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

Latasha Holloway, et al.,

Plaintiffs,

v.

Civil Action No. 2:18-cv-0069

City of Virginia Beach, et al.,

Defendants.

PLAINTIFFS' REPLY REGARDING REMEDIAL SUBMISSIONS

Defendants have abandoned their own proposed remedial plans and ask the Court to adopt Plaintiffs' plan instead. In doing so, however, Defendants criticize this Court's factual determination that Black, Hispanic, and Asian American ("HBA") voters in Virginia Beach are politically cohesive, criticize Plaintiffs' plan, which they simultaneously contend is an "acceptable remed[y]," ECF No. 270 at 5 (Defs.' Remedial Submission), and defend their (now abandoned) proposals, which are seriously deficient. Defendants' adoption of Plaintiffs' proposal is sensible, but the remainder of their submission and supporting declarations lack merit.

I. The Remedial Submissions Bolster the Court's Cohesion Finding.

Contrary to Defendants' contention that the parties' remedial proposals "evidence a lack of cohesion among the [HBA] communities," ECF No. 270 at 1, the remedial submissions in this case *bolster* the Court's finding of cohesion among the HBA community in Virginia Beach. The Court should make an express factual finding concluding as much when it issues its remedial order.

As Plaintiffs explained in their successful motion for an abeyance to the Fourth Circuit, the appropriate appellate record in a Section 2 case is "the entire record" from both the liability and

remedy proceedings, because, as the Eleventh Circuit has explained, "our inquiries into remedy and liability cannot be separated" due to the nature of the *Gingles* inquiry. *Wright v. Sumter Cty. Bd. of Elections & Registration*, 979 F.3d 1282, 1298-1300 (11th Cir. 2020); *see id.* ("[A] district court's remedial proceedings bear directly on and are inextricably bound up in its liability findings."); *see also E. Jefferson Coal. for Leadership & Dev. v. Parish of Jefferson*, 926 F.2d 487, 492 (5th Cir. 1991) (holding that evidence from remedial phase could be relied upon in support of liability decision because "the 'liability' phase and the 'remedy' phase of Voting Rights Act cases frequently merge"). The issue of minority voting cohesion in Virginia Beach has already been litigated at trial and findings of fact by this Court have been made; evidence adduced during this remedial proceeding adds further support for the Court's factual finding of cohesion.

The "questions" Defendants believe are raised as to HBA cohesion stem not from the parties' submissions, but from their fundamental misunderstandings of the evidence and unsupported analysis. For their most recent cohesion analysis, Defendants primarily rely on evidence submitted by their newly retained expert, Dr. Lisa Handley. Dr. Handley (without explaining her methodology) conducted two analyses: (1) a "percent needed to win" analysis and (2) a reconstituted election results analysis. ECF No. 260-2 at 2 (Handley Dec.).¹ The "percent needed to win" analysis rests on the assumption that a candidate must receive 50% in order to win an election. From that assumption, and applying the ecological inference (EI) estimates submitted by Plaintiffs' expert Dr. Spencer during the liability phase, Dr. Handley purported to identify the CVAP percentages a remedy district must contain in order for minority-preferred candidates to prevail. *Id.* at 6. Dr. Handley contends that this analysis shows that when Black voters are

¹ Despite concluding that the reconstituted election analysis was more relevant, Dr. Handley only analyzed two elections, apparently because Defendants did not provide her with the data to analyze more than that. ECF No. 260-2 at 7 n.5.

considered alone, the "percent needed to win" is consistently lower than when all minorities are considered together. The differences between the Black-alone "percent needed to win" and the allminority "percent needed to win," Dr. Handley says, "raise a question about whether Black voters and other minority voters are actually supporting the same candidates." ECF No. 260-2 at 10 n.4. As Dr. Spencer explains in his attached declaration, Dr. Handley's own analysis, together with the reconstituted election results submitted in the remedial phase, actually *bolster* this Court's conclusion that Black, Hispanic, and Asian voters vote cohesively in Virginia Beach.

First, as Dr. Handley herself notes, the premise of her "percent needed to win" analysis is incorrect, because 50% is not the winning threshold for city council elections in which multiple candidates are running, sometimes for more than one seat. *Id.* at 4. As Dr. Spencer explains, "[t]he fruitlessness of this analysis is evident in the fact that several candidates that Dr. Handley's analysis suggests would lose in fact would win in a remedial district with far lower minority CVAP than she reports would be 'necessary to win.'" Spencer Dec. ¶ 31. The reconstituted election results for the parties' remedial proposals demonstrate this. Plaintiffs three proposed remedial districts have minority CVAPs of roughly 51%-53%, with Black CVAPs of roughly 32%-36%, and minority-preferred candidates win in the majority of races in each of them. *Id.* ¶ 32. This is far below, for example, the 67.4% Black CVAP and 70.4% minority CVAP that Dr. Handley says a district would need for a candidate such as Aaron Rouse to have won in 2018. ECF No. 260-2 at 10 n.4.

As Dr. Spencer explains,

the fact that minority candidates of choice (particularly those who lost city-wide) win the majority of these elections in Plaintiffs' remedial districts, in the face of white opposition, but with only 32-36% Black CVAP, strongly suggests that Hispanic and Asian voters vote cohesively with Black voters. Hispanic and Asian voters are certainly not *opposing* candidates supported by Black voters in these elections, as Dr. Handley hypothesizes (without evidence) could occur. Handley

Affidavit ¶ 19 n.4. Given the demonstrated opposition of white voters to minoritypreferred candidates in Dr. Handley's analysis, her conjecture that Black, Hispanic, and Asian voters may not be cohesive is not logical.

Spencer Dec. ¶ 33. Plaintiffs' remedial submission thus further establishes cohesion because, given known white opposition and given just 32-36% Black CVAP, the minority-preferred candidates prevail in the majority of elections. As Dr. Spencer explains, the only logical conclusion from this fact is that Hispanic and Asian voters are joining with Black voters in supporting those candidates.

Second, Dr. Spencer explains that, even if Dr. Handley's analysis were relevant and sound, it "*supports* the Court's conclusion that Black, Hispanic, and Asian voters are politically cohesive in Virginia Beach." *Id.* ¶ 34. Dr. Spencer highlights the 2018 at-large election and the 2010 Princess Anne elections as examples. Dr. Handley reports a 3% difference between the Black CVAP a district needs for Rouse to win (67.4%) and the all-minority CVAP (70.4%). ECF No. 260-2 at 10 n.4. As Dr. Spencer explains, although this analysis wildly misjudges the result (Rouse won city-wide with 26.1% and easily in each of Plaintiffs' proposed remedial districts with 32-36% Black CVAP), Dr. Handley draws the wrong conclusion from her analysis. "A mere 3% difference is actually evidence that Hispanic and Asian voters support the same candidate—at nearly the exact same level—as Black voters." *Id.* ¶ 35.

The same is true for the 2010 Princess Anne election, in which there were only two candidates and which thus has more relevance to the 50% threshold assumption underlying Dr. Handley's "percent needed to win" analysis. *Id.* ¶ 36. For that election, Dr. Handley reports a 2.7% difference between the Black CVAP a district would need for candidate Bullock to win (42.9%) and the all-minority CVAP needed (45.6%). "The fact that the Black CVAP and all minority CVAP that would supposedly be necessary for Bullock to win are quite similar (within 2.7%) is

evidence that Black, Hispanic, and Asian voters share the same preferences, not that they lack cohesion." Spencer Dec. ¶ 36. Defendants' own remedial submission further proves this. In their proposed District 2 in their 10-1 plan, Bullock narrowly would have won by 50.6% to 49.4%. But that district has a Black CVAP of only 26.6%. "Given that Dr. Handley reports white support of Bullock at just 32%, Handley Affidavit ¶ 18, the only conceivable explanation for Bullock's narrow win [in Defendants' proposed District 2] is that Hispanic and Asian voters, like Black voters, supported Bullock in strong numbers and voted as a coalition." *Id.* ¶ 36.

Third, as Dr. Spencer notes, Dr. Handley's analysis disregard this Court's conclusion that non-linear support among Asian and Hispanic voters offers a better explanation for any purported differences revealed in her analysis than does a speculative hypothesis of non-cohesion. Moreover, Dr. Spencer explains that the differences Dr. Handley reports across all elections are "slight . . ., particularly considering the uncertainty (*i.e.*, margins of error) inherent in the underlying ecological inference (EI) estimates that form the core of her analysis." Spencer Dec. ¶ 38. As Dr. Spencer describes, "[t]hese small differences, certainly do not suggest that Hispanic and/or Asian voters are *opposing* candidates supported by Black voters." *Id.* Indeed, "[t]he reconstituted election results illustrate the opposite. *It would not be possible* for the candidates favored by Black voters to prevail in as many elections as they do in plaintiffs' proposed plan without Hispanic and Asian support, given known opposition by white voters." *Id.* (emphasis added).

Fourth, Defendants' contention that the relatively larger Asian population in plaintiffs' proposed Districts 7 and 10 than in District 4 evidence non-cohesion, ECF No. 270 at 3, is likewise incorrect. To begin, the premise is wrong because although District 4 shows performance in more elections; all three districts perform in the majority of relevant elections. But as Dr. Spencer illustrates, Defendants' attribution of the differing performance levels to Asian non-cohesion is

contravened by the evidence. Spencer Dec. ¶¶ 28-30. Dr. Spencer analyzes three precincts from each of Plaintiffs' three remedial districts that each had relatively equal Asian and Hispanic CVAP percentages, and noted that in the District 7 and District 10 precincts, the white CVAP percentage correlated closely with the vote total for the white-preferred candidate. In District 4, which Defendants contend performs better because its Asian CVAP is somewhat lower, Dr. Spencer's analysis showed that the white-preferred candidate fared worse compared to the precinct's white CVAP percentage. Dr. Spencer thus concludes that

the data suggest that the magnitude of white bloc voting in opposition to minority preferred candidates is higher in Districts 7 and 10 than it is in District 4 (although District 4 nevertheless demonstrates white bloc voting opposed to minority candidates of choice). The fact that District 4 outperforms Districts 7 and 10 is thus best explained by the degree of white bloc voting and not a lack of cohesion among minority voters.

Spencer Dec. \P 28. "This evidence adds further support that Asian and Hispanic voters prefer the same candidates as Black voters." *Id.* \P 30.

As Dr. Spencer concludes, "Dr. Handley's own analysis—coupled with the reconstituted election results in the parties' proposals—put to bed any question Dr. Handley raises about whether Black, Hispanic, and Asian voters vote cohesively." *Id.* ¶ 38. Plaintiffs respectfully urge this Court to make an express factual finding, in its remedial order, that Defendants' own expert analysis, together with the reconstituted election results and demographic data provided by Plaintiffs as part of the remedial proceeding, together *bolster* the Court's conclusion of cohesive voting among Black, Hispanic, and Asian voters in Virginia Beach.

II. Defendants' Criticisms of Plaintiffs' Proposed Plan Are Meritless.

Defendants ask this Court to adopt Plaintiffs' proposed plan, ECF No. 270 at 5-6, acknowledging that Plaintiffs' proposed plan is an "acceptable remed[y]," *id.* at 5, and "remedies

the violation identified in the Opinion," *id.* at 6. Nevertheless, Defendants advance several criticisms of Plaintiffs' plan; none has merit.

A. Defendants' Performance Criticisms Are Meritless.

Defendants' performance criticisms are meritless. Defendants dispute the efficacy of Plaintiffs' three remedial districts (Districts 4, 7, and 10)—again, despite adopting Plaintiffs' map as their preferred remedy—suggesting that only one district (District 4), would "reliably perform[]," ECF No. 270 at 2 (Defs.' Second Remedial Submission), as an opportunity district. Defendants' analysis, however, fatally relies on both incomplete and inaccurate data.

To begin, Defendants present the Court with a summary chart, purportedly of Dr. Spencer's performance analysis, that "is both misleading and incorrect." Spencer Dec. ¶ 23. In that chart, Defendants erroneously claim that the HBA candidates of choice would have lost three of the last four elections (those held for the 2018 at-large seat, the 2016 Kempsville seat, and the 2014 Rose Hall seat) in Districts 7 and 10. ECF No. 270 at 2. But, that is flatly wrong. As Dr. Spencer explains, Aaron Rouse—an HBA candidate of choice—would have handily won election in *all three* remedial districts during the 2018 elections with a significant margin of ~10% of the vote. *See* Spencer Dec. ¶ 24; ECF No. 261-2 at 6 (Pls.' First Remedial Submission, Spencer Dec.).² Defendants offer no explanation for why they represent to the Court that the minority candidate of choice "[1]oses" in 2018 in Districts 7 and 10 when the minority candidate of choice wins. Spencer Dec. ¶ 24.

² Further, two seats were open in 2018, and another HBA candidate of choice—Allison White took second place in District 4. ECF No. 270 at 2. To the extent Defendants meant to report that Ms. White would not have placed second in Districts 7 and 10, their presentation is misleading. And that point also has little relevance, considering that single member districts—with a single winner—will be used going forward. Spencer Dec. ¶ 24.

Defendants compound this error by inexplicably omitting additional performance analysis evidence that demonstrates that all three of Plaintiffs' remedial districts will provide Virginia Beach's HBA community with a meaningful opportunity to elect their candidates of choice. In the same chart, Defendants fail to include Dr. Spencer's reconstituted election analysis for all relevant recent elections, omitting his performance analyses considering data from the 2010 and 2008 atlarge races and the 2010 Princess Anne race. Spencer Dec. ¶ 25-26; ECF No. 270 at 2. Candidates of choice win in all three remedial districts in all three of those races. ECF No. 261-2 at 6. Defendants suggest that this omission was appropriate because the elections are dated (despite their being among the most recent elections in Virginia Beach) and because, in the 2010 Princess Anne election, the HBA candidate of choice—Tanya Bullock—also received 30% support from white voters. ECF No. 270 at 2. But Ms. Bullock won regardless of white support. As Dr. Spencer explains, according to the reconstituted election analysis, "Bullock would win approximately 55-57% of the vote in each of plaintiffs' three proposed remedial districts, meaning she would still win if her support among white voters dropped below 30%." Spencer Dec. ¶ 26. Under the same analysis in the 7 non-remedial districts, Ms. Bullock still lost, "suggesting that white support cannot explain her victory in the remedial districts." Id. Indeed, the fact that Ms. Bullock lost in her at-large 2010 race and now *only* prevails in the three proposed Section 2 districts demonstrates that these Section 2 districts will provide the HBA community an equal opportunity to elect their candidates of choice. ECF No. 261-2 at 6.

Defendants also perplexingly ignore the results of all non-City Council (or "exogenous") elections, whose relevance is "particularly acute during this remedial phase." *See* Spencer Dec. ¶ 19. As Dr. Spencer explains, "[m]uch of the focus on remedies centers on the performance of individual remedial districts. However, the existing electoral system that violates Section 2 of the

VRA is defined by several factors that have made winning difficult for minority-preferred candidates," *id.*, such as inability to raise funds, the hopelessness of winning, the large geographic area, all of which affect candidate quality, *id.* Exogenous elections thus provide a useful tool for analysis in this case. Defendants' decision to overlook exogenous elections in their entirety is especially confounding, given that Defendants' expert, Dr. Lisa Handley, has testified that exogenous elections can be among the "most significant elections" when they "include[] [minority] candidates who were the candidates of choice of the [minority] community."³ United States v. Vill. of Port Chester, 704 F. Supp. 2d 411, 429 (S.D.N.Y. 2010).

Here, the exogenous election evidence further bolsters Plaintiffs' conclusions with respect to both HBA cohesion and remedial district performance. In every exogenous election that Dr. Spencer considered, support for the HBA community's candidate of choice in Districts 4, 7, and 10 universally and significantly outpaced city-wide support. ECF No. 261-2 at 7. All five HBA candidates of choice that lost in exogenous elections would have won in each of Plaintiffs' remedial districts. *Id.* Of particular note, too, Defendants fail to consider the 2017 Sheriff election in which a Black candidate carried each of the three proposed Section 2 remedial districts in Plaintiffs' plan by a significant margin, but lost by a large margin citywide—an election exactly of the kind Dr. Handley has testified is significant. *Id.* As Dr. Spencer notes in his declaration, agreeing with Dr. Handley's past testimony, the 2017 Sheriff's race is unique amongst the data and "especially probative in evaluating the performance of proposed remedial districts because it featured a Black candidate who was the minority candidate of choice, and it was for a citywide

³ In her role as an expert in the *Port Chester* case, Dr. Handley also testified that the single most probative election to assess racial bloc voting was a Trustee race from 9 years prior—far beyond the timeframe of elections she considered relevant to the present case. *Vill. of Port Chester*, 704 F. Supp. 2d at 429.

office as opposed to a state or federal office." Spencer Dec. \P 20. Defendants, again, offer no explanation for this omission.

The evidence in this case is clear: Plaintiffs' remedial map will perform to provide the HBA community with an opportunity to elect their candidates of choice in *three districts*—districts 4, 7, and 10. As Dr. Spencer's original declaration shows, when recast as single member districts with one winner, the HBA candidate of choice wins in 60% of relevant elections in Districts 7 and 10 and 80% of relevant elections in District 4. ECF No. 261-2 at 6. Dr. Handley, Defendants' expert, previously testified in Perez v. Perry that a 50% win-rate in exogenous elections demonstrated a performing district. No. SA-22-CV-360, 2017 WL 962686, at * 142 (W.D. Tex. Mar. 10, 2017), The Perez court agreed, noting that Section 2 requires "[a] 'real opportunity'" not "a guarantee of success." Perez v. Abbott, 253 F. Supp. 3d 864, 882 (W.D. Tex. 2017) (citing Dr. Handley's testimony and rejecting 50% threshold win rate as necessary showing and noting instead that "§ 2 requires a searching, practical inquiry into the specific facts of each case"). Thus, there is no question that Plaintiffs' proposed map provides the HBA community in Virginia Beach an equal opportunity to elect candidate of choice in all three of its remedial districts. The Court should disregard Defendants' cherry-picking and misreporting of election results in service of their effort to disprove cohesion.

B. Defendants' Demographic Criticisms Are Meritless.

Defendants' criticisms of the demography of Plaintiffs' three remedial districts are meritless and fundamentally flawed.

First, Defendants allege that Plaintiffs three remedial districts are "pack[ed] . . . in the neighborhood of 60%" HBA population. ECF No. 270 at 3. Not so. Defendants arrive at this conclusion using the *total population* percentages for racial groups, rather than the citizen voting

age population, or CVAP.⁴ While total population data is used for apportionment to ensure jurisdictions comply with the constitutional one-person, one-vote requirement, CVAP data is used to assess the performance of Section 2 districts because, unlike total population data, CVAP data only includes eligible voters.⁵ The HBA-*CVAP* percentages of Plaintiffs' remedial districts are 51.3-52.78%, thus ensuring the districts will have enough *voters* to elect candidates of choice. *Meza v. Galvin*, 322 F. Supp. 2d 52, 60 (D. Mass. 2004) ("Because non-citizens by definition cannot vote, it makes little sense to consider them for the purposes of determining whether the particular remedial scheme proffered by plaintiffs would adequately remedy the alleged vote dilution").

In Defendants' own expert declaration, Dr. Handley expressly affirms the importance of using CVAP over total population to measure the performance of remedial districts, explaining that "[u]sing citizen voting age population as opposed to total population or voting age population takes into account two factors that impact the ability of minorities to elect their preferred candidates: minorities tend to have lower age eligible to total population ratios than whites, and

⁴ There also remain outstanding questions as to the quality of Defendants' underlying data. Although Defendants' expert Kimball Brace identifies the data used in Defendants' maps as "Total Population (ACS 2019)," ECF No. 260-1 at 28, 36, 51. Defendants failed to provide Plaintiffs with information on how those data were disaggregated from the 2019 5-Year ACS Block Group level to the 2020 census. Fairfax Dec. ¶ 6. As Plaintiffs' expert Mr. Fairfax explains, "unless the methodology or data are provided, there is no way to compare and verify the 2020 population and race/ethnicity data reports created by Brace." *Id*.

⁵ Courts have also routinely recognized the utility of CVAP data in creating effective remedial districts, over total population or VAP data. *See, e.g., Negron v. City of Miami Beach, Fla.*, 113 F.3d 1563, 1569 (11th Cir. 1997) ("In order to elect a representative or have a meaningful potential to do so, a minority group must be composed of a sufficient number of voters or of those who can readily become voters through the simple step of registering to vote."); *Cano v. Davis*, 211 F. Supp. 2d 1208, 1233 (C.D. Cal. 2002), *aff'd*, 537 U.S. 1100 (2003) ("The Ninth Circuit, along with every other circuit to consider the issue, has held that CVAP is the appropriate measure to use in determining whether an additional effective majority-minority district can be created").

some minority groups (including Hispanics and Asians) tend to have higher non-citizenship rates." ECF No. 260-2 at 3-4 n. 2. Defendants offer no explanation for including people who are ineligible to vote in their analysis. Looking at the correct dataset, however, it is clear that Plaintiffs' proposed remedial districts are not "packed," but instead are merely designed to perform.

Defendants also mistakenly assert that Districts 7 and 10 "do not reliably perform" because they have higher Asian populations than does District 4. ECF No. 270 at 3-4. But the premise of this argument is fundamentally flawed. Districts 7 and 10 perform in 60% of City Council elections analyzed (elections in which the candidate of choice lost city-wide, and when viewed as single member districts with only a single winner possible), ECF No. 261-2 at 2, a level of victory that this Court has found would provide the minority community in Virginia Beach with a meaningful opportunity to elect their candidates of choice. Op. at 60 (finding that Dr. Spencer's analysis showed the Illustrative Plans—which performed in five of nine reconstituted City Council elections—"enhance[d] the ability of the Minority Community to elect their preferred candidates."). Further, the exogenous election results show the HBA candidate of choice winning each of the nine races in each remedial district, and universally earning a significantly larger vote margin in the remedial districts than city-wide. ECF No. 261-2 at 7.

There is also only a 5-percentage point difference in the Asian populations of District 4 and Districts 7 and 10 by the relevant metric (again, using CVAP, not total population). ECF No. 261-1 at 13 (Pls.' Remedial Plan). Defendants' speculation that any differences in performance between the remedial districts can be attributed to such a minor population difference is baseless. To the contrary, and as explained above, Dr. Spencer explains that "the data suggest that the magnitude of white bloc voting in opposition to minority preferred candidates is higher in Districts 7 and 10 than it is in District 4," meaning "[t]he fact that District 4 outperforms Districts 7 and 10 is thus best explained by the degree of white bloc voting and not a lack of cohesion among minority voters." Spencer Dec. ¶ 28. Defendants' mere conjecture on this point cannot overcome the Court's finding of cohesion, based on Court's quantitative and qualitative findings, and the great weight of the remedial evidence presented to the Court today.

C. Defendants' Compactness Criticism is Inaccurate.

Despite Defendants' assertions that "Plaintiffs' remedial districts are visibly noncompact," ECF No. 270 at 4, expert analysis shows Plaintiffs' map to be more compact overall than Defendants' 10-1 plan according to two of the three measurements of compactness, Reock and Polsby Popper. Fairfax Dec. ¶ 10. Defendants specifically criticize Plaintiffs' proposed District 4 as having a "jackknife-like appearance." ECF No. 270 at 4. But, as Defendants acknowledge in adopting Plaintiffs' proposal as their preferred remedy, this district adequately remedies the Section 2 violation. Defendants' criticism is peculiar, given that their own 10-1 map contains a non-remedial district with a nearly identical Polsby-Popper compactness score as the so-called "jackknife-like" district they criticize. *Compare* ECF No. 261-1 at 15 (.17 score for Plaintiffs' District 4) *with* Fairfax Attachment 2 (.18 score for Defendants' District 9).

Below is that district, Defendants' District 9:



This district has the appearance of an applauding seahorse, serves no Section 2 remedial purpose (it has a substantial white majority), and appears to have been drawn to make it *seem* as though it

was necessary to pair four incumbents, instead of two, in a 10-district plan, for purportedly neutral geographic reasons Defendants say would not have affected their then-preferred 7-3 system. See ECF No. 260-1 (Defs.' First Remedial Submission, Brace Dec.) ¶ 22(f) ("The need to draw more districts within the geography of Virginia Beach to create a 10-district plan as opposed to a 7district plan made it more difficult to avoid pairing incumbents."). Rather than include incumbent Michael Berlucchi, a white Republican whose term runs through 2024 and who lives mere blocks from the border of Defendants' District 9, Defendants' proposal places Mr. Berlucchi in one of their purported Section 2 opportunity districts (District 5)—thereby postponing the effectiveness of this aspect of the remedy for two years and forcing a candidate of choice to attempt to unseat an incumbent—and leaves District 9 open (while unnecessarily pairing incumbents Wood and Tower). See Spencer Dec. ¶ 16. Defendants then exclude Mr. Rouse-a minority candidate of choice and one of two Black incumbent Council members-from District 5, and instead situate him in a white-majority district (District 4) that he would have lost in a single member district election to Mr. Moss in 2018, despite placing first city-wide. See Spencer Dec. ¶ 15.6 Defendants' districting machinations with respect to their 10-1 plan cast serious doubt on their contention that the goal of the map simply was to be "as compact as possible." ECF No. 260 at 5. In any event, their criticism of Plaintiffs' plan as non-compact is contradicted by the expert evidence.

III. Defendants' Proposed Plans Are Legally Deficient.

Defendants' two proposed remedial plans are legally deficient. Although they have seemingly abandoned them, Defendants' plans have been submitted for the Court's consideration and they advance arguments in defense of them. Plaintiffs thus believe it important to make the

⁶ Before learning of her resignation, Defendants also placed Ms. Abbott, whose term ran through 2024 and who was not a minority-preferred candidate, in another district they purported was designed to remedy the Section 2 violation (District 2).

Court and Special Master aware of the deficiencies in Defendants' proposed plans that render them ineffective remedies.

A. Defendants' 10-District Plan is Deficient.

Defendants' 10-district plan is deficient for three reasons, because it: (1) cracks or wholly excludes majority-HBA precincts from the remedial districts; (2) underperforms Plaintiffs' 10-district plan and does not offer the HBA community equal opportunity to elect candidates of choice; and (3) fails to consider the impact of incumbency.

First, Defendants' 10-district plan fails to create *any* majority-HBA CVAP opportunity districts. Fairfax Dec. ¶ 1. This is unsurprising given Defendants' approach. As Plaintiffs' expert Mr. Fairfax explains, Defendants' map "divide[s] up the core areas of the City with concentrations of majority or predominantly HBA populations" to "create[] four (4) districts that contain an HBA CVAP between 43.61% and 46.83%." Fairfax Dec. ¶¶ 8-9. While the HBA *total population* of Defendants' remedial districts hovers around 50%, *none* of their purported remedial districts has a majority HBA population by CVAP, again, which is the relevant measure for performance. ECF No. 260-1 at 51. Indeed, as Mr. Fairfax explains, Defendants' plan "divide[s] and fracture[s]" the minority community so as to "not produce a single majority HBA district measured by CVAP." Fairfax Dec. ¶ 1.

This demographic dispersion is harmful and unnecessary. Virginia Beach has "19 core HBA populated precincts," Fairfax Dec. ¶ 1; rather than preserve these political communities, Defendants chose to systematically "crack" many of them and dilute the HBA community's political power, id ¶ 9. For example, in Defendants' 10-district map, the Bellamy precinct (which has a 49% white CVAP) is placed in District 4, a majority white, non-opportunity district, while neighboring Indian Lakes precinct (which has a 60% white CVAP) is placed in District 3, a

purported opportunity district with a 46.07% HBA CVAP. *Id.* Similarly, Green Run, a large, majority HBA area, is divided between District 3, purportedly a remedial district, and District 4, which was not intended to be a remedial district. *Id.* Tallwood, College Park, and Colonial precincts (which are majority HBA) are also separated from neighboring majority-HBA precincts and joined with predominantly white precincts to create District 2, Fairfax Dec. ¶ 9, the worst performing of Defendants' purportedly remedial districts. Spencer Dec., Table 1. That district is only 43.61% HBA CVAP, Fairfax Dec. ¶ 9, and at the time Defendants submitted the plan was held by incumbent Jessica Abbott, whose term would not have ended until 2024 and who is not a candidate of choice of the minority community. Defendants' cracking of the Tallwood, Colonial, and College Park precincts would affect an estimated 7,154 HBA voters, and dilute their ability to elect their candidates of choice. *See* Fairfax Attachment 4.

Mr. Fairfax also found that Defendants' 10-district plan excludes "a series of majority HBA subdivisions (Lakefront Village, Waterford Apts, Shores Of Lake Smith Apts, and Pier Pointe Landing Condos) that are located in the northwest corner of the City" from its purported remedial districts. Fairfax Dec. ¶ 14. In an especially notable omission, Defendants' map also excludes the Burton Station neighborhood—an historically Black area that the Court found to be acutely impacted by discrimination and lack of representation—from all of their proposed remedial districts. *Id.*; Op. at 56 (finding Burton Station is "[t]he prime example" of the "predominantly African American communities [that] have historically been neglected by the City").

The map below illustrates, with the predominantly HBA precincts shown in yellow (HBA CVAP 40%-50%) and orange (HBA CVAP 50%+), how Defendants' 10-district plan cracks the HBA community. The green circle shows how the Green Run neighborhood is broken apart, the red circle highlights the cracking of Colonial, Tallwood, and College Park precincts in District 2,

and the blue circle shows the exclusion of the Burton Station neighborhood and HBA subdivisions in northwestern Virginia Beach (note that those neighborhoods are in predominantly white precincts, and thus the precincts are not themselves shaded yellow or orange).



Second, Plaintiffs' remedial districts perform better than Defendants' in reconstituted elections analysis in endogenous (City Council) and exogenous (non-City Council) elections. In the 2017 Sheriffs' race, for example, the HBA candidate of choice loses in two of Defendants' four remedial districts, but he wins all three in Plaintiffs' proposal. Spencer Dec. ¶ 21. While Defendants represent that they have created a fourth opportunity district (District 2), there is real reason to doubt the efficacy of this district. In Defendants' remedial District 2, the HBA candidate of choice only wins in 30% of reconstituted City Council races, and, as Dr. Spencer notes, "only *one* candidate who lost city-wide would have won in this district, Bullock in 2010, and just barely." Spencer Dec. ¶ 9 (emphasis added). Cracking the HBA precincts in District 2 from neighboring HBA precincts results in diminished electoral margins (and CVAP) for minority-preferred candidates in the remaining districts.

Finally, defendants' 10-district plan inhibits relief by failing to account for incumbency.

To begin, Defendants place the HBA candidate of choice and Black incumbent Aaron Rouse in District 4, a district with 64.14 % white CVAP that he would have lost to John Moss in 2018 had it been a single member district. Spencer Dec. ¶ 15. As Dr. Spencer explains, this decision "place[s] one of the only two Black incumbent Council members in a district that he would be expected to lose, and in which his estimated vote total would be 3% lower than his city-wide total, compared to Mr. Moss's vote total that is estimated to be nearly 2% higher than his city-wide total." Id. In other words, one of the only candidates of choice to have ever been elected to Virginia Beach's City Council would be more disadvantaged by the remedial scheme than if we he were to run for an at-large seat under the old, discriminatory system. On the other hand, Defendants' 10-district plan places Michael Berlucchi-a white Republican whose term does not expire until 2024-in District 5, one of the purported Section 2 districts. Spencer Dec. ¶ 15. And, before they were aware she would resign, Defendants placed Jessica Abbott, whose term would not have expired until 2024 and who is not a candidate of choice of the HBA community, in their purported fourth opportunity district (District 2). These decisions are not benign; rather, they disadvantage one of two Black incumbents and would needlessly postpone the effectiveness of the remedial districts.

Defendants' 10-district map also "double-bunked" 4 incumbents in two districts, Fairfax Dec. ¶ 11, contrary to their own stated interest in reducing incumbent pairing, ECF No. 260 at 5. Plaintiffs' map, however, not only pairs just one set of incumbents in one district, Fairfax Dec. ¶ 11, it also places both Black incumbents (and both HBA candidates of choice) in Section 2 remedial districts, ECF 261 at 5.

As compared to Plaintiffs' proposed 10-district plan, it is clear that Defendants' proposal is less effective across every metric and therefore fails to sufficiently remedy the harms found by the Court.

B. Defendants' 7-3 System is Deficient.

Defendants' 7-3 maps are also deficient. When they first submitted their proposed plans, Defendants contended that "[t]his electoral structure adheres closer to Virginia policy decisions by being more similar to the existing system except without the three at-large seats." ECF No. 260 at 4. By "existing system," Defendants apparently mean the system that would exist absent this Court's injunction and after HB2198 takes effect (7 single member districts and 3 at-large seats). But Virginia policy is not for Virginia Beach to maintain 3 at large seats; this year the General Assembly enacted the Virginia Voting Rights Act, which Defendants have acknowledged at public City Council meetings prohibits the remaining 3 at-large seats as well. ECF No. 258-2 at 7. Prior to the enactment of the Virginia Voting Rights Act, Virginia law expressed no preference, permitting city council members to be elected from "any combination of at-large, single-member, and multi-member districts or wards." Va. Code § 24.2-304.1. So Defendants are wrong to contend that there is any Virginia policy favoring a 7-3 system over a 10-district system.

In any event, Defendants' 7-3 maps are deficient for much the same reasons as their 10-1 plan, because: (1) Defendants have unnecessarily disbursed the HBA-community across districts, thereby diluting their political power; and (2) they underperform both parties' 10-1 proposed plans when subjected to reconstituted elections analysis.

First, like Defendants 10-district map, neither Defendants' 7-district map nor their 3superward map creates a *single district* in which the HBA-community constitutes a CVAPmajority. Fairfax Dec. ¶ 1. Defendants nevertheless claim that their 7-3 proposal creates three majority minority seats, Districts 1 and 3 and Superward 1. ECF No. 260 at 5. But these numbers, again, come from *total population* data, rather than the CVAP data that is more relevant to understanding the performance of remedial districts.

Second, both Defendants' 7-district map and 3-superward map dilute the political power of the HBA community by cracking majority-HBA precincts or excluding them from remedial districts entirely. As Mr. Fairfax explains, Defendants' 7-district map creates three districts (1, 2, and 3) that have CVAP populations of approximately 40%, "indicating that three districts in that plan actually fracture the core areas of the City with concentrations of majority or significantly populated HBA precincts." Fairfax Dec. ¶ 12. The 3-superward map fares no better, with Mr. Fairfax finding, "[o]nce again, the districts divide up the core areas of the City with concentrations of majority or predominantly HBA populations." Fairfax Dec. ¶ 13.

The impacts of this problematic approach are evident upon examination of both maps. For example, both maps divide Green Run—a large majority HBA-area—between a purported remedial district and a district not intended to be an HBA-opportunity district. Both maps also crack majority-HBA precincts and separate them from other nearby majority-HBA districts. Specifically, the 7-district map cracks the predominantly minority Bellamy, Tallwood, and College Park precincts, Fairfax Dec. ¶ 12, and the 3-superward map cracks the predominantly minority Chimney Hill, Dahlia, and Davis Corner precincts—all while including predominantly white precincts in their place, Fairfax Dec. ¶ 13. And—again—neither map includes the "series of majority HBA subdivisions . . . that are located in the northwest corner of the City" or the historic Burton Station neighborhood in any purportedly HBA-opportunity district. Fairfax Dec. ¶ 14.

The maps below illustrate Defendants' cracking of the HBA community in these proposed plans. The green circles show how Green Run is cracked apart in both plans, the red circles show how other predominantly HBA precincts are cracked, and the blue circles illustrate the exclusion of the Burton Station neighborhood and the HBA subdivisions in northwest Virginia Beach.



Defendants' 7-District Plan

Defendants' 3-Superward Plan



Finally, Defendants' 7-3 system underperforms both parties' 10-1 proposed maps in reconstituted elections analysis across the board. For example, in 2016, minority candidate of choice Amelia Ross Hammond wins one district in both parties' 10-1 maps, but loses in *all three* remedial districts in Defendants' 7-3 system. Spencer Dec. ¶ 21. In the 2017 Sheriff's race, Bell— the minority candidate of choice—wins just *one* of the three 7-3 remedial districts (7-District Map District 1) whereas he would have won in *all three* of Plaintiffs' 10-1 remedial districts. Spencer Dec. ¶ 14. Also, Andrew Jackson loses—placing third—in District 1 of the 7-ward plan, while he places first in the closest parallel district in Plaintiff's proposal (District 4). Spencer Dec. ¶ 12. In Superward 1, Moss defeats Sherrod in 2011, whereas Sharrod wins all three remedial districts in Plaintiff's 10-1 plan. Spencer Dec. Table 1. Candidate of choice Georgia Allen also loses in Superward 1 in 2008, where she won in every remedial district in Plaintiff's proposed 10-district plan. Spencer Dec. ¶ 8.

Given these clear deficiencies in Defendants' 7-3 system, there is no question it cannot afford Plaintiffs the effective Section 2 remedy to which they are entitled.

IV. The Court Should Reject Defendants' Invitation to Rush the Remedial Process.

Several weeks ago, when it was in Defendants' strategic interest to convince the Fourth Circuit that an abeyance was inappropriate because the remedial process would take too long, Defendants asked this Court to delay the *beginning* of the remedial process until December 2022. Now that their appeal is being held in abeyance, Defendants have abandoned their own proposed plans and have asked this Court to rush and adopt Plaintiffs' proposal with haste shortly after the Census data is released in "mid- to late-August." ECF No. 270 at 5.⁷

⁷ This is noteworthy, given that Defendants knowingly misinformed the Court in their previous filing that the data released in August could not even be used for redistricting, and the Court would instead have to await the Sept. 30 release. ECF No. 257 at 3; ECF No. 258 at 2-3.

Defendants' desperate desire to rapidly proceed with their appeal should not be permitted to disrupt the Court's solemn duty to engage in a careful and deliberate remedial process. The ultimate plan must have population balance according to the Census data. As Defendants themselves contended, the Court must also wait to impose a remedy until Virginia's Division of Legislative Services adjusts the Census data no later than 30 days after the release of the PL-94-171 data, which will be released on September 30, 2021, to rectify the effects of prison gerrymandering. ECF No. 257 at 8 n. 4. This is particularly important because of the disproportionate affect prison gerrymandering has on communities of color.⁸ It is possible this adjustment will reflect an increased population in the very areas of the City that are the focus of the Section 2 remedial districts, and districts drawn without the benefit of that adjustment might unnecessarily include additional white voters in order to balance total population—a result that would reduce the performance of the districts in light of white bloc voting against minoritypreferred candidates.⁹ The legislation that requires the correction of prison gerrymandering was a hard-fought win for Virginia's minority community that must be respected in the remedial plan ordered by the Court.

Plaintiffs projected to the Fourth Circuit that the remedial proceeding was likely to conclude sometime in November, and Defendants predicted it may take even longer. The Fourth Circuit nevertheless granted the abeyance. Moreover, Defendants' latest argument in favor of a

⁸ *Virginia Profile*, Prison Policy Initiative (2018) (showing non-white Virginians are overrepresented in prisons and jails, while white Virginians are underrepresented) https://www.prisonpolicy.org/profiles/VA.html

⁹ Graham Moomaw, Ahead of 2021 Redistricting, Va. Democrats Move to End 'Prison Gerrymandering', Virginia Mercury (Feb. 13, 2020) (discussing the impacts of prison gerrymandering on VRA districts in Virginia) https://www.virginiamercury.com/2020/02/13/ahead-of-2021-redistricting-va-democrats-move-to-end-prison-gerrymandering/.

rushed process (contrary to their previous position)—the risk of a vacant seat in the Kempsville residency district come November—has proven false. The Court should reject Defendants' latest invitation for haste in undertaking a task that requires and deserves care and deliberation.

CONCLUSION

The Court should, after the Special Master has reviewed the remedial submission and supporting evidence, have Plaintiffs' proposed plan adjusted as necessary in light of the Census data once it is released, including the subsequent release 30 days later (by the end of October at the latest) to address the effects of prison gerrymandering. The Court should also make express factual findings, in its remedial order, regarding how the evidence submitted as part of the remedial phase further supports the Court's conclusion that Black, Hispanic, and Asian voters vote cohesively in Virginia Beach.

Dated: July 30, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2021, I will electronically file the foregoing with the

Clerk of the Court using the CM/ECF system, which will then send a notification of such filing

to the following:

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

Case No. 2:18-cv-0069

LATASHA HOLLOWAY, et al.,

Plaintiffs,

v.

CITY OF VIRGINIA BEACH, et al.,

Defendants.

DECLARATION OF DR. DOUGLAS M. SPENCER

Pursuant to 28 U.S.C. § 1746, I, Douglas M. Spencer, declare under penalty of perjury that the following is true and correct to the best of my knowledge.

1. I am a citizen of the United States, a resident of the state of Colorado, and I am over the age of 18. I make this Declaration in support of the Plaintiffs, based on my personal knowledge of the facts stated below, and of my own free will and choice.

2. I have been asked by the Plaintiffs to evaluate the performance of Defendants' proposed remedial maps in *Holloway v. City of Virginia Beach*, No. 2:18-cv-0069, to review Defendants' criticisms of Plaintiffs' proposed remedial map, and to review the analysis of Defendants' expert Lisa R. Handley in her affidavit dated July 1, 2021.

SUMMARY

3. Neither of the defendants' proposed remedial maps—a 10-1 plan and a 7-3 plan perform as well for minority voters in Virginia Beach as plaintiffs' proposed remedial maps. First, minority-preferred candidates are less likely to win in the defendants' proposed remedial plan

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compared to plaintiffs' proposed remedial plan. Second, the estimated vote totals for minoritypreferred candidates in reconstituted elections (including those analyzed by Defendants' own expert) are lower in nearly every case in defendants' proposed maps compared to the estimated vote totals for minority-preferred candidates in the plaintiffs' proposed remedial maps.

4. In short, minority voters are less likely to elect candidates of choice under the defendants' proposed remedial maps than the plaintiffs' proposed remedial maps.

5. Defendants' criticisms of plaintiffs' proposed plan are also incorrect and based upon an erroneous and incomplete presentation of election results.

6. Dr. Handley's analysis of the "percent minority population needed to provide minority voters with an opportunity to elect their preferred candidates" relies on faulty premises, but in any event supports, rather than calls into question, the Court's conclusion that Black, Hispanic, and Asian voters are politically cohesive in Virginia Beach.

PERFORMANCE ANALYSIS OF DEFENDANTS' PROPOSED REMEDIAL MAPS

7. Defendants have proposed two possible remedial maps: a 10-1 plan and a 7-3 plan. The defendants' 10-1 plan performs better than their 7-3 plan, although minority candidates of choice fare worse in both plans compared to plaintiffs' proposed remedial maps as illustrated in Tables 1 and 2 below.

City Council Elections

8. For example, in the 2008 at-large election, black candidate Allen lost the city-wide race, but would have won her election in every single one of the plaintiffs' proposed remedial districts. In contrast, Allen would have lost in one of the defendants' 10-1 remedial districts and in only one of the defendants' 7-3 remedial districts.

9. Similarly, in the 2011 at-large election, black candidate Sherrod would have won in every single one of plaintiffs' proposed remedial districts. In contrast, Sherrod would have lost one of

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defendants' 10-1 remedial districts and one of defendants' 7-3 remedial districts. Thus while Defendants suggest they have created a fourth opportunity district (District 2), only one candidate who lost city-wide would have won in this district, Bullock in 2010, and just barely.

10. In the 2016 Kempsville election, Black candidate Ross-Hammond would have won in one of the plaintiffs' proposed remedial districts (District 4), and one of the defendants' proposed remedial districts in the 10-1 plan (District 1), but not in *any* of the remedial districts of the defendants' 7-3 plan. The opportunity for minority voters to elect Ross-Hammond would also be worse in defendants' proposed districts, where her support would exceed 45% in just two of the four remedial districts in defendants' 10-1 plan and in just one of the three remedial districts in defendants' 7-3 plan, while support for Ross-Hammond would 45% in *all* of plaintiffs' proposed remedial districts.

11. Although all of the remedial plans propose single member districts in which the second-place finisher would not attain a Council seat (unlike the current at-large system in which more than one candidate may prevail in a single election), it is noteworthy that in the prior elections in which a second seat was up for election, second-place candidates of choice perform better in plaintiffs' proposed remedial plan than in defendants' proposed remedial maps. For example, minority-preferred candidate White did not win a seat in the 2018 at-large election but would have placed second (assuming a second seat were available) in one of plaintiffs' proposed remedial districts (District 4) while never placing higher than fourth place in six of the defendants' *seven* proposed remedial districts, and third in the remaining district (10-1 District 1).

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			PLAINTIFF's Proposed 10-1 plan			DEFENDANT's Proposed 10-1 plan				DEFENDANT's Proposed 7-3 plan		
	Condidata	Actual	District	District	District	District	District	District	District	District	District	Super Ward
	Candidate	Election	4	7	10	1	2	3	5	1	3	1
2018 AL	Rouse	54.5	59.8*	59.2*	53.4*	59.2*	54.6*	55.4*	56.2*	56.6*	58.5*	54.4*
	Moss	45.3	30.8	37.0	34.8	32.6	40.8	36.0	36.4	36.7	36.5	40.4
	Oliver	45.2	38.0	42.8	36.0	37.7	46.4	42.0	38.8	39.5	42.0	43.2
	White	27.4	38.4**	31.0	34.8	37.5	29.2	31.6	33.2	34.5	32.2	31.3
	Bright [*]	17.7	23.2	20.0	19.0	23.0	18.8	19.4	19.6	22.5	20.5	20.3
	Hubbard	10.1	9.8	10.0	22.2	10.2	10.4	15.8	15.8	10.1	10.2	10.4
2016 KE	Abbott	59.4	44.6	54.6	52.8	46.3	57.2	56.7	52.7	50.7	56.8	56.1
	Ross-Hammond	40.6	55.4**	45.3	47.3	53.7**	42.8	43.3	47.3	49.3	43.2	43.9
2014 RH	Kane	48.3	35.8	42.0	40.2	37.2	42.7	45.9	39.6	41.2	44.0	45.1
	Johnston	17.5	14.2	15.6	14.7	14.4	18.6	15.0	15.6	15.0	16.0	16.5
	Browder	17.3	16.8	17.4	19.1	17.2	18.7	17.0	17.8	16.5	18.3	17.5
	Cabiness	16.8	33.2	25.0	26.0	31.3	20.0	22.1	27.0	27.3	21.7	21.0
2011 AL	Moss	37	31.9	32.2	29.9	32.9	38.1	29.1	31.8	33.0	31.5	35.7
	Free	33.2	22.8	26.7	28.1	23.2	28.0	30.7	28.3	29.4	29.6	30.1
	Sherrod	25.9	43.5**	37.6**	39.2**	42.3**	30.2	36.7**	37.0**	35.4**	35.6**	31.0
2010 AL	Bellitto	49.4	38.2*	47.8*	48.6*	39.1*	43.5*	53.2*	46.0*	45*	50.4*	49.4*
	DeSteph	44.8	32.4	39.0	39.2	32.6	40.7	40.6	40.2	36.64	41.0	41.0
	Moss	30.1	24.0	29.8	23.4	25.4	33.3	25.4	25.4	25.4	26.8	28.8
	Erb	22.5	17.2	18.0	17.8	17.2	23.5	20.2	19.9	20.0	19.2	21.6
	Redmond	21.4	14.0	17.0	14.8	14.5	17.0	16.8	15.8	16.2	16.4	17.0
	Jackson	20.3	48.4**	34.0	35.2	46.4**	29.7	28.9	33.6	36.56	31.0	28.4
	Cabiness	11.3	26.2	14.2	20.8	24.8	12.4	15.1	19.0	20.4	15.4	13.8
2010 PA	Henley	54.4	44.5	42.1	43.2	45.3	49.4	44.8	46.4	48.2	44.2	48.1
	Bullock	45.6	55.5**	57.9**	56.8**	54.7**	50.6**	55.2**	53.6**	51.8**	55.9**	51.9**
2008 AL	Wilson	44.1	29.4	36.4	33.9	29.6	40.4	36.0	36.2	35.0	36.4	39.3
	Allen	34.6	51.4**	40.8**	44.3**	50.9**	37.5	41.4**	42.5**	45.3**	41.0**	39.2

TABLE 1. Reconstituted elections for City Council seats where a minority-preferred candidate lost due to racially polarized voting (2008-2018).

Notes:

- District election results do not include absentee or provisional ballots which are tabulated at the city level.
- Shaded rows indicate minority candidates of choice.
- * minority candidate of choice who earned the most votes across the entire city AND would have earned the most votes from voters in the remedial district.
- ** minority candidate of choice was not favored by Virginia Beach voters as a whole but would have earned the most votes from voters in the remedial district.

12. Candidate Jackson would have earned enough support in the 2010 at-large election to

win first place in one of the plaintiffs' remedial districts (District 4) and one of the defendants' 10-1

remedial districts (District 1), but would not win in any of the defendants' 7-3 remedial districts. The

opportunity for minority voters to elect Jackson would also be worse in defendants' proposed

districts, where his support would exceed 34%—in a seven-candidate race—in just one of defendants' 10-1 districts (District 1) and one of defendants' 7-3 districts (District 1) but in all three of plaintiffs' districts.

13. Support for candidate Bullock, a Black female, in the 2010 Princess Anne election would have been sufficient for her to have won an election in all of the proposed remedial districts by both parties.

14. In addition to the electoral performance of individual remedial districts, other aspects of defendants' proposed maps would not remedy vote dilution but would actually hinder the ability of minority voters to elect candidates of their choice.

15. For example, under defendants' 10-1 plan, incumbent Council member Aaron Rouse, a Black male who was the candidate of choice of minority voters, would not reside in any of the defendants' proposed remedial districts. Instead, defendants' map situates Mr. Rouse in a predominantly white district (District 4) that Mr. Rouse would have *lost* in a single member district election to Council member Moss in the 2018 election (24.0% for Moss, 23.1% for Rouse). Defendants thus place one of the only two Black incumbent Council members in a district that he would be expected to lose, and in which his estimated vote total would be 3% lower than his citywide total, compared to Mr. Moss's vote total that is estimated to be nearly 2% higher than his citywide total.

16. Furthermore, defendants' 10-1 plan also places white Republican incumbent Michael Berlucchi in one of the proposed Section 2 remedial districts (District 5). Mr. Berlucchi's current term does not expire until 2024.

17. It is curious that Dr. Handley does not evaluate the performance of defendants' proposed remedial districts for all probative races that would shed light on projected minority performance. Instead, her analysis is limited to just two elections: the 2012 Kempsville election (when the minority-preferred candidate won) and the 2016 Kempsville election (when the same

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minority-preferred candidate lost her re-election bid). Handley Affidavit, ¶ 24. No other performance analysis is provided by Dr. Handley, even though she provides an estimate *for nearly every probative election* of the percent minority population needed in a remedial district in order for candidates of choice to win. Handley Affidavit ¶¶ 16–18. Dr. Handley admits that this "needed to win" analysis is not as relevant in this case as the reconstituted election analysis, Handley Affidavit ¶ 11, and yet limits her reconstituted election analysis to just two elections.

18. Finally, Mr. Brace stated in his July 1 declaration (July 1, 2021 Brace Declaration, Doc. 260-1, ¶ 10) that elections prior to 2012 cannot be analyzed due to inconsistencies in earlier precinct geography. I was unable to obtain geography files for earlier precincts, as I discuss in my report dated Aug. 26, 2019. Spencer Response to Dr. Kidd, Appendix A. During discovery, however, Mr. Brace produced shapefiles of pre-2012 precincts that demonstrate there were no changes to the geography that would implicate or affect my analysis. To the contrary, changes to precinct geography were minimal, including a handful of precinct splits that are easily accounted for. Mr. Brace's Declaration on this issue is thus irrelevant and beside the point.

Non-City Council Elections

19. Although defendants and their experts have completely ignored the results of non-City Council elections (*i.e.*, "exogenous elections") throughout this case, the relevance of these elections is particularly acute during this remedial phase of the trial. Much of the focus on remedies centers on the performance of individual remedial districts. However, the existing electoral system that violates Section 2 of the VRA is defined by several factors that have made winning difficult for minority-preferred candidates for reasons unrelated to districts (*e.g.*, white bloc voting that makes success unlikely and the need to raise a lot of money and campaign across the entire city). These challenges have downstream effects on the quality of candidates that decide to run, the mobilization investment by community groups, and the substantive platforms and political messaging of

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candidates. Where these challenges have existed—like they have with the at-large system at issue in this case—exogenous elections take on greater probative value than they might otherwise in a case that is simply challenging the placement of existing district lines.

20. Of the five exogenous elections that featured a minority candidate of choice that did not win the most votes in Virginia Beach between 2012-2018, the 2017 sheriff's race is especially probative in evaluating the performance of proposed remedial districts because it featured a Black candidate who was the minority candidate of choice, and it was for a city-wide office as opposed to a state or federal office.

TABLE 2. Reconstituted elections for exogenous (i.e., non-City Council) seats where a minoritypreferred candidate did not earn a majority of votes across the city.

			PLAINTIFF's Proposed 10-1 plan			DEFENDANT's Proposed 10-1 plan				DEFENDANT's Proposed 7-3 plan		
	Candidate	Citywide election total	District 4	District 7	District 10	District 1	District 2	District 3	District 5	District 1	District 3	Super Ward 1
2017 Sheriff	Stolle	59.8	40.9	49.2	46.3	42.2	54.3	53	48.6	48	52.7	53.5
	Bell	39.8	59.1**	50.9**	53.7 **	57.8**	45.7	47	51.4**	52**	47.3	46.5
2017 Lt. Gov.	Vogel	51	31.4	40.5	35.9	33.5	46.1	42.8	38.4	38.5	42.9	44.9
	Fairfax	48.9	68.6**	59.5**	64.1**	66.5**	53.9**	57.2**	61.6**	61.5**	57.1**	55.1**
2016 President	Trump	44.1	31.1	41	35.8	32.8	45.7	42.1	38.6	36.7	42.9	43.3
	Clinton	34.6	63.7**	52.8**	58.1**	62**	48.1**	52.2**	54.8**	57.8**	51.4**	50.8**
2014 Senate	Gillespie	51.1	33	42.5	36.8	34.6	47.9	43.7	39.4	39.7	44.4	46.6
	Warner	46.1	64.3**	55.3**	60.5**	62.6**	49.7**	54**	57.8**	57.5**	53.1**	51.2**
2012 President	Romney	50.6	30.3	42.4	32.3	32	47.7	42.7	37.6	37.6	43.9	45.4
	Obama	47.8	69.0**	56.5**	63.7**	67.3**	51.3**	56.4**	61.3**	61.7**	55.2**	53.7**

Notes:

- District election results do not include absentee or provisional ballots which are tabulated at the city level.
- Shaded rows indicate minority candidates of choice.
- * minority candidate of choice who earned the most votes across the entire city AND would have earned the most votes from voters in the remedial district.
- ** minority candidate of choice was not favored by Virginia Beach voters as a whole but would have earned the most votes from voters in the remedial district.

21. In the 2017 sheriff's race—an at-large election for a city office—the minority candidate of choice Bell, a Black male, lost the city-wide vote 40% to 60%. *Candidate Bell would have won his election in all three of the plaintiffs' proposed remedial districts*. In contrast, he would have won in just two of four of the defendants' proposed 10-1 remedial districts, and in just one of three of the defendants' proposed 7-3 remedial districts. See Table 2 above.

22. The defendants' proposed 10-1 and 7-3 remedial districts perform similarly to the plaintiffs' proposed remedial districts for all other statewide races where the minority-preferred candidate earned less votes from all Virginia Beach voters, even though support for the minority-preferred candidates would be smaller in the defendants' remedial districts.

DEFENDANTS' CRITICISMS OF PLAINTIFFS' PROPOSAL

23. Defendants' summary of the performance of plaintiffs' remedial map is both misleading and incorrect. Defendants' Submission in Response to Court's July 1, 2021 Order, p. 2. Although my initial remedial declaration presented results from seven elections for nine seats in which racially polarized voting was present (and where 7 of 9 minority-preferred candidates lost their elections), defendants present a table that summarizes the performance of just four elections and simply note whether the candidate "wins" or "loses" in reconstituted elections in plaintiffs' three remedial districts. Defendants fail to explain why they excluded all other minority-preferred candidates in their table summary.

24. Perhaps the most misleading aspect of defendants' summary is their characterization of plaintiffs' remedial plan with respect to the 2018 at-large election. According to defendants' table, the minority-preferred candidate would prevail in just one of plaintiffs' three remedial districts. But a minority candidate of choice (Aaron Rouse) would have placed first in all three of plaintiffs' remedial districts. Characterizing the results of reconstituted 2018 elections in plaintiffs' remedial plan as one where the minority candidate of choice lost in two of three remedial districts is thus

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extremely misleading. It is possible that defendants' intent is to highlight the fact that Allison White, another minority candidate of choice for the two seats that were up for election in 2018, would not place second in plaintiffs' remedial Districts 7 and 10, though they fail to say whether this was the intent of their table. If this is the point they wish to highlight, it only underscores the fact that plaintiffs' districts outperform defendants' districts. Allison White would garner the second most votes in one of plaintiffs' districts (District 4), the third most votes in one of plaintiffs' districts (District 10), and the fourth most votes in one of plaintiffs' districts (District 7). In contrast, she would come in fourth place in six of defendants' seven remedial districts and third place in one (District 1 of 10-1 plan). In any event, in future elections with single-member districts, Rouse's successful election would be the only result.

25. Defendants' submission also excludes the 2008 at-large and 2010 at-large elections from their summary chart, with no explanation provided. Minority candidates of choice would win in single-member districts in both elections in all three of plaintiffs' remedial districts.

26. Defendants further contend that Bullock (2010 Princess Anne) should be excluded because she benefited from 32% white support. This logic is faulty. Bullock would win approximately 55–57% of the vote in each of plaintiffs' three proposed remedial districts, meaning she would still win if her support among white voters dropped below 30%. Importantly, Bullock did not win any of the remaining seven non-remedial districts in plaintiffs' plan, suggesting that white support alone is unlikely to explain her victory in the remedial districts.

27. As I note above, defendants entirely ignore the results of exogenous elections as they have at every stage of this case.

28. Defendants also suggest that the relatively superior performance of plaintiffs' proposed District 4 compared to Districts 7 and 10 is explained by the fact that Districts 7 and 10 have larger Asian populations (approximately 5% greater Asian CVAP in each). The data do not support this conclusion. Instead, the data suggest that the magnitude of white bloc voting in

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opposition to minority preferred candidates is higher in Districts 7 and 10 than it is in District 4 (although District 4 nevertheless demonstrates white bloc voting opposed to minority candidates of choice). The fact that District 4 outperforms Districts 7 and 10 is thus best explained by the degree of white bloc voting and not a lack of cohesion among minority voters, as I show below.

29. To illustrate the point, I selected one precinct from each remedial district with similar Asian CVAP: Davis Corner (District 4), College Park (District 7), and Holland¹ (District 10). Table 3 below presents the most recent probative two-candidate city election analyzed (2017 Sheriff) where the minority candidate of choice lost by a large margin (20%), and one of the earliest probative two-candidate elections analyzed (2010 Princess Anne) where the minority candidate of choice performed much better (losing by less than 9%). As Table 3 illustrates, when the Asian and Hispanic CVAP percentages are held near constant across the precincts (within a few percentage points), the white CVAP percentage closely correlates with the white-preferred candidate's vote percentage in the exemplar precincts from Districts 7 and 10, while in District 4 the white-preferred candidate performs below the white CVAP percentage (by 5.9% and 16.5% respectively).

						2010 Princess Anne		2017 Sheriff	
District	Precinct	White CVAP	Black CVAP	Hispanic CVAP	Asian CVAP	Bullock	Henley	Bell	Stolle
4	Davis Corner	46.5%	34.6%	10.1%	5.1%	59.4%	40.6%	70.0%	30.0%
7	College Park	31.4%	53.8%	8.3%	4.3%	65.7%	34.3%	67.4%	32.6%
10	Holland	52.5%	30.7%	7.8%	5.2%	50.1%	49.8%	50.4%	49.6%

TABLE 3. Precinct-level demographic and election data.

¹ 69.8% of Holland is located in District 10. It was chosen as the best comparator for Asian CVAP.
30. While all three districts (and the area surrounding all three districts) demonstrate white bloc voting generally, the reconstituted election results provide correlational evidence that the greater magnitude of white bloc voting in Districts 7 and 10—not those districts' relatively larger Asian CVAP—explains the fact that the minority candidate of choice prevails in more reconstituted elections in District 4 than in Districts 7 and 10. This evidence adds further support that Asian and Hispanic voters prefer the same candidates as Black voters.

DR. HANDLEY'S ANALYSIS OF POLITICAL COHESION

31. Dr. Handley proposes a measure that purports to estimate the percent minority population needed in a remedial district in order to provide minority voters with an opportunity to elect their preferred candidates. Dr. Handley posits that "the winning percent is set at 50 percent for this mathematical calculation." Handley Affidavit ¶ 11. However, Dr. Handley's affidavit does not explain what "this mathematical calculation" is, or otherwise describe her methodological approach at all. It is therefore impossible to evaluate the soundness of her analysis. She acknowledges that her analysis is based on the false premise that 50% plus 1 vote is necessary to win:

"Because City Council elections in Virginia Beach are nonpartisan, and the winner need not receive at least 50 percent of the vote, the percent needed to win approach is less relevant than the approach that relies on recompiled election results," Handley Affidavit, ¶ 11.

The fruitlessness of this analysis is evident in the fact that several candidates that Dr. Handley's analysis suggests would lose in fact would win in a remedial district with far lower minority CVAP than she reports would be "necessary to win."

32. Indeed, the reconstituted election results analysis that Handley acknowledges is more relevant to the inquiry about remedial districts illustrate that candidates of choice win the majority of elections in each of plaintiffs' proposed remedial districts. Those districts have minority CVAPs of roughly 51–53%, and Black CVAPs of roughly 32–26%—far lower than Dr. Handley's analysis says is "necessary to win."

33. Furthermore, the fact that minority candidates of choice (particularly those who lost city-wide) win the majority of these elections in Plaintiffs' remedial districts, in the face of white opposition, but with only 32–36% Black CVAP, strongly suggests that Hispanic and Asian voters vote cohesively with Black voters. Hispanic and Asian voters are certainly not *opposing* candidates supported by Black voters in these elections, as Dr. Handley hypothesizes (without evidence) could occur. Handley Affidavit ¶ 19, n.4. Given the demonstrated opposition of white voters to the minority-preferred candidates in Dr. Handley's analysis, her conjecture that Black, Hispanic, and Asian voters may not be cohesive is not logical.

34. In fact, if we assume that Dr. Handley's methodology is sound, her analysis *supports* the Court's conclusion that Black, Hispanic, and Asian voters are politically cohesive in Virginia Beach.

35. Consider the 2018 at-large election. According to Dr. Handley, a remedial district would need to include 67.4% Black CVAP in order for Aaron Rouse to win his election in 2018 (even though he in fact won city-wide with 26.1%, and would win each of plaintiffs' and defendants' proposed districts with far lower minority CVAP). Handley Affidavit Table 3. Dr. Handley also reports that a remedial district would need to include 70.4% minority CVAP in order for Rouse to win. Handley Affidavit ¶ 19, n.4. Dr. Handley conjectures that a slightly larger percent (3%) of minority CVAP compared to Black CVAP "raise[s] a question about whether Black voters and other minority voters are actually supporting the same candidates." Handley Affidavit ¶ 19, n.4. Dr. Handley's conjecture is wrong. A mere 3% difference is actually evidence that Hispanic and Asian voters support the same candidate—at nearly the exact same level—as Black voters.

36. The 2010 Princess Anne election is also illustrative. This election had only two candidates, and so the 50%-plus-one premise of Dr. Handley's analysis is more relevant. Dr. Handley reports that a district would need a Black CVAP of 42.9% for the minority candidate of choice, Bullock, to prevail, and a total minority CVAP of 45.6%. Handley Affidavit ¶ 19 n.4. The fact that

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the Black CVAP and all minority CVAP that would supposedly be necessary for Bullock to win are quite similar (within 2.7%) is evidence that Black, Hispanic, and Asian voters share the same preferences, not that they lack cohesion. The parties' reconstituted election analysis bears this out. Defendants' proposed District 2 in their 10-1 proposal is useful, because the election would have been the closest in this district, with Bullock winning by 50.6% to 49.4%. Contrary to Dr. Handley's analysis, Bullock would have won District 2 despite its Black CVAP of only 26.6% (not the 42.9% Dr. Handley says would be "necessary" or the total minority CVAP of 43.6%). Given that Dr. Handley reports white support of Bullock at just 32%, Handley Affidavit ¶ 18, the only conceivable explanation for Bullock's narrow win is that Hispanic and Asian voters, like Black voters, supported Bullock in strong numbers and voted as a coalition.

37. Dr. Handley's analysis also disregards the trial evidence, accepted by the Court, that non-linear support among Asian and Hispanic voters offers a better explanation for any differences between estimated Black and estimated total minority support than does the suggestion that Asian and/or Hispanic voters support different candidates than Black voters. This non-linear explanation for the EI curves renders the differences Dr. Handley reports entirely inaccurate.

38. Across all of the probative elections in Dr. Handley's analysis, the difference between the Black CVAP that would be "necessary to win" and the total minority CVAP that would be "necessary to win" ranges from 2.7% to 9.4%. These are slight differences, particularly considering the uncertainty (*i.e.*, margins of error) inherent in the underlying ecological inference (EI) estimates that form the core of her analysis. These small differences certainly do not suggest that Hispanic and/or Asian voters are *opposing* candidates supported by Black voters. The reconstituted election results illustrate the opposite. It would not be possible for the candidates favored by Black voters to prevail in as many elections as they do in plaintiffs' proposed plan without Hispanic and Asian support, given known opposition by white voters. Dr. Handley's own analysis—coupled with the

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reconstituted election results in the parties' proposals—put to bed any question Dr. Handley raises about whether Black, Hispanic, and Asian voters vote cohesively.

QUALIFICATIONS

39. I am a professor of law and public policy at the University of Connecticut with a joint appointment in the School of Law and the Department of Public Policy. As of August 17, 2021 I will be Associate Professor of Law at the University of Colorado, Boulder. I have taught Constitutional Law at the University of Connecticut for seven years. I have taught Election Law at the University of Connecticut and the Yale Law School (2020 and 2022). I was a Visiting Professor of Law at the University of Chicago in 2019 where I taught an undergraduate Constitutional Law course and a graduate course called "The Supreme Court and Public Policy." I have also taught Introduction to Public Policy and Management as part of the core curriculum in the Master of Public Administration program at UConn, and an undergraduate course on Election Administration. A current copy of my curriculum vitae is attached to this Declaration as Attachment 1.

40. I received my Ph.D. in Jurisprudence and Social Policy from the University of California, Berkeley in 2013. I also earned a J.D. from UC Berkeley in 2011 and a Master of Public Policy Degree from Berkeley's Goldman School of Public Policy in 2008.

41. In addition to my formal graduate education in statistics and empirical methods, I have received quantitative analysis training at the Empirical Implications of Theoretical Models Conference at UC Berkeley in 2010, the Workshop on Research Design for Causal Inference at Northwestern University in 2012, and the Conference on Empirical Legal Studies in 2010, 2011, 2012, 2013, 2014, 2015, and 2018.

42. I am an expert on the empirical analysis of voting rights. My scholarship has been published, or is forthcoming in the *Columbia Law Review, California Law Review, Cornell Law Review, Election Law Journal (peer-reviewed), Indiana Law Journal, University of Illinois Law*

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Review, Iowa Law Review, Journal of Law and Courts (peer-reviewed), Northwestern Law Review, U.C. Irvine Law Review, Yale Law Journal Forum, and the Yale Law & Policy Review.

43. In the liability phase of this case, the Court accepted and qualified me as an expert in the areas of political science and quantitative statistical methods and analysis. Tr. D2 at 266:4-6.

Executed on July 30, 2021.

an

Douglas M. Spencer, Ph.D. *Professor of Law & Public Policy* University of Connecticut

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

Latasha Holloway, et al.,

Plaintiffs,

Civil Action No. 2:18-cv-0069

v.

City of Virginia Beach, et al.,

Defendants.

DECLARATION OF ANTHONY FAIRFAX

Pursuant to 28 U.S.C. § 1746, I, Anthony Fairfax, declare under penalty of perjury that

the following is true and correct to the best of my knowledge.

Background

1. I have been asked to review the 10-1 and 7-3 proposed plans submitted by Defendants ("Brace Plans"), to assess their demographics and how they interact with the Black, Hispanic, and Asian (HBA) communities in Virginia Beach.¹

Summary

- After reviewing and analyzing the Brace plans (10, 7, and 3 Districts), it is apparent that they divide and fracture the majority or significantly populated HBA areas into multiple districts that do not produce a single majority HBA district measured by CVAP. Each plan divides up a large collection of 19 core HBA populated precincts (See Attachment 1). All of the 19 precincts are greater than 40% HBA Citizen Voting Age Population ("CVAP").
- 2. In addition, each plan divides up a large majority HBA area known as Green Run² into two separate districts. The plans likewise crack numerous heavily minority precincts (*e.g.*, Tallwood, College Park, Colonial, Bellamy, Chimney Hill, Dahlia, and Davis Corner) in various ways, which has a domino effect throughout the plans of reducing the

¹ Throughout this report the HBA percentages mentioned include combining Hispanic/Latino, Non-Hispanic Black, Non-Hispanic Asian, and Non-Hispanic Black/White mixed race persons.

² Using the 2019 ACS 5-Yr data, Green Run is the largest majority HBA CVAP subdivision in the City of Virginia Beach, VA. The Green Run subdivision extends beyond the boundaries of the precinct named "Green Run." *See* Attachment 3.

minority CVAP in each district. Finally, none of the predominantly HBA districts contained within the Brace Plans include a northern area that contains a notable HBA population, and none include the historically Black Burton Station neighborhood.

Methodology

- 3. I recreated Mr. Brace's plans using the shapefiles that were provided by the City. I recreated the same reports that were generated for the Plaintiffs' remedial plan. Included were population and percentage statistics, compactness (using three measures), and 2020 precinct splits.
- 4. The plans were evaluated using the same underlying data that were used to create the Plaintiffs' illustrative and remedial plans. These data were disaggregated from the latest ACS estimates (2019 5-Year ACS) at the block group level to the 2010 census block geography. The disaggregation process used a standard Voting Age Population (VAP) weighting technique to apportion to the 2010 census block geography. Attachment 2 is a report providing this data for Defendants' proposed plans.
- 5. Maps with 2020 precincts³ were generated to view the district divisions of majority and significantly populated HBA areas throughout the City. The district plan maps included a zoomed in cutout area of the collection of 19 precincts with majority or significantly populated HBA areas.
- 6. The Brace plans appear to use the 2020 census block boundaries and 2020 precinct (VTD) boundaries. However, there were no attached instructions on how data were disaggregated from the 2019 5-Year ACS Block Group level to the 2020 census blocks. Since the Census Bureau has yet to release population or VAP data for the 2020 census blocks, the new 2020 population data is not available to use as a weight for apportioning the block data. The 2010 data were also not readily available (without additional processing) at the 2020 precinct level as well. Therefore, unless the methodology or data are provided, there is no way to compare and verify the 2020 population and race/ethnicity data reports created by Brace.
- 7. When using 2010 census block data, the precinct split reports for the Brace plans contained multiple precinct "splits" that include zero or near zero splits (similar to the Plaintiffs' remedial plan). This is due to the realignment and removal of approximately 2,000 census blocks from 2010 to 2020. These adjustments caused multiple slight overlapping of the 2010 census block with the 2020 precincts. In addition, there is a difference between the ACS population and the deviation of the recreated Brace plan and the original Brace plan.

³ 2019 5-Year ACS census block estimates using 2010 boundaries were aggregated using 2010 census block centroids to determine the HBA CVAP percentages for the 2020 precincts.

Summary Analysis of the Brace Remedial Plans

- 8. Since the Plaintiffs drew only a 10 District plan, the 10 District plans from the Plaintiffs, and Mr. Brace are the only two that can be used for a direct comparison. The Brace 10 District plan creates four (4) districts that contain an HBA CVAP between 43.61% and 46.83% (43.61, 45.12%, 46.07%, and 46.83%). The Plaintiffs' plan creates 3 HBA CVAP districts above 50% (District 4- 51.13%, District 7 52.78%, and District 10- 52.25%).
- 9. The four purported remedial districts in the Brace 10 District plan divide up the core areas of the City with concentrations of majority or predominantly HBA populations. The Brace 10 District plan creates District 2, with only 43.61% HBA CVAP, by cracking the majority-minority precincts of Tallwood, College Park, and Colonial from other nearby minority precincts and combining them with predominantly white CVAP precincts. District 3 in this plan also excludes Bellamy precinct (~51% non-white CVAP), but includes neighboring Indian Lakes precinct (~60% white). Moreover, a large majority HBA area called Green Run (see Attachment 3 for a map of Green Run) was split between District 3 and District 4 in the Brace 10 District Plan, the latter of which is not intended to be a minority opportunity district. Attachment 4 provides demographic information for Virginia Beach's precincts.
- 10. Comparing the Brace 10 District plan to the Plaintiffs' 10 District plan, the Plaintiffs' plan is more compact than the Brace plan for two out of three compactness measurements (Reock and Polsby-Popper) when reviewing the mean measures. The compactness scores for these two plans are reported in the table below:

Compactness Measure	Plaintiffs' 10 District Plan	Brace 10 District Plan
Reock	.41	.40
Polsby-Popper	.32	.30
Convex Hull	.71	.72

- 11. The Brace 10 District plan "double-bunked" or paired more incumbents in the same district than Plaintiffs' plan. The Brace 10 District plan pairs incumbents in District 6 (John Moss and Louis Jones), and District 7 (James Wood and Guy Tower). The Plaintiffs' plan places only two incumbents within the same district (James Wood and Guy Tower).
- 12. The Brace 7 District plan creates two (2) districts that contain an HBA CVAP of 42.66% (District 1) and 48.14% (District 3). District 2 is close to 40%, with 39.70% indicating that three districts in that plan actually fracture the core areas of the City with concentrations of majority or significantly populated HBA precincts. Once again, Green Run is split between two districts, District 3 and District 4, the latter of which is not intended to be a minority opportunity district, and the following precincts are cracked and separated from other nearby minority precincts: Bellamy, Tallwood, and College Park.

- 13. The Brace 3 District Super Ward plan creates one district (District 1) that contains an HBA CVAP of 42.38%, and District 2 & 3 are significantly lower at 22.47% and 28.67%, respectively. Once again, the districts divide up the core areas of the City with concentrations of majority and predominantly HBA populations. Green Run is again split between two districts, District 1 and District 3, the latter of which is not intended to be a minority opportunity district. And this plan cracks the majority-minority Chimney Hill, Dahlia, and Davis Corner precincts while including in their place predominantly white precincts.
- 14. All of the Brace plans do not include within the proposed remedial districts a series of majority HBA subdivisions (Lakefront Village, Waterford Apts, Shores Of Lake Smith Apts, and Pier Pointe Landing Condos) that are located in the northwest corner of the City. Nor do any of the Brace plans include the historically Black Burton Station neighborhood.
- 15. All of the Brace plans (10, 7, or 3 Districts) are under the overall court accepted population deviation of 10%, with 8.97% overall the highest for the 10 District plan. The Plaintiffs' plan had a lower overall deviation of 6.36%.

Dated: July 30, 2021

Anthony E Jourge

Attachment 1

Brace 10 District, 7 District, 3 Super Ward District Remedial Plans with Greater than 40% HBA CVAP Precincts/VTDs

Case 2:18-cv-00069-RAJ-DEM Document 273-2 Filed 07/30/21 Page 6 of 39 PageID# 9495 Virginia Beach, VA City Council 10 Districts Brace Remedial Plan w/GT 40% HBA Precincts



Case 2:18-cv-00069-RAJ-DEM Document 273-2 Filed 07/30/21 Page 7 of 39 PageID# 9496 Virginia Beach, VA City Council 10 Districts Brace Remedial Plan w/GT 40% HBA Precincts Zoom



Case 2:18-cv-00069-RAJ-DEM Document 273-2 Filed 07/30/21 Page 8 of 39 PageID# 9497 Virginia Beach, VA City Council 7 Districts Brace Remedial Plan w/GT 40% HBA Precincts



Case 2:18-cv-00069-RAJ-DEM Document 273-2 Filed 07/30/21 Page 9 of 39 PageID# 9498 Virginia Beach, VA City Council 7 Districts Brace Remedial Plan w/GT 40% HBA Precincts Zoom



Case 2:18-cv-00069-RAJ-DEM Document 273-2 Filed 07/30/21 Page 10 of 39 PageID# 9499 Virginia Beach, VA City Council 3 Districts Brace Remedial Plan w/GT 40% HBA Precincts



Case 2:18-cv-00069-RAJ-DEM Document 273-2 Filed 07/30/21 Page 11 of 39 PageID# 9500 Virginia Beach, VA City Council 3 Districts Brace Remedial Plan w/GT 40% HBA Precincts Zoom



Attachment 2

Brace 10 District, 7 District, 3 Super Ward District Reports

Plan Name: VAB 2010 Defendant 10 Dist Remedial

Plan Type:

Population Summary

Saturday, July 24, 2021

District	Demulation	Deviation	0/ Dave		[%	[%	[%	[%	[% HBA+BW
District	Population	Deviation	% Devn.	CVAPIS	LatCVAP19]	BlkCVAP19]	AsnCVAP19]	HBACVAP19]	CVP19]
01	46,709	1,689	3.75	33,923	8.24%	32.33%	5.67%	46.28%	46.83%
02	44,217	-803	-1.78	32,690	7.69%	26.56%	8.11%	42.36%	43.61%
03	46,006	986	2.19	32,745	7.49%	25.98%	11.61%	45.08%	46.07%
04	42,672	-2,348	-5.22	31,838	5.53%	19.16%	8.38%	33.1%	33.54%
05	45,445	425	0.94	33,676	8.47%	27.73%	8.02%	44.17%	45.12%
06	46,170	1,150	2.55	34,813	6.02%	11.42%	4.55%	21.99%	22.6%
07	45,474	454	1.01	35,799	2.57%	2.66%	2.28%	7.51%	7.77%
08	44,964	-56	-0.12	34,116	5.77%	15.06%	2.57%	23.4%	24.26%
09	44,344	-676	-1.50	32,751	6.96%	17.94%	4.06%	28.96%	30.04%
10	44,200	-820	-1.82	32,914	5.16%	10.3%	3.6%	19.05%	19.43%
Total PopAC	S19:		450,201						
Ideal District I	PopACS19:		45,020						
Summary S	Statistics:								
Population R	ange:		42,672 to 46,709	I					
Ratio Range:			0.09						
Absolute Ran	ige:		-2,348 to 1,689						
Absolute Ove	erall Range:		4,037						
Relative Rang	ge:		-5.00% to 3.75%						
Relative Over	rall Range:		8.97%						
Absolute Mea	an Deviation:		940.70						
Relative Mea	n Deviation:		2.09%						
Standard Dev	viation:		1,132.46						

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Plan Name: VAB 2010 Defendant 10 Dist Remedial

Plan Type:

Population Summary

Saturday, July 24, 2021

District	Population	Deviation	% Devn.	[%] WhtCVAP19]	WhtCVAP19	LatCVAP19	BlkCVAP19	AsnCVAP19	BWCVAP19
01	46,709	1,689	3.75	50.86%	17,252	2,796	10,966	1,925	178
02	44,217	-803	-1.78	54.07%	17,677	2,515	8,681	2,651	405
03	46,006	986	2.19	50.69%	16,598	2,454	8,508	3,802	324
04	42,672	-2,348	-5.22	64.14%	20,421	1,761	6,099	2,668	143
05	45,445	425	0.94	51.79%	17,440	2,851	9,338	2,702	327
06	46,170	1,150	2.55	75.41%	26,253	2,095	3,976	1,583	220
07	45,474	454	1.01	89.95%	32,202	919	951	815	99
08	44,964	-56	-0.12	73.43%	25,050	1,970	5,139	877	289
09	44,344	-676	-1.50	66.81%	21,882	2,279	5,874	1,329	355
10	44,200	-820	-1.82	78.33%	25,780	1,699	3,389	1,184	125
Total PopAC	CS19:		450,201						
Ideal District	PopACS19:		45,020						
Summary S	Statistics:								
Population R	ange:		42,672 to 46	5,709					
Ratio Range:			0.09						
Absolute Rar	nge:		-2,348 to 1,0	589					
Absolute Ove	erall Range:		4,037						
Relative Rang	ge:		-5.00% to 3	75%					
Relative Over	rall Range:		8.97%						
Absolute Me	an Deviation:		940.70						
Relative Mea	n Deviation:		2.09%						
Standard Dev	viation:		1,132.46						

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Plan Name: VAB 2010 Defendant 10 Dist Remedial

Plan Type:

Measures of Compactness Report

Saturday, July 24, 2021

Reock Polsby-Area/Convex Popper Hull N/A N/A Sum N/A 0.28 Min 0.18 0.58 0.53 Max 0.47 0.90 0.40 0.30 0.72 Mean 0.08 0.09 Std. Dev. 0.08 District Area/Convex Reock Polsby-Hull Popper 01 0.41 0.31 0.67 02 0.28 0.20 0.59 0.30 03 0.32 0.72 04 0.44 0.35 0.76 05 0.37 0.31 0.74 06 0.23 0.34 0.68 07 0.45 0.33 0.72 08 0.49 0.30 0.79 09 0.38 0.18 0.58 10 0.53 0.47 0.90

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Plan Name: VAB 2010 Defendant 10 Dist Remedial

Plan Type:

VTD by District and by County

Saturd	lav	lulv	24	2021

Saturday, July 24, 2021			10.59
	PopACS19	% of District	
District 01		District	
Aragona	6,352	100.00%	
Arrowhead	0	0.00%	
Baker	6,759	100.00%	
Bonney	5,301	99.89%	
Davis Corner	6,003	100.00%	
Fairfield	0	0.00%	
Newtown	6,464	100.00%	
Pembroke	6,862	99.46%	
Pleasant Hall	4,644	99.61%	
Point O' View	. 1	0.02%	
Shannon	0	0.00%	
Shell	4,301	100.00%	
Thalia	6	0.19%	
Village	16	0.31%	
Witchduck	0	0.00%	
otal District 01	46,709		
District 02			
Arrowhead	4,878	99.83%	
Avalon	6,212	99.85%	
Bonney	6	0.11%	
Centerville	4,159	100.00%	
College Park	6,669	100.00%	
Colonial	5,944	99.50%	
Fairfield	15	0.44%	
Glenwood	0	0.00%	
Hillcrest	0	0.00%	
Homestead	0	0.00%	
Indian River	4,602	100.00%	
Lake Christopher	6	0.14%	
Point O' View	3,787	99.96%	
Sherry Park	3,095	100.00%	
Tallwood	4,842	100.00%	
otal District 02	44,215		
istrict 03			
Bellamy	0	0.00%	
Buckner	4,505	100.00%	
Colonial	0	0.00%	
Cromwell	3,237	100.00%	
Edwin	0	0.01%	

	Don ACS10	0/ af
	POPACSIS	% Of District
Glanwood	۲۵۵ ۸	100.000/
Green Pup	4,337	0 100/
Hillcrost	2 010	0.19%
Hildrest	3,919	99.90%
Indian Lakes	4,048	100.00%
Lexington	5,287	100.00%
North Landing	50	1.07%
Rock Lake	5,933	100.00%
Rosemont Forest	4,125	100.00%
Round Hill	2,662	100.00%
Salem Woods	2,037	100.00%
Timberlake	5,857	100.00%
Total District 03	46,006	
District 04		
Arrowhead	8	0.17%
Avalon	9	0.15%
Bellamy	5.171	100.00%
Brandon	5.788	100.00%
Colonial	30	0.50%
Edwin	3.831	99.99%
Fairfield	3 519	99 56%
Homestead	6 224	100.00%
Lake Christonhor	0,224 1 227	90.0070
Lake Chinstopher	4,207 2001	100.00%
Laikspui Manor	3,22 I 2 EN2	100.00 /0
Dioscant Hall	5,505	0,200/
Doint O' Mari	10	0.03%
	1	0.02%
Salem Woods	0	0.00%
Shannon	3,031	100.00%
Stratford Chase	4,080	100.00%
Total District 04	42,671	
District 05		
Brookwood	51	0.84%
Chimney Hill	4,661	100.00%
Dahlia	4,320	100.00%
Green Run	4.870	99.81%
Holland	5.944	99.91%
Independence	3 005	100.00%
Mt Trashmore	6 222	100.00%
Dombroko	0,322	0 5 10/
	51 A 676	100.000/
ridza Timborlalia	4,070	0.00%
		0.00%
village	5,255	99.69%
Windsor Oaks	6,304	100.00%
Total District 05	45,445	

	PopACS19	% of District
District 06		
Bayside	4,452	100.00%
Chesapeake Beach	7,920	100.00%
Edinburgh	1,948	100.00%
Havgood	3.918	100.00%
Kingston	2	0.08%
	0	0.00%
Lake Soyce	2 784	100.00%
Malibu	4 6 1 9	100.00%
	4,018	0.00%
Old Depation	4 250	100.00%
Old Donation	4,200	0.00%
Pembroke	0	0.00%
Pinewood	0	0.00%
Shelton Park	3,527	100.00%
I halia	3,086	99.81%
Thoroughgood	4,798	99.98%
Village	0	0.00%
Witchduck	4,859	100.00%
Total District 06	46,170	
District 07		
	4 105	100 000/
Alanton	4,195	100.00%
Cape Henry	5,506	100.00%
Chesapeake Beach	0	0.00%
Colony	4,029	100.00%
Great Neck	4,154	100.00%
Kings Grant	4,303	100.00%
Kingston	2,613	99.92%
Lake Joyce	2,175	99.99%
Linkhorn	0	0.00%
Little Neck	2,651	100.00%
London Bridge	1	0.02%
Lynnhaven	4,550	100.00%
Malibu	0	0.00%
North Beach	4,729	99.87%
Ocean Park	3,014	100.00%
Pinewood	2	0.06%
South Beach	30	0.54%
Thalia	0	0.00%
Thoroughaood	1	0.02%
Trantwood	3.521	99.97%
Wolfsnare	0	0.00%
Total District 07	45,474	
District 08		
Corporate Landing	0	0.00%
	Ū.	0.000

	PopACS19	% of
		District
Eastern Shore	0	0.00%
Hilltop	3,391	92.20%
Linkhorn	4,683	100.00%
London Bridge	0	0.00%
North Beach	6	0.13%
Ocean Lakes	3 189	100.00%
Oceana	4 716	99 99%
Ped Wing	7 809	00 01%
Red Wing	2 004	100 000/
Ruuee	5,904	100.00%
Seatack	6,499	100.00%
South Beach	5,552	99.46%
Trantwood	0	0.00%
Wolfsnare	5,133	100.00%
Total District 08	44,962	
District 09		
Brookwood	5 957	99,16%
Corporate Landing	5,55, 6 196	100.00%
Dam Nach	0,190	0.00%
Eastarn Chara	2 614	100 000/0
	3,014	0.000
	U	0.00%
Hilltop	287	7.80%
Holland	5	0.09%
Hunt	3,604	100.00%
Kings Grant	0	0.00%
Landstown	1	0.01%
London Bridge	6,035	99.98%
Magic Hollow	6,788	100.00%
Ocean Lakes	0	0.00%
Oceana	1	0.01%
Pinewood	2,849	99.94%
Plaza	0	0.00%
Red Wing	5	0.06%
Shelburne	4,185	100.00%
Strawbridge	<u>4,105</u> <u>∕</u> 817	100.00%
Trantwood	-+,017 1	0.00%
	/ // 3/2	0.05%
	44,343	
District 10		
Blackwater	1,180	100.00%
Capps Shop	1.975	100.00%
Courthouse	3 906	100.00%
Creeds	1 752	100.00%
Culve	7 261	100.0070
Dam Nock	7,304 700 C	100.0070
Eovfiro	3,007 1 E20	100.00%
FUXILE	4,520	100.00%

	PopACS19	% of
		District
Hillcrest	1	0.04%
Landstown	4,410	99.99%
North Landing	4,613	98.93%
Ocean Lakes	0	0.00%
Sandbridge	1,466	100.00%
Sigma	4,648	100.00%
Upton	5,264	100.00%
Total District 10	44,200	

Plan Name: VAB 2010 Defendant 7 Dist Remedial

Plan Type: CC 7 District

Population Summary

Sunday, July 25, 2021

Absolute Overall Range:

Relative Overall Range:

Absolute Mean Deviation:

Relative Mean Deviation:

Standard Deviation:

Relative Range:

District	Domulation	Deviation	% Davin		[%	[%	[%	[%	[% HBA+BW
District	Population	Deviation	% Devn.	CVAPIS	LatCVAP19]	BlkCVAP19]	AsnCVAP19]	HBACVAP19]	CVP19]
1	63,580	-734	-1.14	46,599	7.49%	29.03%	5.61%	42.14%	42.66%
2	66,137	1,823	2.83	49,036	6.18%	25.02%	7.66%	38.86%	39.7%
3	66,144	1,830	2.85	47,183	8.04%	26.04%	12.8%	46.91%	48.14%
4	64,638	324	0.50	49,051	6.5%	14.05%	4.88%	25.44%	26.03%
5	62,558	-1,756	-2.73	49,025	3.47%	8.39%	2.73%	14.57%	15.19%
6	65,560	1,246	1.94	49,325	7.6%	19.72%	3.49%	30.8%	31.6%
7	61,584	-2,730	-4.24	45,046	5.3%	9.12%	3.71%	18.11%	18.65%
Total PopACS19	:		450,201						
Ideal District PopA	ACS19:		64,314						
Summary Stati	stics:								
Population Range	2:		61,584 to 66,14	44					
Ratio Range:			0.07						
Absolute Range:			-2,730 to 1,830)					

4,560

7.09%

2.32%

1,491.86

1,664.97

-4.00% to 2.85%

Maptitude For Redistricting 1:17 PM

Plan Name: VAB 2010 Defendant 7 Dist Remedial

Plan Type: CC 7 District

Population Summary

Sunday, July 25, 2021

Absolute Mean Deviation:

Relative Mean Deviation:

Standard Deviation:

[% **Population Deviation** % Devn. WhtCVAP19 LatCVAP19 **BlkCVAP19** District AsnCVAP19 HBACVAP19 WhtCVAP19] 1 63,580 -734 -1.14 54.77% 25,522 3,490 13,526 2,613 19,639 2 66,137 1,823 2.83 58.07% 28,473 3,032 12,271 3,758 19,053 2.85 3 66,144 1,830 48.68% 22,971 3,795 12,286 6,039 22,134 4 64,638 324 0.50 71.65% 35,146 3,188 6,894 2,396 12,479 5 62,558 -1,756 -2.73 82.43% 40,409 1,700 4,111 1,336 7,143 15,191 6 65,560 1,246 1.94 66.05% 32,579 3,748 9,725 1,721 61,584 7 78.71% -2,730 -4.24 35,455 2,386 4,108 1,673 8,157 Total PopACS19: 450,201 Ideal District PopACS19: 64,314 **Summary Statistics: Population Range:** 61,584 to 66,144 Ratio Range: 0.07 Absolute Range: -2,730 to 1,830 Absolute Overall Range: 4,560 Relative Range: -4.00% to 2.85% Relative Overall Range: 7.09%

1,491.86

1,664.97

2.32%

1:21 PM

Plan Name: VAB 2010 Defendant 7 Dist Remedial

Plan Type: CC 7 District

Measures of Compactness Report

Sunday, July 25, 2021

1:22 PM

	Reock	Polsby- Popper	Area/Convex Hull
Sum	N/A	N/A	N/A
Min	0.31	0.25	0.61
Max	0.56	0.44	0.92
Mean	0.45	0.32	0.74
Std. Dev.	0.08	0.08	0.10
District	Reock	Polsby- Popper	Area/Convex Hull
1	0.31	0.25	0.61
2	0.47	0.40	0.77
3	0.45	0.35	0.71
4	0.40	0.25	0.68
5	0.56	0.32	0.76
6	0.44	0.26	0.71
7	0.51	0.44	0.92

User: Tony Fairfax Plan Name: VAB 2010 Defendant 7 Dist Remedial

Plan Type: CC 7 District

VTD by District and by County

Sunday, July 25, 2021			1:24 PM
	PopACS19	% of	
		District	
District 1			
Aragona	6,352	100.00%	
Arrowhead	0	0.00%	
Baker	6,759	100.00%	
Bonney	5,301	99.89%	
Dahlia	0	0.00%	
Davis Corner	6,003	100.00%	
Edwin	3,819	99.67%	
Fairfield	4	0.12%	
Independence	2,036	67.74%	
Larkspur	3,221	100.00%	
Lexington	5,287	100.00%	
Manor	4	0.12%	
Newtown	6,464	100.00%	
Pembroke	30	0.44%	
Pleasant Hall	4,663	100.00%	
Point O' View	1	0.02%	
Salem Woods	0	0.00%	
Shannon	3,031	100.00%	
Shell	4,301	100.00%	
Windsor Oaks	6,304	100.00%	
Total District 1	63,580		
District 2			
Arrowhead	4,887	100.00%	
Avalon	6,221	100.00%	
Bellamy	5,171	100.00%	
Bonney	6	0.11%	
Brandon	5,788	100.00%	
College Park	6,669	100.00%	
Colonial	30	0.50%	
Edwin	13	0.33%	
Fairfield	3,530	99.88%	
Homestead	6,224	100.00%	
Indian Lakes	4,048	100.00%	
Lake Christopher	4,237	99.86%	
Manor	3,498	99.88%	
Point O' View	3,788	99.98%	
Salem Woods	9	0.44%	
Sherry Park	3,095	100.00%	
Stratford Chase	4,080	100.00%	
Tallwood	4.842	100.00%	

	PopACS19	% of
Total District 2	66,136	District
District 3		
Buckner	4,505	100.00%
Centerville	4,159	100.00%
Colonial	5,944	99.50%
Cromwell	3,237	100.00%
Dahlia	4,320	100.00%
Glenwood	4,337	100.00%
Green Run	4,879	100.00%
Hillcrest	3,920	100.00%
Independence	969	32.26%
Indian Lakes	0	0.00%
Indian River	4,602	100.00%
Lake Christopher	6	0.14%
Landstown	0	0.00%
North Landing	4,661	99.94%
Rock Lake	5.933	100.00%
Rosemont Forest	4,125	100.00%
Round Hill	2.662	100.00%
Salem Woods	2.028	99.56%
Timberlake	5 857	100.00%
Total District 3	66 144	
	00,144	
District 4		
Aragona	0	0.00%
Bayside	4,452	100.00%
Chesapeake Beach	7,920	100.00%
Edinburgh	1,948	100.00%
Haygood	3.918	100.00%
Kingston	2	0.08%
Lake Jovce	0	0.01%
Lake Smith	2.784	100.00%
Malibu	<u>2,, 3</u> 4 618	100.00%
Mt Trashmore	-,010 6 222	100.00%
Ocean Park	0, <i>322</i> N	0.00%
Old Donation	ل ۸ کو	100.00%
Dombroko	4,200	00.00%
Pinowood	0,009	0,000/
Chalten Dark		
	3,527	100.00%
	3,092	100.00%
inorougngood	4,798	99.98%
Village	5,271	100.00%
Witchduck	4,859	100.00%
Total District 4	64,638	

		PopACS19	% of District
Die	rict 5		
	Alanton	<i>4</i> 195	100.00%
	Cane Henry	5 505	99 98%
	Chosanoako Boach	0,505	0.00%
		4 020	100.00%
	Coloriy	4,029	100.00%
		5,014	100.00%
	Great Neck	4,154	100.00%
	Hilltop	3,678	100.00%
	Kings Grant	4,303	100.00%
	Kingston	2,613	99.92%
	Lake Joyce	2,175	99.99%
	Linkhorn	4,683	100.00%
	Little Neck	2,651	100.00%
	London Bridge	1	0.02%
	Lynnhaven	4,550	100.00%
	Malibu	0	0.00%
	North Beach	0	0.01%
	Ocean Park	3,014	100.00%
	Oceana	4,716	99.99%
	Pinewood	2	0.06%
	Seatack	19	0.29%
	Thalia	0	0.00%
	Thoroughgood	1	0.02%
	Trantwood	3 521	99.97%
	Wolfsnare	5 133	100.00%
Tot	al District 5	62 557	
.00		52,551	
Dist	trict 6		
	Brookwood	6.007	100.00%
	Cape Henry	1	0.02%
	Chimnev Hill	4 661	100.00%
	Corporate Landing	+,001 ۱	0.00%
	Holland	5 950	100 00%
	Vinge Grant	0056,6	0.00%
	kings Grafit	0	0.00%
		0	0.00%
	London Bridge	6,035	99.98%
		6,788	100.00%
	North Beach	4,735	99.99%
	Ocean Lakes	0	0.00%
	Oceana	1	0.01%
	Pinewood	2,849	99.94%
	Plaza	4,676	100.00%
	Red Wing	7,809	99.94%
	Rudee	3,984	100.00%
	Seatack	6,480	99.71%
	South Beach	5,582	100.00%

	PopACS19	% of District
Timberlake	0	0.00%
Trantwood	1	0.03%
Total District 6	65,559	
District 7		
Blackwater	1,180	100.00%
Capps Shop	1,975	100.00%
Corporate Landing	6,196	100.00%
Courthouse	3,906	100.00%
Creeds	1,758	100.00%
Culve	7,364	100.00%
Dam Neck	3,087	100.00%
Foxfire	4,528	100.00%
Green Run	0	0.00%
Hunt	3,604	100.00%
Landstown	4,411	100.00%
North Landing	3	0.06%
Ocean Lakes	3,189	100.00%
Red Wing	5	0.06%
Sandbridge	1,466	100.00%
Shelburne	4,185	100.00%
Sigma	4,648	100.00%
Strawbridge	4,817	100.00%
Upton	5,264	100.00%
Total District 7	61,586	

Plan Name: VAB 2010 Defendant 3 Dist Remedial

Plan Type: CC 3 District

Population Summary

Sunday, July 25, 2021

[% [% [%] [% [% HBA+BW Population Deviation % Devn. CVAP19 District BlkCVAP19] AsnCVAP19] HBACVAP19] LatCVAP19] CVP19] 43.24% 1 148,869 -1,198 -0.80 108,686 7.14% 26.58% 8.67% 42.38% 2 152,774 2,707 1.80 116,601 5.42% 13.1% 3.94% 22.47% 23.06% -1.01 109,978 28.67% 3 148,558 -1,509 6.6% 17.06% 5.01% 29.44% Total PopACS19: 450,201 Ideal District PopACS19: 150,067 **Summary Statistics:** Population Range: 148,558 to 152,774 Ratio Range: 0.03 Absolute Range: -1,509 to 2,707 Absolute Overall Range: 4,216 Relative Range: -1.00% to 1.80% Relative Overall Range: 2.81% Absolute Mean Deviation: 1,804.67 Relative Mean Deviation: 1.20% Standard Deviation: 1,918.34

3:00 PM

Plan Name: VAB 2010 Defendant 3 Dist Remedial

Plan Type: CC 3 District

Population Summary

Sunday, July 25, 2021

[% Population Deviation WhtCVAP19 LatCVAP19 **BlkCVAP19** District % Devn. AsnCVAP19 **BWCVAP19** WhtCVAP19] -1,198 7,764 1 148,869 -0.80 54.33% 59,052 28,887 9,424 937 2 152,774 2,707 1.80 74.61% 86,996 6,318 15,274 4,597 682 -1.01 67.75% 3 148,558 -1,509 74,507 7,257 18,760 5,515 846 Total PopACS19: 450,201 Ideal District PopACS19: 150,067 **Summary Statistics:** Population Range: 148,558 to 152,774 Ratio Range: 0.03 Absolute Range: -1,509 to 2,707 Absolute Overall Range: 4,216 Relative Range: -1.00% to 1.80% Relative Overall Range: 2.81% Absolute Mean Deviation: 1,804.67 Relative Mean Deviation: 1.20% Standard Deviation: 1,918.34

3:02 PM

Plan Name: VAB 2010 Defendant 3 Dist Remedial

Plan Type: CC 3 District

Measures of Compactness Report

Sunday, July 25, 2021

3:04 PM

	Reock	Polsby- Popper	Area/Convex Hull
Sum	N/A	N/A	N/A
Min	0.46	0.31	0.76
Max	0.51	0.37	0.87
Mean	0.49	0.35	0.80
Std. Dev.	0.03	0.03	0.06
District	Reock	Polsby- Popper	Area/Convex Hull
1	0.51	0.37	0.78
2	0.50	0.31	0.76
3	0.46	0.37	0.87

Plan Name: VAB 2010 Defendant 3 Dist Remedial

Plan Type: CC 3 District

VTD by District and by County

Sunday, July 25, 2021			2:59 PN
	PopACS19	% of	
		District	
District 1			
Aragona	0	0.00%	
Arrowhead	4,887	100.00%	
Avalon	6,221	100.00%	
Baker	6,758	100.00%	
Bellamy	5,171	100.00%	
Bonney	5,306	100.00%	
Brandon	5,788	100.00%	
Buckner	4,505	100.00%	
Centerville	4,159	100.00%	
College Park	6,669	100.00%	
Colonial	5,974	100.00%	
Davis Corner	12	0.19%	
Edwin	3,832	100.00%	
Fairfield	3,535	100.00%	
Glenwood	4,337	100.00%	
Green Run	9	0.19%	
Hillcrest	0	0.00%	
Homestead	6,224	100.00%	
Indian Lakes	4,048	100.00%	
Indian River	4,602	100.00%	
Lake Christopher	4,243	100.00%	
Larkspur	3,221	100.00%	
Lexington	5,287	100.00%	
Manor	3,503	100.00%	
Newtown	6,464	100.00%	
Pleasant Hall	4,663	100.00%	
Point O' View	3,788	100.00%	
Rock Lake	5,933	100.00%	
Rosemont Forest	4,125	100.00%	
Round Hill	2,662	100.00%	
Salem Woods	2,037	100.00%	
Shannon	3,031	100.00%	
Shell	0	0.00%	
Sherry Park	3,095	100.00%	
Stratford Chase	4,080	100.00%	
Tallwood	4,842	100.00%	
Timberlake	5,857	100.00%	
Total District 1	148,868		
District 2		100 0001	
Alanton	4,195	100.00%	
VTD by District and by County

VAB 2010 Defendant 3 Dist R

PopACS19	% of
	District
6,352	100.00%
0	0.00%
4,452	100.00%
5,506	100.00%
7,920	100.00%
4,029	100.00%
5,991	99.81%
3,614	100.00%
1.948	100.00%
4.154	100.00%
3.918	100.00%
3.678	100.00%
4.303	100.00%
2.615	100.00%
2.175	100.00%
2,784	100.00%
_,, ; ; ;	0.00%
2.651	100.00%
6.036	100.00%
4,550	100.00%
4,618	100.00%
6.322	100.00%
0,0	0.00%
4.729	99.87%
3.014	100.00%
1	0.01%
4,258	100.00%
6.899	100.00%
2.851	100.00%
4.676	100.00%
4.301	100.00%
3.527	100.00%
30	0.54%
3.092	100.00%
4,799	100.00%
3.522	100.00%
5,271	100.00%
4 859	100.00%
5 133	100.00%
152.773	100.0070
=,	
1,180	100.00%
6,007	100.00%
1,975	100.00%
4,661	100.00%
	PopACS19 6,352 0 4,452 5,506 7,920 4,029 5,991 3,614 1,948 4,154 3,918 3,678 4,303 2,615 2,175 2,784 0 2,651 6,036 4,550 4,618 6,322 0 4,729 3,014 1 4,258 6,899 2,851 4,676 4,301 3,527 30 3,092 4,799 3,522 5,271 4,859 5,133 152,773

VTD by District and by County

VAB 2010 Defendant 3 Dist R

	PonACS19	% of
	1 0070010	District
Colonial	0	0.00%
Corporate Landing	6,196	100.00%
Courthouse	3,906	100.00%
Creeds	1,758	100.00%
Cromwell	3,237	100.00%
Culve	7,364	100.00%
Dahlia	4,320	100.00%
Dam Neck	3,087	100.00%
Eastern Shore	0	0.00%
Foxfire	4,528	100.00%
Glenwood	0	0.00%
Green Run	4,870	99.81%
Hillcrest	3,920	100.00%
Holland	5,950	100.00%
Hunt	3,604	100.00%
Independence	3,005	100.00%
Landstown	4,411	100.00%
Linkhorn	4,683	100.00%
London Bridge	0	0.00%
Magic Hollow	6,788	100.00%
North Beach	6	0.13%
North Landing	4,663	100.00%
Ocean Lakes	3,189	100.00%
Oceana	4,716	99.99%
Plaza	0	0.00%
Red Wing	7,814	100.00%
Rudee	3,984	100.00%
Sandbridge	1,466	100.00%
Seatack	6,499	100.00%
Shelburne	4,185	100.00%
Sigma	4,648	100.00%
South Beach	5,552	99.46%
Strawbridge	4,817	100.00%
Timberlake	0	0.00%
Upton	5,264	100.00%
Windsor Oaks	6,304	100.00%
al District 3	148,557	

Attachment 3

Zoom of Virginia Beach, VA Subdivisions with Green Run focus

Case 2:18-cv-00069-RAJ-DEM Document 273-2 Filed 07/30/21 Page 35 of 39 PageID# 9524 Virginia Beach, VA Zoom of Green Run Subdivision Area 2020 Precinct/VTD Boundaries



Attachment 4

Virginia Beach, VA 2020 Precincts/VTDs with 2019 ACS Data

Case 2:18-cv-00069-RAJ-DEM Document 273-2 Filed 07/30/21 Page 37 of 39 PageID# 9526

City of Virginia Beach, VA

2020 Precincts/VTDs w 2019 ACS

			Wht	LAT	Blk	Asn	BW	HBA	HBA+BW	НВА	HBA+BW
Precinct Name	VTD2020	CVAP19	CVAP19%	CVP19%							
Alanton	000006	3,417	2,992	22	227	43	20	292	312	8.55%	9.13%
Aragona	000016	4,727	3,030	334	845	315	10	1,494	1,504	31.61%	31.82%
Arrowhead	000023	3,732	2,830	195	440	100	105	735	840	19.69%	22.51%
Avalon	000025	4,794	2,961	182	1,252	192	89	1,626	1,715	33.92%	35.77%
Baker	000061	5,074	1,766	521	2,397	267	63	3,185	3,248	62.77%	64.01%
Bayside	000020	3,048	2,057	177	540	174	9	891	900	29.23%	29.53%
Bellamy	000043	3,588	1,754	250	1,109	369	15	1,728	1,743	48.16%	48.58%
Blackwater	000034	890	855	20	15	0	0	35	35	3.93%	3.93%
Bonney	000040	3,645	2,368	306	514	298	55	1,118	1,173	30.67%	32.18%
Brandon	000042	4,094	2,135	408	1,106	371	0	1,885	1,885	46.04%	46.04%
Brookwood	000077	4,817	2,879	507	943	214	90	1,664	1,754	34.54%	36.41%
Buckner	000074	3,248	1,472	254	1,000	342	40	1,596	1,636	49.14%	50.37%
Cape Henry	000011	4,335	3,970	89	159	50	25	298	323	6.87%	7.45%
Capps Shop	000033	1,503	1,376	22	89	20	0	131	131	8.72%	8.72%
Centerville	000044	3,317	2,122	200	424	465	6	1,089	1,095	32.83%	33.01%
Chesapeake Beach	000037	5,944	4,237	697	603	255	90	1,555	1,645	26.16%	27.67%
Chimney Hill	000080	3,610	1,520	340	1,410	285	20	2,035	2,055	56.37%	56.93%
College Park	000041	4,643	1,451	386	2,496	201	39	3,083	3,122	66.40%	67.24%
Colonial	000065	4,065	1,840	470	935	655	90	2,060	2,150	50.68%	52.89%
Colony	000075	3,009	2,732	140	17	85	13	242	255	8.04%	8.47%
Corporate Landing	000070	4,503	3,303	377	535	163	100	1,075	1,175	23.87%	26.09%
Courthouse	000035	3,013	2,521	76	270	127	10	473	483	15.70%	16.03%
Creeds	000032	1,402	1,274	68	31	0	0	99	99	7.06%	7.06%
Cromwell	000054	2,228	1,172	152	475	320	28	947	975	42.50%	43.76%
Culve	000063	5,669	4,207	380	871	95	65	1,346	1,411	23.74%	24.89%
Dahlia	000073	3,985	1,650	290	1,225	570	140	2,085	2,225	52.32%	55.83%
Dam Neck	000095	2,195	1,443	294	188	104	0	586	586	26.70%	26.70%
Davis Corner	000021	4,503	2,105	443	1,541	214	32	2,198	2,230	48.81%	49.52%
Eastern Shore	000067	2,973	1,700	227	822	45	100	1,094	1,194	36.80%	40.16%
Edinburgh	000056	1,457	1,270	81	21	7	0	109	109	7.48%	7.48%
Edwin	000027	2,978	2,294	118	254	175	0	547	547	18.37%	18.37%
Fairfield	000026	2,764	1,967	160	331	227	0	718	718	25.98%	25.98%
Foxfire	000060	3,139	2,547	149	202	157	0	508	508	16.18%	16.18%
Glenwood	000058	3,169	1,665	215	736	452	18	1,403	1,421	44.27%	44.84%
Great Neck	000010	3,052	2,635	37	4	160	4	201	205	6.59%	6.72%
Green Run	000046	3,082	1,153	261	970	533	20	1,764	1,784	57.24%	57.88%
Haygood	000086	3,049	2,202	108	290	291	0	689	689	22.60%	22.60%
Hillcrest	000087	2,745	1,530	220	535	340	25	1,095	1,120	39.89%	40.80%
Hilltop	000096	2,764	1,711	283	533	140	60	956	1,016	34.59%	36.76%

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City of Virginia Beach, VA

2020 Precincts/VTDs w 2019 ACS

			Wht	LAT	Blk	Asn	BW	HBA	HBA+BW	HBA	HBA+BW
Precinct Name	VTD2020	CVAP19	CVAP19%	CVP19%							
Holland	000029	4,365	2,290	340	1,340	229	65	1,909	1,974	43.73%	45.22%
Homestead	000052	4,701	2,817	140	980	627	44	1,747	1,791	37.16%	38.10%
Hunt	000066	2,883	2,229	136	339	52	0	527	527	18.28%	18.28%
Independence	000098	1,390	785	110	295	130	0	535	535	38.49%	38.49%
Indian Lakes	000078	2,972	1,726	183	629	297	80	1,109	1,189	37.31%	40.01%
Indian River	000097	3,340	1,345	375	1,020	415	45	1,810	1,855	54.19%	55.54%
Kings Grant	000047	3,265	2,864	33	88	140	10	261	271	7.99%	8.30%
Kingston	000007	1,858	1,622	97	48	51	0	196	196	10.55%	10.55%
Lake Christopher	000089	3,044	1,857	141	637	274	17	1,052	1,069	34.56%	35.12%
Lake Joyce	000090	1,961	1,752	25	82	15	0	122	122	6.22%	6.22%
Lake Smith	000019	2,119	1,917	30	135	5	0	170	170	8.02%	8.02%
Landstown	000062	3,275	2,145	170	495	295	0	960	960	29.31%	29.31%
Larkspur	000024	2,372	1,685	180	390	46	65	616	681	25.97%	28.71%
Lexington	000091	4,057	2,396	165	1,143	250	0	1,558	1,558	38.40%	38.40%
Linkhorn	000004	3,780	3,271	100	267	55	0	422	422	11.16%	11.16%
Little Neck	000092	2,040	1,709	83	157	41	0	281	281	13.77%	13.77%
London Bridge	000008	4,541	3,102	117	1,078	128	25	1,323	1,348	29.13%	29.69%
Lynnhaven	000049	3,991	3,793	30	7	140	7	177	184	4.43%	4.61%
Magic Hollow	000055	4,790	2,541	508	1,181	312	25	2,001	2,026	41.77%	42.30%
Malibu	000014	3,571	2,682	269	452	79	15	800	815	22.40%	22.82%
Manor	000068	2,733	1,891	120	361	301	0	782	782	28.61%	28.61%
Mt. Trashmore	000013	4,704	3,096	315	840	298	42	1,453	1,495	30.89%	31.78%
Newtown	000093	4,540	1,237	366	2,666	238	0	3,270	3,270	72.03%	72.03%
North Beach	000001	3,854	3,560	116	114	20	20	250	270	6.49%	7.01%
North Landing	000088	3,678	2,385	93	976	146	30	1,215	1,245	33.03%	33.85%
Ocean Lakes	000003	2,300	1,905	0	270	35	35	305	340	13.26%	14.78%
Ocean Park	000017	2,539	2,253	130	48	40	0	218	218	8.59%	8.59%
Oceana	000050	3,850	2,068	224	1,321	105	25	1,650	1,675	42.86%	43.51%
Old Donation	000015	3,225	2,211	254	603	85	0	942	942	29.21%	29.21%
Pembroke	000039	5,416	3,685	389	934	272	18	1,595	1,613	29.45%	29.78%
Pinewood	000094	2,120	1,505	140	425	30	0	595	595	28.07%	28.07%
Plaza	000012	3,519	2,104	380	817	157	20	1,354	1,374	38.48%	39.05%
Pleasant Hall	000079	3,127	1,687	213	1,032	160	0	1,405	1,405	44.93%	44.93%
Point O' View	000022	2,621	1,828	245	380	130	0	755	755	28.81%	28.81%
Red Wing	000030	6,209	4,288	759	748	242	74	1,749	1,823	28.17%	29.36%
Rock Lake	000081	4,256	1,997	339	1,146	614	40	2,099	2,139	49.32%	50.26%
Rosemont Forest	000064	3,067	1,615	159	729	473	30	1,361	1,391	44.38%	45.35%
Round Hill	000071	1,961	903	97	574	206	11	877	888	44.72%	45.28%
Rudee	000072	3,169	2,966	144	0	28	0	172	172	5.43%	5.43%

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City of Virginia Beach, VA

2020 Precincts/VTDs w 2019 ACS

			Wht	LAT	Blk	Asn	BW	HBA	HBA+BW	HBA	HBA+BW
Precinct Name	VTD2020	CVAP19	CVAP19%	CVP19%							
Salem Woods	000099	1,237	547	120	366	133	2	619	621	50.04%	50.20%
Sandbridge	000100	1,167	1,068	74	25	0	0	99	99	8.48%	8.48%
Seatack	000005	4,275	2,774	278	923	26	55	1,227	1,282	28.70%	29.99%
Shannon	000053	2,392	2,065	84	115	102	2	301	303	12.58%	12.67%
Shelburne	000082	2,450	1,605	55	495	195	0	745	745	30.41%	30.41%
Shell	000069	2,891	1,374	224	1,037	161	0	1,422	1,422	49.19%	49.19%
Shelton Park	000059	2,637	1,760	126	534	112	51	772	823	29.28%	31.21%
Sherry Park	000057	2,463	1,584	67	676	68	27	811	838	32.93%	34.02%
Sigma	000031	3,120	2,617	183	95	138	12	416	428	13.33%	13.72%
South Beach	000002	4,056	3,050	119	746	50	0	915	915	22.56%	22.56%
Stratford Chase	000051	3,172	1,956	160	816	176	0	1,152	1,152	36.32%	36.32%
Strawbridge	000083	3,674	3,018	212	56	190	15	458	473	12.47%	12.87%
Tallwood	000084	3,715	1,716	395	1,058	425	4	1,878	1,882	50.55%	50.66%
Thalia	000028	2,204	1,693	116	183	111	55	410	465	18.60%	21.10%
Thoroughgood	000018	3,495	2,828	130	296	216	0	642	642	18.37%	18.37%
Timberlake	000045	3,805	1,575	550	1,175	375	50	2,100	2,150	55.19%	56.50%
Trantwood	000009	2,478	2,320	117	0	30	0	147	147	5.93%	5.93%
Upton	000085	3,863	3,342	170	132	102	8	404	412	10.46%	10.67%
Village	000076	4,118	2,112	389	1,144	243	16	1,776	1,792	43.13%	43.52%
Windsor Oaks	000036	4,903	2,730	426	1,297	257	4	1,980	1,984	40.38%	40.47%
Witchduck	000038	4,064	3,396	107	319	248	0	674	674	16.58%	16.58%
Wolfsnare	000048	3,713	3,017	63	331	196	40	590	630	15.89%	16.97%

Source: 2019 5-Year ACS Data; 2020 Census VTD Boundaries