority districts (Districts 1, 3 & 5) according to ESRI data, and barely four minority districts (Districts 1, 2, 3 & 5) using ACS data, with District 2 barely majority minority at 50.08%. (Brace Aff. ¶22c.) There are two open districts due to the necessary pairings described above: one is majority minority District 1 and the other is District 9. (Brace Aff. ¶22g.)

Incumbent Terms and Seats in 10 District Concept Plan						
Incumbent	Up for Reelection	Seat in 10 District				
		Concept Plan				
Abbott	November 2024	District 2 [^]				
Berlucchi	November 2024	District 5 [^]				
Henley	November 2022	District 10				
Jones*	November 2022	District 6				
Moss*	November 2022	District 6				
Rouse	November 2022	District 4				
Tower*	November 2022	District 7				
Wilson	November 2024	District 8				
Wood*	November 2022	District 7				
Wooten	November 2024	District 3 [^]				

*Incumbents paired. ^Majority-minority district.

(Brace Aff. ¶22g.)

4. Performance analysis of Defendants' proposed concept plans

Dr. Handley applied two related approaches to evaluate the proposed concept plans and ascertain whether they are likely to provide voters from minority communities with an opportunity to elect their candidates of choice to office: a "percent minority population required" analysis and a recompiled election results analysis. (Handley Aff. ¶4.)

a. Percent minority population required for the minority-preferred candidate to win with at least 50 percent of the vote.

The first method is based on an analysis of voting patterns by race and uses the estimates derived from this analysis to calculate the percent minority population required for the minority-preferred candidate to win with at least 50 percent of the vote. (Handley Aff. ¶4.) This approach takes into account the participation rates of minority and white voters, as well as the degree of minority political cohesion and the degree of white crossover votes for minority-preferred candidates in a jurisdiction and uses algebra to compute the percent minority population needed for the minority-preferred candidate to receive 50 percent of the vote based on these voting patterns. (*Id.*)

Though this form of analysis has shortcomings here, (Handley Aff. ¶¶11-13), there is at least one reason why this analysis is useful in this case: it reveals the need for a higher concentration of all minorities combined than would be necessary if only Black CVAP is considered in crafting an effective remedy. (Handley Aff. ¶15.) This dynamic is caused by lower levels of political cohesion when all minority voters are considered together as opposed to Black voters alone. (Handley Aff. ¶¶15-18 & Tables 2 and 3.)

Dr. Handley found that there were "consistently lower levels of cohesion among all minority voters compared to Black voters." (Handley Aff. ¶19 n.4.) She prepared a table illustrating these differences:

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		Minority- Preferred	Minority CVAP	Black CVAP	
Year	District	Candidate	Needed	Needed	Difference
2018	At-large	Rouse	70.4	67.4	3.0
2018	At-large	White	77.8	71.6	6.2
2016	Kempville	Ross-Hammond	53.9	47.6	6.2
2016	Rose Hill	Cabiness	71.7	64.4	7.3
2012	Kempsville	Ross-Hammond	55.8	48.9	7.0
2011 Sp	At-large	Sherrod	57.7	50.4	7.3
2010	At-large	Jackson	61.4	51.9	9.4
2010	Princess Anne	Bullock	45.6	42.9	2.7
2008	At-large	Allen	53.2	48.1	5.1

(*Id.*) Dr. Handley found that these consistent differences raise a question about whether Black voters and other minority voters are actually supporting the same candidates. (*Id.*) As an example, in a district with 150 voters, $2/3^{rd}$ (100) of whom are Black and $1/3^{rd}$ (50) of whom are Hispanics and Asians, if 80 Black voters support a candidate and only 10 of the other minority voters support that candidate, the Black level of cohesion is 80% (80/100) and the overall level of minority cohesion is 60% (90/150) but only 20% (10/50) of Hispanics and Asians actually supported the candidate. (*Id.*) While a level of voting support at 20% does not support a finding of cohesion, (*id.*), that lack of cohesion is masked when using "all minorities" by the much higher and more weighted Black cohesion figure.

For the purposes of her analysis, and pursuant to the remedial posture of this case, Dr. Handley adopted the Court's view that Blacks, Hispanics and Asians are cohesive. But even Plaintiffs' expert found that "the population of Hispanic and Asian voters is not large enough to generate precise estimates of candidate preference using traditional statistical methods." (*Id.*) (citing Spencer Report, Aug. 26, 2019, at 6). As a consequence, Dr. Handley could not draw any conclusions about Asian or Hispanic voting preferences in Virginia Beach, (*id.*), but her analysis raised serious questions about minorities' voting cohesion in the city.

b. Recompiled election results analysis

The second method Dr. Handley used involves conducting a racial bloc voting analysis, identifying the minority candidates of choice in each of the election contests, and recompiling the election results of these contests to conform to proposed district boundaries to determine if minority-preferred candidate would prevail if the contest were confined within the proposed district boundaries. (Handley Aff. ¶5.) This recompilation takes into account the same information as the first approach – the participation rates of minorities and whites, the degree of minority political cohesion and white crossover voting – but can only be used if proposed districts have been put forward and have been drawn using existing election precincts and the precinct boundaries have not changed over time. (Id.) If precinct lines have changed over the course of the time period being considered, or census blocks have been used to draw districts rather than precincts, this approach can be utilized only if the precinct results are disaggregated down to the census block level – they can then be reaggregated up to conform with the boundaries of the proposed districts. (Id.) In this case, Dr. Handley used the racial bloc voting analysis conducted by Plaintiffs' expert Douglas Spencer, and the Court's Opinion about candidates of choice to inform her analysis. (Handley Aff. ¶6.) For reasons detailed in her affidavit, (*id.* ¶21-23), Dr. Handley identified two bellwether elections for use in her analysis: the 2012 and 2016 Kempsville election contests where Dr. Amelia Ross-Hammond was the candidate of choice in both elections.

In the 10-1 Concept Plan, Dr. Handley found that there are three or four majority minority districts depending on whether the estimates are derived from the ACS (four minority districts – Districts 1, 2, 3, 5) or ESRI (three minority districts – Districts 1, 3, and 5). (Handley Aff. ¶25.) Despite substantial minority populations in three of these districts, only one has a minority CVAP of greater than 50 percent (District 3 with a minority CVAP of 50.03 percent).

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(*Id.*) Under the reconstituted election analysis, Ross-Hammond does not carry District 3 in her bid for the Kempsville seat against a single opponent in 2016. (*Id.*) However, she does win District 1 with 53.73 percent of the vote in this 2016 contest. (*Id.*) Ross-Hammond wins the plurality vote in both of these districts (Districts 1 and 3) in 2012. (*Id.*) She also wins a plurality of the vote in Districts 2 and 5, both with substantial but less than majority minority CVAPS, as well as Districts 4, 6, 8 and 9. (*Id.*)

10 District Plan								
	Percent of Total Population		Percent of CVAP		Recompiled election results: Votes for Black- preferred Candidate			
District	NHB	llack	Mine	ority	NHBlack	Minority	2016	2012
	ACS	ESRI	ACS	ESRI	ACS	ACS	Ross-Hammond	Ross-Hammond
1	32.64%	34.87%	55.34%	56.11%	32.25%	49.08%	53.73% BP won	49.98% BP plurality win
2	25.74%	24.51%	50.08%	48.66%	26.67%	46.09%	42.84% BP lost	35.01% BP plurality win
3	24.80%	25.65%	52.55%	56.79%	26.42%	50.03%	43.46% BP lost	40.19% BP plurality win
4	18.43%	17.67%	39.52%	40.23%	19.64%	36.95%	39.80% BP lost	26.51% BP plurality win
5	26.09%	26.07%	53.09%	53.23%	27.04%	46.79%	46.71% BP lost	38.43% BP plurality win
6	11.05%	12.68%	29.13%	31.27%	11.33%	24.50%	37.44% BP lost	28.21% BP plurality win
7	2.49%	2.71%	11.94%	12.22%	2.69%	10.12%	35.06% BP lost	20.46% BP lost
8	15.66%	16.27%	31.75%	34.25%	15.23%	26.95%	38.23% BP lost	31.33% BP plurality win
9	17.55%	15.68%	35.90%	37.41%	17.72%	32.81%	38.91% BP lost	32.66% BP plurality win
10	9.24%	11.39%	22.92%	26.80%	10.27%	21.60%	32.77% BP lost	25.33% BP lost

(*Id.* at Table 4.)

In the 7-3 Concept Plan there are two majority minority districts in the 7-district component of the plan: Districts 1 and 3. Only one of these – District 3 – is majority minority in CVAP. (Handley Aff. ¶26.) Ross-Hammond did not carry either of these districts in 2016 but did win with a plurality of the vote in Districts 1 and 3 (as well as four additional districts) in 2012. (*Id.*) In the three super ward districts, there is one district (District 1) that is majority minority in population but not majority minority in CVAP. (Handley Aff. ¶27.) Ross-Hammond did not carry this district in 2016 but was the plurality winner in this district in 2012. (*Id.*)

7-3 District Plan								
	Percent of Total Population			Percent of CVAP		Recompiled election results: Votes for Black- preferred Candidate		
District	NHE	llack	Mino	ority	NHBlack	Minority	2016	2012
	ACS	ESRI	ACS	ESRI	ACS	ACS	Ross-Hammond	Ross-Hammond
1	29.37%	31.49%	51.26%	53.06%	29.10%	45.44%	49.30% BP lo	st 41.48% BP plurality win
2	24.22%	21.93%	45.82%	44.56%	25.15%	41.97%	41.75% BP lo	st 31.46% BP plurality win
3	23.88%	25.67%	54.36%	56.71%	25.97%	51.40%	43.23% BP lo	st 38.80% BP plurality win
4	13.95%	14.55%	33.11%	34.28%	13.95%	28.24%	39.69% BP lo	st 30.41% BP plurality win
5	8.09%	7.73%	20.00%	20.78%	8.50%	17.88%	35.82% BP lo	st 23.72% BP lost
6	19.91%	19.84%	38.92%	40.60%	19.65%	33.79%	42.53% BP lo	st 34.84% BP plurality win
7	8.58%	9.84%	23.08%	27.13%	9.08%	21.20%	33.15% BP lo	st 26.45% BP plurality win
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DISTRICTS	00.000/	05 740/	50 450/	50.050/	00 500/	45 0 404	42.000/ DD1	-+ 25.570/ DD share l'the '
1	20.02%	25.74%	50.15%	50.65%	20.56%	45.64%	43.90% BP Io	st 35.57% BP plurality win
2	13.09%	13.55%	29.55%	30.65%	13.11%	25.39%	39.61% BP lo	st 29.89% BP plurality win
3	16.29%	17.50%	35.39%	38.59%	17.06%	32.27%	38.27% BP lo	st 31.38% BP plurality win

(*Id.* at Table 5.)

5. Special Master Proposal

Defendants propose **Dr. Bernard Grofman** as a special master in this case. Professor Grofman holds a Ph.D. in political science from the University of Chicago and is a distinguished professor of political science at the University of California, Irvine. He is the author and editor of multiple books and more than 300 articles and research notes on the political process, including voting-rights and redistricting issues. Professor Grofman's work has been cited by the Supreme Court of the United States in at least a dozen cases including the landmark *Gingles* decision where the standard used to define racially polarized voting was based on his work. *Thornburg v. Gingles*, 478 U.S. 30, 52-53 & n. 20 (1986). Professor Grofman has served as a consultant in at least seven federal cases. Most relevant here, Professor Grofman served as Special Master in *Personhuballah v. Alcorn*, 155 F. Supp. 3d 552 (E.D. Va. 2016) and *Bethune-* *Hill v. Virginia State Board of Elections*, 368 F. Supp. 3d 872, 876 (E.D. Va.), *appeal dismissed sub nom. Virginia House of Delegates v. Bethune-Hill*, 139 S. Ct. 2715 (2019). In both cases, this Court adopted the plans he drew. Dr. Grofman's familiarity with Virginia's redistricting data and this Court would facilitate an efficient remedial process.

DATE: July 1, 2021

Respectfully submitted,

Mark D. Stiles (VSB No. 30683) **City Attorney** Christopher S. Boynton (VSB No. 38501) Deputy City Attorney Gerald L. Harris (VSB No. 80446) Senior City Attorney Joseph M. Kurt (VSB No. 90854) Assistant City Attorney OFFICE OF THE CITY ATTORNEY Municipal Center, Building One, Room 260 2401 Courthouse Drive Virginia Beach, Virginia 23456 Telephone: (757) 385-4531 Facsimile: (757) 385-5687 mstiles@vbgov.com cboynton@vbgov.com glharris@vbgov.com jkurt@vbgov.com

/s/ Katherine L. McKnight

Katherine L. McKnight (VSB No. 81482) Richard B. Raile (VSB No. 84340) BAKER & HOSTETLER, LLP 1050 Connecticut Avenue, N.W. Washington, D.C. 20036 Telephone: (202) 861-1500 Facsimile: (202) 861-1783 kmcknight@bakerlaw.com rraile@bakerlaw.com

Patrick T. Lewis (*pro hac vice*) BAKER & HOSTETLER, LLP 127 Public Square, Suite 2000 Cleveland, OH 44114 Telephone: (216) 621-0200 Facsimile: (216) 696-0740 plewis@bakerlaw.com

Erika Dackin Prouty (*pro hac vice*) BAKER & HOSTETLER, LLP 200 Civic Centre Drive, Suite 1200 Columbus, OH 43215 (614) 462-4710 eprouty@bakerlaw.com

Counsel for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of the filing to all parties of record.

<u>/s/ Katherine L. McKnight</u> Katherine L. McKnight (VSB No. 81482) Counsel for Defendants

Exhibit 1

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA NORFOLK DIVISION

Latasha Holloway, et al.,

plaintiffs,

v.

Case No. 2:18-cv-0069

City of Virginia Beach, et al.,

Defendants.

AFFIDAVIT OF KIMBALL W. BRACE

- 1. I am Kimball W. Brace and my curriculum vitae is attached as Exhibit A.
- 2. I was hired in the above-referenced matter to draw electoral districts for City Council seats in the City of Virginia Beach as part of the remedial phase of the above-referenced litigation.
- 3. I have over 42 years of experience drawing electoral districts during redistricting cycles and in remedial phases for litigation. This experience includes drawing electoral districts in the City of Virginia Beach for the past three decades. I was a fact witness and testifying expert during the liability phase of this matter.
- 4. In support of my work in this matter, I reviewed certain materials, namely:
 - a. Report by Anthony E. Fairfax dated March 16, 2019
 - b. Report Appendix by Anthony E. Fairfax dated March 16, 2020
 - c. I have also reviewed many of the affidavits filed by both sides' expert witnesses during the course of the trial, as well as many of the briefs filed by both sides in the case.
- 5. In order to conduct my map drawing work, I assumed as fact the Court's findings in its Memorandum Opinion and Order issued on March 31, 2021 (Dkt. 242) (the "Opinion"). Specifically, I assumed that drawing an electoral district that had a combined voting age population that was a combination of Blacks, Asians and Hispanic so as to be a majority in Voting Age Population would, as the Court stated, remedy the violation found in the Opinion.

Guidelines for drawing proposed concept plans:

- 6. My principal purpose in preparing these plans was to achieve the equal racial opportunity the Court's Opinion identifies as the legal requirement for a Virginia Beach redistricting plan. This entailed drawing districts with sufficient percentages of voters from the various minority communities to qualify as opportunity districts within the meaning of the district court's opinion. A subsidiary purpose was to follow traditional districting criteria to the extent possible given the predominant goal of compliance with the Court's Opinion.
- 7. I was not able to draw a compact electoral district with just 50% or greater African-American Voting Age Population. I was only able to draw compact electoral districts with 50% or greater combined Majority Minority Voting Age Population (as defined by adding Non-Hispanic African Americans, Hispanics, and Non-Hispanic Asians)
- 8. The districts and super wards, as plans, also (1) fall within the equal population guidelines recognized by the courts, states, and localities of an overall 10% deviation in population in the plan, (2) are as compact as possible, (3) follow precinct boundaries to assist the county's registrar of voters in implementing the plan for any future election, (4) respect communities of interest, and (5)avoid pairing incumbents except when necessary.
- 9. As to voter expectation, there were two factors I considered in an effort to ensure that voters maintained as much consistency and control as possible over their representatives. First, I worked to avoid incumbent pairing unless necessary. This is an effort to make sure that the voters decided when to end a representative's term of service, not the court. As noted below, this was not always possible but I was able to limit paring to only when necessary. Second, I worked to avoid cutting short any incumbents term of service. As detailed below, this effort was more successful but involves attention to the detail of when current incumbents' terms expire.
- 10. I also adopted the advice and recommendation of Dr. Lisa Handley to look at the election results received by minority candidate of choice Ross-Hammond, as claimed by Plaintiff's expert witness in the case. I had available in my map drawing software the election results from 2016 and 2012 for the Kempsville City Council contest where candidate Ross-Hammond appeared on the ballot. I did not have available previous decades contests the Plaintiff's identified as containing candidates of choice because they were configured for the previous decade's mapping system and 2000 census geography.

Data used for drawing proposed concept plans

11. When drawing electoral districts, it is important to use the most up-to-date data available from the Census Bureau. The next election in Virginia Beach is scheduled for November 2022 and the most up-do-date census data for that election will be the 2020 census. However, that data will not be released by the Census Bureau for another 6 weeks, on August 16, 2021. According to Virginia Law, the Virginia's Division of Legislative Services is to adjust the PL 94-171 data to reflect the transfer of prison inmates back to their home addresses before the state and localities can use the data for redistricting

purposes. The Division is required to release this adjusted data within 30 days of the release of the PL data (currently expected on August 16). Therefore, the adjusted data is expected to be available by September 15, 2021.

- 12. In order to create district alternatives to meet the court-imposed deadline of July 1, 2021 we were forced to utilize two different population estimates (not firm Census counts). First, the Census Bureau publishes population estimates each year from the multi-year surveys called the American Community Survey. In order to obtain small levels of geography (down to the Census block-group), a user must use the 5-year estimates, the most recent of which was released in 2019, but covers the five year survey results from 2015 to 2019. Demographers tend to look as these as most reflective of the mid-point of the 5-year period, or 2017. As a result, more than half the information is more than three years old at this point. I view this as partly stale data that ultimately needs to be updated from the 2020 Census results. The Bureau does do this updating process every 10 years so as to "re-benchmark" the data for their estimates based on more firm counts from the decennial Census. But that re-benchmarking process has taken another year after the release of the official census counts, so that is a way away.
- 13. We also know the ACS data is different from the final official census counts to some degree, although the exact number is undeterminable at this point in time. We can see this in the differences between the ACS numbers and other commercially available datasets, for example. The ACS data should also not be viewed as a "replacement" for official census data, since they are simply estimates, subject to the same plus/minus that one hears when polling results are announced, for example. As a result, ACS data are no substitute for decennial census data when it comes to drawing remedial maps in a Section 2 case. Virginia Beach also has a much larger military population that have their own impact on estimates and their reliability.
- 14. Second, we procured population estimates for 2020 from the demographic and GIS company called ESRI, who have been generating yearly estimates for at least the past decade for mostly commercial clients. This data is more current than the ACS data because if reflects estimates for 2020. ESRI uses some of the ACS in their estimates process but also relies upon the US Post Offices' change of address information, along with other data.¹ This data has not been adjusted for the prison population reallocation.
- 15. I used both of these datasets in my map drawing, but relied more heavily on the ACS data to balance for one-person, one-vote purposes.

These plans are not final proposals

16. I call these "concept plans" because they are not in final form for remedial map drawing. First, they are not drawn to one-person one-vote standards. Second, they will need to be adjusted to account for differences between the ACS data used to draw the concept plans and the 2020 census data required for remedial map drawing.

¹ ESRI Methodology Statement: https://storymaps.arcgis.com/stories/52764a9948074c4b9d527a390aefdc67

- 17. The adjustments that will be needed to bring these proposed concept plans to final should not be presumed minor or merely "technical" because we do not yet know how the 2020 census data differs from the ACS data used. As discussed above, the ACS data are a survey and involves an amount of projection as to what the numbers might be.
- 18. We cannot presume that adjustments that will be needed will be minor in scale. For every map drawing change there is a ripple effect across the remainder of the map and it is possible that a meaningful portion of population will need to be moved around the districts before finalizing. This is often the case when dealing with minority populations and the desire to make a seat that is above 50% of a single race or combination race. My own experience in drawing districts in Virginia Beach can attest to this problem, particularly when various minority groups are spread across the city without a lot of concentration in one place. This is particularly the case with Hispanic and Asian populations, which themselves suffer from low overall percentages of the city.

The 7-3 Concept Plan

- 19. Attached at Exhibit A and B are maps illustrating the 7-3 Concept Plan.
- 20. The 7-3 Concept Plan bears the following characteristics:
 - a. This is a 7 single-member district, 3 super ward system.
 - b. This electoral structure mimics the existing system except without the at-large election to each seat; each district seat is elected by residents within each district, and each super ward seat is elected by residents within each super ward.
 - c. In this system, every resident in Virginia Beach would be represented by one district seat, one super ward seat, and the mayor.
 - d. The plan yields two majority minority districts (District 1 and District 3) and one majority minority Super Ward (Super Ward 1). These figures will need to be revisited after release of 2020 census data.
 - e. The districts and super wards in this plan were drawn as compact as possible and with whole precincts.
 - f. As detailed in the following chart, incumbent terms are protected in the 7-3 Concept Plan. Each incumbent who is not paired has a "home" district or super ward that matches the term of service of their current seat. There is one open district due to the necessary pairing and so incumbent Rouse has an option of whether he would like to run for reelection in Super Ward 1 or District 1.

Incumbent Terms and Seats in 7-3 Concept Plan						
Incumbent	Up for Reelection	Seat in 7-3 Concept Plan				
Abbott	November 2024	District 2				
Berlucchi	November 2024	District 4				
Henley	November 2022	District 7				
Jones*	November 2022	Super Ward 2				
Moss*	November 2022	Super Ward 2				
Rouse	November 2022	Super Ward 1 [^] or				
		District 1 [^]				
Tower	November 2022	District 6				
Wilson	November 2024	Super Ward 3				
Wood	November 2022	District 5				
Wooten	November 2024	District 3 [^]				

*Incumbents paired due to residing in same precinct. ^Majority-minority district/super ward.

The 10-1 Concept Plan

- 21. Attached at Exhibit D are maps illustrating the 10-1 Concept Plan.
- 22. The 10-1 Concept Plan bears the following characteristics:
 - a. This is a 10-district plan where each district seat is elected by residents within each district.
 - b. In this system, every resident in Virginia Beach would be represented by one district seat and the mayor. Because this plan has more districts in it, the geography of each district is smaller than the 7-3 Concept Plan districts.
 - c. The plan yields three majority minority districts (Districts 1, 3 & 5) according to ESRI data, and barely four majority minority districts (Districts 1, 2, 3 & 5) using ACS data, with District 2 barely majority minority at 50.08%. These figures will need to be revisited after release of 2020 census data.
 - d. The districts in this plan were drawn as compact as possible and with whole precincts.

- e. There are two incumbent pairings in the 10 District Concept Plan. First, incumbents John Moss and Louis Jones reside in the same precinct and so unpairing them is not possible in a whole-precinct plan. Second, incumbents James Wood and Guy Tower reside in the northeast corner of the City where opportunities for separating them are limited in a 10-district plan where water borders the north and east sides of the district, and multiple incumbents live just over the western border of the district (incumbents Jones and Moss) and the southwestern border (incumbent Berlucchi).
- f. The need to draw more districts within the geography of Virginia Beach to create a 10-district plan as opposed to a 7-district plan made it more difficult to avoid pairing incumbents.
- g. Incumbent terms have been respected in the 10 District Concept Plan. As detailed in the following table, each incumbent who is not paired has a "home" district or super ward that matches the term of service of their current seat. There are two open districts due to the necessary pairings described above: one is majority minority District 1 and the other is District 9.

Incumbent Terms and Seats in 10 District Concept Plan						
Incumbent	Up for Reelection	Seat in 10 District				
		Concept Plan				
Abbott	November 2024	District 2 [^]				
Berlucchi	November 2024	District 5 [^]				
Henley	November 2022	District 10				
Jones*	November 2022	District 6				
Moss*	November 2022	District 6				
Rouse	November 2022	District 4				
Tower*	November 2022	District 7				
Wilson	November 2024	District 8				
Wood*	November 2022	District 7				
Wooten	November 2024	District 3 [^]				

*Incumbents paired due to residing in same precinct. ^Majority-Minority district/super ward.

- 23. For each of the two plans noted above, the mapping system I use (AutoBoundEDGE by CitygateGIS) couples a map area of the computer screen with a spreadsheet on that same (or can be separated to a second monitor) screen. The map drawer can select single pieces of geography (or with a lasso or box selection tool, selecting multiple pieces) and assign or unassign to a district number. As those assignments are colored with the district color, the spreadsheet will update all of the population and election information there by adding or subtracting appropriately. Because computers are now faster than those I used when I first started redistricting, this is nearly immediate updating of the information to now allow the computer operator to evaluate instantaneously the impact of the change.
- 24. Our system allows maps to be made of the district configurations, both individually and for the whole city. These are the maps that have been previously mentioned above.

- 25. The system allows the spreadsheet of the data to also be exported, and I am including these as additional items in my appendix (Appendix XXX). While there are two plans that I have discussed above, our system actually treats the two plans, particularly the 7-3-1 plan as two different district configurations. Therefore, there are two different spreadsheets show for the 7-3-1 plan, one for the 7-district single member districts and a second for the three mega district components of the plan. The 10-district plan just has one set of maps and spreadsheets to depict that plan because they are all single member districts in that plan.
- 26. The spreadsheets for the plans and components are each three pages in length. The first page of numbers is the overview tab in our spreadsheet, which shows the populations for the individual districts in the plans, both reporting from the ACS data (shown on the left side of the page) and the ESRI data (shown on the right half of the page) Both sides of the page show the total population for the districts with a cyan background, including the percent deviation calculation and raw number difference calculation) for each of the districts in the plan. The orange portion of both sides of the spreadsheet shows the racial percentages for Non-Hispanic (NH) Whites, Non-Hispanic Blacks, Non-Hispanic Asians, Hispanics, and then a total Minority calculation for each of the districts.
- 27. The additional two pages shows the recalculation of election results for the 2016 and 2012 elections for city offices. The reconstituted election results for the contests where African American candidate Ross-Hammond appeared on the ballot is the third row of contests on each page, showing the results of the City Council contest for the Kempsville district.

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

Respectfully executed and submitted this 1st day of July 2021.

Kinball W. Brace

Kimball W. Brace

Exhibit A -Curriculum Vitae of Kimball W. Brace

VITA

KIMBALL WILLIAM BRACE

Election Data Services, Inc. 6171 Emerywood Court Manassas, VA 20112-3078

703 580-7267 or 202 789-2004 phone 703 580-6258 fax kbrace@electiondataservices.com or kbrace@aol.com

Kimball Brace is the president of Election Data Services Inc., a consulting firm that specializes in redistricting, election administration, and the analysis and presentation of census and political data. Mr. Brace graduated from the American University in Washington, D.C., (B.A., Political Science) in 1974 and founded Election Data Services in 1977.

Redistricting Consulting

Activities include software development; construction of geographic, demographic, or election databases; development and analysis of alternative redistricting plans; general consulting, and onsite technical assistance with redistricting operations.

Congressional and Legislative Redistricting

Arizona Independent Redistricting Commission: Election database, 2001

Arizona Legislature, Legislative Council: Election database, 2001

Colorado General Assembly, Legislative Council: Geographic, demographic, and election databases, 1990–91

Connecticut General Assembly

- Joint Committee on Legislative Management: Election database, 2001; and software, databases, general consulting, and onsite technical assistance, 1990–91
- Senate and House Democratic Caucuses: Demographic database and consulting, 2001

Florida Legislature, House of Rep.: Geographic, demographic, and election databases, 1989–92

Illinois General Assembly

- Speaker of House and Senate Minority Leader: Software, databases, general consulting, and onsite technical assistance, 2000–02,
- Speaker of House and President of Senate: Software, databases, general consulting, and onsite technical assistance, 2018-current, 2009-2012, 1990–92, and 1981-82

Iowa General Assembly, Legislative Service Bureau and Legislative Council: Software, databases, general consulting, and onsite technical assistance, 2000–01 and 1990–91

Kansas Legislature: Databases and plan development (state senate and house districts), 1989

Massachusetts General Court

- Senate Democratic caucus: Election database and general consulting, 2001–02
- Joint Reapportionment Committees: Databases and plan development (cong., state senate, and state house districts), 1991–93, 2010-2012

(Redistricting Consulting, cont.)

Michigan Legislature: Geographic, demographic, and election databases, 1990–92; databases and plan development (cong., state senate, and state house districts), 1981-82

Missouri Redistricting Commission: General consulting, 1991–92

Commonwealth of Pennsylvania: General consulting, 1992

Rhode Island General Assembly and Reapportionment Commissions

- Software, databases, plan development, and onsite assistance (cong., state senate, and state house districts), 2016- current, 2010-2012, 2001–02 and 1991–92
- Databases and plan development (state senate districts), 1982-83

State of South Carolina: Plan development and analysis (senate), U.S. Dept. of Justice, 1983-84

Local Government Redistricting

Orange County, Calif.: Plan development (county board), 1991-92

- City of Bridgeport, Conn.: Databases and plan development (city council), 2011-2012 and 2002-03
- Cook County, Ill.: Software, databases, and general consulting (county board), 2010-2012, 2001–02, 1992–1993, and 1989

Lake County, Ill.: Databases and plan development (county board), 2011 and 1981

City of Chicago, Ill.: Software, databases, general consulting, and onsite technical assistance (city wards), 2010-2012, 2001–02 and 1991–92

City of North Chicago, Ill.: Databases and plan development (city council), 1991 and 1983

City of Annapolis, Md.: Databases and plan development (city council), 1984

City of Boston, Mass.: Databases and plan development (city council), 2011-2012, 2001-2002, and 1993

City of New Rochelle, N.Y.: Databases and plan development (city council), 1991–92

City of New York, N.Y.: Databases and plan development (city council), 1990–91

Cities of Pawtucket, Providence, East Providence, and Warwick, and town of North Providence, R.I.: Databases and plan development (city wards and voting districts), 2011-2012, 2002

City of Woonsocket and towns of Charlestown, Johnston, Lincoln, Scituate and Westerly, R.I.: Databases and plan development (voting districts), 2011-2012, 2002; also Westerly 1993

City of Houston, Tex.: Databases and plan development (city council), 1979 — recommended by U.S. Department of Justice

City of Norfolk, Va.: Databases and plan development (city council), 1983–84 — for Lawyers' Committee for Civil Rights

Virginia Beach, Va.: Databases and plan development (city council), 2011-2012, 2001–02, 1995, and 1993

Other Activities

International Foundation for Electoral Systems (IFES) and U.S. Department of State: redistricting seminar, Almaty, Kazakhstan, 1995

- Library of Congress, Congressional Research Service: Consulting on reapportionment, redistricting, voting behavior and election administration
- National Conference of State Legislatures (NCSL): Numerous presentations on variety of redistricting and election administration topics, 1980 current

Election Administration Consulting

Activities include seminars on election administration topics and studies on voting behavior, voting equipment, and voter registration systems.

Prince William County, VA:

2013 – Appointed by Board of County Supervisors to 15 member Task Force on Long Lines following 2012 election. Asked and appointed by County's Electoral Board to be Acting General Registrar for 5-month period between full-time Registrars.
2008 - current – poll worker and now chief judge for various precincts in county

- U.S. Election Assistance Commission (EAC): Served as subcontractor to prime contractors who compiled survey results from 2008 and 2010 Election Administration and Voting Survey.
- U.S. Election Assistance Commission (EAC): Compile, analyze, and report the results of a survey distributed to state election directors during FY–2007. Survey results were presented in the following reports of the EAC: *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2005–2006, A Report to the 110th Congress, June 30, 2007; Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), Survey Report Findings, September, 2007; and The 2006 Election Administration and Voting Survey, A Summary of Key Findings, December, 2007.*
- U.S. Election Assistance Commission (EAC): Compile, analyze, and report the results of three surveys distributed to state election directors during FY–2005: Election Day, Military and Overseas Absentee Ballot (UOCAVA), and Voter Registration (NVRA) Surveys. Survey results were presented in the following reports: *Final Report of the 2004 Election Day Survey*, by Kimball W. Brace and Dr. Michael P. McDonald, September 27, 2005; and *Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office*, 2003–2004, A Report to the 109th Congress, June 30, 2005.
- Rhode Island Secretary of State: Verification of precinct and district assignment codes in municipal registered voter files and production of street files for a statewide voter registration database, on-going maintenance of street file, 2004-2006, 2008-2014, 2016-2017.
- Rhode Island Secretary of State, State Board of Elections & all cities & towns: production of precinct maps statewide, 2012, 2002, 1992
- District of Columbia, Board of Elections and Ethics (DCBOEE): Verification of election ward, Advisory Neighborhood Commission (ANC), and Single-Member District (SMD) boundaries and production of a new street locator, 2003. Similar project, 1993.
- Harris County, Tex.: Analysis of census demographics to identify precincts with language minority populations requiring bilingual assistance, 2002–03

(Election Administration Consulting, cont.)

Cook County, Ill., Election Department and Chicago Board of Election Commissioners:

- Analysis of census demographics to identify precincts with language minority
- populations requiring bilingual assistance, 2019, 2010-2013, 2002–03
- Study on voting equipment usage and evaluation of punch card voting system, 1997

Chicago Board of Election Commissioners: Worked with Executive Director & staff in Mapping Dept. to redraw citywide precincts, eliminate over 600 to save costs, 2011-12

Library of Congress, Congressional Research Service: Nationwide, biannual studies on voter registration and turnout rates, 1978–2002

U.S. General Accounting Office (GAO), U.S. Dept. of Justice, and numerous voting equipment vendors and media: Data on voting equipment usage throughout the United States, 1980–present

Needs assessments and systems requirement analyses for the development of statewide voter registration systems:

- Illinois State Board of Elections: 1997
- North Carolina State Board of Elections, 1995
- Secretary of Commonwealth of Pennsylvania, 1996

Federal Election Commission, Office of Election Administration:

- Study on integrating local voter registration databases into statewide systems, 1995
- Nationwide workshops on election administration topics, 1979–80
- Study on use of statistics by local election offices, 1978–79

Cuyahoga County, Ohio, Board of Elections: Feasibility study on voting equipment, 1979

Winograd Commission, Democratic National Committee: Analysis of voting patterns, voter registration and turnout rates, and campaign expenditures from 1976 primary elections

Mapping and GIS

Activities include mapping and GIS software development (geographic information systems) for election administration and updating TIGER/Line files for the decennial census.

2000 Census Transportation Planning Package (CTPP), 1998–99: GIS software for the U.S. Department of Transportation to distribute to 400 metropolitan planning organizations (MPOs) and state transportation departments for mapping traffic analysis zones (TAZs) for the 2000 census; provided technical software support to MPOs

Census 2000, 2010 and 2020 Redistricting Data Program, Block Boundary Suggestion Project (Phase 1) and Voting District Project (Phase 2), 1995–99: GIS software and provided software, databases, and technical software support to the following program participants:

- Alaska Department of Labor
- Connecticut Joint Committee on Legislative Management
- Illinois State Board of Elections
- Indiana Legislative Services Agency
- Iowa Legislative Service Bureau

(Mapping & GIS Support, cont.)

- New Mexico Legislative Council Service
- Rhode Island General Assembly
- Virginia Division of Legislative Services

Developed PRECIS[®] Precinct Information System—GIS software to delineate voting precinct boundaries—and delivered software, databases, and technical software support to the following state and local election organizations (with date of installation):

- Cook County, Ill., Department of Elections (1993)
- Marion County, Fla., Supervisor of Elections (1995)
- Berks County Clerk, Penn. (1995)
- Hamilton County, Ohio, Board of Elections (1997)
- Brevard County, Fla., Supervisor of Elections (1999)
- Osceola County, Fla., Supervisor of Elections (1999)
- Multnomah County, Ore, Elections Division (1999)
- Chatham County, Ga., Board of Elections (2000)
- City of Chicago, Ill., Board of Election Commissioners (2000)
- Mahoning County, Ohio, Board of Elections (2000)
- Iowa Secretary of State, Election and Voter Registrations Divisions (2001)
- Woodbury County, Iowa, Elections Department (2001)
- Franklin County, Ohio, Board of Elections (2001)
- Cobb County, Ga., Board of Elections and Voter Registration (2002)

Illinois State Board of Elections, Chicago Board of Election Commissioners, and Cook County Election Department: Detailed maps of congressional, legislative, judicial districts, 1992

Associated Press: Development of election night mapping system, 1994

Litigation Support

Activities include data analysis, preparation of court documents and expert witness testimony. Areas of expertise include the census, demographic databases, district compactness and contiguity, racial bloc voting, communities of interest, and voting systems. Redistricting litigation activities also include database construction and the preparation of substitute plans.

State of Alabama vs. US Department of Commerce, et al (2019-2020) apportionment & citizenship data

NAACP vs. Denise Merrill, CT Secretary of State, et al (2019-2020) state legislative redistricting and prisoner populations

- Latasha Holloway, et al. v. City of Virginia Beach, VA (2019) city council redistricting
- Joseph V. Aguirre vs. City of Placentia, CA (2018-2019), city council redistricting

Davidson, et al & ACLU of Rhode Island vs. City of Cranston, RI (2014-16), city council & school committee redistricting with prisoner populations.

Navaho Nation v. San Juan County, UT (2014-17) county commissioner & school board districts.

Michael Puyana vs. State of Rhode Island (2012) state legislature redistricting

(Litigation Support, cont.)

United States of America v. Osceola County, Florida, (2006), county commissioner districts.

Deeds vs McDonnell (2005), Va. Attorney General Recount

Indiana Democratic Party, et al., v. Todd Rokita, et al. (2005), voter identification.

Linda Shade v. Maryland State Board of Elections (2004), electronic voting systems

Gongaley v. City of Aurora, Ill. (2003), city council districts

State of Indiana v. Sadler (2003), ballot design (city of Indianapolis-Marion County, Ind.)

Peterson v. Borst (2002-03), city-council districts (city of Indianapolis-Marion County, Ind.)

New Rochelle Voter Defense Fund v. City of New Rochelle, City Council of New Rochelle, and Westchester County Board Of Elections (2003), city council districts (New York)

Charles Daniels and Eric Torres v. City of Milwaukee Common Council (2003), council districts (Wisconsin)

The Louisiana House of Representatives v. Ashcroft (2002-03), state house districts

Camacho v. Galvin and *Black Political Caucus v. Galvin* (2002–03), state house districts (Massachusetts)

- Latino Voting Rights Committee of Rhode Island, et al., v. Edward S. Inman, III, et al. (2002–03), state senate districts
- Metts, v. Harmon, Almond, and Harwood, et al. (2002–03), state senate districts (Rhode Island)

Joseph F. Parella, et al. v. William Irons, et al. (2002–03), state senate districts (Rhode Island)

Jackson v. County of Kankakee (2001-02), county commissioner districts (Illinois)

Corbett, et al., v. Sullivan, et al. (2002), commissioner districts (St Louis County, Missouri)

Harold Frank, et al., v. Forest County, et al. (2001-02), county commissioner districts (Wisc.)

Albert Gore, Jr., et al., v. Katherine Harris as Secretary of State, State of Florida, et al., and The Miami Dade County Canvassing Board, et al., and The Nassau County Canvassing Board, et al., and The Palm Beach County Canvassing Board, et al., and George W. Bush, et al (2000), voting equipment design — Leon County, Fla., Circuit Court hearing, December 2, 2000, on disputed ballots in Broward, Volusia, Miami-Dade, and Palm Beach counties from the November 7, 2000, presidential election.

Barnett v. Daley/PACI v. Daley/Bonilla v. Chicago City Council (1992-98), city wards

Donald Moon, et al. v. M. Bruce Meadows, etc and Curtis W. Harris, et al. (1996–98), congressional districts (Virginia)

Melvin R. Simpson, et al. v. City of Hampton, et al. (1996–97), city council districts (Va.)

Vera vs. Bush (1996), Texas redistricting

- In the Matter of the Redistricting of Shawnee County Kansas and Kingman, et al. v. Board of County Commissioners of Shawnee County, Kansas (1996), commissioner districts
- Vecinos de Barrio Uno v. City of Holyoke (1992–96), city council districts (Massachusetts)

(Litigation Support, cont.)

Torres v. Cuomo (1992–95), congressional districts (New York) DeGrandy v. Wetherell (1992–94), congressional, senate, and house districts (Florida) Johnson v. Miller (1994), congressional districts (Georgia) Jackson, et al v Nassau County Board of Supervisors (1993), form of government (N.Y.) Gonzalez v. Monterey County, California (1992), county board districts LaPaille v. Illinois Legislative Redistricting Commission (1992), senate and house districts Black Political Task Force v. Connolly (1992), senate and house districts (Massachusetts) Nash v. Blunt (1992), house districts (Missouri) Fund for Accurate and Informed Representation v. Weprin (1992), assembly districts (N.Y.) Mellow v. Mitchell (1992), congressional districts (Pennsylvania) Phillip Langsdon v. Milsaps (1992), house districts (Tennessee) Smith v. Board of Supervisors of Brunswick County (1992), supervisor districts (Virginia) People of the State of Illinois ex. rel. Burris v. Ryan (1991–92), senate and house districts Good v. Austin (1991–92), congressional districts (Michigan) *Neff v. Austin* (1991–92), senate and house districts (Michigan) Hastert v. Illinois State Board of Elections (1991), congressional districts Republican Party of Virginia et al. v. Wilder (1991), senate and house districts Jamerson et al. v. Anderson (1991), senate districts (Virginia) Ralph Brown v. Iowa Legislative Services Bureau (1991), redistricting database access Williams, et al. v. State Board of Election (1989), judicial districts (Cook County, Ill.) Fifth Ward Precinct 1A Coalition and Progressive Association v. Jefferson Parish School Board (1988–89), school board districts (Louisiana)

- Michael V. Roberts v. Jerry Wamser (1987–89), St. Louis, Mo., voting equipment
- Brown v. Board of Commissioners of the City of Chattanooga, Tenn. (1988), county commissioner districts
- Business Records Corporation v. Ransom F. Shoup & Co., Inc. (1988), voting equip. patent
- East Jefferson Coalition for Leadership v. The Parish of Jefferson (1987–88), parish council districts (Louisiana)
- Buckanaga v. Sisseton School District (1987–88), school board districts (South Dakota)
- Griffin v. City of Providence (1986–87), city council districts (Rhode Island)
- United States of America v. City of Los Angeles (1986), city council districts
- Latino Political Action Committee v. City of Boston (1984–85), city council districts
- Ketchum v. Byrne (1982–85), city council districts (Chicago, Ill.)

(Litigation Support, cont.)

State of South Carolina v. United States (1983-84), senate districts - U.S. Dept. of Justice

- *Collins v. City of Norfolk* (1983–84), city council districts (Virginia) for Lawyers' Committee for Civil Rights
- Rybicki v. State Board of Elections (1981-83), senate and house districts (Illinois)

Licht v. State of Rhode Island (1982-83), senate districts (Rhode Island)

Agerstrand v. Austin (1982), congressional districts (Michigan)

Farnum v. State of Rhode Island (1982), senate districts (Rhode Island)

In Re Illinois Congressional District Reapportionment Cases (1981), congressional districts

Publications

- "EAC Survey Sheds Light on Election Administration", *Roll Call*, October 27, 2005 (with Michael McDonald)
- Developing a Statewide Voter Registration Database: Procedures, Alternatives, and General Models, by Kimball W. Brace and M. Glenn Newkirk, edited by William Kimberling, (Washington, D.C.: Federal Election Commission, Office of Election Administration, Autumn 1997).
- *The Election Data Book: A Statistical Portrait of Voting in America*, 1992, Kimball W. Brace, ed., (Bernan Press, 1993)
- "Geographic Compactness and Redistricting: Have We Gone Too Far?", presented to Midwestern Political Science Association, April 1993 (with D. Chapin and R. Niemi)
- "Whose Data is it Anyway: Conflicts between Freedom of Information and Trade Secret Protection in Redistricting", *Stetson University Law Review*, Spring 1992 (with D. Chapin and W. Arden)
- "Numbers, Colors, and Shapes in Redistricting," *State Government News*, December 1991 (with D. Chapin)
- "Redistricting Roulette," Campaigns and Elections, March 1991 (with D. Chapin)
- "Redistricting Guidelines: A Summary", presented to the Reapportionment Task Force, National Conference on State Legislatures, November 9, 1990 (with D. Chapin and J. Waliszewski)
- "The 65 Percent Rule in Legislative Districting for Racial Minorities: The Mathematics of Minority Voting Equality," *Law and Policy*, January 1988 (with B. Grofman, L. Handley, and R. Niemi)
- "Does Redistricting Aimed to Help Blacks Necessarily Help Republicans?" *Journal of Politics*, February 1987 (with B. Grofman and L. Handley)
- "New Census Tools," American Demographics, July/August 1980

Professional Activities

Member, Task Force on Long Lines in 2012 Election, Prince William County, VA

- Member, 2010 Census Advisory Committee, a 20-member panel advising the Director of the Census on the planning and administration of the 2010 census.
- Delegate, Second Trilateral Conference on Electoral Systems (Canada, Mexico, and United States), Ontario, Canada, 1995; and Third Trilateral Conference on Electoral Systems, Washington, D.C., 1996

Member, American Association of Political Consultants

Member, American Association for Public Opinion Research

Member, American Political Science Association

Member, Association of American Geographers, Census Advisory Committee

Member Board of Directors, Association of Public Data Users

Member, National Center for Policy Alternatives, Voter Participation Advisory Committee

Member, Urban and Regional Information Systems Association

Historical Activities

Member, Manassas Battlefield Trust Board Member, 2018 -- current

- Member, Historical Commission, Prince William County, VA., 2015 current. Elected Chairman in 2017, re-elected 2018
- Member of Executive Committee & head of GIS Committee, Bull Run Civil War Round Table, Centerville, VA. 2015 – current

Member, Washington Capitals Fan Club, Executive Board 2017 -- current

February, 2020

Exhibit B -7-3 Concept Plan – 7 Districts














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<u>June 27, 2</u>021



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	Total Population Tabulation (ACS 2019)		(ACS 2019)	Racial Dem	ographics as P	ercent of Tot	al Population	(ACS 2019)	ESRI 2020				Racial Demographics as Percent of Total Population (ESRI 2020)					
DISTRICT	All Persons	Target		Difference	White NH	Black NH	Asian NH	Hispanic	Minority	Persons	Target		Difference	White NH	Black NH	Asian NH	Hispanic	Minority
1	65,127	64,314	1.26%√	813	48.74%	29.37%	6.18%	11.00%	51.26%	65,815	64,754	1.64%√	1,061	46.94%	31.49%	6.57%	9.90%	53.06%
2	65,597	64,314	1.99%√	1,283	54.18%	24.22%	9.72%	6.82%	45.82%	64,487	64,754	-0.41%√	-267	55.44%	21.93%	10.47%	7.60%	44.56%
3	64,988	64,314	1.05%√	674	45.64%	23.88%	13.72%	9.81%	54.36%	68,989	64,754	▼6.5%	4,235	43.29%	25.67%	15.59%	10.01%	56.71%
4	64,397	64,314	0.13%√	83	66.89%	13.95%	5.40%	9.07%	33.11%	64,648	64,754	-0.16%√	-106	65.72%	14.55%	5.98%	9.22%	34.28%
5	63,264	64,314	-1.63%√	-1,050	80.00%	8.09%	3.03%	4.35%	20.00%	63,089	64,754	-2.57%√	-1,665	79.22%	7.73%	3.09%	6.71%	20.78%
6	65,417	64,314	1.71%√	1,103	61.08%	19.91%	3.87%	9.95%	38.92%	63,943	64,754	-1.25%√	-811	59.40%	19.84%	4.95%	10.87%	40.60%
7	61,411	64,314	-4.51%√	-2,903	76.92%	8.58%	3.86%	5.96%	23.08%	62,310	64,754	-3.77%√	-2,444	72.87%	9.84%	5.27%	7.72%	27.13%
Assigned	450201																	

Assigned 450201 Total Pop 450201

Unassigned 0

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DISTRICT	Electio	n Stats	Mayor									
	Registration	Turnout	Total	Sessoms	Sessoms %	Kowalewitch	Kowalewitch %	Erb	Erb %			
1	41,515	22,914	20,789	14,521	69.85%	3,734	17.96%	2,534	12.19%			
2	44,787	27,137	24,851	17,302	69.62%	4,444	17.88%	3,105	12.49%			
3	41,662	24,220	21,992	15,788	71.79%	3,602	16.38%	2,602	11.83%			
4	42,148	24,859	22,657	15,458	68.23%	4,460	19.68%	2,739	12.09%			
5	48,085	28,572	26,472	18,547	70.06%	5,381	20.33%	2,544	9.61%			
6	42,710	22,651	20,537	14,232	69.30%	4,109	20.01%	2,196	10.69%			
7	42,888	26,028	24,151	16,518	68.39%	5,046	20.89%	2,587	10.71%			

DISTRICT	City Council - At-Large											
	Total	Wilson	Wilson %	Golden	Golden %							
1	18,552	12,234	65.94%	6,318	34.06%							
2	22,462	14,495	64.53%	7,967	35.47%							
3	19,920	13,335	66.94%	6,585	33.06%							
4	20,487	13,171	64.29%	7,316	35.71%							
5	24,199	15,465	63.91%	8,734	36.09%							
6	18,293	12,431	67.95%	5,862	32.05%							
7	21,995	14,507	65.96%	7,488	34.04%							

DISTRICT		City Council - Kempsville													
	Total	Ross-Hammond	Ross-Hammond %	Dale	Dale %	Weeks	Weeks %	Smith	Smith %						
1	18,610	7,719	41.48%	3,603	19.36%	3,202	17.21%	4,086	21.96%						
2	22,386	7,043	31.46%	4,975	22.22%	5,778	25.81%	4,590	20.50%						
3	19,235	7,464	38.80%	4,063	21.12%	3,349	17.41%	4,359	22.66%						
4	18,025	5,481	30.41%	4,270	23.69%	4,274	23.71%	4,000	22.19%						
5	19,728	4,679	23.72%	5,437	27.56%	4,976	25.22%	4,636	23.50%						
6	16,060	5,595	34.84%	3,875	24.13%	3,382	21.06%	3,208	19.98%						
7	18,780	4,967	26.45%	4,737	25.22%	4,691	24.98%	4,385	23.35%						

DISTRICT	City Council - Rose Hill													
	Total	Davis	Davis %	McCormick	McCormick %									
1	17,473	8,867	50.75%	8,606	49.25%									
2	20,737	11,360	54.78%	9,377	45.22%									
3	18,673	10,930	58.53%	7,743	41.47%									
4	18,047	10,335	57.27%	7,712	42.73%									
5	20,464	12,397	60.58%	8,067	39.42%									
6	16,110	9,500	58.97%	6,610	41.03%									
7	19,247	11,601	60.27%	7,646	39.73%									

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DISTRICT	Election	Stats	Mayor											
	Registration	Turnout	Total	Sessoms	Sessoms %	Kowalewitch H	Kowalewitch %	Weeks	Weeks %	Furman	Furman %			
1	41,127	22,504	20,494	11,700	57.09%	3,088	15.07%	3,456	16.86%	2,250	10.98%			
2	45,191	26,253	24,053	12,889	53.59%	3,916	16.28%	5,300	22.03%	1,948	8.10%			
3	43,219	24,684	22,630	13,003	57.46%	3,986	17.61%	3,547	15.67%	2,094	9.25%			
4	43,309	24,432	22,317	11,648	52.19%	4,892	21.92%	4,107	18.40%	1,670	7.48%			
5	48,704	27,410	25,201	13,954	55.37%	5,577	22.13%	4,402	17.47%	1,268	5.03%			
6	42,923	22,373	20,446	11,320	55.37%	4,316	21.11%	3,230	15.80%	1,580	7.73%			
7	45,008	26,606	24,707	11,895	48.14%	6,598	26.70%	4,755	19.25%	1,459	5.91%			

DISTRICT	City Council - At - Large												
	Total	Wilson	Wilson %	Blythe	Blythe %	LaLonde	LaLonde %	Witham	Witham %				
1	18,586	9,520	51.22%	3,841	20.67%	3,529	18.99%	1,696	9.13%				
2	 21,805	11,008	50.48%	4,966	22.77%	3,990	18.30%	1,841	8.44%				
3	20,717	10,331	49.87%	4,590	22.16%	4,066	19.63%	1,730	8.35%				
4	 20,416	9,641	47.22%	5,861	28.71%	3,359	16.45%	1,555	7.62%				
5	22,818	11,502	50.41%	6,459	28.31%	3,619	15.86%	1,238	5.43%				
6	 18,613	9,466	50.86%	4,389	23.58%	3,442	18.49%	1,316	7.07%				
7	22,556	11,179	49.56%	6,467	28.67%	3,375	14.96%	1,535	6.81%				

DISTRICT	City Council - Kempsville													
	Total	Abbott	Abbot %	Ross - Hammond	Ross - Hammond %									
1	18,552	9,406	50.70%	9,146	49.30%									
2	22,311	12,997	58.25%	9,314	41.75%									
3	20,427	11,596	56.77%	8,831	43.23%									
4	18,682	11,268	60.31%	7,414	39.69%									
5	19,591	12,574	64.18%	7,017	35.82%									
6	17,051	9,800	57.47%	7,251	42.53%									
7	20,599	13,771	66.85%	6,828	33.15%									

DISTRICT	City Council - Rose Hill												
	Total	l Kane	Kane	% Dean	Dean %								
1	17	7,533 11,	044 62.9	9% 6,48	39 37.01%								
2	20),446 12,	378 60.5	4% 8,00	58 39.46%								
3	19	9,896 12,	298 61.8	1% 7,59	98 38.19%								
4	18	3,824 10,	470 55.6	2% 8,3	54 44.38%								
5	20),299 11,	409 56.2	0% 8,89	43.80%								
6	17	7,144 10,	031 58.5	1% 7,1:	13 41.49%								
7	20),597 11,	155 54.1	6% 9,44	45.84%								

Exhibit C -7-3 Concept Plan – 3 Super Wards







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	Total Population Tabulation (ACS 2019) Racial Demographics as Percent of Total Population (ACS 2019					(ACS 2019)	ESRI 2020					Racial Demographics as Percent of Total Population (ESRI 2020)						
DISTRICT	All Persons Target		Difference	White NH	Black NH	Asian NH	Hispanic	Minority		Persons	Target		Difference	White NH	Black NH	Asian NH	Hispanic	Minority
1	148,856 150,067	-0.81%√	-1,211	49.85%	26.02%	9.81%	9.03%	50.15%		150,154	151,094	-0.62%√	-940	49.35%	25.74%	11.14%	8.70%	50.65%
2	152,606 150,067	1.69%√	2,539	70.45%	13.09%	4.30%	7.60%	29.55%		152,529	151,094	0.95%√	1,435	69.35%	13.55%	4.87%	8.20%	30.65%
3	148,739 150,067	-0.88%√	-1,328	64.61%	16.29%	5.68%	7.90%	35.39%		150,598	151,094	-0.33%√	-496	61.41%	17.50%	6.59%	9.77%	38.59%
Assigned	450201																	

Total Pop 450201 Unassigned 0

Election Data Services, Inc. Confidential

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DISTRICT	Electio	n Stats	Mayor								
	Registration	Turnout	Total	Sessoms	Sessoms %	Kowalewitch	Kowalewitch %	Erb	Erb %		
1	96,277	56,776	51,794	36,397	70.27%	9,139	17.64%	6,258	12.08%		
2	108,856	64,145	59,002	41,049	69.57%	11,552	19.58%	6,401	10.85%		
3	98,662	55,460	50,653	34,920	68.94%	10,085	19.91%	5,648	11.15%		

DISTRICT		Cit			
	Total	Wilson	Wilson %	Golden	Golden %
1	46,668	30,447	65.24%	16,221	34.76%
2	53,506	34,681	64.82%	18,825	35.18%
3	45,734	30,510	66.71%	15,224	33.29%

DISTRICT				City Cou	ncil - Kempsvill	le			
	Total	Ross-Hammond	Ross-Hammond %	Dale	Dale %	Weeks	Weeks %	Smith	Smith %
1	46,607	16,579	35.57%	10,003	21.46%	9,929	21.30%	10,096	21.66%
2	46,055	13,766	29.89%	11,356	24.66%	10,694	23.22%	10,239	22.23%
3	40,162	12,603	31.38%	9,601	23.91%	9,029	22.48%	8,929	22.23%

DISTRICT		Cit	y Council - Rose Hill		
	Total	Davis	Davis %	McCormick	McCormick %
1	43,449	23,824	54.83%	19,625	45.17%
2	46,735	26,941	57.65%	19,794	42.35%
3	40,567	24,225	59.72%	16,342	40.28%

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DISTRICT	Election Stats		Mayor									
	Registration	Turnout	Total	Sessoms	Sessoms %	Kowalewitch	Kowalewitch %	Weeks	Weeks %	Furman	Furman %	
1	98,943	56,333	51,463	28,618	55.61%	8,439	16.40%	9,772	18.99%	4,634	9.00%	
2	109,282	62,064	57,038	31,075	54.48%	12,144	21.29%	9,950	17.44%	3,869	6.78%	
3	101,256	55,865	51,347	26,716	52.03%	11,790	22.96%	9,075	17.67%	3,766	7.33%	

DISTRICT	City Council - At - Large											
	Total	Wilson	Wilson %	Blythe	Blythe %	LaLonde	LaLonde %	Witham	Witham %			
1	46,720	23,486	50.27%	10,446	22.36%	8,803	1071100.00%	3,985	8.53%			
2	51,976	25,720	49.48%	14,362	27.63%	8,455	1424400.00%	3,439	6.62%			
3	46,815	23,441	50.07%	11,765	25.13%	8,122	1105700.00%	3,487	7.45%			

DISTRICT			City Council -	Kempsville	
	Total	Abbott	Abbot %	Ross - Hammond	Ross - Hammond %
1	47,309	26,541	56.10%	20,768	43.90%
2	46,549	28,109	60.39%	18,440	39.61%
3	43,355	26,762	61.73%	16,593	38.27%

DISTRICT		City Council - Rose Hill							
	Total	Kane	Kane %	Dean	Dean %				
1	44,094	27,054	61.36%	17,040	38.64%				
2	47,377	26,773	56.51%	20,604	43.49%				
3	43,268	24,958	57.68%	18,310	42.32%				

Exhibit D -10-1 Concept Plan -10 Districts

















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Brace Aff. Ex. D Page 9





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	Total Popu	lation Ta	bulation	(ACS 2019)	Racial Dem	ographics as P	ercent of Tot	al Population	(ACS 2019)		ESRI 2	020		Racial Der	Racial Demographics as Percent of Total Population (ESRI 2020)			
DISTRICT	All Persons	Target		Difference	White NH	Black NH	Asian NH	Hispanic	Minority	Persons Ta	rget L	Dev.	Difference	White NH	Black NH	Asian NH	Hispanic	Minority
1	47,117	45,020	4.66%√	2,097	44.66%	32.64%	6.08%	12.63%	55.34%	47,090	45,328	3.89%√	1,762	43.89%	34.87%	6.18%	10.02%	56.11%
2	43,641	45,020	-3.06%√	-1,379	49.92%	25.74%	10.34%	8.81%	50.08%	43,862	45,328	-3.23%√	-1,466	51.34%	24.51%	11.24%	8.02%	48.66%
3	45,973	45,020	2.12%√	953	47.45%	24.80%	11.55%	9.27%	52.55%	47,802	45,328	▼5.5%	2,474	43.21%	25.65%	13.78%	10.29%	56.79%
4	42,974	45,020	-4.54%√	-2,046	60.48%	18.43%	9.57%	6.34%	39.52%	41,896	45,328	7.6% 🔺	-3,432	59.77%	17.67%	12.39%	7.43%	40.23%
5	45,462	45,020	0.98%√	442	46.91%	26.09%	9.28%	11.06%	53.09%	47,996	45,328	▼5.9%	2,668	46.77%	26.07%	9.02%	12.29%	53.23%
6	45,978	45,020	2.13%√	958	70.87%	11.05%	5.20%	8.48%	29.13%	46,131	45,328	1.77%√	803	68.73%	12.68%	6.10%	8.36%	31.27%
7	45,595	45,020	1.28%√	575	88.06%	2.49%	2.47%	3.15%	11.94%	45,184	45,328	-0.32%√	-144	87.78%	2.71%	2.78%	4.37%	12.22%
8	45,913	45,020	1.98%√	893	68.25%	15.66%	3.06%	7.34%	31.75%	45,748	45,328	0.93%√	420	65.75%	16.27%	3.00%	10.39%	34.25%
9	43,852	45,020	-2.59%√	-1,168	64.10%	17.55%	4.67%	8.16%	35.90%	42,658	45,328	5.9% 🔺	-2,670	62.59%	15.68%	5.79%	10.53%	37.41%
10	43,696	45,020	-2.94%√	-1,324	77.08%	9.24%	3.72%	6.16%	22.92%	44,914	45,328	-0.91%√	-414	73.20%	11.39%	4.98%	6.78%	26.80%

Assigned 450201 Total Pop 450201 Unassigned 0

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DISTRICT	Electio	n Stats				Mayor			
	Registration	Turnout							
1	27,794	14,885	13,392	9,619	71.83%	2,116	15.80%	1,657	12.37%
2	29,091	17,496	15,954	11,269	70.63%	2,696	16.90%	1,989	12.47%
3	28,968	16,768	15,179	10,857	71.53%	2,520	16.60%	1,802	11.87%
4	30,907	18,950	17,468	11,903	68.14%	3,452	19.76%	2,113	12.10%
5	31,599	16,619	14,911	10,211	68.48%	2,741	18.38%	1,959	13.14%
6	30,139	18,621	17,071	11,679	68.41%	3,422	20.05%	1,970	11.54%
7	36,819	23,065	21,555	15,287	70.92%	4,367	20.26%	1,901	8.82%
8	30,259	15,780	14,434	9,995	69.25%	3,042	21.08%	1,397	9.68%
9	28,062	15,523	14,149	9,686	68.46%	2,765	19.54%	1,698	12.00%
10	30,157	18,674	17,336	11,860	68.41%	3,655	21.08%	1,821	10.50%

DISTRICT		City Council - At-Large												
	Total				Golden %									
1	11,820	8,055	68.15%	3,765	31.85%									
2	14,324	9,326	65.11%	4,998	34.89%									
3	13,772	9,184	66.69%	4,588	33.31%									
4	15,880	10,075	63.44%	5,805	36.56%									
5	13,540	8,937	66.00%	4,603	34.00%									
6	15,408	9,933	64.47%	5,475	35.53%									
7	19,704	12,553	63.71%	7,151	36.29%									
8	12,797	8,579	67.04%	4,218	32.96%									
9	12,877	8,582	66.65%	4,295	33.35%									
10	15,786	10,414	65.97%	5,372	34.03%									

DISTRICT				City Cour	ncil - Kempsvi	lle			
	Total	Ross-Hammond	Ross-Hammond %	Dale					
1	11,967	5,981	49.98%	1,906	15.93%	1,910	15.96%	2,170	18.13%
2	14,238	4,985	35.01%	2,950	20.72%	3,433	24.11%	2,870	20.16%
3	13,528	5,437	40.19%	2,789	20.62%	2,185	16.15%	3,117	23.04%
4	15,660	4,152	26.51%	3,854	24.61%	3,917	25.01%	3,737	23.86%
5	12,742	4,897	38.43%	2,740	21.50%	2,351	18.45%	2,754	21.61%
6	13,303	3,753	28.21%	3,253	24.45%	3,273	24.60%	3,024	22.73%
7	15,697	3,212	20.46%	4,690	29.88%	4,051	25.81%	3,744	23.85%
8	10,917	3,420	31.33%	2,727	24.98%	2,549	23.35%	2,221	20.34%
9	11,401	3,724	32.66%	2,620	22.98%	2,553	22.39%	2,504	21.96%
10	13.371	3.387	25.33%	3.431	25.66%	3.430	25.65%	3,123	23.36%

DISTRICT		City	Council - Rose Hill		
	Total			McCormick	McCormick %
1	11,298	5,456	48.29%	5,842	51.71%
2	13,279	7,212	54.31%	6,067	45.69%
3	12,940	7,388	57.09%	5,552	42.91%
4	14,583	8,214	56.33%	6,369	43.67%
5	12,520	7,130	56.95%	5,390	43.05%
6	13,404	7,787	58.09%	5,617	41.91%
7	16,450	10,160	61.76%	6,290	38.24%
8	10,964	6,511	59.39%	4,453	40.61%
9	11,585	6,746	58.23%	4,839	41.77%
10	13,728	8,386	61.09%	5,342	38.91%

Case 2:18-cv-00069-RAJ-DEM Document 260-1 Filed 07/01/21 Page 53 of 53 PageID# 9024 2016 Election

DISTRICT	Election	Stats	Mayor								
	Registration	Turnout									Furman %
1	28,174	14,957	13,432	7,967	59.31%	1,963	14.61%	1,864	13.88%	1,638	12.19%
2	29,953	17,374	15,910	8,839	55.56%	2,637	16.57%	3,088	19.41%	1,346	8.46%
3	29,618	16,871	15,602	8,858	56.77%	2,628	16.84%	2,604	16.69%	1,512	9.69%
4	30,840	18,074	16,658	8,680	52.11%	2,860	17.17%	3,885	23.32%	1,233	7.40%
5	31,785	16,394	14,793	8,222	55.58%	2,649	17.91%	2,394	16.18%	1,528	10.33%
6	30,804	18,103	16,581	8,549	51.56%	3,800	22.92%	3,106	18.73%	1,126	6.79%
7	37,147	22,106	20,427	11,481	56.21%	4,522	22.14%	3,598	17.61%	826	4.04%
8	31,050	15,787	14,390	7,883	54.78%	3,282	22.81%	2,273	15.80%	952	6.62%
9	28,342	15,435	14,264	7,379	51.73%	3,294	23.09%	2,438	17.09%	1,153	8.08%
10	31,768	19,161	17,791	8,551	48.06%	4,738	26.63%	3,547	19.94%	955	5.37%

DISTRICT	City Council - At - Large								
	Total					LaLonde	LaLonde %		Witham %
1	12,166	6,412	52.70%	2,349	19.31%	2,220	18.25%	1,185	9.74%
2	14,407	7,243	50.27%	3,258	22.61%	2,638	18.31%	1,268	8.80%
3	14,196	6,946	48.93%	3,119	21.97%	2,912	20.51%	1,219	8.59%
4	15,116	7,506	49.66%	3,684	24.37%	2,755	18.23%	1,171	7.75%
5	13,641	7,015	51.43%	2,930	21.48%	2,487	18.23%	1,209	8.86%
6	15,191	7,040	46.34%	4,607	30.33%	2,466	16.23%	1,078	7.10%
7	18,452	9,316	50.49%	5,552	30.09%	2,754	14.93%	830	4.50%
8	13,022	6,482	49.78%	3,085	23.69%	2,591	19.90%	864	6.63%
9	13,129	6,646	50.62%	3,277	24.96%	2,214	16.86%	992	7.56%
10	16,191	8,041	49.66%	4,712	29.10%	2,343	14.47%	1,095	6.76%

DISTRICT	City Council - Kempsville							
	Total				Ross - Hammond %			
1	12,169	5,630	46.27%	6,539	53.73%			
2	14,678	8,390	57.16%	6,288	42.84%			
3	13,925	7,873	56.54%	6,052	43.46%			
4	15,416	9,281	60.20%	6,135	39.80%			
5	13,280	7,077	53.29%	6,203	46.71%			
6	13,631	8,528	62.56%	5,103	37.44%			
7	15,469	10,045	64.94%	5,424	35.06%			
8	11,642	7,191	61.77%	4,451	38.23%			
9	12,332	7,534	61.09%	4,798	38.91%			
10	14.671	9,863	67.23%	4.808	32.77%			

DISTRICT	City Council - Rose Hill							
	Total				Dean %			
1	11,616	7,628	65.67%	3,988	34.33%			
2	13,653	8,252	60.44%	5,401	39.56%			
3	13,522	8,266	61.13%	5,256	38.87%			
4	14,027	8,337	59.44%	5,690	40.56%			
5	13,174	8,023	60.90%	5,151	39.10%			
6	13,821	7,529	54.48%	6,292	45.52%			
7	16,186	8,765	54.15%	7,421	45.85%			
8	11,706	6,983	59.65%	4,723	40.35%			
9	12,389	7,109	57.38%	5,280	42.62%			
10	14,645	7,893	53.90%	6,752	46.10%			

Exhibit 2

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA NORFOLK DIVISION

Latasha Holloway, et al.,

Plaintiffs,

v.

Case No. 2:18-cv-0069

City of Virginia Beach, et al.,

Defendants.

AFFIDAVIT OF LISA R. HANDLEY

- 1. I am Lisa R. Handley and my curriculum vitae is attached as Exhibit A.
- 2. I was hired in the above-referenced matter to assist with evaluating remedial maps drawn for City Council seats in the City of Virginia Beach. I was asked to determine if the proposed maps included districts that would provide minority voters with an opportunity to elect their candidates of choice to City Council.
- 3. In support of my work in this matter, I reviewed certain of Plaintiffs' expert materials, namely:
 - a. Report by Douglas M. Spencer dated July 15, 2019
 - b. Report by Douglas M. Spencer dated August 26, 2019
 - c. Report by Douglas M. Spencer dated March 16, 2020
- 4. In my work as an expert on minority voting rights and redistricting, I rely on two related approaches to evaluate proposed districts to ascertain whether they are likely to provide minority voters with an opportunity to elect their candidates of choice to office. The first method, described in detail in an article my co-authors and I published in the *North Carolina Law Review*,¹ is based on an analysis of voting patterns by race and uses the estimates derived from this analysis to calculate the percent minority population required for the minority-preferred candidate to win with at least 50 percent of the vote. This approach takes into account the participation rates of minority and white voters, as well as the degree of minority political cohesion and the degree of white crossover votes for

¹ Bernard Grofman, Lisa Handley and David Lublin, "Drawing Effective Minority Districts: A Conceptual Framework and Some Empirical Evidence," *North Carolina Law Review*, volume 79 (5), June 2001.

minority-preferred candidates in a jurisdiction and uses algebra to compute the percent minority population needed for the minority-preferred candidate to receive 50 percent of the vote based on these voting patterns.

- 5. The second method I utilize is to conduct a racial bloc voting analysis, identify the minority candidates of choice in each of the election contests examined, and recompile the election results of these contests to conform to proposed district boundaries to determine if minority-preferred candidate would prevail if the contest were confined within the proposed district boundaries. This recompilation takes into account the same information as the first approach I described above the participation rates of minorities and whites, the degree of minority political cohesion and white crossover voting but can only be used if proposed districts have been put forward and have been drawn using existing election precincts that have not changed over time. If precinct lines have changed over the course of the time period being considered, or census blocks have been used to draw districts rather than precincts, this approach can be utilized only if the precinct results are disaggregated down to the census block level they can then be reaggregated up to conform with the boundaries of the proposed districts.
- 6. I did not conduct a racial bloc voting analysis in this case. Instead, I have relied on the estimates of White, Black, and "All Minority" votes presented in plaintiff expert Dr. Douglas Spencer's report dated July 15, 2019. More generally, I have assumed as fact the Court's findings in its Memorandum Opinion and Order issued on March 31, 2021 (Dkt. 242) (the "Opinion"). Specifically, I assumed that a coalition of Black, Asian and Hispanic voters (the "Coalition") vote cohesively in Virginia Beach City Council elections. And I adopted the Court's opinion about which candidates were the candidates of choice for this coalition of voters. This does not mean that I have confirmed the analyses conducted by Dr. Spencer; I am merely assuming the correctness of these analyses given the remedial posture of this case.
- 7. The demographic data and recompiled election results that I have relied on for the district plans I reviewed were prepared by Kim Brace.

Percent Minority Population Needed to Provide Minority Voters with an Opportunity to Elect Their Preferred Candidates

8. A district that is 50 percent minority in citizen voting age population (CVAP) may or may not be sufficient to provide minority voters with an opportunity to elect their candidates of choice. Whether it will be effective depends on a variety of factors. First, if minority voters are participating at a lower rate (registering, turning out, and voting for the particular office at issue) than whites, then the minority CVAP will have to be higher than the white CVAP to equalize minority and white voters for the office at issue.²

 $^{^2}$ Using citizen voting age population as opposed to total population or voting age population takes into account two factors that impact the ability of minorities to elect their preferred candidates: minorities tend to have lower age eligible to total population ratios than whites, and

- 9. Second, the degree to which minority voters are politically cohesive (that is, support the same candidates) and the degree to which white voters cast their votes for minority-preferred candidates in racially polarized election contests ("white crossover votes") can have a decided impact on the percent minority CVAP required to elect minority-preferred candidates. For example, in a jurisdiction where minority voters are strongly politically cohesive, and many white voters (30 to 40 percent) support the minority-preferred candidates, a district that is less than majority minority in composition may easily and consistently elect minority-preferred candidates to office. On the other hand, if the minority community turns out to vote at a much lower rate, or minority voters are not particularly politically cohesive, or very few white voters cast their votes for minority-preferred candidates, a district with a minority population greater than 50 percent may be required to elect minority-preferred candidates.
- 10. Not all election contests are equally useful when calculating the percent minority population necessary to provide minority voters with an opportunity to elect their candidates of choice. For example, an election that is not racially polarized is unhelpful no minority voters at all would be required to elect the minority-preferred candidate in an election in which minority and white voters supported the same candidates.
- 11. Because the winning percent is set at 50 percent for this mathematical calculation, the percent needed to win is less useful in nonpartisan elections in which the number of candidates is often greater than two and the winner is often determined by a plurality rather than majority of the vote. Because City Council elections in Virginia Beach are nonpartisan, and the winner need not receive at least 50 percent of the vote, the percent needed to win approach is less relevant than the approach that relies on recompiled election results.
- 12. The percent needed to win calculation is less useful for two additional reasons in this particular case. First, population projections by race, especially at lower levels of geography, are simply not sufficiently accurate at this point in time to establish with any precision the minority composition of proposed city council districts. For example, Kim Brace employed two sets of population projections when drawing and reporting on the maps I have reviewed. The minority percentages of the proposed districts vary, sometimes by as much as three percentage points, depending on which set of population projections are being reported. It will not be until the PL 94-171 2020 census data is released later this year that we will be able to determine with any certainty the minority population of any proposed remedial districts.
- 13. The second reason for the inaccuracy of the percent minority CVAP calculations needed to elect minority-preferred candidates is this case is the lack of estimates of participation rates by race. I relied on the Spencer Report for estimates of voting patterns by race and while this report includes estimates of the percentage of minority and white votes for candidates competing for City Council, it does not include participation rates by race. As shown in **Table 1**, the percent of estimated citizen voting age population turning out to

some minority groups (including Hispanics and Asians) tend to have higher non-citizenship rates.

vote in 2018 by residency district varied from as low as 37.8 percent to as high as 55.7 percent across the districts. It is also important to note the drop off between overall turnout and votes cast for City Council: in the district with the highest turnout (District 5 at 55.7 percent), only 52 percent cast a vote for the office of mayor. And, although I do not include the numbers or percentages in this table, in almost all cases the votes cast for the district city council representatives are lower than the votes cast for mayor. If there are differences in turnout and votes cast for office by race, this must be taken into account in calculating the percent minority CVAP needed to elect minority-preferred candidates.

	Estimated					
	Citizen					
	Voting Age	2018			Votes	% Votes
	Population	Registered	2018 Total	% Turnout	Cast for	Cast of
District	(CVAP)	Voters	Turnout	of CVAP	Mayor	CVAP
1	45,281	42,427	21,256	46.9%	19,600	43.3%
2	52,720	47,776	24,597	46.7%	22,563	42.8%
3	46,083	40,554	18,856	40.9%	17,316	37.6%
4	47,689	41,213	20,627	43.3%	18,951	39.7%
5	47,806	47,567	26,631	55.7%	24,868	52.0%
6	47,537	39,385	17,976	37.8%	16,572	34.9%
7	48,149	48,380	26,184	54.4%	24,356	50.6%

Table 1: Percentage of Citizen Voting Age Population Turning Out and Casting Votes for City Council

- 14. Of the 14 city council election contests for which Dr. Spencer provides estimates of minority and white support for minority candidates, nine have been included in my calculations of the minority percent CVAP needed to elect candidates of choice. (One of the nine, the 2018 contest for an at-large seat, was included twice because in this election for two councilmembers there were two candidates of choice. But the other at-large elections in which two votes could be cast had a single, very clear, minority-preferred candidate. However, the second choice was not necessarily the same for Black voters and all minorities combined.) Five election contests were not included because voting was not racially polarized (2018 Centerville, 2016 Mayor, 2014 Princess Anne and at-large elections, and 2008 Bayside) when voting is not racially polarized, the minority-preferred candidate will win regardless of the minority population concentration in the district.
- 15. I have outlined above three reasons why the percent needed to win approach is not particularly useful in this case. However, it is useful for one purpose: illustrating the need for a higher concentration of all minorities combined than would be necessary if only Black CVAP is considered in crafting an effective remedy. The reason for this is the lower levels of political cohesion when all minority voters are considered together as opposed to Black voters alone.
16. The percent minority CVAP needed for the minority-preferred candidate to win 50 percent of the vote is reported in **Table 2.**

			Percent	Percent	Percent
			Minority Vote	White Vote	Minority
			for Minority-	for Minority-	Citizen Voting
		Minority-Preferred	Preferred	Preferred	Age Population
Year	District	Candidate	Candidate	Candidate	Needed to Win
2018	At-large	Rouse	31.8	24.4	70.4
2018	At-large	White	26.1	8.3	77.8
2016	Kempville	Ross-Hammond	59.9	30.1	53.9
2016	Rose Hill	Cabiness	37	6.4	71.7
2012	Kempsville	Ross-Hammond	65.7	17	55.8
2011 Sp	At-large	Sherrod	64.8	11.5	57.7
2010	At-large	Jackson	58.2	7.5	61.4
2010	Princess Anne	Bullock	79.9	32.9	45.6
2008	At-large	Allen	70.5	19.9	53.2
2008	Kempsville	Jackson	42.2	19.8	65.5

Table 2: Percent Minority Population Needed to Elect Minority-Preferred Candidates³

- 17. The 2008 Kempsville election contest in highlighted in Tables 2 and 3 because "all minority" voters and Black voters disagreed on their candidates of choice. Andrew Jackson was the candidate of choice of all minority voters, with 42.2 percent of their votes, but Jose Flores was the candidate of choice of Black voters, with 56.5 percent of the vote. (According to the Spencer Report, Flores received only 8.3 percent of "all minority votes" but this estimate cannot be correct given that Black voters form a portion of "all minority" voters.)
- 18. Table 3, below, uses Dr. Spencer's estimates of Black support for their minority preferred candidates to calculate the percent Black CVAP required to elect minority-preferred candidates. These percentages are consistently lower than those reported in Table 2. In fact, in four of the election contests for which percentages are calculated, less than 50 percent Black CVAP is needed to elect the minority-preferred candidate.

³ The percent minority, Black and White votes for the minority-preferred candidates included in Tables 2 and 3 are the EI estimates listed in the Spencer Report.

Year	District	Minority-Preferred Candidate	Percent Black Vote for Minority- Preferred Candidate	Percent White Vote for Minority- Preferred Candidate	Percent Black Citizen Voting Age Population Needed to Win
2018	At-large	Rouse	36.6	24.4	67.4
2018	At-large	White	36.3	8.3	71.6
2016	Kempville	Ross-Hammond	76.8	30.1	47.6
2016	Rose Hill	Cabiness	51.7	6.4	64.4
2012	Kempsville	Ross-Hammond	86.9	17	48.9
2011 Sp	At-large	Sherrod	87	11.5	50.4
2010	At-large	Jackson	85.6	7.5	51.9
2010	Princess Anne	Bullock	89.2	32.9	42.9
2008	At-large	Allen	86.3	19.9	48.1
2008	Kempsville	Flores	56.5	15.3	60.0

Table 3: Percent Black Population Needed to Elect Minority-Preferred Candidate

19. Because the levels of cohesion among all minority voters compared to Black voters alone is lower, a higher minority population will be required to provide all minority voters combined with an opportunity to elect their preferred candidates to City Council in Virginia Beach.⁴

⁴ The consistently lower levels of cohesion among all minority voters compared to Black voters are depicted in the following table:

		Minority- Preferred	Minority CVAP	Black CVAP	
Year	District	Candidate	Needed	Needed	Difference
2018	At-large	Rouse	70.4	67.4	3.0
2018	At-large	White	77.8	71.6	6.2
2016	Kempville	Ross-Hammond	53.9	47.6	6.2
2016	Rose Hill	Cabiness	71.7	64.4	7.3
2012	Kempsville	Ross-Hammond	55.8	48.9	7.0
2011 Sp	At-large	Sherrod	57.7	50.4	7.3
2010	At-large	Jackson	61.4	51.9	9.4
2010	Princess Anne	Bullock	45.6	42.9	2.7
2008	At-large	Allen	53.2	48.1	5.1

These consistent differences raise a question about whether Black voters and other minority voters are actually supporting the same candidates. For example, in a district with 150 voters, $2/3^{rd}$ (100) of whom are Black and $1/3^{rd}$ (50) of whom are Hispanics and Asians, if 80 Black voters support a candidate and only 10 of the other minority voters support that candidate, the Black level of cohesion is 80% (80/100) and the overall level of minority cohesion is 60%

Recompiled Election Results

- 20. Another well-accepted approach to determining if a proposed district is likely to provide minority voters with an opportunity to elect their candidates of choice is to recompile the results of previous elections to conform to the boundaries of the proposed districts in order to ascertain if minority-preferred candidates would win in any of the proposed districts. This second approach is more useful in this case for two reasons. First, it takes into account differential participation rates (as noted above, I was unable to incorporate participation rates in the percent minority needed to win calculations because these estimates were not included in the Spencer Report). Second, it does not assume that 50 percent is required for the minority-preferred candidate to win an election contest in a district a plurality of the vote is often sufficient to win in nonpartisan elections with more than two candidates competing.
- 21. As with calculating the percent needed to win, when recompiling election results for the purpose of determining if a proposed district would provide minority voters with an opportunity to elect their candidates of choice, not all election contests are equally useful. Tables 2 and 3, above, include six city council elections that, based on the racial bloc voting analysis conducted by Dr. Spencer, would suit as "bellwether" elections. Three are excluded because the minority candidates of choice did not garner a majority of minority voters' support (2018 at-large, 2016 Rose Hill, 2008 Kempsville) making the elections especially challenging for minority-preferred candidates to win.
- 22. Unless the proposed districts have been drawn keeping election precincts intact and election precinct boundaries have not changed over the course of the decade, the election results for the bellwether elections must be disaggregated down from the election precinct level to the census blocks that make-up the precinct. (This is usually on the basis of the proportion of voting age population each block constitutes of the precinct.) However, four of these six election contests occurred prior to 2012 and recompiled election results were provided to me only for elections held between 2012 and 2020.⁵ As a consequence, the bellwether election results I have relied upon to determine if proposed districts would provide minority voters with an opportunity to elect their candidates of choice are the 2012 and 2016 Kempsville election contests.

^(90/150) but only 20% (10/50) of Hispanics and Asians actually supported the Black-preferred candidate. A 20% level of support for the Black-preferred candidate indicates that Hispanics and Asians are not politically cohesive with Black voters in this example. While I have adopted the Court's view that Blacks, Hispanics and Asians are cohesive for the purposes of this affidavit, I also want to acknowledge Dr. Spencer's finding that "the population of Hispanic and Asian voters is not large enough to generate precise estimates of candidate preference using traditional statistical methods." (Spencer Report, Aug. 26, 2019, at 6) As a consequence, I cannot draw any conclusions about Asian or Hispanic voting preferences in Virginia Beach – I can only conclude, based on the Spencer Report, that when all minorities are combined they appear to be cohesive.

⁵ Should recompiled results for elections prior to 2012 be provided, I can supplement my report.

23. The minority candidate of choice was the same in both the 2012 and 2016 Kempsville election contests: Dr. Amelia Ross-Hammond. The recompiled results for these two elections can be found in the summary tables for the two proposed concept plans below.

Analysis of Proposed Plans

24. The two tables that follow (Tables 4 and5), one for each of the concept maps drafted by Kim Brace for the City of Virginia Beach, summarize information relevant to ascertaining whether any of the proposed districts in the maps provide minority voters with an opportunity to elect their candidates of choice. Each table includes population projections by race and minority status derived from two sources (the American Community Survey and ESRI). The tables also include recompiled election results for Ross-Hammond in her bids for the Kempsville City Council seat in 2012 and 2016.

10 District Plan											
	Percent of Total Population				Percent of CVAP		Recompiled election results: Votes for Black- preferred Candidate				
District	NHB	llack	Mine	ority	NHBlack	Minority	2016		2012		
	ACS	ESRI	ACS	ESRI	ACS	ACS	Ross-Han	nmond	Ross-Hamr	nond	
1	32.64%	34.87%	55.34%	56.11%	32.25%	49.08%	53.73%	BP won	49.98%	BP plurality win	
2	25.74%	24.51%	50.08%	48.66%	26.67%	46.09%	42.84%	BP lost	35.01%	BP plurality win	
3	24.80%	25.65%	52.55%	56.79%	26.42%	50.03%	43.46%	BP lost	40.19%	BP plurality win	
4	18.43%	17.67%	39.52%	40.23%	19.64%	36.95%	39.80%	BP lost	26.51%	BP plurality win	
5	26.09%	26.07%	53.09%	53.23%	27.04%	46.79%	46.71%	BP lost	38.43%	BP plurality win	
6	11.05%	12.68%	29.13%	31.27%	11.33%	24.50%	37.44%	BP lost	28.21%	BP plurality win	
7	2.49%	2.71%	11.94%	12.22%	2.69%	10.12%	35.06%	BP lost	20.46%	BP lost	
8	15.66%	16.27%	31.75%	34.25%	15.23%	26.95%	38.23%	BP lost	31.33%	BP plurality win	
9	17.55%	15.68%	35.90%	37.41%	17.72%	32.81%	38.91%	BP lost	32.66%	BP plurality win	
10	9.24%	11.39%	22.92%	26.80%	10.27%	21.60%	32.77%	BP lost	25.33%	BP lost	

Table 4: 10 District Concept Plan

25. In the 10 District Plan, there are three or four majority minority districts depending on whether the estimates are derived from the ACS (four minority districts – Districts 1, 2, 3, 5) or ESRI (three minority districts – Districts 1, 3, and 5). Despite substantial minority populations in three of these districts, only one has a minority CVAP of greater than 50 percent (District 3 with a minority CVAP of 50.03 percent). Ross-Hammond does not carry District 3 in her bid for the Kempsville seat against a single opponent in 2016. However, she does win District 1 with 53.73 percent of the vote in this 2016 contest. Ross-Hammond wins the plurality vote in both of these districts (Districts 1 and 3) in 2012. She also wins a plurality of the vote in Districts 2 and 5, both with substantial but less than majority minority CVAPS, as well as Districts 4, 6, 8 and 9.

7-3 District Plan										
	Percent of Total Population				Percent of CVAP		Recompiled election results: Votes for Black- preferred Candidate			
District	NHBlack Minority				NHBlack	Minority	2016		2012	
	ACS	ESRI	ACS	ESRI	ACS	ACS	Ross-Hammond		Ross-Hammond	
1	29.37%	31.49%	51.26%	53.06%	29.10%	45.44%	49.30%	BP lost	41.48%	BP plurality win
2	24.22%	21.93%	45.82%	44.56%	25.15%	41.97%	41.75%	BP lost	31.46%	BP plurality win
3	23.88%	25.67%	54.36%	56.71%	25.97%	51.40%	43.23%	BP lost	38.80%	BP plurality win
4	13.95%	14.55%	33.11%	34.28%	13.95%	28.24%	39.69%	BP lost	30.41%	BP plurality win
5	8.09%	7.73%	20.00%	20.78%	8.50%	17.88%	35.82%	BP lost	23.72%	BP lost
6	19.91%	19.84%	38.92%	40.60%	19.65%	33.79%	42.53%	BP lost	34.84%	BP plurality win
7	8.58%	9.84%	23.08%	27.13%	9.08%	21.20%	33.15%	BP lost	26.45%	BP plurality win
Large Overlay Districts	26.020/	25 740/	50 15%	E0 6E0/	26 569/	AE 64%	42.00%	DD loot	25 570/	DD alurality
1	20.02%	25.74%	50.15%	50.65%	20.50%	45.64%	43.90%	BP IOST	35.57%	BP plurality win
2	13.09%	13.55%	29.55%	30.65%	13.11%	25.39%	39.61%	BP lost	29.89%	BP plurality win
3	16.29%	17.50%	35.39%	38.59%	17.06%	32.27%	38.27%	BP lost	31.38%	BP plurality win

Table 5: 7-3 District Concept Plan

- 26. In the 7 district component of the 7-3 Plan there are two majority minority districts: Districts 1 and 3. Only one of these – District 3 – is majority minority in CVAP. Ross-Hammond did not carry either of these districts in 2016 but did win with a plurality of the vote in Districts 1 and 3 (as well as four additional districts) in 2012.
- 27. In the three larger overlay districts in the 7-3 Plan, there is one district (District 1) that is majority minority in population but is not majority minority in CVAP. Ross-Hammond did not carry this district in 2016 but was the plurality winner in this district in 2012.

Conclusion

28. Accurate 2020 PL 94-171 census data is important for drawing remedial plans in this case, both to ensure the districts satisfy equal population requirements and to gauge the demographic composition of the proposed districts.

29. Any remedial districts drawn to provide minority voters with an opportunity to elect their candidates of choice will need to compensate for the fact that when all minority groups are combined they are less cohesive than when Black voters are considered alone.

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

Respectfully executed and submitted this 1st day of July 2021.

Lisa Handley

Lisa R. Handley

Lisa R. Handley

CURRICULUM VITAE

Professional Experience

Dr. Handley has over thirty years of experience in the areas of redistricting and voting rights, both as a practitioner and an academician, and is recognized nationally and internationally as an expert on these subjects. She has advised numerous clients on redistricting and has served as an expert in dozens of redistricting and voting rights court cases. Her clients have included the U.S. Department of Justice, civil rights organizations, independent redistricting commissions and scores of state and local jurisdictions. Internationally, Dr. Handley has provided electoral assistance in more than a dozen countries, serving as a consultant on electoral system design and redistricting for the United Nations, UNDP, IFES, and International IDEA. In addition, Dr. Handley served as Chairman of the Electoral Boundaries Commission in the Cayman Islands.

Dr. Handley has been actively involved in research, writing and teaching on the subjects of redistricting and voting rights. She has co-written a book, <u>Minority Representation and the Quest for Voting</u> <u>Equality</u> (Cambridge University Press, 1992) and co-edited a volume (<u>Redistricting in Comparative</u> <u>Perspective</u>, Oxford University Press, 2008) on these subjects. Her research has also appeared in peerreviewed journals such as *Journal of Politics*, *Legislative Studies Quarterly*, *American Politics Quarterly*, *Journal of Law and Politics*, and *Law and Policy*, as well as law reviews and edited books. She has taught political science undergraduate and graduate courses related to these subjects at several universities including the University of Virginia and George Washington University. Dr. Handley is a Visiting Research Academic at Oxford Brookes University in the United Kingdom.

Dr. Handley is the President of Frontier International Consulting, a consulting firm that specializes in providing electoral assistance in transitional and post-conflict democracies. She also works as an independent election consultant both in the United States and internationally.

Education

Ph.D. The George Washington University, Political Science, 1991

Present Employment

President, Frontier International Electoral Consulting LLC (since co-founding company in 1998).

Senior International Electoral Consultant Technical assistance for clients such as the UN, UNDP and IFES on electoral system design and boundary delimitation

Visiting Research Academic, Centre for Development and Emergency Practice (CENDEP), Oxford Brookes University

U.S. Clients since 2000

American Civil Liberties Union (expert testimony in Ohio partisan gerrymander challenge and challenge to Commerce Department inclusion of citizenship question on 2020 census form)

Lawyers Committee for Civil Rights Under Law (expert testimony in challenges to statewide judicial elections in Texas and Alabama)

US Department of Justice (expert witness testimony in several Section 2 and Section 5 cases)

Alaska: Alaska Redistricting Board (redistricting consultation, expert witness testimony)

Arizona: Arizona Independent Redistricting Board (redistricting consultation, expert witness)

Arkansas: expert witness for Plaintiffs in Jeffers v. Beebe

Colorado: Colorado Redistricting Board (redistricting consultation)

Connecticut: State Senate and State House of Representatives (redistricting consultation)

Florida: State Senate (redistricting consultation)

Kansas: State Senate and House Legislative Services (redistricting consultation)

Louisiana: Louisiana Legislative Black Caucus (expert witness testimony)

Massachusetts: State Senate (redistricting consultation)

Maryland: Attorney General (redistricting consultation, expert witness testimony)

Miami-Dade County, Florida: County Attorney (redistricting consultation)

Nassau County, New York: Redistricting Commission (redistricting consulting)

New Mexico: State House (redistricting consultation, expert witness testimony)

New York: State Assembly (redistricting consultation)

New York City: Redistricting Commission and Charter Commission (redistricting consultation and Section 5 submission assistance)

New York State Court: Expert to the Special Master (drew congressional lines for state court)

Ohio: State Democratic Party (redistricting litigation support, expert witness testimony)

Pennsylvania: Senate Democratic Caucus (redistricting consultation)

Rhode Island: State Senate and State House (litigation support, expert witness testimony)

Vermont: Secretary of State (redistricting consultation)

International Clients since 2000

United Nations

- Afghanistan electoral system design and district delimitation expert
- Bangladesh (UNDP) redistricting expert
- Sierra Leone (UNDP) redistricting expert
- Liberia (UNMIL, UN peacekeeping mission) redistricting expert
- Democratic Republic of the Congo (MONUC, UN peacekeeping mission) election feasibility mission, electoral system design and redistricting expert
- Kenya (UN) electoral system design and redistricting expert
- Haiti (UN) election feasibility mission, electoral system design and redistricting expert
- Zimbabwe (UNDP) redistricting expert
- Lead Writer on the topic of boundary delimitation (redistricting) for ACE (Joint UN, IFES and IDEA project on the Administration and Cost of Elections Project)

International Foundation for Election Systems (IFES)

- Afghanistan district delimitation expert
- Sudan redistricting expert
- Kosovo electoral system design and redistricting expert
- Nigeria redistricting expert
- Nepal redistricting expert
- Georgia electoral system design and district delimitation expert
- Yemen redistricting expert
- Lebanon electoral system design and redistricting expert
- Malaysia electoral system design and redistricting expert
- Myanmar electoral system design and redistricting expert
- Ukraine electoral system design and redistricting expert
- Pakistan consultant for developing redistricting software
- Principal consultant for the Delimitation Equity Project conducted research, wrote reference manual and developed training curriculum
- Writer on electoral boundary delimitation (redistricting), Elections Standards Project
- Training developed training curriculum and conducted training workshops on electoral boundary delimitation (redistricting) in Azerbaijan and Jamaica

International Institute for Democracy and Electoral Assistance (International IDEA):

- Consultant on electoral dispute resolution systems
- Technology consultant on use of GIS for electoral district delimitation
- Training developed training material and conducted training workshop on electoral boundary delimitation (redistricting) for African election officials (Mauritius)
- Curriculum development boundary delimitation curriculum for the BRIDGE Project

Other international clients have included The Cayman Islands; the Australian Election Commission; the Boundary Commission of British Columbia, Canada; and the Global Justice Project for Iraq.

Publications

Books:

<u>Does Torture Prevention Work?</u> Liverpool University Press, 2016 (served as editor and author, with Richard Carver)

<u>Comparative Redistricting in Perspective</u>, Oxford University Press, 2008 (first editor, with Bernard Grofman).

<u>Delimitation Equity Project: Resource Guide</u>, Center for Transitional and Post-Conflict Governance at IFES and USAID publication, 2006 (lead author).

<u>Minority Representation and the Quest for Voting Equality</u>, Cambridge University Press, 1992 (with Bernard Grofman and Richard Niemi).

Academic Journal Articles:

"Drawing Electoral Districts to Promote Minority Representation" <u>Representation</u>, forthcoming, published online DOI:10.1080/00344893.2020.1815076.

"Evaluating national preventive mechanisms: a conceptual model," <u>Journal of Human Rights Practice</u>, Volume 12 (2), July 2020 (with Richard Carver).

"Minority Success in Non-Majority Minority Districts: Finding the 'Sweet Spot'," <u>Journal of Race,</u> <u>Ethnicity and Politics</u>, forthcoming (with David Lublin, Thomas Brunell and Bernard Grofman).

"Has the Voting Rights Act Outlived its Usefulness: In a Word, "No," <u>Legislative Studies Quarterly</u>, volume 34 (4), November 2009 (with David Lublin, Thomas Brunell and Bernard Grofman).

"Delimitation Consulting in the US and Elsewhere," <u>Zeitschrift für Politikberatung</u>, volume 1 (3/4), 2008 (with Peter Schrott).

"Drawing Effective Minority Districts: A Conceptual Framework and Some Empirical Evidence," <u>North</u> <u>Carolina Law Review</u>, volume 79 (5), June 2001 (with Bernard Grofman and David Lublin).

"A Guide to 2000 Redistricting Tools and Technology" in <u>The Real Y2K Problem: Census 2000 Data and</u> <u>Redistricting Technology</u>, edited by Nathaniel Persily, New York: Brennan Center, 2000.

"1990s Issues in Voting Rights," <u>Mississippi Law Journal</u>, 65 (2), Winter 1995 (with Bernard Grofman).

"Minority Turnout and the Creation of Majority-Minority Districts," <u>American Politics Quarterly</u>, 23 (2), April 1995 (with Kimball Brace, Richard Niemi and Harold Stanley).

"Identifying and Remedying Racial Gerrymandering," <u>Journal of Law and Politics</u>, 8 (2), Winter 1992 (with Bernard Grofman).

"The Impact of the Voting Rights Act on Minority Representation in Southern State Legislatures," <u>Legislative Studies Quarterly</u>, 16 (1), February 1991 (with Bernard Grofman).

"Minority Population Proportion and Black and Hispanic Congressional Success in the 1970s and 1980s," <u>American Politics Quarterly</u>, 17 (4), October 1989 (with Bernard Grofman).

"Black Representation: Making Sense of Electoral Geography at Different Levels of Government," <u>Legislative Studies Quarterly</u>, 14 (2), May 1989 (with Bernard Grofman).

"Minority Voting Equality: The 65 Percent Rule in Theory and Practice," <u>Law and Policy</u>, 10 (1), January 1988 (with Kimball Brace, Bernard Grofman and Richard Niemi).

"Does Redistricting Aimed to Help Blacks Necessarily Help Republicans?" <u>Journal of Politics</u>, 49 (1), February 1987 (with Kimball Brace and Bernard Grofman).

Chapters in Edited Volumes:

"Effective torture prevention," <u>Research Handbook on Torture</u>, Sir Malcolm Evans and Jens Modvig (eds), Cheltenham: Edward Elgar, 2020 (with Richard Carver).

"Redistricting" in <u>Oxford Handbook of Electoral Systems</u>, Erik Herron Robert Pekkanen and Matthew Shugart (eds), Oxford: Oxford University Press, 2018.

"Role of the Courts in the Electoral Boundary Delimitation Process," in <u>International Election Remedies</u>, John Hardin Young (ed.), Chicago: American Bar Association Press, 2017.

"One Person, One Vote, Different Values: Comparing Delimitation Practices in India, Canada, the United Kingdom, and the United States," in <u>Fixing Electoral Boundaries in India</u>, edited by Mohd. Sanjeer Alam and K.C. Sivaramakrishman, New Delhi: Oxford University Press, 2015.

"Delimiting Electoral Boundaries in Post-Conflict Settings," in <u>Comparative Redistricting in Perspective</u>, edited by Lisa Handley and Bernard Grofman, Oxford: Oxford University Press, 2008.

"A Comparative Survey of Structures and Criteria for Boundary Delimitation," in <u>Comparative</u> <u>Redistricting in Perspective</u>, edited by Lisa Handley and Bernard Grofman, Oxford: Oxford University Press, 2008.

"Drawing Effective Minority Districts: A Conceptual Model," in <u>Voting Rights and Minority</u> Representation, edited by David Bositis, published by the Joint Center for Political and Economic Studies, Washington DC, and University Press of America, New York, 2006. "Electing Minority-Preferred Candidates to Legislative Office: The Relationship Between Minority Percentages in Districts and the Election of Minority-Preferred Candidates," in <u>Race and Redistricting in</u> <u>the 1990s</u>, edited by Bernard Grofman; New York: Agathon Press, 1998 (with Bernard Grofman and Wayne Arden).

"Estimating the Impact of Voting-Rights-Related Districting on Democratic Strength in the U.S. House of Representatives," in <u>Race and Redistricting in the 1990s</u>, edited by Bernard Grofman; New York: Agathon Press, 1998 (with Bernard Grofman).

"Voting Rights in the 1990s: An Overview," in <u>Race and Redistricting in the 1990s</u>, edited by Bernard Grofman; New York: Agathon Press, 1998 (with Bernard Grofman and Wayne Arden).

"Racial Context, the 1968 Wallace Vote and Southern Presidential Dealignment: Evidence from North Carolina and Elsewhere," in <u>Spatial and Contextual Models in Political Research</u>, edited by Munroe Eagles; Taylor and Francis Publishing Co., 1995 (with Bernard Grofman).

"The Impact of the Voting Rights Act on Minority Representation: Black Officeholding in Southern State Legislatures and Congressional Delegations," in <u>The Quiet Revolution: The Impact of the Voting Rights</u> <u>Act in the South, 1965-1990</u>, eds. Chandler Davidson and Bernard Grofman, Princeton University Press, 1994 (with Bernard Grofman).

"Preconditions for Black and Hispanic Congressional Success," in <u>United States Electoral Systems: Their</u> <u>Impact on Women and Minorities</u>, eds. Wilma Rule and Joseph Zimmerman, Greenwood Press, 1992 (with Bernard Grofman).

Electronic Publication:

"Boundary Delimitation" Topic Area for the Administration and Cost of Elections (ACE) Project, 1998. Published by the ACE Project on the ACE website (www.aceproject.org).

Additional Writings of Note:

Amicus brief presented to the US Supreme Court in <u>Gill v. Whitford</u>, Brief of Political Science Professors as Amici Curiae, 2017 (one of many social scientists to sign brief)

Amicus brief presented to the US Supreme Court in <u>Shelby County v. Holder</u>, Brief of Historians and Social Scientists as Amici Curiae, 2013 (one of several dozen historians and social scientists to sign brief)

Amicus brief presented to the US Supreme Court in <u>Bartlett v. Strickland</u>, 2008 (with Nathaniel Persily, Bernard Grofman, Bruce Cain, and Theodore Arrington).

Court Cases

Dr. Handley has served as an testifying expert or expert consultant in the following cases:

<u>Ohio Philip Randolph Institute v. Larry Householder</u> (2019) – partisan gerrymander challenge to Ohio congressional districts; testifying expert for ACLU on minority voting patterns

<u>State of New York v. U.S. Department of Commerce/ New York Immigration Coalition v. U.S.</u> <u>Department of Commerce</u> (2018-2019) – challenge to inclusion of citizenship question on 2020 census form; testifying expert on behalf of ACLU

<u>U.S. v. City of Eastpointe</u> (settled 2019) – minority vote dilution challenge to City of Eastpointe, Michigan, at-large city council election system; testifying expert on behalf of U.S. Department of Justice

<u>Alabama NAACP v. State of Alabama</u> (decided 2020) – minority vote dilution challenge to Alabama statewide judicial election system; testifying expert on behalf of Lawyers Committee for Civil Rights Under Law

<u>Lopez v. Abbott</u> (2017-2018) – minority vote dilution challenge to Texas statewide judicial election system; testifying expert on behalf of Lawyers Committee for Civil Rights Under Law

<u>Personhuballuah v. Alcorn (</u>2015-2017) – racial gerrymandering challenge to Virginia congressional districts; expert for the Attorney General and Governor of the State of Virginia; written testimony on behalf of Governor

<u>Perry v. Perez (2014)</u> – Texas congressional and state house districts (Section 2 case before federal court in San Antonio, Texas; testifying expert for the U.S. Department of Justice)

Jeffers v. Beebe (2012) – Arkansas state house districts (testifying expert for the Plaintiffs)

<u>State of Texas v. U.S.</u> (2011-2012) – Texas congressional and state house districts (Section 5 case before the Circuit Court of the District of Columbia; testifying expert for the U.S. Department of Justice)

In RE 2011 Redistricting Cases (2011-2012) – State legislative districts for State of Alaska (testifying expert for the Alaska Redistricting Board)

<u>U.S. v. Euclid City School Board</u> (2008-9) – City of Euclid, Ohio at-large school board (testifying expert for the U.S. Department of Justice)

<u>U.S. v. City of Euclid</u> (2006-7) – City of Euclid, Ohio council districts (testifying expert for the U.S. Department of Justice)

<u>U.S. v. Village of Port Chester</u> (2006-7) – Village of Port Chester Trustee elections (testifying expert for the U.S. Department of Justice)

Louisiana House of Representatives v. Ashcroft (2002) – Louisiana state house plan

Parker v. Taft (2002) – Ohio state senate and house redistricting plans

Metts v. Senate Majority Leader William Irons (2002) – Rhode Island state senate plan

Arrington v. Baumgart (2002) - Wisconsin state legislative plans

In the Matter of Legislative Districting of the State of Maryland (2002) – state court consideration of the Maryland legislative redistricting plans

In RE the Matter of Legislative Districting of the State of Illinois (2002) – state court consideration of the Illinois state legislative redistricting plans

<u>Arizona Minority Coalition for Fair Redistricting v. Arizona Independent Redistricting Commission</u> (2002) – Arizona state legislative districts

In RE 2001 Redistricting Cases v. Redistricting Board (2002) – Alaska state legislative plans

Jepsen v. Vigil-Giron (2002) – New Mexico congressional and state house plans

Balderas v. State of Texas (2001) – Texas congressional, state senate and state house plans

Del Rio v. Perry and Cotera v. Perry (2001) – Texas congressional districts (state court)

Donald Moon v. Donald Beyer (1996) - - challenge to the third congressional district in Virginia

<u>National Coalition on Black Voter Participation v. Glendening</u> (1996) – challenge to Maryland's implementation of the National Voter Registration Act

Johnson v. Mortham (1996) -- Florida congressional districts

<u>Republican Party of Alaska v. Coghill</u> (1996) – challenge to change in the Alaska Republican primary process

Akhivgak v. City of Barrow (1995) -- challenge to Barrow, Alaska referendum result

Dansereau v. Coghill (1995) -- Alaska vote fraud suit challenging 1994 gubernatorial contest

Scott v. U.S. Department of Justice (1995) -- Florida state senate districts

<u>Victor Diaz v. City of Miami Beach</u> (1995) -- challenge to Miami Beach at-large elections for city commission

Hays v. State of Louisiana (1994) -- challenge to the fourth congressional district in Louisiana

Vera v. Richards (1994) -- Texas Congressional districts

Johnson v. Miller (1994) -- Georgia Congressional districts

Sinkfield v. Bennett (1993) -- Alabama Congressional districts

Maryland for Fair Representation v. Schaefer (1993) -- Maryland State Legislative districts

Torres v. Cuomo (1993) -- New York Congressional districts

Barnett v. Daley / Bonilla v. Chicago City Council (1992-4) -- Chicago City Council wards

Vecinos de Barrio Uno v. City of Holyoke (1993) -- Holyoke, Massachusetts, City Council districts

Gonzalez v. Monterey County, California (1992) -- Monterey County, California, Board of Supervisors

Phillip Langsdon v. Milsaps (1992) -- Tennessee State Legislative districts

<u>The Fund for Accurate and Informed Representation v. Weprin</u> (1992) -- New York State Assembly districts

DeGrandy v. Wetherell (1992) -- Florida State Legislative and Congressional districts

Nash v. Blunt (1992) -- Missouri State House districts

<u>Smith v. Board of Supervisors of Brunswick County, Virginia</u> (1992) -- Brunswick County, Virginia, Board of Supervisors districts

Black Political Task Force v. Connolly (1992) -- Massachusetts General Assembly redistricting

Mellow v. Mitchell / Nerch v. Mellow (1992) -- Pennsylvania Congressional districts

Quilter v. Voinovich (1992) -- Ohio State House and Senate districts

LaPaille v. Illinois Legislative Redistricting Commission (1992) -- Illinois State Legislative districts

People of the State of Illinois ex. rel. Burris v. Ryan (1991-92) -- Illinois State House districts

Jamerson et al. v. Womack (1992) -- Virginia State Senate districts

Good v. Austin (1991-92) -- Michigan Congressional districts

Neff v. Austin (1991-92) -- Michigan State Senate and State House districts

Terrazas v. Slagle (1991) -- Texas State Legislative districts

Mena v. Richards (1991) -- Texas State Legislative districts

Republican Party of Virginia et al. v. Wilder (1991) -- Virginia General Assembly districts

Williams v. State Board of Elections (1989) -- Cook County, Illinois, Judicial Election districts

<u>Brown v. Board of Commissioners of Chattanooga, Tenn.</u> (1988-89) -- Chattanooga, Tennessee, City Commission districts

<u>The 5th Ward Precinct 1A Coalition and Progressive Association v. Jefferson Parish School Board</u> (1988) -- Jefferson Parish, Louisiana, School Board districts

East Jefferson Parish Coalition for Leadership and Development v. Jefferson Parish (1987-88) --Jefferson Parish, Louisiana, Parish Council districts

Roberts v. Wamser (1987-88) -- St. Louis, Missouri, voting equipment

<u>Buckanaga v. Sisseton Independent School District</u> (1987-88) -- Sisseton County, South Dakota, School Board districts

Griffin v. City of Providence (1986-87) -- Providence, Rhode Island, City Council districts

U.S. v. City of Los Angeles (1986) -- Los Angeles City Council districts

Latino Political Action Committee v. City of Boston (1984-85) -- Boston City Council districts

Ketchum v. Byrne (1984-85) -- Chicago City Council districts

South Carolina v. U.S. (1984) -- South Carolina State Senate districts

Contact Information

Email: <u>Irhandley@aol.com</u>; LRHandley.Frontier@gmail.com Telephone: ++1.301.765.5024; ++1.301.221.2070 (mobile)