The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

AT SEATTLE

SUSAN SOTO PALMER, et. al.,

Plaintiffs,

v.

STEVEN HOBBS, et. al.,

Defendants,

and

JOSE TREVINO, ISMAEL CAMPOS, and ALEX YBARRA,

Intervenor-Defendants

Case No.: 3:22-cv-05035-RSL

Judge: Robert S. Lasnik

PLAINTIFFS' DESIGNATION OF EXPERTS PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 26(A)(2)(A)

INTRODUCTION

Plaintiffs serves this Designation of Experts pursuant to the Scheduling Order (Dkt. # 93) in this case, and would respectfully show this Honorable Court as follows:

I.
Retained Expert Witnesses

1. Dr. Loren Collingwood
The University of New Mexico
Department of Political Science
Social Sciences Building #78
MSC 05-3070
1 University of New Mexico
Albuquerque, NM 87131-0001

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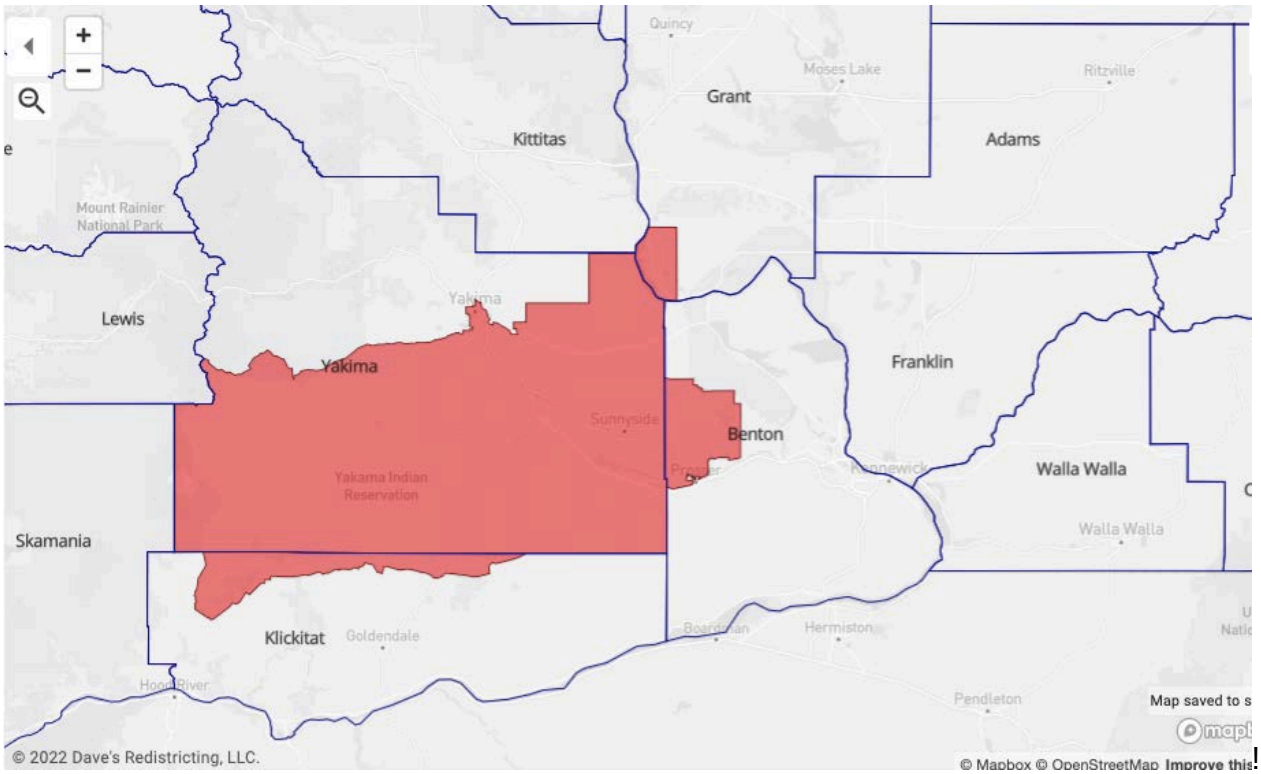

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Map	Dist #	'19 5-Yr ACS Latino CVAP %	'20 5-Yr ACS Latino CVAP %	Vote Share of Latino-Preferred Candidate (shaded if > white-preferred candidate's vote share)							
				2020 Pres% Biden	2020 Gov% Inslee	2020 AG% Ferguson	2020 Treas.% Pellicciotti	2018 U.S. Senate% Cantwell	2016 Pres% Clinton	2016 Gov% Inslee	2016 U.S. Senate% Murray
9.8 LD Draft Dominique Meyers to Sims	15	44.9	46.4	53	51.5	53.6	50.9	50.1	49.4	53.4	56.8
9.21 Fain Proposal Fain public release	15	33.8	35.5	46.2	44.4	46.2	43.3	43.7	41.9	46.7	49.8
9.21 Graves Proposal Graves public release	15	34.2	36.3	40.6	38.8	40.7	37.7	38.8	37.3	42.1	45.7
9.21 Sims Proposal Sims public release	15	44.7	46.1	54.1	52.5	54.6	51.9	51.4	50.4	54.4	58
9.21 Walkinshaw Prop Walkinshaw public release	14	40.4	41.5	55.4	53.7	55.8	53.1	53.7	51.5	55.3	59.4
10.25 Sims Proposal Sims public release	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
10.25 Walkinshaw Prop Walkinshaw public release	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.3 Graves LD 14 (2) Graves proposal	14	50.6	52.0	55.6	53.9	56.3	53.6	53.2	52.8	56.4	60.3
11.7 New leg proposal Anton Grose to Paul Graves	14	50.9	52.6	50.7	49.3	51.3	48.7	48.2	48.3	51.7	55.7
11.8 Fain V2 Fain proposal	15	50.6	52.0	52.4	50.8	52.9	50.2	50.0[15]	50.0	53.4	57.4
11.10 BW 11.10 new VRA Walkinshaw proposal	14	52.6	54	58.8	57.3	59.5	56.9	56.8	56.0	59.6	63.6
11.11 Base proposal Brady Walkinshaw	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.11 Graves1110LD Anton Grose to Graves, Sims!	14	50.3	52	49.7	48.2	50.3	47.6	47.3	47.4	50.8	54.8
11/12[16] April Sims to Paul Graves	15	49.2	50.6	47.9	46.3	48.3	45.7	45.4	45.4	48.9	52.8
11.12 Graves Draft Nov12 (1) Paul Graves and staff	15	50.2	51.6	49.0	47.4	49.5	46.8	46.5	46.5	50.0	53.9
11.13 BW leg proposal Ali O'Neil to Fain staff	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.15 Copy of 11/14 7:30pm Merged D Map Walkinshaw/Sims	15	49.2	50.5	47.9	46.3	48.4	45.7	45.5	45.4	48.9	52.8
11.15 R Prop Rebalanced Osta Davis to Ali O'Neil	15	50	51.5	48.9	47.3	49.4	46.7	46.4	46.3	49.8	53.8
Enacted Plan	15	50	51.5	48.9	47.3	49.4	46.6	46.3	46.3	49.8	53.7

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Precincts	Registered Voter Share (2018)	2018 Election Electorate Composition	Net White Advantage over Registration Share (2018)	Registered Voter Share (2020)	2020 Election Electorate Composition	Net White Advantage over Registration Share (2020)
Included Adams & Grant Latino Precincts	73% Latino, 25% white	61% Latino, 36% white	+23%	75% Latino, 23% white	70% Latino, 28% white	+10%
Excluded Yakima Latino Precincts	83% Latino, 8% white	80% Latino, 11% white	+6%	84% Latino, 7% white	83% Latino, 8% white	+2%

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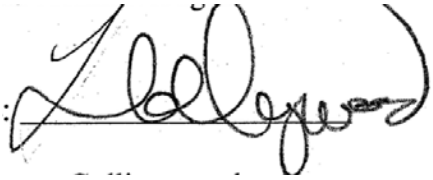

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Totality of the Circumstances Analysis Under Section 2 of the Voting Rights Act

Soto Palmer, et al., v. Hobbs, et al. No.: 3:22-cv-5035 (U.S. District Court for the Western District of Washington)

Josué Q. Estrada, Ph.D.

Central Washington University

July 27, 2022

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Background and Qualifications

I am an Assistant Professor in the Department of History at Central Washington University (CWU) in Ellensburg, Washington. At CWU, I teach and develop courses on voting rights, citizenship, race, Latino people, and the Pacific Northwest. With respect to my research, I investigate the history of Latino voter suppression and race in the United States.

I received my doctoral degree in history from the University of Washington (UW) in Seattle, Washington in 2021, with a focus on 20th century U.S. history and voting rights. I hold a Master's in History from the UW and a Master's in American Studies from Washington State University in Pullman, Washington. I received a Bachelor's in American Ethnic Studies from the UW in 2005. Throughout my academic training, I have methodically studied, researched, and written extensively about the history of Latinos in the United States with an emphasis on the Pacific Northwest.

At the UW, I completed a dissertation titled, "'We Can't Be Ignored Anymore': A History of the Latinx Voting Rights Movement, 1960-1975."[1] This research investigates how Puerto Ricans and Mexican Americans have used distinct organizational and political tactics to win voting rights, specifically to expand the coverage of the Voting Rights Act. To explore this history, I conducted extensive archival research in five states including Washington State, studied the congressional debates on voting rights from the 1960s and 1970s, reviewed Spanish and English newspapers, examined government records, and consulted hundreds of secondary works related to voting rights.

While working on my dissertation, I published an article titled, "Democratizing Washington State's Yakima County: A History of Latina/o Voter Suppression since 1967" in *We*

[1] Josué Q. Estrada, "*'We Can't Be Ignored Anymore': A History of the Latinx Voting Rights Movement, 1960-1975*," (PhD diss., University of Washington, 2021).

are Aztlan: Chicanx Histories in the Northern Borderlands.[2] I found that suppression of Mexican American voters by way of English literacy tests, including in Yakima County, was sustained due to national, state, and local factors. Even though the State of Washington's literacy test was ultimately removed, Latino voters remained marginalized as a result of racial discrimination, at-large election systems, and county officials who had no interest in increasing Latino political involvement. Starting in the 1970s, Latino candidates more frequently ran for elected office, but were largely defeated by white candidates.

Additionally, I have delivered conference papers related to Latino voter suppression at local, regional, and national academic conferences such as: the Pacific Northwest History Conference, the Western History Association Conference, and the Labor and Working-Class History Association.[3] I have also published book reviews in my areas of specialization and served as an associated editor for the *Pacific Northwest Quarterly* journal. A true, accurate and detailed copy of my curriculum vitae is attached. My rate of compensation for work on this case is $250.00 per hour.

Given my background, attorneys for Plaintiffs in this litigation asked me to conduct an analysis of the "totality of the circumstances," or Senate Factors, relevant under Section 2 of the Voting Rights Act and outlined in a 1982 report by the U.S. Senate Committee on the Judiciary ("Senate Report").[4] As outlined by the Senate Report, the Senate Factors include: (1) "the history

[2] Josué Q. Estrada, "Democratizing Washington State's Yakima County: A History of Latina/o Voter Suppression since 1967" in *We Are Aztlán: Chicanx Histories in the Northern Borderlands*, edited by Jerry Garcia (Washington State University Press, 2017).
[3] "Citizens with Foreign Tongues: A History of Latinx Voter Suppression in Washington State," Presented at *What Happens in the West Doesn't Stay in the West*, Western History Association, Las Vegas, NV, October 2019; "Democratizing Washington State's Yakima County: A History of Latino/a Voter Suppression since 1967" Presented at *Scales of Struggle: Communities, Movements, and Global Connections*, Labor and Working-Class History Association, Seattle, WA, June 2017.
[4] "Section 2 of the Voting Rights Act," The United States Department of Justice, https://www.justice.gov/crt/section-2-voting-rights-act.

of official voting-related discrimination in the state or political subdivision;" (2) "the extent to which voting in the elections of the state or political subdivision is racially polarized;" (3) "the extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority-vote requirements, and prohibitions against bullet voting;" (4) "the exclusion of members of the minority group from candidate slating processes;" (5) "the extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process;" (6) "the use of overt or subtle racial appeals in political campaigns;" (7) "the extent to which members of the minority group have been elected to public office in the jurisdiction."[5] The Senate Report included two additional factors: (8) "whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group;" and (9) "whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice or procedure is tenuous."[6] As the Senate Report states, "there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other."[7]

[5] S. Rep. No. 97-417, at 29 (1982); *Thornburg v. Gingles*, 478 U.S. 30, 47 (1986).
[6] *Id.*
[7] *Id.*

Summary of Findings

My report examines whether Senate Factors 1, 3, 5, 6, 7, and 8 are present in the Central Washington region, particularly in the Yakima Valley and Pasco areas. In conducting this analysis, I also examined the shared history of Latino communities throughout the region. I offer the following opinions:

1. Shared History of Latinos: There are numerous similarities and shared interests among Latino communities in the Yakima Valley and Pasco areas. In addition to sharing a common language and cultural traditions such as Cinco de Mayo celebrations, many of the regions' Latinos reside in rural, agricultural communities where their labor is vital to the economy.[8] Latinos' presence in the region has been continuous for decades and, in both rural and urban communities, their experiences have been marked by racial discrimination in the areas of politics, labor, education, and health care, among other areas.
2. Senate Factor 1: Latinos in Washington, especially in the Yakima Valley and Pasco areas, have been and continue to be burdened by a long history of official racial discrimination in voting.
3. Senate Factor 3: Washington State and the political subdivisions in the Yakima Valley and Pasco areas have historically used voting practices and procedures, including off-year elections, signature matching, at-large elections, and English literacy tests, that tend to enhance the opportunity for discrimination against Latinos.
4. Senate Factor 5: The lingering effects of discrimination in the Yakima Valley and Pasco

[8] "Almost 51.3 percent of Adams, Yakima, Chelan, Douglas, Grant, Walla Walla, and Franklin County households speak Spanish." See, "The History of Language in Washington State," Language Network, November 5, 2019, https://www.languagenetworkusa.com/blog/the-history-of-language-in-washington-state.

areas are reflected in significant present-day disparities with regard to income, unemployment, poverty, education, housing, health, and criminal justice. These socio-economic disparities bear directly on the ability of minorities to participate in the electoral process.

5. Senate Factor 6: Political campaigns in the Yakima Valley and Pasco areas have been marked by direct and indirect racial appeals.
6. Senate Factor 7: Both the Yakima Valley and Pasco areas have a weak record of electing Latino candidates to public office.
7. Senate Factor 8: Elected officials in the Yakima Valley and Pasco region, particularly in state legislative districts 14 and 15, are not responsive to the needs of the Latino community.

In light of this evidence, and the analysis I provide below, I conclude that the totality of the circumstances shows that the current configuration of state legislative districts hinders the equal opportunity of Latino voters in the Yakima Valley and Pasco areas to fully and effectively participate in the political process.

Note on Terminology

In this report, I use the terms "Latino/Latinx" and "Hispanic" as an umbrella term for all individuals from Spanish-speaking nations from Latin America and the Caribbean. Persons who identify as "Latino/Latinx" and "Hispanic," according to the U.S. Census Bureau, "are those who classify themselves in one of the specific Hispanic or Latino categories listed on the decennial census questionnaire and various Census Bureau survey questionnaires – 'Mexican, Mexican Am., Chicano' or 'Puerto Rican' or 'Cuban' – as well as those who indicate that they are

'another Hispanic, Latino, or Spanish origin.'"[9] I apply the national-origin terms whenever possible. Specifically, for persons of Mexican descent, I use several terms to indicate differences in identities and citizenships, including "ethnic Mexicans," "Mexican nationals," "Mexican Americans," and "Chicanas/os." "Ethnic Mexicans" describes people of Mexican ancestry living in the United States, regardless of their citizenship. "Mexican national" refers to a person with Mexican citizenship residing in the United States. "Mexican American" describes a person of Mexican descent born in the United States. The term "Chicana/o/x" is also used to describe a person of Mexican ancestry who was born in the United States but is used when the historical actors or community specifically used this term to identify themselves and their community. Beginning in the late 1960s, "Chicano" was a term embraced by youth to gain political power while rejecting racism, assimilationism, and colonialism in the United States. Lastly, I use "undocumented" to describe Latino migrants without official permission to reside or work in the United States.

In the Yakima Valley and Pasco region, a large portion of the Latino community is composed of persons of Mexican ancestry, but they have a shared history and common interests with other Latino groups creating a collective identity and consciousness.[10] Here, and across the U.S., Latino people tend to see themselves as part of a large whole because of issues related to immigration, legal status, a history of colonialism, race, class, and language.[11]

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[9] "About the Hispanic Population and its Origin," *United States Census Bureau*, https://www.census.gov/topics/population/hispanic-origin/about.html.

[10] *Id.*

[11] On Latinos and Hispanics identifying as a cohesive group with specific political priorities, opinions, and behaviors, see Rodolfo Espino, et al., *Latino Politics: Identity, Mobilization, and Representation* (Charlottesville: University of Virginia Press, 2007), Luis Ricardo Fraga, *Latinos in the New Millennium: An Almanac of Opinion, Behavior, and Policy Preferences* (New York: Cambridge University Press, 2012), John A. García, *Latino Politics in America: Community, Culture, and Interests* (Lanham: Rowman & Littlefield Publisher, 2012, 2021), F. Chris Garcia and Gabriel Sanchez, *Hispanics and the US Political System: Moving into the Mainstream* (Taylor and Francis, 2015), Armando Navarro, *Mexicano and Latino Politics and the Quest for Self-determination: What Needs*

Methodology

I employ the standard methodology used by historians to research the long history of racial discrimination and its effect on Latino political representation and participation in Washington State. My historical research and writing process is, in part, based on Busha and Harter's six-step formula: "(a) The recognition of a historical problem or the identification of a need for certain historical knowledge; (b) The gathering of as much relevant information about the problem or topic as possible; (c) If appropriate, the forming of hypotheses that tentatively explain relationships between historical factors; (d) The rigorous collection and organization of evidence, and the verification of the authenticity and veracity of information and its sources; (e) The selection, organization, and analysis of the most pertinent collected evidence, and the drawing of conclusions; (f) The recording of conclusions in a meaningful narrative."[12] The application of this method allows historians to work systematically to gather, authenticate, and analyze a wide range of sources to produce a historical account that is most accurate.

To write and interpret the history of Latino people in Washington, I analyzed both primary and secondary sources. Primary sources are created during the time period of study. For this report, I used the following primary documents: archival records, government documents, court records, newspapers, transcripts of legal records, demographic and socio-economic reports, and U.S. Census records. Secondary sources are interpretations of primary sources. In drawing conclusions for this study, I used the following secondary sources: scholarly books, dissertations, theses, peer-reviewed journal articles, newspaper editorial/opinion pieces, court case expert reports, and digital history projects, such as the *Seattle Civil Rights and Labor History Project*.

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to Be Done (Lanham: Lexington Books, 2015), and Lisa Garcia Bedolla, *Latino Politics* (Malden: Polity Press, 2015, 2021).

[12] Charles H. Busha and Stephen P. Harter, *Research Methods in Librarianship: Techniques and Interpretation* (New York: Academic Press, 1980), 91.

Shared History of Latinos in Central Washington

Latino residents in the state and the Yakima Valley and Pasco region have a common history of immigration to the state and shared experiences once they arrived. Starting in the late eighteenth century, Spanish-speaking people established settlements in Washington's Olympic Peninsula. From 1774 to 1797, Spanish ships explored the coastline of the Pacific Northwest. Historical records demonstrate that most of the sailors were of Mexican ancestry since the number of Spaniards living in colonial Mexico was minimal. On Washington's Neah Bay, in 1792, the first Spanish settlement was called Nuñez Gaona and its crew of mostly Mexican nationals were the state's earliest settlers.[13]

Fleeing the unrest created by the Mexican American War (1846-1848), Mexican nationals arrived in Washington and established businesses that contributed to the state's economic development. Decades before the American Civil War, Mexican mule packers and ranch hands contributed to transforming the Washington territory into a state, by providing the necessary goods and equipment to the forts and later burgeoning towns.[14] The expertise of Mexican mule packers was necessary to reach remote parts of the territory where freight wagons were not dependable or practical. Moreover, in the 1860s, Mexican nationals in the state were important entrepreneurs. For example, Rosario Romero relocated from Sonora, Mexico to Yakima, Washington. Romero has been "credited with starting the region's sheep-herding industry."[15] In the same period, the Galina family, also from Sonora, settled in Walla Walla,

[13] On Spanish explorations, see: José Mariano Moziño and Iris Wilson Engstrand, *Noticias De Nutka: An Account of Nootka Sound in 1792* (Seattle: University of Washington Press, 1991), and Erasmo Gamboa, "Washington's Mexican Heritage: A View into Spanish Explorations, 1774-1797," *Columbia Magazine* (Fall 1989), 40-45.
[14] On Mexican mule packers in the Pacific Northwest, see Erasmo Gamboa, "Mexican Mule Packers and Oregon's Second Regiment Mounted Volunteers, 1855-1856," *Oregon Historical Quarterly* 92: 1 (1991): 41-59, and Erasmo Gamboa, "The Mexican Mule Pack System of Transportation in the Pacific Northwest and British Columbia," *Journal of the West* 29:1 (1990): 16-27.
[15] Vicki L. Ruiz and Virginia Sánchez Korrol, *Latinas in the United States*, (Bloomington: Indiana University Press, 2006), 25.

Washington. The family operated a mule-pack train that facilitated the transportation of goods to mining districts throughout the region.[16]

Between 1900 and 1930, Mexican nationals and Mexican Americans along with their families were drawn to Washington State to labor primarily in agriculture. A major force contributing to their movements was the growth of the U.S. agriculture industry and the Mexican Revolution (1910-1917), which contributed to a surplus of workers in the Southwest.[17] This forced people of Mexican descent to travel further north to find employment. Once the U.S. entered World War I, a labor shortage prompted growers in the Northwest to recruit ethnic Mexican workers. While the Immigration Act of 1917 required that Mexican people pass a literacy test and pay a head tax, it was waived for those who worked for the western sugar beet growers.[18] In 1924, the Johnson-Reed Act created, for the first time, numerical limits and quotas on immigration. However, the Western Hemisphere was exempt, which moved labor agencies to recruit Mexican nationals and Mexican Americans to Washington. The "immigration laws during the 1920s did not assign numerical quotas to Mexicans, but the enforcement provisions of restriction—notably visa requirements and border-control policies—profoundly affected Mexicans, making them the single largest group of illegal aliens by the late 1920s."[19] By the 1920s, Washington was an established migratory route for workers of Mexican descent.[20]

During the Great Depression, Washington's ethnic Mexican population, much like in the Southwest, was rounded up and forced to return to Mexico. The 1930s repatriation of Mexican

[16] Korrol, *Latinas in the United States*, 25.
[17] Neil Foley, *Mexicans in the Making of America* (Harvard University Press, 2014), 43-48.
[18] Erasmo Gamboa, *Mexican Labor and World War II: Braceros in the Pacific Northwest, 1942-1947* (Seattle: University of Washington Press, 2000), 8.
[19] Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern American* (New Jersey: Princeton University Press, 2004), 7.
[20] Erasmo Gamboa, *Mexican Labor and World War II*, 9.

nationals and their U.S.-born children is estimated to have impacted about one million people.[21] In Spokane, Washington, city officials identified a group of Mexican nationals and had them deported.[22] The 1930 census recorded 562 persons of Mexican ancestry living in the state with 33 residing in Spokane County.[23] And at McNeil Federal Penitentiary, in 1932, about 90 Mexican nationals were sent to Mexico to reduce prison costs and likely as a consequence of racial discrimination and nativism.[24]

World War II (WWII) created conditions that brought a significant number of ethnic Mexican people to Washington State. As white migrant workers found employment in higher paying wartime industries, agricultural growers desperately needed workers. Beginning in 1942, a bilateral agreement between the U.S. and Mexico called the Bracero Program permitted Mexican nationals, also referred to as braceros (one who works using their arms), to enter the country as contract laborers. From 1943 to 1947, approximately 47,000 braceros came to the Pacific Northwest.[25] The number of braceros employed in Washington was around 15,000.[26] Unlike braceros living in the Southwest, braceros living in Northwestern communities experienced harsh racism, worked in freezing temperatures, and had their complaints ignored by U.S. and Mexican government officials. Braceros went on strike, and with the high cost of

[21] On the approximate number of Mexican people repatriated, see Raymond Rodriguez and Francisco E. Balderrama, *Decade of Betrayal: Mexican Repatriation in the 1930s* (University of New Mexico Press, 2006), 151.
[22] Jerry Garcia, "History of Latinos in the Northwest," *Washington State Latino/Hispanic Assessment Report, 2009-2010*, Commission on Hispanic Affairs Website, 12, https://static1.squarespace.com/static/5915f65ed482e94b3f60b25f/t/5bef266df950b73a0a722bf5/1542399602953/2009-2010+CHA+Assessment+Report+-+English.pdf.
[23] U.S. Bureau of the Census, Department of Commerce, *Fifteenth Census of the United States: 1930*: *Population*, Vol. 3, Pt. 2: Montana-Wyoming (Washington D.C.: GPO, 1932), https://www2.census.gov/library/publications/decennial/1930/population-volume-3/10612982v3p2ch10.pdf, 1231.
[24] Jerry Garcia, "History of Latinos in the Northwest," 12.
[25] Erasmo Gamboa, "Braceros in the Pacific Northwest: Laborers on the Domestic Front, 1942-1947," *Pacific Northwest Historical Review* 53:3 (1987), 378.
[26] Erasmo Gamboa, "Mexican Migration into Washington State, 1940-1950," *Pacific Northwest Quarterly* 72:3 (1981), 124.

transporting workers to the state, growers decided to stop using braceros after the war ended in 1947.[27]

Bracero workers of Mexican ancestry experienced racial animosity in Washington State. In Stanwood, Washington, the local marshal and high school students tried to prevent braceros from congregating in town. The resulting altercation was so intense that it was referred to as a "near race riot."[28] The marshal declared, "We don't need these Mexicans here anyway, the town would be much better off with them."[29] In addition to threats of racial violence and exclusion, braceros in the Northwest were prohibited from entering businesses where signs read "No Japs or Mexicans Allowed" and some were attacked "without provocation."[30] In the Yakima Valley, Kara Kondo writes that after WWII, the Japanese were not welcomed and "'No Japs Wanted' signs appeared in almost every store and business establishment in Wapato."[31] This anti-Mexican and anti-Japanese sentiment was widespread in Washington.

In addition to agricultural workers, WWII brought Mexican American soldiers to Washington State. As Mexican Americans joined the armed forces in the Southwest, some were transferred to the area for training and later stationed at Fort Lewis (Tacoma, Washington), Fort Larsen (Moses Lake, Washington), Ephrata Air Terminal (Ephrata, Washington), Fairchild Air Force Base (near Spokane, Washington), and Hanford Nuclear Site (Hanford, Washington). For those who relocated and settled in urban centers such as Tacoma and Spokane, they helped to establish ethnic Mexican communities and worked in non-agricultural industries.[32]

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[27] Erasmo Gamboa, *Mexican Labor and World War* II, xx.
[28] *Id*. at 113.
[29] *Id.*
[30] Gamboa, *Mexican Labor and World War II*, 112.
[31] Kara Kondo, ed., *Profile: Yakima Valley Japanese Community, 1973* (Yakima Valley Japanese Community, 1974), 9. On the Japanese community in the Yakima Valley, see Thomas H. Heuterman, *The Burning Horse: Japanese-American Experience in the Yakima Valley, 1920-1942* (Cheney: Eastern Washington University, 1995).
[32] Carlos Maldonado, "Mexicanos in Spokane: 1930-1992," *Revista Apple* 3:1-2 (Spring 1992), 118-125.

Although ethnic Mexican labor was crucial to the state's economy, the white majority discriminated against Mexican laborers and racialized them as a separate and inferior race. During the construction of the Hanford Nuclear Site, the U.S. Army Corp of Engineers built off-site housing facilities in Pasco, Washington to segregate Mexican Americans from white workers.[33] The City of Pasco, located in Franklin County, became "darker and poorer than Kennewick and Richland" because of Washington's Jim Crow laws.[34] During the 1940s and 1950s, Jim Crow practices in the Tri-Cities area (Kennewick, Pasco, and Kennewick) forced people of color into the City of Pasco.[35] "White only" signs were also posted in Pasco and ethnic Mexican people who settled in other parts of the state recalled reading signs on storefronts that read, "No Mexicans Allowed."[36] Kennewick leaders established a curfew banning African Americans after dark (also referred to as Sundown towns) and, while Richland had no curfew, the high cost of homes made it practically impossible for people of color to purchase one in the city.[37] Additionally, due to racist attitudes and social pressures, selling a home in the Tri-cities area to non-white residents could have undesirable consequences. "Let me tell you, if anybody in this town sells property to a nigger, he's liable to be run out of town," stated a Kennewick sheriff.[38]

[33] Bruce Hevly and John M Findlay, *Atomic Frontier Days: Hanford and the American West* (Seattle: University of Washington Press, 2011), 27.
[34] Kate Brown, *Plutopia: Nuclear Families, Atomic Cities, and the Great Soviet and American Plutonium Disasters* (United Kingdom: Oxford University Press, 2013), 154.
[35] Robert Bauman, "Jim Crow in the Tri-Cities, 1943-1950," *Pacific Northwest Quarterly* 96:3 (Summer 2005), 124-131.
[36] Josué Q. Estrada, "Tejano Diaspora into Washington State," (Master's Thesis, Washington State University, 2007), 113.
[37] Kate Brown, *Plutopia*, 151. On Sundown towns, see James W. Loewen, *Sundown Towns: A Hidden Dimension of American Racism* (New Press, 2006).
[38] Kate Brown, *Plutopia*, 154.

Prior to the Fair Housing Act of 1968, the use of racially restrictive covenants prohibited the sale or rental of real estate property to certain racial and religious groups.[39] In Washington State, racially restrict covenants were widespread throughout the state.[40] The covenants facilitated "patterns of residential racial segregation that long outlived these once technically legal devices."[41] The language of the covenants typically stated that "no person of any race other than the white race shall use or occupy…" said property.[42] In some cases, the covenants read that persons of Asian, Jewish, Turkish, or Black races could not occupy the residence unless they were acting as a "domestic servant."[43] Racially restrictive covenants were pervasive in Western Washington, and, currently, researchers from Eastern Washington University are examining "the records in 20 Washington counties on the east side of the mountains" to uncover the extent to which they were used in Eastern Washington.[44] Preliminary findings indicate that racially restrictive covenants were also "pretty widespread" in Eastern Washington including in places like "Pullman, Wenatchee, and Ritzville."[45]

After Washington growers decided to no longer import braceros after WWII, they recruited ethnic Mexican people including undocumented workers from the Southwest, who

[39] Fair Housing Act, Public Law No. 90-284, 82 Stat. 81 (1968).
[40] Rajeev Majumdar, "Racially Restrictive Covenants in the State of Washington: A Primer for Practitioners," 30 *Seattle University Law Review* 1095 (2007), https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1917&context=sulr.
[41] Richard R. W. Brooks, *Saving the Neighborhood: Racially Restrictive Covenants, Law, and Social Norms* (Harvard University Press, 2013), 2.
[42] "Racial Restrictive Covenants Project-Washington State," *Civil Rights and Labor History Consortium*, University of Washington, http://depts.washington.edu/covenants/about.shtml.
[43] *Id.*
[44] Feliks Banel, "Project Aims to daylight 'restrictive covenants' on real estate in all Washington counties," *KIRO News Radio* (2021), https://mynorthwest.com/3273345/project-daylight-restrictive-covenants-real-estate-washington/. In 2021, the Washington State Legislature passed House Bill 1335 that provides funding for the University of Washington and Eastern Washington University to "review existing deeds and covenants for unlawful or other discriminatory restrictions, and provides property buyers a method to remove them. "House Bill Report, E2SHB 1335," Washington State Legislature, https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bill%20Reports/House/1335-S2.E%20HBR%20PL%2021.pdf?q=20220722221007.
[45] Feliks Banel, "Project Aims to daylight 'restrictive covenants' on real estate in all Washington counties."

were supposedly more controllable and docile than Mexican contract laborers. Beginning in the 1950s, ethnic Mexicans and their families began to permanently settle in mostly rural communities in Washington, abandoning the migratory lifestyle. The expansion of irrigation projects in Eastern and Central Washington provided for year-round work, contributing to the formation of communities in Adams, Benton, Franklin, Grant, and Yakima County.[46]

While Mexican undocumented workers in Washington were thousands of miles away from the U.S.-Mexico border, they were still arrested and deported back to Mexico. From 1953 to 1954, the U.S. government conducted a large-scale paramilitary campaign to deport undocumented workers that went by the derogatory name of "Operation Wetback."[47] Washington's agricultural growers desperately needed workers, so they hired undocumented persons and faced no legal penalties, but the workers themselves were not insulated from the deportation campaign. The military operation concentrated its efforts in California and Texas, but it was expanded to states such as Washington.[48] In total, "Operation Wetback" expelled more than 3.8 million Mexican nationals. The deportation campaign targeted all people of Mexican descent and scripted the whole community as "illegal aliens," deepening white people's mistrust and alienation towards ethnic Mexicans in the state.

Inspired by the civil rights struggle, Latinos organized a movement of their own to attempt to topple a wide range of barriers, including those that stifled Latino political participation and farm worker rights. Toward the close of the 1960s, Latinos in Washington,

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[46] Gina Bloodworth and James White, "The Columbia Basin Project: Seventy-Five Years Later," *Yearbook of the Association of Pacific Coast Geographers* 70 (2008): 96–111, and Kelsey Doncaster, "Columbia Basin Project," HistoryLink.org, https://www.historylink.org/file/21312.

[47] On Operation Wetback see, Juan Ramon García, *Operation Wetback: The Mass Deportation of Mexican Undocumented Workers in 1954* (United Kingdom: Greenwood Press, 1980).

[48] Joan W. Moore and Harry Pachon, *Hispanics in the United States* (Englewood Cliffs, N.J.: Prentice-Hall, 1985), 140. Also, see Sylvia Cavazos, *The Disposable Mexican: Operation Wetback 1954, the Deportation of Undocumented Workers in California and Texas* (University of Texas--Pan American, 1997).

mostly of Mexican ancestry, were about two percent of the state's population. In 1967, the Mexican American Federation (MAF) was created because white residents and elected officials refused to take on their issues. Samuel Martinez of Yakima was named president and Antonio Daniel of Pasco was elected as a regional president.[49] Martinez and Daniel led the MAF, which was a state-wide organization with a presence in Yakima County but also the Puget Sound, Moses Lake, Tri-Cities, and Bellingham-Lynden areas.[50] The MAF wanted to encourage Mexican Americans to vote, run for elected office, and take a stand on political issues to influence local and state governments. The MAF also wanted to "dispel forever the apathy of the Mexican-American voters of Washington and of the nation."[51] In the same year, the United Farm Workers Cooperative (a precursor to the United Farm Workers Union) emerged to push for farm worker rights. During the 1970s, the union began mobilizing workers in Yakima County to demand higher wages, better treatment, and improved working conditions, but in response the growers brandished weapons, threatened union leaders, refused to hire those who participated in union activities, and filed litigation against the union for purportedly harassing workers.[52] White growers racialized Mexican laborers as inferior, uneducated, and replaceable, and therefore deserving of low wages and poor treatment.[53] The anti-union strategies used by the white

[49] "Daniel to Head Federation," *Tri-City Herald* (Pasco, Kennewick, and Richland, WA), November 13, 1967.
[50] Mexican-American Federation Puget Sound Newsletter, 1968-1970. Box 7, Folder 11. Tomás Ybarra-Frausto Papers, Accession No. 4339-001, University of Washington Libraries, Seattle, Washington.
[51] Mexican-American Federation Puget Sound Newsletter, University of Washington Libraries, Seattle, Washington.
[52] Jesus Lemos, *A History of the Chicano Political Involvement and the Organizational Efforts of the United Farm Workers Union in the Yakima Valley, Washington*, Master's thesis, University of Washington, 1974, 65-90; Oscar Rosales Castañeda, "UFWOC Yakima Valley Hop Strikes," *Seattle Civil Rights and Labor History Project*, University of Washington, https://depts.washington.edu/civilr/farmwk_ch7.htm; and Dixie Koenig, "Growers Defendants: Hops-labor Trail under Way," *Yakima Herald-Republic* (Yakima, WA), January 21, 1971.
[53] Like in the Southwest, the relationship between white growers and workers of Mexican descent produced a racial hierarchy, scripting the latter as non-white, cheap wage laborers. See Neil Foley, *The White Scourge: Mexicans, Blacks, and Poor Whites in Texas Cotton Culture* (University of California Press, 1998).

growers punished those who threatened the racial structure, and ensured that growers remained at the top of the racial hierarchy.

Despite efforts to stifle farm workers from organizing, the United Farm Workers Union (UFW) continued to support Washington's Latino workers. For example, the UFW has helped to secure labor contracts, file a lawsuit against Ruby Ridge Dairy (in Pasco, Washington), and advocate for comprehensive immigration reform.[54] In 1995, the UFW unionized workers at the Chateau Saint Michelle Winery in the Yakima Valley, and the winery remains under a UFW contract.[55] In 2009, four former employees of Ruby Ridge Dairy and the UFW sued the owners for not providing drinkable water, meal breaks, and for threatening to fire them for trying to unionize.[56] In 2022, the UFW and about 50 of its members organized a "Day Without Immigrants" rally in Pasco, calling for a "…fix [for] America's immigration system."[57]

Due to persistent organizing in the 1970s, ethnic Mexicans in Washington started to be recognized as an important constituency, and Latino people created institutions that were vital to community building. In 1971, Governor Daniel Evans formed the Commission on Mexican American Affairs and appointed eleven individuals to serve on the commission.[58] The commissioners were from across the state and charged with making policy recommendations that

[54] For more information on Washington's United Farm Workers Union, see "Farm workers in Central Washington found the United Farmworkers of Washington State on September 21, 1986," HistoryLink.org, https://www.historylink.org/file/8302.
[55] Pascal Zachary, "Winery Field Workers Break New Ground in Union Election," *The Wall Street Journal*, June 7, 1995; "UFW Labels," United Farm Workers, https://ufw.org/organizing/ufw-labels/.
[56] Pratik Joshi, "Ministry gives checks to fired Pasco dairy workers," *Tri-City Herald* (Pasco, Kennewick, and Richland, WA), September 17, 2009, https://www.tri-cityherald.com/news/business/article31755897.html. In 2019, the UFW and dairy owners "agreed to walk away from the legal battle." Mathew Weaver, "After 10 years, dairy, UFW settle lawsuit," *Capital Press*, May 8, 2019, https://www.capitalpress.com/ag_sectors/dairy/after-10-years-dairy-ufw-settle-lawsuit/article_5ca4bda2-71b0-11e9-9a93-5bf9a8dcd558.html.
[57] Cameron Probert, "'Yes we can.' Tri-Cities immigrants call for reform during rally," *Tri-City Herald* (Pasco, Kennewick, and Richland, WA), February 2022, 2022, https://www.tri-cityherald.com/news/local/article258397168.html.
[58] The commission was renamed to be the Washington State Commission on Hispanic Affairs. "*About Us*," The Washington State Commission on Hispanic Affairs, https://www.cha.wa.gov/our-mission.

would benefit ethnic Mexicans. In 1972, El Centro de La Raza was founded to serve the needs of Seattle's Latino population.[59] And in 1979, Radio Cadena (also known as Radio KDNA) and the Sea Mar Community Health Center (Sea-Mar) were formed as community-based organizations. In the Yakima Valley, Radio Cadena provided Spanish-language programming that became "a tool for community building, advocacy, and entertainment that was especially leveraged by the women who lead it," writes historian Monica De La Torre.[60] Sea-Mar was opened to deliver health services to Seattle's low-income Latino, Asian, and Black population. To provide healthcare to farm workers in the Yakima Valley, labor activist Tomás Villanueva helped to establish the Yakima Valley Farm Workers Clinic in 1978.[61] The clinic is the "largest community health care provider in the northwest, operating clinics in Washington and Oregon," including the Miramar Health Centers that serve Pasco, Kennewick, and Richland residents.[62] The establishment of the Commission on Mexican American Affairs and community-based organizations was in response to Washington's Chicano Movement that demanded greater political, social, and economic equality.

During the 1980s and 1990s, the ethnic Mexican and Latino population in Washington State significantly increased, and the total number of Latinos doubled every decade after 1970 (see Table 1).

Table 1. Latino Population in Washington, 1970-1990[63]

[59] "History and Evolution," El Centro de la Raza, https://www.elcentrodelaraza.org/history-evolution/.
[60] Monica De La Torre, *Feminista Frequencies: Community Building Through Radio in the Yakima Valley* (University of Washington Press, 2022), 4.
[61] Carlos S. Maldonado and Gilberto García, *The Chicano Experience in the Northwest* (Kendall/Hunt Publishing Company, 1995), 102. On Villanueva's contribution to founding the Yakima Valley Farm Workers Clinic see, "Tomás Villanueva: Founder, United Farmworkers of Washington State," *Seattle Civil Rights and Labor History Project*, University of Washington, https://depts.washington.edu/civilr/villanueva.htm.
[62] Annette Clay, "Nonprofit opens new Tri-Cities medical and dental clinic. No insurance needed," *Tri-City Herald* (Pasco, Kennewick, and Richland, WA), May 10, 2021, https://www.tri-cityherald.com/news/local/article251221114.html.
[63] "Washington Data and Research," Washington's Office of Financial Management Website, https://ofm.wa.gov/washington-data-research/statewide-data/washington-trends/population-changes/population-hispaniclatino-origin. For 1970, the Latino population is based on "Spanish language." See Cambell Gibson and Kay

	1970	1980	1990
Total Population	70,734	120,016	214,570
% of State Population	2.1%	2.9%	4.4%

Racial discrimination against Washington's Latino farmworkers has persisted. In 2013, workers would go on strike against Sakuma Brothers Farms in Burlington, Washington.[64] Many of these farm workers who identified as Mexican and Indigenous people of Mexico reported that supervisors regularly used racist slurs and treated them as subhuman.[65] When workers complained about harassment and demanded a higher piece rate wage for picking berries, they were fired. Latino farm workers, like in the past, had no choice but to use collective organizing and the courts to fight for labor rights and against racism. Workers went on strike and filed lawsuits against the growers, leading to "multiple victories over issues of workers' rights, housing and hiring practices; [and]…[winning] hundreds of dollars in back wages…".[66]

Therefore, Latinos in Washington, and in particular in the Yakima Valley and Pasco region, have not just a common history of immigration and discrimination, but also the common present-day experience of continuing to combat that discrimination.

Senate Factor 1: History of Official Voting-Related Discrimination

According to the Senate Report, Senate Factor 1 requires an analysis of "the extent of any history of official discrimination in the state or political subdivision that touched on the right of

Jung, "Historical Census Statistics on Population Totals by Race, 1790 to 1990, and Hispanic Origin, 1970 to 1990, For the United States, Regions, Divisions, States," U.S. Census Bureau, Washington D.C. (September 2002), https://www.census.gov/content/dam/Census/library/working-papers/2002/demo/POP-twps0056.pdf.

[64] David Bacon, "Why These Farm Workers Went on Strike—and Why it Matters," *The Nation*, October 3, 2016, https://www.thenation.com/article/archive/why-these-farm-workers-went-on-strike-and-why-it-matters/.

[65] Ian Alexander, "The Struggle for Fairness at Sakuma Brothers," *Fair Work* 10 (2015), https://fairworldproject.org/the-struggle-for-fairness-at-sakuma-brothers/.

[66] *Id.*

the members of the minority group…to participate in the democratic process."[67] The State of Washington has a long history of discrimination against Latinos in the voting arena, both statewide and in the Yakima Valley and Pasco region.

A. English Literacy Tests

A combination of national, state, and local forces led to the denial of Latino voters' ability to exercise their voting rights before 1970. During this period, Latinos' participation in Washington elections was primarily blocked by the state's official literacy test, which required that voters speak and read English. Although the language exam would be suspended in the South under the Voting Rights Act (VRA) of 1965, literacy tests continued to be enforced in states like Washington past this date. When the VRA was extended in 1970, the English language requirement to vote was banned in Washington and throughout the country.

i. The Adoption of Washington's English Literacy Test

Literacy tests were first established as an effective means to deny the franchise to marginalized groups during the early 1850s when the Know-Nothing Party mobilized them to suppress the voting rights of Irish immigrants in the Northeast.[68] In Connecticut and Massachusetts, English literacy tests were adopted to purportedly encourage immigrants to learn English and assimilate, but lawmakers understood that it would have the effect of disenfranchising Irish voters.[69] According to the Know-Nothing Party, the language exams "would keep the 'ignorant, imbrute Irish' from the polls."[70] Once literacy tests were passed, they effectively narrowed the franchise for Irish immigrants.

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[67] S. Rep. No. 97-417, at 28 (1982); *Thornburg v. Gingles*, 478 U.S. 30, 47 (1986).
[68] Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States (*New York: Basic Books, 2000, 82-84.
[69] *Id*. at 86.
[70] *Id.*

After the Fifteenth Amendment was passed in 1870, requiring that "[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude," English literacy tests were an effective tool utilized by southern states to keep African Americans from the ballot box while not explicitly disenfranchising voters on account of race.[71]

In 1896, following the example set by northeastern and southern states and on the heels of intense racial violence against Chinese nationals, Washington passed legislation requiring English language knowledge to register to vote.[72] The legislation included a grandfather clause that exempted those already registered to vote.[73] The language exam would go on to be used to disenfranchise non-English speaking immigrants, Asians, Native Americans, illiterate whites, and Mexican Americans.[74]

ii. The Impact of Washington's Literacy Test on Latino Voters

Beginning in at least the 1950s, literacy tests in Washington State and, in particular, in the Yakima Valley, were administered inconsistently and sporadically, but in a racially discriminatory manner to suppress Latino votes. Prior to 1970, Latino voter registration data in Washington is lacking because the U.S. Census did not enumerate Latinos as a single group, but

[71] *U.S. Constitution*, Amendment 15, Section 1. On the state statues and constitutional amendments related to literacy tests, see "Appendix: State Suffrage Laws," Table A. 13 in Alexander Keyssar, *The Right to Vote*, 325-402.
[72] *House Journal of the State of Washington* (Olympia, Washington, 1895), 297, and Chapter XXXVII [House Bill No. 57]. Amendment to the Constitution, Qualification of Voters. *Session Laws of the State of Washington* (Olympia, Washington: Published by authority, 1890), 60.
[73] *Id.*
[74] Before Washington's literacy test was passed in 1896, the state's legislature attempted to pass a proposal "that no native of China…shall ever exercise the privileges of an elector of this state." See Beverly P. Rosenow and Quentin S. Smith, *The Journal of the Washington State Constitutional Convention, 1889* (Seattle: Book Pub. Co, 1962), 61. On Washington's state literacy test and Latinos, see James Thomas Tucker, *The Battle Over Bilingual Ballots: Language Minorities and Political Access Under the Voting Rights Act* (United Kingdom: Taylor & Francis, 2016), 23-24. On the impact of the state's language requirement on Native Americans, see Hilda Bryant, "New Voters May Change Yakima Area," *Seattle Post-Intelligencer* (Seattle, WA), August 21, 1970.

there is other evidence from the time that demonstrates the impact of the literacy tests on Latino voters.

For example, Rodolfo Alaniz of Yakima County stated in a 1968 sworn and signed affidavit that he had been administered a literacy test on several occasions. Mr. Alaniz was one of thirteen individuals who submitted sworn testimony for a court case led by Mexican Americans in the Yakima Valley, with legal support from the American Civil Liberties Union (ACLU), opposing the state's literacy test (see *Mexican-American Federation v. Eugene Naff, Yakima County Auditor et al.*, 299 F. Supp. 597 (E.D. Wash. 1969)). Alaniz recalled that,

> [A]round 1954, I attempted to register to vote in Sunnyside, Washington but my application was refused because I couldn't satisfy the registrar that I could read and speak the English language. In 1957, I took and passed the Washington Driver's License test; the examiner read the questions to me and I answered the questions in English. In 1960, when John F. Kennedy was running for president, I again tried to register to vote and this time was told that I had to know how to write English, and was not allowed to register to vote. On or about, the middle of July 1969, I again attempted to be registered to vote and was registered by the Sunnyside City Clerk's Office.[75]

Alaniz's testimony reveals much about the administration of the state's literacy tests. First, Latino people were disenfranchised by the state's English language requirement to vote as early as the 1950s. For Mexican Americans in Washington, the inability to read and speak the English language stemmed largely from attending segregated schools in the Southwest, which were inferior to white schools.[76] Even by 1970, almost 65 percent of Chicanos residing in the Northwest migrated from the Southwest.[77] Second, city clerks and deputy registrars had the

[75] "Affidavit of Rodolfo Alaniz," August 16, 1968, American Civil Liberties Union (ACLU) of Washington 1942-1996. Accession No. 1177-005. Special Collections, University of Washington Libraries, Seattle, WA.
[76] For instance, Antonia Castañeda writes that her family regularly migrated from Texas to Washington. In Texas, Castañeda and many other migrant families attended segregated schools that were inferior to their white counterparts. See Antonia I. Casteñeda, "'Que Se Pudieran Defender (So You can Defend Yourselves)': Chicanas, Regional History, and National Discourses," *Frontiers: A Journal of Women Studies*, 2001, 22:3 (2001), 116-1142. On the history of Chicano students and segregation, see Gilbert G. Gonzalez, *Chicano Education in the Era of Segregation* (UNT Press, 2013).
[77] See Ricard W. Slatta, "Chicanos in the Pacific Northwest: A Demographic and Socioeconomic Portrait," *Pacific Northwest Quarterly* 70:4 (1979), 157.

power to determine if a person had adequately satisfied the language test. According to a 1933 state voting law, these officials could "interrogate" prospective voters to demonstrate whether they could "read and speak English," and if they were "not satisfied in that regard, he may require the applicant to read aloud and explain the meaning of some ordinary English prose."[78] Affidavits and deposition statements clearly confirm that registrars used their tremendous latitude to enforce these exams more regularly and more stringently for Mexican American people, especially when English was not their dominant language.[79] Third, while English literacy tests targeted Latinos, sometimes they were allowed to register without incident, demonstrating the arbitrariness and inconsistency of the test's administration.[80] And lastly, registrars at times said that people needed to read and *write* to register to vote, but the state law only required people to read and *speak* English.[81] Ultimately, a panel of three judges ruled against the Plaintiffs and MAF. The judges collectively agreed that "A simple inquiry by the registrar of the applicant in this form, 'Can you speak and read English?' is not a test and could not conceivably result in discriminatory practices."[82] Despite the fact that that the literacy test was being administered inconsistently, targeted Latinos, and that election officials had asked a Latino applicant to "read

[78] "Laws of Washington Passed at the Twenty-Third Regular Session, 1933," Washington State Legislature, https://leg.wa.gov/CodeReviser/documents/sessionlaw/1933c1.pdf.
[79] See affidavits for *Mexican American Federation v. Eugene Naff, Yakima County Auditor et al.*, Box 3, American Civil Liberties Union (ACLU) of Washington 1942-1996. Accession No. 1177-005. Special Collections, University of Washington Libraries, Seattle, WA.
[80] "Affidavit of Rodolfo Alaniz," August 16, 1968, American Civil Liberties Union (ACLU) of Washington 1942-1996. Accession No. 1177-005. Special Collections, University of Washington Libraries, Seattle, WA. In a sworn affidavit by John Velez, he states that he was "promptly registered without being required to read anything out loud to the registrar or asked if [he] could read or speak the English language." However, Felipa R. Cantu's affidavit states that she was "immediately" asked by the clerk, "[d]o you know how to read and speak English." See "Affidavit of John Velez," August 19, 1968, American Civil Liberties Union (ACLU) of Washington 1942-1996. Accession No. 1177-005. Special Collections, University of Washington Libraries, Seattle, WA, and "Affidavit of Felipa R. Cantu, August 19, 1968, American Civil Liberties Union (ACLU) of Washington 1942-1996. Accession No. 1177-005. Special Collections, University of Washington Libraries, Seattle, WA.
[81] Constitution of the State of Washington, Article VI, as amended by 2, Section 1 (1896), 59, https://leg.wa.gov/CodeReviser/Documents/WAConstitution.pdf.
[82] Opinion of the Court, *Mexican-American Federation v. Eugene Naff, Yakima County Auditor et al.*, U.S. District Courts, Eastern District of Washington, Yakima, Civ. Ac. No. 2457, 299 F. Supp. 587 (1969), 592-593.

the names of the list of candidates," among other evidence, the court ruled the registration process had no "discriminatory overtones."[83]

The disenfranchisement of the Mexican American electorate in Washington and Yakima County received little attention. The U.S. Commission on Civil Rights, an agency created in 1957 and charged with investigating allegations of voter suppression based on race, placed its emphasis on the African American electorate residing in the South.[84] Since the commission received no "evidence of racial discrimination in voting in any of the other 37 States," this meant that Washington's literacy test was not contested when the Commission released their report in 1961.[85]

The U.S. Commission on Civil Rights was instrumental in pressuring Congress to pass the VRA of 1965. It was one of the most significant pieces of civil rights legislation with far-reaching power that transformed the nation's political system. The law suspended literacy tests in primarily six southern states, authorized the appointment of federal voting examiners to replace noncompliant registrars, deployed federal observers to monitor all elections, allowed the U.S. Attorney General to file suit against states that administered the poll tax, and required covered areas to submit electoral changes to the federal government to determine that they would not have a discriminatory effect.[86]

For African Americans in the South, the VRA of 1965 immediately increased their number of registered voters. With no literacy tests or other restrictive devices, historian Alexander Keyssar explains that the registration of African Americans in Mississippi "went from less than 10 percent in 1964 to almost 60 percent in 1968; in Alabama, the figure rose from 24 percent to 57."[87] In the

[83] *Id.*
[84] *Commission on Civil Rights Report*, 1961, United States Commission on Civil Rights (Washington: U.S. Govt., 1961) 21.
[85] *Id.*
[86] Voting Rights Act, Public Law 89-110, 89th Congress, S. 1564, August 6, 1965.
[87] Keyssar, *The Right to* Vote, 212.

South, the overall registration of African Americans reached a high mark of 62 percent.[88] The VRA was not a panacea, especially for Washington's Latino voters.

In Washington, the VRA had no effect on the administration of literacy tests, and literacy tests continued to be used to disenfranchise Mexican American citizens. In 1966, Washington's Secretary of State, A. Ludlow Kramer, asked the Attorney General of Washington, John J. O'Connell, about the impact of the VRA on the state's English literacy tests, and in particular, Section 4(e).[89] This section read that no person who had completed a sixth grade education "in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local elections because of his inability to read, write, understand, or interpret any matter the English language."[90] In other words, American citizens with limited English skills, such as Puerto Rican people, were exempt from English literacy tests. O'Connell replied that Section 4(e) had a "limited area" and the state laws needed to be revised to read, "[Electors] shall be able to read and speak the English language *unless* they can demonstrate that they have successfully completed a sixth grade primary education…in which the predominate language was other than English."[91] O'Connell argued that the state did not need to ban the test, but only amend the law.

The Washington State Board Against Discrimination, however, was concerned that the state's English literacy test was in violation of the VRA. On June 15, 1967, O'Connell responded, "Except for persons who come within the Puerto Rico provision, the Washington

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[88] *Id.*
[89] Letter from John J. O'Connell to A. Ludlow Kramer, September 20, 1966, Box 3, Folder "MAF v. Naff," American Civil Liberties Union (ACLU) of Washington 1942-1996. Accession No. 1177-005. Special Collections, University of Washington Libraries, Seattle, WA.
[90] Voting Rights Act, Section 4(e), Public Law 89-110, 89th Congress, S. 1564, August 6, 1965.
[91] Letter from John J. O'Connell to A. Ludlow Kramer.

State literacy requirement remains in effect. However, the manner of testing for literacy is now controlled by federal law, as will be hereinafter."[92] O'Connell wrote that literacy tests in the State of Washington had not "been prohibited outright by federal legislation" and made a case that if the state had a test, it was appropriate. English literacy exams, O'Connell insisted, had been suspended in states where fewer than 50 percent of the voting age residents were registered, which did not include Washington State. Therefore, he argued that the test could still be enforced. And federal standards required that everyone be given a test in writing. In Washington, O'Connell insisted that not all persons were tested but only in cases where "the registration officer 'is not satisfied' with the applicant's sworn statement" and of a person's ability to read and speak English.[93]

Washington's Attorney General also cited *Louisiana v. United States* (1965) in his effort to defend the state's language requirement.[94] While the State of Louisiana had adopted a literacy test to "purposely disenfranchise Negroes, it being understood that the registration officers would use their discretion for that purpose," O'Connell declared that Washington had no "tradition of discrimination against minorities in voting" and would prohibit literacy tests in accordance with the new Federal law.[95] But he maintained that Washington did not have a literacy test, rather it had a literacy "requirement."

By emphasizing that literacy was a requirement versus a test, claiming that Washington's test was non-discriminatory, and proclaiming that Washington was unlike the South, O'Connell's opinion cleared the way for local officials and registrars to continue to use the test to suppress the Mexican American vote. And in Eastern Washington, a place with a growing

[92] Washington Attorney General's Office, John. J. O'Connell, *Opinions* (1957-1968), No. 21 (June 15, 1967).
[93] *Id.*
[94] *Louisiana v. United States*, 380 U.S. 145 (1965).
[95] Washington Attorney General's Office, John. J. O'Connell, *Opinions* (1957-1968), No. 21 (June 15, 1967).

ethnic Mexican population, the English literacy test would be used almost exclusively to disenfranchise the Latino community.[96]

iii. Advocacy by Yakima County Latinos for an End to Literacy Tests

During the late 1960s, when the Mexican-American Federation (MAF) started to encourage their community throughout the state to register to vote, they witnessed that the literacy test was being administered more regularly and more carefully to Mexican Americans.[97] Because the degree that a person's ability to "read and speak English" was up to the registrars, MAF leaders, Samuel Martinez and Ricardo Garcia, believed that Eugene Naff, Yakima County Auditor, should appoint Spanish-speaking deputy registrars to assist prospective voters with limited English skills.[98] In Yakima County's rural precincts, Naff had appointed 35 white deputy registrars even though Mexican Americans numbered around 12,000.[99]

The MAF provided names of potential people Naff could appoint but he refused to do so. Naff told Martinez and Garcia that it was ridiculous to appoint "Mexican registrars…if this was the case we probably should have Negro, Indian, Filipino, and Japanese registrars if we were to go by ethnic group."[100] Naff acknowledged that he was aware of the 1965 VRA but stated, "I still don't see, however, how anyone who can't read English can figure out how to vote on a

[96] See affidavits for *Mexican-American Federation v. Eugene Naff, Yakima County Auditor et al.*, Box 3, American Civil Liberties Union (ACLU) of Washington 1942-1996. Accession No. 1177-005. Special Collections, University of Washington Libraries, Seattle, Washington.
[97] "Mexican-Americans Seek Spanish-Speaking Registrars," *Yakima Herald-Republic* (Yakima, WA), March 8, 1968.
[98] "Spanish-Speaking Elections Registrars? No, Says Naff," *Yakima Herald-Republic* (Yakima, WA), March 16, 1968.
[99] Complaint for Declaratory and Injunctive Relief, *Mexican-American Federation v. Eugene Naff, Yakima County Auditor et al.*, September 11, 1968, Records of the United States District Courts, Eastern District of Washington, Yakima, Box 361, Civil Case Files, 1967-1970, National Archives, Seattle, Washington.
[100] "Mexican-Americans Seek Spanish-Speaking Registrars," *Yakima Herald-Republic* (Yakima, WA), March 8, 1968.

ballot…I believe it is privilege to register to vote."[101] He told the MAF leaders that they should help register voters, but their assistance would later be prohibited.[102]

After the first meeting with Naff, the situation intensified as deputy registrars began to administer literacy tests exclusively to Mexican Americans in Yakima County.[103] As a result, on September 11, 1968, four Mexican Americans, the MAF, and the United Farm Workers Co-op, with legal support provided by ACLU, filed a class action lawsuit against the county claiming that Washington's literacy tests violated the VRA of 1965.[104]

The Plaintiffs in their deposition statements and responses to the defendants' interrogatories vociferously expressed that they were citizens deserving an equal opportunity to exercise the franchise. For example, Simon Ramos, a resident of Toppenish, Washington, since 1946 stated, "I am a citizen and I have the right to vote. The first time I try to act like a citizen, they throw me back. I don't feel too good."[105] Expressing a similar feeling was Jennie Marin, a resident of Toppenish since 1957, who said, "I feel bad about not being able to vote. Not quite a citizen. Maybe even cheated a little. I have a son who served four years in the Navy and I'm proud of him. I feel I have a right to be a full citizen."[106]

Despite these individuals' appeals to be permitted to exercise their right to vote in Yakima County and the ACLU's argument of targeted racial discrimination against Mexican

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[101] "Spanish-Speaking Elections Registrars? No, Says Naff," *Yakima Herald-Republic* (Yakima, WA), March 16, 1968.
[102] *Id.*
[103] *Id*.
[104] *Mexican-American Federation v. Eugene Naff, Yakima County Auditor et al.*, U.S. District Courts, Eastern District of Washington, Yakima, Civil Case Files 1967-1970, 2454-2457, Box 361, National Archives and Records Administration, Seattle, WA.
[105] Plaintiffs Simon Ramos' Answers to Defendants Interrogatories, *Mexican-American Federation v. Eugene Naff, Yakima County Auditor et al.*, January 31, 1969, Records of the United States District Courts, Eastern District of Washington, Yakima, Box 361, Civil Case Files, 1967-1970, National Archives, Seattle, Washington.
[106] Deposition Statement for Jennie Marin, *Mexican-American Federation v. Eugene Naff, Yakima County Auditor et al.*, April 1, 1969, Records of the United States District Courts, Eastern District of Washington, Yakima, Box 361, Civil Case Files, 1967-1970, National Archives, Seattle, Washington.

American voters, on May 2, 1969, a panel of three judges ruled against the Plaintiffs and MAF.[107] Although the *Mexican-American Federation v. Eugene Naff, Yakima County Auditor et al.* (1968) case did not officially end literacy tests in Washington, the MAF's activism was crucial to their eventual elimination. The organization called attention to the language and racial barriers confronted by Mexican Americans in Yakima County. When the VRA was extended in 1970, the English language requirement to vote was banned in Washington and throughout the country.

B. At-Large Elections

In addition to the above, the state's at-large elections systems continued to suppress Mexican Americans' ability to fully exercise their right to vote. Political scientist Luis R. Fraga found that at-large elections "characterized by substantial ethnic and racial vote polarization and differences for first-choice candidates…severely limited the effective exercise of political influence by minority communities."[108] At-large elections in Washington's Yakima Valley and Pasco areas have historically and through the present day limited the effective exercise of political influence of the Latino community.

i. Origins of At-Large Elections & Adoption in the Yakima Valley and Pasco Areas

At-large election systems are a method proven to dilute the voting strength of minority voters.[109] By the mid-1960s, at least 20 Washington cities had adopted the council-manager form

[107] Opinion of the Court, *Mexican-American Federation v. Eugene Naff, Yakima County Auditor et al.*, U.S. District Courts, Eastern District of Washington, Yakima, Civ. Ac. No. 2457, 299 F. Supp. 587 (1969).
[108] Luis Ricardo Fraga, "Domination Through Democratic Means: Nonpartisan Slating Groups in City Electoral Politics," *Urban Affairs Quarterly* 23:4 (1988), 544.
[109] Edward C. Banfield and James Q. Wilson, *City Politics* (Harvard University Press, 1966); Chandler Davidson and George Korbel, "At-Large Elections and Minority-Group Representation: A Re-Examination of the Historical and Contemporary Evidence," *The Journal of Politics* 43:4 (November 1981), 982-1005; and Chandler Davidson and Bernard Grofman, eds., *Quiet Revolution in the South: The Impact of Voting Rights, 1965-1990* (Princeton University Press, 1994).

of government including the City of Yakima (1957) and City of Pasco (1964).[110] In both of these cities, seven council members would be elected using at-large elections and the council would elect a mayor from the group.[111] In 1976, voters in the City of Yakima passed a resolution that created four council posts elected from residency districts in the primary and three council posts elected at-large.[112] In actuality, all of the council posts were elected at-large in the general election. According to the U.S. Census, in 1970, the city's "Spanish origin" population was about 2 percent, and by 1980, it was 6.42 percent.[113] The approved resolution by the city's voters stated that:

> Candidates for 'district positions' shall file their candidacy for nomination by the electors of the district wherein each candidate, respectively, resides. At the primary election, each qualified voter of each district may cast only one vote for a candidate. The names of the two candidates for each district for whom the largest number of votes are cast at the primary election shall appear on the citywide general election ballot, and **one candidate from each district receives the highest number of votes, as cast by the citywide electorate at the general election**, shall thereby be declared as duly elected to represent 'district position' as a member of the City Council.[114]

Pasco adopted a similar hybrid election system. In May of 1978, the Pasco City Council passed an ordinance that modified its previous format that had five voting districts and two at-large

[110] "Cities Use Council-Manager," *Tri-Cities Herald* (Pasco, Kennewick, and Richland, WA), May 3, 1964, and "Council to be Elected: City Manager OK'd In Pasco by 2-1 Vote," *Tri-Cities Herald* (Pasco, Kennewick, and Richland, WA) May 6, 1964.
[111] *Id*.
[112] Resolution No. D 3585, City of Yakima, September 13, 1976, https://www.digitalarchives.wa.gov/DigitalObject/Download/23e9049e-c8e8-4690-b802-d03cad9acfcb.
[113] Characteristics of the Population, Washington, Vol. 41, Part 49, Table 102, U.S. Census Bureau (U.S. Department of Commerce, 1973), 49.249, https://www.google.com/books/edition/1970_Census_of_Population/UkEYAAAAYAAJ?hl=en&gbpv=0, and General and Social Economic Characteristics, Washington, Vol. 1, Part 49, Table 59, U.S. Census Bureau ((U.S. Department of Commerce, 1983), 49.29, https://www.google.com/books/edition/1980_census_of_population/6DRrK0sak6wC?hl=en&gbpv=0.
[114] Resolution No. D 3585, City of Yakima, September 13, 1976, https://www.digitalarchives.wa.gov/DigitalObject/Download/23e9049e-c8e8-4690-b802-d03cad9acfcb.

positions.[115] In 1970, the City of Pasco's "Spanish origin" percent was 8.3 percent and a decade later it was 20.8 percent.[116] The city council voted to amend its election rules to read:

> The qualified electors of each voting district, and they only, shall nominate from among their number candidates from the office of councilman of such voting districts to be voted for at the following general election…In addition, two councilmen, designated councilmen at-large, shall be nominated in a similar manner….**Councilmen shall be elected by all of the qualified voters of the city** and the person receiving the highest number of votes for the office of the councilman for the position for which he is a candidate shall be declared duly elected.[117]

Therefore, "district" candidates for Pasco's city council, like in Yakima, would have to be elected in citywide races.

At-large elections have worked to systematically and persistently place Latino voters and candidates at a disadvantage in the Yakima Valley and Pasco areas. In the last decade, Latinos in the Yakima Valley and Pasco have continuously resorted to using the courts to bring an end to at-large systems of election.

ii. Montes v. City of Yakima (2014)

While the at-large system of election was in place in the largest city of Yakima County—Yakima, Washington—no Latino candidate was ever elected to the city council.[118] In 2012, Latinos in the City of Yakima argued that racial discrimination and the city's at-large election system prevented the Latino community (of nearly 40 percent) from electing a candidate who

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[115] "Ordinance No. 1955," May 1, 1978, Ordinances (1970-1979), City of Pasco.
[116] Characteristics of the Population, Washington, Vol. 41, Part 49, Table 102, U.S. Census Bureau (U.S. Department of Commerce, 1973), 49.248, https://www.google.com/books/edition/1970_Census_of_Population/UkEYAAAAYAAJ?hl=en&gbpv=0, and General and Social Economic Characteristics, Washington, Vol. 1, Part 49, Table 59, U.S. Census Bureau ((U.S. Department of Commerce, 1983), 49.33, https://www.google.com/books/edition/1980_census_of_population/6DRrK0sak6wC?hl=en&gbpv=0.
[117] *Id.*
[118] Nicholas K. Geranios, "Latinos win Yakima council seats for first time in city's history," *Seattle Times* (Seattle, WA), November 4, 2015, https://www.seattletimes.com/seattle-news/politics/in-wake-of-lawsuit-latinos-win-yakima-city-council-seats/.

best represented their interests.[119] From 2009 to 2011, three Latino candidates ran for the city's council and were defeated.[120] In all races, there was evidence of racial polarization—when white and Latino voters exhibit polar opposite candidate preferences in an election.[121] In addition, in 2011, Yakima residents voted against Proposition 1 that "would have changed the city charter to make all seven Yakima City Council seats be divided among districts."[122] Therefore, Latinos used the courts to resist the dilution of their vote. The court found a violation of Section 2 of the VRA at the summary judgment stage, and ultimately the remedial plan created a system of seven single-member voting districts, including one majority-Latino district and a second opportunity district.[123]

iii. Glatt v. City of Pasco (2017)

Likewise, the at-large system of election in Pasco was effective at preventing the Latino community from electing their candidates of choice. In 2016, Plaintiffs filed a complaint against Pasco challenging the City's at-large election scheme under Section 2 of the VRA.[124] While Latinos made up about 32 percent of the city's voting-age population, and approximately 56 percent of the city's total population, no Latino had "ever won a contested election to the Pasco

[119] Venice Buhain, "Yakima set to elect first Latino city councilmember," *The Seattle Globalist*, May 29, 2015, https://seattleglobalist.com/2015/05/29/yakima-voting-rights-act/37312. For demographic data, see U.S. Census Bureau, *American Community Survey 2014-2018 5-Year Estimates* (2019), https://data.census.gov/cedsci/.
[120] "Yakima Valley Latinos getting a voice, with court's help," *Los Angeles Times* (Los Angeles, CA), September 25, 2014, https://www.latimes.com/nation/la-na-c1-yakima-latinos-elections-20140925-story.html.
[121] Luis Ricardo Fraga, "Expert Report Submitted on Behalf of Plaintiffs in Montes v. City of Yakima," *Rogelio Montes and Mateo Arteaga et al. v. City of Yakima et al.*, No. 12-CV-3108-TOR, United States District Court, E.D. Washington, 2014, 4.
[122] "ACLU threatens to sue Yakima after voters kills Prop. 1," *Yakima Herald-Republic* (Yakima, WA), August 18, 2011, https://www.yakimaherald.com/aclu-threatens-to-sue-yakima-after-voters-kill-prop-1/article_d2a516e4-ee99-11e4-8188-a3976a0a6afc.html.
[123] Plaintiffs' Motion for Summary Judgment, *Rogelio Montes and Mateo Arteaga et al. v. City of Yakima et al.*, No. 12-CV-3108-TOR, United States District Court, E.D. Washington, 2014, 7.
[124] Complaint for Declaratory and Injunctive Relief, *Bertha Arana Glatt et al. v. City of Pasco et al.*, No. 4:16-CV-05108, United States District Court, E.D. Washington, 2016.

City Council."[125] A single Latino had twice been elected to the council, but they ran unopposed.[126] It is important to note that the election of one minority candidate does not guarantee that the community is able to exercise meaningful political power, or that their representation is substantive.[127] Because of the evidence presented, Pasco city officials "admitted liability and consented to the court's finding that the City's existing at-large method of electing all its members to the Pasco City Council violated Section 2 of the VRA by diluting the electoral power of Pasco's Latino voters" and agreed "to file a consent decree with the federal court" to modify the City's election system.[128] In 2017, as a remedy to this finding of Latino vote dilution, the city created six-member voting districts and one at-large position, including three majority-Latino districts.[129]

iv. Aguilar v. Yakima County (2020)

By 2020, the Latino community comprised nearly half of Yakima County's total population (49.3 percent) and one-third of the voting age population (31.4 percent), but only one Latino candidate had ever been elected to the Board of Yakima County Commissioners, almost

[125] Kristin M. Kraemer, "ACLU sue Pasco, saying election system violates federal Voting Rights Act," *Tri-Cities Herald* (Pasco, Kennewick, and Richland, WA), August 4, 2016, https://www.tri-cityherald.com/article93813632.html. For demographic data, see U.S. Census Bureau, *American Community Survey 2014-2018 5-Year Estimates* (2019), https://data.census.gov/cedsci/.
[126] Gene Johnson, "Pasco's voting system weakens Latino voice, ACLU suit charges," *Seattle Times* (Seattle, WA), August 7, 2016, https://www.seattletimes.com/seattle-news/pascos-voting-system-weakens-latino-voice-aclu-suit-charges/.
[127] Lani Guinier, "The Triumph of Tokenism: The Voting Rights Act and the Theory of Black Electoral Success," *Michigan Law Review* 89:5 (1991), 1077-1154, Jason P. Casellas, "Latino Representation in U.S. Congress: To What Extent Are Latinos Substantively Represented," Presented at the 2002 Meeting of the Southern Political Science Association, Savannah, Georgia, November 6-8 (2002), Sophia J. Wallace, "Examining Latino Support for Descriptive Representation: The Role of Identity and Discrimination," *Social Science Quarterly* 95:2 (2014), 311-327, and Nicholas O. Stephanopoulous, "Race, Place, and Power," *Stanford Law Review* 68 (2016), 1323-1408.
[128] *Glatt v. City of Pasco*, Case No. 4:16-CV-05108 (E.D. Wash. Jan. 27, 2017); Kristin M. Kraemer, "Pasco approves first step in getting federal fix for voting-rights issue," *Tri-Cities Herald* (Pasco, Kennewick, and Richland, WA), August 17, 2016, https://www.tri-cityherald.com/news/local/article96327547.html.
[129] Memorandum Opinion and Order, *Bertha Arana Glatt et al. v. City of Pasco et al.*, No. 4:16-CV-05108, United States District Court, E.D. Washington, 2016.

twenty years earlier.[130] In 2020, a group of Latino residents of Yakima County and the group OneAmerica filed a complaint under Washington's Voting Rights Act (WVRA) to challenge the at-large election system used to elect the three County commissioners, which denied Latino voters from electing a candidate of their choice to the board.[131]

The Latino voters argued that Latinos lived in "heavier concentrations in Yakima City and Sunnyside," representing an identifiable bloc of voters.[132] Moreover, they alleged that the at-large elections in Yakima County exhibited racially polarized voting, wherein Latino voters preferred Latino candidates while white voters preferred white candidates.[133] For example, in a couple of recent elections, Latino-preferred candidates won their primary races but were defeated

[130] Enrique Perez De La Rosa, "Déjà Vu All Over Again: Suit Alleges Latinx Voters Disenfranchised By Yakima County Election System," Northwest Public Broadcasting, July 13, 2020, https://www.nwpb.org/2020/07/13/deja-vu-all-over-again-suit-alleges-latinx-voters-disenfranchised-by-yakima-county-election-system/, and Jessica Perez, "Latino voters have a fighting chance for representation with changes coming to Yakima County's voting system," NBC Rights Now, September 1, 2021, https://www.nbcrightnow.com/news/latino-voters-have-a-fighting-chance-for-representation-with-changes-coming-to-yakima-countys-voting/article_f7633c6a-0b7d-11ec-89a2-5fe11b592346.html. For demographic data, see U.S. Census Bureau, *American Community Survey 2014-2018 5-Year Estimates* (2019), https://data.census.gov/cedsci/.

[131] Complaint for Injunctive Relief Under the Washington Voting Rights Act, *Aguilar et al. v. Yakima County et al.*, No. 20-2-0018019, Superior Court of Washington for Kittitas County, 2020. The Voting Rights Act of Washington reads, "The legislature finds that electoral systems that deny race, color, or language minority groups an equal opportunity to elect candidates of their choice are inconsistent with the right to free and equal elections as provided by Article I, section 19 and Article VI, section 1 of the Washington state Constitution as well as protections found in the Fourteenth and Fifteenth amendments to the United States Constitution. The well-established principle of 'one person, one vote' and the prohibition on vote dilution have been consistently upheld in federal and state courts for more than fifty years. The legislature also finds that local government subdivisions are often prohibited from addressing these challenges because of Washington laws that narrowly prescribe the methods by which they may elect members of their legislative bodies. The legislature finds that in some cases, this has resulted in an improper dilution of voting power for these minority groups. The legislature intends to modify existing prohibitions in state laws so that these jurisdictions may voluntarily adopt changes on their own, in collaboration with affected community members, to remedy potential electoral issues so that minority groups have an equal opportunity to elect candidates of their choice or influence the outcome of an election. The legislature intends for this chapter to be consistent with federal protections that may provide a similar remedy for minority groups. Remedies shall also be available where the drawing of crossover and coalition districts is able to address both vote dilution and racial polarization." See Voting Rights Act, RCW 29A.92, Washington State Legislature, https://app.leg.wa.gov/RCW/default.aspx?cite=29A.92.

[132] Complaint for Injunctive Relief Under the Washington Voting Rights Act, *Aguilar et al. v. Yakima County et al.*, No. 20-2-0018019, Superior Court of Washington for Kittitas County, 2020, 5.

[133] *Id.* at 6.

in the general elections.[134] Debra Manjarrez in 2016, "won the four-way primary for District 2 with 36% of the votes, while Commissioner Ron Anderson followed with 30% of votes."[135] Then, in 2018, Susan Soto Palmer "won the seven-way primary with 26% of the votes while Commissioner Norm Childress followed with 18%."[136] However, both Anderson and Childress went on to win the general elections, defeating Latino-preferred candidates Manjarrez and Soto Palmer.[137] Plaintiffs also presented evidence demonstrating the "probative factors" relevant under the WVRA, including but not limited to a history of discrimination, voting procedures that enhance discrimination, effects of past discrimination and disparities in voter registration and turnout, racial appeals, and a lack of responsiveness by county officials.[138]

In August 2021, prior to the scheduled trial for the case, the parties settled with the Yakima County Board of Commissioners, stipulating that there was "sufficient evidence from which the Court could find a violation of the Washington Voting Rights Act" and agreed to replace its at-large election system with single-member districts, including one majority-Latino district.[139]

v. Portugal v. Franklin County (2022)

In Franklin County, the Latino population had increased to almost 54 percent of the County's total population in 2020 and 34 percent of eligible voters.[140] Yet Latino residents such

[134] Phil Ferolito, "One America sues Yakima County, saying voting system disenfranchises Latinos," *Yakima Herald-Republic* (Yakima, WA), July 13, 2020, https://www.yakimaherald.com/news/local/oneamerica-sues-yakima-county-saying-voting-system-disenfranchises-latinos/article_89d36911-eb29-51fe-9812-f8527aa3256a.html.
[135] *Id.*
[136] *Id.*
[137] *Id.*
[138] Plaintiffs' Motion for Summary Judgment, *Aguilar et al. v. Yakima County et al.*, No. 20-2-0018019, Superior Court of Washington for Kittitas County, 2021.
[139] Motion to Approve Settlement and Enter Final Judgment, October 21, 2021, *Aguilar et al. v. Yakima County*, No. 20-2.00180-19, Superior Court of Washington for Kittitas County, 2.
[140] U.S. Census Bureau, *American Community Survey 2014-2018 5-Year Estimates* (2019), https://data.census.gov/cedsci/.

as Ana Ruiz Peralta, who was in the top two vote-getters in the primary election and advanced to, but lost the general election for a commissioner seat, stated that the county's Latino population (who predominantly live in Pasco) "didn't see any representation" on the Board of Commissioners.[141] To challenge the dilution of their voting strength, a group of Latinos sued Franklin County.[142] One of the Plaintiffs argued that the "districts and election process [made] it impossible for Latinos in the county to elect a candidate" of choice.[143]

Moreover, Latino Plaintiffs in their lawsuit alleged that Franklin County's "hybrid district and at-large election models [diluted] the voting power of the Latino community" and cracked the Latino community into three districts.[144] Although the Latino community was "large enough and sufficiently geographically compact to comprise a majority-minority district," it was split and as a result, the system of election diluted their voting strength. Additionally, the Plaintiffs alleged that Franklin County Commissioner elections exhibited racially polarized voting between 2008 and 2020.[145]

In 2022, Franklin County and the Latino Plaintiffs settled, reaching an agreement that would keep "most of east Pasco, which is heavily Latino, inside a single district rather than being divided among all three districts."[146] The agreement also stated that starting in 2024, all future elections for Franklin County's commissioners will be conducted using single-member districts

[141] Nina Shapiro, "Voting-rights battle in Washington state raised allegations of diluting Latino votes," *Seattle Times* (Seattle, WA), May 16, 2021, https://www.seattletimes.com/seattle-news/politics/voting-rights-battle-in-washington-state-raises-allegations-of-diluting-latino-votes/.
[142] Cameron Probert, "Franklin County sued for elections that discriminate against Latino voters," *Tri-Cities Herald* (Pasco, Kennewick, and Richland, WA), May 4, 2021, https://www.tri-cityherald.com/news/politics-government/article250897179.html.
[143] Cameron Probert, "Franklin County lawsuit settlement looks to give voters more of a voice," *Tri-Cities Herald* (Pasco, Kennewick, and Richland, WA), May 12, 2022, https://www.tri-cityherald.com/news/politics-government/election/article261301917.html.
[144] Amended Complaint for Injunctive Relief Under the Washington Voting Rights Act, *Portugal et al. v. Franklin County et al.*, No. 21-2-50210-11, Superior Court of Washington for Franklin County, 2021, 2.
[145] *Id.* at 8.
[146] Cameron Probert, "Franklin County lawsuit settlement looks to give voters more of a voice."

for both the primary and general elections.[147] The County also agreed to a draw a district map that does not crack the Latino vote.[148]

C. Lack of Bilingual Ballots and Assistance Despite VRA of 1975

Additionally, the state's and local jurisdictions' historical failure to provide information and election materials to voters with limited English skills, including Latinos, has hampered their opportunities to fully participate in elections.[149] Language accommodation is crucial for "democratic participation and political empowerment for all citizens."[150] After the state's English literacy test was banned under the amended Voting Rights Act of 1970, Latino voters in Central Washington were not provided with language accommodations.[151] For example, during the United Farm Worker Cooperative's 1972 voter registration drive, organizers realized that many were unaware that literacy tests were no longer allowed or that the residency requirement had changed from ninety to sixty days.[152] While voters whose primary language was English benefitted from being aware of registration changes, residency requirement changes, pertinent voting issues, voting locations, candidate filing information, and/or election results, Latino voters

[147] Cameron Probert, "Franklin County agrees to settle voting rights lawsuit. Elections will change," *Tri-Cities Herald* (Pasco, Kennewick, and Richland, WA), May 4, 2022, https://www.tri-cityherald.com/news/politics-government/article261045947.html. Joint Order Approving Settlement and Order of Dismissal, *Portugal et al. v. Franklin County et al.*, No. 21-2-50210-11, Superior Court of Washington for Franklin County, 2021.
[148] *Id.*
[149] In 1975, when the Voting Rights Act was expanded to include coverage for language minorities, Congress determined that the nation's education system had failed to properly educate racial minorities. In certain jurisdictions, it was evident that language minorities had higher illiteracy rates than the national average. See, "The Voting Rights Act, Ten Years After: A Report of the United States Commission on Civil Rights," United States Commission on Civil Rights (Washington D.C., 1975).
[150] Angelo N. Ancheta, "Language Accommodation and the Voting Rights Act," *California Law Review-Berkeley Law* (2007), https://www.law.berkeley.edu/files/ch_11_ancheta_3-9-07.pdf.
[151] Voting Rights Act of 1965, Public Law 89-110, codified as amended at 42 U.S.C. (1970).
[152] Jesus Lemos, "A History of the Chicano Political Involvement" (Master's Thesis, University of Washington, 1974), 101.

whose dominant language was not English were unaware of this information and therefore unable to exercise the right to vote equally.[153]

In January of 1975, the U.S. Commission on Civil Rights published a report called "The Voting Rights Act: Ten Years After." Their findings acknowledged that the "registration of Spanish-speaking voters throughout the United States [lagged] behind that of blacks and well behind that of whites."[154] To address the cultural challenges facing citizens with limited English proficiency, Congress in 1975 extended the VRA of 1965 and included Section 203, which required counties with more than 10,000 residents or over 5 percent of the population with limited English skills to provide bilingual "registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots" to bring these citizens into the voting process.[155]

In 1976, Yakima County was "designated by the Director of the Census as a jurisdiction subject to the requirement of Section 203 for persons of Spanish heritage."[156] And according to former Yakima County Auditor Bettie Ingram, Yakima County provided voting ballots in Spanish from 1976 to 1982.[157] Although the county provided bilingual ballots for six years, it failed to fully comply with Section 203 by not proving bilingual assistance at county offices and polling places.[158] Despite the availability of Spanish ballots, with no bilingual personnel to act as

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[153] The archived state's voters' pamphlets from the 1914-2002 all appear to be published in English only. Starting in 2003, the pamphlets include a reference that the information was available in languages other than English. See "Elections: Archived Voters' Pamphlets since 1914," Washington Secretary of State, https://www.sos.wa.gov/elections/voters-pamphlets.aspx.

[154] United States Commission on Civil Rights, *1975 Commission on Civil Rights Report*, Washington: U.S. Government Printing Office, 1975, 57.

[155] Voting Rights Act Amendments of 1975, Voting Rights Act, Section 203, Public Law No. 94-73.

[156] *United States of America v. Yakima County, Corky Mattingly, Yakima County Auditor, et al*., CV-04-3072-LRS, Eastern District of Washington, Yakima Division, 2004.

[157] Tom Roeder, "Yakima County Had English, Spanish Ballots 20 Years Ago," *Yakima Herald-Republic* (Yakima, WA), August11, 2002.

[158] Tom Roeder, "Yakima County Had English, Spanish Ballots 20 Years Ago," *Yakima Herald-Republic* (Yakima, WA), August 11, 2002, and Luis Ricardo Fraga, "Expert Report Submitted on Behalf of Plaintiffs in Montes v. City

mediators in the registration process, Latinos in Yakima County were less likely to turn out to vote. In Yakima, Washington, the county's largest city, a full-time bilingual coordinator would be hired only in 2004.[159] Prior to that hiring, Latinos with limited English skills had no help to effectively participate in electoral politics.

After decades of Washington and, in particular, Yakima County, doing little to nothing to enable Latino registration and voting, the Department of Justice (DOJ) intervened in 2002.[160] The DOJ observed that the County's Latino population from 1990 to 2000 grew by 77 percent, and "over the same period, the number of people who said they didn't speak English well doubled from 8 to 16 percent of the population."[161] Therefore, in 2002, county officials were formally notified by the DOJ that Yakima County had to provide bilingual materials to voters with limited English skills under Section 203.[162] Subsequently, Yakima County officials were "mandated" to provide bilingual ballots and hire bilingual registrars to assist Latino voters.[163]

In 2004, the Justice Department released a report stating that the county had made progress but found that "hostility to bilingual election workers and Spanish-speaking voters continues to be an issue in Yakima County."[164] The DOJ filed a complaint against Yakima for violating Section 203 of the Voting Rights Act and outlined the County's deficiencies.[165] Prior to the case's adjudication, the county reached an agreement with the DOJ that it did "not admit to

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of Yakima," *Rogelio Montes and Mateo Arteaga et al. v. City of Yakima et al.*, No. 12-CV-3108-TOR, United States District Court, E.D. Washington, 2014, 41-42.

[159] Lázaro Cárrion, "Voting Rights of Latinos in Yakima and Enforcement by the State," *The State of the State for Washington Latinos*, Whitman College, 2008, walatinos.org.

[160] Tom Roeder, "Bilingual Election Ballots Mandated: Demographic Changes in Yakima County Trigger Change Under Voting Rights Act," *Yakima Herald-Republic* (Yakima, WA), August 3, 2002.

[161] *Id.*

[162] *Id.*

[163] *Id.*

[164] "County Makes Progress in Helping Spanish-Speaking," *Seattle Post-Intelligencer* (Seattle, WA), October 25, 2004.

[165] Complaint, *United States of America v. Yakima County, Corky Mattingly, Yakima County Auditor, et al*., Civic No. CV-04-3072-LRS, United States District Court for Eastern District Yakima Division, July 6, 2004.

the allegations of the complaint" but agreed to comply with the recommendations of the Justice Department in a consent decree.[166]

Presently, King, Adams, Franklin, and Yakima counties are required to provide bilingual materials and assistance to Latino voters under Section 203.[167] Latino voters in Washington, particularly those with limited English skills, continue to face language barriers to register and vote. The percent of Spanish speakers with limited English proficiency (LEP) is 38.1.[168] And studies have shown that LEP voters have much lower participation rates than non-LEP voters.[169] To increase their registration and turnout rate, residents in Franklin County have argued that city council meetings (especially related to redistricting) need to be translated from English to Spanish.[170] Israel Delamor stated, "I keep hearing that people are not getting information. So, if I am somebody speaking Spanish, how can I get this information that needs to be provided. If we are trying to reach the Latino community, how can I access that? Is it being accessible in Spanish too?" Unfortunately, in places like Yakima County and Franklin County, city meetings will continue to be conducted in English only, to the detriment of its LEP constituents.

Over the last several decades, there have been multiple court cases in Washington's Yakima Valley and Pasco areas challenging English literacy tests, at-large elections systems, and

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[166] Consent Decree, *United States of America v. Yakima County, Corky Mattingly, Yakima County Auditor, et al*., CV-04-3072-LRS, United States District Court for Eastern District Yakima Division, September 3, 2004, 4.
[167] U.S. Census Bureau, Determinations Under Section 203, Federal Register Notice (Dec. 8, 2021, https://www.govinfo.gov/content/pkg/FR-2021-12-08/pdf/2021-26547.pdf; Joy Borkholder, "Investigation finds Latino ballots in WA more likely to be rejected," *Crosscut*, February 15, 2021, https://crosscut.com/politics/2021/02/investigation-finds-latino-ballots-wa-more-likely-be-rejected.
[168] State Immigration Data Profiles: Washington (2019) and United States (2019), Migration Policy Institute, https://www.migrationpolicy.org/data/state-profiles/state/language/WA/US.
[169] Terin M Barbas, "We Count Too-Ending the Disenfranchisement of Limited English Proficiency Voters," *Florida State University Law Rev.* 37 (2009): 189, and Jocelyn Benson Friedrichs. "Su Voto es su Voz-Incorporating Voters of Limited English Proficiency into American Democracy," *Boston College Law Review* 48 (2007): 251.
[170] Johanna Bejarano, "Franklin County Latino Population Wants More Redistricting Information in Spanish," Northwest Public Broadcasting, October 15, 2021, https://www.nwpb.org/2021/10/15/franklin-county-latino-population-wants-more-redistricting-information-in-spanish/.

the lack of bilingual materials and assistance. These cases and the circumstances surrounding them provide evidence of the extensive history of voting-related discrimination against Latinos in Washington and, in particular, in the cities of Yakima and Pasco.

Senate Factor 3: Voting Practices or Procedures That Tend to Enhance the Opportunity for Discrimination

There is evidence of historical and contemporary voter suppression tactics that obstruct Latino voters' ability to fully and effectively cast a ballot, such as off-year elections and disproportionate signature rejections.

A. Off-Year Elections

Voter registration and turnout statistics in Yakima and Franklin Counties demonstrate that Latino voting power in the 15th legislative district is weakened because more state legislative elections occur during non-presidential years, when the voter turnout including that of Latino voters is lowest. Even in presidential years, where voter turnout rates tend to be higher for Latino and white voters, turnout rates of Latino voters in Yakima County are lower when compared with white voters (see Table 2). In Yakima County, where election turnout data is available by Spanish surname, there is clear evidence that the voter turnout rate is much lower for Latinos in non-presidential election years than in presidential election years.[171] According to the County's own data, in elections from 2016 to 2020, voters with non-Spanish surnames voted at twice the rate or higher than Spanish surname voters.[172] And overall in the state, Table 3 illustrates that voter registration among Latinos is lower than white voters.[173]

[171] "Turnout Statistics" and "Voting by Surname," Yakima County Webpage, https://www.yakimacounty.us/1120/Turnout-Statistics.
[172] *Id.*
[173] "Voting and Registration in the Election of 2020," U.S. Census Data, April 2021, https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html.

Off-year elections therefore act to enhance the opportunity for discrimination against Latinos, as there continues to be "a very low amount of Latino or specifically Spanish surname voter turnout in the Yakima Valley."[174] Because Latinos register at lower rates than whites and their turnout is lower especially in non-presidential election years, their chance of electing a preferred candidate is drastically reduced.

Table 2: Yakima County Voter Turnout Rates (General Election Results Only)[175]

	Presidential Election Year (Y or N)	Registered Voters	Total Ballots Cast	County Turnout Rate	Non-Spanish Surname Turnout	Spanish Surname Turnout Rate
Yakima County						
2020	Yes	127,692	96,985	75.95%	84%	56%
2019	No	119,198	13,026	27.65%	40%	16%
2018	No	115,873	71,585	61.78%	70%	41%
2017	No	114,669	32,207	28.09%	34%	13%
2016	Yes	114,075	80,912	70.93%	76%	56%

Table 3: Reported Voting and Registration Between Latinos and Whites in the Elections of November 2014, 2016, 2018, and 2020 in Washington[176]

	Percent Registered (citizen)	Percent Voted (citizen)

[174] Johanna Bejarano, "Concerns About Low Voter Turnout Amongst Latinos in Washington," Northwest Public Broadcasting, https://www.nwpb.org/2022/03/29/concerns-about-low-voter-turnout-amongst-latinos-in-washington-state/.

[175] "Turnout Statistics" and "Voting by Surname," Yakima County Webpage, https://www.yakimacounty.us/1120/Turnout-Statistics, and "Election Results," Frank County Auditor's Office Webpage, http://www.co.franklin.wa.us/auditor/elections/electionresults.php.

[176] "Voting and Registration in Election of 2014, U.S. Census Data, July 2015, https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-577.html, Voting and Registration in the Election of 2016," U.S. Census Data, May 2017, https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-580.html, "Voting and Registration in Election of 2018, "U.S. Census Data, April 2019, https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-583.html, and "Voting and Registration in the Election of 2020," U.S. Census Data, April 2021, https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html.

2020		
White	78.2%	75.0%
Latino	61.0%	53.7%
2018		
White	74.6%	63.4%
Latino	57.2%	43.7%
2016		
White	78.2%	69.5%
Latino	62.9%	47.2%
2014		
White	71.6%	53.0%
Latino	44.8%	25.1%

B. Disproportionate Signature Rejection

A non-profit agency recently uncovered that Latino voters in Washington have a higher than average ballot signature rejection rate, and it is especially high in the Yakima Valley and Pasco region.[177] For the November 2020 election, Latinos had their ballots rejected for signature mismatch at "four times the rate of other voters" and in "eight counties, Latino voters contributed 17% of accepted ballots…but 46% of ballot rejection."[178] In Yakima County, Latino voters' ballots were rejected 7.5 times more than other voters and in Franklin County, the rejection rate was 3.9 times greater for Latino voters.[179] Because the ballots of people with Spanish surnames

[177] Joy Borkholder, "Investigation finds Latino ballots in WA more likely to be rejected."
[178] *Id.*
[179] The rejection rate for the other six counties is: Adams, 4.2 percent, Benton, 3.4 percent, Chelan, 6.3 percent, Douglas, 10.4 percent, Grant, 5.1 percent, and Walla Walla, 3.8 percent. Joy Borkholder, "Investigation finds Latino ballots in WA more likely to be rejected."

(i.e. Latinos) are rejected at a higher rate than white people in the Yakima Valley and Pasco region, the use of verification of signatures places these voters at a disadvantage.[180] Latino voters in Benton, Yakima, and Chelan Counties have filed a lawsuit claiming that the "ballot signature matching provisions and processes" have a "discriminatory application," denying the voting rights of over 4,500 Latino voters in the November 2020 elections.[181]

Senate Factor 5: Latinos Bear the Effects of Discrimination in Ways That Hinder Their Ability to Participate Effectively in the Political Process

There is a long history of discrimination in Central Washington, including the Yakima County and Pasco region, that has led to significant disparities between whites and Latinos that still exist today. As demonstrated below, Latinos in this region are at a disadvantage relative to whites in education, housing, socioeconomic status and employment, health, and criminal justice. These disparities hinder and limit the ability of Latino people to participate fully in the electoral process.

In the region assessed, I include statistical data for Adams, Benton, and Grant Counties (in addition to Yakima and Franklin Counties) because those counties are joined with the Yakima Valley and Pasco region in the enacted legislative districts 14 and 15. Much of the data gathered and analyzed comes from the American Community Survey, which annually produces statistical information.[182]

A. Education

[180] Mike Baker, "Rejected Mail Ballots Are Showing Racial Disparities," *New York Times* (New York, New York), February 2, 2022, https://www.nytimes.com/2022/02/02/us/mail-voting-black-latino.html.
[181] Kristine M. Kraemer, "Benton County officials sued for rejecting Latino voter ballots 3+ times more often," *Tri-City Herald* (Pasco, Kennewick, and Richland, WA), May 24, 2021, https://www.tri-cityherald.com/news/politics-government/election/article251484873.html, and Amended Complaint for Declaratory and Injunctive Relief, *Reyes, et al. v. Chilton, et al.*, No. 4:21-CV-5075, United States District Court, E.D. Washington, May 7, 2021.
[182] "Design and Methodology Report," American Community Survey, U.S. Census Bureau, https://www.census.gov/programs-surveys/acs/methodology/design-and-methodology.html.

Washington has a history of segregation and discrimination in its education system, the impact of which continues today. Although *Brown v. Board of Education* (1954) outlawed segregation, ethnic Mexicans in K-12 schooling have and continue to be "linguistically segregated" as school officials in Washington (and other states) label these students as "English language learners" (ELL), many of whom come from migrant farm worker backgrounds.[183] This has resulted in the segregation of ELL in schools, limiting their "exposure to English of their non-ELL counterparts."[184] For example, in June 1970, the Washington State Board Against Discrimination (WSBAD) conducted an investigation into the North Franklin and Kahlotus School Districts located in Franklin County.[185] The report stated that the North Franklin School District seemed unwilling to accept Latino migrant students unless they were placed in a segregated school. The school district identified a building for ELL but insisted that the state had to provide the district with $41,000 to re-open the facility. According to the report by WSBAD, a labor leader commented that placing these students in a different school "would be against the law since this would be a segregated school."[186] State officials declined the proposal by the Franklin School District. Instead, the migrant children were accepted at the Kahlotus School District where they fared no better. Hebert Valdez, Director of the Kahlotus Migrant Program,

[183] Beatriz Arias, "School Desegregation, Linguistic Segregation, and Access to English for Latino Students," *Journal of Educational Controversy* 2:1 (2007), https://cedar.wwu.edu/cgi/viewcontent.cgi?article=1034&context=jec. On Chicanos and school segregation, see David G. García, *Strategies of Segregation: Race, Residence, and the Struggle for Educational Equality* (University of California Press, 2018); and Richard R. Valencia, *Chicano Students and the Courts: The Mexican American Legal Struggle for Educational Equality* (United Kingdom: NYU Press, 2010). Brown v. Board of Education (1954) prohibited the segregation of schools based on race. See, *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

[184] Beatriz Arias, "School Desegregation, Linguistic Segregation, and Access to English for Latino Students," 9.

[185] "The Kahlotus School District's Migrant Program, March 2 to June 2, 1970, A Report of an Investigation Conducted by the Washington State Board Against Discrimination from May 28 to June 18, 1970," Theresa Aragon de Shepro papers, Box 2, Folder 8, Record Group No. 19.16.2913. Special Collections, University of Washington Libraries, Seattle, Washington.

[186] The Kahlotus School District's Migrant Program, March 2 to June 2, 1970, A Report of an Investigation Conducted by the Washington State Board Against Discrimination from May 28 to June 18, 1970," Theresa Aragon de Shepro papers.

would write to Washington's Superintendent that the students were segregated, provided with limited instructional materials, district staff had no training related to the needs of migrant students, and no certificated teacher was hired to instruct the students.[187] After Valdez raised the issue of segregation, he was immediately terminated by the Kahlotus School District's superintendent.[188]

With a keen understanding that Chicano youth faced numerous barriers in Washington's K-12 education system including segregation, Chicano college and university students have demanded that school administrators recruit, retain, and graduate more Chicano students. At institutions of higher education, including the University of Washington, Washington State University, and Yakima Valley College (formerly Yakima Valley Community College), students have protested and occupied buildings to bring attention to their issues.[189]

Gaps in educational opportunities and attainment between Latino and white students are not relics of the twentieth century. In 2018, Latino students had a four-year high school graduation rate of 75.2 percent, which was lower than their white counterparts who graduated at a rate of almost 83 percent.[190] And of the 12,858 Latino students who received a diploma, only 99 graduated with their associate degree (0.77 percent).[191] Of the 39,549 white students who

[187] Letter from Hebert Valdez to Dr. Louis Bruno, Superintendent, Theresa Aragon de Shepro papers, Box 2, Folder 8, Record Group No. 19.16.2913. Special Collections, University of Washington Libraries, Seattle, Washington.
[188] "Migrant School Head Suspended," *Tri-City Herald* (Pasco, Kennewick, Richland, WA), May 25, 1970.
[189] On the Chicano Student Movement in Washington State see: Oscar Rosales Casteñeda, "El Movimiento in Washington State: Activism in the Yakima Valley and Puget Sound regions," in *We Are Aztlán: Chicanx Histories in the Northern Borderlands*, edited by Jerry Garcia (Washington State University Press, 2017), and Oscar Rosales Casteñeda, "The Chicano Movement in Washington State, 1967-2006," *The Seattle Civil Rights and Labor History Project*, University of Washington, https://depts.washington.edu/civilr/Chicanomovement_part1.htm; and Daniel Estrada and Richard Santillan, "Chicanos in the Northwest and the Midwest United States: A History of Cultural and Political Commonality," *Perspectives in Mexican American Studies* 6 (1997): 194-227.
[190] Deb Came, "Report to the Legislature: Graduation and Dropout Statistics," Office of Superintendent of Public Instruction, 2019, https://www.k12.wa.us/sites/default/files/public/communications/2019-01-GraduationDropoutStatistics.pdf, 6.
[191] *Id.*

received a diploma, 678 (1.71 percent) received their associate degree.[192] With respect to dropout rates, an estimated 15 percent of Latinos left school early, in comparison with 9.9 percent of whites.[193]

Racial discrimination and a lack of resources have contributed to the gaps in educational opportunities for Latino students. Latino parents encounter significant communication barriers with school staff and teachers because bilingual services are not always available.[194] In response to Latino parents' grievances, the state has only recently passed a "new law [that] requires school districts to create plans for helping families access interpretation services for parents when they must speak with school officials."[195]

Moreover, Latino students in the K-12 education system face racial discrimination that hinders their academic potential. In 2005, Latino parents litigated against the Brewster School District in Brewster, Washington. Their case argued that "Offensive comments, name-calling, graffiti and derogatory jokes about Latinos are tolerated and accepted by district administrators and employees; The school district implemented a curriculum that demeans Latino students; Teachers have inappropriately used racially demeaning language in class; [and] No meaningful racial harassment or diversity training has been provided."[196] The case was settled and the

[192] *Id.*
[193] Deb Came, "Report to the Legislature: Graduation and Dropout Statistics," 11.
[194] Francis Contreras, "Education," *Washington State Latino/Hispanic Assessment Report, 2009-2010*, Washington State Commission on Hispanic Affairs, https://static1.squarespace.com/static/5915f65ed482e94b3f60b25f/t/5bef266df950b73a0a722bf5/1542399602953/2009-2010+CHA+Assessment+Report+-+English.pdf, 24.
[195] Venice Buhain, "Family access to interpreters in schools expands under new WA laws," *Crosscut*, April 26, 2022, https://crosscut.com/news/2022/04/family-access-interpreters-schools-expands-under-new-wa-laws.
[196] "Parents sue district over treatment of Latinos," *Seattle Times* (Seattle, WA), November 2, 2005.

district was required to take effective steps to prevent discrimination against its Latino student body.[197]

In Adams, Benton, Franklin, Grant, and Yakima Counties, there remain stark educational attainment differences between Latino and white residents (see Table 4). An estimated 45 percent of Latinos in Adams County have a high school diploma versus 90 percent of white residents. And while 90 percent of white people have a bachelor's degree or higher, a much smaller percentage of Latinos (26.2 percent) have received the same degree. In Benton County, only about 72 percent of Latino people have a high school diploma, compared to nearly 94 percent of white residents (a difference of 22 percent). A comparable disparity exists in the percentage of residents who have a bachelor's degree or higher, with the rate for white residents (32 percent) being more than double that of Latino residents (14 percent). In Franklin County, 56 percent of Latinos had a high school diploma, compared to 95 percent of whites. And only seven percent of Latinos have a bachelor's degree, which is more than three times lower than the rate for white residents (28 percent). An estimated 52 percent of Latinos in Grant County have a high school diploma in comparison to 88 percent of white residents. And while 21 percent of white people have a bachelor's degree or higher, a smaller percentage of Latinos (7.9 percent) have received the same degree. Similar trends appear in Yakima County, where the percentage of Latino people who have graduated from high school is 50 percent versus 77 percent for whites. And only six percent of Latino people in Yakima County possess a bachelor's degree or higher, a rate which is less than a third than that of whites (19.5 percent).

[197] "Discrimination lawsuit settled in Brewster," *Wenatchee World* (Wenatchee, WA), October 16, 2006. Opinion of the Court, *Anna Mendoza et at. v. Brewster School District*, No. CV-05-327-RHW, United States District Court, E.D. Washington, December 27, 2006.

Table 4. White and Latino Educational Inequalities in Adams, Benton, Franklin, Grant, and Yakima Counties, 2020[198]

	Latino	White
Adams County		
High School Graduate	45.8%	90.7%
Bachelor's Degree or Higher	3.6%	26.2%
Benton County		
High School Graduate	72.3%	93.4%
Bachelor's Degree or Higher	14.3%	32.8%
Franklin County		
High School Graduate	55.8%	95.0%
Bachelor's Degree or Higher	7.0%	28.2%
Grant County		
High School Graduate	51.9%	88.0%
Bachelor's Degree or Higher	7.9%	21.3%
Yakima County		
High School Graduate	50.0%	77%
Bachelor's Degree or Higher	6.5%	19.5%

B. Housing

As discussed above on pages 11-20, historically and continuing into present day, Washington's multi-billion-dollar agricultural industry, including food processing, has relied on Latino workers including a sizeable migrant and seasonal labor force. The state ranks first in

[198] U.S. Census Bureau, *American Community Survey 5-Year Estimates Subject Tables*, 2020

U.S. production of eleven commodities, including apples, sweet cherries, pears, hops, and red raspberries.[199] These labor-intensive crops depend on farm workers because some cannot be harvested by machines. The dependence of the agricultural industry on Latino workers has contributed to the overall growth of Latino people in Washington (see Table 5).

Table 5. Latino Population in Washington, 2000-2020[200]

	2000	2010	2020
Total Population	441,510	755,790	1,022,667
% of State Population	7.5%	11.2%	13.7%

Although agriculture is a cornerstone of the state's economy, housing for Latino farm workers has been and continues to be scarce, inadequate, overcrowded, substandard, and sometimes entirely lacking. According to Washington's Department of Community, Trade, and Economic Development (CTED), rural communities are unable to provide sufficient housing for Latino migrant and seasonal workers. "During the peak harvest seasons [July-October], a critical shortage of housing forces hundreds of migrant workers and their families to live in substandard and overcrowded housing, or to camp illegally, posing health and safety hazards to themselves and to the community," stated the CTED.[201] The CTED's report titled, "Farmworker Housing in Washington State: Safe, Decent, and Affordable," explained that "for many years" the state had been aware of the housing crisis but had failed to provide a solution. In fact, in 1997, the *Seattle Post-Intelligencer*, one of the state's largest newspapers, used its front page to highlight the

[199] "Agriculture: A Cornerstone of Washington's Economy," Washington State Department of Agriculture, https://agr.wa.gov/washington-agriculture.
[200] "Washington Data and Research," Washington's Office of Financial Management Website https://ofm.wa.gov/washington-data-research/statewide-data/washington-trends/population-changes/population-hispaniclatino-origin.
[201] Janet Abbett, "Farmworker Housing in Washington State: Safe, Decent, and Affordable," Department of Community, Trade, and Economic Development, State of Washington, https://www.commerce.wa.gov/wp-content/uploads/2018/06/HTF-Reports-Farm-Worker-Housing-Report.pdf.

horrible housing conditions in Mattawa, Washington (in Grant County). The photographs showed Latino farm workers and their families living outdoors along the Columbia River in "makeshift plastic tents" and "cobbled-together cardboard walls" with no roof.[202]

Despite the severe need for Latino farm worker housing, the local white community has been strongly opposed to the development of housing projects. In 2007, the Washington State Human Rights Commission (WSHRC) announced that the agency was "increasingly concerned about race and national origin discrimination against farmworkers in the area of housing."[203] The WSHRC collected statements that demonstrated white people's opposition to building farm worker housing.

> The Office of Rural and Farmworker Housing, a non-profit advocacy organization, filed two complaints with the WSHRC in 2002. The complaints were referred to the US Department of Justice due to their adverse impact on Hispanic farmworkers. Elements in both Pasco and Benton City attempted to prevent the construction of farmworker housing in their communities. In the Benton City case, some members of the community itself voiced loud opposition to the housing and were on record as stating that they did not want Benton City to become like Mabton, a mostly Latino community.
>
> In May 2007, the WSHRC hosted a Commission forum in Shelton, WA. A number of these attendees also spoke out about national origin discrimination in the area of housing.
>
> In July 2006, it was reported at a WSHRC forum that a contractor was renting a two bedroom house to 25 men at $200 a person in Sunnyside.
>
> In Wenatchee a trailer park was closed. The owner generously offered to relocate the residents. The community opposed it. The owner was unable to relocate the trailer park.
>
> In Royal City in 2001, 22 farmworker housing complaints were filed with HUD. The owner was charging inconsistent rents, giving fines

[202] "Their Homes Are Not Castles," *Seattle Post-Intelligencer* (Seattle, WA), November 23, 1997.
[203] "Farm Worker Housing and the Washington Law Against Discrimination," Briefing Paper, 2007, Washington State Human Rights Commission, https://www.digitalarchives.wa.gov/do/9DCE950092FFF83BFAC8FF3CDB39E522.pdf,1.

> for city ordinance violations, charging for children that worked in the fields. Nothing was done.
>
> In Mattawa, singlewide trailer houses are divided into apartments and rented to farmworkers. There were reports of raw sewage on the ground.
>
> In response to issues in Wenatchee, the WSHRC hosted a community forum in September 2007. Forum attendees spoke about many of the same issues, including lack of running water and electricity, unhealthy living conditions, shortage of housing, families forced to live in the orchards, and a neighborhood lawsuit to stop the construction of temporary migrant farmworkers in a neighborhood.[204]

The white community claimed that farm worker housing would create a high-density area of low-income housing and often used zoning rules and other regulations to prevent the construction of new housing.[205] Their actions, however, were not without a racial effect. It ensured that their communities would remain exclusively white neighborhoods.

In Yakima County, affordable housing for Latinos continues to be a challenge. Construction came to a standstill during the 2008 housing crisis and, "combined with a growing population and a small tax base with which to develop roads and infrastructure for new development, meant demand for housing outstripped supply," the county never fully recovered, stated the county's human services director.[206] The lack of housing units has contributed to Yakima County's homeless population, which doubled between 2019 to 2020.[207] Furthermore, in the City of Yakima, its city council is looking into how "a housing repair program funded by federal dollars" disproportionally helped white families.[208] "Of the 87 families assisted by the

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[204] *Id.* at 3-4.
[205] *Id.* at 4.
[206] Sydney Brownston, "Washington State's Rise in Homelessness Outpaced the Nation's, According to Report," *Seattle Times* (Seattle, WA), March 20, 2021.
[207] *Id.*
[208] Kate Smith, "Yakima City Council directs committee to review housing program after reported ethnic disparity," *Yakima Herald-Republic* (Yakima, WA), May 4, 2022, https://www.yakimaherald.com/news/local/yakima-city-council-directs-committee-to-review-housing-program-after-reported-ethnic-disparity/article_d9b4cbc7-e1ce-51a0-bc0b-95cfab5a5218.html.

program in 2021, about 96 percent of the families were white and about 25 percent of the families were Hispanic," according to U.S. Office of Housing and Urban Development.[209]

Given these and other factors, there are substantial inequalities in homeownership rates between Latinos and whites in the five selected counties (see Table 6). The white homeownership rate is 72 percent in Adams County, but its only 44 percent for Latinos. In Benton County, the white ownership rate is 87 percent while the Latino rate is drastically low at 12 percent. The homeownership percentage for whites in Franklin is 76 percent but only 35 percent for Latinos. The white homeownership is 79 percent versus 25 percent for Latinos in Grant County. And in Yakima County, 81 percent of whites reported owning their home, whereas the ownership rate for Latinos was 30 percent. The disparity in percentage of points in homeownership between whites and Latinos was almost 28 (Adams), 75 (Benton), 40 (Franklin), 54 (Grant) and 51 (Yakima).

Table 6. White and Latino Homeownership Rates in Adams, Benton, Franklin, Grant, and Yakima Counties, 2020[210]

	Latino	White
Adams County		
Homeownership Rate	44.9%	72.6%
Benton County		
Homeownership Rate	12.2%	87.1%
Franklin County		
Homeownership Rate	35.4%	76.2%
Grant County		
Homeownership Rate	24.8%	79.3%

[209] *Id.*
[210] U.S. Census Bureau, *American Community Survey 5-Year Estimates Subject Tables*, 2020

Yakima County		
Homeownership Rate	30.6%	81.8%

C. Socioeconomic Status and Employment

Latinos in Adams, Benton, Franklin, Grant, and Yakima Counties also experience adverse outcomes when it comes to socioeconomic status and employment. There are significant disparities in median household income and poverty levels in those counties (see Table 7). In Adams County, the median income for Latinos was $47,889 compared to $55,460 for whites with a difference of $7,571. On average, 29.9 percent of Latino people in Adams County live below the poverty line compared to only 18.7 percent of whites. Whites have a median income of $74,706 in Benton County, while for Latinos it is much lower at $51,590. The disparity is $23,116. Additionally, in this county, only 8.6 percent of whites live below the poverty line, whereas 21.6 percent of Latinos do. In Franklin County, the median income for Latinos was $56,321 compared to $71,882 for whites with a difference of $15,562. On average, 18.8 percent of Latino people in Franklin County live below the poverty line compared to only 10.9 percent of whites. Similar patterns are observable in Grant County where the median household income is $64,530 for whites versus $50,143 for Latinos. In Grant County, 21 percent of Latinos have incomes below the poverty level compared with just 12.4 percent of whites. For Yakima County, whites had a median household income of $56,287 whereas Latinos had an income of only $49,523. Further, 20.5 percent of Latino people in Yakima County live below the poverty level, compared to 14.3 percent of whites.

Table 7. White and Latino Median House Incomes and Poverty Rates in Adams, Benton, Franklin, Grant, and Yakima Counties, 2020[211]

	Latino	White
Adams County		
Median Household Income	$47,889	$55,360
Below Poverty Level	29.9%	18.7%
Benton County		
Median Household Income	$51,859	$74,706
Below Poverty Level	21.6%	8.6%
Franklin County		
Median Household Income	$56,321	$71,882
Below Poverty Level	18.8%	10.9%
Grant County		
Median Household Income	$50,143	$64,530
Below Poverty Level	21.0%	12.4%
Yakima County		
Median Household Income	$49,523	$56,287
Below Poverty Level	20.5%	14.3%

There are also noticeable socio-demographic disparities in relation to rates of unemployment in Adams, Benton, Franklin, Grant, and Yakima Counties (see Table 8). Across all five counties, Latino people on average had higher unemployment rates than whites.

[211] U.S. Census Bureau, American Community Survey, *5-Year Estimates Subject Tables*, 2020

Table 8. White and Latino Unemployment Rates in Adams, Benton, Franklin, Grant, and Yakima Counties, 2020[212]

	Latino	White
Adams County		
Unemployment Rate	6.5%	5.9%
Benton County		
Unemployment Rate	6.9%	4.9%
Franklin County		
Unemployment Rate	6.5%	5.3%
Grant County		
Unemployment Rate	6.4%	5.0%
Yakima County		
Unemployment Rate	8.3%	5.2%

D. Health

Although health care coverage and access to care among Latinos has improved since the passage of the Affordable Care Act in 2010, "the uninsured rate among Latinos [in the U.S.] is still more than double that among non-Latino Whites (20 vs. 8 percent in 2019)."[213] Similar to this nationwide trend, Latino people in Washington are uninsured at much higher rates compared to whites (see Table 9). The health care disparity was greatest in Grant County with a 13 percentage point difference, followed by a twelve percent difference in Adams, nine percent in Grant, eight percent in Franklin, and seven percent in Yakima. At least in part because of this lack of access, Latino health care providers such as the Yakima Valley Farm Workers Clinic and

[212] U.S. Census Bureau, *American Community Survey 5-Year Estimates Subject Tables*, 2020
[213] "Health Insurance Coverage and Access to Care Among Latins: Recent Trends and Key Challenges," Office of Health Policy, Issue Brief, October 8, 2021, https://aspe.hhs.gov/sites/default/files/documents/68c78e2fb15209dd191cf9b0b1380fb8/ASPE_Latino_Health_Coverage_IB.pdf.

Sear-Mar Community Health Center reported that Latinos sought health care mostly in emergency situations instead of using preventative health.[214]

Table 9. White and Latino Uninsured Healthcare Rates in Adams, Benton, Franklin, Grant, and Yakima Counties, 2020[215]

	Latino	White
Adams		
Uninsured Healthcare Rate	21.9%	8.8%
Benton County		
Uninsured Healthcare Rate	15.4%	6.0%
Franklin County		
Uninsured Healthcare Rate	20.2%	11.3%
Grant County		
Uninsured Healthcare Rate	20.6%	7.0%
Yakima County		
Uninsured Healthcare Rate	18.6%	10.8%

Latinos, especially farm workers, were also disproportionally impacted by COVID-19. Although Latinos were only 13 percent of the population, they were almost half of the state's COVID-19 cases.[216] Some Latino farm workers were hesitant to get tested because "they were under the impression they would have to pay to get tested for COVID-19."[217] Latino leaders

[214] Monica Maria Becerril Ugade, "Health," *Washington State Latino/Hispanic Assessment Report, 2009-2010*, Washington State Commission on Hispanic Affairs, 26-28, https://static1.squarespace.com/static/5915f65ed482e94b3f60b25f/t/5bef266df950b73a0a722bf5/1542399602953/2009-2010+CHA+Assessment+Report+-+English.pdf, 26-28.
[215] U.S. Census Bureau, *American Community Survey 5-Year Estimates Subject Tables*, 2020
[216] Lex Talamo, "Just 13% of the Washington is Hispanic, but they're nearly half of the state's COVID-19 cases. Community leaders say more needs to be done," *Yakima Herald-Republic* (Yakima, WA), July 24, 2020, https://www.yakimaherald.com/news/local/just-13-of-washington-is-hispanic-but-theyre-nearly-half-the-states-covid-19-cases/article_3edca57f-34c5-573a-ac19-86f3c61ddbcd.html. On the spread of COVID-19 in Washington State, see Barbara Baquero et al., "Understanding and Addressing Latinx COVID-19 Disparities in Washington state, *Health Education Behavior* 47:6 (December 2020), 845-849.
[217] *Id.*

expressed that county health districts had not worked closely enough with Latinos and that there was "misinformation and gaps in communication."[218] For example, the Latino Community Fund stated that the "lack of accurate information in Spanish that is easily accessible about coronavirus vaccines" contributed to higher COVID-19 rates, because there was "a lot of misinformation" in the Latino community.[219]

Contributing to the high rate of COVID-19 cases among the Latino population were large agricultural employers that did not want on-site testing.[220] Health officers stated that employers "either declined our one-site support and/or refused testing when recommended," because positive results would potentially force them to "lose a large percentage of their workforce if wide-scale testing found more employees with COVID-19."[221] Due to employers' unwillingness to provide testing, COVID-19 outbreaks were reported in fruit and meat packing facilities in Yakima and Franklin Counties, some of which led to protests by Latino workers.[222]

E. Criminal Justice

Limited economic opportunities, stereotyping, ineffective legal representation, lack of representation on juries, and unequal sentencing have created an inequitable criminal justice system for Latino people in Washington.[223] For example, Latino youth were incarcerated at a

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[218] *Id.*

[219] Margaux Maxwell, "Yakima County health forum combats vaccine misinformation in the Latino community," *Yakima Herald-Republic* (Yakima, WA), February 11, 2021, https://www.yakimaherald.com/news/local/lower_valley/yakima-county-health-forum-combats-vaccine-misinformation-in-the-latino-community/article_aa9e246f-7b1e-5261-bf91-fe621c246e82.html.

[220] Enrique Pérez De La Rosa, "How Yakima County Became the West Coast's COVID-19 Hot Spot," Northwest Public Broadcasting, June 14, 2020.

[221] *Id.*

[222] Mai Hoang, "Protests underway at 3 Yakima Valley fruit packing houses," *Yakima Herald-Republic* (Yakima, WA), May 12, 2020, https://www.yakimaherald.com/news/local/protests-underway-at-3-yakima-valley-fruit-packing-houses/article_a2438dd7-5314-52a8-b2b6-f72747ec8760.html and Annette Cary, "All Tyson workers at plant near Tri-Cities to be tested for coronavirus. Cases reach 100," *Tri-City Herald* (Pasco, Kennewick, Richland, WA), April 22, 2020, https://www.tri-cityherald.com/news/coronavirus/article242186636.html.

[223] On scholarship related to the discriminatory treatment of Latinos in the criminal justice system, see Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New Press, 2020), and Martin Guevara Urbina and Sofia Espinoza Alvarez, eds., *Hispanics in the U.S. Criminal Justice System: Ethnicity,*

disproportionate rate in counties where Latino people were more than twenty-five percent of the population (see Table 10).

Table 10. Latino Rate of Incarceration in Select Counties, 2009[224]

	Rate of Incarceration	Latino County Population
Adams County	66.4%	54.1%
Franklin County	62.2%	59.3%
Grant County	47.1%	36.6%
Yakima County	55.3%	42.5%

A 2021 report on the state's criminal justice system documented key findings on "race disproportionality and disparity" in the system.[225] The study, which was submitted to the Washington State Supreme Court, uncovered that racial minorities disproportionately tended to be stopped, searched, arrested, convicted, sentenced to legal financial obligations, receive longer sentences, incarcerated, and "are more likely to be victims of police use of force."[226] Regarding Latinos specifically, the report found that they "are more likely to receive a standard sentence than any of the five sentencing alternatives."[227] In addition, Latinos are "statistically more likely to be subject to high discretion searches" than whites.[228] Latino youth represent only 22 percent of the state's youth population, but make up 28.3 percent of the juvenile detention population.[229]

Ideology, and Social Control (United States: Charles C Thomas, Publisher, 2018), Lupe S. Salinas, *U.S. Latinos and Criminal Injustice* (Michigan State University Press, 2015), and José Luis Morín, *Latino/a Rights and Justice in the United States: Perspectives and Approaches* (Carolina Academic Press, 2009),

[224] Adapted from the *Washington State Latino/Hispanic Assessment Report, 2009-2010*, Washington State Commission on Hispanic Affairs, 32, https://static1.squarespace.com/static/5915f65ed482e94b3f60b25f/t/5bef266df950b73a0a722bf5/1542399602953/2009-2010+CHA+Assessment+Report+-+English.pdf.

[225] Race and the Criminal Justice System, Task Force 2.0, "Race and Washington's Criminal Justice System: 2021 Report to the Washington Supreme Court" (2021), https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1116&context=korematsu_center.

[226] *Id*. at 2-4.

[227] *Id*. at H-3.

[228] *Id*. at K-4.

[229] *Id*. at M-7.

Another study found that Washington's Latinx youth are "at least 50% more likely to be held in a placement [facility] as are white youth."[230] Ultimately, the state's "Hispanic/Latino population is reported at 13% and prisons report a Hispanic population of 15.45%."[231] Therefore, Latinos' rate of incarceration is currently higher than their population.

Based on the findings of the 2021 "Race and Washington's Criminal Justice System" report, it is evident that Latinos bear the impacts of unequal policing. Latinos in Washington are 1.3 times more likely to be killed by law enforcement than whites. These numbers are even starker in Benton and Franklin Counties where Latinos are 1.9 times more likely to be killed by law enforcement and in Yakima County where Latinos are 2.5 times more likely to be killed by law enforcement.[232] This reality influences the community to challenge police brutality. For instance, in 2015, Antonio Zambrano-Montes was fatally shot by Pasco police for attempting to throw a rock at an officer, sparking "waves of protests" in the city.[233] The three officers involved in Zambrano-Montes' death would only be interviewed by investigators almost three months after the shooting.[234]

The socio-demographic disparities among Latino and white residents in education, housing, employment and socioeconomic status, health, and criminal justice are a direct result of a long history of racial discrimination that hinder this community from effectively participating in the electoral process. In Yakima County, the Latino voter registration and turnout rates are significantly lower than for whites (see Table 2, page 44). And in the state, the November 2016

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[230] Josh Rovner, "Latinx Disparities in Youth Incarceration," The Sentencing Project, July 15, 2021, https://www.sentencingproject.org/publications/latino-disparities-youth-incarceration/.
[231] Race and the Criminal Justice System, Task Force 2.0, "Race and Washington's Criminal Justice System: 2021 Report to the Washington Supreme Court," M-6.
[232] *Id*. at A-3.
[233] "Pasco police officers who shot Antonio Zambrano-Montes not questioned for months," The Guardian News, July 1, 2015, https://www.theguardian.com/us-news/2015/jul/02/pasco-police-officers-who-shot-antonio-zambrano-montes-not-questioned-for-months.
[234] *Id.*

and 2020 elections show that Latino voter registration and turnout percentages were well below whites (see Table 3, page 44).

Senate Factor 6: Use of Overt or Subtle Racial Appeals in Political Campaigns

In the Yakima Valley and Pasco region, candidates and elected government officials have made both overt and subtle racial appeals. Below are some examples of direct and indirect racial appeals.[235]

Ahead of the November 2021 elections in Franklin County, Commissioner Rocky Mullen, in a discussion about Latino voting issues, stated that apparently "non-citizens are voting in elections."[236] Mullen also declared that he was against redrawing the county's boundaries because, "I don't want to disenfranchise anyone in North Franklin County."[237] In these statements, Mullen was putting forth a myth that "non-citizens" were participating in elections and that by modifying the district boundaries, these voters would ostensibly disenfranchise white voters in the county.

In another racial appeal that non-citizens were allegedly voting, in 2016, Ron Anderson, candidate for the Board of Yakima County Commissioners, shared a post on his publicly-accessible Facebook page claiming that "illegals" were stealing our elections.[238] The post included an article titled, "Napolitano: California To Allow Illegal Immigrants to Vote for the Next President," with a caption reading, "Illegals being seduced into America by Democrats to Steal our Election. Act of Treason, Arrest all involved!"

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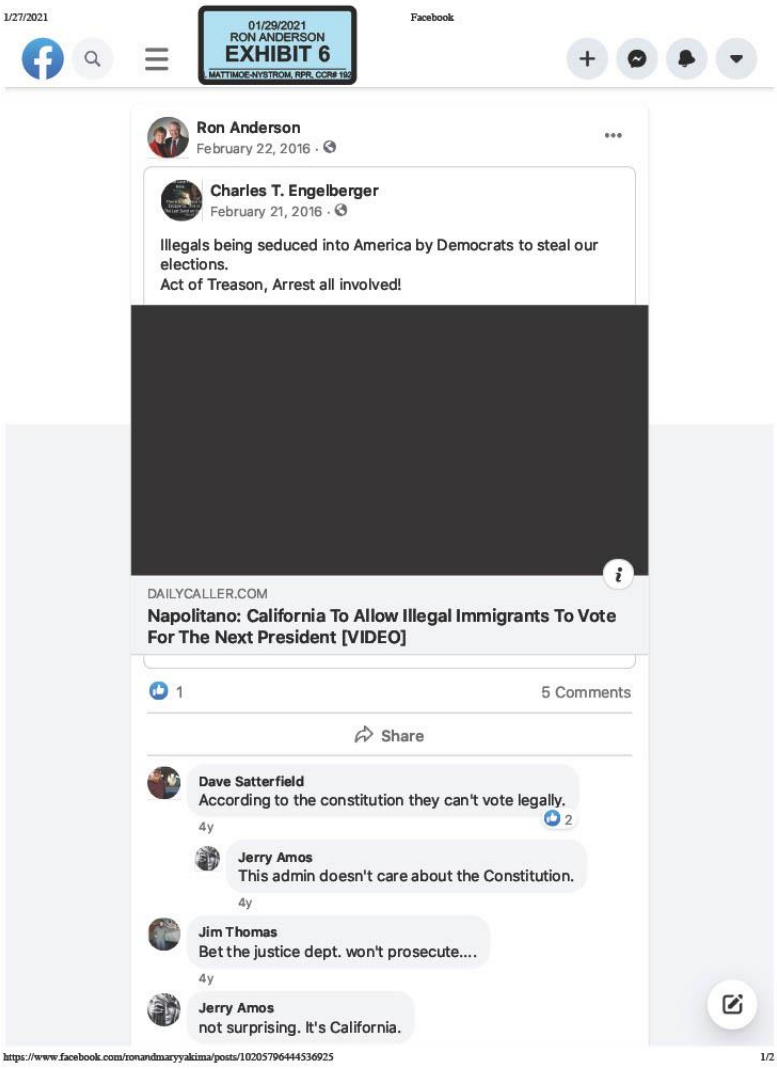
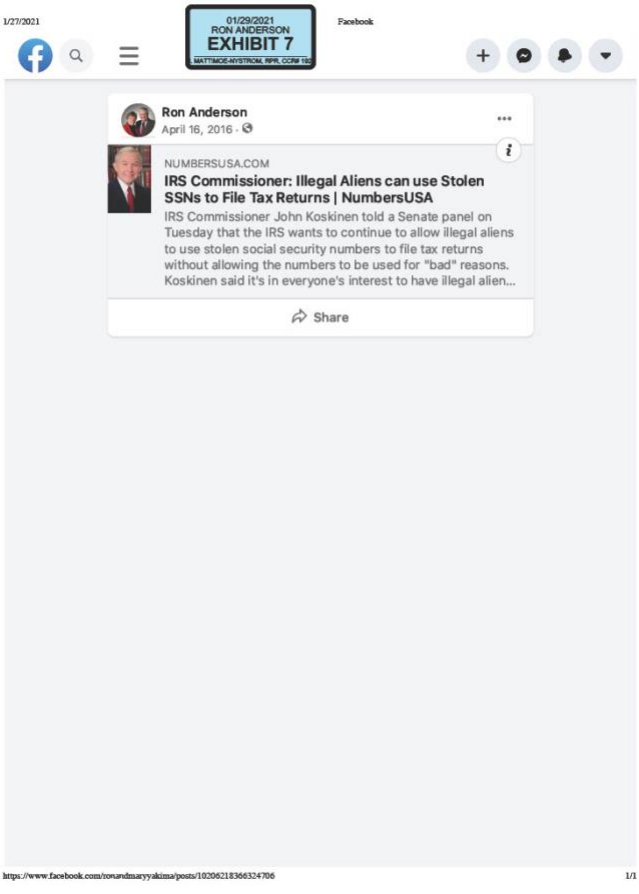
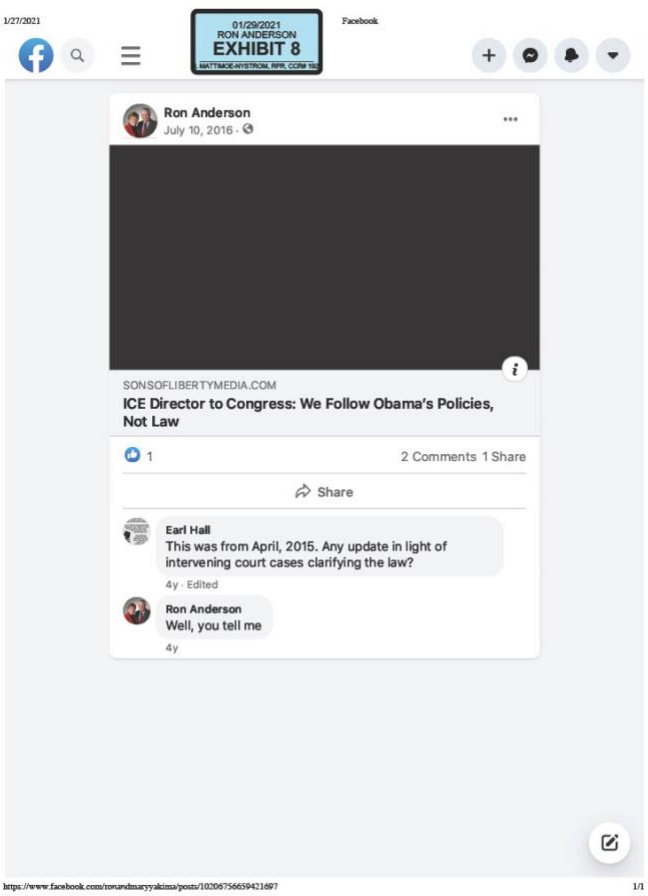
[235] On racial appeals, see Ian Haney-López, *Dog Whistle Politics: How Coded Racial Appeals Have Reinvented Racism and Wrecked the Middle Class* (Oxford University Press, 2014) and L. Stephens-Dougan, *Race to the Bottom: How Racial Appeals Work in American Politics* (University of Chicago Press, 2020).
[236] Franklin County Commission Meetings, September 21, 2021, 1:17:00.
[237] Franklin County Commission Meetings, September 21, 2021, 3:03:00-3:07.
[238] Exhibit 6 to the Deposition of Ron Anderson, *Aguilar et al. v. Yakima County et al.*, No. 20-2-0018019, Superior Court of Washington for Kittitas County, 2020.



Also in 2016, Ron Anderson shared an article with the headline "IRS Commissioner: Illegal Aliens can use Stolen SSNs to File Tax Returns"[239] and another article with the headline "ICE Director to Congress: We Follow Obama's Policies, Not Law."[240] These articles were shared from February 2016 to July 2016, when Ron Anderson was engaged in a campaign against Debra Manjarrez, a candidate with a Spanish surname.

[239] Exhibit 7 to the Deposition of Ron Anderson, *Aguilar et al. v. Yakima County et al.*, No. 20-2-0018019, Superior Court of Washington for Kittitas County, 2020.
[240] Exhibit 8 to the Deposition of Ron Anderson, *Aguilar et al. v. Yakima County et al.*, No. 20-2-0018019, Superior Court of Washington for Kittitas County, 2020.





"Illegals" and "illegal aliens" are derogatory terms used to refer to undocumented immigrants and are frequently levied as slurs against Latinos regardless of knowledge of their immigration status. Anderson would go on to defeat Debra Manjarrez in very close election. In the 2016 November General Election, Manjarrez received 32,146 votes while Anderson received 34,521.[241]

And in 2014, Franklin County Commissioner Clint Didier campaigned for Congress and released a video that said, "hundreds of illegals have already crossed our porous borders from a multitude of countries including many associated with Jihad and terrorism."[242] In 2010, as he

[241] See, General and Special Elections in Yakima County, November 8, 2016, General Election, "Election Results 1974-current," Yakima County Webpage, https://www.yakimacounty.us/DocumentCenter/View/30743/2016-General-Election-Results?bidId=.

[242] "Clint Didier for Congress Release Video on Borders and Illegal Immigration," Cision PR Newswire, October 6, 2014, https://www.prnewswire.com/news-releases/clint-didier-for-congress-releases-video-on-borders--illegal-immigration-278317771.html.

campaigned for the U.S. Senate, Didier also stated that "the country should stop giving citizenship to the children of illegal immigrants even if they're born here."[243]

While investigations have unearthed virtually no evidence of "non-citizens" voting, the rhetoric has proven costly to Latino candidates and voters in Washington State.[244] By using racist terms like "illegals" and spreading the disproven allegation that there is widespread voting by non-citizens in American elections, elected officials and candidates embrace and perpetuate a message that "denies Latino voters the presumed legitimacy other citizens enjoy, creates an unwelcoming climate, and discredits" their participation in electoral politics.[245] They stoke fears among white voters and politicians that stigmatize and discriminate against Latino citizen voters.[246]

In Yakima County, in 2019, while then Yakima City Council candidate Dulce Gutierrez was campaigning and passing out leaflets, she was verbally disparaged by a white woman.[247] As Gutierrez "was speaking to a group of students who had volunteered" with her city council campaign, the woman shouted at her and the students, "Go back to Mexico!"[248] Other voters she interacted with questioned why they should "vote for a Mexican."[249]

Other Latino candidates in the Yakima Valley have also expressed that they have experienced racial animosity while campaigning. Susan Soto Palmer, a volunteer for Gabriel

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[243] Nina Shapiro, "Didier's Machine Politics: It's easy to be anti-immigrant when wheat farming is mechanized," *Seattle Weekly* (Seattle, WA), June 15, 2010, https://www.seattleweekly.com/news/didiers-machine-politics/.
[244] Robert Courtney Smith, "'Don't Let the Illegals Vote!': The Myths of Illegal Latino Voters and Voter Fraud in Contested Local Immigration Integration," *RSF: The Russel Sage Foundation Journal of Social Sciences* 3:4 (July 2017), 167.
[245] *Id*. at 148.
[246] *Id.*
[247] Dionne Searcey and Robert Gebeloff, "The Divide in Yakima is the Divide in America: What the changing demographics of this county look like up close," *New York Times* (New York, New York), November 19, 2019, https://www.nytimes.com/2019/11/19/us/politics/yakima-washington-racial-differences-2020-elections.html.
[248] *Id.*
[249] Affidavit of Candy Gutierrez in Support of Plaintiffs' Motion for Summary Judgement, *Aguilar et al. v. Yakima County et al*., No. 20-2-0018019, Superior Court of Washington for Kittitas County, 2020.

Muñoz's 2014 campaign for Washington State Senate in legislative district 15, reported that a man in Union Gap told her that he was not voting for Muñoz because, in his words, "I'm racist."[250] Because of this and other experiences, when Ms. Soto Palmer was campaigning for her own 2018 race for Yakima County Board, she "had white campaign volunteers be [her] surrogates so that [she] would not fear for [her] safety" as "Latino supporters did not feel safe" in some "predominantly white towns."[251] And in 2005, Evangelina Aguilar, in her re-election campaign for the Sunnyside City council was "verbally threatened on several occasions."[252]

Elected officials have also made racial appeals between campaigns while in office. In 2015, Senator Jim Honeyford, the senator for Legislative District 15, referred to racial minorities as "colored" and "coloreds."[253] Honeyford remarked that "the poor people are most likely to commit crimes, and, uh, colored [sic] most likely to be poor."[254] Honeyford used this language in a "hearing on a bill that would require future legislation to have impact statements identifying potentially disparate consequences for minorities."[255] The term "colored" was used from the mid- to late nineteenth century in the context of Jim Crow segregation[256] It was a racial label, or stamp, signaling that African Americans were supposedly inferior.[257] African Americans have rejected the term due to its racist connotations and instead embraced new terms for their racial

[250] Affidavit of Susan Soto Palmer in Support of Plaintiffs' Motion for Summary Judgement, *Aguilar et al. v. Yakima County et al*., No. 20-2-0018019, Superior Court of Washington for Kittitas County, 2020.
[251] *Id.*
[252] Affidavit of Evangelina Aguilar in Support of Plaintiffs' Motion for Summary Judgement, *Aguilar et al. v. Yakima County et al*., No. 20-2-0018019, Superior Court of Washington for Kittitas County, 2020.
[253] "Senator Honeyford sorry for calling minorities 'coloreds,'" *The Columbian*, https://www.columbian.com/news/2015/mar/06/sen-honeyford-sorry-calling-minorities-coloreds/.
[254] Ansel Herz, "Republican State Senator: Poor, 'Colored' People Are More Likely to Commit Crimes," *The Stranger*, https://www.thestranger.com/news/2015/03/02/21799665/washington-republican-poor-colored-people-are-more-likely-to-commit-crimes.
[255] *Id.*
[256] Tom W. Smith, "Changing Racial Labels: From 'Colored' to 'Negro' to 'Black' to 'African American,'" *The Public Opinion Quarterly*, 56:5 (1992), 496-514.
[257] Ibram X. Kendi, *Stamped from the Beginning: The Definitive History of Racist Ideas in America*," (New York: Bold Type Books, 2016), 1-11.

identity.[258] In using the terms "colored" and "coloreds," Honeyford employed coded language that appears racially innocuous but is loaded with racist history. While Honeyford issued an apology for using "hurtful" language, he did not apologize for the message underlying his statements.[259]

And in 2016, another elected official shared a racist image on social media.[260]

[258] Tom W. Smith, "Changing Racial Labels: From 'Colored' to 'Negro' to 'Black' to 'African American,'" *The Public Opinion Quarterly*, 56:5 (1992), 496-514.
[259] Venice Buhain, "State Sen. Jim Honeyford apologizes for 'hurtful' words on minorities," *The Seattle Globalist*, https://seattleglobalist.com/2015/03/06/jim-honeyford-apologize-hurtful-words-on-minorities/34485.
[260] Jake Dorsey, "Franklin County corner posted a 'white power' meme. Some say his apology isn't enough," *Yakima Herald-Republic* (Yakima, WA), https://www.yakimaherald.com/news/local/franklin-county-coroner-posted-a-white-power-meme-some-say-his-apology-isn-t-enough/article_3b232aa8-2871-11e8-8f6b-03319b4b7e81.html.

Franklin County Coroner, Dan Blasdel, shared a photograph (above) of a white farmer with the caption, "When is white history month?" and which included another image with a white fist, reading "100% white, 100% proud."[261]

These examples of direct and indirect racial appeals are not isolated events but have occurred over the course of many years in the Yakima Valley and Pasco region, exhibiting a pattern of racial appeals in campaigns and by elected officials.

Senate Factor 7: Extent to Which Latino Candidates Have Been Elected to Public Office in the Jurisdiction

The increase in the number of Latinos in Washington in the twenty-first century did not translate into political power. Currently in the state of Washington, there are 5 legislators with Spanish surnames, only 2 more than in 2012.[262] And only two Latinos have ever been elected to state public offices from the Central Washington region including the Yakima Valley and Pasco areas.[263]

From 1995 to 2008, Mary Skinner was the single Latina elected to office representing District 14 (which includes parts of Clark, Klickitat, Skamania, and Yakima Counties).[264] Since the end of Skinner's tenure, Latino candidates including Susan Soto Palmer (2016) and Noah Ramirez (2018) have run but were defeated by white candidates.[265] For almost 15 years, a Latino candidate has not been elected to Legislative District 14. Since 2019, Alejandro "Alex" Ybarra

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[261] *Id.*
[262] Regina Graham, "Washington state's Latinos find 'politics has not changed with population," *The Guardian*, October 7, 2012, https://www.theguardian.com/world/2012/oct/07/washington-state-latino-politics-population. Legislators with Spanish surnames: Bill Ramos (5th District), Monica Jurado Stonier (49th District), Javier Valdez (46th District), Alex Ybarra (13th District), and Rebecca Saldaña (37th Legislative District).
[263] Mai Hong, "What the fight for a Latino voting district means for Centra WA politics," *Crosscut*, April 13, 2022, https://crosscut.com/politics/2022/04/what-fight-latino-voting-district-means-central-wa-politics.
[264] *Id.*
[265] "Meet the Candidate: Susan Soto Palmer," *Yakima Herald-Republic* (Yakima, WA), October 8, 2016, and Donald W. Meyers, "Noah Ramirez, Eisenhower graduate, 19, to run against Rep. Gina McCabe," *Yakima Herald-Republic* (Yakima, WA), March 19, 2018.

has been serving as representative for Legislative District 13 (which includes parts of Lincoln, Grant, and Kittitas Counties).[266] Ybarra was first appointed in 2019, and then elected as an incumbent in 2020.[267]

In Legislative District 15 (which includes parts of Adams, Benton, Franklin, Grant, and Yakima Counties), not a single Latino candidate has been elected even though several have run to represent the district.[268] Although Latino candidates have received overwhelming support from Latino residents in Yakima County, all were defeated including Pablo Gonzalez (2012), Teodora Martinez Chavez (2014), Gabriel Muñoz (2014), and Evangelina Aguilar (2018).[269] Without political representation in the 15th district, Latinos have less chances to resolve their issues and concerns through the political process.

In county election races, Latino candidates have also struggled to get elected. For instance, in Yakima County where Latinos account for 51 percent of the population, only one Latino has ever been elected to the Board of Yakima County Commissioners, which is the three-member commission "responsible for the overall executive administration of Yakima County government."[270] The single Latino commissioner served on the board from 1998 to 2006.[271]

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[266] *Id.*
[267] Mai Hoang, "Alex Ybarra says he's reading to represent 13th District in Olympia," *Yakima Herald-Republic* (Yakima, WA), January 21, 2019, https://www.yakimaherald.com/news/local/alex-ybarra-says-hes-ready-to-represent-13th-district-in-olympia/article_5e588896-1e0d-11e9-a98a-a392a72440bd.html.
[268] Mai Hoang, "What the fight for a Latino voting district means for Central WA politics," *Crosscut*, April 13, 2022, https://crosscut.com/politics/2022/04/what-fight-latino-voting-district-means-central-wa-politics.
[269] *Id.*
[270] In 1998, Jesse Palacios was elected to the Yakima Board of Commissioners, District No. 3. See, Official Returns of the State General Election held in Yakima County, November 3, 1998, General Election, "Election results 1974-current," Yakima County Webpage, https://www.yakimacounty.us/DocumentCenter/View/30723/1998-General-Election-Results?bidId=. "Responsibilities," Board of Yakima Commissioners, Yakima County Webpage, https://www.yakimacounty.us/766/County-Commissioners-Office. For demographic data, see U.S. Census Bureau, *American Community Survey 2018 1-Year Estimates* (2019), https://data.census.gov/cedsci/.
[271] Phil Ferolito, "Latinos rally behind settlement that forces new Yakima County Commission districts in 2022 election," *Yakima Herald-Republic* (Yakima, WA), September 1, 2021.

A similar trend is evident in Franklin County where Latino voters have never been able to elect their preferred candidate to the Franklin County Board of Commissioners.[272] According to the 2020 U.S. Census, Latinos accounted for 54.1 percent of the population in Franklin County.[273] Latinos comprise 56 percent of the population in Pasco, Washington, a city in Franklin County.[274] In 2020, Ana Ruiz Peralta, a Latina woman, ran for a seat on the Franklin County Board of Commissioners. She received endorsements from a former Pasco city mayor and the current Latino mayor, Saul Martinez.[275] Peralta handily won "majority-Latino precincts" in the primary election but lost to a white candidate, Rocky Mullen, in the general race.[276] Ruiz received 12,786 votes while Mullen received 18,513 votes.[277]

An examination of state and county elections demonstrates that while Latinos are a significant percentage of the population, they enjoy limited to no representation in legislative and county positions.

Senate Factor 8: Lack of Responsiveness of Elected Officials to Needs of Latino Community

In reviewing the top legislative priorities of Washington's Latino community, there is clear evidence that state legislators representing the Yakima Valley and Pasco region have been unresponsive to the needs and priorities of the community. Legislators from districts 14, 15, and 16 have regularly voted in opposition to bills supported by Latinos. The Latino Civic Alliance

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[272] Martín Meráz García, "Political Retaliation and Intimidation in Franklin County, Washington," Expert Report Submitted on Behalf of *Plaintiffs Gabriel Portugal, et al. v. Franklin County Board of Commissioner*," October 25, 2021; and Complaint for Injunctive Relief under the Washington State Voting Rights Act, *Portugal et al. v. Franklin County et al.*, No. 21-2-50210-11, Superior Court of Washington for Franklin County, 2021.
[273] U.S. Census Bureau, QuickFacts, https://www.census.gov/quickfacts.
[274] *Id.*
[275] Cameron Probert, "COVID-19 is shaping Franklin County's open commissioner race. Meet the 4 candidates," *Tri-City Herald* (Pasco, Kennewick, Richland, WA), October 2, 2020, https://www.tri-cityherald.com/article244421062.html.
[276] Nina Shapiro, "Voting-rights battle in Washington state raised allegations of diluting Latino votes."
[277] General Elections, November 3, 2020, "Election Results," Franklin County Auditor's Office, https://results.vote.wa.gov/results/20201103/franklin/.

was founded in 2005 and its mission "is to promote advocacy and civic engagement in Washington state by encouraging social responsivity and public service through collaboration with community partners."[278] The non-profit organization sponsors an event called Latino Legislative Day, where thousands of Latinos meet with legislators to discuss issues and bills that are priorities for the community such as health care, support for small businesses, apprenticeship programs, and voting rights. Ahead of the 2022 Legislative Day in February, the Latino Civic Alliance sent a list of bills that the community supported. The bills from that list that ultimately went up for a vote are:

- SB 5597 (2021-22)—Concerning Washington's Voting Rights Act. The bill, which did not pass, would establish a protocol for individuals to recover costs for investigating voting rights violations and require certain jurisdictions to obtain preclearance to modify voting election practices.[279] The bill would protect Latinos from discriminatory voting practices.
- HB 1616 (2021-22)—Concerning the Charity Care Act. The house bill, which passed, "increases the existing income threshold for patients to receive charity care for the full amount of their charges, as well as the threshold to receive a discount on their charges."[280] The Charity Act could address health care gaps, especially for low-income Latino families.
- SB 5600 (2021-22)—Concerning the sustainability and expansion of the state registered apprenticeship programs. The senate bill, which passed, requires the

[278] "LCA's Mission, Vision, & Values," Latino Civic Alliance Webpage, https://latinocivicalliance.org/mission.
[279] "Senate Bill Report, SB 5597," Washington State Legislature, https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bill%20Reports/Senate/5597%20SBR%20WM%20OC%2022.pdf?q=20220718120639.
[280] "House Bill Report, HB 1616," Washington State Legislature, https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bill%20Reports/House/1616%20HBR%20HCW%2022.pdf?q=20220718122117.

Washington State Apprenticeship and Apprenticeship Council to develop and review new programs which are sustainable and help graduates earn "a living wage."[281] Apprenticeship programs could help to reduce Latinos' unemployment rates in the state.

- HB 1746 (2021-22)—Updating the 2015 report and recommendations for supporting student success through measuring and mitigating community risk and protective predictors since the emergence of the COVID-19 pandemic. The house bill, which did not pass, would create reports summarizing the "educational services and supports offered since the beginning of the COVID-19 pandemic" including the impact of social-emotional learning.[282] The bill could produce data on how COVID-19 affected Latinos student and offer guidance on how to close the equity gap in education.
- HB 1736 (2021-22)—Establishing a state student loan program. The bill, which passed, establishes a student loan program "with 1 percent interest rates" to undergraduates in need of financial assistance and certain "high-demand graduate programs."[283] The law could reduce the financial barriers for Latino students to pursue a higher education.
- SB 5122 (2021-22)—Concerning the jurisdiction of juvenile court. The bill, which did not pass, would increase the juvenile court's jurisdiction to 19 years and create the "presumed incapacity to commit a crime to children under age

[281] "Senate Bill Report, SB 5600," Washington State Legislature, https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bill%20Reports/Senate/5600%20SBR%20WM%20OC%2022.pdf?q=20220718123026.
[282] "House Bill Report, HB 1746," Washington State Legislature, https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bill%20Reports/House/1746%20HBR%20APP%2022.pdf?q=20220718123732.
[283] "House Bill Report, HB 1736," Washington State Legislature, https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bill%20Reports/House/1736%20HBR%20APP%2022.pdf?q=20220718124707.

13."[284] It would allow youth to remain in a juvenile rehabilitation center through the age of 22, and in some cases, until 23. SB 5122 could help to create a criminal system that is less racially disparate for Latino youth, and improve the system for the Latino youth in it.

- SB 5051 (2021-22)—Concerning state oversight and accountability of peace officers and corrections officers. SB 5051, which passed, will require that peace officers, reserve officers, and corrections officers undergo more rigorous background checks, and requires that "employing agencies report all separation and disciplinary matters regarding a certified officer to the CJTC (Criminal Justice Training Commission)."[285] The bill could help to reduce racial bias among peace and corrections officers, including potentially decreasing the disproportionate rate at which Latinos are pulled over compared to whites.

Legislators representing districts 14, 15, and 16 tended to vote against these bills (see Table 11). On several legislative bills, such as HB 1616, HB 1736, and SB 5051, both the senators and representatives voted in opposition to these bills. And in some cases, bills were voted upon only in the Senate and were unanimously rejected by senators representing the Yakima and Pasco areas. One such bill, SB 5597, was a proposed update to the WVRA which, according to Latina legislative leader Rebecca Saldaña, "would expand access to fair representation for underrepresented communities in Washington, including in Yakima County where Latinos make up more than half of the population."[286] Although SB 5597 had the backing

[284] "Senate Bill Report, SB 5122, Washington State Legislature, https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bill%20Reports/Senate/5122%20SBR%20HSRR%20OC%2021.pdf?q=20220718125318.
[285] "Senate Bill Report, SB 5051," Washington State Legislature, https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bill%20Reports/Senate/5051%20SBR%20WM%20OC%2021.pdf?q=20220718130355.
[286] Kate Smith, "Yakima Valley senators vote no on WA voting rights law changes," *Yakima Herald-Republic* (Yakima, WA), February 20, 2022.

of 93 organizations across 20 counties including Casa Latina, Commission on Hispanic Affairs, El Centro de la Raza, Radio KDNA, and Tri-Cities League of United Latin American Citizens, it was opposed by the senators from legislative districts 14, 15, and 16.

Table 11. Voting Record of Elected Officials on Bills Supported by Latino Leaders in Washington, 2021-2022[287]

	SB 5597 (2021-22)—Concerning Washington's Voting Rights Act. (Latinos For Bill; Bill did not pass)	HB 1616 (2021-22)—Concerning the Charity Care Act. (Latinos For Bill; Passed in Senate and House)	SB 5600 (2021-22)—Concerning the sustainability and expansion of the state registered apprenticeship programs. (Latinos For Bill; Passed in Senate and House)
Sen. Curtis King (Legislative Dist. 14)	**NAY**	**NAY**	YEA
Rep. Chris Corry (Legislative Dist. 14)	-	**NAY**	YEA
Rep. Gina Mosbrucker (Legislative Dist. 14)	-	**NAY**	YEA
Sen. Jim Honeyford (Legislative Dist. 15)	**NAY**	**NAY**	**NAY**
Rep. Bruce Chandler (Legislative Dist. 15)	-	**NAY**	YEA
Rep. Jeremie Dufault (Legislative Dist. 15)		**NAY**	**NAY**
Sen. Perry Dozier (Legislative Dist. 16)	**NAY**	**NAY**	**NAY**
Rep. Mark Klicker (Legislative Dist. 16)	-	**NAY**	YEA
Rep. Skyler Rude (Legislative Dist. 16)	-	**NAY**	YEA

[287] "Bill Information," Washington State Legislature, https://app.leg.wa.gov/billinfo/.

	HB 1746 (2021-22)—Updating the 2015 report & recommendations for supporting student success through measuring & mitigating community risk & protective predictors since the emergence of the COVID-19 pandemic. (Latinos For Bill; Bill did not pass)	HB 1736 (2021-22)—Establishing a state student loan program. (Latinos For Bill; Passed in House and Senate)	SB 5122 (2021-22)—Concerning the jurisdiction of juvenile court. (Latinos For Bill; Bill did not pass)	SB 5051 (2021-22)—Concerning state oversight and accountability of peace officers and corrections officers. (Latinos For Bill; Passed in House and Senate)
Sen. Curtis King (Legislative Dist. 14)	-	**NAY**	**NAY**	**NAY**
Rep. Chris Corry (Legislative Dist. 14)	**NAY**	**NAY**	-	**NAY**
Rep. Gina Mosbrucker (Legislative Dist. 14)	**NAY**	**NAY**	-	**NAY**
Sen. Jim Honeyford (Legislative Dist. 15)	-	**NAY**	**NAY**	**NAY**
Rep. Bruce Chandler (Legislative Dist. 15)	**NAY**	**NAY**	-	**NAY**
Rep. Jeremie Dufault (Legislative Dist. 15)	**NAY**	**NAY**	-	**NAY**
Sen. Perry Dozier (Legislative Dist. 16)	-	**NAY**	**NAY**	**NAY**
Rep. Mark Klicker (Legislative Dist. 16)	**NAY**	**NAY**	-	**NAY**
Rep. Skyler Rude (Legislative Dist. 16)	YEA	YEA	-	**NAY**

Despite attempts by the Latino community to clearly communicate their top issues and legislative priorities, elected officials have failed to support legislative bills that the Latino people in the Yakima Valley and Pasco areas support. Additionally, they have been reluctant to

sponsor bills of interest to the Latino community such as the Washington's Voting Rights Act. It is therefore evident that elected officials in districts 14, 15, and 16 are on the whole not responding to the concerns of the Latino community.

Conclusion

In this report, I have provided evidence and analysis that Latinos in the Yakima and Pasco areas are not able to fully and effectively participate in the electoral process. The historical discrimination against Latinos in Central Washington along with contemporary forms of inequalities, have limited their opportunities to exercise their voting rights.

Pursuant to 28 U.S.C. §1746, I, Josué Q. Estrada, declare that the following is true and correct.

Dr. Josué Q. Estrada
Dated: July 27, 2022

Josué Q. Estrada, Ph.D.

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EDUCATION

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2014 **M.A.**, History, University of Washington
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PUBLICATIONS

Article

2017 "Democratizing Washington State's Yakima County: A History of Latino/a Voter Suppression since 1967" in *We Are Aztlan: Chicanx Histories in the Northern Borderlands,* ed. Jerry Garcia (Pullman: Washington State University Press, 2017).

Book Reviews

2022 Review of *Race and Partisanship in California Redistricting: From the 1965 Voting Rights Act to Present*, Oliver Richomne, *Journal of American Ethnic History* (accepted for publication).
2017 Review of *Of Forests and Fields: Mexican Labor in the Pacific Northwest*, Mario Jimenez Sifuentez, *Pacific Northwest Quarterly*, Vol. 105, No. 4. (2017): 199.

Online Article

2016 "Chicano Movements: A Geographic History," in *Mapping American Social Movements Through the 20th Century*, Chicano/Latino Movements, https://depts.washington.edu/moves/Chicano_geography.shtml

TEACHING EXPERIENCE

Courses Taught at Central Washington University

2021-2022 Historical Methods (HIST 302)
History of American Citizenship (HIST 450/550)
History of the Pacific Northwest (HIST 301)
Transnational History of Latinx People in the U.S. (HIST 449/559)
U.S. History since 1865 (HIST 144)

Instructor of Record

2018, 2017 The Peoples of the United States, Instructor, University of Washington
This course, of my own design, offered a survey of US history and how conquest, migration, and imperialism have shaped the American nation and its diversity.
2006-2007 Introduction to Ethnic Studies, Instructor, Washington State University
This course, of my own design, examined how the intersectionality of ethnicity, race, and gender have shaped US society.

Josué Q. Estrada, Ph.D.

509-305-1489 | Josue.Estrada@gmail.com

Teaching Assistantships

2017, 2015	Race, Gender, and Class in Latin America and the Caribbean, University of Washington
2016, 2015	History of American Citizenship, University of Washington
2016, 2015	The Peoples of the United States, University of Washington
2016	Asian American History, University of Washington
2015	The Holocaust: History and Memory, University of Washington

Adjunct Faculty

2007-2009	Department of Ethnic Studies, Yakima Community College, Yakima, Washington I taught introduction to ethnic studies courses, of my own design, which explored the central themes and concepts of the discipline using an interdisciplinary approach.

AWARDS AND FELLOWSHIPS

2022	President's Diversity Award, Central Washington University
2022	Nominated for Honor Our Professor's Excellence Award (HOPE), Central Washington University
2021	Hanauer Dissertation Scholarship, Department of History, University of Washington
2020	**Employee of the Month, Central Washington University**
2018	Outstanding Student Leader Prize, University of Washington
2018	Dissertation Scholarship, Daughters of the Pioneers of Washington
2018	Hanauer Fellowship, Department of History, University of Washington
2017	Research Grant, Washington Institute for the Study of Inequality and Race, University of Washington
2017	**Outstanding Teaching Assistant**, Department of History, University of Washington
2017	Research Award, Harry Bridges Center for Labor Studies, University of Washington
2017	Latino/a Scholars Fellowship, Graduate School, University of Washington
2017	Mangels Endowed Fellowship, Department of History, University of Washington
2016	Digital History Fellowship, Department of History, University of Washington
2015	Burke Prize for Outstanding Scholarship, Department of History, University of Washington
2015	Graduate Opportunities and Minority Achievement Program Travel Award, University of Washington
2014	Andy Studebaker Travel Award, Department of History, University of Washington
2014	Harry Bridges Center for Labor Studies Fellowship, University of Washington
2013	Graduate Opportunities and Minority Achievement Program Fellowship, University of Washington
2013	Phil and Norma Duran Alumni Spotlight Award, Washington State University
2013	Academic Fellowship, Harry Bridges Center for Labor Studies, University of Washington
2007	Graduate Student Scholarship, Pacific Northwest FOCO National Association of Chicana and Chicano Studies
2005	First Year Fellowship, Graduate School, Washington State University

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CONFERENCE PRESENTATIONS

April 2020 "A History of Latina/o Voting Rights in the Pacific Northwest"
Presented at *Sal Castro Memorial Conference on the Emerging Historiography of the Chicano Movement*, University of California, Santa Barbara, CA.

October 2019 "Citizens with Foreign Tongues: A History of Latinx Voter Suppression in Washington State"
Presented at *What Happens in the West Doesn't Stay in the West*, Western History Association, Las Vegas, NV.

October 2019 "Putting Chicanxs on the Map: A Digital Geographic History Project"
Presented at *What Happens in the West Doesn't Stay in the West*, Western History Association, Las Vegas, NV.

June 2017 "Democratizing Washington State's Yakima County: A History of Latino/a Voter Suppression since 1967"
Presented at *Scales of Struggle: Communities, Movements, and Global Connections*, Labor and Working-Class History Association, Seattle, WA.

June 2017 "Mapping the Chicano/a Movements: A History and its Geography"
Presented at *Scales of Struggle: Communities, Movements, and Global Connections*, Labor and Working-Class History Association, Seattle, WA.

March 2017 "Mapping *El Movimiento*: A Digital Geographic Project"
Presented at *Chicana/o Studies in the Era of Globalization, War and Mass Expulsions*, National Association of Chicana and Chicano Studies, Irvine, CA.

June 2016 "Al Norte! Migration From and Through Oaxaca Study Abroad Seminar"
Presented at *National Heritage Language Research Institute Conference*, Seattle, WA.

March 2015 "Migrant Student Tracking in the 21st Century"
Presented at *Migrant Education Harbor of Hope*, National Association of State Directors of Migrant Education Annual Conference, Seattle, Washington.

May 2015 "Chicanos Revolt against Literacy Tests in the Pacific Northwest"
Presented at *Fighting Inequality: Class, Race, and Power,* Labor and Working-Class History and the Working-Class Studies Associations, Washington D.C.

April 2014 "Literacy Tests, Chicano/a Political Activism, and Citizenship in Washington State"
Presented at *Citizenships in the Pacific Northwest*, Pacific Northwest History Conference, Vancouver, Washington.

April 2014 "Chicano/a Struggle for Full Citizenship and Political Representation in Washington State's Yakima County"
Presented at *Fragmented Landscapes in Chicana and Chicano Studies: Deliberation, Innovation or Extinction?*, National Association of Chicana and Chicano Studies, Salt Lake City, Utah.

November 2012 "Improving CAMP Student Writing by Promoting the Value of Instructor Office Hours"
Presented at HEP and CAMP…Creating Waves for Change, The National High School Equivalency Program/College Assistance Migrant Program Association Conference, San Padre Island, Texas.

October 2012 "Increasing Student-Faculty Interactions through Writing"
Presented at *Revitalize Your Network, Refine Your Practices, and Redesign Your Approach to Educational Access*, TRiO Northwest Association of Educational Opportunity Programs (NAEOP), Coeur d'Alene, Idaho.

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March 2012 "A Growing Chicano/a Student Population and the Future of Diversity in Washington Colleges and Universities"
Presented at *Chican@ Studies Matters: The Legacy of Chican@ Studies in Northern Aztlán*, National Association of Chicana and Chicano Studies FOCO, Washington State University, Pullman, Washington.

October 2011 "Achieving Success through Student-Faculty Interactions and Writing"
Presented at *The Future Begins with U-Meeting the Challenges, Making the Connections,* TRIO Northwest Association of Special Programs (NASP), Spokane, Washington.

April 2007 "Tejano Migration: Vámonos Pa' Washington Chicano/a Recruitment, Migration, and Settlement (1948-1959)"
Presented at *Sociocultural and Ideological Shifts: Chicano/a Migratory and Immigration Passages,* National Association of Chicana and Chicano Studies, San Jose, California.

April 2007 "Vámonos Pa'l Norte-Washington State Tejano/a and Mexicano/a Recruitment, Migration, and Settlement (1940-1960)"
Presented at *Labor and Leisure*, Pacific Northwest American Studies Association, Portland State University, Portland, Oregon.

March 2007 "From Texas to Washington State: Chicano/a Recruitment, Migration and Settlement"
Presented at *El Otro Norte: Raza, Race and Resistance in the Pacific Northwest,* Pacific Northwest FOCO National Association of Chicana and Chicano Studies, Washington State University, Pullman, Washington.

OTHER ACADEMIC EMPLOYMENT

2019-2021 Principal Investigator and Director, Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP), Central Washington University

2018-2019 Editorial Intern, Pacific Northwest Quarterly, University of Washington

2015 Assistant Director, University of Washington Study Abroad Summer Program: Al Norte! Migration from and through Oaxaca, Instituto Cultural Oaxaca, Mexico

2013-2015 Graduate Student Intern, Kelley Ethnic Cultural Center, University of Washington

2009-2013 Director, College Assistance Migrant Program, Washington State University

2007-2009 Recruiter/Enrollment Counselor, College Assistance Migrant Program, Washington State University

PUBLIC AND DIGITAL HISTORY EXPERIENCE

2016-Present Research Associate and Contributor*, Mapping American Social Movements Through the 20th Century*, University of Washington
I identified, collected, and organized data used to produce interactive maps of multiple social movements. Led the effort to create a section tracing the geography of the Chicano/a Movement, contributing to the production of over 25 maps and charts. See http://depts.washington.edu/moves/

Led the effort to collect and manage the data for the project to trace the geography of the National Association for the Advancement of Colored People (NAACP) chapters across six decades. See https://depts.washington.edu/moves/NAACP_intro.shtml

2017 'Righting' and Preserving History—a project funded by the Mangels Fellowship, University of Washington

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I designed an interactive workshop in collaboration with the Labor Archives of Washington and the Office of Minority Affairs to promote public history, and the importance of the preservation of historical records. By traveling to high schools across the state, I reached over 300 students including 200 prospective UW first-year students.

2014 Associate Editor, *Seattle Civil Rights and Labor History Project*, University of Washington
I conducted four oral interviews to create original content and edited undergraduate student essays for online publication.
See http://depts.washington.edu/civilr/

DEPARTMENT/UNIVERSITY SERVICE

Central Washington University

2021-Present Committee Member, Curriculum and Assessment, Department of History, Central Washington University
2021-Present Committee Member, Recruitment and Outreach, Department of History, Central Washington University
2021-Present Provost's Council for Diversity and Equity, Central Washington University
2021-Present Board Member, Centro for Latinx Studies, Central Washington University
2018-Present Board Member, College Assistance Migrant Program, Central Washington University
2020 Selection Chair for GEAR UP Associate Director, Central Washington University
2019 Hispanic Leadership Institute Student Scholarship Selection Committee, Central Washington University

University of Washington

2018-2020 Advisory Member, College Assistance Migrant Program, University of Washington
2017-2018 Diversity Committee, Department of History, University of Washington
2015, 2016 Reader for Competitive College Assistance Migrant Program (CAMP) Grant, Office of Migrant Education, US Department of Education

Washington State University

2009-2013 Guidance Committee Member, TRIO Student Support Services, Washington State University
2011-2013 Advisory Member, College Spark—Critical Literacies Achievement and Success Program
2011-2013 Advisory Member, College Spark—Washington State Educational Access Coalition for HB 1079 (undocumented) Students
2010-2013 Scholarship Committee, Academic Diversity Award, Washington State University
2008-2013 Planning Committee, Bilingual Orientation, Washington State University

GRANT WRITING EXPERIENCE

2021 Assisted writing the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) Grant, **Adelante GEAR UP** (in partnership with the Yakima School District), Office of Migrant Education, US Department of Education. **Grant scored 105/105 possible points. (Co-Principal Investigator and Director)**
2021 Assisted writing the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) Grant, **Pathways to Success** (in partnership with schools in the Okanogan County), Office of Migrant Education, US Department of Education. **Grant scored 105/105 possible points. (Co-Principal Investigator and Director)**

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2013	Dare to Dream Math/Science Academies, Office of Superintendent of Public Instruction Successfully awarded-$104,000. (Co-Principal Investigator)
2011, 2012	CAMP Supplemental Award, Washington Student Achievement Council Successfully awarded-$3,751 each year. (Co-Principal Investigator)
2011	Assisted writing the College Assistance Migrant Program (CAMP) Grant, Office of Migrant Education, US Department of Education. **Successfully awarded-$2.3 million (Director)**
2009	Phil and June Lightly Leadership Fund, Washington State University. Successfully awarded-$2,500 (Director)

LEADERSHIP AND CIVIC ENGAGEMENT ACTIVITIES

2022	Guest Lecture, History of Chicanxs in Washington, High School Equivalency Program (HEP), Central Washington University
2021	Co-Chair, Central Washington University, Latinx Alumni Association
2020	Invited Speaker, College Assistance Migrant Program, Central Washington University
2019	Volunteer Judge, Regional Contest-National History Day, Central Washington University
2018	Keynote Speaker, *Annual Latinx Welcome*, Central Washington University
2014-2018	Graduate Diversity Ambassador, Graduate Opportunities and Minority Achievement Program, University of Washington
2017	Invited Speaker, *Why Race Matters: Resistance and Resilience*, University of Washington
2016	Keynote Speaker, The Pacific Northwest College Assistance Migrant Program Consortium Conference
2012-2013	Advisor, Gamma Iota Omicron (GIO), Washington State University
2012	Keynote Speaker, Na-ha-shnee: Native American Health Science Camp, Washington State University
2009, 2012	Facilitator, Secondary Education for Migrant Youth (SEMY) State Leadership Conference
2008-2009	Mentor, Hometown College Success Foundation, Mabton High School
2008	Mentor, National Hispanic Institute Leaders Conference, Washington State University

MEDIA COVERAGE

2021	"Uncounted: The History and Impact of Voter Suppression," Humanities Washington, https://www.humanities.org/wp-content/uploads/2021/05/HW_Spark_Issue2_2021_LO.pdf
2021	"Ballot Blocked Episode 5: Mexican American Voting Rights," National Park Service https://www.nps.gov/articles/000/ballot-blocked-episode-5.htm
2017	"Labor Archives: To be an Academic," University of Washington TV, www.uwtv.org/series/laborarchives/watch/H1m-nAwuauE/

LANGUAGES

Heritage Spanish Speaker

PROFESSIONAL MEMBERSHIPS/AFFILIATIONS

The National Association of Chicana and Chicano Studies
The Western History Association
The Labor and Working-Class History Association

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COMPUTER SKILLS

Learning Management System (Canvas)
Office suite (Microsoft Office)
Presentation software (PowerPoint, Prezi, Keynote)
Communication and collaboration tools (Zoom, Skype, Teams)
Data visualization (Tableau)

Preliminary Expert Report for Plaintiffs
Susan Soto Palmer, et al. v. Steven Hobbs, et al.
No. 3:22-cv-05035-RSL

By

Henry Flores, PhD

Pursuant to 28 U.S.C. §1746, I, Henry Flores, PhD, declare that:

I. Introduction

1. My name is Henry Flores and I am over 18 years of age. I have never been convicted of a crime and am fully competent to express the below opinions. The following observations and opinions are within my personal and professional knowledge and are accurate and correct.

2. Currently I am a Scholar in Residence in the Department of Political Science at the University of Houston in Houston, Texas. Additionally, I am the Distinguished University Research Professor of Political Science Emeritus at St. Mary's University in San Antonio, Texas, where I taught for thirty-five years. During my tenure at St. Mary's, I was Dean of the Graduate School for nine years, Chair of the Department of Political Science for four years over two terms, Director of the Graduate Program in Public Administration for six years over three terms, and Director of the Graduate Political Science Program for two years. A delineation of my academic service together with a partial list of all graduate and undergraduate courses I designed and taught are displayed in my résumé attached as Appendix A.

3. I was awarded my PhD from the University of California at Santa Barbara in December 1981, with examination fields in American Politics (Urban and Latino), Public Administration (Organizational and Decision Theories), Political Philosophy (Conceptual Analysis and Structural Theories) and Multivariate Statistical Analyses. I have published numerous books, scholarly articles, encyclopedia entries and invited chapters in books as well as presented learned papers on racially polarized voting, Latino and Urban Politics, racial intent,

structural discrimination, and decision theory. Throughout my publications I note the racialized nature of politics in many areas of public policy including voting, gun control, immigration and economic development in the nation, Texas, San Antonio, and Los Angeles, California. I have offered expert testimony in numerous civil and criminal cases. A list of all cases in which I have provided testimony in the last 4 years is included in my attached résumé. A true and correct summary of my training, education and experience is included in the résumé attached which was prepared by me.

4. The Plaintiffs have retained me as an expert witness in the matter currently before this court. I am being compensated at a rate of $150 per hour plus reasonable expenses for my work. I have presently expended 121 hours.

5. I was retained to determine whether the Washington State legislative district map drawn by the 2021 Washington Redistricting Commission and approved by the Washington Legislature intentionally discriminates against Latinos. The standards used to reach this determination are those set forth by the Supreme Court in *Arlington Heights v. Metropolitan Housing Development Corp.*, 429 US 252 (1977).

II. Methodology and Evidence Used in this Report

6. I have used and presented this methodology in four voting rights cases, and it has been accepted by the United States District Courts for the Western and Southern Districts of Texas. My methodology begins with presenting evidence under each of the *Arlington Heights* factors. Evidence will be provided for each of the relevant factors followed by a discussion as to why the final Enacted Plan was constructed.

7. The United States Supreme Court in *Village of Arlington Heights v. Metropolitan Housing Development Corp*, 429 U.S. 252 (1977) set forth guidance as to whether "discriminatory purpose was a motivating factor" in the policy decisional process. The Court pointed out that an inquiry of this nature "demands a sensitive inquiry into such circumstantial and direct evidence of intent as may be available." Citing *Washington v. Davis*, 426 U.S. 229 (1976) the Court noted that "[t]he impact of the official action – whether it bears more heavily on one race than another may provide an important starting point." *Arlington Heights*, 429 U.S. at 266. The Court then identified several factors to consider in determining whether race was the determining basis for a policy decision:

i. The historical background of the decision.

ii. The discriminatory impact of the official action.

iii. The specific sequence of events leading up to the challenged decision.

iv. Substantive and procedural departures from the normal sequence of decision making.

v. The legislative or administrative history as evidenced by contemporary statements by members of the decision making body, minutes of its meetings, or reports.

8. For this report, I examined facts relevant to all five of these factors, with particular attention to how the actions of the Commission and associated personnel are relevant to this analysis. My analysis focuses on the sequence of events leading up to the challenged decisions and the legislative and administrative history of that sequence, as well as the substantive and procedural departures from the normal sequence of decision making.

9. My opinion is based on a review of the following materials:

i. Document production to date made by the parties including materials obtained by subpoena or open records request. (A copy of the materials provided to me is disclosed herewith.) Within these materials, I have paid special attention to the following:

a. Minutes of meetings of the Washington State Redistricting Commission.

b. Text messages between the members of the Commission and their respective staffs.

c. Emails between Commissioners and their staffs.

d. Emails from citizens to the Commission.

ii. Depositions of the following individuals conducted in connection with this lawsuit: Commissioner Sarah Augustine; Executive Director Lisa McLean, staffers Pablo “Paul” Campos, Anton Grose, and Osta Davis.

iii. Depositions of the following individuals conducted in connection with an OPMA lawsuit: Commissioner Sarah Augustine, Joe Fain, Paul Graves, April Sims, and Brady Walkinshaw; and staffers Ali O’Neil and Osta Davis.

iv. Maps proposed and/or considered by each Commissioner as well as the final enacted map.

v. A report issued by Dr. Matt Barreto entitled "Assessment of Voting Patterns in Central/Eastern Washington and Review of Federal Voting Rights Act, Section 2 Issues," dated October 15, 2021.

vi. Several United States Supreme Court decisions including *Village of Arlington Heights v. Metropolitan Housing Development Corp.,* 429 US 252 (1977); *Gingles v. Thornburg,* 478 US 30 (1986); and *LULAC v. Perry,* 548 US 399 (2006).

vii. Tversky, Amos and Daniel Khanaman. 1986. "Rational Choice and the Framing of Decisions." *Journal of Business.* 59: 251-78.

viii. Dewey, John. 1910, 1933, 1989. *How We Think?* Boston: Houghton-Mifflin.

ix. Flores, Henry. 2015. *Latinos and the Voting Rights Act.* New York: Lexington Press.

x. _____. 2019. *Racism, Latinos, and the Public Policy Process.* New York: Lexington Press.

xi. Gardner, Daniel. 2009. *Science of Fear: How the Culture of Fear Manipulates your Brain.* New York: Plume, an Imprint of Penguin Random House.

xii. Kahneman, Daniel, Oliver Sibony and Cass R. Sunstein. 2021. *Noise: A Flaw in Human Judgment.* New York: Little, Brown Spark.

xiii. _____. 2011. *Thinking, Fast and Slow.* New York: Farrar, Straus and Giroux.

xiv. Simon, Herbert. 1977. *The New Science of Management Decisions, Revised Edition.* Hoboken, New Jersey: Prentice-Hall.

xv. "Table 5. Decision Timeline" drafted by Dr. Loren Collingwood, provided to me by Plaintiffs' counsel, and incorporated herein as Appendix B. The information in this chart is representative of the type of data that was available to and/or being assessed by the Commissioners in both Dave's

Redistricting App and analyses of maps being done by caucus staffers. (See, e.g., "RE_ Fain_v2 for ranking.pdf." "Fain_v2.xlsx.")

10. I offer observations on both the specific and general levels.

11. The specific observations are based on a detailed review of information and data substantiating each of the *Arlington Heights* Factors.

12. My general observations are of the overall behavior of individuals participating in the redistricting decisional processes in Washington.

13. This report uses the terms "Hispanic" and "Latino" interchangeably.

14. I will review additional depositions and documents as they become available. I may extend, amend or add to my opinions as additional information becomes available.

15. I expect to be asked to provide testimony about the events and discussions leading up to the adoption of the challenged legislative plans, as those events are documented in the documents, communications and witness testimony. I expect to be asked to summarize voluminous documents and materials in order to aid the fact finder.

III. Qualifying Statement

16. This is a preliminary opinion based upon available information and data. This opinion is subject to change as additional documentation is received through the discovery and deposition processes. As a result, I may supplement this report as needed.

IV. Historical Background

17. I have not conducted a full analysis of the historical background of discrimination against Latinos in the Yakima Valley region, and understand that another expert witness will opine on this topic. Invidious discrimination, however, is a matter of record in the communities in the Yakima Valley region. Since 2014 there have been three voting rights lawsuits brought in the City and County of Yakima, and City of Pasco, which all settled or were adjudicated in favor of Latino voters resulting in changes to election systems in those jurisdictions. *Montes v City of Yakima,* 40 F. Supp. 3d 1377 (E.D. Wash. 2014), *Aguilar v Yakima County, et al.,* No. 20-2-0018019 (Kittitas. Sup. Ct. July 13, 2020), *Portugal, et al. v. Franklin County, et al.*, No. 21-2-50210-11 (Franklin Sup. Court May 9, 2022), and *Glatt v City of Pasco,* Case No. 4:16 CV-05108-LRS, (E.D. Wash. Jan. 27, 2017).

V. Discriminatory Impact

18. The Redistricting Commission configured Legislative District (LD) 15 to appear as though it was a Latino opportunity district with a majority Hispanic Citizen Voting Age Population (CVAP) of 50.02% using 2019 CVAP, the latest data which was available to the Commission when it was creating the map. However, the district is purposefully not configured to allow Latinos to elect a candidate of their choice. (Email from Paul Graves to April Sims, RE: New map proposal, dated November 11, 2021; Deposition of Anton Grose, p. 175.). The configuration of LD 15 cracks the Latino population in the Yakima Valley region into various legislative districts including LDs 13, 14, 15 and 16. (My Districting/Washington Redistricting Commission. Commissioner Graves Leg Proposal, https://washington.mydistricting.com/legdistricting/comments/plan/1185/15; Deposition of Paul Campos, p.117.). And, most importantly, it does not perform for Latino voters.

19. As the U.S. Supreme Court pointed out, "the impact of the official action – whether it bears more heavily on one race than another may provide an important starting point." LD 15 in the Enacted Plan plainly does not perform to allow Latino voters the opportunity to elect their candidates of choice. This is clearly evidenced by the performance analysis conducted by Dr. Loren Collingwood encapsulated in his "Decision Timeline" chart, included here as Appendix ("Appx.") B. While earlier proposed plans fared much better on this metric, in the Enacted Plan the Latino-preferred candidate in LD 15 would win in only two of the eight elections analyzed.

VI. Sequence of Events and Contemporaneous Viewpoints Expressed by Decision Makers

20. The administrative record of the Redistricting Commission goes beyond the minutes of their meetings and includes private communications between commissioners, their staffs, other elected officials, and the public. Each email, text, and public comment had a bearing on the formation of the legislative map and/or the information that was before the Commission that should have had a bearing on the formation of the legislative map.

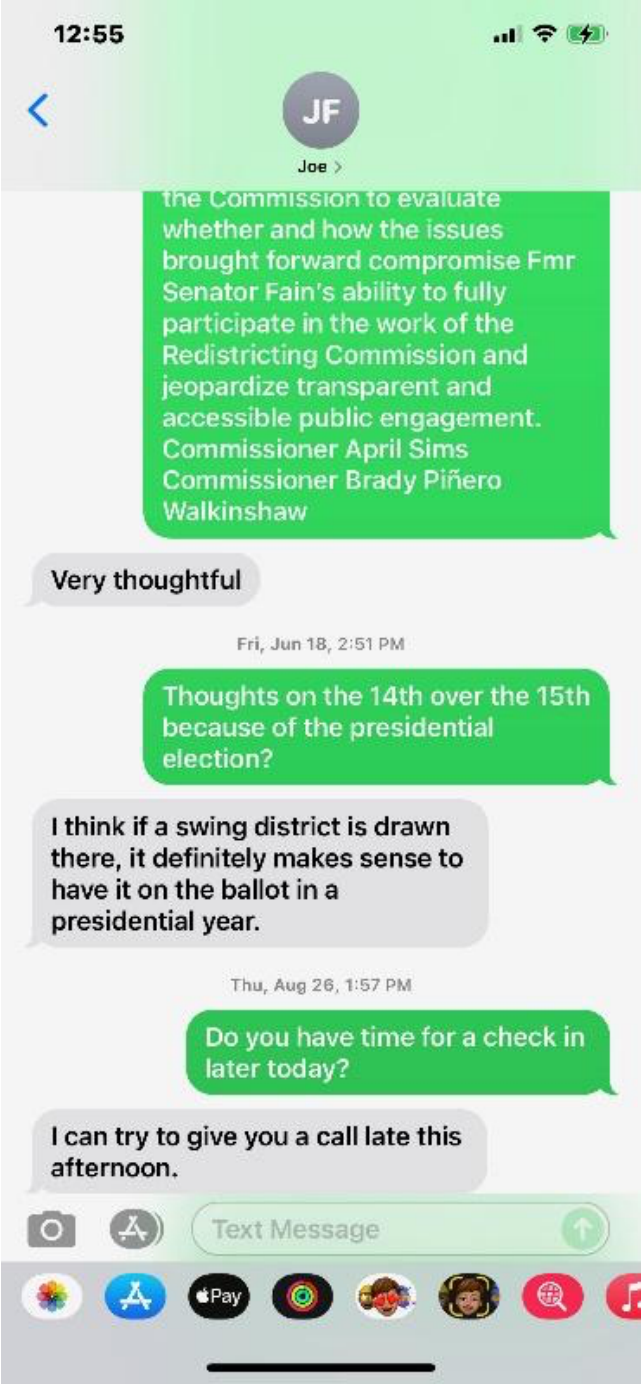
21. The administrative record and specific sequence of events leading up to the challenge includes evidence that the members of the Washington State Commission were briefed by the State Attorney General, staff, members of their respective parties and Dr. Barreto's Report

that adherence to the specifications of the Voting Rights Act were important if not paramount. (Depositions of Sarah Augustine, Lisa McLean; Official Meeting Minutes from June 21, 2021; Press releases of Commissioners Sims and Walkinshaw dated October 21, 2021; Email from Ali O'Neil to April Sims, dated September 21, 2021).

22. The publicly proposed maps, internally created and circulated draft maps, and Commission communications regarding those maps reveal that the Commissioners knew it was possible to draw a majority Latino CVAP district in the Yakima Valley that would allow Latinos the opportunity to elect their candidates of choice, knew that they were required to draw a Latino opportunity district by the VRA, and still made the ultimate decision to approve a map that provided only the façade of Latino opportunity while ensuring that the district would not perform for Latinos. Indeed, the evidence reveals that the ultimate map was the product of a conscious desire to maximize the extent to which the district would *block* Latino voters from electing their candidates of choice while at the same time maintaining the barest of a Hispanic CVAP majority in the district because doing so, they thought, would make litigation against the plan more difficult. I will be prepared to testify as to the sequence of the various proposed maps and the changes each proposed map included including referencing the racial impacts of each proposed alternative.

23. The numbering of the Yakima Valley region district as LD 14 rather than LD 15 indicated a desire to have the Yakima district contested during a Presidential Election due to a higher turnout rate. Numbering it as the 14th district versus the 15th would put it up for election during a Presidential and gubernatorial election year rather than in off-year elections. Latino turnout is generally higher during Presidential versus midterm election years. (June 18, 2021 text messages between Fain and Sims, "2.9 to 8.26 (AS-JF)").

24. Early on, Commissioners acknowledged the significance of numbering the Yakima Valley district LD 14 rather than LD 15. For example, on June 18 2021, Commissioner Fain and Sims exchanged texts regarding the importance of the numbering the Yakima Valley region district LD 14 "to have it on the ballot in a presidential year." [June 18, 2021 text messages between Fain and Sims, "2.9 to 8.26 (AS-JF)"].



25. Further, the Commissioners were repeatedly given information on their obligation to comply with the Federal Voting Rights Act (VRA). On June 21, 2021, the Washington State Redistricting Commission held a meeting where an attorney from the Washington Attorney General's office, Brian Sutherland, provided an "overview of the Federal Voting Rights Act and minority vote dilution as it relates to redistricting." (Official Meeting Minutes from June 21, 2021). In this meeting, Mr. Sutherland provided the Commissioners with information on

Thornburg v, Gingles "and explained how to determine if there is evidence of a Gingles district or racially polarized voting." (Official Meeting Minutes from June 21, 2021). During the presentation, Commissioners Sims, Fain, and Graves all asked questions about the legal requirements of the VRA. (Official Meeting Minutes from June 21, 2021).

26. Although the Commission was aware of the need to hire a consultant on VRA compliance, the Commission did not do so. (Sarah Augustine Deposition dated October 06, 2022 pp. 66-67; Lisa McLean Deposition dated October 05, 2022, p. 87, 92 ("It was, go hire a voting rights consultant. We had money. I knew we had money.")).

27. The Commission never advertised for or sought the services of a VRA consultant even though they had recommendations from both parties. (Lisa McLean Deposition, October 05, 2022, p. 95). Although Chairperson Augustine sent a recommendation to the voting members of the commission to hire a VRA consultant, the commissioners "had no more appetite to hire a VRA consultant" after Commissioner Graves passed on Dr. Barreto, instead recommending Dr. Brunell. (Lisa McLean Deposition, October 05, 2022, pp. 108-109).

28. It is not clear why the commissioners lost interest in hiring a VRA consultant, which leads me to conclude that they did not make complying with the VRA a priority. (Lisa McLean Deposition, October 05, 2022, p. 109; Sarah Augustine Deposition, October 06, 2022, pp.72-75; Texts through State-paid phones through 3.29.22_FOR REVIEW, text from Augustine to McLean on August 17, 2021 ("It looks like there is no support for a VRA consultant of any kind. I think it's time to give it up.")).

29. On September 21, the four voting Commissioners each released their initial public proposal for the legislative maps (September 21 Proposals, Appx. C). None of the four proposed legislative maps included a majority Latino CVAP legislative district in the Yakima Valley. Neither the Fain nor Graves Proposals would provide Latinos with the opportunity to elect their candidates of choice, and, in fact, those proposals further split the Latino communities in the Yakima Valley such that their proposals had smaller Latino populations and worse outcomes for Latino-preferred candidates than even the prior configuration of LD 15. ("Analysis of 9.21 Commissioner Proposed Leg Maps.pdf." "DraftComparison.xlsx."). And of the four proposals, only Walkinshaw's numbered the Yakima Valley District LD 14. ("Decision Timeline," Appx. B).

30. In a public statement, composed by staff for the commission, it was clear that the Latino community in the Yakima Valley requested to be unified in public meetings. (October 13 E-Mail from O'Neil to Meyers, "MEYERS_004619.pdf").

31. In a slide show presentation dated October 15, Dr. Matt Barreto provided analysis demonstrating that there was "crystal clear" evidence of racially polarized voting in the Yakima Valley Region, illustrating the flaws with the Commissioners' September proposals' Yakima Valley districts from a VRA perspective, and providing alternative maps that would comply with the Voting Rights Act's requirement that there be a district in the Yakima Valley Region that would provide Latinos with the opportunity to elect their candidates of choice ("WA state presentation.pdf").

32. On October 21, Commissioner Walkinshaw publicly released the Barreto analysis ("RELEASE_ New analysis shows final Washington st…(1).pdf." "Barreto-WA-Redistricting-Public-Version.pdf"). That release summarized that "Dr. Barreto's analysis found that to comply with federal law, the legislative map adopted by the Washington State Redistricting Commission must include a majority-Hispanic district based on Citizen Voting Age Population (not total or voting age population) that also has the demonstrated ability to allow Latino voters to elect candidates of their choice to the Washington State Legislature." This was emphasized by Commissioner Walkinshaw when he noted "it is mission critical to me that the maps we put forward guarantee the voting rights of this historically underrepresented and marginalized community (Latinos)." Earlier in his press release Commissioner Walkinshaw pointed out "...the political choices of those voters have not been reflected in their elected representatives. That's why we have heard repeatedly throughout this redistricting process from the public that Latino communities must be kept together and allowed to elect candidates of their choice…..That's why Commissioner Sims and I will be releasing new statewide legislative maps early next week that incorporate public feedback we've received in the last few weeks and include a VRA-compliant 14th district in the Yakima Valley. We encourage our Republican colleagues to do the same." ("RELEASE_ New analysis shows final Washington st…(1).pdf").

33. Commissioners Sims and Walkinshaw redrew their respective maps after exposure to Dr. Barreto's Presentation together with public comment from the Latino community, both were Latino majority, Sims HCVAP 51.6% , Walkinshaw HCVAP 51.6%. ("Decision Timeline," Appx. B; October 25 Proposals, Appx. D). In announcing her

reconstituted LD 14, Commissioner Sims acknowledges the "presence of racially polarized voting in the Yakima Valley region and provides the Commission with a clear directive: draw a district that allows the Latino community in Yakima Valley to elect their candidate of choice." ("Updated Sims Map Statement 10252021.pdf"). Additionally, Commissioner Walkinshaw, citing both public comment from the Latino community and Dr. Barreto's presentation, included a VRA-compliant 14th Legislative District in the Yakima Valley. Walkinshaw stated "Now that we have this information, we as commissioners should not consider legislative district maps that don't comply with the VRA. It is irresponsible to the historically underrepresented communities in the Yakima Valley to entertain any proposals that undermine their rights under federal law…" ("RELEASE Walkinshaw Releases New Legislative District Map.eml.pdf").

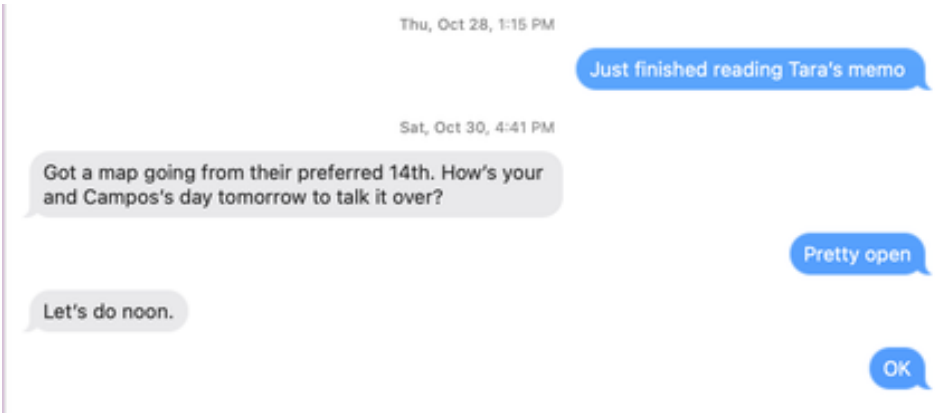
34. The other two commissioners, Fain and Graves, did not issue new public proposals even after becoming aware of the Barreto analysis and the applicability of the VRA to the Yakima Valley region district. (Depositions of Anton Grose, August 16, 2021 p.164, and Paul Campos, August 15, 2021 p. 87-88).

35. Commissioner Graves sought consultation concerning legal representation in the event of a VRA complaint. He inquired if the state would incur the costs of legal representation or if he would be required to cover this expense. ("Official email Sims_Redacted.pdf" pp.51-53; Texts through State-paid phones through 3.29.22_FOR REVIEW, text from Augustine to Graves on October 22, 2021 at 0:59 "Hi there Paul. I just sent you an email explaining complications in retaining VRA counsel. Call me once you've read it if you wish.").

36. The Senate Democratic Caucus redistricting staffer noted, in an email to Commissioner Walkinshaw, that based on the "VRA-analysis and what we have heard repeatedly in public comment" the number One "must-have" in an approved map is a "VRA-compliant 14th, dem performing, non-negotiable" district. (Oct. 27 E-Mail from O'Neil to Walkinshaw, "Leg map must-haves.pdf").

37. On October 28, 2021, the Washington Attorney General's office sent the Commissioners a memorandum related to the Voting Rights Act which purportedly "largely finds that if the Barreto analysis is correct, there is a sufficient legal need for a VRA district." (October 28 Email from O'Neil to Walkinshaw, "Official Email Walkinshaw_Redacted.pdf" at 64-65. Text messages between Fain and Graves, "Graves_10..28_30_11.01_02_03.png").

38. Following the release of the Barreto analysis and a memorandum from the Washington Attorney General's office regarding the VRA, all four Commissioners began internal negotiations regarding the Yakima Valley Region district, at times referring to that district as LD 14 (as was preferred by Commissioners Walkinshaw and Sims) and LD 15 (as was preferred by Commissioners Graves and Sims). On October 30, 2021, Commissioners Graves texted Commissioner Fain that he was working on a map starting with Commissioner Walkinshaw and Sims' preferred LD14 configuration. (Text messages between Fain and Graves, "Graves_10..28_30_11.01_02_03.png").



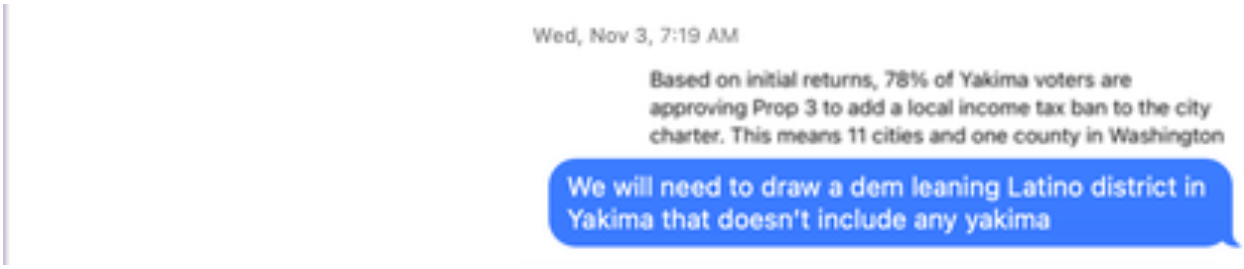
39. At the November 1, 2021 Commission meeting, Commissioner Walkinshaw shared that he had spoken with each of the Commissioners individually and that there were "a lot of questions about the Voting Rights Act and the district in the Yakima Valley." Commissioner Fain noted that they discussed the Voting Rights Act and each commissioner's priorities. Both Commissioners Sims and Graves were clear that they were about to enter into the negotiation phase of the redistricting process. (Nov. 1, 2021 Washington Redistricting Commission Meeting Minutes at 10). (Nov. 1, 2021 Washington Redistricting Commission Meeting Minutes at 11).

40. At the end of the November 1 Commissioner's meeting Walkinshaw requested staff to send to the Chair and Executive Director of the Commission Dr. Barreto's full report to be shared with all commissioners.(Nov. 1, 2021 Email from O'Neil to Augustine, McLean, "Dr. Barreto's VRA Analysis.pdf." Nov. 1, 2021 Washington Redistricting Commission Meeting Minutes.).

41. At some point between November 1, 2021 and early November 3, 2021, the Washington Assistant Attorney General provided new analysis on Section 2 of the VRA. (Texts

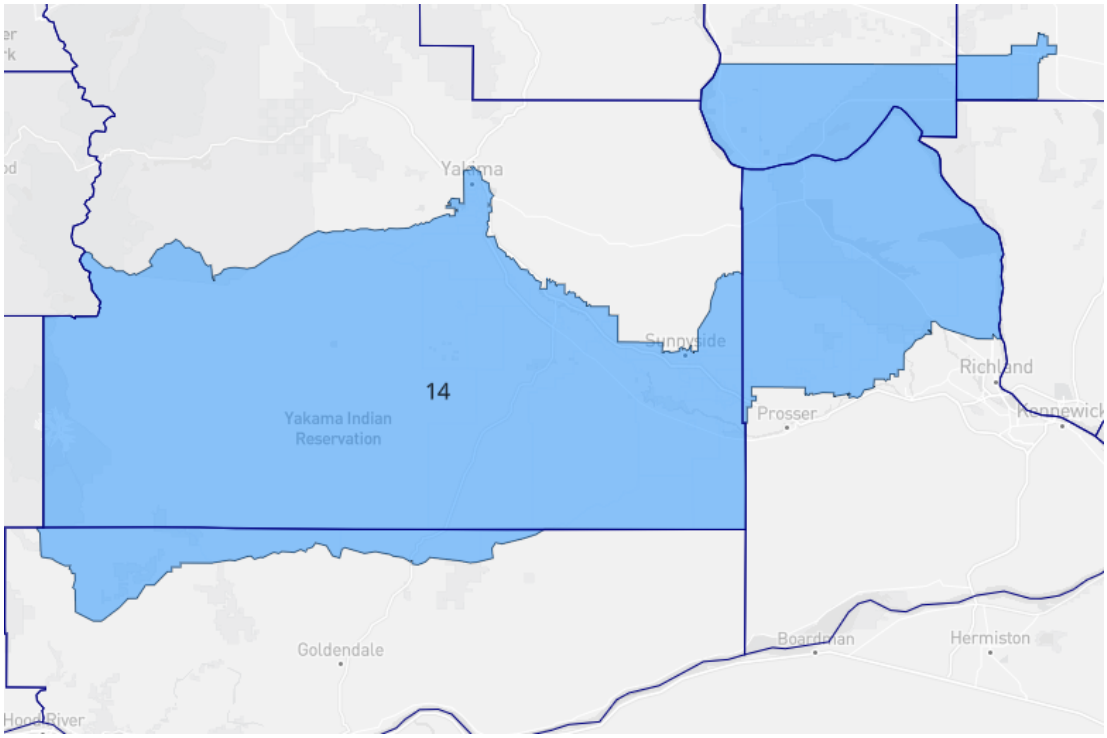
through State-paid phones through 3.29.22_FOR REVIEW, text between McLean and Augustine on November 03, 2021 at 0:13).

42. On November 3, 2021, Commissioner Fain texted Commissioner Graves that it was necessary to draw a "dem leaning Latino district in Yakima" (Text messages between Fain and Graves, "Graves_10..28_30_11.01_02_03.png").

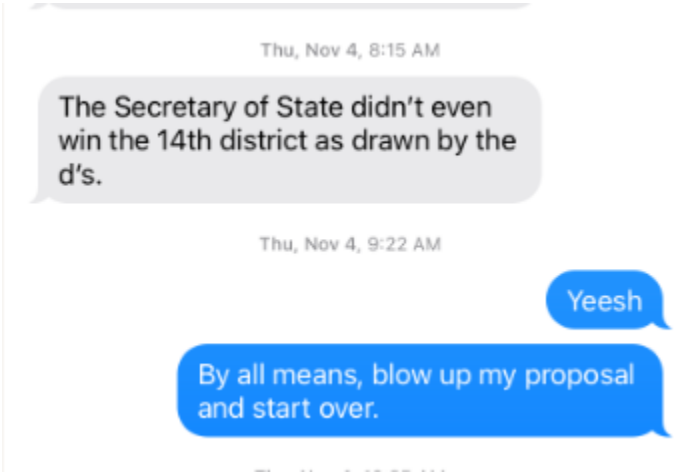


43. Commissioner Graves offered a "dem leaning" district to Walkinshaw that same day. (Text messages between Fain and Graves, "Fain_11.03 (2).png"). (Nov. 3, 2021 E-mail from O'Neil to Walkinshaw, "Fwd_LD Offer from Graves.pdf"). The map, labeled "GravesLD14," would have drawn LD 14 to have a Hispanic CVAP of 50.6% and the Latino-preferred Democratic candidates would have prevailed in 8 of 8 recent statewide elections with margins ranging from 52.8% to 60.3% ("Decision Timeline," Appx. B). The district proposed by Commissioner Graves on November 3, 2022 is shown below:

"GravesLD14" Map—November 3, 2021



44. When Commissioner Fain texted Commissioner Graves the next day to report that the Democratic Commissioners' proposal actually had lower performance for Latino-preferred candidates, Commissioner Graves replied that they should scrap his own proposal. (Texts between Graves and Fain, "Fain_11.04.png"):

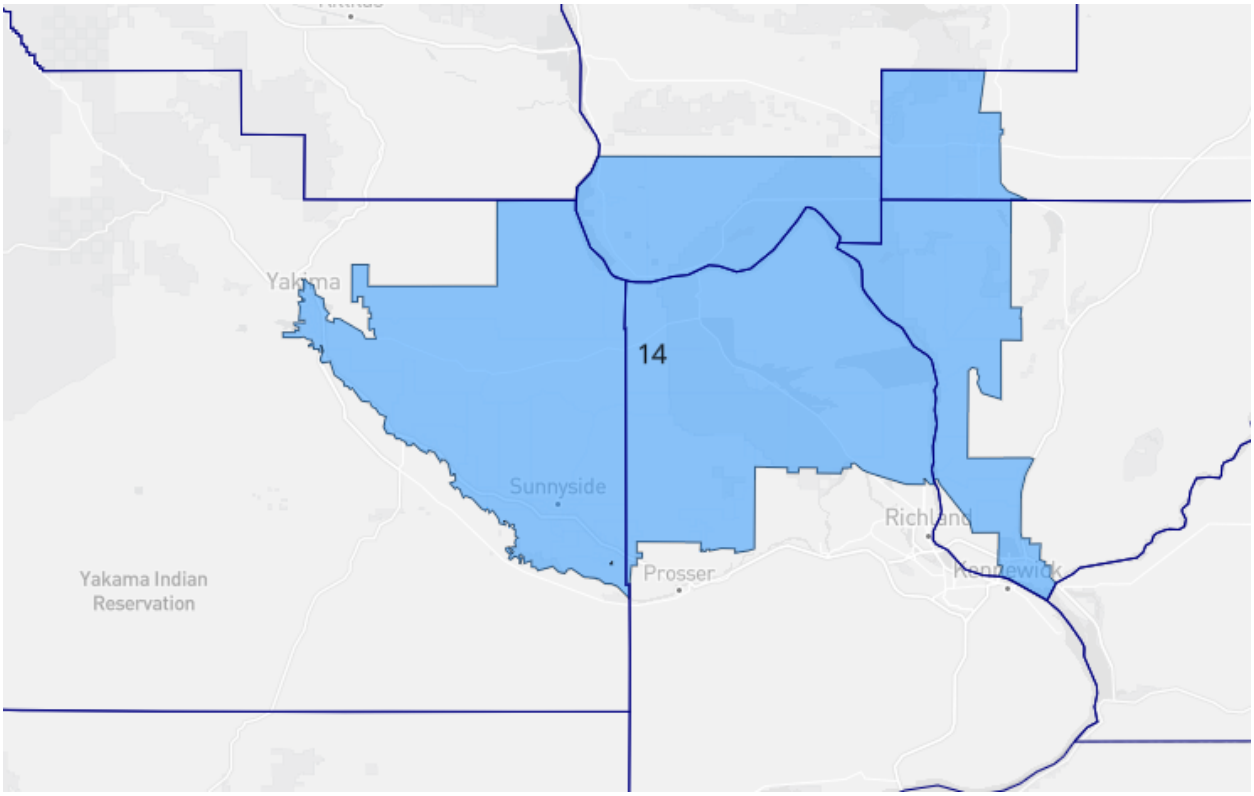


45. Subsequently, they did make the changes, with the proposals by Graves and Fain for the VRA district substantially changing its configuration—jettisoning the Lower Yakima Valley heavily Latino (and heavily Democratic) communities of Toppenish, Wapato, and Mabton—and shifting north and east. Doing so reduced the electoral possibilities for Latino-preferred candidates in the district.

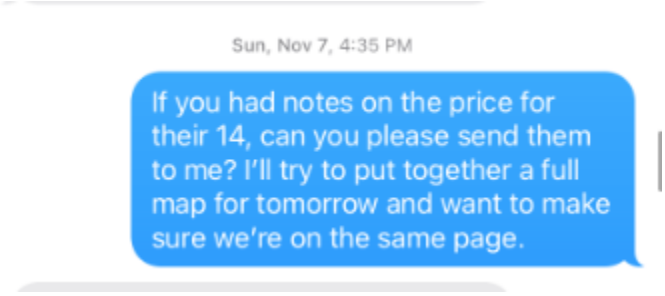
46. On November 4, 2021, Commissioners Graves and Fain received a memorandum that they had requested from attorneys at Davis, Wright, Tremain to "evaluate Dr. Matt Barreto's Assessment of Voting Patterns in Central / Eastern Washington and Review of Federal Voting Rights Act, Section 2 Issue ('the Assessment')." The memo was "predominantly legal, rather than factual" and did not "endeavor[] to conduct factual research regarding demographic trends, voting behavior, election results, or other factual assertions in the Assessment." Nor did the memorandum seek to address the legal analysis provided by the Washington Attorney General's office in the days prior ("Redistricting VRA Memo.pdf"). Commissioner Graves forwarded this memorandum to Commissioner Sims on November 5 (November 5, 2021 e-mail from Graves to Sims, "Fwd_ Legal memo.pdf"). While the memorandum advised the Commissioners that they could not draw a majority Latino CVAP district in the Yakima Valley Region without running afoul of the law and risking a lawsuit, Commissioner Graves and Fain did not follow that advice. The evidence clearly demonstrates that Graves' intent, ultimately reflected in the final map, was to draw a majority Latino CVAP district in the Yakima Valley, but with a progressively decreasing likelihood for Latinos there to elect their candidates of choice.

47. For example, on November 7, 2021, Commissioner Graves created a map labeled "11-7 New leg proposal," which he shared with Commissioner Sims in a meeting on November 8 (Texts between Graves and Fain, "Fain_11.07_.08.png"). That map is shown below:

Graves "11-7 New leg proposal" – November 7, 2021



48. Commissioner Graves's November 7 proposed LD 14 had a Latino CVAP of 50.9% and the Latino-preferred Democratic candidates would have prevailed in 5 of Commissioner 8 recent statewide elections, with winning vote shares ranging from 48.3% to 55.7%. ("Decision Timeline," Appx. B). Before Commissioner Graves finished this proposal and shared it with Commissioner Sims, he texted Commissioner Fain asking if he had taken any notes on what "price" the Democratic Commissioners were willing to pay in order for Commissioners Graves and Fain to agree to a Yakima area district that complied with the federal Voting Rights Act (Text messages between Graves and Fain, "Fain_11.07_.08.png").

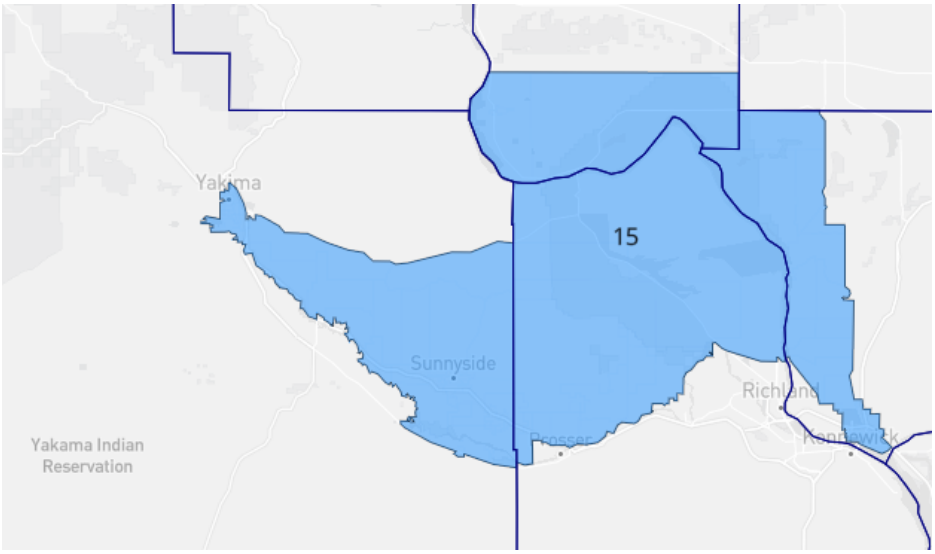


49. On several occasions Commissioner Graves made clear that he was only willing to comply with the VRA in the Yakima area for a "price"—i.e., Republican gains elsewhere in

the map (Nov. 11, 2021 Email from Graves to Sims, "RE_New map proposal.pdf"). In other words, despite knowledge of mandates of federal law and what it required for the Yakima area district, Commissioner Graves treated complying with Latino voters' federally protected rights as a negotiating tactic to extract political benefits elsewhere in the map.

50. On November 8, Commissioner Fain circulated a proposed map that increased the performance for Latino-preferred Democratic candidates, but that switched the district number from LD 14 to LD 15, which would result in the senate election occurring in the off-year cycle in which Latino turnout is lower ("Fwd_Fain LD Map.pdf"). In Commissioner Fain's proposal, LD 15 would have a Hispanic CVAP of 50.6%, and Latino-preferred Democratic candidates would have won in 7 of 8 recent statewide elections, with a tie in the 2018 U.S. Senate race—the only recent off-year statewide election. ("Decision Timeline," Appx. B). That map is shown below:

"Fain V2" – November 8, 2021



51. The documentation regarding the sequence of events that took place between Commissioner Graves's release of his November 7 proposal and the map that was ultimately adopted reveal two key facts relevant to discriminatory intent: (1) the Democratic Commissioners were unwilling to agree to more competitive districts in other parts of the state in exchange for a new VRA-compliant Yakima district, and (2) the Commissioners—in an effort seemingly led by Commissioner Graves—consciously sought to undermine the ability of Latino voters to elect their candidate of choice in the Yakima area while at the same time maintaining the façade of Latino electoral opportunity by surgically selecting precincts to add and remove

from the district in order to maximize Republican performance while still maintaining the barest of Latino majorities.

52. The first fact—that the Democratic Commissioners knowingly and intentionally protected incumbents despite knowing federal law required them to protect Latino voting rights—is obvious because the Republican Commissioners proposed plans that would perform for Latino voters in the Yakima Valley region, and Democratic Commissioners rejected those offers.

53. The second fact—the conscious effort to conceal the knowing VRA violation—is likewise obvious from the evidence, including contemporaneous notes and from the surgical alterations Commissioner Graves and his staff made leading up to the adoption of the final map.

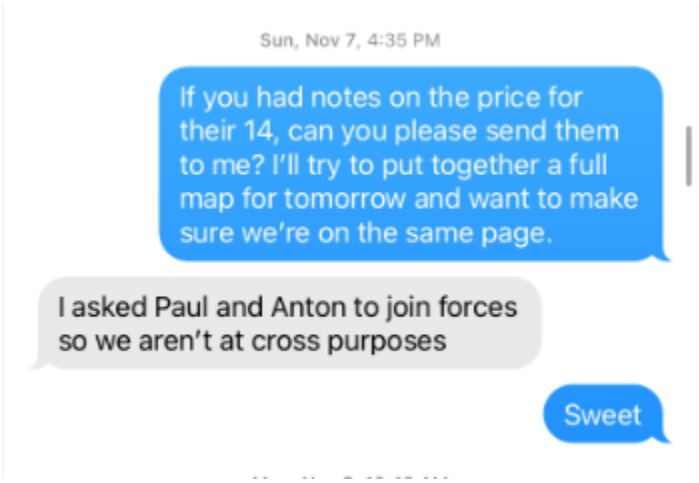
54. Ali O'Neil, a legislative staffer who observed some of the negotiations, recorded her recollections of November 11-16, 2021 in a timeline of those days drafted November 18-19, 2021. In those notes, she recorded the following for November 15, 2021. (Ali O'Neil Production, "Timeline of Redistricting Commission Events 11.19.docx"):

discussed previously.
Brady told graves that his priority was a VRA compliant district, but that he would not negotiate a VRA district for anything else in the map and that he might be willing to vote for a district that was not compliant. He asked for the republicans to draw the district the way they wanted, and for it to be the 14th district. Graves insisted that he wanted to make it majority Hispanic by CVAP, but that it would be a Republican district, and that he wanted to do this to be able to protect against any lawsuit. He said repeatedly that this was the best thing to do to not lose a lawsuit.

55. Unwilling to do what was required to actually comply with the VRA, Commissioner Graves thus insisted that the map attempt to conceal its noncompliance (and

evade legal liability) by remaining a majority Hispanic CVAP district despite the fact it intentionally would not perform for Latino voters.

56. The progression of Commissioner Graves's proposed plans corroborates Ms. O'Neil's recorded notes of Graves's approach to the Yakima Valley district. And Commissioner Fain made clear he was in lockstep with Commissioner Graves's approach, texting him that Fain's and Graves's staffers were instructed to work together on their position on the Yakima district ("Fain_11.07_.08.png"):



57. On Thursday November 11, Commissioner Graves shared a proposal that the Republican staffers—Mr. Campos and Mr. Grose—collaboratively developed the prior evening. (Text messages between Fain and Graves, "Fain_11.11_12.png." Nov. 11, 2021 E-mail chain with Graves, Grose, Sims, Davis, and Meyers, "RE_New map proposal.pdf."). The map was labeled "Graves1110LD." The map was largely the same as Commissioner Graves's November 7 proposal, except it made a few key changes to reduce the Hispanic population and boost Republican performance. Commissioner Graves wrote to Commissioner Sims that "The 14th here is ever so slightly more Republican here than your last proposal, but is still firmly swing. It is majority Hispanic CVAP." Graves specified that an LD 14 with this composition would have to be in exchange for shifted partisan performance elsewhere on the map (Nov. 11, 2021 E-mail from Graves, "FW_New map proposal.pdf."). This presents a suspicion that Commissioner Graves was willing to bargain with a potentially VRA-compliant district to achieve partisan gains elsewhere in the statewide plan.

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

Hi April,

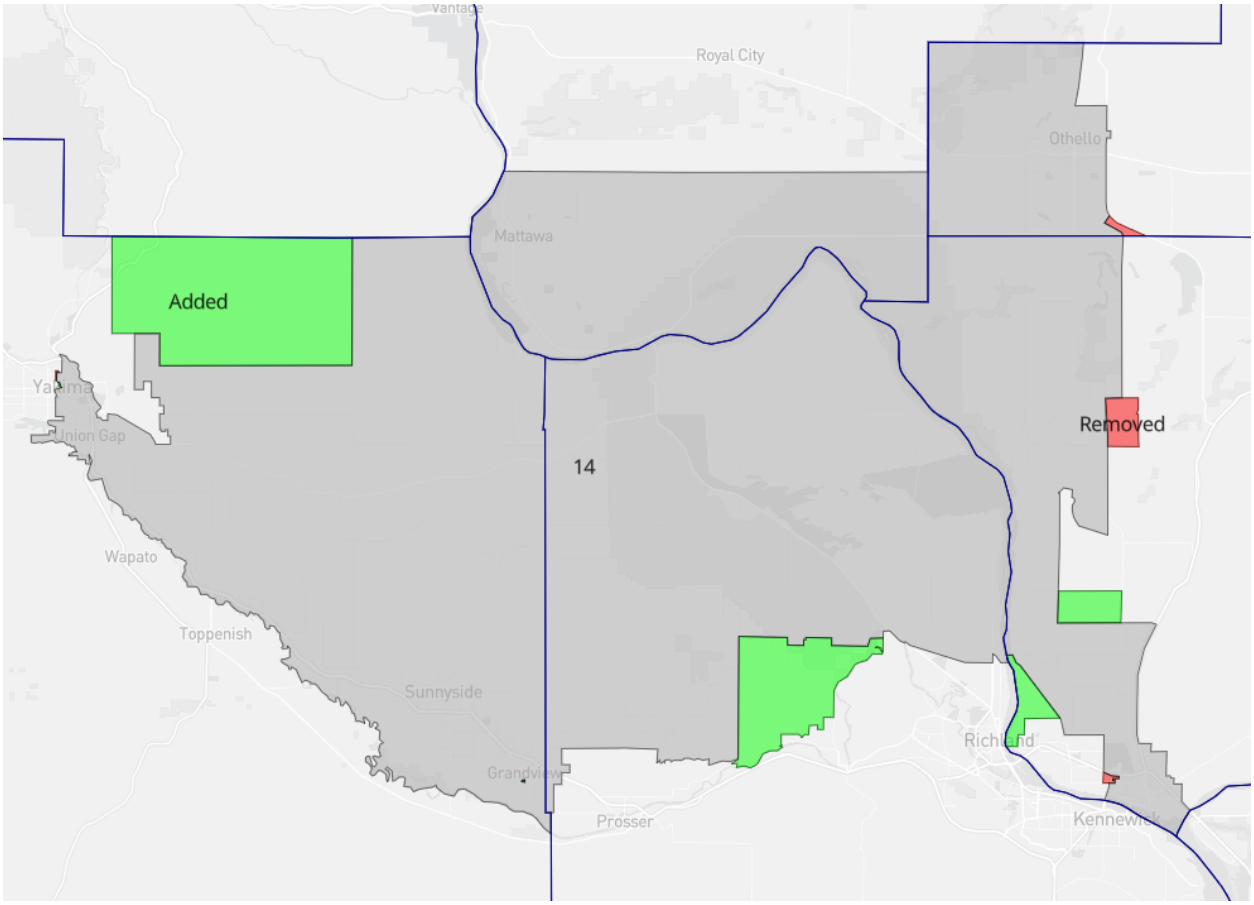
Anton is sending over our next map offer shortly. Highlights below, and looking forward to talking at 1:

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

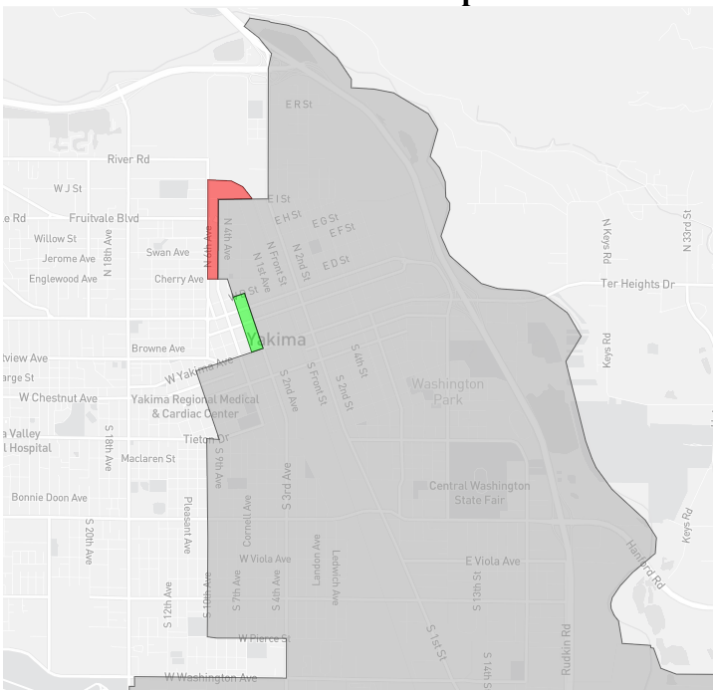
Again, looking forward to talking at 1, and I will be especially interested to hear from you what you think a fair price is for this 14th. I will also be interested to hear how your talks with Brady are going. Ideally, we would be sending proposals from here on out that have the support of each partisan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

58. The map below illustrates the changes that were made: the dark gray region shows the geography that remained the same between the two proposals, the red illustrates the precincts that were removed, and the green illustrates the precincts that were added:

Graves November 7 Map v. Graves November 11 Map



Yakima Close-Up



59. Notably, Commissioner Graves's November 7 proposal includes zero split precincts, while the November 11 proposal splits five precincts, including the two Yakima precincts shown in the close-up image above. That red area includes 7 Census blocks that were removed from Precinct 104—381 people with a Hispanic CVAP of 60.9%. The green area includes 4 Census blocks that were added from Precinct 112—100 people with a Hispanic CVAP of 42.4%.

60. Below is a chart showing the demographic and electoral characteristics of the population that remained, was added, and was removed from the November 7 to the November 11 proposals.

Graves November 7 Map v. Graves November 11 Map Data

Area	Total Population	Hispanic CVAP	White CVAP	2020 Treasurer - Pellicciotti %	2020 President - Biden %
Remained (Gray)	154,366	51.0%	43.8%	48.6%	50.6%
Added (Green)	2,895	14.2%	81.7%	23.9%	29.9%
Removed (Red)	2,931	45.2%	50.6%	55.0%	57.3%

61. These surgical alterations—including splitting precincts—resulted in the Hispanic CVAP of the district dropping from 50.9% to 50.3%. The removed citizen voting age population is predominantly Hispanic voters, and the removal of such population weakens performance for Latino-preferred candidates, as demonstrated by the demographic and electoral figures. By contrast, the population added to the district is heavily white and votes predominantly against Latino candidates of choice.

62. The next representative proposal from Commissioner Graves was drawn on November 12 and forwarded to Commissioner Sims and her staff on November 13 (Email from Graves to Sims, "Fwd map proposal.eml.msg.pdf"). In transmitting it, Graves noted that he was changing the number of the district from LD 14 to LD 15 "for ease of incumbents" and that he rejected Commissioner Sims's most recent proposal for the district because its Hispanic CVAP was just below 50% and he wanted it to be "just over 50%":

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

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

Paul Graves
Sent from my phone

> On Nov 13, 2021, at 8:42 AM, Graves, Paul <Paul.Graves@redistricting.wa.gov> wrote:
>
> ?
> Good morning,
>
> Anton is going to send an EZIP file of our proposal in just a minute. As discussed yesterday, it:

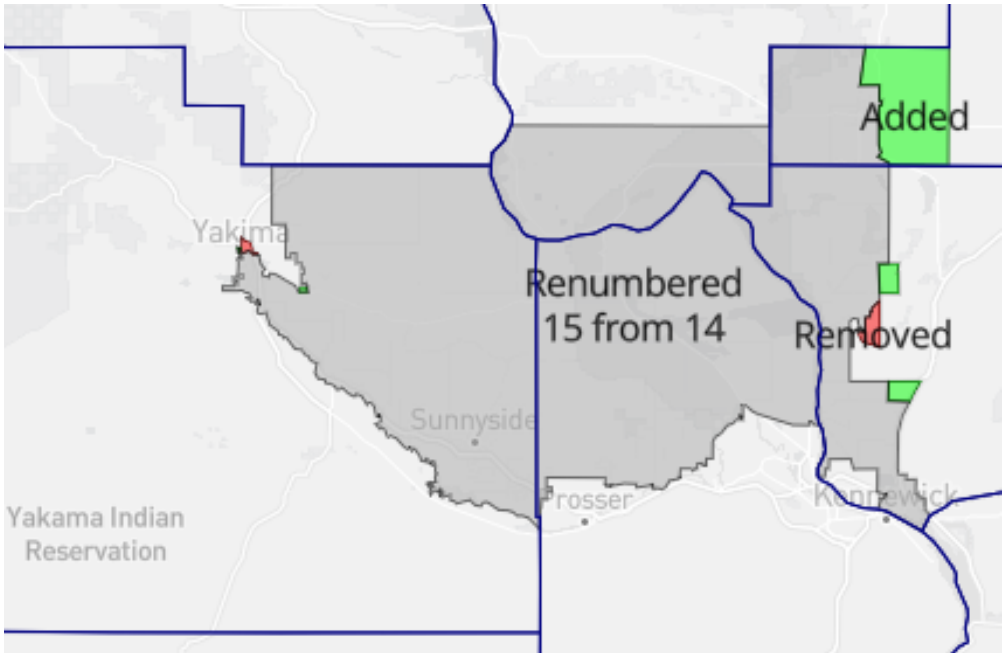
- Starts with the 14th as you proposed it most recently. That involves a 3 point shift in partisan performance, and in exchange the map makes the 47th just 0.36% better for republicans.
- Five of the seven current swing or lean districts (26, 10, 42, 44, and 28) see their partisan performance stay within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

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

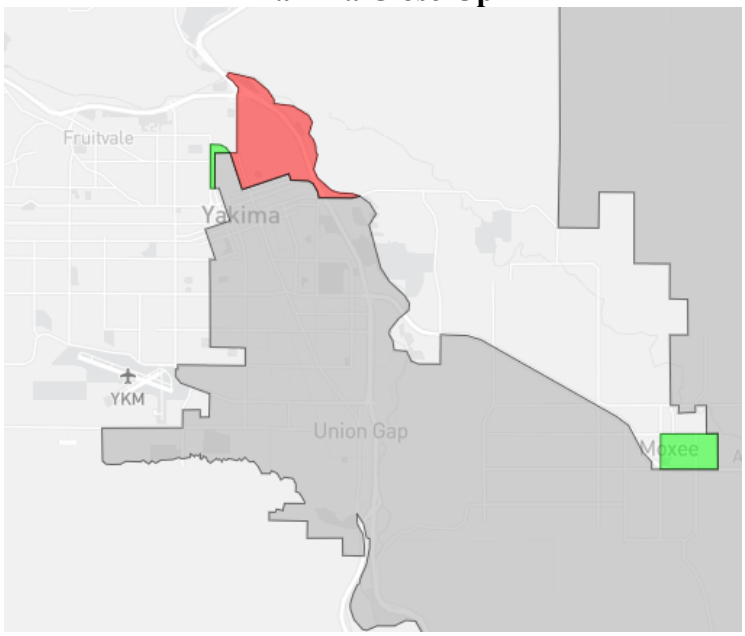
63. In this instance, "ease of incumbents" refers specifically to the Republican incumbents that Commissioner Graves and the other commissioners knew were the candidates white voters joined together as a bloc to support to defeat the Hispanic voters' candidate of choice. As the Commissioners knew, numbering the district with an odd number would ensure a depressed Hispanic turnout (see, e.g. "SDC Map Presentation_9.16").

64. The map below illustrates the changes made between Commissioner Graves's November 11 proposal and his November 12 proposal, with the dark gray region the geography that remained, the red region the geography that was removed, and the green region the geography that was added:

Graves November 11 Map v. Graves November 12 Map



Yakima Close-Up



65. In Yakima, Commissioner Graves's November 12 proposal eliminates the split of the 7 Census blocks in Precinct 104 by returning them to the district, but removes two precincts with large Hispanic populations (47.3% and 41.3%) that overwhelmingly support Latino-preferred candidates. Those voters are replaced with white voters, as reflected in the chart below:

Graves November 11 Map v. Graves November 12 Map Data

Area	Total Population	Hispanic CVAP	White CVAP	2020 Treasurer - Pellicciotti %	2020 President - Biden %
Remained (Gray)	153,141	50.5%	44.5%	47.3%	49.4%
Added (Green)	4,132	39.2%	54.5%	34.1%	37.2%
Removed (Red)	4,120	42.8%	46.3%	63.9%	64.1%

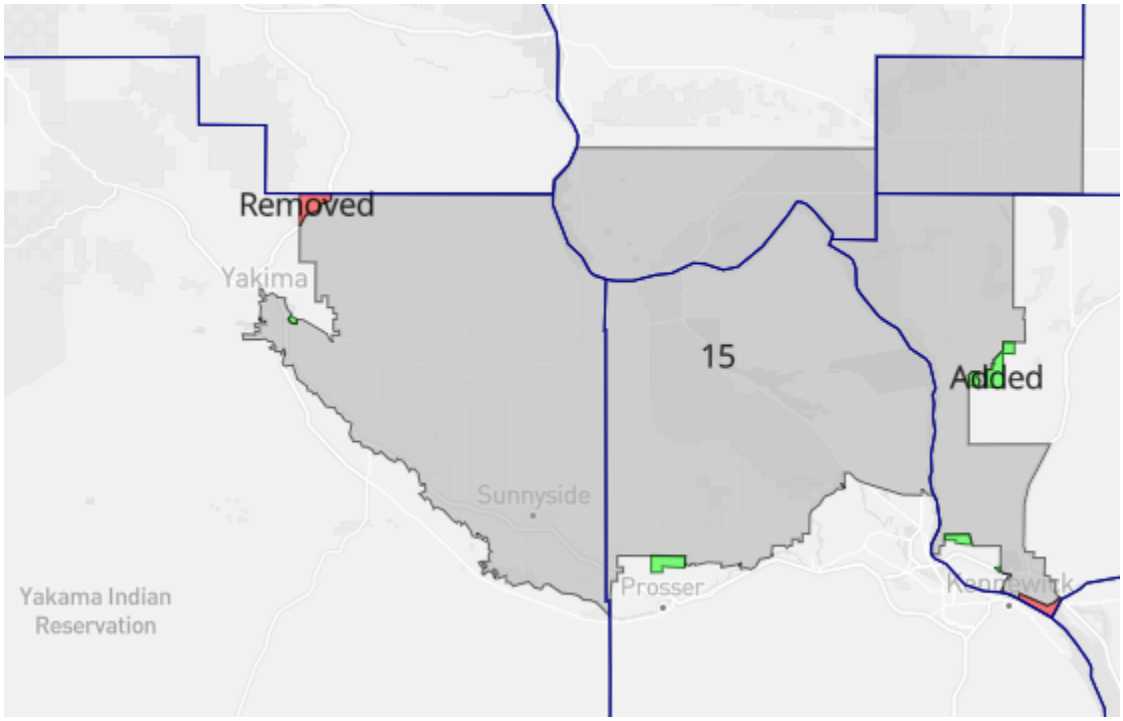
66. Overall, the Hispanic CVAP fell from 50.3% in Commissioner Graves's November 11 proposal to 50.2% in his November 12 proposal. A comparison between the November 7-to-November 11 changes and the November 11-to-November 12 changes illustrates just how surgical the map tinkering became in order to maximize the chance that Latino-preferred candidates would be defeated while still maintaining a bare majority-Hispanic district. The November 7-to-11 changes moved just under 6,000 people and dropped the Hispanic CVAP by over half a percent (0.6%). Having fallen to 50.3% in the November 11 proposal, the Republican Commissioners' staff had to be more careful in selecting precincts to manipulate the district's electoral performance while still maintaining the façade of a Latino opportunity district. So in the November 11-to-November 12 changes, over 8,000 people were shifted into and out of the district; while the Hispanic CVAP fell by just 0.1%, the change had a large effect on the performance for Hispanic preferred candidates.

67. The electoral ramifications illustrate this careful tinkering: the November 12 proposal drops from five to two—out of eight—the number of elections in which the Hispanic-preferred candidates prevail in the district, with one race a tie. ("Decision Timeline," Appx. B). By dropping the Hispanic CVAP by just 0.1% and carefully targeting the precincts to add and remove, the map drawers flipped the district from one in which Hispanic-preferred candidates prevailed in the majority of recent elections to one in which Hispanic-preferred candidates were defeated in the majority of recent elections.

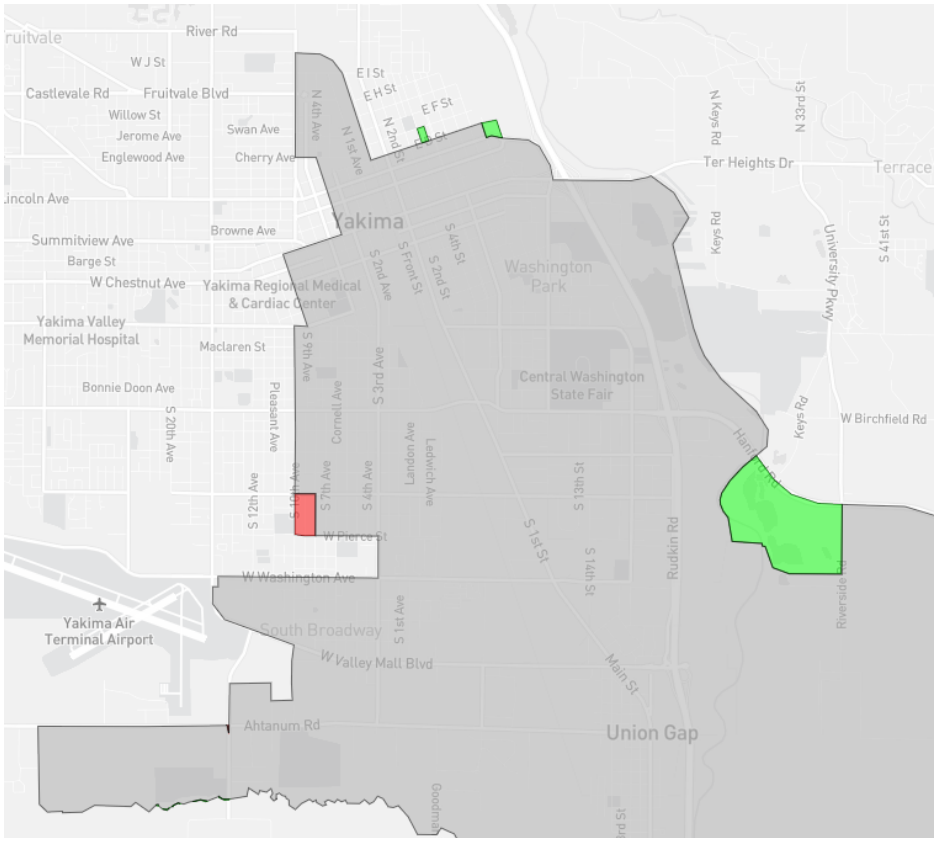
68. The final map enacted by the Commission included several additional tweaks that dropped the Latino population even further—from 50.2% to 50.***02%***--and likewise increased the performance of opponents of Latinos' candidates of choice. The map below illustrates the changes between Commissioner Graves's November 12 proposal and the Enacted Plan, with the

dark gray region the area that remained, the red region the area that was removed, and the green region the area that was added:

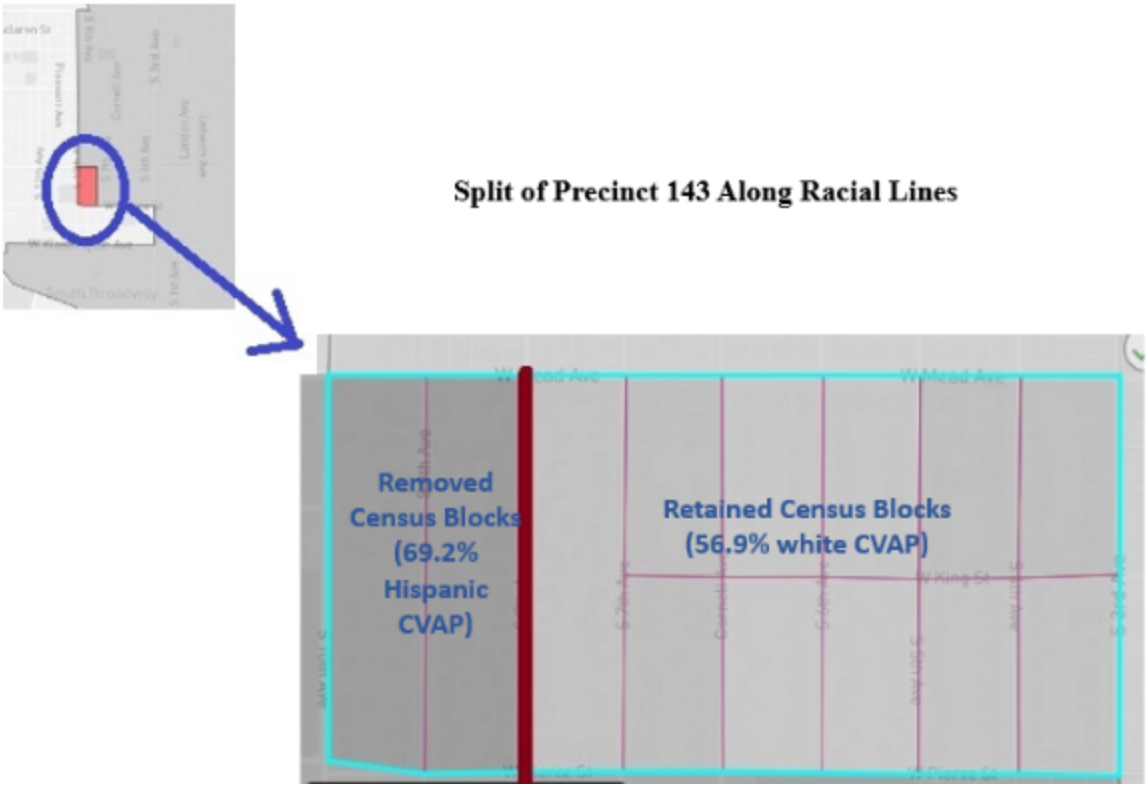
Graves November 12 Map v. Enacted Map



Yakima Close Up



69. In Yakima, the Enacted Plan splits Precinct 143 (which was wholly contained in LD 15 in Commissioner Graves's November 12 proposal) and does so starkly along racial lines—removing both the Hispanic-majority Census blocks from the precinct. The image below shows the Precinct with shading to reflect Hispanic population. The Enacted Plan splits this precinct to remove the two Census blocks on the left, which contain 268 people with a Hispanic CVAP of 69.2%. The rest of the precinct that remains in the district comprises 809 people with a white CVAP of 56.9%.



70. This granular targeting of Hispanic voters was repeated throughout the final changes from the November 12 Graves proposal to the Enacted Plan, as illustrated in the table below:

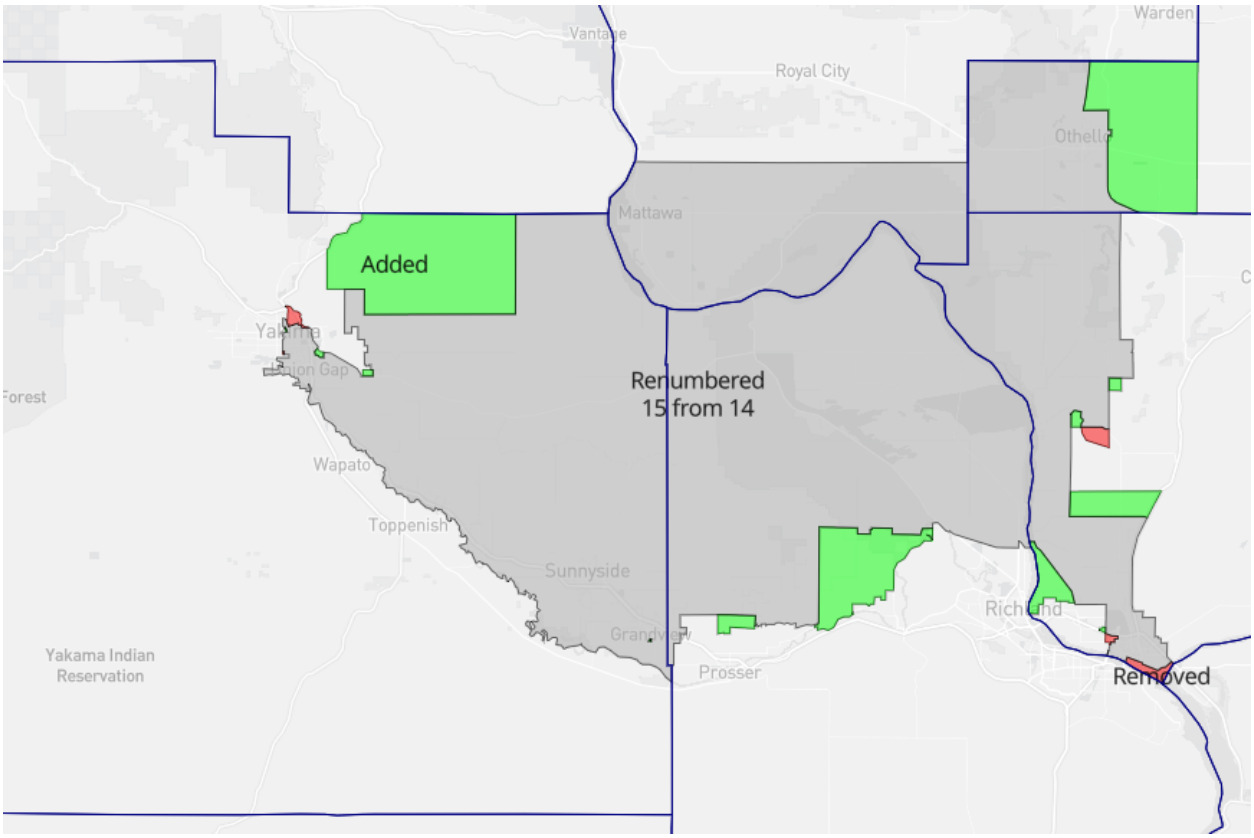
Graves November 12 Map v. Enacted Map Data

Area	Total Population	Hispanic CVAP	White CVAP	2020 Treasurer - Pellicciotti %	2020 President - Biden %
Remained (Gray)	156,724	50.1%	44.8%	46.7%	49.0%
Added (Green)	507	18.3%	75.7%	28.8%	31.5%
Removed (Red)	549	63.4%	36.6%	61.7%	62.1%

71. These final alterations dropping the Hispanic CVAP from 50.2% to 50.02% also improve Latino-preferred candidates' opponents' performance by shifting the one election in which there was a tie in the November 12 proposal to the Latino-preferred candidates' opponents' favor in the Enacted Plan, resulting in a district in which the Latino-preferred candidates lost in six out of eight recent statewide elections.

72. The map below illustrates the sum of these iterative changes from the November 7 Graves proposal to the Enacted Plan, with the dark gray area representing unchanged geography, the red showing removed geography, and the green showing added geography.

Graves November 7 Map v. Enacted Map



73. A series of changes across four maps resulted in the district (1) dropping in Hispanic CVAP from 50.9% to 50.02%, (2) flipping from Hispanic-preferred candidates prevailing in a majority of elections to white-preferred candidates prevailing in a majority of elections, and (3) having its numbering changed from LD 14 to LD 15 to reduce the Hispanic turnout and aid the electoral prospects of the white incumbents—opposed by Hispanic voters—even further. The table below shows the demographic and electoral effect of these changes:

Graves November 7 Map v. Enacted Map Data

Area	Total Population	Hispanic CVAP	White CVAP	2020 Treasurer - Pelicciotti%	2020 President - Biden%
Remained (Gray)	150,404	51.2%	43.8%	48.2%	50.3%
Added (Green)	6,827	26.8%	68.0%	28.0%	32.6%
Removed (Red)	6,893	44.7%	47.7%	61.5%	62.5%

74. By changing the demographic makeup of just over 4% of the district's total population (shifting in and out just under 7,000 out of roughly 157,000 people), Commissioners Graves and Fain—in maps drawn by them and their staff and ultimately agreed to by all four Commissioners—flipped the district from one that would permit Latinos to elect 5 out 8 of their preferred candidates to one in which they could elect just 2 out of 8 of their preferred candidates.

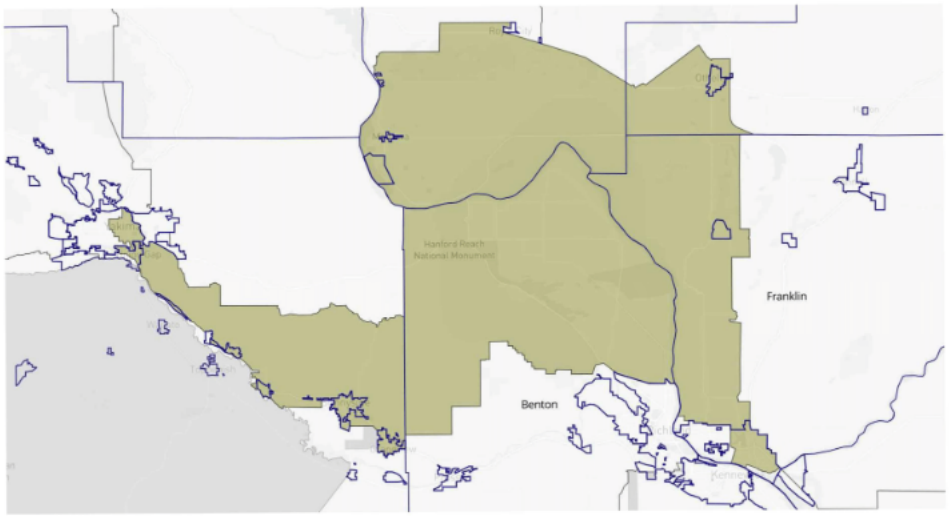
75. The progression of Graves' draft maps, the makeup of the final plan, and deposition testimony reveal that Graves' approach was the methodology which guided the final configuration of LD 15. (Anton Grose Deposition, Aug. 16, 2022, p. 242).

76. The sequence and details of these micro-targeted alterations illustrate the careful attention that was paid to maximizing the dilutive effect of the map on Latino voting strength while advancing Commissioner Graves's view that the map could evade a legal challenge while accomplishing his goal of diluting Latino voting strength by precisely maintaining a bare Hispanic majority in the district. The evidence shows this was intentional vote dilution.

77. The evidence shows that, while Commissioners Graves and Fain were fine-tuning their vote-dilution in the Yakima Valley region district, Commissioner Sims began proposing maps which used decreased Latino-preferred candidates' performance in LD 14/15 as a bargaining chip for increased performance elsewhere. Meanwhile, Commissioner Walkinshaw initially put forward proposals recognizing his continued understanding that a VRA-compliant district enabling Latinos to elect their candidates of choice in the Yakima Valley region was required. Ultimately, however, both Commissioners agreed to the final maps with knowledge that those maps diluted Latino voting strength in the Yakima Valley while creating a mere façade of opportunity.

78. On November 4, 2021, Osta Davis, a House Democratic Caucus staffer who worked with Commissioner Sims throughout the redistricting process, sent Commissioner Sims

the below configuration of LD 14 which she identified as having 51.3% Latino CVAP and 50% vote share for the Latino-preferred candidate in the 2020 Treasurer's race ("New 14th.pdf.;" "14th LD.pdf."):

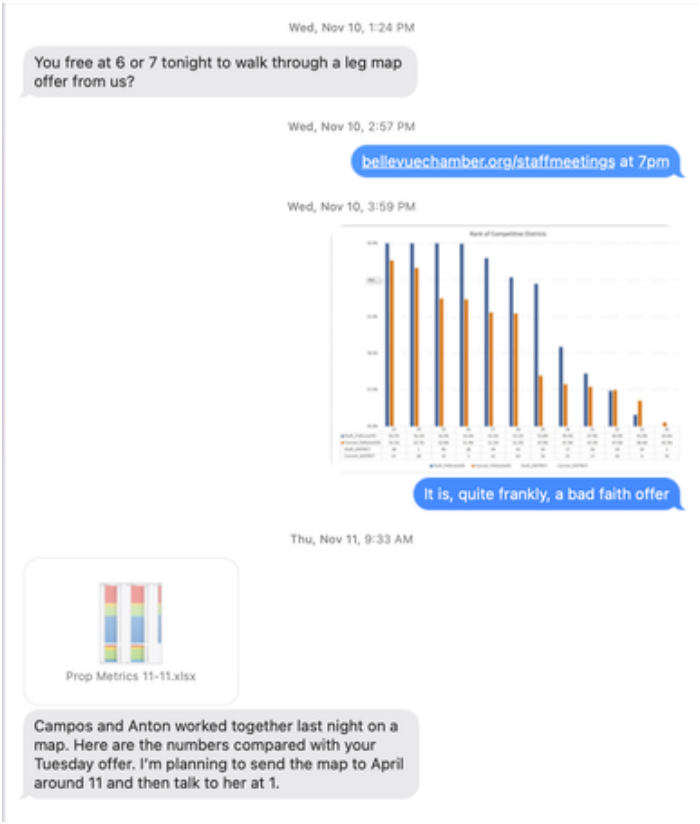


79. Also on November 4, 2021, Ali O'Neil e-mailed with Osta Davis regarding LD 14. O'Neil revealed that the maps that Walkinshaw and she were working on were "very similar" to the one sent to O'Neil that day by Davis. O'Neil identified their map as containing a majority Latino CVAP LD 14 which would allow Latinos to elect Latino candidate of choice Jay Inslee. O'Neil flagged that the map she was working on would also minimize impacts to incumbents. (Nov. 14, 2021 E-mail chain between O'Neil and Davis, "DAVIS_019053").

80. On November 9, 2021, Commissioner Sims was exchanging e-mails with Osta Davis regarding a map in which LD 14 would vote 52.59% for the Latino-preferred candidate in the 2020 Treasurer's race. Commissioner Sims noted that she was "[w]ondering if we should give a little somewhere, but not sure where?" Davis responded with updated numbers for several districts including LD 14 which, in this new configuration, would only vote 50.2% for the Latino-preferred candidate. Davis noted that they "could drop the 10th to 49.9% and then we'd have 2 lean D/R districts and 3 swing D/R districts each with the 14th being 50/50." She said that that "sound[ed] super fair to" her. (Nov. 9, 2021 E-mail thread between Sims, David, Meyers, "RE_Map draft(2).pdf").

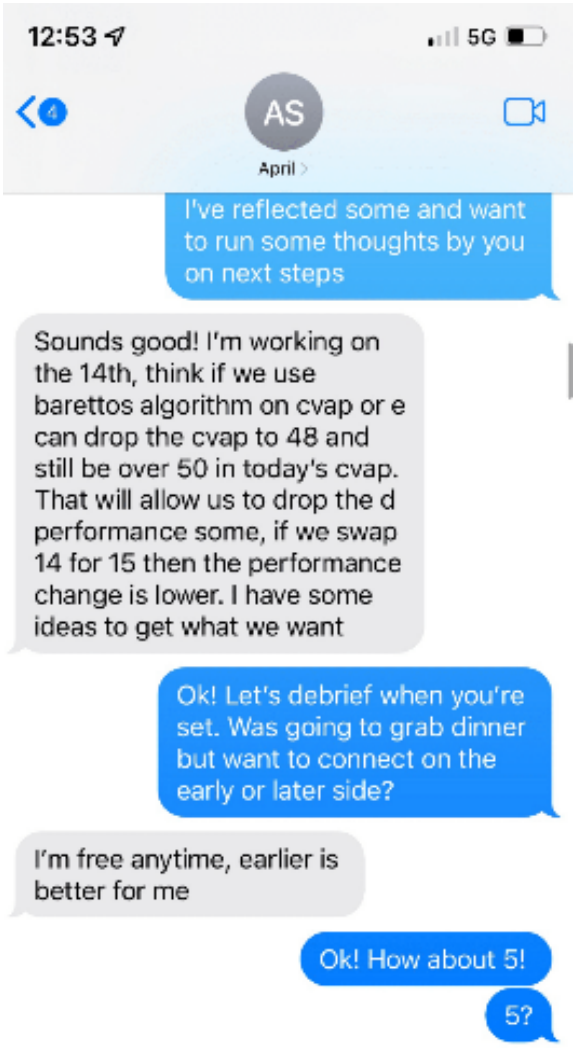
81. On November 10, 2021, Ali O'Neil, at the request of Commissioner Brady, sent a new proposal to Paul Campos, the staffer working with Joe Fain. Paul Campos then forwarded that proposal to Commissioner Fain. (Nov. 10, 2021 E-mail from Campos to Fain, "FW_Walkinshaw 11.10 leg map, new VRA.pdf"). The map, titled "BW > Fain 11.10 new VRA," had a Latino CVAP of 52.6% and the Latino-preferred candidate would prevail in eight out of eight recent elections. ("Decision Timeline," Appx. B).

82. Commissioner Fain texted with Commissioner Graves regarding Walkinshaw's November 10 proposal, casting that proposal aside as "a bad faith offer." Commissioner Graves's next text on the morning of November 11 demonstrates that the Republican Commissioners' staffers had, like Fain, disregarded Walkinshaw's November 10 proposal and instead continued working on Graves' proposal discussed above. (Nov. 10-11, 2021 text messages between Fain and Graves, "Graves_11.10_11_12_13.png").



83. On November 11, Commissioner Sims texted Commissioner Walkinshaw that she was working on LD 14 and was planning to drop the CVAP below 50%. She said that doing so would allow them to decrease performance for Democratic candidates and that Democratic

performance would be even lower if they renumbered the district to LD 15. (November 11, 2021 text messages between Walkinshaw and Sims, "Sims_11.11(4).pdf").



84. On November 12, Commissioner Sims followed through on her intent to renumber the district to LD 15 in a proposal she first sent to Commissioner Graves and Fain, and then forwarded to Commissioner Walkinshaw ("Fwd_Updated Proposal Email(1).pdf"). Sims identified LD 15 in the proposal as 49.2% CVAP with the Latino-preferred candidate in the 2020 Treasurer's race gaining just 45.7% of the vote. Analysis shows that Latino-preferred candidates in this LD 15 would be defeated in seven out of eight recent elections. This is a marked difference from Sims's September 21 and October 25 proposals in which Latino candidates of choice would have prevailed in eight out of eight recent elections. ("Decision Timeline," Appx. B).

85. The decreased performance of LD 15 in Sims's November 12 proposal from LD 14 in Graves's November 7 proposal is consistent with an e-mail exchange between Commissioner Sims and Osta Davis regarding her November 12 proposal revealing that the map "adopt[ed] Graves' E. WA, minus the 3rd and some slight changes to decrease performance in the 15th." In the e-mail, when deciding whether to also include decreased performance in LD 10, Davis questioned whether doing so would "translate too much as a point for point swap?" ("Re_ Newest version.pdf."). This phase in the negotiations accordingly reflects that Commissioner Sims had begun using decreased performance in the Yakima Valley district as a bargaining chip to achieve her objectives for other legislative districts.

86. Commissioner Sims's November 12 proposal was forwarded to Dr. Matt Barreto and his feedback was later forwarded to Commission Walkinshaw (Nov. 13 E-mail from Adam Hall to Walkinshaw, "Fwd Updated Proposal Email.eml.msg.pdf").

87. Commissioner Sims's November 12 proposal was forwarded to Dr. Matt Barreto and his feedback was later forwarded to Commission Walkinshaw. Dr. Barreto was insistent that the Latino district in the Yakima Valley needed to be numbered LD 14 "to keep the Senate seat up in Presidential years when turnout is higher for our community." He went on to explain that "[i]n this region of the state, registration and turnout is historically low due to history of exclusion, intimidation and discrimination." (Nov. 13 E-mail from Adam Hall to Walkinshaw, "Fwd Updated Proposal Email(1).pdf.pdf").

88. On November 13, 2021, following Sims's November 12 proposal drastically decreasing positive outcomes for Latino-preferred candidates in the Yakima Valley region, Commissioner Walkinshaw sent Commissioner Fain another configuration of LD 14, titled "BW 11/13 leg proposal" with 51.6% Latino CVAP, a slight decrease from his November 11 proposal. (Nov. 13, 2021 E-mail from Walkinshaw to Fain, "Fwd_BW 11.13 leg map proposal.pdf"). The district would nonetheless allow Latinos to elect their candidate of choice in eight out of eight recent elections. Walkinshaw's November 13 proposal also notably kept the Latino CVAP district numbered LD 14. ("Decision Timeline," Appx. B).

89. Commissioner Fain texted Commissioner Walkinshaw, rejecting Walkinshaw's proposal (Nov. 13, 2021 Text from Fain to Walkinshaw, "BW_11.11_13_14.pdf").

90. On the evening of November 13, Commissioner Fain distributed a memorandum to the rest of the Commissioners comparing Commissioner Walkinshaw and Graves's proposals and outlining "competitiveness" as his primary outstanding concern, but making no mention of VRA compliance. ("Memo.pdf." "Fain_20211113 V2.pdf.").

91. The remaining sequence of events demonstrates that Commissioner Walkinshaw joined Commissioner Sims in permitting performance in the Yakima Valley district to drop in the leadup to the November 15 vote. For example, a draft map circulated by Ali O'Neil on November 14 on behalf of Commissioner Walkinshaw included "the CVAP district from the Republicans" which O'Neil flagged as something that "we still need to discuss." ("RE_Merged leg map.pdf"). The Yakima Valley district in that map was numbered LD 15 and only one of eight Latino-preferred candidates would prevail in recent elections. ("Decision Timeline," Appx. B).

92. At 10:48 pm on November 15, 2021, Osta Davis sent Ali O'Neil a copy of "the R's version of the plan map." (Nov. 15 E-mail from Davis to O'Neil, "FW_ R Map Proposal.pdf"). The plan was nearly identical to the final plan with 50% Latino CVAP and Latino candidates of choice prevailing in only two of eight recent elections. ("Decision Timeline," Appx. B).

93. The sequence of events in this case—and the overwhelming evidence of knowledge, surgical targeting of Hispanic voters, and intent to evade liability by purposefully creating a dilutive façade Latino opportunity district—is strongly suggestive of a racially discriminatory intent.

VII. Procedural or Substantive Deviations

94. Departures from the normal procedural sequence also might afford evidence that improper purposes are playing a role. Substantive departures too may be relevant, particularly if the factors usually considered important by the decisionmaker strongly favor a decision contrary to the one reached.

95. The decisional process utilized by the Washington State Redistricting Commission was fraught with irregularities.

96. It is also clear that the Washington State Redistricting Commission's process in 2021 made substantive departures from what was done by the Commission in prior years.

Notably, the Commission violated Washington's Open Meeting Act, was sued under Washington's Public Records Act, and did not present final maps to the public or Commission staff when the "maps" were voted upon.

97. Testimony from the Executive Director of the Washington Redistricting Commission, Lisa McLean detailed procedural departures. For example, Ms. McLean detailed the 2011 process in how maps were drawn and negotiated by the 2011 Commission, while the 2021 Commission took no such steps ("So there was never a process, a formal process, as had been done in 2011." (Lisa McLean Depo p. 66). Additionally, the 2021 Commission utilized dyads (organized meetings of the Commissioners in pairs) to circumvent public meeting laws (Lisa McLean Deposition p.69). And negotiations over the metrics for the final map were conducted in private during the last days of commission meetings. (O'Neil Depo, pp. 39-53).

98. Commissioner Graves at one point acknowledged that much of the Commission's decision-making and debating was happening in private. At a November 1, 2021 meeting of the Commission "[h]e shared that many of the meetings are one-on-one conversations that discuss priorities and areas where there is agreement and disagreement. He assured the public that a final agreement will only be made in an open public meeting." (November 1, 2021 Minutes of the Washington Redistricting Commission).

99. The interaction between the Commissioners in the final days of negotiations was described as "chaotic" by one staffer because it was unclear what the Commissioners were approving on the last official day of negotiations. (Sarah Augustine Deposition dated October 06, 2022, p. 120 "From the time the public meeting started, my main job was just running the public meeting. And that was a fairly chaotic meeting because the teams were still negotiating.")

100. On the night of November 15, 2021, the final legislative district map that was adopted was not shared with executive staff nor the public. (Lisa McLean Deposition, October 05, 2022, pp.129-131). This is unlike what was done in 2011, in which the Commission made available over the course of the last month of negotiations, multiple legislative district maps for the public to provide comment on, including on the last night to adopt a legislative district map proposal. (2011 Commissioners' Draft Plans- December 31, 2011, http://2011.redistricting.wa.gov/maps_dec31_2011.asp).

101. Walkinshaw thought he was signing an agreement on a framework for the political metrics of the proposed legislative districts and that he would have an opportunity to

review the final map before it was transmitted to the State Supreme Court. However, the next morning he discovered that a final map had been posted on the commission website and transmitted to the Supreme Court without him even seeing it. (Ali O'Neil Deposition, Jan. 10, 2022, p. 35).

102. In a public statement on Tuesday, November 16 accompanying the publishing of the final map, the Commission stated that they "fail[ed] to submit a final mapping plan by the statutory deadline." (Nov. 16 E-mail from Washington State Redistricting Commission to Walkinshaw, "The Washington State Redistricting Commission p….pdf").

103. Moreover, the 2021 Commission substantively departed from prior Commissions with its heavy emphasis on protecting incumbents—including at the expense of Latino voters' VRA rights. Contrary to the 2021 Commission's focus on incumbent protection, as evidenced in the text messages and email evidence, the 2011 Commission sought to ensure that its plans "do not favor or discriminate against any incumbent . . . ." (http://2011.redistricting.wa.gov/faq.asp).

104. In some cases, communications reveal that the Commissioners were in contact with elected legislators throughout the redistricting process. The legislators who communicated with the commissioners were concerned that the district boundaries remain in such a way to ensure reelection to the legislature. (See, e.g., September 21 text messages between Graves and Fain re: Dufault's input on drawing LD 15 lines to include current elected officials and potential candidates for office in LD 15, "GROSE_000015-16"). In some cases, legislators communicated with Commissioners directly implicating LDs 14 and 15. For example, on November 10, when the Commissioners were still debating the configuration and numbering of the Yakima Valley district, Commissioner Fain received a texted request from State Representative Curtis King to "keep [him] in the 14th." ("10.11 to 11.10 (JF+King).png").

105. In contrast, the Washington State Redistricting Commission was unresponsive to the pleading of representatives of the Latino community for the creation of a majority Latino legislative district centered in the Yakima Valley. ("Public Comment Notes Tracking.xlsx").

106. In the aftermath of Commissioner Sims and Walkinshaw's October 25 public proposals, Commissioner Graves went so far as to contribute suggestions to a politically-organized "call to action" requesting that individuals submit public comments to the Commission to contradict the Yakima Valley region Latino community's request to have a district that would allow them to elect their candidate of choice. (October 30, 2021 text thread including Jeremie

Dufault, Chris Corry, and Paul Graves, "Dufault_Corry_10.30.PNG" and "Dufault_Corry_10.30.PNG(1)").

107. Ultimately, the Latino community's interests were ignored even after evidence of racial discrimination, harassment of Latino candidates, the inability of Latino candidates to win elections, racially polarized voting, and the history VRA lawsuits brought against various jurisdictions in the Yakima Region was known by the commission members. [See, e.g. Anton Grose Deposition, August 16, 2021, pp. 173-75 (admitting that none of the Republican Commissioners bothered to determine whether the final map was VRA compliant)].

108. The enacted redistricting plan generally and LD 15 specifically, is tenuous, at best, because it is technically a majority Latino district at 50.02% CVAP yet it will not perform to elect a candidate who is the choice of Latino voters.

109. This is particularly strange given that the composition of LDs 14 and 15 were a point of contention in the 2011 negotiations. For example, official meeting minutes from the 2011 Redistricting Commission show that negotiations over LD 15 were debated. "Commissioner Huff indicated that he and Commissioner Foster had good negotiations up to that point, but that the discussions about the 14th and 15th legislative districts were contentious." (http://2011.redistricting.wa.gov/assets/Agendas/Minutes_20111229.pdf).

XIII. Additional Conclusions

110. The Washington State Redistricting Commission was aware of racially polarized voting patterns in the Yakima Valley.

111. The Washington State Redistricting Commission was aware of the need to consider the requirements of the VRA during the redistricting process.

112. The Washington State Redistricting Commission was presented with at least four viable options of Latino majority districts that could be drawn in the Yakima Valley Region and provide Latinos with the opportunity to elect their candidates of choice.

113. All four of the voting commissioners created, considered, or otherwise engaged with versions of Latino majority districts that could be drawn in the Yakima Valley Region and provide Latinos with the opportunity to elect their candidates of choice. Indeed, the progression of maps and the surgically targeted alterations directed at diluting the voting strength of Latino

voters while maintaining the barest façade of a Latino opportunity district itself reveals the discriminatory intent of the Commission.

114. The Washington State Redistricting Commission chose to ignore the racially polarized patterns of voting, ignored the many district configurations that would perform for the Latino community, and ignored the pleas of the Latino community during the redistricting process, instead ensuring that their respective political parties could gain from the process.

115. The entirety of the evidence reveals a mapdrawing process infected with discriminatory intent.

116. As more information becomes available, I reserve the right to update my analysis.

Executed on November 2, 2022, at Houston, Texas.

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

Henry Flores, PhD

Consultant

Appendix A

HENRY FLORES, Ph.D.

Distinguished University Research Professor Emeritus
Institute for Public Administration, Politics and Public Policy
and
Professor Emeritus, Political Science and International Relations
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Scholar in Residence
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University of Houston
and
President and Principle of FloreStat, LLC
(November, 2022)

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Place of Birth: San Antonio, TX

EDUCATION

B.A.; St. Mary's University; San Antonio, TX;
May 1974.
Major: Political Science
Minor: English

M.A.; University of California, Santa Barbara; Santa Barbara, CA;
December 1975.
Major: Political Science

Ph.D.; University of California, Santa Barbara; Santa Barbara, CA; December 1981.
Major: Political Science
Examination Fields: Public Administration,
American Politics,
Political Philosophy,
Multivariate Statistical Analysis.

DISSERTATION

"The Politics of Urban Land Use Decisions Underlying Industrial Development in Los Angeles, California: An Exegesis of Systemic Weakness."

AWARDS AND DISTINCTIONS

- Chancellor's Fellow, University of California at Santa Barbara, Santa Barbara, California, 1974 – 1977.
- Ford Foundation Dissertation Fellow, 1977 – 1979.
- "Best Paper in Chicano Politics," Western Political Science Association, 1986.
- Fulbright Fellow, Argentina, *La Universidad Católica de Buenos Aires,* 1992.
- Distinguished Faculty Award, St. Mary's University Alumni Association, 2000 – 2001.
- Civil Rights Lifetime Achievement Award, St. Mary's University, 2010.
- Distinguisehd Alumni Service Award, Central Catholic High School, 2014.
- Distinguished University Research Professor Emeritus, 2018.

PROFESSIONAL ASSOCIATIONS

Conference of Southern Graduate Schools, 2004 – 2013.
Texas Association of Graduate School Deans, 2004 – 2013, President, 2012-2013.
American Political Science Association - September 1975 - present.
Chair, Dissertation Award Committee, Section on Race and Ethnicity, 2000-2001.
Nominations Committee, Member, Section on Urban Politics, 1998-1999.
Nominations Committee, member, Section of Representation and Electoral Systems, 1999-2000.
Program Committee, Head, Section on Representation and Electoral Systems, 1997-1998.
Committee for the Status of Latinos in the Profession - January 1994 - December 1996.
Governing Council, Pi Sigma Alpha - September 1994 - August 1997.
Editor, Urban Politics Section Newsletter - January 1996 – June 2000.
Book Review Editor, Representation and Electoral Systems Newsletter, 2000-2002.
Member, Byran O. Jackson Memorial Award Committee - 1996.
Chair, Hallet Award Committee - 1996-1997.
Member, Ralph Bunche Memorial Award Committee-2000, 2004.
Member, Dissertation Award Committee-2000.
Member, Committee on Best Book on Race-2014.

Southwestern Political Science Association - March 1985 - present.
Executive Committee – March 2013 – present.
Executive Committee - March 1986 - April 1988.
Nominations Committee - March 1995 - April 1998. March 1999 – April 2002
Section Head, Mass Political Behavior - March 1995 - February 1996

Western Political Science Association - March 1976 - present.
Chair, Dissertation Award Committee, 1997-1998.
Committee for the Status of Chicanos in the Profession - March 1984 - February 1987.

Committee for Ethics in the Profession - March 1990 - February 1991.
Executive Committee - March 1987 - February 1991.
Pi Sigma Alpha Committee - March 1995 - February 1998.
Program Committee – 2002 – 2003.
Dissertation Award Committee – 2002 – 2003.
Best Paper Award Committee – 2003 - 2004.

Associate Editor, Urban Affairs Review, 1995-1998.
Associate Editor, American Review of Politics, 1996-Present.
Editorial Board, Texas Journal of Political Studies, 1996-1999.
Book Series Editor, Lexington Press, Rowman and Littlefield, *Latinos and American Politics,* 2015-2022.

COMMUNITY - PUBLIC SERVICE ACTIVITIES

Founding Board Member, Mexican American Civil Rights Institute, 2019-2020.
Member, City of San Antonio, Charter Revision Commission, 2018-2021.
Member, City of San Antonio's Correct Count Census Committee, 2019.
Member, Board of Governors, Institute Mexican American Institute of Civil Rights, 2019.
Participant, National Committee for a 50 Year Blueprint for Chicanos, 2018-Present.
Member, Organizing Committee for the National High School Walkout Conference, 2019.
Presenter, Texas Gerrymandering and Voter Suppression, UTSA Social Work Advanced Policy Graduate Students, Our Lady of the Lake University, San Antonio, TX. Nov. 29, 2017.
Moderator, Gerrymandering: What's in the Secret Sauce? On the Bar. San Antonio Bar Association. June, 2016.
Presenter, "Evolution of Voting Rights for Mexican Americans in South Texas," San Antonio Historical Association, San Antonio, Texas, September 27, 2016.
Panel Participant, "Implications of the Voter ID Law," League of Women Voters, San Antonio, Texas, September 20, 2016.
Presentation, *Camara de Comercia Argentino* (Argentine Chamber of Commerce), *"Camino a la Casa Blanca: Hillary contra Trump y sus Implicancias,"* ("Path to the White House: Hillary versus Trump Implications), June, 2016. Presentation in Spanish.
Presenter, 100th Birthday Symposium on Congressman Henry B. Gonzalez, 2016.
Convener/Moderator, 50th Anniversary Symposium on Voting Rights Act, "What is the Future Of the VRA," St. Mary's University School of Law, 2016
Presenter, 50th Anniversary Conference on Voting Rights Act, "Latinos, the Voting Rights Act And Political Engagement," 2015.
Presenter, "The New Latino Electorate of the United States in the 2012 Elections and Beyond," *Consejo Argentino para las Relaciones Internacionales,* Buenos Aires, Argentina, March 23, 2011.
Testified, Joint House Committee: Justice and Redistricting, State of Texas, McAllen, Texas, July 21, 2010.
Member, Board, Design Committee, University Heath Systems, Bexar County, San Antonio, Texas, 2009-2013.
Member, Board, The National Center for Behavioral Health Solutions, San Antonio, Texas, 2008-2014.

Member, Correct Count Census Committee, Bexar County and San Antonio, Texas, 2009-2011 (Chairperson of Subcommittee on Under-Represented Communities).
Member, Westside Creeks Oversight Committee, San Antonio River Authority, 2008-2010.
Member, Westside Development Corporation, San Antonio, Texas, 2007-2011.
Member, Educational Affairs Advisory Committee, San Antonio Manufacturer's Association, 2006-2009.
Member, National Latino Advisory Committee, Nielsen Media Company, 2007 – 2013.
Member, St. Mary's University, Neighborhood Revitalization Committee, 2006 – 2014.
University Representative, City of San Antonio, Westside Development Corporation, 2006-2013.
Presenter, "The Latino Electorate, Poverty and Education," David and Lucille Packard Foundation, Sonoma, CA, 2006.
Presenter, "The VRA, Poverty, and Education," William C. Velasquez Institute, San Antonio, Texas, 2005.
Opinion Columnist, *La Prensa*, San Antonio, Texas, 2003 – 2007.
Commentary Writer, *NewsTaco,* online news service, 2007 – present.
Presenter, Stormont Lectures, Victoria College, Victoria, Texas, Feb. 2003, Feb. 2009.
Presenter, Latino Academy, Southwest Voter Registration and Education Project, San Antonio, TX, Aug. 9, 2002.
Presenter, US House Committee Hearings on Irregularities in the Voting Process, San Antonio, Texas. Apr. 2001.
Presenter, The Texas Forum on Civil Liberties and Civil Rights and The Hispanic Journal of Law and Policy of the University of Texas School of Law's Symposium "Drawing Line in the Sand: The Texas Latino Community and Redistricting 2001." Apr. 2001.
Presenter, Joint Senate-House Redistricting Committee, State of Texas, Apr. 2001.
Presenter, Texas Senate Redistricting Committee, Mar. 2001.
Presenter, Texas House Redistricting Committee, Mar. 2001.
Presenter, Redistricting Symposium, Willie C. Velasquez Institute, League of United Latin American Citizens, Mexican American Legal Defense and Educational Fund, and National Association of Latino Elected Officials, Feb. 2001, Austin, TX.
Presenter, Summit of the States, Center for Policy Alternatives, Dec. 2000, Washington, D.C.
Presenter, Latino Issues Conference, Willie C. Velasquez Institute, Nov. 2000, Menger Hotel, San Antonio, Texas.
Presenter, Latino Academy, Willie C. Velasquez Institute, Oct. 2000, Kerrville, TX.
Presenter, Willie C. Velasquez Institute Redistricting Conference, Aug. 2000, Houston, Texas.
Presenter, Southwest Voter Registration and Educational Project Conference, Feb. 2000, Palm Springs, CA.
Member, Henry B. Gonzalez Congressional Library Fundraising Committee, 1997.
Member, San Antonio/Bexar County, City/County Consolidation Committee, 1996. Chair, Subcommittee on Voting Rights.
Presenter, Hispanic Chamber of Commerce, 1995.
Member, Board of Directors, Hemispheric Institute for Public Service (HIPS), San

Antonio, Texas, January 1988 - present.
Member, Advisory Committee, Mexican American Legal Defense and Educational Fund's (MALDEF) Leadership Development Program, 1987-1988.

ACADEMIC ACTIVITIES

Scholar in Residence, Department of Political Science, University of Houston, Aug. 2021-Present.
Visiting Professor of Urban Studies, Trinity University, Aug. 2020 – May 2021.
Professor Emeritus, May, 2018
Professor of Political Science, Departments of Political Science and International Relations, Fall, 2013 – May, 2018.
Distinguished University Research Professor, Institute for Public Administration, Politics and Public Policy, St. Mary's university, San Antonio, Texas, June 2013 – May 2018.
Sabbatical Leave, Fall-2013.
Dean, Graduate School, June 2004 – May 2013.
Sabbatical Leave, Willie C. Velasquez Research Institute, San Antonio, TX, Fall – 2001.
Professor, Department of Political Science, St. Mary's University, Spring 1993 – May, 2018.
Acting Graduate Director, Masters in Public Administration, St. Mary's University, San Antonio, Texas, Fall, 1997.
Chair, Department of Political Science, St. Mary's University, San Antonio, Texas, June 1991 - May 1995, Acting Chair January – August 1998.
Fulbright Scholar, *Universidad Católica de Argentina,* Buenos Aires, Argentina, 1991 -1992.
Director, Graduate Program in Political Science, St. Mary's University, San Antonio, Texas, Fall 1989 - May 1991; January 1996 – May 1999; June 2003.
Director, Masters in Public Administration, St. Mary's University, San Antonio, Texas, Fall 1983 - May 1991; Fall 2000 – Spring 2004; Spring 2014 – May, 2018.
Associate Professor, Political Science, St. Mary's University, San Antonio, Texas, Spring 1986 – Spring, 1993.
Assistant Professor, Political Science, St. Mary's University, San Antonio, Texas, Fall 1983 - Spring 1986.

INTERNATIONAL RELATIONS

Fulbright Scholar, Argentina, *La Universidad de Mendoza, La Universidad de Empresas de Buenos Aires, y La Universidad Católica de Buenos Aires,* 1992.

Presentation, *La Camara Argentina de Comercio* (Argentine Chamber of Commerce), *"Camino a la Casa Blanca: Hillary contra Trump y sus Implicancias,"* ("Path to the White House: Hillary versus Trump Implications), June, 2016. Presentation in Spanish.

Presenter, "The New Latino Electorate of the United States in the 2012 Elections and Beyond," *Consejo Argentino para las Relaciones Internacionales,* Buenos Aires, Argentina, March, 2011. Presentation in Spanish.

Presenter, "The Voting Rights of Latinos as a Violation of the Declaration of Human Rights," *FORO Ecumenico,* Buenos Aires, March, 2013. Presentation in Spanish.

Presenter, "The US Latino Electorate: A Sleeping Giant," *Fundacíon Internacíonal Jorge Luis Borges,* Buenos Aires, March, 2013. Presentation in Spanish.

On behalf of St. Mary's I participated on the team to negotiate Memoranda of Understanding with *Shanghai Lixin University of Commerce, Wuxi South Coast College, East China University of Science and Technology* and *Shanghai University of Finance and Economics.* China.

On behalf of St. Mary's I led the team to negotiate Memoranda of Understanding with *Universidad Abierta Interamericana, Universidad Nacional de Tres de Febrero, FORO Ecuménico, Fundación Internacional Jorge Luis Borges,* and *IDEAR (Instituto de Estudios Argentinos en Politicas Publicas.* Argentina.

COURSES DESIGNED AND TAUGHT AT ST. MARY'S

Have designed and taught 20 different undergraduate courses during 35 years of teaching at St. Mary's. Below are some of the graduate classes I have taught.

PA/PO 6300 – Political Science Research Methods (Graduate Statistics Seminar)
PA/PO 6301 - Public Administration (Graduate Seminar)
PO 6302 - Public Policy Analysis (Graduate Seminar)
PO 6302 - Political Economics (Graduate Seminar)
PA/PO 6303 - Urban Political Institutions and Processes (Graduate Seminar)
PO 6304 - Urban Politics (Graduate Seminar)
PA/PO 6305 - American Political Institutions (Graduate Seminar)
PO 6310 - Comparative Politics (Graduate Seminar)
PO 6352 - U.S. Latino Communities (Graduate Seminar)
PO 6353 - Urban Issues in the Americas (Graduate Seminar)
PA/PO 6354 – Campaign Management (Graduate Seminar)

ACADEMIC SERVICE ACTIVITIES

President, Texas Association of Graduate Schools, 2012-2013.
Member, Search Committee Dean of School of Humanities and Social Sciences, 2016.
Member, Committee on Faculty Evaluations, 2013.
Chair, Search Committee for VPAA, 2009-2010.
Chair, Search Committee for Director of Institutional Research, 2009-2010.
Representative of Independent Colleges and Universities of Texas (ICUT), The Texas Higher Education Coordinating Board, Advisory Council on Doctoral Education in the State of Texas, 2006 – 2013.
Member, Task Force on Mission and Identity, 2005.
Member, Academic Council, Fall 2004 – 2013.
Member, St. Mary's Contingent to Marianist Universities Meetings, Chaminade University, Honolulu, Hawaii, June, 2003; University of Dayton, Dayton, OH, June, 2005; Chaminade University, Honolulu, Hawaii, June 2006; San Antonio, TX, June 2007.
Member, Search Committee, Vice President for Enrollment Management – 2003.

Advisor, Young Democrats [St. Mary's University Chapter]-2000 - 2002.
Advisor, LULAC (League of United Latin American Citizens [St. Mary's Student Chapter]-1999-2004.
Advisor, MEChA (Movemiento Estudientil Chicano de Aztlan)-1997-1998.
Member, University-Wide Strategic Planning Coordinating Committee, 1994 -1996.
Member, Strategic Planning Committee for Planning and Information Management, 1994 - 1996.
Member, University Board of Trustees, Academic Affairs Subcommittee, 1993 -1995.
Chairperson, University Task Force on Scholarship and Change, 1994.
President, Faculty Senate, 1993 - 1995.
Member, Alumni Association Board of Trustees, Ex-Officio, 1993-1994, 1994 - 1995.
Subcommittee on Strategic Planning.
Subcommittee on Fund Raising.
Subcommittee on Awards.
Member, Committee on Facilities Management, 1993 -1995.
Member, University Tenure Review Committee, Spring 1993.
Member, University Committee on Writing Evaluation, 1992 -1994.
Member, University Pre-Law Advisory Committee, 1991 -1992.
Chair, Academic Affairs Committee, Faculty Senate, 1988 -1989.
Member, Graduate Council, 1983 -1991; 2000 – 2018.
Chair, Faculty Budgetary Committee, 1987 -1989.
Member, Committee on Graduate Education, 1987 -1989.
Member, Search Committee, Dean, School of Humanities and Social Sciences, 1986 - 1987.
Member, Search Committee, Dean of Graduate School, 1985 - 1986.
Member, Humanities and Social Sciences Committee on Faculty Evaluations, 1987 - 1988.
Member, Faculty Senate Committee for the Status of Faculty, 1985 - 1987.
Member, Honor's Council, 1984 –1987; 2000 - 2004.
Chair, Committee on the Philosophy of the Liberal Arts, 1983 -1984.
Member, President's Peace Commission, 1983 -1984.

BOOKS

Henry B. González: A Texas Maverick. (Under Review University of Texas Press, 2022).

Racism, Latinos, and the Public Policy Process. (Lexington Books, 2019).
Presented at San Antonio Book Fair, 2020.

Latinos and the Voting Rights Act: The Search for Racial Purpose. (Lexington Books, 2015).
Presented at San Antonio Book Fair, 2016.

The Evolution of the Liberal Democratic State With a Case Study of Latinos in San Antonio, Texas. (Edwin Mellon Press, 2003).

Mexican Americans and the Law. Co-authored with Sonia Garcia, Roberto Juarez, and Rey Valencia. (University of Arizona Press, 2004).

ARTICLES AND CHAPTERS IN BOOKS

"Voter Discrimination in Texas: *A History of State-Sanctioned Hostility Toward the Rights of Mexican Americans."* Chapter in book entitled *Fiftieth Anniversary of The Civil Rights Act and Latinos.* Lansing, MI: Michigan State University Press. 2021.

"The Meaning of One-Person, One-Vote or Let's Split the Baby in Half: Evenwel v Abbott." Social Science Quarterly, (January, 2020).

"Latinos in American Politics". Encyclopedia of Immigration and Minority Studies. Sage Publications, (Spring, 2011).

"The 2008 Texas Vote in a Transitional Election." Journal of South Texas Studies. 2009.

"The 2004 WCVI National Latino Election Day Exit Poll." William C. Velasquez Institute. San Antonio, TX, 2004.

"Contemporary San Antonio Politics: 1900 – 2003." In San Antonio Politics. Edited by Richard Gambitta. NY: McGraw-Hill Publishing, Co, 2004.

"Are Latinos Becoming More Republican?" Journal of South Texas Studies, Summer, 2003.

"Between a Rock and a Hard Place: Texas Latinos and Redistricting 2001," The Texas Hispanic Journal of Law and Policy, Austin, TX: The University of Texas School of Law, 2001.

"Political Rhetoric for the 1990s" in The '94 Election (Non) Voters Companion, edited by Dean Harris (Claremont, CA: 1996).

"Man A Mexican Doesn't Have A Chance: An Assessment of Congressman Henry B. Gonzalez's Leadership," Texas Journal of Political Studies, (June, 1993).

"East Los Angeles: A Field of Dreams" in City of Angels, edited by Gerry Riposa and Carolyn Dersch (Dubuque, IA: Kendall/Hunt Publishing Co., 1992).

"The Texas Hispanic Voter: Prospects and Trends," with Robert Brischetto in From Rhetoric to Reality: Latino Politics in the 1988 Elections edited by Rodolfo De LaGarza and Louis De Sipio (San Francisco: Westview Press, 1992).

"Deconstruction and Chicano Politics," in Latinos and Political Coalitions: Political Empowerment for the 1990s, edited by Robert Villarreal and Norma Hernandez (New York: Greenwood Press, 1991).

"The Selectivity of the Capitalist State: Chicanos and Economic Development," Western Political Quarterly, Summer, 1989.

"Structural Barriers to Chicano Empowerment," in Latino Empowerment: Progress, Problems, and Prospects, edited by Roberto Villarreal, Howard Neighbors and Norma Hernandez (New York: Greenwood Press, 1988).

"La Ecología y medio Ambiente en la Zona Frontera del sur de Texas," Mexico - E.U.A.: Cooperación y Conflicto, Memoria del Foro Efctuado en Mexico, D.F., *Diciembre, 1986*

"The Urban Land Use Decision making Process: An Exegesis of Systemic Weakness," Proceedings of the National Association for Chicano Studies, 1979.

"Some Different Thoughts Concerning *Machismo*," Comadre, Fall, 1978.

Book Reviews
Reviewed approximately 50 different volumes for various scholarly journals.

RESEARCH AND WORK IN PROGRESS

Gathering preliminary data on "The Denial of Voting Rights in the United States as a Violation Of the Universal Declaration of Human Rights."
Beginning working draft on volume with working title "Nonlinear Dynamical Model of the Liberal Democratic State."
Composing article on the use of decision theory in uncovering racial intent in voting rights litigation.

PAPERS DELIVERED & SCHOLARLY PRESENTATION

"Current Political Status of Latinos in Texas, 2022." Raza Unida, 50th Anniversary Conference. San Antonio, TX. University of Texas San Antonio. September 17, 2022.

"Voter Suppression of Hispanics in the United States: An Historical Perspective." International Interdisciplinary Social Sciences. Oxford, UK, July 21-23, 2021.

"The Relationship Between the Expert Witness and the Trial Attorney." National Redistricting Workshop. Texas A & M School of Law. Ft. Worth, Texas, February 13-14, 2020.

"Bail In Under Section 3 of the Voting Rights Act: The Case of Texas." 11th International Conference on Interdisciplinary Social Sciences," Hiroshima, Japan, July, 2017.

"Pockets of Discrimination: The Voting Rights Act and the Role of 'Bail-In' After *Shelby v Holder."* March, 2016, Midwest Political Science Association, Chicago, IL.

"The Meaning of 'One-Person, One-Vote' or Let's Split the Baby in Half: Some Preliminary Comments and Observations." January, 2016, Southern Political Science Association, San Juan, Puerto Rico.

"The Proof of Racism When Racism is Non-existent: A Mixed Methods Approach to Public Policy Analysis." July 30 – August 1, 2013, 8th International Conference On Interdisciplinary Social Sciences, Charles University, Prague, Czech Republic.

"Invisible Racism in the Texas Voter ID Law." April, 2013, Midwest Political Science Annual Meeting, Chicago, IL.

"Wither Section 5 of the Voting Rights Act." March, 2013, Western Political Science Association, Hollywood, CA.

"The Latino Electorate, The Electoral College, and Realigning Elections." June, 2010, Atiner Symposium, Athens, Greece.

"The Changing Face of the American Electorate and the Possible Effects on USA Immigration Policy." April, 2010, Midwest Political Science Annual Meeting. Chicago, IL.

"The Political Maturation of Latinos or What Needs to be Done to Get a Seat at the Table?: Some Comments on a Much Larger Project." April, 2009, Midwest Political Science Annual Meeting. Chicago, IL.

"Latino Public Opinion and Public Policy: the 2006 Exit Polls." September, 2006, American Political Science Association. Philadelphia, PA.

"Latino Political Participation and Power: 2004 National Latino Exit Poll." April, 2006, Midwest Political Science Association. Chicago, IL.

"Latino Political Participation and Power: 2004 National Latino Exit Poll." March 18, 2006. Western Political Science Association. Albuquerque, New Mexico.

"The Negative Legacies of the Voting Rights Act for the State of Texas." April 21-23, 2005. Invited Paper. Yale University. Center for the Study of American Politics. "Lessons From the Past, Prospects for the Future: Honoring the Fortieth Anniversary of the Voting Rights Act of 1965." New Haven, CN.

"Can Critical Realigning Elections Be Artificially Constructed: A Case Study of the 2001 - 2004 Texas Redistricting Debacle." 2004, Western Political Science Association, Portland, OR.

"Some Methodological Barriers to be Overcome Attempting to Utilize Census Data in Longitudinal Studies." 2004. Midwest Political Science Annual Meeting, Chicago, 2004.

Mayor Ed Garza of San Antonio, TX: A Cisneros Legacy." 2001, Western Political Science Association, Long Beach, CA.

"Competitiveness and Electoral Systems: Are Districted Elections More Competitive Than At-Large Systems?" 2000, The American Political Science Association, Washing, D.C.

"The Effects of Single Member Districts on Latino Political Participation or Is the Baby Being Thrown Out With the Bath Water?" 1999, The American Political Science Association, Atlanta, GA.

Roundtable on Morning Glories: the Politics of Southwestern Cities by Amy Bridges, 1999, Western Political Science Association, Seattle, WA.

"Term Limits and the Voting Rights Act: The Case of San Antonio, Texas," 1998, The American Political Science Association, Boston, MA.

"Voter Turnout and Majority-Minority Districts: The Effect on Municipal Districts," 1997, The American Political Science Association, Washington, D.C.

" 'No Room! No Room!' They Cried Out When They Saw Alice Coming: The Recent Gerrymandering Decisions of the South," 1995, Southwestern Social Science Association, Dallas, TX.

Roundtable, "The Selma March and the Voting Rights Act After Thirty Years: A Commemoration, Assessment of the Past, and Preview of the Future," (Thematic Session), 1995, Southwestern Social Science Association, Dallas TX.

Roundtable, "An Assessment of Latino Political Influence in the Southwest," 1995, Southwestern Social Science Association, Dallas, TX.

"Chaos and the City," 1994, Western Political Science Association, Albuquerque, NM.

"The Voting Rights Act of 1965 and the Delivery of Municipal Services," 1993, Western Political Science Association, Pasadena, CA.

"The Voting Rights Act and the Equitable Distribution of Municipal Services," 1992, American Political Science Association, Chicago, IL.

"An Evolution of City Typologies," 1991, Western Political Science Association, Seattle, WA.

"Post Modernism and Chicano Politics," 1990, Western Political Science Association, Newport Beach, CA.

"Water Policy in South Central Texas: An Impossible Dream," 1989, Southwestern

Political Science Association, Little Rock, AK.

"Deconstruction and Chicano Politics," 1988, Southwestern Political Science Association, Houston, TX

"Growth and Justice in Local Politics: The Issues for the Coming Decade," 1988, Western Political Science Association, San Francisco, CA.

"Playing Power Politics the American Way," 1987, Western Political Science Association, Anaheim, CA. Award for Best Paper on Chicano Politics.

"The Ecology and Environment of the South Texas Border Region," 1986, Mexico – E.U.A.: Cooperación y Conflicto, Colegio Nacional de Ciencias Politicas y Administración Publica, A.C., Mexico City, D.F.

"Structural Barriers to Chicano Empowerment," 1986, Symposium on Chicano Empowerment, University of Texas at El Paso, El Paso, TX.

Panel Chair, "The Status of Hispanics in the United States in the 1980's" 1986, Southwestern Political Science Association, San Antonio, TX.

"The Cohesiveness of the Congressional Hispanic Caucus," 1985, Southern Political Science Association, Nashville, TN.

"The Cohesiveness and Representativeness of the Congressional Hispanic Caucus: Some Preliminary Considerations," 1985, Southwest Social Science Association, Houston, TX.

"The Bourgeoisification of Chicano Youth: What Is To Be Done?" 1984, National Association of Chicano Studies, Austin, TX.

"Chicanos and Politics in the 1980's," 1984, Western Political Science Association, Sacramento, CA.

"An Inherently Discriminatory Cobweb: Some Considerations Concerning the American Political System," 1983, National Association of Chicano Studies, Ypsilanti, MI.

LITIGATION RESEARCH AND EXPERT LEGAL TESTIMONY

Texas Latino Redistricting Task Force, et al v. Perry, et al., 2011. Expert report, deposition and trial testimony (discriminatory racial intent).

Jayla Allen, et al v Waller County, et al, 2019. Expert Report, deposition. ("Totality of Circumstances," Senate Factors).

LULAC, et al v Gregg Abbott, et al, 2021. Expert Report, deposition. ("Totality of

Circumstances, Senate Factors, and Racial Intent).

Campaign Legal Center; American Civil Liberties Foundation of Texas; Mexican American Legal Defense and Educational Fund, Inc.; Lawyers Committee for Civil Rights Under Law; and Demos A Network for Ideas and Action, Ltd., v. JOHN B. SCOTT, in his official capacity as Secretary of State of the State of Texas, 2021. Expert Report. (Totality of Circumstances, Senate Factors, and Racial Intent). CA No. 1:22-cv-92.

Susan Soto Palmer et al., v Steven Hobbs, in his official capacity as Secretary of State of Washington, et al. and Jose Trevinok Ismael G. Campos and State Representative Alex Ybarra. 2022. (Racial Intent). CA No. 3:22-cv-5035-RSL.

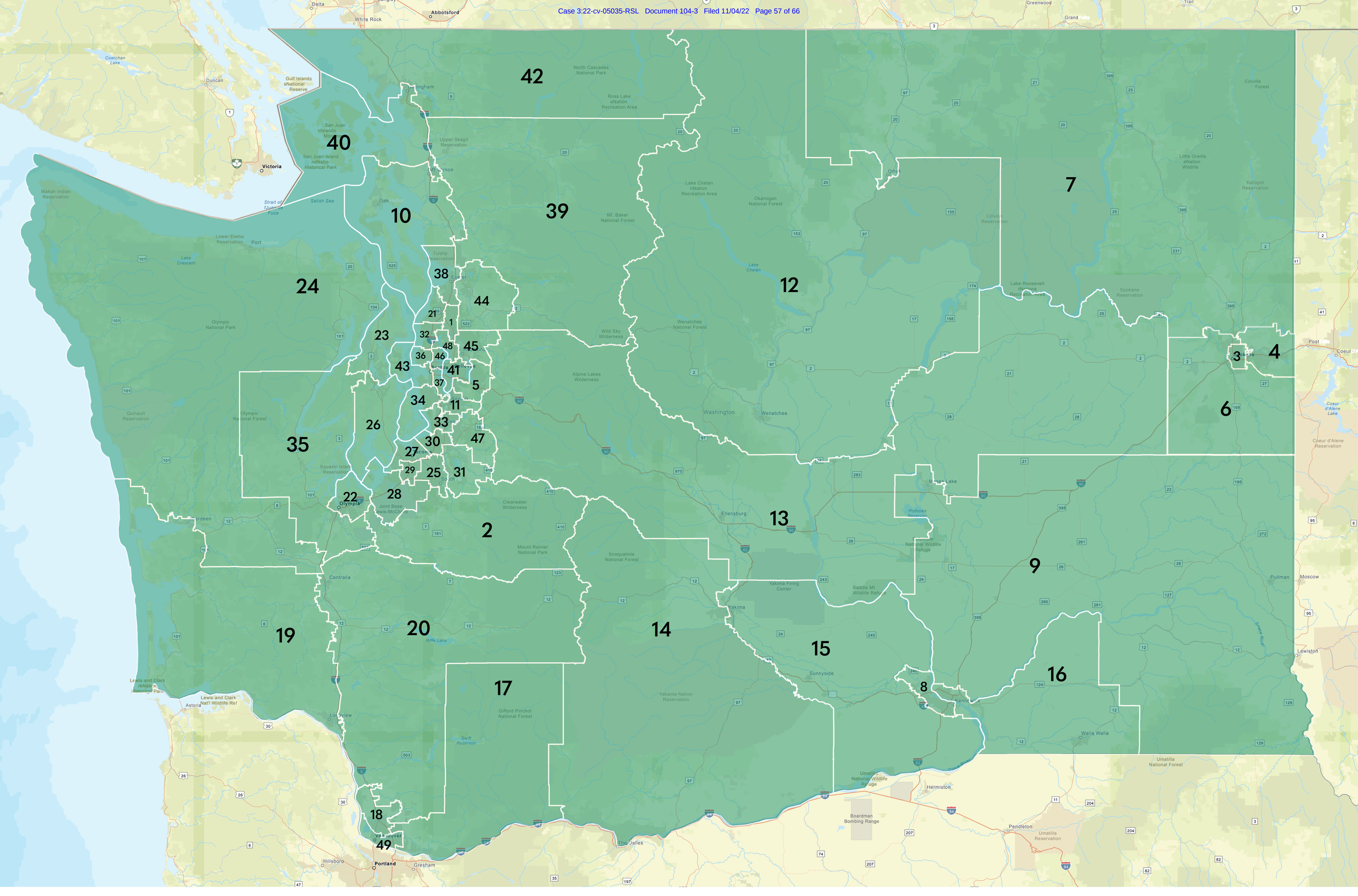
Appendix B

Decision Timeline

Map	Dist #	'19 5-Yr ACS Latino CVAP %	'20 5-Yr ACS Latino CVAP %	Vote Share of Latino-Preferred Candidate (shaded if > white-preferred candidate's vote share)							
				2020 Pres% Biden	2020 Gov% Inslee	2020 AG% Ferguson	2020 Treas.% Pellicciotti	2018 U.S. Senate% Cantwell	2016 Pres% Clinton	2016 Gov% Inslee	2016 U.S. Senate% Murray
9.8 LD Draft Dominique Meyers to Sims	15	44.9	46.4	53	51.5	53.6	50.9	50.1	49.4	53.4	56.8
9.21 Fain Proposal Fain public release	15	33.8	35.5	46.2	44.4	46.2	43.3	43.7	41.9	46.7	49.8
9.21 Graves Proposal Graves public release	15	34.2	36.3	40.6	38.8	40.7	37.7	38.8	37.3	42.1	45.7
9.21 Sims Proposal Sims public release	15	44.7	46.1	54.1	52.5	54.6	51.9	51.4	50.4	54.4	58
9.21 Walkinshaw Prop Walkinshaw public release	14	40.4	41.5	55.4	53.7	55.8	53.1	53.7	51.5	55.3	59.4
10.25 Sims Proposal Sims public release	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
10.25 Walkinshaw Prop Walkinshaw public release	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.3 Graves LD 14 (2) Graves proposal	14	50.6	52.0	55.6	53.9	56.3	53.6	53.2	52.8	56.4	60.3
11.7 New leg proposal Anton Grose to Paul Graves	14	50.9	52.6	50.7	49.3	51.3	48.7	48.2	48.3	51.7	55.7
11.8 Fain V2 Fain proposal	15	50.6	52.0	52.4	50.8	52.9	50.2	50.0[1]	50.0	53.4	57.4
11.10 BW 11.10 new VRA Walkinshaw proposal	14	52.6	54	58.8	57.3	59.5	56.9	56.8	56.0	59.6	63.6
11.11 Base proposal Brady Walkinshaw	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.11 Graves1110LD Anton Grose to Graves, Sims	14	50.3	52	49.7	48.2	50.3	47.6	47.3	47.4	50.8	54.8
11/12 April Sims to Paul Graves	15	49.2	50.6	47.9	46.3	48.3	45.7	45.4	45.4	48.9	52.8
11.12 Graves Draft Nov12 (1) Paul Graves and staff	15	50.2	51.6	49.0	47.4	49.5	46.8	46.5	46.5	50.0	53.9
11.13 BW leg proposal Ali O'Neil to Fain staff	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.15 Copy of 11/14 7:30pm Merged D Map Walkinshaw/Sims	15	49.2	50.5	47.9	46.3	48.4	45.7	45.5	45.4	48.9	52.8
11.15 R Prop Rebalanced Osta Davis to Ali O'Neil	15	50	51.5	48.9	47.3	49.4	46.7	46.4	46.3	49.8	53.8
Enacted Plan	15	50	51.5	48.9	47.3	49.4	46.6	46.3	46.3	49.8	53.7

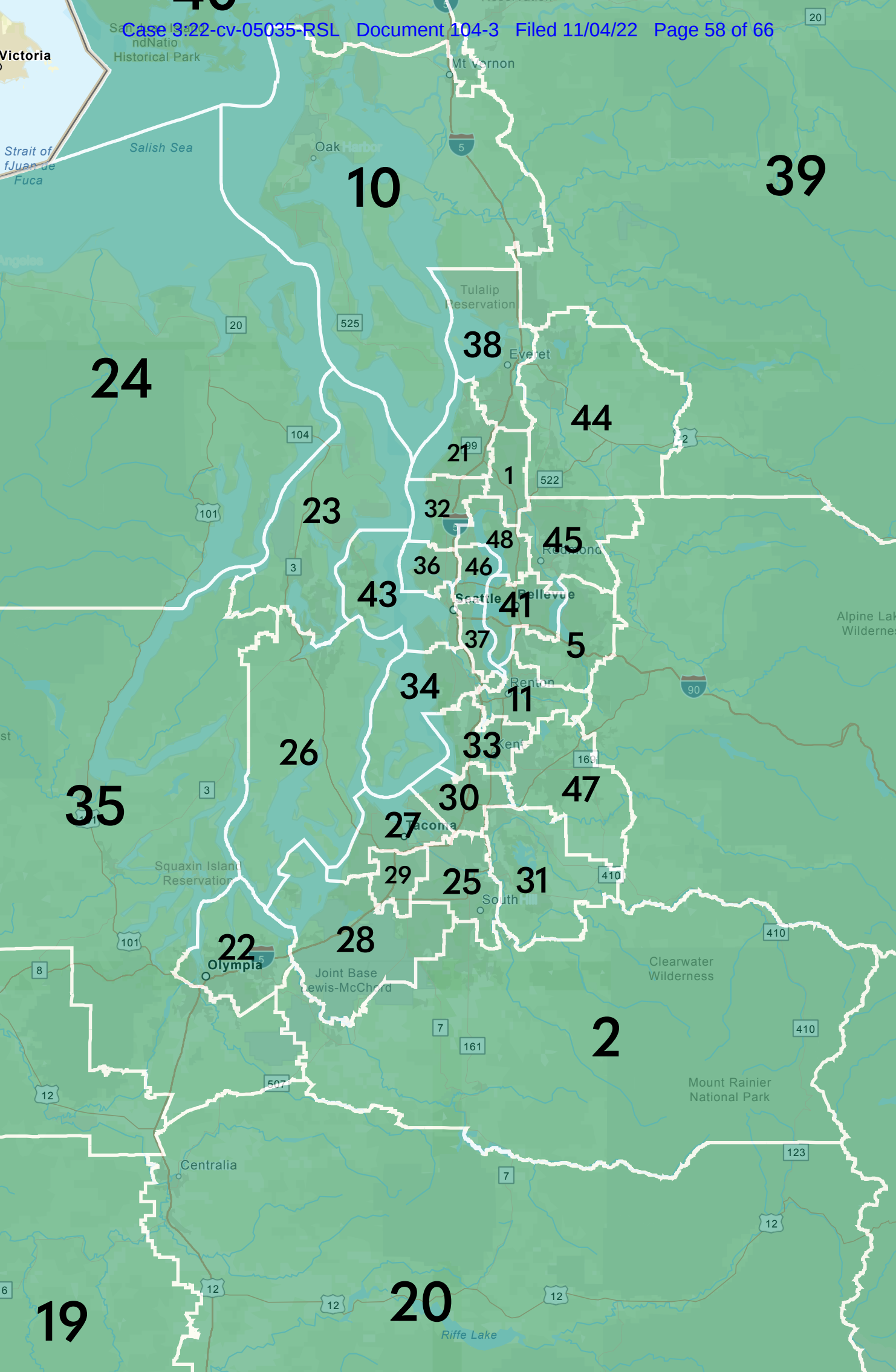
[1] Light shade indicates a percentage tie (50%-50%).

Appendix C



Washington State
Redistricting Commission

Commissioner Paul Graves - Proposed Legislative District Map, September 21, 2021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Strait of
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Reservation
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Seattle
Bellevue
Renton
Kent
Tacoma
Squaxin Island
Reservation
South
Olympia
Joint Base
Lewis-McChord
Clearwater
Wilderness
Mount Rainier
National Park
Centralia
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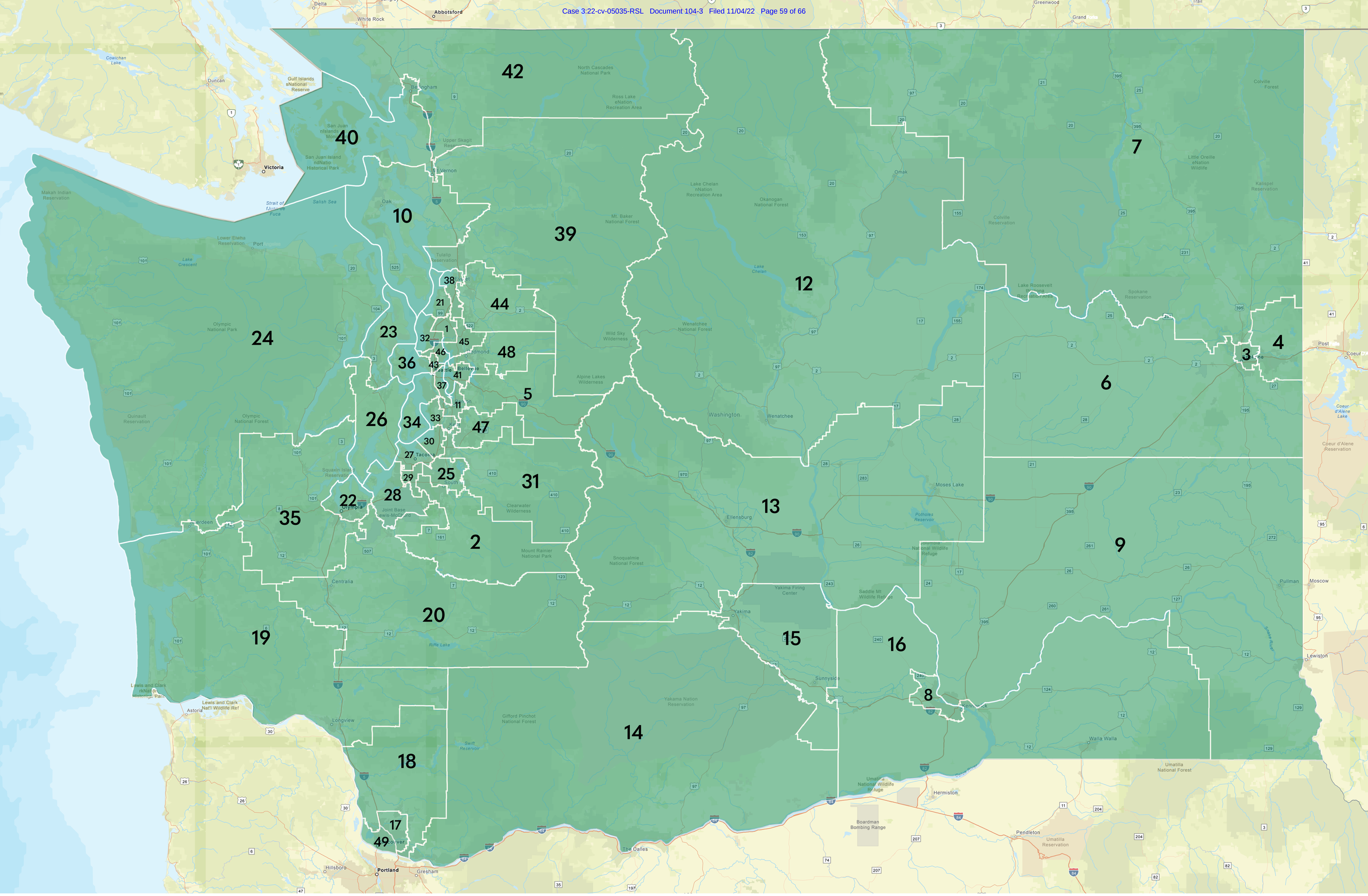

Washington State
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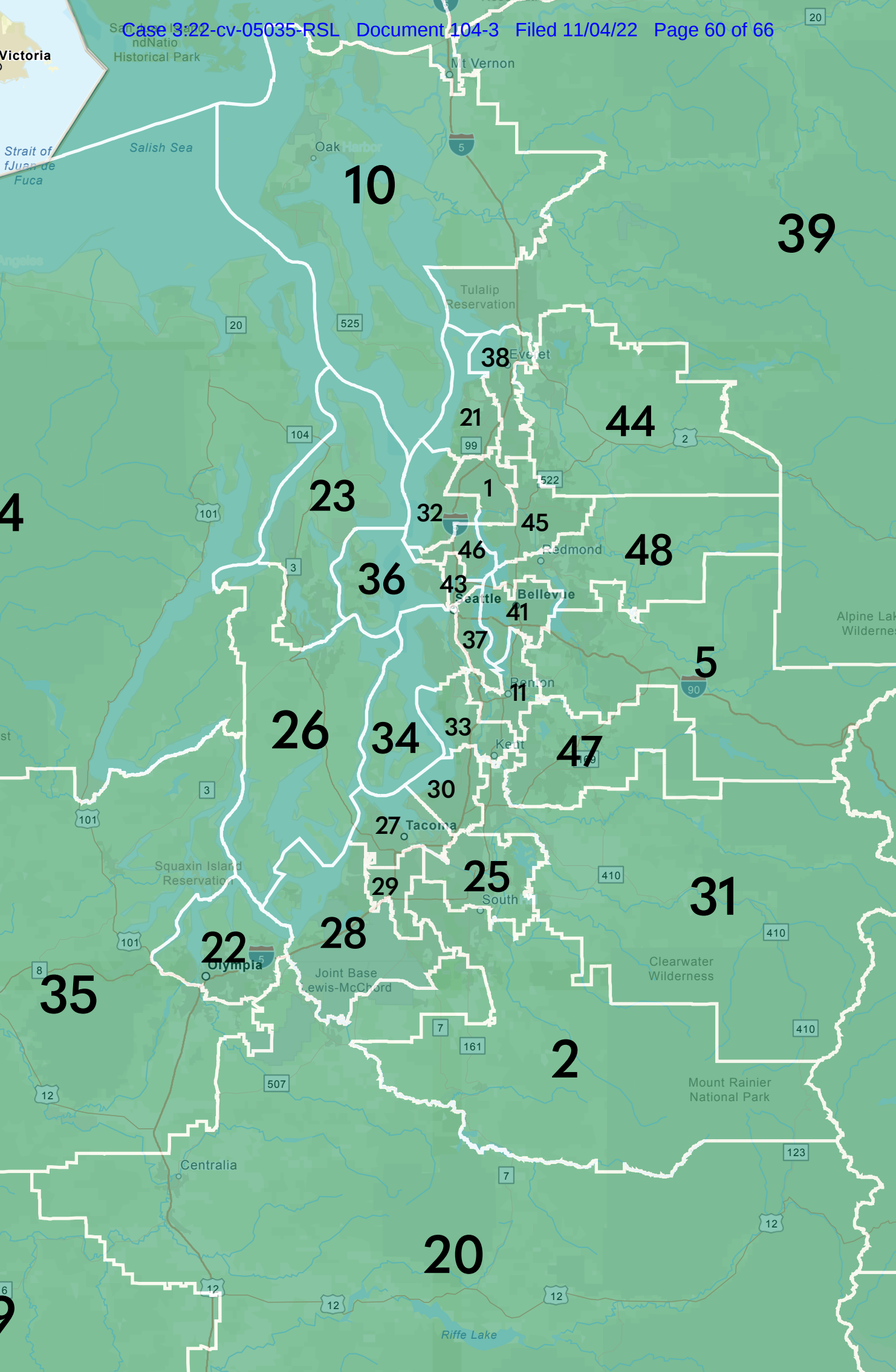
Commissioner Joe Fain - Proposed Legislative District Map, September 21, 2021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Tacoma
Olympia
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Joint Base Lewis-McChord
Squaxin Island Reservation
Clearwater Wilderness
Mount Rainier National Park
Centralia
Riffe Lake
Alpine Lakes Wilderness
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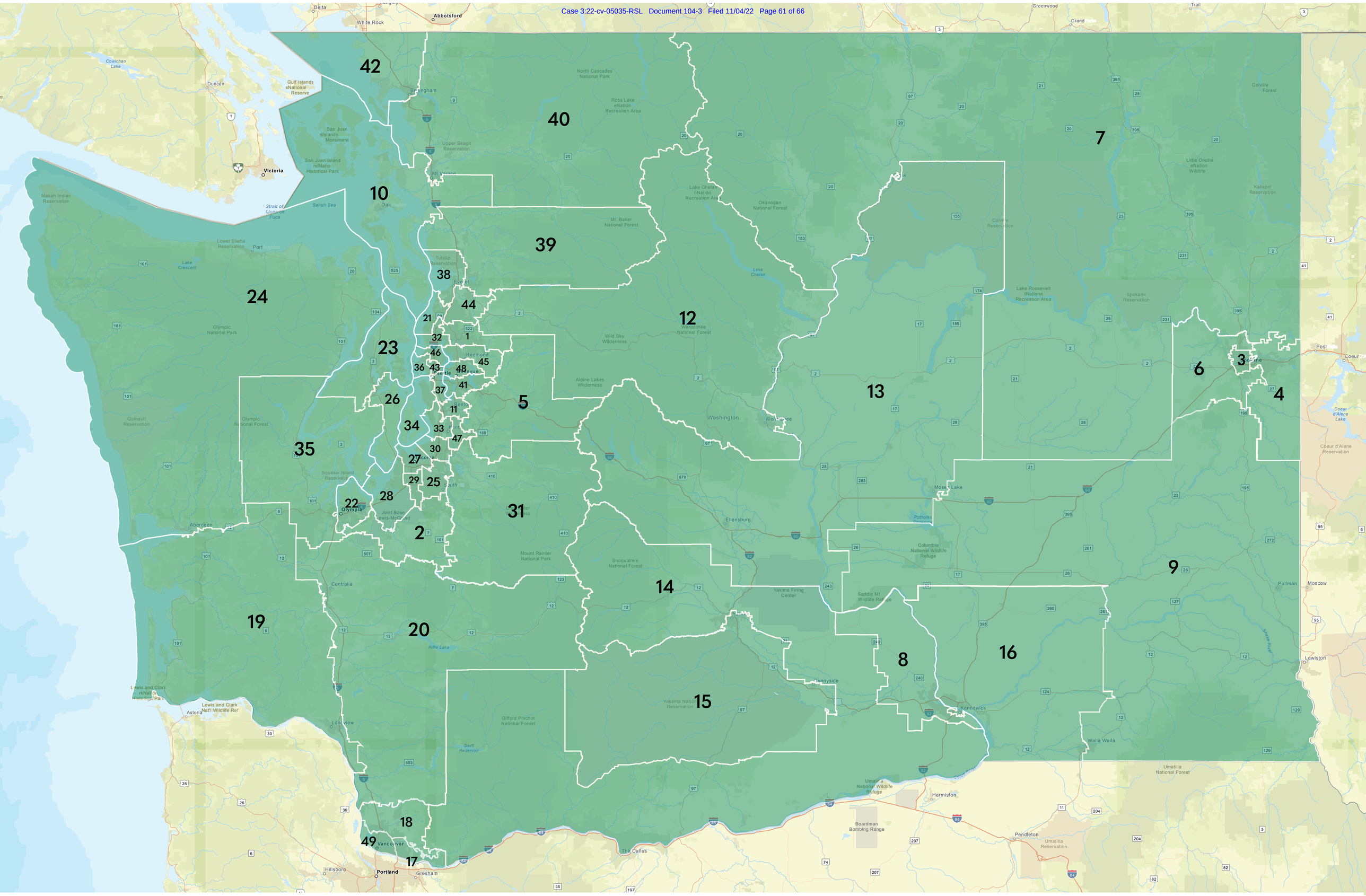
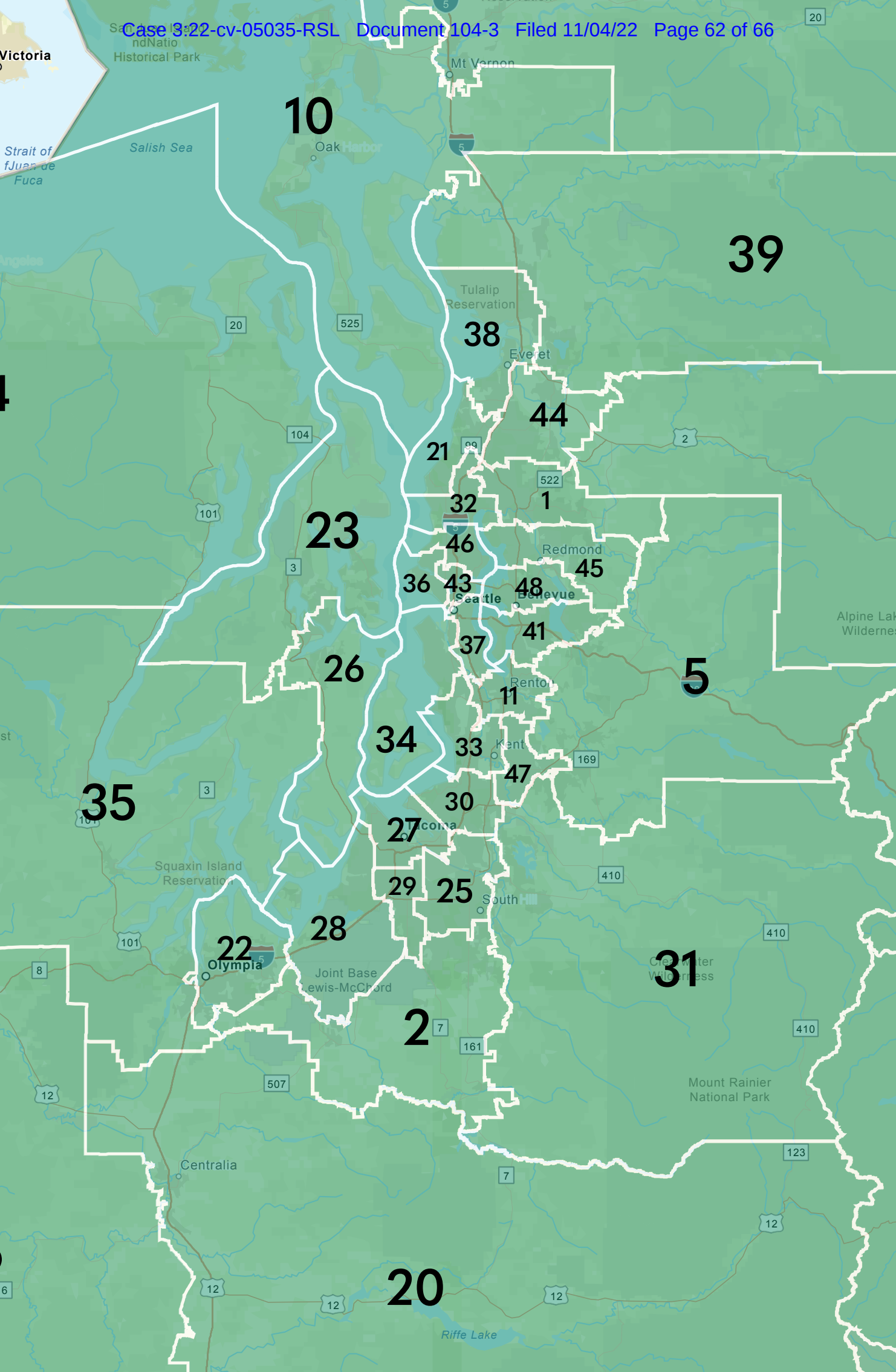


Washington State
Redistricting Commission

Commissioner April Sims - Proposed Legislative District Map, September 21, 2021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Strait of Juan de Fuca
Salish Sea
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Tulalip Reservation
Everett
Redmond
Seattle
Bellevue
Renton
Kent
Tacoma
Squaxin Island Reservation
South Hill
Olympia
Joint Base Lewis-McChord
Centralia
Mount Rainier National Park
Riffe Lake
Alpine Lakes Wilderness
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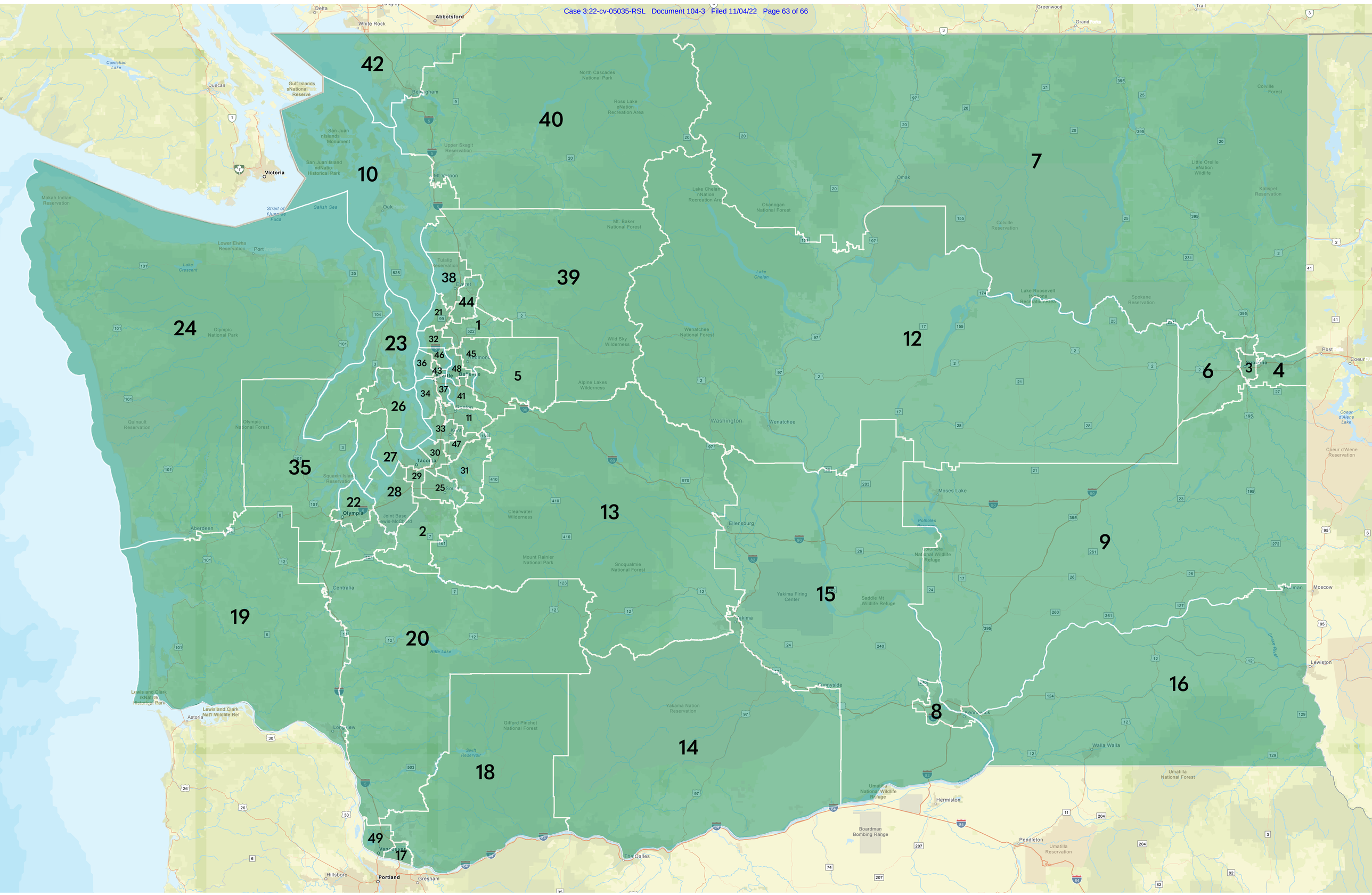
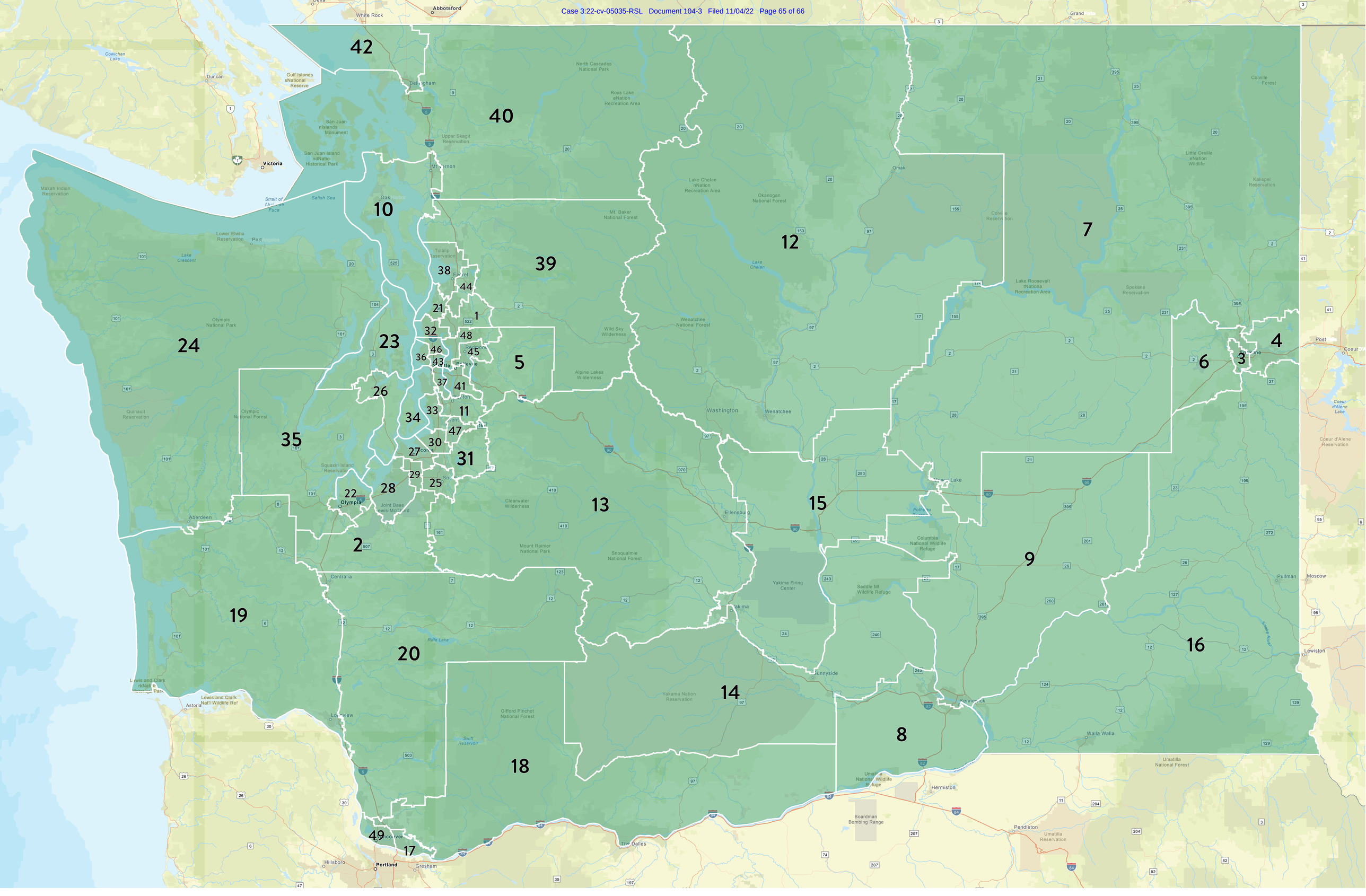


Washington State Redistricting Commission

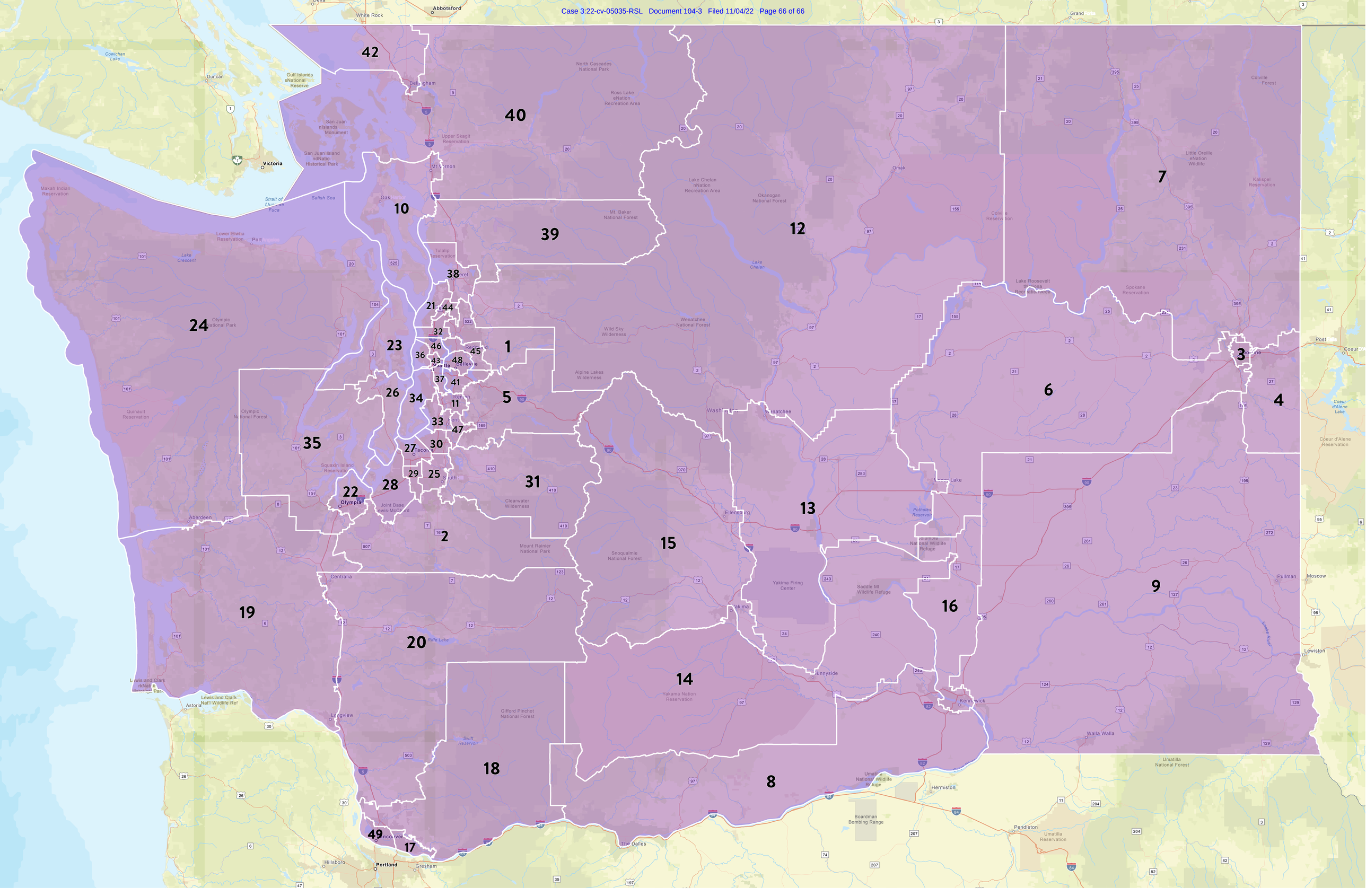
Commissioner Brady Piñero Walkinshaw - Proposed Legislative District Map, September 21, 2021

Appendix D



Washington State Redistricting Commission

Commissioner Brady Piñero Walkinshaw - Revised Legislative District Map, October 25, 2021



Washington State
Redistricting Commission

Commissioner April Sims - Revised Legislative District Map, October 25, 2021