

IN THE
Supreme Court of the United States

NICOLE MALLIOTAKIS, *et al.*,

Applicants,

v.

MICHAEL WILLIAMS, *et al.*,

Respondents.

**ON APPLICATION FOR STAY TO THE COURT OF APPEALS OF THE STATE OF NEW YORK
TO THE HONORABLE SONIA SOTOMAYOR, ASSOCIATE JUSTICE OF THE SUPREME COURT
OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE SECOND CIRCUIT**

**APPENDIX TO EMERGENCY APPLICATION FOR STAY
VOLUME V OF X (PAGES 1601a - 2000a)**

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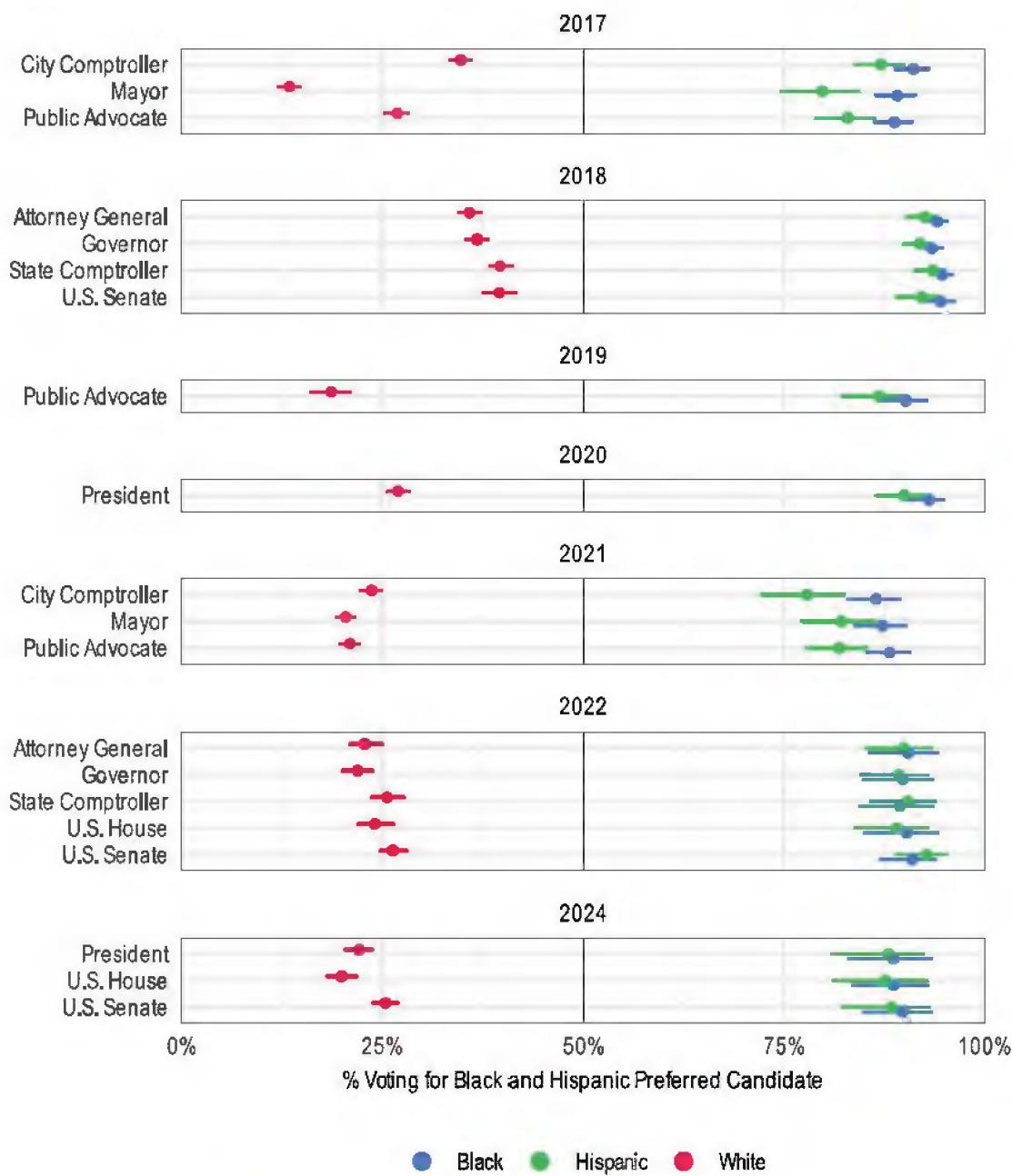


Figure 2: Racially Polarized Voting Estimates, CD 11

Performance of Black and Hispanic Preferred Candidates in the 11th Congressional District

20. Having identified the Black and Hispanic preferred candidate in each election, I now turn to their performance in the 11th Congressional District. Black and Hispanic preferred candidates are consistently defeated. Of the 20 elections I examined, the Black and Hispanic preferred

candidate won only five times. Across all 20 contests, the Black and Hispanic preferred candidate averaged 40.9% of the vote.⁶ Figure 3 and Table 3 show the vote shares for the Black and Hispanic preferred candidates in each election.

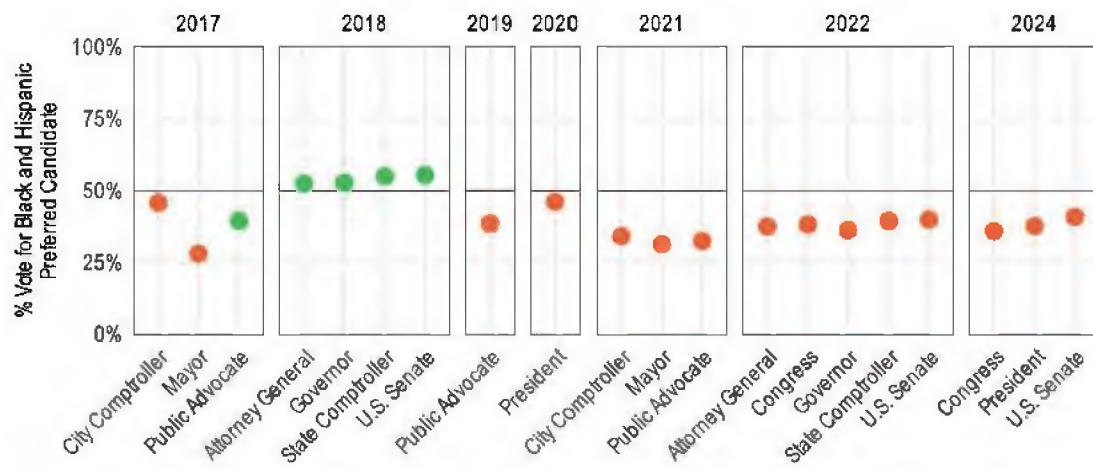


Figure 3: Performance of Black and Hispanic Preferred Candidates, CD 11

Racially Polarized Voting in the Illustrative District

21. I was also asked to analyze the extent to which voting is racially polarized under the illustrative map. To do so, I used the same methodology as above, but included all precincts contained within the boundaries of the illustrative 11th Congressional District. I analyzed racially polarized voting for the 18 statewide or citywide elections from 2017 to 2024.⁷
22. Figure 4 presents the results for all 18 elections. For each election, I first identified the Black and Hispanic preferred candidate in each contest, and include only the results for that candidate.⁸
23. Figure 4 shows that Black voters are extremely cohesive, with a clear preferred candidate in all 18 elections. On average, Black voters supported their preferred candidates with 87.9% of the vote.
24. Figure 4 shows that Hispanic voters also vote cohesively, and support the same candidates as Black voters. Hispanic voters have a clear preferred candidate in all 18 elections. On average, Hispanic voters supported their preferred candidates with 83.1% of the vote.
25. Figure 4 also shows that White voters are substantially less cohesive in the illustrative district than in CD 11. In 2018, majorities of White voters supported the Black and Hispanic preferred candidates. In the other elections, White voters are less cohesive in opposing Black and Hispanic preferred candidates. On average, White voters supported Black and Hispanic-preferred candidates with 41.8% of the vote.

⁶If third party candidates are excluded, the the Black and Hispanic preferred candidate averaged 42.6% of the vote.

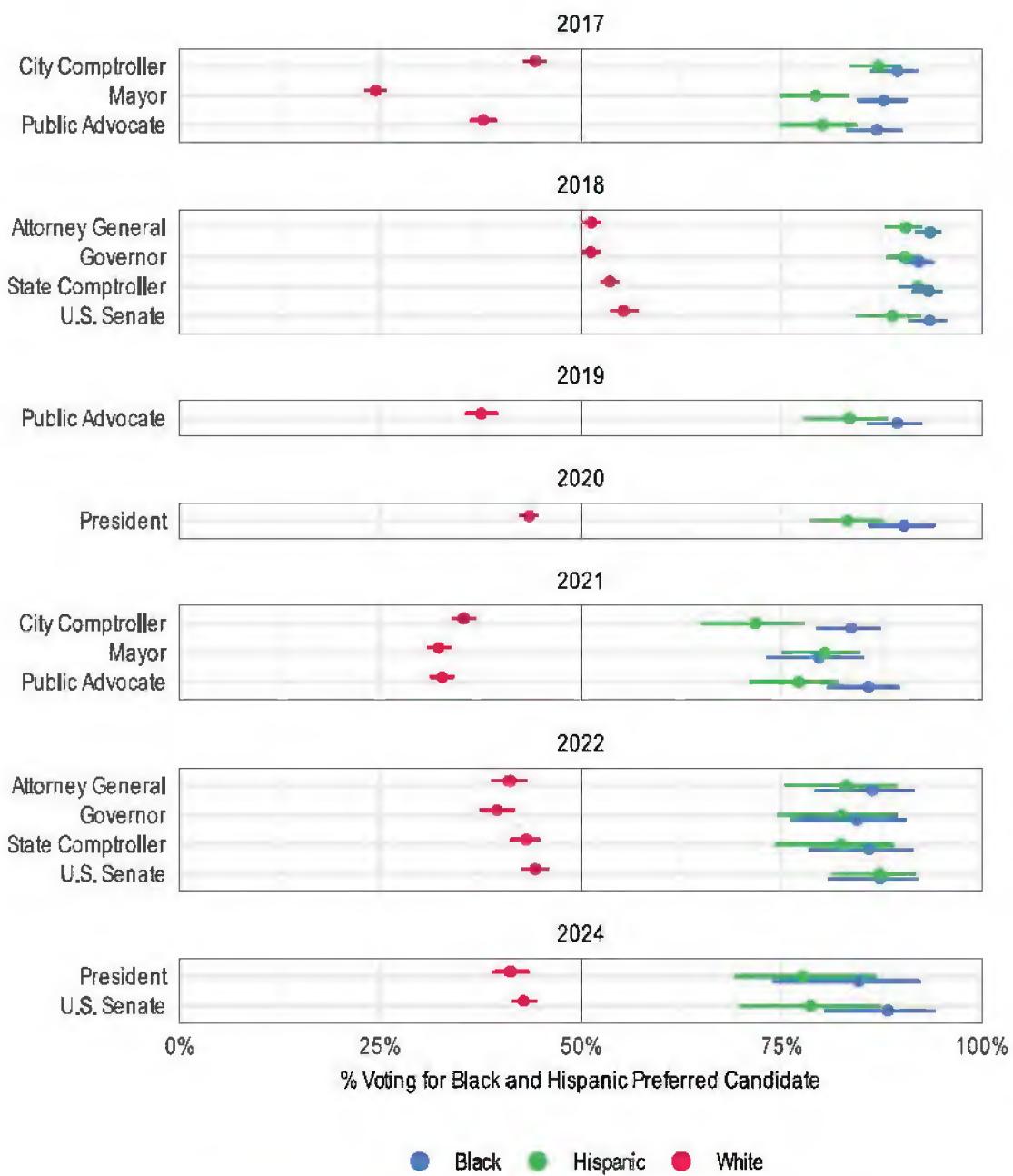


Figure 4: Racially Polarized Voting Estimates, Illustrative District

⁷I exclude congressional elections from this analysis because different parts of the illustrative district are located in different districts.

⁸Full results for each election are presented in Table 2.

Performance of Black and Hispanic Preferred Candidates in the Illustrative District

26. Black and Hispanic preferred candidates are generally able to win elections in the illustrative district. Of the 18 elections I examined, the Black and Hispanic preferred candidate won 16, including all of the state and federal elections. Across all 18 contests, the Black and Hispanic preferred candidate averaged 54.0% of the vote.⁹ Figure 5 and Table 3 show the vote shares for the Black and Hispanic preferred candidates in each election.

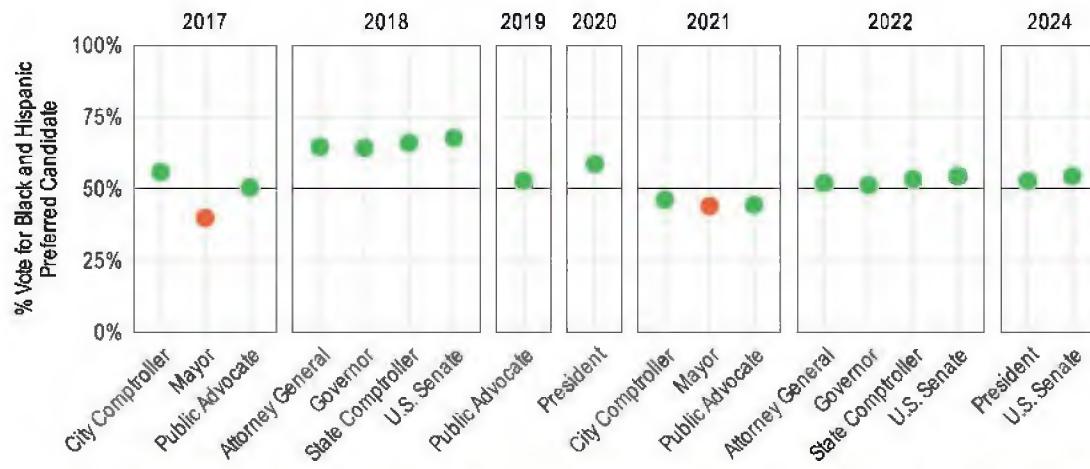


Figure 5: Performance of Black and Hispanic Preferred Candidates, Illustrative District

Voter Turnout in Staten Island

27. I was also asked to examine differences in voter turnout by race and ethnicity in Staten Island. New York does not record the race and ethnicity of voters on its voter registration file, it can be estimated using statistical models that combine individual voting data including surname, address, age, and gender with U.S. Census data. I did not have access to a New York voter registration file for each election year to calculate such estimates myself. However, the commercial voter data vendor L2 calculated county and precinct-level estimates of the number of registered and actual voters by race and ethnicity, and made this data available on the Redistricting Data Hub for the 2020, 2022, and 2024 elections.¹⁰

28. For each election, I used the L2 data to calculate the estimated percentage of registered voters who voted in Staten Island. Figure 6 presents the results. In each election, White voters turned out to vote at the highest rates, while Black and Hispanic voters turned out at substantially lower rates. The difference is particularly stark in the 2022 midterm election, where an estimated 54 percent of White voters turned out to vote, but only 34 percent of Black and Hispanic voters turned out.

⁹If third party candidates are excluded, the the Black and Hispanic preferred candidate averaged 56.2% of the vote.

¹⁰<https://redistrictingdatahub.org/state/new-york/>

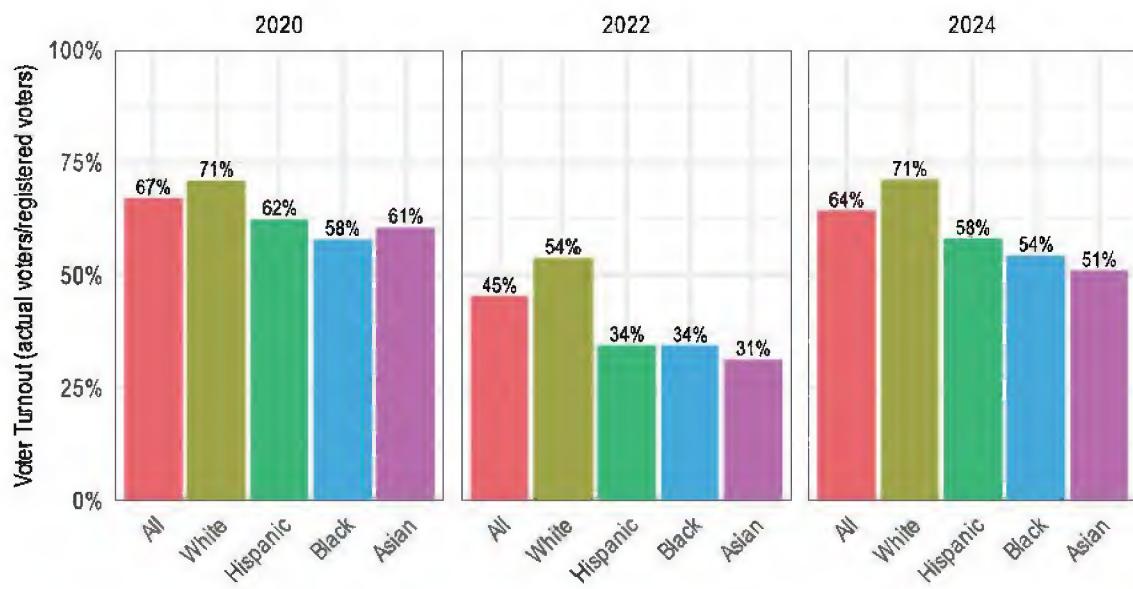


Figure 6: Estimated Voter Turnout by Race and Election in Staten Island

Table 1: Ecological Inference Results – Estimated Vote Share of Black and Hispanic Preferred Candidates – CD 11

		Black	White	Hispanic	Asian	Other
2017	City Comptroller	91.1% (88.9, 93.1)	34.8% (33.6, 36.1)	87.1% (83.8, 89.9)	50.9% (39.8, 62.8)	67.5% (46.3, 81.1)
2017	Mayor	89.1% (86.4, 91.3)	13.5% (12.2, 14.8)	79.8% (74.7, 84.2)	51.0% (40.4, 61.1)	61.0% (45.1, 73.8)
2017	Public Advocate	88.8% (86.3, 91.0)	26.9% (25.4, 28.3)	83.0% (79.1, 86.2)	47.5% (36.6, 57.9)	67.0% (51.5, 78.1)
2018	Attorney General	94.1% (92.7, 95.3)	35.9% (34.7, 37.2)	92.6% (90.4, 94.2)	79.2% (72.2, 84.3)	75.3% (63.7, 85.0)
2018	Governor	93.5% (91.9, 94.7)	36.9% (35.5, 38.2)	92.0% (89.9, 93.6)	77.5% (70.0, 82.5)	73.3% (61.0, 82.0)
2018	State Comptroller	94.7% (93.4, 95.9)	39.7% (38.5, 41.0)	93.6% (91.4, 95.0)	80.6% (73.3, 85.7)	77.4% (61.6, 89.2)
2018	U.S. Senate	94.5% (92.4, 96.2)	39.7% (37.6, 41.5)	92.2% (89.0, 94.6)	74.8% (64.9, 82.9)	83.0% (70.3, 91.4)
2019	Public Advocate	90.2% (87.2, 92.8)	18.7% (16.2, 21.0)	86.9% (82.2, 90.4)	65.1% (49.1, 76.8)	70.8% (56.9, 82.1)
2020	President	93.1% (90.6, 94.9)	27.0% (25.7, 28.4)	90.0% (86.5, 93.4)	73.5% (65.9, 80.9)	73.4% (59.4, 84.6)
2021	City Comptroller	86.5% (83.0, 89.5)	23.7% (22.4, 24.9)	77.8% (72.2, 82.5)	34.0% (25.6, 45.5)	49.2% (25.8, 68.0)
2021	Mayor	87.3% (83.8, 90.2)	20.5% (19.3, 21.6)	82.1% (77.3, 86.4)	43.5% (33.1, 53.9)	54.6% (36.3, 72.1)
2021	Public Advocate	88.2% (85.2, 90.7)	21.0% (19.8, 22.2)	81.9% (77.9, 85.3)	40.7% (30.5, 53.0)	48.2% (29.3, 62.8)
2022	Attorney General	90.5% (85.7, 94.1)	22.8% (21.0, 25.1)	89.9% (85.3, 93.4)	60.4% (43.8, 73.3)	75.7% (55.1, 90.3)
2022	Governor	89.8% (85.0, 93.6)	22.0% (20.1, 23.9)	89.3% (84.7, 92.9)	53.2% (37.5, 69.2)	77.5% (60.6, 89.4)
2022	State Comptroller	89.5% (84.5, 93.6)	25.6% (23.7, 27.8)	90.4% (85.9, 93.8)	65.5% (54.2, 76.4)	73.6% (51.0, 88.6)
2022	U.S. House	90.4% (85.1, 94.1)	24.1% (22.1, 26.4)	89.1% (83.9, 93.0)	57.5% (44.8, 71.5)	78.8% (61.4, 89.5)
2022	U.S. Senate	91.0% (87.1, 93.9)	26.4% (24.7, 28.0)	92.9% (89.0, 95.2)	64.3% (46.2, 78.2)	75.3% (56.3, 89.0)
2024	President	88.7% (83.1, 93.4)	22.2% (20.4, 23.9)	88.1% (81.1, 92.4)	49.0% (38.4, 59.2)	65.3% (47.0, 85.8)
2024	U.S. House	88.7% (83.6, 92.9)	20.0% (18.1, 21.9)	87.7% (81.1, 92.8)	51.6% (41.0, 62.0)	60.0% (34.8, 79.3)
2024	U.S. Senate	89.8% (85.0, 93.4)	25.4% (23.8, 27.0)	88.4% (82.4, 93.1)	58.8% (47.1, 71.4)	66.3% (43.4, 83.6)

Table 2: Ecological Inference Results – Estimated Vote Share of Black and Hispanic Preferred Candidates – Illustrative District

		Black	White	Hispanic	Asian	Other
2017	City Comptroller	89.5% (86.4, 91.9)	44.3% (43.0, 45.4)	87.1% (83.8, 89.7)	80.8% (75.0, 85.0)	65.0% (46.0, 77.2)
2017	Mayor	87.8% (84.7, 90.5)	24.5% (23.3, 25.7)	79.3% (75.0, 83.2)	68.5% (60.6, 75.1)	54.8% (41.7, 64.8)
2017	Public Advocate	86.9% (83.3, 90.0)	37.9% (36.4, 39.4)	80.1% (75.0, 84.3)	74.2% (66.6, 79.9)	66.7% (52.1, 77.8)
2018	Attorney General	93.5% (92.0, 94.8)	51.2% (50.1, 52.3)	90.5% (88.2, 92.4)	88.3% (84.5, 91.0)	77.5% (66.9, 85.5)
2018	Governor	92.1% (90.4, 93.8)	51.2% (50.1, 52.3)	90.4% (88.3, 92.3)	87.0% (83.0, 90.0)	70.9% (59.3, 81.2)
2018	State Comptroller	93.4% (91.4, 94.9)	53.6% (52.6, 54.6)	92.0% (89.7, 93.7)	88.2% (84.0, 91.5)	77.9% (68.0, 86.7)
2018	U.S. Senate	93.5% (90.9, 95.5)	55.3% (53.8, 56.9)	88.8% (84.5, 92.1)	89.1% (84.5, 92.6)	83.9% (69.8, 91.3)
2019	Public Advocate	89.5% (85.8, 92.3)	37.7% (35.8, 39.5)	83.5% (78.0, 88.1)	78.4% (70.8, 84.6)	77.1% (64.6, 85.2)
2020	President	90.3% (85.9, 94.0)	43.5% (42.5, 44.4)	83.3% (78.7, 87.5)	86.2% (81.2, 91.0)	80.0% (67.6, 88.5)
2021	City Comptroller	83.7% (79.4, 87.2)	35.5% (34.2, 36.9)	71.7% (65.1, 77.6)	69.4% (60.9, 75.8)	73.7% (62.9, 82.0)
2021	Mayor	79.7% (73.4, 85.0)	32.4% (31.2, 33.6)	80.4% (75.2, 84.6)	72.1% (63.2, 78.9)	68.2% (45.9, 78.9)
2021	Public Advocate	85.9% (80.8, 89.6)	32.8% (31.4, 34.1)	77.1% (71.2, 81.8)	71.3% (64.3, 77.5)	64.9% (47.0, 78.1)
2022	Attorney General	86.3% (79.4, 91.4)	41.1% (39.2, 43.0)	83.1% (75.5, 89.1)	77.3% (65.5, 86.1)	77.4% (56.0, 89.8)
2022	Governor	84.5% (76.3, 90.3)	39.6% (37.7, 41.6)	82.5% (74.6, 89.3)	81.1% (70.1, 87.8)	77.2% (53.3, 88.5)
2022	State Comptroller	85.9% (78.7, 91.3)	43.1% (41.3, 44.7)	82.5% (74.4, 88.8)	80.4% (70.4, 88.1)	75.5% (48.0, 88.3)
2022	U.S. Senate	87.3% (81.0, 91.9)	44.3% (42.8, 45.8)	87.3% (81.6, 91.5)	80.2% (69.8, 88.1)	77.3% (54.7, 88.7)
2024	President	84.6% (74.1, 92.1)	41.2% (39.4, 43.4)	77.7% (69.4, 86.5)	73.8% (62.5, 82.9)	74.0% (53.2, 88.1)
2024	U.S. Senate	88.3% (80.6, 94.0)	42.8% (41.6, 44.2)	78.6% (70.0, 87.2)	79.8% (71.5, 87.4)	75.2% (58.3, 87.5)

Table 3: Estimated Performance of Black and Hispanic Preferred Candidates

		11th District	Illustrative District
2017	City Comptroller	45.7%	55.8%
2017	Mayor	28.1%	39.8%
2017	Public Advocate	39.5%	50.4%
2018	Attorney General	52.5%	64.5%
2018	Governor	52.8%	64.2%
2018	State Comptroller	55.0%	66.0%
2018	U.S. Senate	55.4%	67.6%
2019	Public Advocate	38.5%	52.7%
2020	President	46.1%	58.6%
2021	City Comptroller	34.1%	46.1%
2021	Mayor	31.5%	44.0%
2021	Public Advocate	32.5%	44.4%
2022	Attorney General	37.5%	51.9%
2022	Congress	38.2%	—
2022	Governor	36.3%	51.2%
2022	State Comptroller	39.5%	53.3%
2022	U.S. Senate	39.9%	54.4%
2024	Congress	36.0%	—
2024	President	37.6%	52.7%
2024	U.S. Senate	40.9%	54.4%

Dated: November 18, 2025

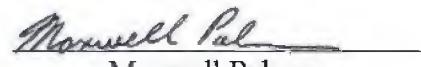

Maxwell Palmer

Exhibit I

Rebuttal Expert Report
Maxwell Palmer
December 18, 2025

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X

Michael Williams, José Ramírez-Garofalo, Aixa Torres, and
Melissa Carty,

Petitioners,

Index No. 164002/2025

-against-

Board of Elections of the State of New York; Kristen Zebrowski Stavisky, in her official capacity as Co-Executive Director of the Board of Elections of the State of New York; Raymond J. Riley, III, in his official capacity as Co-Executive Director of the Board of Elections of the State of New York; Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York; Henry T. Berger, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York; Anthony J. Casale, in his official capacity as Commissioner of the Board of Elections of the State of New York; Essma Bagnuola, in her official capacity as Commissioner of the Board of Elections of the State of New York; Kathy Hochul, in her official capacity as Governor of New York; Andrea Stewart-Cousins, in her official capacity as Senate Majority Leader and President *Pro Tempore* of the New York State Senate; Carl E. Heastie, in his official capacity as Speaker of the New York State Assembly; and Letitia James, in her official capacity as Attorney General of New York,

Respondents,

-and-

Representative Nicole Malliotakis, Edward L. Lai, Joel Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba

Intervenor-Respondents,

-----X

Reply Expert Report of Dr.
Maxwell Palmer

REPLY REPORT OF MAXWELL PALMER, PH.D.

1. I submitted my expert report in this matter on November 18, 2025. In that report I analyzed racially polarized voting in the current New York 11th Congressional District, as well as under the plaintiff's illustrative district. I found significant levels of racially polarized voting across 20 elections from 2017 to 2024. Black and Hispanic voters shared the same candidates of choice, and these candidates were generally defeated by the White preferred candidate.
2. I have been asked to respond to the rebuttal reports of Dr. John Alford and Dr. Steven Voss.

Responses to Dr. Alford

3. Dr. Alford raises no methodological issues with my report. Indeed, he uses the exact same methodology and implementation of the ecological inference model (EI) that I use. Dr. Alford does not contest my conclusion that Black and Hispanic voters in the 11th Congressional District vote cohesively, nor that White-preferred candidates generally defeat the Black and Hispanic preferred candidates in most elections. However, Dr. Alford draws different conclusions by focusing on the party and race of the candidates, rather than on the preferences of the voters.
4. Dr. Alford argues that party, rather than race, explains the voting patterns that we observe in the racially polarized voting analysis. But, this observation does not change the simple fact that Black and Hispanic voters prefer different candidates than White voters. Race and party are fundamentally linked in American politics; the fact that groups exhibit partisan polarization does not cancel out or supersede racially polarized voting.
5. Dr. Alford also evaluates the performance of the current and illustrative 11th District by evaluating the number of minority candidates elected. In doing so, Dr. Alford analyzes performance by focusing on the candidates, not the preferences of Black and Hispanic voters. Racially polarized voting can occur even when the Black and Hispanic preferred candidate is White and the White preferred candidate is Black or Hispanic; the performance of the district is not based on the race of the victorious candidate, but on the performance of the Black and Hispanic preferred candidate.

Responses to Dr. Voss

6. Dr. Voss' report primarily focuses on racially polarized voting and ecological inference, the method used to estimate the percentage of each racial or ethnic group supporting each candidate in each election. Like Dr. Alford, Dr. Voss successfully replicated my analysis by using the data and computer code that I provided with my report.

7. Dr. Voss argues that I did not follow “scientific best practices” in my original expert report because, in the ecological inference models, I did not include covariates that may be used to “adjust” the models for “aggregation bias.”
8. Dr. Voss is correct that I did not use this element of the ecological inference model. The reason is simple: this is not standard practice in ecological inference analyses for racially polarized voting.
9. In my work as a testifying expert, I have utilized ecological inference models in twelve different cases prior to this matter. In all of these cases I used the standard ecological inference approach, which does not include additional covariates as Dr. Voss suggests should be done. No expert responding to my reports has ever raised the covariate and aggregation bias issue regarding my analyses. I also served as the racially polarized voting consulting for the Virginia Redistricting Commission, where I again used the standard model.
10. I have also had the opportunity to review the ecological inference analysis of other experts and scholars. Most notably, I have reviewed several reports by Dr. Alford. In his work, Dr. Alford uses the exact same standard ecological inference model, without covariates. For example, Dr. Alford conducted ecological inference analyses in *Bruni, et al. v. Hughs* (No. 5:20-cv-35) and *Williams, et. al., v. Hall* (1:23-CV-01057-TDS-JLW), using the standard model in both cases. Dr. Alford has reviewed and responded to at least four of my expert reports using ecological inferences. In no case has he suggested that these models should include covariates.
11. Other experts also use the standard model without covariates. For example, Dr. Sean Trende, analyzing racially polarized voting in Detroit in *Agee, et al. v. Benson.*, used the exact same ecological inference models as in my report in this matter.¹ Dr. Jonathan Katz, in *Bethune-Hill v. Virginia*, utilized similar ecological inference models, again without covariates.² I am not aware of any expert using Dr. Voss’ approach in redistricting litigation.³
12. In recently published peer-reviewed academic work in the *American Political Science Review*, the authors estimated racially polarized voting in every congressional district using ecological inference. In their public replication code they also employed the standard model, without covariates.⁴
13. In addition to this not being a standard practice in estimating racially polarized voting in redistricting litigation, Dr. Voss also fails to present and analyze the results of his own analysis. Dr. Voss states that he presents the results in Table 3, but he does not do so. Instead he erroneously reproduced the exact same results as in Table 1, but with a new caption describing his covariate models.
14. Additionally, in the caption to Table 3 (p.13), Dr. Voss reports that “More than half of my estimates are not outside of Dr. Palmer’s confidence intervals.” The double negative hides an important conclusion: more than half of his estimates are *inside* of the confidence intervals in my original report: in other words, for a majority of his estimates, he does not find that there are statistically significant differences between his results and my own.

15. Dr. Voss also fails to analyze his own results to identify how they impact the ultimate conclusion that there is racially polarized voting in the 11th Congressional District. While Dr. Voss presents averages in Table 4 (p.14) the lack of results for each individual election, with the appropriate confidence intervals, makes determining the frequency of racially polarized voting based on his report impossible.
16. Dr. Voss also suggests that my ecological inference models are misspecified because the turnout estimates produced by the models “did not make much sense.” Dr. Voss claims that the turnout results show a curious pattern where, for example, “Hispanics who showed up in 2022 and voted for attorney general and state comptroller supposedly sat out the senatorial election, and they supposedly preferred to vote for comptrollers and public advocates—in both 2017 and 2021—than they preferred to vote in the city’s mayoral election.” (p.17) Dr. Voss reaches this incorrect conclusion by failing to account for the uncertainty in the ecological inference models. In his results (Table 2, p.18), he excludes the 95% confidence intervals for each estimate, a surprising omission as he included these intervals in Tables 1 and 2 of his report.
17. To address this problem, I ran the ecological inference analysis again, saving both the turnout estimates and confidence intervals. Figure 1 and Table 1 present the results. In the figure, it is clear the confidence intervals for each estimate overlap within each election year. This is evidence that there are not statistically significant differences in estimated turnout across offices for each group and election year.
18. For example, consider Hispanic voters in the 2022 election, which Dr. Voss highlights as evidence of a “flaw” in my analysis. The estimated turnout for Hispanic voters in the U.S. Senate election is 29.0 percent, and the estimated turnout for Hispanic voters in the State Comptroller election is 30.6 percent, for a difference of 1.6 percentage points.⁵ Even without considering statistical uncertainty, this difference is extremely small and not enough to draw meaningful conclusions about the validity of the models. But, including the confidence intervals shows that there is no evidence of any difference at all. The confidence interval for turnout in the U.S. Senate race ranges from 24.6 to 36.5 percent, and the confidence interval for the State Comptroller race ranges from 24.5 percent to 33.1 percent. These ranges substantially overlap, and each contains the turnout estimate for the other race. Dr. Voss’ other examples of potentially problematic turnout patterns—Black voters in 2021, 2022, and 2024, or Asian voters in general—show a similar lack of evidence of any differences in turnout across the ballot.
19. When the uncertainty in the estimates is taken into account, it is apparent that the pattern Dr. Voss observes is simply statistical noise, and not an indicator of any methodological error or instability in the results. In other words, Dr. Voss’ turnout analysis provides no evidence at all of “counterintuitive patterns” in voter turnout and ballot rolloff, nor any evidence of any potential problem with how the ecological inference analysis.

¹*Agee, et al. v. Benson, et al.* (1:22-CV-00272-PLM-RMK-JTN), U.S. District Court for the Western District of Michigan.

²*Bethune-Hill v. Virginia* (3:14-cv-00852-REP-AWA-BMK), U.S. District Court for the Eastern District of Virginia.

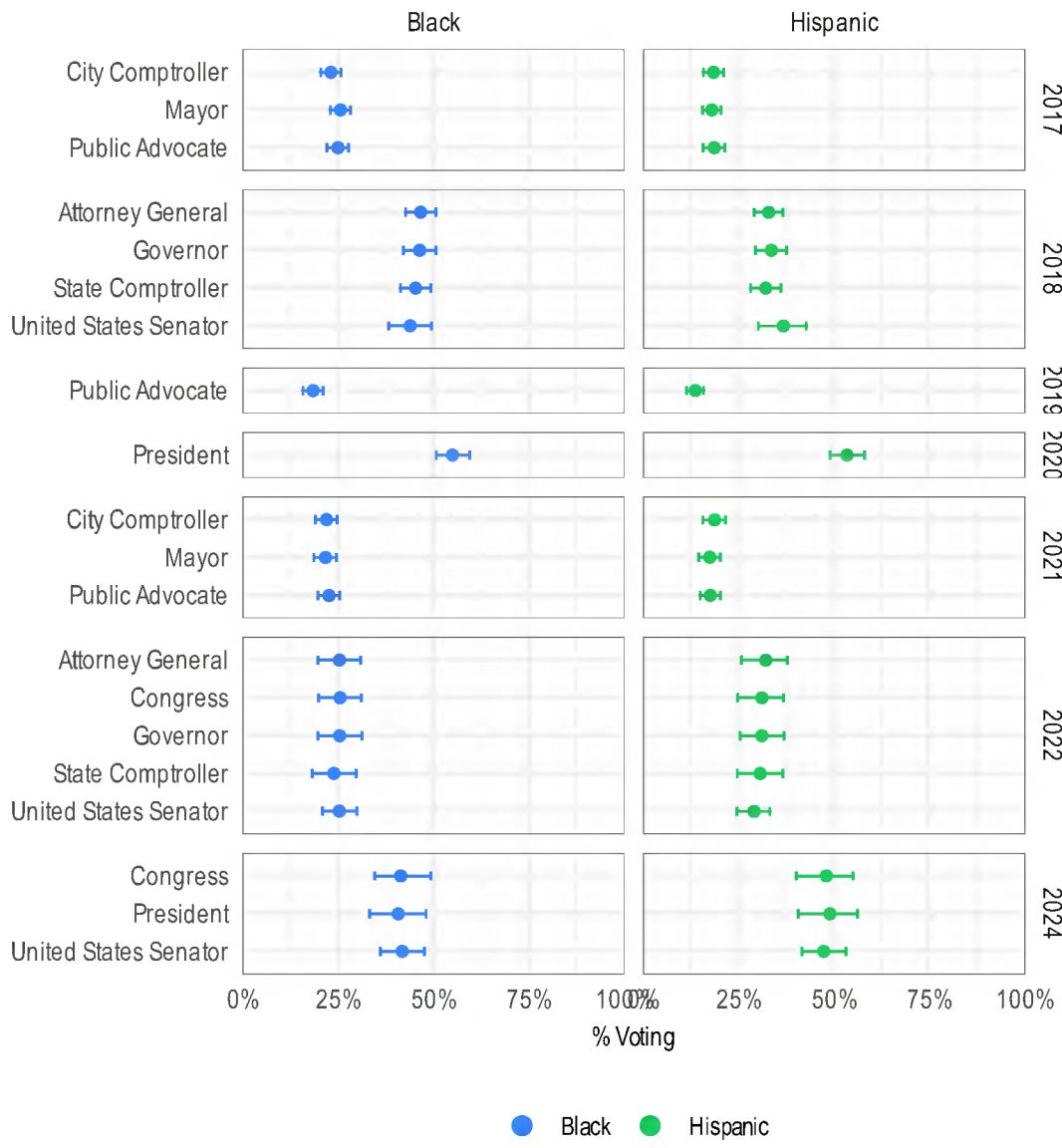


Figure 1: Turnout Estimates from Ecological Inference Models, CD 11

³In his discussion of turnout, Dr. Voss also suggests that I deliberately hid the turnout results in my ecological inference analysis. “Notably, Dr. Palmer did not report what his analysis was claiming about the relative mobilization of these social groups, and he specifically instructed his code (contrary to his package’s default) to hide the turnout part of his analysis (inserting an option to make it True that the turnout column would be deleted when the results were preserved).” (p.17) It is common practice to estimate turnout as part of the ecological inference analysis, but not report it when discussing racially polarized voting. Both Dr. Alford and Dr. Trende do this in their own analyses in the above cited cases.

⁴Kuriwaki, Shiro, Stephen Ansolabehere, Angelo Dagonel, and Soichiro Yamauchi. “The Geography of Racially Polarized Voting: Calibrating Surveys at the District Level.” *American Political Science Review*. Replication materials available at <https://doi.org/10.7910/DVN/MAZNJ6>.

⁵Note that my estimates are slightly different from Dr. Voss’, due to randomness in the ecological inference models.

20. A third issue raised by Dr. Voss concerns the scope of the analysis. Dr. Voss argues that analyzing racially polarized voting for a single district is not sufficient, and that the analysis should be conducted for the broader metropolitan area. While I disagree with Dr. Voss on the appropriate scope of the analysis, his report demonstrates that, in this instance, the scope does not matter. Dr. Voss conducts a single ecological inference analysis, using the 2022 election for governor, and covering most of New York City, and then uses that model to produce estimates at the congressional district level. In his results (Table 6, p.21) he finds that Black voters (95%) and Hispanic voters (75%) vote cohesively and share the same preferred candidate. White voters cohesively oppose the Black and Hispanic preferred candidate (20%). Dr Voss' estimate for Hispanic voters differs from that in my original report, but the conclusion is the same: there is clear evidence of cohesion among and between Black and Hispanic voters, and polarization with White voters.⁶
21. Dr. Voss also presents results for the 2020 presidential election in the 5th, 8th and 9th Congressional Districts in Table 7 (p.21).⁷ In his discussion of these results, he writes that these districts show "similar polarization" as he found for these same districts for the 2022 gubernatorial election. However, these results show that White voters are closely divided between the two candidates, with support for the Democratic candidate ranging from 45.22% to 49.45%. White voters are not cohesive in their support for either candidate, and therefore this is not evidence of racially polarized voting in these districts in this election.

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

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.



Maxwell Palmer

Executed this 18th day of December, 2025, at Arlington, Massachusetts.

⁶Voss notes that he focused on the 2022 gubernatorial election in "the interests of time," and also estimated his models without covariates to be consistent with my results and to "produce results in a timely fashion." He states that "the analysis took more than 12 hours to complete." (p.19) Such computing issues do not make sense. I was able to run Dr. Voss' replication code for the 2022 gubernatorial election in 7 minutes and 36 seconds and his code for the 2020 presidential election in 7 minutes and 29 seconds, on a 2022 Mac Studio desktop computer using a single processor. Analyzing all of the relevant elections for this area should have been an easy task.

⁷Unlike in Table 6, he omits the results from the other congressional districts and fails to include confidence intervals on these estimates.

Table 1: Ecological Inference Results – Turnout – CD 11

		Black	White	Hispanic	Asian	Other
2017	City Comptroller	23.0% (25.7, 20.3)	31.4% (32.0, 30.8)	18.3% (21.0, 15.5)	3.8% (4.9, 2.8)	30.9% (40.3, 22.0)
2017	Mayor	25.5% (28.2, 22.8)	33.1% (33.6, 32.6)	17.9% (20.3, 15.5)	5.8% (7.0, 4.6)	32.9% (43.5, 22.5)
2017	Public Advocate	24.9% (27.8, 22.0)	30.9% (31.5, 30.3)	18.6% (21.3, 15.7)	5.0% (6.2, 4.0)	32.4% (43.2, 22.4)
2018	Attorney General	46.6% (50.5, 42.6)	42.2% (43.2, 41.4)	32.8% (36.5, 29.0)	13.9% (16.3, 11.5)	42.4% (55.4, 28.7)
2018	Governor	46.3% (50.6, 42.0)	43.0% (44.0, 42.1)	33.5% (37.5, 29.4)	14.5% (16.7, 12.2)	44.9% (59.1, 31.2)
2018	State Comptroller	45.3% (49.3, 41.4)	42.7% (43.6, 41.7)	32.0% (36.0, 28.0)	13.4% (15.8, 11.2)	43.1% (62.2, 23.9)
2018	U.S. Senate	43.9% (49.5, 38.4)	41.6% (42.8, 40.2)	36.7% (42.7, 30.1)	13.2% (15.9, 10.6)	53.1% (72.7, 34.2)
2019	Public Advocate	18.4% (21.1, 15.9)	17.2% (17.7, 16.7)	13.6% (15.8, 11.3)	4.7% (6.1, 3.6)	26.0% (36.8, 16.0)
2020	President	54.9% (59.4, 50.7)	64.4% (65.5, 63.2)	53.3% (58.0, 49.0)	34.4% (37.8, 31.0)	71.6% (84.8, 59.1)
2021	City Comptroller	21.9% (24.7, 19.0)	34.3% (35.0, 33.7)	18.4% (21.5, 15.5)	5.0% (6.0, 4.1)	32.1% (42.3, 22.7)
2021	Mayor	21.6% (24.5, 18.6)	36.1% (36.8, 35.5)	17.4% (20.3, 14.5)	4.9% (6.2, 3.9)	27.1% (37.6, 17.7)
2021	Public Advocate	22.5% (25.4, 19.7)	34.5% (35.1, 33.9)	17.5% (20.2, 14.9)	5.3% (6.5, 4.3)	28.4% (37.5, 19.8)
2022	Attorney General	25.2% (31.0, 19.7)	46.4% (47.8, 45.3)	31.9% (37.9, 25.7)	9.0% (12.1, 6.2)	42.3% (62.5, 20.7)
2022	Congress	25.5% (31.0, 19.9)	47.0% (48.3, 45.7)	31.0% (36.7, 24.7)	8.8% (11.9, 6.3)	49.3% (67.7, 27.7)
2022	Governor	25.5% (31.2, 19.7)	47.4% (48.7, 46.1)	31.0% (36.8, 25.4)	9.7% (12.7, 7.3)	44.4% (66.8, 26.3)
2022	State Comptroller	23.8% (29.6, 17.9)	46.6% (47.9, 45.3)	30.6% (36.5, 24.6)	8.9% (11.9, 6.5)	42.6% (65.4, 23.4)
2022	U.S. Senate	25.2% (29.9, 20.8)	47.7% (48.6, 46.7)	29.0% (33.1, 24.5)	7.9% (10.3, 5.6)	44.8% (58.8, 29.1)
2024	Congress	41.4% (49.2, 34.5)	62.1% (63.8, 60.7)	47.9% (54.9, 40.0)	17.0% (20.3, 14.1)	53.5% (72.3, 33.5)
2024	President	40.7% (48.0, 33.2)	63.3% (64.6, 61.8)	48.9% (56.1, 40.6)	19.8% (23.3, 16.4)	60.4% (89.2, 38.0)
2024	U.S. Senate	41.8% (47.4, 36.0)	61.6% (62.8, 60.2)	47.4% (53.2, 41.5)	20.4% (24.1, 16.3)	59.1% (79.4, 36.0)

Exhibit J

Corrected Expert Report
William Cooper
January 1, 2026

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X

Michael Williams, José Ramírez-Garofalo, Aixa Torres, and
Melissa Carty,

Index No. 164002/2025

Petitioners,

-against-

**Corrected Report of William
S. Cooper**

Board of Elections of the State of New York; Kristen Zebrowski Stavisky, in her official capacity as Co-Executive Director of the Board of Elections of the State of New York; Raymond J. Riley, III, in his official capacity as Co-Executive Director of the Board of Elections of the State of New York; Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York; Henry T. Berger, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York; Anthony J. Casale, in his official capacity as Commissioner of the Board of Elections of the State of New York; Essma Bagnuola, in her official capacity as Commissioner of the Board of Elections of the State of New York; Kathy Hochul, in her official capacity as Governor of New York; Andrea Stewart-Cousins, in her official capacity as Senate Majority Leader and President *Pro Tempore* of the New York State Senate; Carl E. Heastie, in his official capacity as Speaker of the New York State Assembly; and Letitia James, in her official capacity as Attorney General of New York,

Respondents,

-and-

Representative Nicole Malliotakis, Edward L. Lai, Joel Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba

Intervenor-Respondents,

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I. **INTRODUCTION**

1. My name is William S. Cooper. I have a B.A. in Economics from Davidson College. As a private consultant, I currently serve as a demographic and redistricting expert in the above-captioned case. I am being compensated at a rate of \$170 per hour. No part of my compensation is dependent upon the conclusions that I reach or the opinions that I offer.

A. **Redistricting Experience**

2. I have testified at trial as an expert witness on redistricting and demographics in federal courts in about 60 voting rights cases since the late 1980s.

3. Eight of the 60 lawsuits requiring my trial testimony resulted in changes to statewide legislative boundaries.¹

4. Approximately 27 of the cases in which I provided trial testimony led to changes in local election district plans. At least two dozen other local-level Section 2 redistricting lawsuits in 14 states² where I served as a consultant for the plaintiffs resolved favorably before trial.

5. I have testified in Section 2 redistricting lawsuits in federal court in New York on four occasions. In 2003, I testified in federal court in Albany County, NY (*Arbor Hill Concerned Citizens v. County of Albany*, 289 F. Supp. 2d 269 (N.D.N.Y 2003)). In 2012 and again in 2015, I testified in *Pope v. Albany County*.³ In 2020, I testified in federal court in Westchester County

¹ *Rural West Tennessee African-American Affairs Council, Inc. v. McWherter*, No. 92-cv-2407 (W.D. Tenn.); *Old Person v. Brown*, No. 96-cv-0004 (D. Mont.); *Bone Shirt v. Hazeltine*, No. 01-cv-3032 (D.S.D.); *Alabama Legislative Black Caucus v. Alabama*, No. 12-cv-691 (M.D. Ala.); *Thomas v. Reeves*, No. 18-cv-441 (S.D. Miss.); *Caster v. Merrill*, No. 21-1356-AMM (N.D. Ala.); *Pendergrass v. Raifensperger*, No. 21-05337-SCJ (N.D. Ga.); and *Alpha Phi Alpha Fraternity v. Raifensperger*, No. 21-05339-SCJ (N.D. Ga.). In *Bone Shirt v. Hazeltine*, the court adopted the remedial plan I developed.

² Those states are Alabama, Florida, Georgia, Louisiana, Maryland, Mississippi, Montana, North Carolina, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, and Washington.

³ *Pope v. County of Albany*, No. 1:11-cv-00736 (N.D.N.Y. 2012); *Pope v. County of Albany*, No. 1:11-cv-0736 (N.D.N.Y. 2015).

(*NAACP Spring Valley Branch v. East Ramapo Central School District et al.*, No. 7:17-cv-08943-CS-CJM (S.D.N.Y. 2020)). The plaintiffs prevailed in the Albany County cases and in the East Ramapo School District lawsuit.

6. Since the release of the 2020 Census, I have testified at trial as an expert witness in redistricting and demographics in ten state-level cases challenging district boundaries under Section 2 of the Voting Rights Act: *Caster v. Merrill*, No. 21-cv-1356-AMM (N.D. Ala.) (*Allen v. Milligan*); *Pendergrass v. Roffensperger*, No. 21-cv-05337-SCJ (N.D. Ga.); *Alpha Phi Alpha Fraternity v. Roffensperger*, No. 21-05339-SCJ (N.D. Ga.); *Nairne v. Landry* No. 3:22-cv-00178-SDD-SDJ (M.D. La.); *Christian Ministerial Alliance v. Hutchinson*, No. 4:19-cv-402-JM (E.D. Ark.); *Robinson v. Landry*, No. 3:22-cv-00211-SDD-SDJ (M.D. La.); *Mississippi State Conference of the NAACP v. State Board of Election Commissions*, No. 3:22-cv-734-DPJ-HSO-LHS (S.D. Miss.); *White v. State Board of Election Commissions*, No. 4:22-cv-62-MPM-JMV (N.D. Miss.).

7. Since the release of the 2020 Census, election plans that I developed as a private consultant to local governments have been adopted in San Juan County, Utah, and in three Mississippi jurisdictions: Bolivar County, Washington County, and the City of Grenada.⁴ In 2025, I served as a consultant to the Holbrook United School District 3 (“HUSD 3”) in Navajo County, Arizona. A new redistricting plan (developed by the Navajo Nation with my technical input) was adopted by the HUSD 3 School Board.

8. In 2025, I testified at trial as an expert on demographics and redistricting in a racial gerrymandering lawsuit: *McClure v. Jefferson County Commission*, No. 2:23-cv-00443-MHH

⁴ Also, in 2021, I reviewed a redistricting plan I developed for the City of Wenatchee, Washington that became the first plan (in 2017) to be adopted under the Washington State Voting Rights Act. I determined that the 2017 Plan complied with one-person, one-vote requirements under the 2020 Census. There was no need to alter the pre-2020 Census boundaries, which included a Latino-majority district.

(N.D. Ala.). I also testified for a second time in *Allen v. Milligan*. The plaintiffs prevailed at the trial court level, with final judgment pending appeal.

9. Recently, I served as a consultant to a broad-based coalition of voters in Baltimore County, Maryland as the County Council transitioned from seven districts to nine for future elections.

10. Since the release of the 2020 Census, I have testified at trial as an expert witness in redistricting and demographics in two local-level cases challenging district boundaries under Section 2 of the Voting Rights Act. *NAACP v. Baltimore County*, No. 21-cv-03232-LKG (D. Md.), and *Caroline County Branch of the NAACP v. Town of Federalsburg*, No. 23-00484-SAG (D. Md.). The plaintiffs prevailed in both cases.

11. Since the release of the 2020 Census, two school districts have adopted remedial plans that I developed on behalf of the plaintiffs: the East Ramapo School District in Rockland County, NY (*supra*), and, in 2024, the Sunnyside School District in Yakima County, WA (*Empowering Latina Leadership and Action (ELLA) v. Sunnyside School District*), under the Washington Voting Rights Act.

12. For additional historical information on my testimony as an expert witness and experience preparing and assessing proposed redistricting maps, see a summary of my redistricting work attached as **Exhibit A**.

B. Sources and Methodology

13. For this report, I used the *Maptitude for Redistricting* software program to develop and analyze plans. I relied on population data and geographic shapefiles from the U.S. Census Bureau, as well as data and geographic shapefiles available from the City of New York Planning Department.

14. I reviewed a comprehensive demographic analysis published by the New York City Districting Committee in 2023. I have attached that superlative document (*How Communities of Interest Are Evolving in New York City Today*)⁵ as **Exhibit B** for reference.

15. I also reviewed the May 2022 *Report of the Special Master* in *Harkenrider v. Hochul*.⁶

16. I reviewed a May 2025 report by the New York City Planning Department, containing an analysis of 2010 to 2020 population trends by borough, as well as 2024 population estimates. I have attached that document (*New York City's Population Estimates and Trends*)⁷ for reference as **Exhibit C**.

17. Throughout this report, I make reference to non-Hispanic Any Part Black (“NH AP Black”) as a racial classification. “AP Black” signifies all persons who self-identified in the 2020 Census as single-race Black or of more than one race and some part Black. The “any part” terminology has been accepted by federal courts in voting cases since the early 2000s.⁸

18. The Hispanic (“Latino”) population may be of any race.

19. I report population counts for the Asian population that is non-Hispanic single-race Asian (“SR Asian”) in order to avoid double counting persons who are some part Asian and some part Black.

⁵ NYC Districting Commission, *How Communities of Interest are Evolving in New York City Today: Communities of Interest 2023 Report* (Jan. 20, 2023), <https://www.nyc.gov/assets/districting/downloads/pdf/Communities-of-Interest-Report.pdf>.

⁶ Jonathan Cervas, *Report of the Special Master*, *Harkenrider v. Hochul*, No. E2022-0116CV (N.Y. Sup. Ct., Steuben Cnty.) (May 20, 2022), <https://jonathancervas.com/2022/NY/CERVAS-SM-NY-2022.pdf>.

⁷ NYC Dep’t of City Planning, Population Division, *New York City's Population Estimates and Trends* (May 2025), https://www.nyc.gov/assets/planning/downloads/pdf/our-work/reports/new-york-city-population-estimates-and-trends_may-2025.pdf.

⁸ See U.S. Department of Justice, *Guidance under Section 2 of the Voting Rights Act*, 52 U.S.C. 10301, for redistricting and methods of electing government bodies 12 (Sept. 1, 2021), <https://www.justice.gov/archives/opa/press-release/file/1429486/dl>.

C. Purpose of Report

20. The attorneys for the Petitioners in this matter asked me to examine districts in the 2024 Congressional Plan (“2024 Plan”) encompassing Staten Island, Lower Manhattan, and Brooklyn.

21. The Petitioners contend that Staten Island’s Black and Latino voters do not have an opportunity to elect a candidate of choice under the 2024 Plan. Under the 2024 Plan, Staten Island is joined with part of Brooklyn to form CD 11.

22. The Petitioners’ attorneys requested that I develop an illustrative plan that would join Staten Island with Manhattan in a reconfigured CD 11. Staten Island and Lower Manhattan are contiguous by water, with free 24-hour transportation via the Staten Island Ferry connecting one to the other.

23. In response, I have developed an illustrative map (the “Illustrative Map”) that would reconfigure CD 11 and adjacent CD 10 under the 2024 congressional plan. The Illustrative Map retains Staten Island in CD 11 and shifts the boundaries of CD 11 to include most, but not all, of the portion of Lower Manhattan currently encompassed in CD 10. The entire section of Brooklyn contained within CD 11 under the 2024 Plan moves to CD 10 under the Illustrative Map.

24. Under the Illustrative Map, the Financial District is split between CD 11 and CD 10. And, as in the 2024 Plan, Chinatown remains entirely within CD 10, keeping it together with Sunset Park—a predominantly Chinese-American neighborhood in Brooklyn. Under the Illustrative Map, Bensonhurst and Bath Beach—two other predominantly Chinese-American neighborhoods in Brooklyn—are located in CD 10 along with Chinatown and Sunset Park.

25. As I explain *infra*, the Illustrative Map is just one of many possible plan variations that could join Staten Island with Lower Manhattan—which Petitioners contend would allow CD-11’s Black and Latino voters an opportunity to elect a candidate of choice.

D. Traditional Redistricting Principles

26. In drafting the Illustrative Map, I followed traditional redistricting principles. The items below describe the traditional redistricting principles that I considered:

- a. *Meet one person, one vote requirements.* New York congressional plans must be within one person of the ideal district size. Based on the 2020 Census, the ideal size for each of the 26 congressional districts is 776,971 persons.
- b. *Maintain reasonably shaped districts that are contiguous and compact.* There are various methods to quantitatively measure compactness. I relied on three of the numerous compactness measures that have been accepted by federal and state courts: Reock (area-based) and Polsby-Popper (perimeter-based), and a composite compactness score generated by the web-based Dave's Redistricting Application.⁹ For all three measures, higher scores indicate a more compact district.
- c. *Consider communities of interest such as neighborhoods, geographic features, transportation corridors, and socioeconomic commonalities.* Communities of interest are groups of individuals who have similar legislative concerns. In drafting the Illustrative Map, I attempted to keep neighborhoods together as defined by New York City's Neighborhood Tabulation Areas ("NTAs"). NTAs are proxies for neighborhoods drawn to follow aggregations of census tract boundaries to facilitate demographic analysis by public agencies and private entities. I have attached as **Exhibit E** a set of maps prepared by the New York City Department of Planning, depicting NTAs in the five boroughs.¹⁰

27. Core retention of a previous districting plan (or "least change") is always a background consideration as well. But it should never preempt traditional redistricting principles. Otherwise, problematic or flawed redistricting plans could become locked in and self-perpetuating. Nonetheless, I considered core retention for the Illustrative Map.

⁹ Dave's Redistricting, <https://davesredistricting.org/maps#home>.

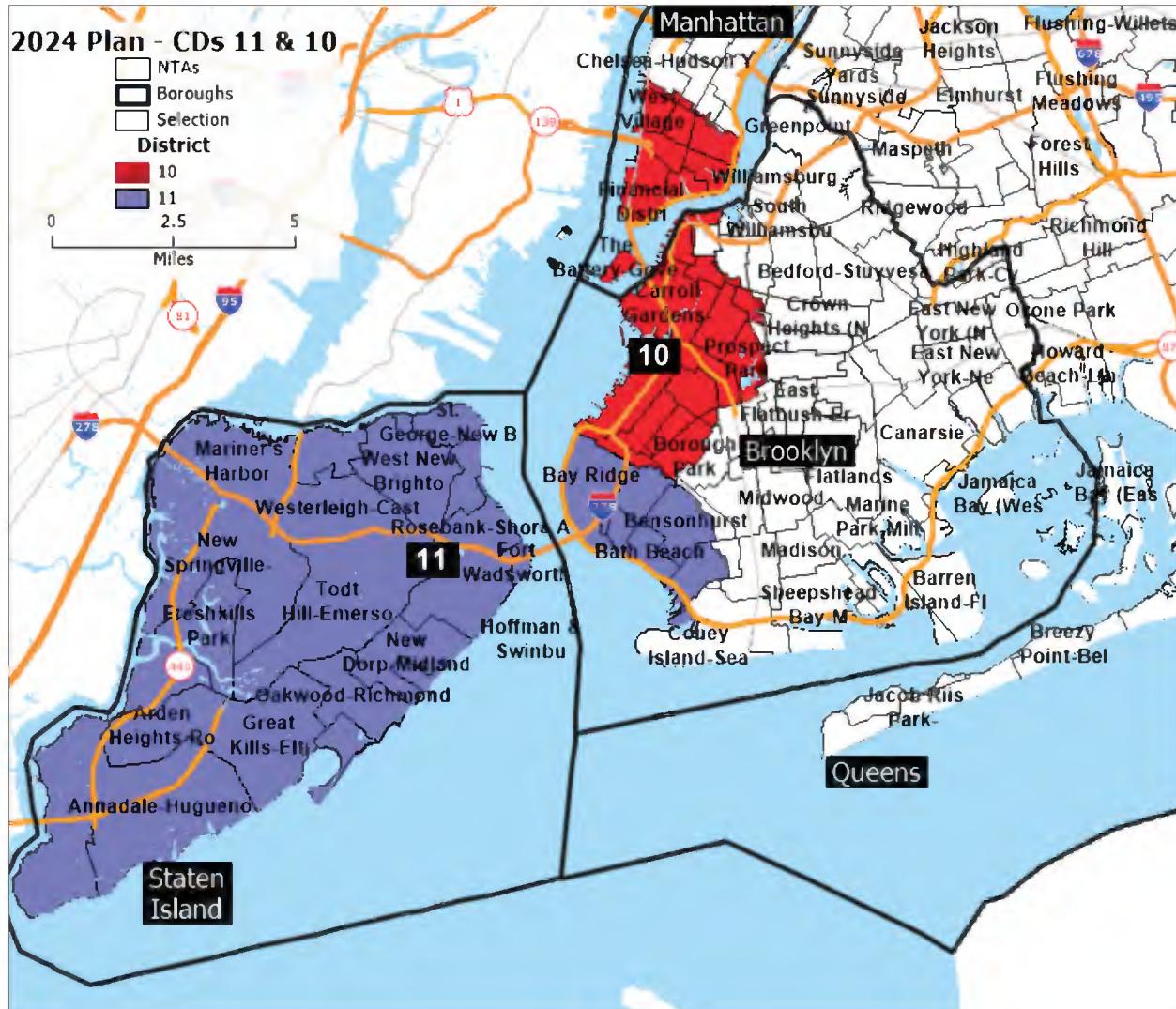
¹⁰ NYC Dep't of City Planning, New York City Neighborhood Tabulation Areas, <https://www.nyc.gov/assets/planning/download/pdf/data-maps/nyc-population/census2010/ntas.pdf>.

II. 2024 CONGRESSIONAL PLAN

A. Geographic Extent

28. **Figure 1** zooms in on Staten Island, Lower Manhattan and Brooklyn, depicting the two congressional districts at issue—CD 11 (purple) and CD 10 (red). Neighborhoods (NTAs) are depicted with thin black lines. Some of the most populated NTAs are labeled. A higher resolution map of Figure 1 is in **Exhibit F-1**.

Figure 1: 2024 Plan – Focus Area: Staten Island, Lower Manhattan, and Brooklyn



B. Demographics

29. **Figure 2** reports race and ethnicity by citizen voting age population percentage (“CVAP”) in CDs 11 and 10 under the 2024 Plan.

Figure 2: 2024 Plan CVAP By Race and Ethnicity¹¹

District	NH AP Black CVAP	Latino CVAP	NH AP Black + Latino CVAP	NH SR Asian CVAP	NH White CVAP
11	7.36%	15.35%	22.70%	16.38%	59.76%
10	7.65%	17.10%	24.76%	16.7%	56.75%

30. **Figure 3** reports total 2020 population by race and ethnicity for Staten Island, Lower Manhattan, and Brooklyn as defined by CD 11 and CD 10 under the 2024 plan.

Figure 3: 2024 Plan Population Percentages by Race and Ethnicity (All Ages)

3-Borough Focus Area	NH AP Black	Latino	NH AP Black + Latino	NH SR Asian	NH White
Staten Island: CD 11	10.45%	19.56%	30.01%	11.85%	56.07%
Brooklyn CD 11 (Part)	1.97%	16.03%	18.0%	36.22%	43.27%
Lower Manhattan: CD 10	6.3%	15.57%	21.86%	22.53%	51.62%
Brooklyn: CD 10 (Part)	6.6%	22.01%	28.61%	21.03%	46.34%

¹¹ Source: Redistricting Data Hub, New York CVAP Data Disaggregated to the 2020 Block Level (2023), <https://redistrictingdatahub.org/dataset/new-york-cvap-data-disaggregated-to-the-2020-block-level-2023/>.

C. Compactness

31. The 2024 Plan is compact. **Figure 4** reports compactness scores for CDs 10 and 11 under the 2024 Plan based on the two most widely referenced measures—Reock¹² and Polsby-Popper¹³—as reported in **Exhibit F-3**. The table also reports an overall mean average for the two districts and the DRA composite compactness score for the two districts combined.¹⁴

Figure 4: 2024 Plan -- Compactness Scores

	CD 11	CD 10	2-District Average
Reock	.52	.43	.48
Polsby-Popper	.57	.35	.46
DRA 2-District Composite			94

32. **Exhibit F-2** is an additional map of the 2024 Plan, zooming in on CDs 11 and 10 in Brooklyn, with an overlay of neighborhoods (NTAs). **Exhibit F-3** reports compactness scores generated by Maptitude for Redistricting for CD 11 and CD 10. **Exhibit F-4** identifies borough splits by population for CDs 11 and 10 in the 3-borough focus area. **Exhibit F-5** identifies NTA splits by population in Lower Manhattan and Brooklyn for CDs 11 and 10. **Exhibit F-6** identifies

¹² “The Reock test is an area-based measure that compares each district to a circle, which is considered to be the most compact shape possible. For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district. The measure is always between 0 and 1, with 1 being the most compact. The Reock test computes one number for each district and the minimum, maximum, mean and standard deviation for the plan.” Maptitude For Redistricting software documentation (authored by the Caliper Corporation).

¹³ The Polsby-Popper test computes the ratio of the district area to the area of a circle with the same perimeter: $4pArea/ (Perimeter^2)$. The measure is always between 0 and 1, with 1 being the most compact. The Polsby-Popper test computes one number for each district and the minimum, maximum, mean and standard deviation for the plan. *Maptitude For Redistricting* software documentation (authored by the Caliper Corporation).

¹⁴ The DRA composite compactness score normalizes the Reock and Polsby-Popper scores based on historical data and the values for ideal shapes, and then averages those individual ratings into an overall rating. Dave’s Redistricting, *Ratings: Deep Dive*, Medium (Oct. 9, 2021), <https://medium.com/dra-2020/ratings-deep-dive-c03290659b7>.

VTD¹⁵ splits by population in Lower Manhattan and Brooklyn for CDs 11 and 10. **Exhibit F-7** identifies all neighborhoods (with population details) that are assigned in whole or in part to CDs 10 and 11. There is also a final section with bottom line totals for the split portions of CDs 11 and 10 across the three boroughs in the focus area.

33. The following link shows a map of the 2024 Plan focus area depicting CDs 11 and 10 as displayed using Dave's Redistricting Application ("DRA"): <https://davesredistricting.org/join/0651dc30-7afe-45df-bcc2-6383fe9fa2ab>.

D. Communities of Interest

34. The 2024 Plan takes into account some communities of interest in that it splits only three NTAs in the three-borough area, and minimizes VTD splits. Notably, the 2024 Plan also preserves a neighborhood community of interest in that it keeps some Chinese-American neighborhoods together in CD 10, though it excludes others (*infra*).

35. **Figure 5** summarizes populated NTA and VTD split counts under the 2024 Plan in CD 10 and CD 11 as shown in **Exhibit F-5** and **Exhibit F-6**.

Figure 5: 2024 Plan – NTA and VTD Populated Splits (excluding 0% and 100% splits)

Census Geography	Splits Between CDs 10 & 11 in the 2024 Plan
Neighborhoods (NTAs)	4
2020 Voting Districts (VTDs)	4
Population in Split VTDs	133,535

III. PRECEDENT FOR A MANHATTAN-STATEN ISLAND DISTRICT

36. Staten Island has a 2020 population of 495,747, but the ideal population size for a congressional district in New York is 776,971. Accordingly, Staten Island alone cannot supply

¹⁵ A VTD is a Census Bureau proxy for precinct boundaries developed in consultation with local and state officials toward the end of each decade.

sufficient population for a congressional district—it must be joined with a neighboring portion of another New York City borough.

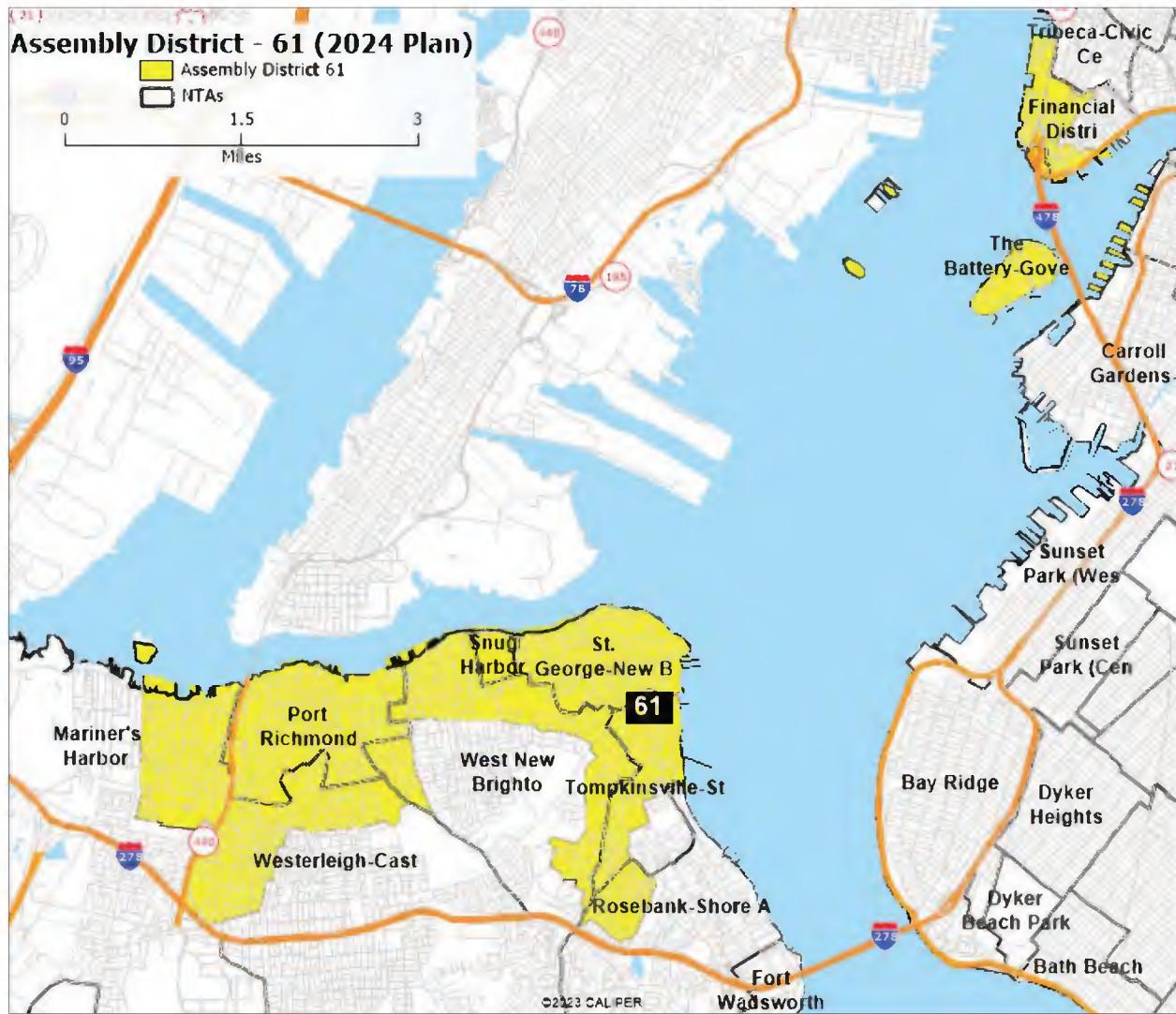
37. While the 2024 Plan joins Staten Island with portions of Brooklyn, it could just as easily joined Staten Island with portions of Manhattan. It would be unremarkable for a congressional district to join those two boroughs, which have been linked by ferry service for over 200 years and by city-operated ferry since 1905. Every day, about 45,000 people take the ferry between Staten Island and Lower Manhattan.¹⁶ The ferry is free to ride and runs 24 hours a day.

38. Moreover, past and present legislative configurations show that joining Staten Island with Lower Manhattan is unremarkable.

39. As shown in **Figure 6**, the northern part of Staten Island and part of Lower Manhattan are together in State Assembly District 61 (48.74% B+LCVAP) under the 2024 Assembly Plan. The Staten Island part of Assembly District 61 has a 2020 population of 113,196 (57.93% B+LCVAP). The remainder of the district extends north to the Financial District in Manhattan, picking up 25,622 persons (12.2% B+LCVAP).

¹⁶ New York City Dep’t of Transportation, Staten Island Ferry Facts, <https://www.nyc.gov/html/dot/html/ferrybus/ferry-facts.shtml> (last visited Nov. 17, 2025).

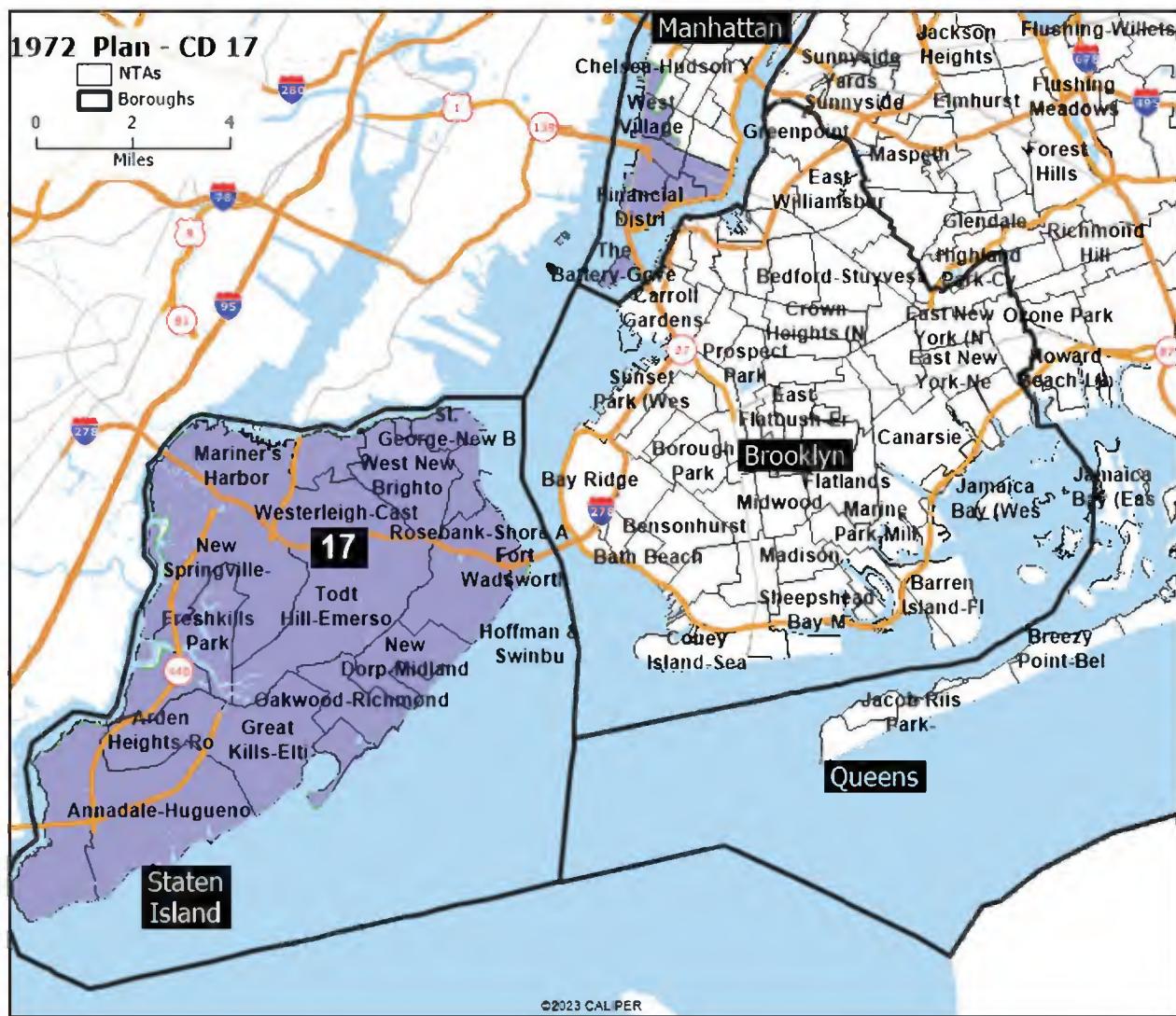
Figure 6: 2024 Assembly District 61 – Staten Island and Lower Manhattan



40. Similarly, a combined Staten Island-Lower Manhattan congressional district has existed within living memory for many voters. **Figure 7** shows that, throughout the 1970s and through 1980, Staten Island was joined with Lower Manhattan to form CD 17.¹⁷

¹⁷ Jeffrey B. Lewis, Brandon DeVine, and Lincoln Pritchett with Kenneth C. Martis, *United States Congressional District Shapefiles*, U. Cal. Los Angeles Dep't of Political Science, <https://cdmaps.polisci.ucla.edu/>.

Figure 7: 1972 Congressional Plan – Staten Island and Lower Manhattan District



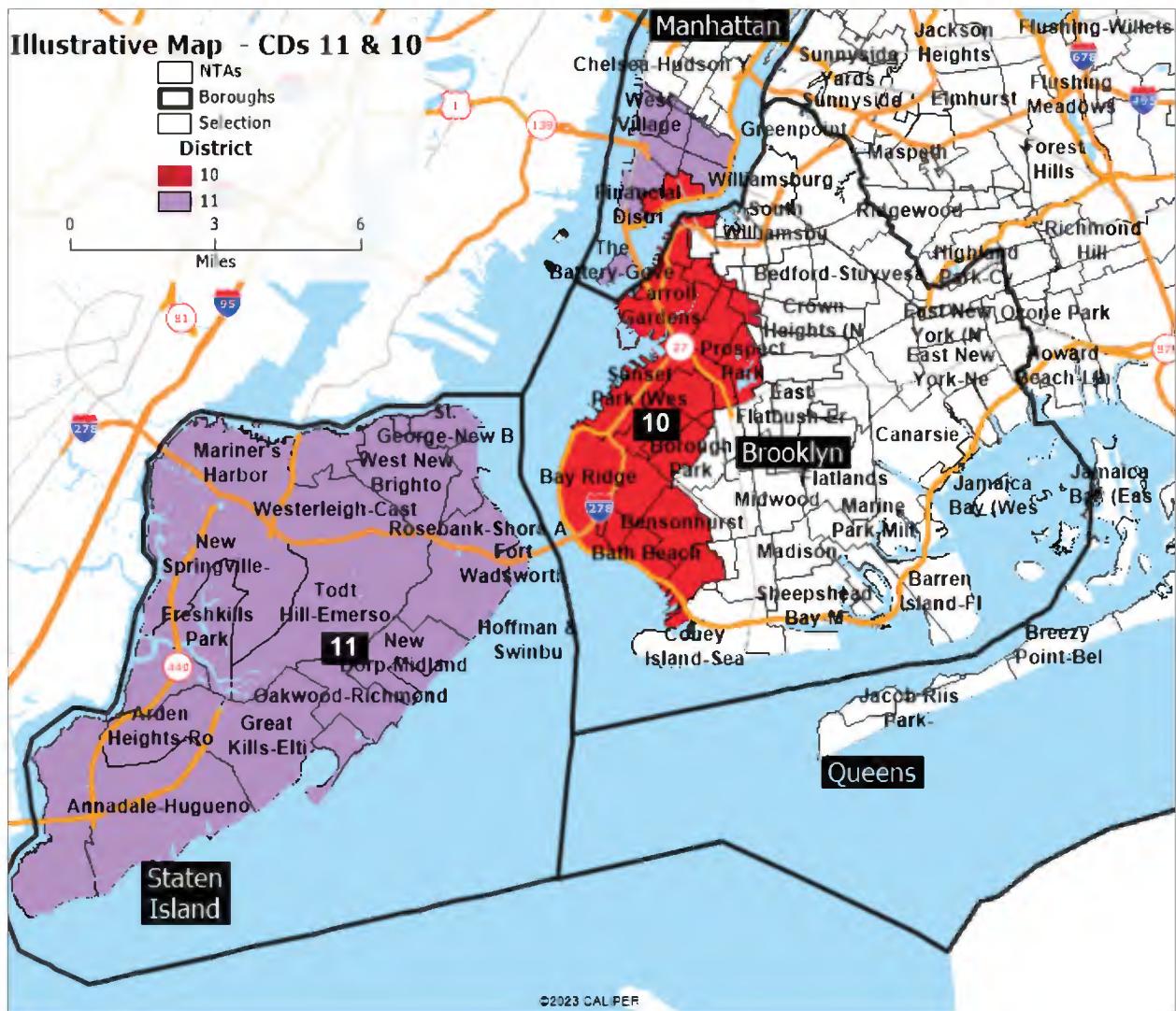
41. Against the backdrop of current AD 61 and the earlier configuration of CD 17 from the 1970s, a present-day congressional district joining Staten Island with Manhattan would be plausible and cognizable.

IV. THE ILLUSTRATIVE MAP**A. Geographic Extent**

42. The map in **Figure 8** shows the Illustrative Map within the context of the 2024 Plan focus area (see **Figure 1** *supra*) – including Staten Island, Lower Manhattan, and Brooklyn. NTAs are depicted with thin black lines. Some of the most populated NTAs are labeled. A higher resolution version of the Figure 8 map is in **Exhibit H-1**.

43. The Illustrative Map shifts the boundaries of CD 11 to retain all of Staten Island and then adds most, but not all, of the portion of Lower Manhattan currently occupied by CD 10. This includes parts of or the whole of the following Lower Manhattan NTAs into CD 11: Chelsea-Hudson Yards, East Village, Financial District, Gramercy, Greenwich Village, Lower East Side, Midtown South, SoHo, Little Italy, Tribeca, and West Village.

Figure 8: The Illustrative Map – Staten Island, Lower Manhattan, & Brooklyn



44. Chinatown remains in CD 10, which, like the 2024 Plan, keeps the neighborhood together with Sunset Park—another predominantly Chinese-American neighborhood in western Brooklyn. Additionally, under the Illustrative Map, Bensonhurst and Bath Beach—two more predominantly Chinese-American neighborhoods in Brooklyn—join CD 10. Part of the Financial District is also in CD 10, along with 22 persons in Tribeca to meet one-person, one-vote requirements.

45. The following link includes the Illustrative Map depicting CDs 11 and 10, as displayed in Dave's Redistricting Application: <https://davesredistricting.org/join/cfba3f64-290a-4fb0-ad03-4429eb4be12f>.

46. The modifications to the 2024 Plan are straightforward. A block of 495,747 persons in CD 11 (i.e. all of Staten Island's population) is joined with Lower Manhattan. In turn, a block of 281,224 persons in southern Brooklyn is shifted from 2024 CD 11 into the Illustrative Map CD 10. Lastly, a corresponding block of 281,224 persons in Lower Manhattan is shifted back into CD 10 (Chinatown, part of the Financial District and 22 persons in Tribeca).

47. **Exhibit H-2** zooms in on CDs 10 and 11 in Lower Manhattan, with an overlay of neighborhoods (NTAs). **Exhibit H-3** reports compactness scores for CDs 11 and 10 based on Reock¹⁸ and Polsby-Popper¹⁹ measures. **Exhibit H-4** identifies borough splits for CDs 11 and 10 in the 3-borough focus area. **Exhibit H-5** identifies NTA splits by population in Lower Manhattan and Brooklyn for CDs 11 and 10. **Exhibit H-6** identifies VTD²⁰ splits in Lower Manhattan and Brooklyn for CDs 11 and 10. **Exhibit H-7** identifies all neighborhoods (with population details) that are assigned in whole or in part to CDs 10 and 11. There is also a final section with bottom line totals for the split portions of CDs 11 and 10 across the three boroughs in the focus area.

48. The Illustrative Map is neutral as compared to the 2024 Map as to borough splits. At the borough level, compared to the 2024 Plan, the Illustrative Map eliminates a split in Brooklyn—by Brooklyn from removing CD 11, but adds one in Lower Manhattan—CD 10.

¹⁸ See *supra* note 12.

¹⁹ See *supra* note 13.

²⁰ See *supra* note 15.

49. The Illustrative Map reflects a significant retention of the 2024 Plan. Core retention from the prior plan (2024 Plan) to a new plan (the Illustrative Map) is defined as the largest population subset that is kept together in the transition from districts in the prior plan to the new plan. In this instance, the core population retained is simply Staten Island itself (495,747) which comprises most of CD 11 under both the 2024 Plan and the Illustrative Map.

B. Demographics

50. Black and Latino citizen voting age population in CD 11 increases under the Illustrative Map. Figure 9 details CVAP by district under the Illustrative Map for CDs 11 and 10. Under the Illustrative Map, the NH AP Black + Latino CVAP for CD 11 increases from 22.70% to 24.71% as compared to the 2024 Plan.

Corrected Figure 9: Illustrative Map – CVAP by Race and Ethnicity

District	NH AP Black CVAP	Latino CVAP	NH AP Black+ Latino CVAP	NH SR Asian CVAP	NH White CVAP
11	8.42%	16.30%	24.71%	12.42%	62.31%
10	6.39%	16.11%	22.50%	23.38%	53.30%

51. **Figure 10** reports total 2020 population by race and ethnicity for the relevant parts of Staten Island, Lower Manhattan and Brooklyn, broken out by CD 10 and 11 under the Illustrative Map.

Corrected Figure 10: Populations by Race and Ethnicity in the Illustrative Map (All Ages)

3-Borough Focus Area	NH AP Black	Latino	NH AP Black + Latino	NH SR Asian	NH White
Staten Island: CD 11	10.45%	19.56%	30.01%	11.85%	56.07%
Lower Manhattan: CD 11	6.19%	16.03%	22.21%	16.4%	57.08%
Lower Manhattan: CD 10	6.75%	13.53%	20.29%	49.57%	27.58%
Brooklyn: CD 10 (Part)	4.94%	19.15%	24.08%	26.97%	43.69%

C. Compactness

52. The Illustrative Map is reasonably compact and within the normal range for congressional districts, both within New York and nationwide. **Exhibit D** offers context on the significance of the Illustrative Plan's compactness score vis-à-vis the 2024 Plan. As shown in **Exhibit D**, which I prepared for testimony in the January 2025 trial in *Allen v. Milligan*, New York's 2024 Plan ranked sixth in the nation based on the Dave's Redistricting Application composite compactness score, meaning its statewide congressional district compactness score was higher than all but five states. Under the 2024 Plan, the statewide mean average is .40 on Reock and .35 on Polsby-Popper. *See Exhibit G.*

53. **Figure 11** reports compactness scores for CDs 11 and 10 in the Illustrative Map, as further reported in **Exhibit H-3**. The table below reports an overall mean average for CD 11 and CD 10 under the Illustrative Map for both Reock and Polsby-Popper, as well as the DRA composite compactness score for both districts combined.²¹

²¹ *See supra* note 14.

Corrected Figure 11: The Illustrative Map – Compactness Scores

Illustrative Plan	2-District		
	CD 11	CD 10	Average
Reock	.30	.30	.30
Polsby-Popper	.28	.19	.24
DRA -District Composite			35

54. By the numbers, the Illustrative Map appears less compact than the 2024 Plan in a head-to-head comparison, though in reality it is comprised of two significantly compact sub-parts—Staten Island and Lower Manhattan—that are connected by around-the-clock free ferry service. There is no population of voters between these two sub-parts of the illustrative CD 11—just Upper New York Bay. The lower compactness score is reflective chiefly of this geographic water and shoreline feature, rather than on-the-ground features of the district.

55. Looking more closely at the two components of CD 11 under the Illustrative Map reveals it is in fact significantly compact on land. To start, the Staten Island component of the Illustrative Map scores exactly the same as the Staten Island component of the 2024 Plan by any compactness measure. That is not surprising—nothing about this part of the district has changed, but, as under the 2024 Plan, it must be joined with some other parts of New York City to achieve sufficient population to form a full district.

56. The densely populated Lower Manhattan component of CD 11 under the Illustrative Map is compact as well. It scores .48 on Reock and .33 on Polsby-Popper—a very respectable compactness score relative to New York’s other congressional districts.²² The Manhattan component of CD 10—including Chinatown, part of the Financial District, and 22 persons in

²² This score excludes Governors Island in the East River and CD 11 which is assigned five persons under the 2020 Census.

Tribeca (included to zero out the deviation)—scores .51 on Reock and .40 on Polsby Popper. It, too, therefore is quite compact.

57. By the same token, the densely populated Brooklyn component of CD 10 under the Illustrative Map scores high—.43 on Reock and .38 on Polsby-Popper.

58. Taken together (excluding Staten Island), the mean average scores for the two sets of the Illustrative Map equate to .44 Reock and .35 Polsby Popper, which is slightly better than the mean average across the 26 congressional districts in the 2024 Plan.²³

D. Communities of Interest

59. Like the 2024 Plan, the Illustrative Map preserves a community of interest at the neighborhood level by connecting Chinese-American neighborhoods in Lower Manhattan and Brooklyn in CD 10. In fact, it advances this preservation of communities of interest by joining the existing Chinese-American communities in CD 10 (Chinatown and Sunset Park) with two additional Chinese-American communities (Bensonhurst and Bath Beach).

60. The Illustrative Map takes another step forward by acknowledging the already existing community of interest in Assembly District 61 (which joins portions of northern Staten Island with Lower Manhattan), which features a large share of Black and Latino voters.

61. **Figure 12** summarizes populated NTA and VTD split counts in Lower Manhattan under the Illustrative Map, as shown in **Exhibit H-5** and **Exhibit H-6**. The Illustrative Map splits populated parts of three NTAs—the same number of populated NTA splits as the 2024 Plan.

²³ NY 2024 Congressional, Dave's Redistricting, <https://davesredistricting.org/maps#analytics::948da7ae-d2f9-48d8-a04a-433f5ff88fed>.

62. The Illustrative Map contains 20 populated VTD splits versus four populated splits in the 2024 Plan. In most instances, the additional split VTDs under the Illustrative Map could be resolved, without creating new VTDs, by merging the splits into already-existing adjacent VTDs.

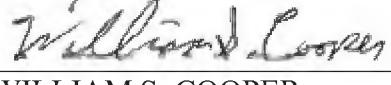
Figure 12: Illustrative Plan - NTA & VTD Populated Splits (ex. 0% and 100% splits)

Splits Between CDs 10 & 11 in the Illustrative Plan	
Census Geography	
Neighborhoods (NTAs)	3
2020 Voting Districts (VTDs)	20
Population in split VTDs	20,762

63. More importantly, as revealed in **Exhibits F-6 and H-6**, the four VTD splits in the 2024 Plan involve a total population of 133,535 versus a total of just 20,762 persons in the 20 populated splits under the Illustrative Map. Thus, the population of voters impacted by the VTD splits (e.g. changes of polling place to the extent they correspond with VTDs) in the Illustrative Plan is likely substantially less than under the 2024 Plan.

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

Executed on: January 1, 2026



WILLIAM S. COOPER

Exhibit K

Rebuttal Expert Report
William Cooper
December 18, 2025

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X

Michael Williams, José Ramírez-Garofalo, Aixa Torres, and
Melissa Carty,

Index No. 164002/2025

Petitioners,

-against-

**Reply Expert Report of
William S. Cooper**

Board of Elections of the State of New York; Kristen Zebrowski Stavisky, in her official capacity as Co-Executive Director of the Board of Elections of the State of New York; Raymond J. Riley, III, in his official capacity as Co-Executive Director of the Board of Elections of the State of New York; Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York; Henry T. Berger, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York; Anthony J. Casale, in his official capacity as Commissioner of the Board of Elections of the State of New York; Essma Bagnuola, in her official capacity as Commissioner of the Board of Elections of the State of New York; Kathy Hochul, in her official capacity as Governor of New York; Andrea Stewart-Cousins, in her official capacity as Senate Majority Leader and President *Pro Tempore* of the New York State Senate; Carl E. Heastie, in his official capacity as Speaker of the New York State Assembly; and Letitia James, in her official capacity as Attorney General of New York,

Respondents,

-and-

Representative Nicole Malliotakis, Edward L. Lai, Joel Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba

Intervenor-Respondents,

-----X

1. My name is William S. Cooper. I filed a report in this case on November 17, 2025. This Reply Report responds to Mr. Thomas Bryan's December 8, 2025 report ("Bryan Report") and Dr. Sean Trende's December 8, 2025 report ("Trende Report").

2. In this report, I was asked to respond to three overarching points raised by Mr. Bryan and Dr. Trende. First, I correct certain typographical errors identified by Mr. Bryan. None of these errors ultimately affects my conclusions in this matter. Second, I address Mr. Bryan's and Dr. Trende's criticisms of my conclusion that the Illustrative Map I prepared in my initial report is compact—a conclusion I stand by. And third, I address Mr. Bryan's disputes over my assessment of how the Illustrative CD-11's political geography measures up against the 2024 plan.

A. Corrected Exhibits

3. Mr. Bryan identified typographical errors in three tables (Figures 9, 10, and 11) in my November 17, 2025 report. The corrections are bolded in the tables (*infra*) and are also corrected in my December 18, 2025, Corrected Report.

4. The typographical errors in Figures 9, 10, and 11 of my November 17 report are not repeated elsewhere in the report, and they do not impact my conclusions in this matter.

5. In ¶112, Mr. Bryan identifies an error in the CVAP percentages I reported in Figure 9 of my report, implying that the methodology I employed is flawed. The methodology is not flawed, but there is a typographic error in the NH SR Asian CVAP column. The correct NH SR CVAP for Illustrative CD-10 is 23.38% and 12.42% for Illustrative CD-11. These corrections are reflected in bold in the amended Figure 9 below.

Corrected Figure 9: Illustrative Map – CVAP by Race and Ethnicity

District	NH AP Black CVAP	Latino CVAP	NH AP Black+ Latino CVAP	NH SR Asian CVAP	NH White CVAP
11	8.42%	16.30%	24.71%	12.42%	62.31%
10	6.39%	16.11%	22.50%	23.38%	53.30%

6. With the corrections to the NH SR Asian CVAP column in Figure 9, CVAP would not exceed 100%. As noted in footnote 11 of my report, I relied on a disaggregated block-level dataset¹ prepared by the Redistricting Data Hub (RDH) – a well-regarded non-profit, non-partisan resource for election-related data. Very minor differences between the CVAP percentages I report and those Mr. Bryan reports may occur because RDH rounded the disaggregated CVAP data to whole numbers.² The net effect is that the CVAP numbers may not round to a perfect 100% even after including CVAP for all race categories.

7. Mr. Bryan also identifies typographic errors in Figures 10 and 11 of my report. I correct these figures in the figures below:

¹ Redistricting Data Hub, *New York CVAP Data Disaggregated to the 2020 Block Level (2023)* (retrieved June 2, 2025), <https://redistrictingdatahub.org/dataset/new-york-cvap-data-disaggregated-to-the-2020-block-level-2023/>.

² Metadata, Redistricting Data Hub, *supra* (June 2, 2025), https://redistrictingdatahub.org/wp-content/uploads/2025/06/readme_ny_cvap_2023_b_csv.txt

Corrected Figure 10: Populations by Race and Ethnicity in the Illustrative Map (All Ages)

3-Borough Focus Area	NH AP Black	Latino	NH AP Black + Latino	NH SR Asian	NH White
Staten Island: CD 11	10.45%	19.56%	30.01%	11.85%	56.07%
Lower Manhattan: CD 11	6.19%	16.03%	22.21%	16.4%	57.08%
Lower Manhattan: CD 10	6.75%	13.53%	20.29%	49.57%	27.58%
Brooklyn: CD 10 (Part)	4.94%	19.15%	24.08%	26.97%	43.69%

Corrected Figure 11: The Illustrative Map – Compactness Scores

Illustrative Map	CD 11	CD 10	2-District Average
Reock	.30	.30	.30
Polsby-Popper	.28	.19	.24
DRA-District Composite			35

8. With the correction to Figure 11, the Reock and Polsby-Popper compactness scores match the scores generated by Maptitude in Exhibit H-3 of my November 17 Report.

9. Mr. Bryan also claims (Bryan Report, ¶ 107) that I did not provide population totals by district for the Illustrative Map as part of my November 17 Report. This is not true. Bottom line population totals and percentages for CD 10 and CD 11 under the Illustrative Map are found in Exhibit H-4 – broken out by Total Population, Hispanic, NH White, NH AP Black, and SR Asian. Summary statistics for the same population groups under the 2024 Plan are found in Exhibit F-4. I also included the correct population data for the Illustrative Map in the GIS file provided to Mr. Bryan in November.

B. Compactness

10. Mr. Bryan, Dr. Trende, and I agree that compactness is a traditional redistricting principle. There is no bright-line rule about what constitutes a compact district. By the numbers, the compactness scores for CD 10 and CD 11 under the Illustrative Map are within the norm in New York and in the nation.

11. There are many 2024 congressional districts in the nation that have lower Reock or lower Polsby-Popper scores than Illustrative CD 10 and CD 11. **Exhibit A** identifies districts in 15 states with very low scores. CA-24 and FL-28 have the highest Reock scores of the bunch (.20) – well below the .30 Reock scores registered by Illustrative CD 10 and CD 11. IL-8 has the highest Polsby-Popper score of the bunch (.11), compared to .19 for CD 10 and .28 for CD 11 under the Illustrative Plan.

12. In further support of my opinion on compactness, I produced in my report the individual compactness scores for the Manhattan component of the Illustrative CD-11 and the Staten Island component of the same. Mr. Bryan and Dr. Trende took issue with this point. To clarify, I did not offer those individual scores as a “novel” approach to district-level compactness scores (Trende Report p. 17, Bryan Report ¶127). Rather, my analysis reflects the reality that, on the ground, voters and campaigners in the new CD-11 would operate within compact areas spanning two boroughs—just like the current CD-11. Illustrative CD-11 does not extend into the land area of Manhattan in a manner that would in any way appear to be irregular or confusing.

13. Mr. Bryan also seems to suggest in ¶ 128 that the Illustrative CD-11 is inferior to the current configuration of the district because it is contiguous only by water, with ferry access available to travel between the two. The Staten Island Ferry is a primary transportation corridor that

connects Manhattan and Staten Island. The Staten Island Ferry has carried people back and forth for 200 years and today carries on average about 45,000 people daily.³

14. As referenced in my November 17 report, current NY Assembly District 61 joins northern Staten Island with Manhattan. Moreover, New York is not the only state with a district that is only contiguous by water. CD-1 in Louisiana is one such example. The map in **Exhibit B** zooms in on CD-1 under Louisiana's 2024 Congressional Plan, drawn by the state's legislature. New Orleans is connected to St. Tammany Parish in CD-1 via the 24-mile-long Lake Pontchartrain Causeway. CD-1 has stretched across unpopulated Lake Pontchartrain for several decades. According to Dave's Redistricting, Louisiana's CD-1 has a Reock score of .48 and a Polsby Popper score of .15.⁴ Like the Staten Island Ferry, average daily traffic on the Causeway is in the 40,000 to 50,000 range.⁵

C. Political Geography

15. Mr. Bryan also criticizes how I assessed the political geography splits—that is, VTD splits—in the Illustrative CD-11 versus the current plan. Mr. Bryan states (¶ 51) that the 2024 Plan splits no current precincts. This is true, but an unfair comparison. Of course, the 2024 Plan does not split precincts because precincts were realigned post-2020 to match the new boundaries for congressional, legislative, and municipal districts. The precincts in effect in 2021 at the time of the

³ N.Y.C. Dep't of Transp., *Staten Island Ferry Facts*, <https://www.nyc.gov/html/dot/html/ferrybus/ferry-facts.shtml> (last accessed Dec. 18, 2025).

⁴ DavesRedistricting.org, *LA 2024 Congressional*, <https://davesredistricting.org/maps#analytics::2ecbe5cd-461e-41e9-a954-2368bbe8b0a2> (last accessed Dec. 18, 2025).

⁵ Lake Pontchartrain Causeway, *About Safety*, <https://thecauseway.us/about-safety/#:~:text=With%2020%2C000%20vehicles%20going%20south%20in%20the,vehicles%20running%20out%20of%20gas%2C%20and%20mechanical> (last accessed Dec. 18, 2025)

initial post 2020 redistricting cycle would have been the 2020 Census VTDs. Because a plan similar to the Illustrative Map could have been enacted in 2021, I chose to level the playing field and compare both plans based on 2020 Census VTDs. Viewed from that 2021 perspective in time, the 2024 plan split four VTDs versus 12 splits by the Illustrative Map. And as I point out in ¶ 63 of my report, the 2024 Plan would have shifted many more persons than the Illustrative Map from one VTD to another. New York City has a world-class GIS staff in the Planning Department and Election Department. Realigning precincts in early 2026 to match the boundaries of the Illustrative Map or a similar remedial map would be a simple task that could be accomplished expeditiously.

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

Executed on: December 18, 2025

A handwritten signature in black ink, appearing to read "William Cooper", is written over a horizontal line.

WILLIAM S. COOPER

Exhibit A

25 Least Compact Congressional Districts (2024) – Reock and Polsby-Popper

State	District	Reock		State	District	Polsby-Popper
AZ	7	0.1618		CA	19	0.10
CA	3	0.1337		CA	20	0.0953
CA	11	0.0954		CA	31	0.1062
CA	19	0.148		CA	41	0.0599
CA	41	0.2026		CA	45	0.0785
CA	42	0.1254		CO	1	0.0864
CO	1	0.1612		CO	6	0.0919
FL	28	0.2004		IL	3	0.0787
IL	3	0.1534		IL	5	0.0677
IL	5	0.1248		IL	8	0.1075
IL	9	0.1029		IL	9	0.0961
IL	13	0.1101		IL	13	0.1043
KY	1	0.1503		IL	16	0.0925
KY	4	0.1896		IL	17	0.0768
LA	6	0.1188		KY	1	0.0897
MD	6	0.1453		LA	4	0.0820
MI	5	0.1381		LA	5	0.0809
MI	13	0.1728		LA	6	0.0527
MN	1	0.1671		MA	7	0.0928
NY	23	0.1868		SC	6	0.0769
TX	15	0.1637		TX	2	0.0745
TX	33	0.1926		TX	18	0.0808
TX	34	0.2002		TX	29	0.0877
TX	35	0.0971		TX	33	0.0450
VA	9	0.1696		TX	35	0.0547

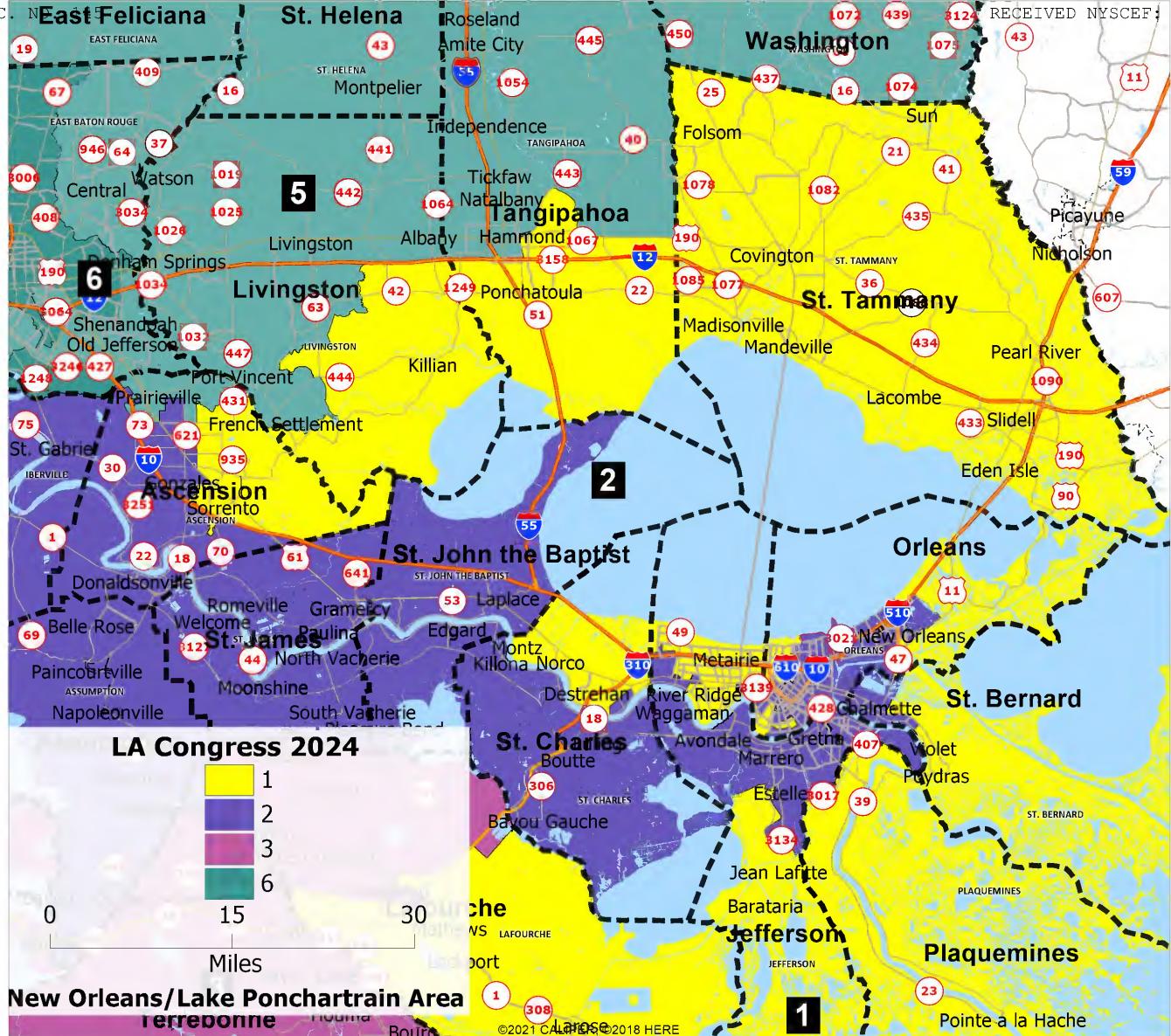


Exhibit L

Expert Report
Sean P. Trende
December 8, 2025

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Michal Williams, et al.,

Petitioners,

-against-

Board of Elections of the State of
New York, et al.,

Respondents,

-and-

Nicole Malliotakis, et al.,

Intervenor-Respondents,

Index No. 164002/2025

Hon. Jeffrey H. Pearlman

EXPERT REPORT OF SEAN P. TREND, Ph.D.

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1 Introduction

My name is Sean P. Trende. I am over 18 years of age and I hold a Ph.D. in Political Science. I have been retained by Troutman Pepper Locke, LLP, on behalf of their clients in the above-captioned matter, *Williams v. Bd. of Elections of the State of New York*, Index No.164002/2025 (N.Y. Sup. Ct. N.Y. Cnty.). I have been asked to conduct certain evaluations and to respond, to the extent appropriate, to the “Expert Report of William S. Cooper,” dated November 17, 2025 (hereinafter “Cooper Report”). I am being compensated at a rate of \$500/hr. My compensation is in no way dependent upon the conclusions I reach. All opinions are offered to a reasonable degree of scientific certainty.

2 Qualifications

2.1 Professional Experience

I serve as Senior Elections Analyst for Real Clear Politics. I joined Real Clear Politics in January of 2009 and assumed a fulltime position in March of 2010. Real Clear Politics is a company of approximately 50 employees, with its main offices in Washington D.C. It produces one of the most heavily trafficked political websites in the world, which serves as a one-stop shop for political analysis from all sides of the political spectrum and is recognized as a pioneer in the field of poll aggregation. Real Clear Politics produces original content, including both data analysis and traditional reporting.

My main responsibilities with Real Clear Politics consist of tracking, analyzing, and writing about elections. I collaborate in rating the competitiveness of Presidential, Senate, House, and gubernatorial races. As a part of carrying out these responsibilities, I have studied and written extensively about demographic trends in the country, exit poll data at the state and federal level, public opinion polling, and voter turnout and voting behavior. In particular, understanding the way that districts are drawn and how geography and demographics interact is crucial to predicting United States House of

Qualifications — 2

Representatives races, so much of my time is dedicated to that task.

I am currently a Visiting Scholar at the American Enterprise Institute, where my publications focus on the demographic and coalitional aspects of American politics. I am also a Lecturer at The Ohio State University. My course load is detailed in my c.v., attached as Exhibit 1.

2.2 Publications and Speaking Engagements

I am the author of the 2012 book, *The Lost Majority: Why the Future of Government Is Up For Grabs and Who Will Take It*. In this book, I explore realignment theory. It argues that realignments are a poor concept that should be abandoned. As part of this analysis, I conducted a thorough analysis of demographic and political trends beginning in the 1920s and continuing through modern times, noting the fluidity and fragility of the coalitions built by the major political parties and their candidates.

I also co-authored the 2014 Almanac of American Politics. The Almanac is considered the foundational text for understanding congressional districts and the representatives of those districts, as well as the dynamics in play behind the elections. My focus was researching the history of and writing descriptions for many of the 2012 districts, including for New York State. This required tracing the history of how and why they were drawn the way that they were drawn. Because the 2014 Almanac covers the 2012 elections, analyzing how redistricting was done was crucial to my work. I have also authored a chapter in Dr. Larry Sabato's post-election compendium after every election dating back to 2012.

I have spoken on these subjects before audiences from across the political spectrum, including at the Heritage Foundation, the American Enterprise Institute, the CATO Institute, the Bipartisan Policy Center, and the Brookings Institution. In 2012, I was invited to Brussels to speak about American elections to the European External Action Service, which is the European Union's diplomatic corps. I was selected by the United States Embassy in Sweden to discuss the 2016 elections before a series of audiences there

and was selected by the United States Embassy in Spain to fulfill a similar mission in 2018. I was invited to present by the United States Embassy in Italy, but was unable to do so because of my teaching schedule.

2.3 Education

I received my Ph.D. in political science at The Ohio State University in 2023. I passed comprehensive examinations in both Methodology and American Politics. My dissertation applied historical and spatial statistical approaches to analyzing American political institutions, including (1) an analysis of Supreme Court voting patterns from 1900 to 1945; (2) methodological development in the use of integrated nested LaPlace approximations (INLA) to incorporate spatial statistics into election analysis; and (3) simulation-based evaluation of “communities of interest” in redistricting. In pursuit of this degree, I also earned a Master’s Degree in Applied Statistics. My coursework for my Ph.D. and M.A.S. included, among other things, classes on G.I.S., spatial statistics, issues in contemporary redistricting, machine learning, non-parametric hypothesis tests and probability theory. I also earned a B.A. from Yale University in History and Political Science in 1995, a Juris Doctor from Duke University in 2001, and a Master’s Degree in Political Science from Duke University in 2001.

In the winter of 2018, I taught American Politics and the Mass Media at Ohio Wesleyan University. I taught Introduction to American Politics at The Ohio State University for three semesters from Fall of 2018 to Fall of 2019, and again in Fall of 2021. In the Spring semesters of 2020, 2021, 2022 and 2023, I taught Political Participation and Voting Behavior at The Ohio State University. This course spent several weeks covering all facets of redistricting: how maps are drawn, debates over what constitutes a fair map, measures of redistricting quality, and similar topics. It also covers the Voting Rights Act and racial gerrymandering claims. I also taught survey methodology in Fall of 2022 and Spring of 2024. In Spring of 2025, I taught Introduction to the Policy Process. In Spring of 2026, I will teach American Government Culture and Behavior.

2.4 Prior Expert Engagements

A full copy of all cases in which I have testified or been deposed is included on my C.V., attached as Exhibit 1. In 2021, I served as one of two special masters appointed by the Supreme Court of Virginia to redraw the districts that will elect the Commonwealth's representatives to the House of Delegates, state Senate, and U.S. Congress in the following decade. The Supreme Court of Virginia accepted those maps, which were praised by observers from across the political spectrum. *See, e.g., New Voting Maps, and a New Day, for Virginia*, The Washington Post (Jan. 2, 2022), available at <https://www.washingtonpost.com/opinions/2022/01/02/virginia-redistricting-voting-maps-gerrymander>; Henry Olsen, *Maryland Shows How to do Redistricting Wrong. Virginia Shows How to Do it Right*, The Washington Post (Dec. 9, 2021), available at <https://www.washingtonpost.com/opinions/2021/12/09/maryland-virginia-redistricting>; Richard Pildes, *Has VA Created a New Model for a Reasonably Non-Partisan Redistricting Process*, Election Law Blog (Dec. 9, 2021), available at <https://electionlawblog.org/?p=126216>.

In 2019, I was appointed as the court's expert by the Supreme Court of Belize. In that case I was asked to identify international standards of democracy as they relate to malapportionment claims, to determine whether Belize's electoral divisions (similar to our congressional districts) conformed with those standards, and to draw alternative maps that would remedy any existing malapportionment.

I served as a Voting Rights Act expert to counsel for the Arizona Independent Redistricting Commission in 2021 and 2022. I have also served as an expert in six cases involving redistricting in North Carolina, including *Williams v. Hall*, No. 1:23-CV-1057 (M.D.N.C. 2023), *Pierce v. N. Carolina State Bd. of Elections*, No. 4:23-CV-193 (E.D.N.C. 2023), *NCLCV v. Hall*, 21-CVS-15426 (Wake Super. Ct. 2021), *Common Cause v. Rucho*, No. 1:16-CV-1026 (M.D.N.C. 2016), *Dickson v. Rucho*, 11-CVS-16896 (Wake Super Ct. 2011), and *Covington v. North Carolina*, No. 1:15-CV-00399 (M.D.N.C. 2015).

3 “Usually” Defeated Analysis

I was asked to re-examine whether minority candidates of choice, as identified by Dr. Palmer, are “usually” defeated, not only in the district in question here, but also in other districts throughout New York City and in the state as a whole. For this analysis, it makes little sense to use the mayoral races that Dr. Palmer utilizes, since many of these districts are not in the City or are only partly so. I also understand that no court has weighed in on the question of what threshold is needed for “usual” defeat under the NYVRA. I don’t weigh in on this question, but simply provide the numbers.¹

3.1 Jurisdiction-Wide Races

To my understanding, one unanswered question in this litigation is the level at which courts are required to assess the ability of the minority candidate of choice to win. We might look at just the individual district. We might take a broader look at the ability of minority candidates of choice to win in a particular area. Or we might look at minority performance overall at whatever level of government is drawing the challenged districts. That is for lawyers to fight about and judges to decide in my view, but I look at results at the various levels.

I start by looking at partisan performance at the jurisdiction-wide level, looking both at New York City as a whole and at New York state. It almost goes without saying that in New York City overall, the minority candidate of choice from District 11 routinely wins. The last registered Republican to win a mayoral election was Michael Bloomberg in 2005. No Republican has been elected Comptroller since 1938, and it does not appear that any Republican has ever been elected NYC Public Advocate. At the citywide level, Democrats carried each statewide election in Dr. Palmer’s dataset. It is clear that Democrats can obviously win citywide elections in New York City; in fact we might debate whether Republicans can do so at all.

If we look at the statewide results in New York—the level at which congressional

¹Given that this is a federal race, with elections held in even years, the federal elections are likely more probative than citywide elections held in odd-numbered years.

"Usually" Defeated Analysis — 6

districts are drawn—it is likewise clear that the Democratic candidate routinely wins statewide elections. The last Republican to carry New York state in a presidential election was Ronald Reagan in 1984. The last Republican to win a gubernatorial election was George Pataki in 2002. The last Republican to win a Senate election was Al D'Amato in 1992. The last Republican to win an attorney general election was Dennis Vacco in 1994. The last Republican to win a Comptroller election was Edward Regan, who won the office in 1990. At the statewide level, it is Democrats all the way down.

3.2 Individual Congressional Districts

We might also conduct our analysis at the level of individual congressional districts. The following table summarizes the Democratic vote share in various races in the congressional districts across the state.

Figure 1: Results of Elections, by NY Congressional District

District	Gov 18	AG 18	Sen 18	Comp 18	Pres 20	Comp 22	Sen 22	Gov 22	AG 22	Sen 24	Pres 24	# D Wins	% D Wins
1	50.9%	50.7%	53.1%	55.5%	49.1%	46.0%	44.3%	41.9%	42.7%	47.1%	44.9%	4	36.4%
2	52.6%	52.3%	54.6%	56.8%	48.8%	43.2%	41.8%	39.0%	40.1%	45.2%	45.0%	4	36.4%
3	58.9%	57.7%	60.0%	62.2%	55.7%	50.8%	49.8%	45.8%	46.7%	50.1%	47.8%	7	63.6%
4	60.8%	59.6%	61.6%	63.3%	57.3%	51.5%	50.6%	47.1%	48.1%	52.8%	50.6%	9	81.8%
5	58.2%	58.3%	88.3%	88.6%	81.4%	75.5%	76.6%	73.3%	74.8%	78.1%	71.3%	11	100.0%
6	74.7%	74.6%	75.0%	75.2%	64.8%	58.3%	59.8%	53.7%	55.7%	58.1%	53.3%	11	100.0%
7	90.1%	90.5%	90.5%	90.2%	80.9%	77.9%	80.3%	74.0%	77.7%	77.4%	73.6%	11	100.0%
8	86.0%	86.2%	86.1%	86.0%	79.9%	73.9%	74.7%	71.7%	73.3%	75.2%	72.5%	11	100.0%
9	85.9%	86.9%	85.5%	86.2%	76.2%	74.1%	75.1%	68.7%	72.8%	75.2%	70.6%	11	100.0%
10	89.5%	89.5%	90.1%	89.3%	85.7%	82.7%	85.1%	80.6%	82.3%	82.8%	81.0%	11	100.0%
11	54.0%	53.5%	55.4%	55.7%	46.1%	39.4%	40.1%	36.3%	37.4%	41.2%	37.6%	4	36.4%
12	56.3%	84.7%	86.6%	85.3%	86.0%	80.9%	83.5%	80.1%	79.9%	81.9%	82.4%	11	100.0%
13	95.3%	95.3%	95.2%	95.0%	88.8%	86.5%	89.1%	86.4%	87.7%	83.5%	80.1%	11	100.0%
14	86.4%	86.7%	86.7%	86.8%	77.8%	70.6%	73.1%	69.1%	70.7%	70.0%	66.2%	11	100.0%
15	93.1%	93.0%	92.9%	93.1%	85.5%	81.0%	83.5%	80.3%	81.9%	78.1%	74.4%	11	100.0%
16	74.2%	74.3%	75.6%	76.0%	72.5%	65.6%	66.2%	63.3%	64.0%	66.6%	66.6%	11	100.0%
17	55.6%	58.4%	60.0%	61.8%	55.1%	52.4%	52.3%	48.3%	50.4%	55.1%	50.3%	10	90.9%
18	49.8%	55.8%	59.3%	59.3%	54.6%	53.3%	52.2%	49.1%	51.0%	56.9%	51.7%	9	81.8%
19	46.8%	52.6%	57.6%	59.1%	52.3%	52.2%	50.3%	46.5%	48.5%	54.4%	50.9%	8	72.7%
20	49.4%	57.0%	62.1%	66.7%	59.8%	60.4%	56.6%	52.9%	54.8%	60.1%	57.2%	10	90.9%
21	35.0%	42.2%	50.9%	52.4%	42.0%	43.1%	40.0%	34.4%	37.6%	44.3%	39.6%	2	18.2%
22	49.5%	54.4%	59.5%	62.5%	55.8%	54.3%	54.1%	48.9%	50.1%	56.2%	53.8%	9	81.8%
23	36.4%	37.5%	46.8%	48.4%	40.7%	40.3%	38.9%	35.5%	36.4%	41.9%	39.4%	0	0.0%
24	33.1%	37.7%	45.5%	47.0%	39.6%	38.1%	37.2%	32.7%	34.1%	41.0%	38.4%	0	0.0%
25	54.3%	57.0%	62.2%	63.2%	60.5%	57.4%	57.0%	53.8%	54.0%	60.0%	59.3%	11	100.0%
26	59.8%	58.5%	66.9%	69.0%	62.8%	62.1%	61.6%	58.4%	58.8%	62.6%	59.8%	11	100.0%

3.2.1 Statewide Results in District 11

We can start with District 11 and build outward from there. I understand that the question “usually wins” is contested in this litigation. I do not take a position on the ultimate question of how broadly or narrowly that should be defined. The minority candidate of choice, however, is capable of winning elections in District 11. They have won four of eleven elections in this dataset. Joe Biden carried 46% of the vote in 2020.

3.2.2 Statewide Results in Congressional Elections in New York City

The minority candidate of choice routinely wins elections in congressional districts across New York City.

In the chart above, Districts 5–15 are wholly within New York City limits, while Districts 3 and 16 are partly within New York City. In every district wholly within New York City outside of District 11, Democrats have never lost a statewide election.

Start with districts based in Queens. In District 5, Democratic performance has ranged from a low of 71% in the 2024 presidential election to a high of 89% in the 2018 New York Comptroller election. In District 6, Democratic performance has ranged between 53% in the 2024 presidential election and 75% in the 2018 races for Senate, Governor, Attorney General, and Comptroller.

Moving to Brooklyn, District 7 straddles the Queens/Brooklyn County boundary. Democratic performance ranges between 74% (President 2024) and 91% (Attorney General and Senate 2018). In District 8, the range is 72% (Governor 2022) to 86% (the four 2018 elections). In District 9, the range is from 69% (Governor 2022) to 87% (Attorney General 2018).

In Manhattan-based districts, Democratic performance ranges between 81% (Governor 2022 and President 2024) and 90% (Senate, Governor, and Attorney General 2018) in District 10. In District 12, the range is 80% (Attorney General and Governor 2022) and 87% (Senate 2018). In District 13, the range is 80% (President 2024) and 95% (the four 2018 elections).

"Usually" Defeated Analysis — 8

Finishing up in the Bronx, District 14 ranges from 66% (President 2024) to 87% (Comptroller, Senate, and Attorney General 2018). In District 15, the range is 74% (President 2024) to 93% (the four 2018 elections).

If we add in the two districts partially within New York City, we see that the range in District 16—primarily in Westchester—is from 63% (Governor 2022) to 76% (Comptroller and Senate 2018). In District 3—primarily based in Nassau County—the range is from 46% (Governor 2022) to 62% (Comptroller 2018).

In short, Democrats have won every statewide election in almost every one of these districts. The only exceptions are District 3, where they have won nearly two-thirds of recent races, and District 11, where they have won a third of recent races. That means that of the eleven districts wholly within New York City limits, ten have always elected the minority candidate of choice. Not only that, they have typically done so by wide margins. The only district where a Democratic candidate has ever dropped below 60% in these elections is NY-6.

As we would expect, all of the districts wholly or partially within New York City, with the exception of the 11th, elect Democrats to Congress. This represents 92% of the delegation. Of those Members of Congress, 66% are minorities. And 80% of the Democrats elected from wholly within the City identify as minorities. One is Asian (Meng), three are Hispanic (Velázquez, Espaillat, and Ocasio-Cortez), and three are Black (Meeks, Jeffries, and Clarke). One identifies as both Black and Hispanic (Torres). Four are White (Suozzi, Goldman, Nadler, Latimer); Latimer and Suozzi represent districts that are primarily located outside of the City.

3.2.3 Statewide Results in Congressional Elections in New York State

If the relevant jurisdiction is the New York congressional delegation, little changes in our analysis. Recall first that New York's congressional delegation statewide currently includes only seven Republicans, comprising 27% of the total delegation. These Republicans are located in Districts 1, 2, 11, 17, 21, 23, and 24. Democrats thus constitute 73% of the New York congressional delegation.

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The NYVRA's standards can collapse upon themselves without guardrails — 9

The only districts where statewide Democratic candidates have never won in this set of recent elections are Districts 23 and 24, in upstate New York. Democrats have won twice in District 21, also upstate. The rest of the delegation is more complex. Democrats have won four elections in Districts 1 and 2 on Long Island. Democrats have won a majority of the statewide elections in the remaining districts throughout the state: nine elections in District 4, ten elections in District 17, nine elections in District 18, eight elections in District 19, and nine elections in District 22. Thus, Democratic statewide candidates have won an outright majority of the statewide races in Dr. Palmer's selections in all but six of the 26 districts (77%). While District 17 is a difficult district for Republicans, they nevertheless presently hold the congressional seat.

Note that in the state of New York, persons of color make up 34.1% of the voting age population, while in the New York City districts persons of color comprise 58.2% of the voting age population. In other words, the share of the New York congressional delegation that consists of the minority candidate of choice is well in excess of proportionality in the State.

4 The NYVRA's standards can collapse upon themselves without guardrails

The NYVRA (which Petitioners assert in this litigation is incorporated for congressional maps via the New York Constitution), to my understanding, can be triggered upon a showing that the minority candidate of choice would “usually be defeated” and that either (a) racially polarized voting exists or (b) the totality of the circumstances demonstrates that the protected class member suffers from an impaired ability to influence the outcomes of elections. The statute does not seem to define what the measuring jurisdiction should be—if it is a particular district, the city or region where the district is located, or the jurisdiction that enacted the map, and the statute does not define the threshold for what “usually defeated” means.

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The NYVRA's standards can collapse upon themselves without guardrails — 10

Conducting the analysis only on the basis of the district in question—especially without a stringent requirement that the racial group's candidate of choice be “usually defeated”—can collapse the NYVRA standards upon themselves, as can be shown by looking at some hypotheticals below.

If the NYVRA protects White voters, as New York courts have so far held, see Clarke v. Town of Newburgh, 237 A.D.3d 14, 33 (2d Dep't 2025), then it would appear that White voters would have viable claims all over New York's congressional map. And changing districts so that minority-favored candidates of choice win more would then mean the same district would need to be changed back so that White voters' candidates of choice are not usually defeated. White voters are not a majority of the population, however measured, in New York City, in the New York portion of the New York City Metropolitan Division, or in the New York portion of the New York–Newark–Jersey City, NY–NJ Metropolitan Statistical Area. Nor are Whites a majority in the New York portion of the New York–Newark, NY–NJ–CT–PA Combined Statistical Area. Yet one can see that the Illustrative Map is drawn such that they would not usually elect their candidate of choice in any district in the city under any definition (since Democrats win every election in every district under the Illustrative Map), and would arguably do so in just two districts in the area (a third, District 17, most recently elected a Republican to Congress but frequently votes for Democrats statewide as shown above).

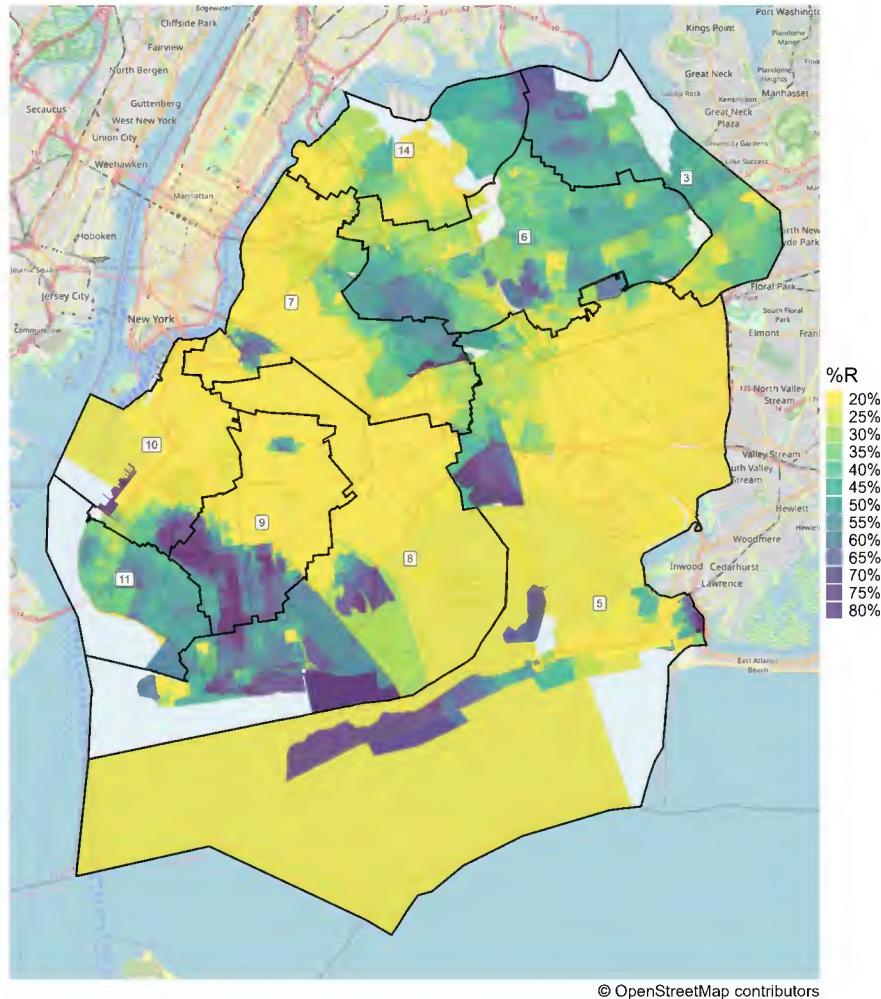
This is not a purely hypothetical concern. It is my understanding that a separate expert report demonstrates racially polarized voting in the area covered by district 5, 8 and 9. If we look at a heatmap of voting in Brooklyn and Queens, there is, in fact, a large cluster of Republican precincts contained within these heavily Democratic districts. Whites are a minority in each of these precincts, constituting 16.7% of the citizen voting age population in 5, 30.7% in 8 and 33.6% in 9.

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The NYVRA's standards can collapse upon themselves without guardrails — 11

Figure 2: R voting percentage by precinct using index of statewide elections, NYC



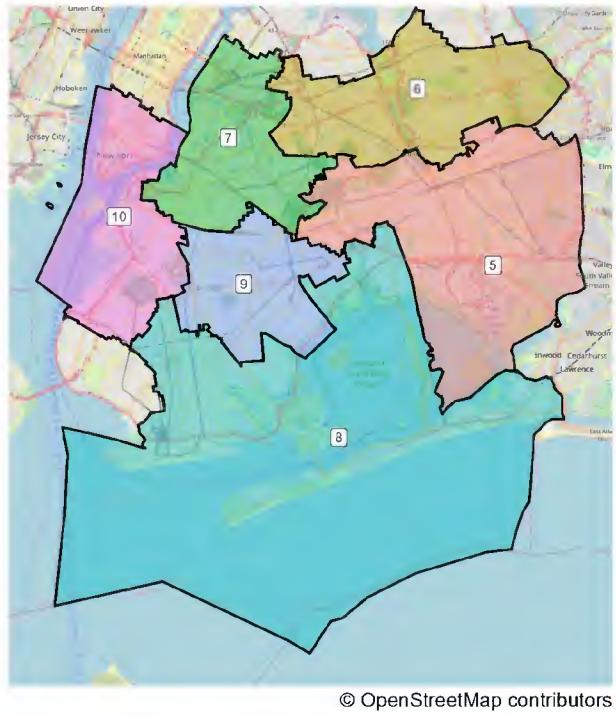
The maps also have several problems that Mr. Cooper discussed. For example, the southeastern “bulge” in District 7 cuts across multiple neighborhoods, including Forest Park, Woodhaven and Ozone Park. Suppose that White voters in these districts sue—for simplicity’s sake we will exclude the possibility that White voters in Cooper’s reconfigured District 10 might join the suit. Now, consider the following reconfiguration:

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The NYVRA's standards can collapse upon themselves without guardrails — 12

Figure 3: Potential reconfiguration of Districts 5, 7, 8 and 9, with Republican-performing district



It's not perfect—it's meant to be conceptual and not a demonstration map for actual litigation—but it actually makes the districts here more compact on balance than those in the Cooper Maps for these districts. It also creates a District 8 where Republican candidates win more often than not. They have also won every statewide election since 2020. It would seem to satisfy all of the requirements of the NYVRA, at least under a very permissive construction.

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The NYVRA's standards can collapse upon themselves without guardrails — 13

Table 1: Reock and Polsby-Popper Scores, Various Maps

Measure	Reock	Reock	Reock	Reock	PP	PP	PP	PP
District	Ill. 1	Ill. 2	Enacted	Cooper	Ill. 1	Ill. 2	Enacted	Cooper
5	0.4849	0.2758	0.2758	0.2758	0.2685	0.273	0.273	0.2511
7	0.4903	0.3345	0.3701	0.3701	0.2477	0.1539	0.2548	0.2548
8	0.3965	0.5554	0.3315	0.3315	0.307	0.2982	0.2338	0.2338
9	0.5021	0.3583	0.5585	0.5585	0.2822	0.2269	0.3754	0.3754
10	0.56	0.5403	0.56	0.3913	0.3643	0.4349	0.3643	0.1929
Average	0.48676	0.41286	0.41918	0.38544	0.29394	0.27738	0.30026	0.2616

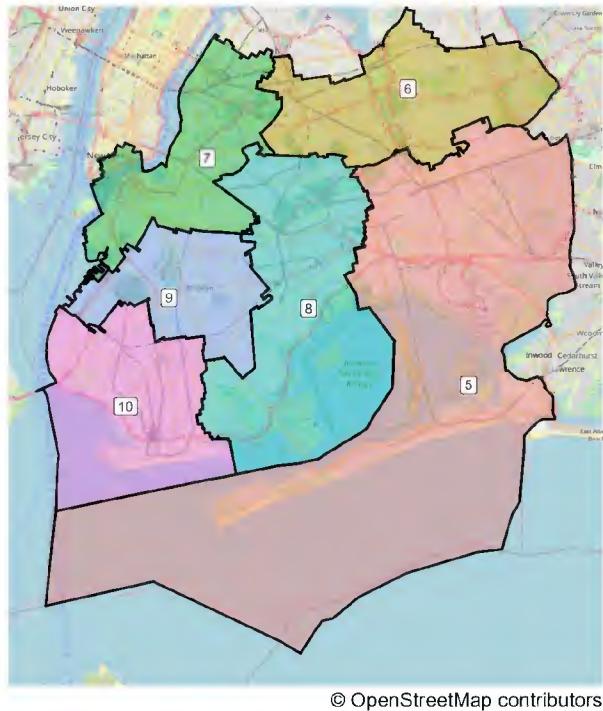
Or, assume that plaintiffs were to win their claim now. Conservative white residents of newly created District 10 are not content with their new district. They can offer an even stronger map, changing only districts 7, 8, 9 and 10:

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The NYVRA's standards can collapse upon themselves without guardrails — 14

Figure 4: Potential reconfiguration of Districts 7, 8, 9, and 10 with Republican-performing district



Here, the compactness scores are again in excess of those in Mr. Cooper's map. Republicans have again won every election in the newly configured District 10 since 2022; in 2024, Kamala Harris performed better in Alabama than she did in this district.

But of course, now the minorities in District 8 in the first version, or District 10 in the second, would have a claim. They can demonstrate that the preceding map gave them four districts that would elect their candidate of choice. There is still racially polarized voting in District 8. They would therefore win their claim.

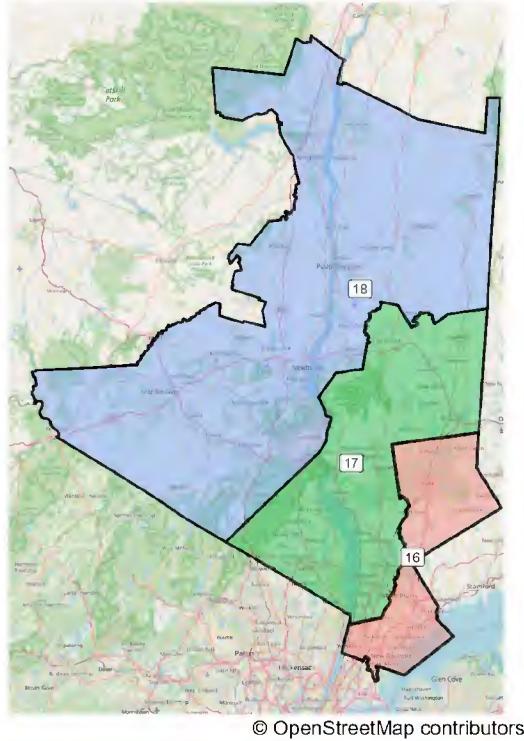
Or consider districts 16 and 17. They could be reconfigured as follows:

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The NYVRA's standards can collapse upon themselves without guardrails — 15

Figure 5: Potential reconfiguration of Districts 16 and 17 with Republican-performing district



These are not terribly compact, but neither is Mr. Cooper's version of District 11. In this version, Democrats would have won the district in every statewide election in our dataset with the exception of the 2022 New York gubernatorial race (where they received 49.6% of the two-party vote). But then conservative Whites would have been shut out of every district in the northern suburbs and exurbs of New York City. If they can establish racially polarized voting, they would be able to countersue.

Redistricting is always a zero-sum game. Moves that benefit one side hurt another side. Unless one measures “usually defeated” on a jurisdiction-wide basis and with a stringent threshold of “usually defeated”—or builds in constraints such as those found under Section 2 of the VRA—one gets caught in the types of endless loops we find here.

5 Mr. Cooper's Maps

Next, I was asked to examine Mr. Cooper's maps to determine whether they are compact or historically grounded. Compactness is a tricky determination, as there are no widely agreed-upon measures for when a district becomes "compact" or when districts are "similarly" compact. However, Mr. Cooper employs a conceptualization of compactness that has, to my knowledge, never been used before.

Mr. Cooper acknowledges that the Illustrative Map decreases the compactness in districts 10 and 11. We can see this more clearly if we place the Polsby-Popper and Reock scores for both maps side-by-side. Here I am using his measures as reported in his report; note that different shapefiles and different projections can yield different scores.

Table 2: Comparison of Reock and Polsby-Popper Scores, Cooper and Enacted Maps.

District	Reock – Enacted	Reock – Illus.	PP – Enacted	PP – Illus.
10	0.43	0.3	0.35	0.2
11	0.52	0.18	0.57	0.27

Mr. Cooper attempts to justify this in two ways. He initially claims that these districts are within range for New York and nationally. There are two problems with this. First, compactness scores are often constrained by geographic features and state boundaries. For example, Maryland will almost always have a district with a low Reock score, because the panhandle of that state forces it. Likewise, things like river boundaries or coastlines with irregular edges can cause Polsby-Popper scores to fall. Here, Long Island will result in New York having at least one district with a poor Reock score (the Suffolk County-based district). Upstate New York features a few mid-sized metropolitan areas capable of almost supporting a district on their own, surrounded by lightly populated rural areas; failure to split those metropolitan areas will leave the resulting districts dis-

Mr. Cooper's Maps — 17

torted. Here, there is no doubt that more compact districts can be drawn, as we see in the Enacted Map. Mr. Cooper is simply sacrificing compactness—in the case of District 11 by cutting the Polsby-Popper score in half and the Reock Score by two thirds—to achieve his other goals.

The second problem with his argument is that his own data from Table G demonstrate that the 11th district would actually have the worst Reock score in the entire state and would be well below average. In the Enacted Map, District 10 is the 4th-most compact district on Reock, while District 11 is the 9th; in the Illustrative Map they fall to the 20th-most compact and least compact, respectively. In the Enacted Map, District 11 is the 3rd-most compact district, while District 10 is the 12th-most compact; both have above-average compactness scores. He transforms them to the 19th- and 24th-most compact districts, respectively.

Mr. Cooper's other response is that, when you remove the intervening waterways and look at the land areas of District 11, the parts of the district are quite compact. First, this overlooks the fact that both districts are made less compact, not just District 11. Second, I have never heard of a district's compactness being judged by breaking it up into pieces and examining the pieces. New York has long had districts that have crossed New York Bay, the East River, or even (in one famous example) passed along the northern edge of Long Island in non-contiguous chunks. This would likely be precedent-setting. One can imagine, for example, a district traversing Puget Sound, giving rise to a terrible Reock Score that is forgiven because the intervening water is ignored (Puget Sound is traversed by a multitude of ferry routes). The district that lumped together portions of metro Buffalo and Rochester in the 2000s could be forgiven if it hadn't included a land bridge between the district portions and had simply skipped along Lake Erie. Or one might imagine a district that hops along Long Island Sound and displays a good Reock Score because the land areas are calculated separately from one another. Ferries from lower Manhattan depart not only to Staten Island, but also to Rockaway Beach, Soundview, and Astoria. This is either a contiguous district or it isn't, and it should be

Mr. Cooper's Maps — 18

judged as such.

Finally, Mr. Cooper overstates his case when he suggests that there is ample precedent for connecting Staten Island with Manhattan. In terms of Congressional maps, he points only to a single congressional map, drawn in the first Nixon Administration. This map was drawn just seven years after the opening of the Verrazano Narrows bridge. Before that, travel to Brooklyn and to Manhattan both required ferry rides; direct travel by car to other places in New York required a drive through New Jersey. One imagines the connection to Brooklyn is much less tenuous 55 years later. More importantly, the following maps illustrate every New York congressional map since. As you can see, Staten Island has always been connected to Brooklyn, much as it is in the current map. Even the initial 2021 map, which was struck down as a partisan gerrymander, failed to link Staten Island with lower Manhattan.²

²The shapefiles for the following maps are taken from Jeffrey B. Lewis, Brandon DeVine, Lincoln Pitcher, and Kenneth C. Martis. (2013) Digital Boundary Definitions of United States Congressional Districts, 1789-2012. Retrieved from <https://cdmaps.polisci.ucla.edu> on July 11, 2022.

Figure 6: Enacted Congressional Districts, 98th Congress (1982)

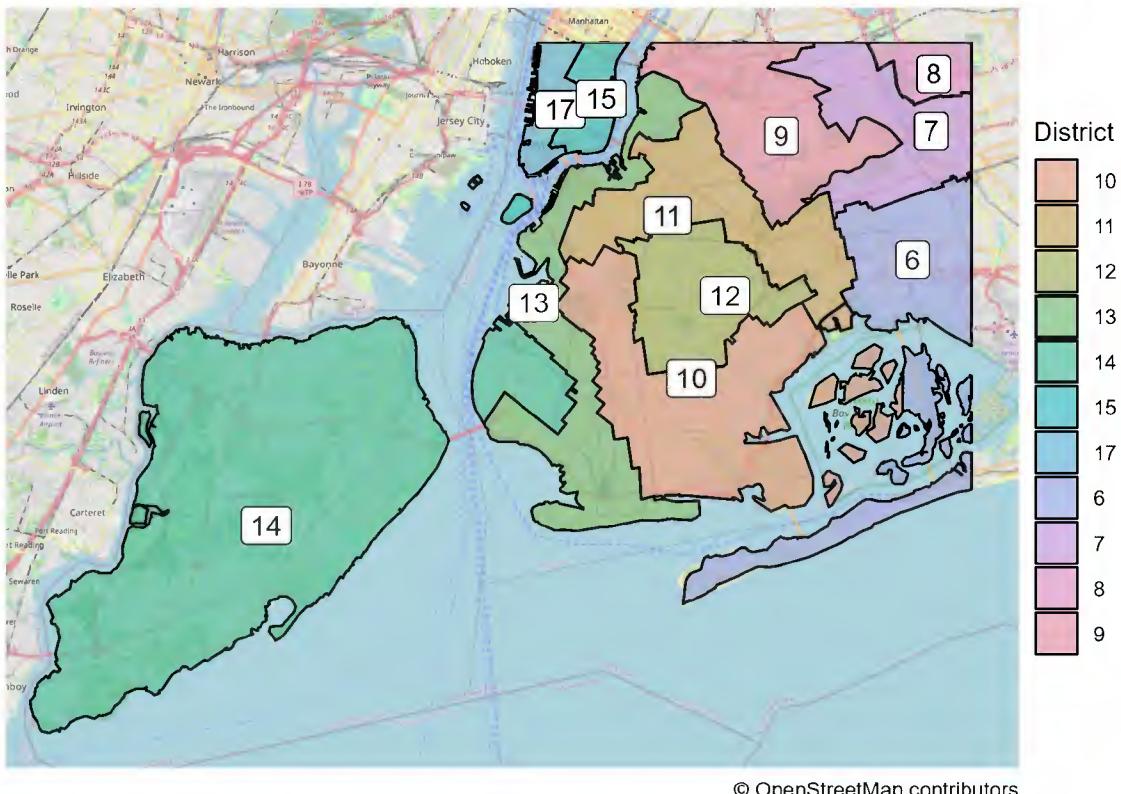


Figure 7: Enacted Congressional Districts, 103rd Congress (1992)

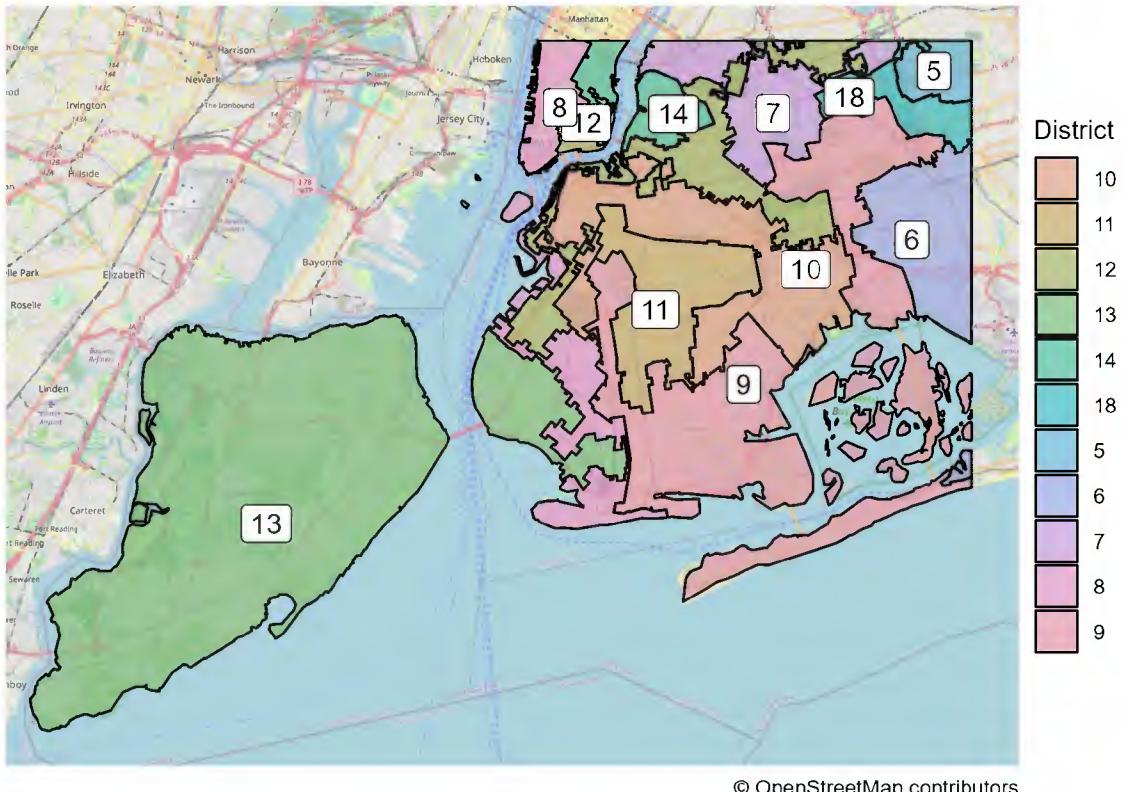


Figure 8: Enacted Congressional Districts, 108th Congress (2002)

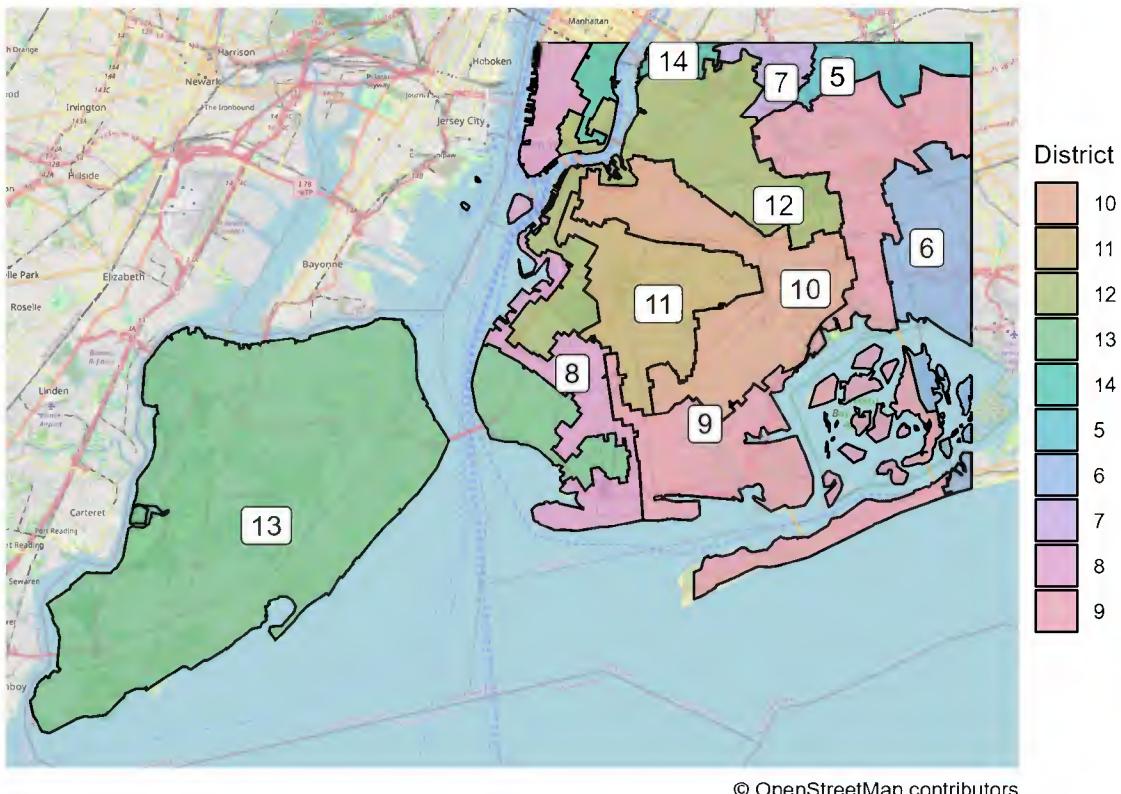


Figure 9: Enacted Congressional Districts, 113th Congress (2012)

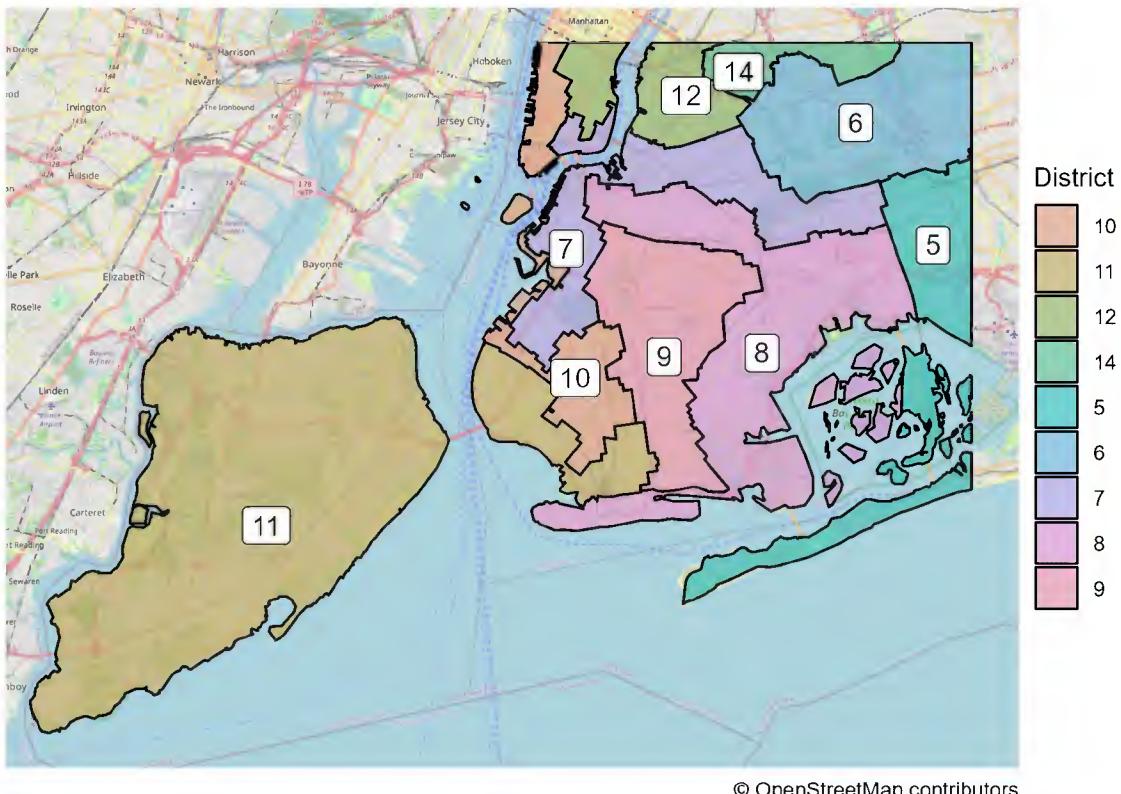
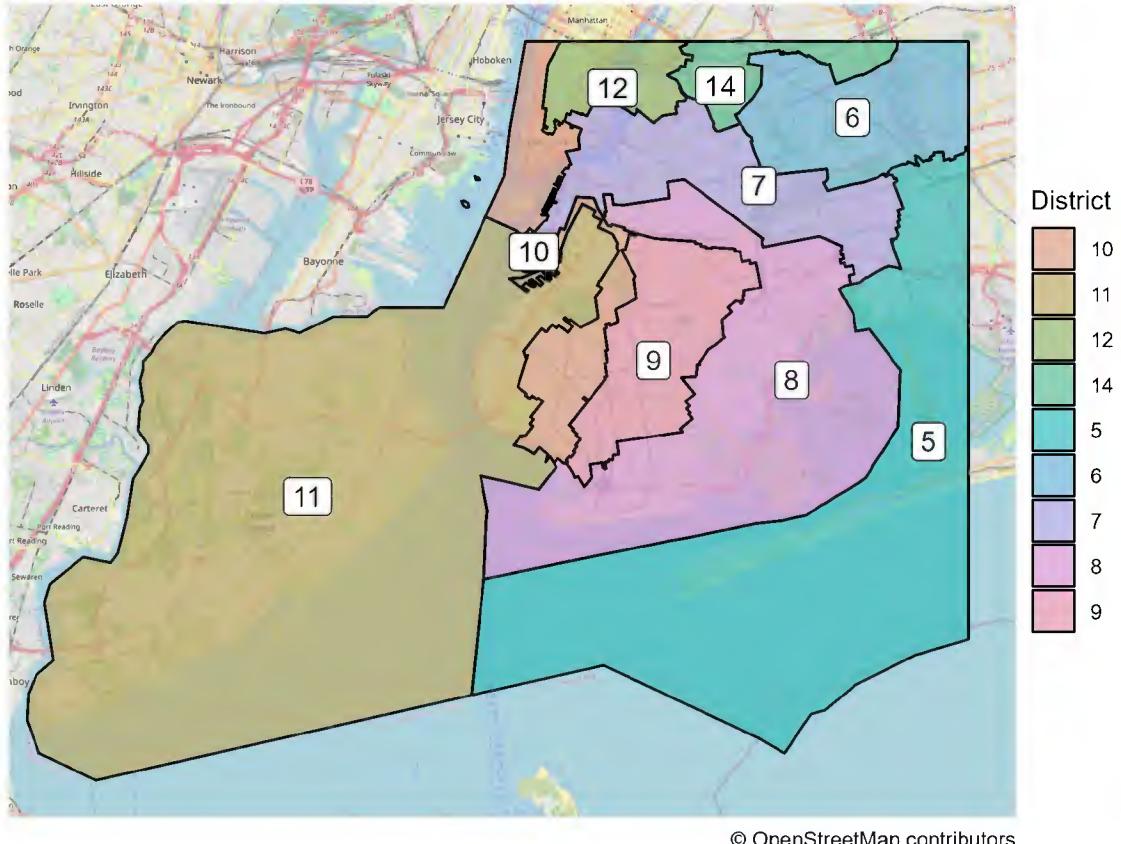


Figure 10: Enacted Congressional Districts, 118th Congress (Never Employed) (2022)



Finally, that Staten Island and Lower Manhattan were combined in 1972 does not mean that the connection did not raise eyebrows. The *Almanac of American Politics*, a standard reference work relied upon in peer-reviewed literature, wrote that “the conservative homeowners of Staten Island find themselves in the same congressional seat with elderly Jewish people living in housing projects, and well-to-do Greenwich Village liberals. The Manhattan portion of the 17th also contains many other groups, but these

Conclusion — 24

do not cast enough votes to assume any significance.” Michael Barone, Grant Ujifusa, and Douglas Matthews, *Almanac of American Politics 1974* 688 (1973). It goes on to describe the “incongruous linking” between the two portions of the district.

This leaves only the Assembly district map, which was drawn by the same legislature that drew the maps struck down in the *Harkenrider* litigation. It carves Staten Island up into four districts, only two of which are wholly located on the island. The map already employs the Verrazzano Narrows bridge as a traversal into Brooklyn for the 64th District; the ferry is employed only as a secondary route. In other words, even in this map, the map makers linked Staten Island with Brooklyn first.

6 Conclusion

The outcome of the analysis of “usually” defeated can vary based upon the jurisdiction looked at, as well as the threshold employed. This is important, because with too ‘loose’ of guardrails, the NYVRA’s standards can collapse upon themselves and give rise to endless litigation loops. Moreover, Mr. Cooper’s maps depart from traditional redistricting criteria in several respects.

Conclusion — 25

I declare under penalty of perjury under the laws of the State of Ohio that the foregoing is true and correct to the best of my knowledge and belief. Executed on December 8th, 2025 in Delaware, Ohio.



Sean P. Trende

ADMITTED 01/07/2026

RECEIVED NYSCEF: 12/08/2025

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SEAN P. TRENDE

1146 Elderberry Loop

Delaware, OH 43015

strende@realclearpolitics.com

EDUCATION

Ph.D., The Ohio State University, Political Science, 2023. Dissertation titled *Application of Spatial Analysis to Contemporary Problems in Political Science*, September 2023.

M.A.S. (Master of Applied Statistics), The Ohio State University, 2019.

J.D., Duke University School of Law, *cum laude*, 2001; Duke Law Journal, Research Editor.

M.A., Duke University, *cum laude*, Political Science, 2001. Thesis titled *The Making of an Ideological Court: Application of Non-parametric Scaling Techniques to Explain Supreme Court Voting Patterns from 1900-1941*, June 2001.

B.A., Yale University, with distinction, History and Political Science, 1995.

PROFESSIONAL EXPERIENCE

Law Clerk, Hon. Deanell R. Tacha, U.S. Court of Appeals for the Tenth Circuit, 2001-02.

Associate, Kirkland & Ellis, LLP, Washington, DC, 2002-05.

Associate, Hunton & Williams, LLP, Richmond, Virginia, 2005-09.

Associate, David, Kamp & Frank, P.C., Newport News, Virginia, 2009-10.

Senior Elections Analyst, RealClearPolitics, 2010-present.

Columnist, Center for Politics Crystal Ball, 2014-17.

Visiting Scholar, American Enterprise Institute, 2018-present.

Exhibit 1 – Sean Trende C.V. — 28

BOOKS AND BOOK CHAPTERS

Larry J. Sabato, ed., *The Red Ripple*, Ch. 15 (2023).

Larry J. Sabato, ed., *A Return to Normalcy?: The 2020 Election that (Almost) Broke America* Ch. 13 (2021).

Larry J. Sabato, ed., *The Blue Wave*, Ch. 14 (2019).

Larry J. Sabato, ed., *Trumped: The 2016 Election that Broke all the Rules* (2017).

Larry J. Sabato, ed., *The Surge: 2014's Big GOP Win and What It Means for the Next Presidential Election*, Ch. 12 (2015).

Larry J. Sabato, ed., *Barack Obama and the New America*, Ch. 12 (2013).

Barone, Kraushaar, McCutcheon & Trende, *The Almanac of American Politics* 2014 (2013).

The Lost Majority: Why the Future of Government is up for Grabs – And Who Will Take It (2012).

PREVIOUS EXPERT TESTIMONY AND/OR DEPOSITIONS

Dickson v. Rucho, No. 11-CVS-16896 (N.C. Super. Ct., Wake County) (racial gerrymandering).

Covington v. North Carolina, No. 1:15-CV-00399 (M.D.N.C.) (racial gerrymandering).

NAACP v. McCrory, No. 1:13CV658 (M.D.N.C.) (early voting).

NAACP v. Husted, No. 2:14-cv-404 (S.D. Ohio) (early voting).

Ohio Democratic Party v. Husted, Case 15-cv-01802 (S.D. Ohio) (early voting).

Lee v. Virginia Bd. of Elections, No. 3:15-cv-357 (E.D. Va.) (early voting).

Feldman v. Arizona, No. CV-16-1065-PHX-DLR (D. Ariz.) (absentee voting).

Exhibit 1 – Sean Trende C.V. — 29

A. Philip Randolph Institute v. Smith, No. 1:18-cv-00357-TSB (S.D. Ohio) (political gerrymandering).

Whitford v. Nichol, No. 15-cv-421-bbc (W.D. Wisc.) (political gerrymandering).

Common Cause v. Rucho, No. 1:16-CV-1026-WO-JEP (M.D.N.C.) (political gerrymandering).

Mecinas v. Hobbs, No. CV-19-05547-PHX-DJH (D. Ariz.) (ballot order effect).

Fair Fight Action v. Raffensperger, No. 1:18-cv-05391-SCJ (N.D. Ga.) (statistical analysis).

Pascua Yaqui Tribe v. Rodriguez, No. 4:20-CV-00432-TUC-JAS (D. Ariz.) (early voting).

Ohio Organizing Collaborative, et al v. Ohio Redistricting Commission, et al, No. 2021-1210 (Ohio) (political gerrymandering).

NCLCV v. Hall, No. 21-CVS-15426 (N.C. Sup. Ct.) (political gerrymandering).

Szeliga v. Lamone, Case No. C-02-CV-21-001816 (Md. Cir. Ct.) (political gerrymandering).

In the Matter of 2022 Legislative Districting of the State, Misc. No. 25 (Md. Ct. App.) (political gerrymandering)

Montana Democratic Party v. Jacobsen, DV-56-2021-451 (Mont. Dist. Ct.) (early voting; ballot collection).

Carter v. Chapman, No. 464 M.D. 2021 (Pa.) (map drawing; amicus).

NAACP v. McMaster, No. 3:21-cv-03302 (D.S.C.) (racial gerrymandering).

Alexander v. NAACP, Case No. 3:21-cv-03302-MBS-TJH-RMG (D.S.C.) (racial gerrymandering).

Graham v. Adams, No. 22-CI-00047 (Ky. Cir. Ct.) (political gerrymandering).

Exhibit 1 – Sean Trende C.V. — 30

Harkenrider v. Hochul, No. E2022-0116CV (N.Y. Sup. Ct.) (political gerrymandering).

LULAC v. Abbott, Case No. 3:21-cv-00259 (W.D. Tex.) (racial/political gerrymandering/VRA).

Moore et al., v. Lee, et al., (Tenn. 20th Dist.) (state constitutional compliance).

Milligan v. Allen, Case No. 2:21-cv-01530-AMM (N.D. Ala.) (VRA).

Nairne v. Ardoin, NO. 22-178-SDD-SDJ (M.D. La.) (VRA).

Robinson v. Ardoin, NO. 22-211-SDD-SDJ (M.D. La.) (VRA).

Republican Party v. Oliver, No. D-506-CV-2022-00041 (N.M. Cir. Ct. (Lea County)) (political gerrymandering).

Palmer v. Hobbs, Case No. 3:22-CV-5035-RSL (W.D. Wash) (VRA; remedial phase only).

Clarke v. Evers, No. 2023AP001399-OA (Wisc.) (Political gerrymandering; remedial phase only).

Stone v. Allen, No. 2:21-cv-1531-AMM (N.D. Ala.) (VRA).

Milligan v. Allen, No. 2:21-cv-01530-AMM (S.D. Ala.) (VRA).

Agee et al. v. Benson, et al., (W.D. Mich.) (racial gerrymandering/VRA).

Faatz, et al. v. Ashcroft, et al., (Cir. Ct. Mo.) (state constitutional compliance).

Coca, et al. v. City of Dodge City, et al., Case No. 6:22-cv-01274-EFM-RES (D. Kan.) (VRA).

Pierce v. NC State Board of Elections, Case No. 4:23-cv-193 (E.D.N.C.) (VRA).

Williams v. Hall, Civil Action No. 23 CV 1057 (M.D.N.C.) (VRA, Racial Gerrymandering).

Exhibit 1 – Sean Trende C.V. — 31

Hodges v. Passidomo, Case No. 8:24-cv-879-CEH-TPB-ALB (M.D. Fla.) (Racial Gerrymandering).

Cubanos Pa'Lante v. Florida House of Representatives, Case No. 24-cv-21983-JB (S.D. Fla.) (Racial Gerrymandering).

Coads v. Nassau County, Index No. 611872/2023 (N.Y. Sup. Ct., Nassau County) (political gerrymandering, racial gerrymandering, NYVRA).

Harris v. DeSoto County, Civil No. 3:24-CV-00289-GHD-RP (N.D. Miss.) (VRA).

League of Women Voters v. Utah State Legislature, Case No. 22090712 (Utah Dist. Ct.) (Partisan Gerrymandering).

COURT APPOINTMENTS

Appointed as Voting Rights Act expert by Arizona Independent Redistricting Commission (2020)

Appointed Special Master by the Supreme Court of Virginia to redraw maps for the Virginia House of Delegates, the Senate of Virginia, and for Virginia's delegation to the United States Congress for the 2022 election cycle.

Appointed redistricting expert by the Supreme Court of Belize in *Smith v. Perrera*, No. 55 of 2019 (one-person-one-vote).

INTERNATIONAL PRESENTATIONS AND EXPERIENCE

Panel Discussion, European External Action Service, Brussels, Belgium, Likely Outcomes of 2012 American Elections.

Selected by U.S. Embassies in Sweden, Spain, and Italy to discuss 2016 and 2018 elections to think tanks and universities in area (declined Italy due to teaching responsibilities).

Selected by EEAS to discuss 2018 elections in private session with European Ambassadors.

TEACHING

Exhibit 1 – Sean Trende C.V. — 32

Introduction to the Policy Process, Spring 2025.

American Democracy and Mass Media, Ohio Wesleyan University, Spring 2018.

Introduction to American Politics, The Ohio State University, Autumn 2018, 2019, 2020, Spring 2018.

Political Participation and Voting Behavior, Springs 2020, 2021, 2022, 2023.

Survey Methodology, Fall 2022, Spring 2024.

PUBLICATIONS

James G. Gimpel, Andrew Reeves, & Sean Trende, “Reconsidering Bellwether Locations in U.S. Presidential Elections,” *Pres. Stud. Q.* (2022) (forthcoming, available online at <http://doi.org/10.1111/psq.12793>).

REAL CLEAR POLITICS COLUMNS

Full archives available at http://www.realclearpolitics.com/authors/sean_trende/

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
Michal Williams; José Ramírez-Garofalo; Aixa Torres; and
Melissa Carty,

Index No. 164002/2025

Petitioners,

Hon. Jeffrey H. Pearlman

-against-

Motion Seq.

Board of Elections of the State of New York; Kristen Zebrowski Stavisky, in her official capacity as Co-Executive Director of the Board of Elections of the State of New York; Raymond J. Riley, III, in his official capacity as Co-Executive Director of the Board of Elections of the State of New York; Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York; Henry T. Berger, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York; Anthony J. Casale, in his official capacity as Commissioner of the Board of Elections of the State of New York; Essma Bagnuola, in her official capacity as Commissioner of the Board of Elections of the State of New York; Kathy Hochul, in her official capacity as Governor of New York; Andrea Stewart-Cousins, in her official capacity as Senate Majority Leader and President *Pro Tempore* of the New York State Senate; Carl E. Heastie, in his official capacity as Speaker of the New York State Assembly; and Letitia James, in her official capacity as Attorney General of New York.

Respondents.

-and-

Nicole Malliotakis; Edward L. Lai, Joel Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba.

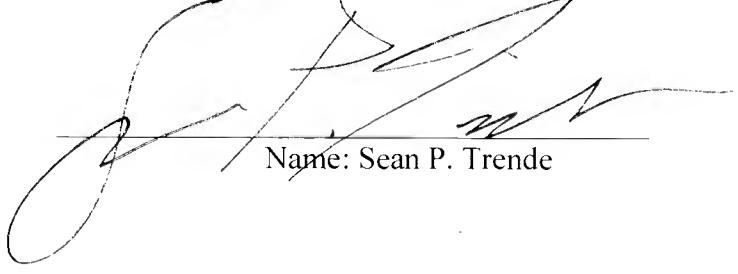
Intervenors-Respondents.

-----X

VERIFICATION

Sean P. Trende, being duly sworn, deposes and says:

1. I am over 18 years of age and am not a party to this case.
2. I swear under penalty of perjury to the faithfulness of the opinions expressed in the foregoing Response to Petitioners' Expert Report of William S. Cooper, and to the best of my knowledge, to the truth and accuracy of the factual statements made therein.
3. If asked to testify on these matters, I could and would testify under oath to their contents, under penalty of perjury.
4. I affirm this 8th day of December 2025, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.



Name: Sean P. Trende

Exhibit M

Expert Report
Joseph C. Borelli
December 8, 2025

**Response to Expert Report of Thomas J. Sugrue
Joseph C. Borelli**

Williams et al. v. Board of Elections of the State of New York et al.

I. Introduction

My name is Joseph C. Borelli and I have been retained as a historical consultant by the Intervenor-Respondents in *Williams v. Board of Elections of the State of New York*. I have been asked to respond to the expert witness report of Thomas J. Sugrue. My rate of compensation is \$500 an hour.

II. Qualifications

After obtaining a bachelor's degree from Marist College and a master's degree from the City University of New York, I spent my entire career in New York City in various capacities. I am currently the Managing Director at Chartwell Strategy Group, where I specialize in governmental relations, political risk management, and strategic communications. I partner with various government and non-profit leaders to navigate high-stakes policy issues, bringing subject-matter expertise to achieve various objectives. For nearly 20 years, I have also been an Adjunct Lecturer of Political Science at the City University of New York, where I've taught classes on national, state and local government, and I was a 2019 Lindsay Fellow at its Institute of State and Local Governance.

Most of my career, however, was spent serving and learning about the City of New York, and specifically Staten Island, where I grew up. In 2005, I served as a Chief of Staff in the New York State Assembly for a member representing Staten Island, staying in that position for two years. I then served as a Chief of Staff in the New York City Council for a member representing Staten Island for the next five years, from 2007 to 2012. In that period, I also worked as a political

consultant on campaigns for numerous federal, state and local offices, most commonly those representing Staten Island.

In 2012, I was elected to the New York State Assembly, serving until 2015. During that time, I was the Ranking Member on the Committee on Cities and a member of the Committee on Energy, Banks, Housing, Health, and Transportation. I also served on the New York City Voter Assistance Commission in 2012 and on the Metropolitan Transportation Authority's Capital Review Board from 2013 through 2015.

Thereafter, I spent ten years on the City Council, representing the South Shore of Staten Island. I chaired various committees and spearheaded legislation on labor matters, environmental regulation, government operations, and building safety. For four years, I was the Chairman of the Committee on Fire and Emergency Management, overseeing the City's fire department and emergency responders. I then served four years as the Minority Leader of the City Council, where I routinely engaged in political matters involving recruiting and fielding candidates for offices around New York and appointing members to the City's 2022 Redistricting Commission. I also served on the critical Land Use Committee, the Budget Negotiation Team, and the Education, Parks, and Rules committees. From 2022 to 2025, I was a Chairman of the National Forum of Republican Mayors, Council Members and County Leaders—which is part of the Community Leaders of America—where I worked with elected leaders and national corporate partners to develop rational municipal policy. I was recently appointed by Mayor Eric Adams to serve on the board of the United Nations Development Corporation.

Most importantly, I am an expert on Staten Island's history. In addition to my graduate research which focused on Staten Island's political history in the 1960s and 1970s, I have published two books on the history of Staten Island: Revolutionary Staten Island: From Colonial Calamities

to Reluctant Rebels, and Staten Island in the Nineteenth Century: From Boomtown to Forgotten Borough. I have also written numerous articles and pieces, including many focusing on Staten Island. My writings are frequently published in the New York Post, where I am currently an opinion columnist, and I've been featured and quoted in the Daily News, the New York Times, the Wall Street Journal, Newsweek, Politico, The Hill and many others. I have logged over 1,000 appearances on global news networks, including Fox News, Fox Business, CNN, CNNI, Newsmax, BBC, SkyNews, NY1 & MSNBC.

III. Materials Relied On

In developing expert opinions in this matter, I have relied on a close reading of Dr. Sugrue's report, as well as primary and secondary research in federal and state reports, newspapers, and miscellaneous materials. Reliance on such materials is customary when providing a historical analysis.¹

IV. Summary of Conclusions

As an initial matter, I note that the unique demographics and practical realities of Staten Island's geographic isolation belie Petitioners' request to connect the "communities of interest" in Staten Island and Southern Manhattan. The diverse populations and physical distance, separated by a body of water, between the two boroughs have ensured that they have little in common, making it impractical to group the two areas together.

I also disagree with Dr. Sugrue's report. He claims to focus "on those areas that are known to have a meaningful effect on political participation, including the totality of the circumstances factors set forth in the New York Voting Rights Act." Dkt.61 ("Rep.") ¶ 6. His description of past and current racial disparities, however, is taken out of context and deficient, wholly ignoring the

¹ In preparing my report, I also had assistance from research consultants.

significant and thriving Asian community on Staten Island as well as the noteworthy advancements made by Staten Islanders in the areas of civil rights and racial equality. Organized by each of the “totality of the circumstances” factors, I challenge his conclusions as follows:

a. Dr. Sugrue’s dismal rendition of Staten Island’s history is one-sided, excluding facts that do not fit his narrative. Omitted from Dr. Sugrue’s discussion is New York’s anti-slavery activity prior to the Civil War, and a history of civil rights activism thereafter. Indeed, a closer examination of New York’s, and particularly Staten Island’s, history demonstrates that New York was often at the forefront of efforts countering unequal treatment of minorities. Staten Island, specifically, boasts the distinction of containing the longest, continually occupied settlement of former slaves, and had been well-known as the home of several prominent abolitionists and a location for their operations. Further, Dr. Sugrue ignores the significant progress Staten Island has made in addressing racial discrimination.

b. Dr. Sugrue provides no evidence that Blacks and Hispanics have been excluded from public office, and, to the contrary, racial and ethnic minorities have had great political success in Staten Island. Indeed, the current Congresswoman for the 11th Congressional District, which encompasses the entirety of Staten Island, is Hispanic and the child of immigrants. Despite having written a 98-page report devoted to racial minorities and politics on Staten Island, Dr. Sugrue’s Report minimizes and refuses to analyze that Staten Island is represented in Congress by a Hispanic woman by claiming that she only has “some Latin American heritage.” Rep. ¶ 90. And Black and Hispanic legislators now hold one-third of all legislative seats partially or wholly located on Staten Island.

c. Dr. Sugrue erroneously maintains that Black and Hispanic voters were structurally prevented from voting because of a history of using literacy tests for voting. But the testing in New

York is considerably more complex than portrayed by Dr. Sugrue and is not unique to Staten Island. Dr. Sugrue similarly does not tie the practice—which was permanently banned fifty years ago—to current voting conditions. Indeed, Dr. Sugrue ignores that New York, including Staten Island, has actually expanded language services to assist minority voters.

d. Neither Dr. Sugrue nor Petitioners provide any support for the factor that eligible Black and Latino voters or candidates have been denied access to the ballot.

e. Dr. Sugrue ignores the regional and national data showing a marked increase in Hispanic voting eligibility, Hispanic voter turnout, and Hispanic voter participation.

f. Dr. Sugrue's examination of disadvantages faced by Black and Hispanic residents of Staten Island in education, housing, and median income ignores the complexity of these issues. Black and Hispanic residents' educational attainment has consistently increased and has outperformed other parts of New York City, the housing statistics are much better on Staten Island than elsewhere, and Black and Hispanic mean income has steadily increased over the past decade.

g. In discussing the disadvantages Black and Hispanic residents of Staten Island allegedly face, Dr. Sugrue fails to recognize Staten Island has strived to end hate and discrimination. Staten Island is replete with public and private organizations committed to assisting minorities, including by ensuring their access to the political process. Dr. Sugrue also disregards Staten Island's low occurrence of hate crimes and that hate crimes have consistently decreased on the Island.

h. Dr. Sugrue's evidence of racial appeals in political campaigns omits any discussion of congressional campaigns, provides an incomplete account of the secession campaign, and summarizes four disparate incidents across a dozen years that do not qualify under his own definition of racial appeals.

V. Expert Opinions

Before addressing Dr. Sugrue's findings, I start with an overview of Richmond County so as to provide a more complete depiction of the diverse Island I grew up on and to underscore the impracticalities of combining Staten Island with Southern Manhattan in the 11th Congressional District. Thereafter, I will discuss each of the "totality of the circumstances" factors in detail.

A. An Overview of Richmond County's Demographics and Diversity²

For modern New Yorkers, Staten Island is simply one of the five boroughs. Yet in terms of its historic and demographic trajectory, it has always been unique, distant and different from its four neighbors. Even today, its nickname remains the "forgotten borough," as it bears little in common with, offers fewer connections to, and receives far less attention from, the rest of the city.

This isolation, more than any other factor, has shaped the demographic reality that exists on Staten Island today. From 1888 to well-into the late-twentieth century, Staten Island's only physical links to the rest of the world came in the form of three vehicular bridges and one railroad bridge to New Jersey. Despite its residents' enthusiastic support for consolidation into Greater New York in the 1890's, it would take until the 1960's before it was finally and permanently linked by bridge to another part of the city, and even then, only to Brooklyn. Still now, after over 150 years of bridge and tunnel construction, a period when the city and state built nearly 30 connections between the other four boroughs, Staten Island remains solely connected to Brooklyn, with no prospect of ever connecting to any other part of New York on the horizon. No other borough is as separated, nor is any one as reliant on a single connection. This history has shaped nearly every aspect of the borough's political history since the Verrazzano Bridge first opened in 1964.

² Richmond County, New York comprises all of Staten Island. This report refers to Staten Island and Richmond County interchangeably.

Richmond County's Demographics

Richmond County is predominately an upper-middle class community with a median property value of 2.17 times larger than the national average and a homeownership rate 3% above the national average, but more than double the rest of New York City.³ The median property value continues to increase, rising 3% between 2022 and 2023.⁴ Still, like most of the region, over 20% of Richmond County's population faces a severe housing crisis, though that indicator has slightly declined over the past ten years.⁵

Race and Diversity

Richmond County is ethnically diverse, growing more so each year. Of the 493,000 people living in Staten Island, 56% are white; 20% Hispanic, 12% are Asian, and 9% are Black or of African origin. As of 2023, 24.8% of Richmond County residents (122,000 people) were born outside of the United States, approximately double the national average. In 2022, the percentage of foreign-born citizens in Richmond County was 24.5%, meaning that the rate has been increasing.⁶

Dr. Sugrue also fails to discuss all ethnic groups, specifically ignoring Staten Islanders of Asian descent. Asians living in Richmond County have higher median incomes and educational attainment, which Dr. Sugrue fails to address. As the Asian community has thrived on Staten Island, they have begun to relocate to the borough at an accelerated pace from Brooklyn. Dr. Sugrue further fails to address that on Staten Island, Asian and Hispanic residences are widely dispersed, with many concentrations located within thriving commercial neighborhoods.

³ *Richmond County, NY*, Data USA, available at <https://datausa.io/profile/geo/richmond-county-ny#housing> (last visited Dec. 8, 2025) (hereinafter “*Richmond County Data*”).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

These failures are critical as a close examination of the demographic composition of Richmond County challenges the elusive “community of interest” concept. Asians, Hispanics, and Blacks differ widely socio-economically and within their communities in Staten Island.

Asian Demographics and Residential Dispersion in Richmond County, New York⁷

⁷ 2020 Census Data Demographic Data Map Viewer, U.S. Census Bureau, available at <https://maps.geo.census.gov/ddmv/map.html> (last visited Dec. 8, 2012).

As of 2023 estimates, the Asian (Non-Hispanic) population represented approximately 12% of the total population in Richmond County. They constitute the third-largest ethnic group in the County after White and Hispanic residents.⁸

The Asian population on Staten Island is incredibly diverse, with numerous households representing Chinese, Indian, Filipino, Pakistani, Middle Eastern, and Korean backgrounds. Even among these ethnicities, there are subgroups within each community showing a wide divergence in origins, cultures and time of arrival.

The Asian population is relatively well dispersed around Staten Island. A manual calculation of the Index of Dissimilarity⁹ through the American Community database reveals that the dissimilarity for Asians on Staten Island in 2023, 2020, and 2010 shows a decline for Asians.¹⁰ Dissimilarity is both low (under 40) and declining (36 in 2010, 34 in 2020, 32 in 2023).¹¹ Although Dr. Sugrue tellingly did not calculate the dissimilarity for Asians on Staten Island, according to his own report, a “dissimilarity value of **40 or below** is considered to have a **low** level of racial segregation.” Rep. ¶ 24.

The median household income for residents of Asian descent in Richmond County was approximately \$86,134, which is slightly lower than the national median for Asians but

⁸ *Race*, U.S. Census Bureau, available at [https://data.census.gov/table/ACSDT5Y2023.B02001?q=B02001:+Race&g=050XX00US36085\\$1400000_060XX00US3608570915_1400000US36085013800&moe=false](https://data.census.gov/table/ACSDT5Y2023.B02001?q=B02001:+Race&g=050XX00US36085$1400000_060XX00US3608570915_1400000US36085013800&moe=false)

⁹ The Dissimilarity Index reflects two or more groups’ relative distributions across a geographical area. *See About Dissimilarity Indices*, CensusScope, available at https://censusscope.org/about_dissimilarity.html.

¹⁰ The U.S. census data underlying these statistics can be found at [https://data.census.gov/table/ACSDT5Y2023.B02001?q=B02001:+Race&g=050XX00US36085\\$1400000_060XX00US3608570915_1400000US36085013800&moe=false](https://data.census.gov/table/ACSDT5Y2023.B02001?q=B02001:+Race&g=050XX00US36085$1400000_060XX00US3608570915_1400000US36085013800&moe=false); [https://data.census.gov/table/ACSDT5Y2020.B02001?q=B02001:+Race&g=050XX00US36085\\$1400000_060XX00US3608570915_1400000US36085013800&moe=false](https://data.census.gov/table/ACSDT5Y2020.B02001?q=B02001:+Race&g=050XX00US36085$1400000_060XX00US3608570915_1400000US36085013800&moe=false); [https://data.census.gov/table/ACSDT5Y2010.B02001?q=B02001:+Race&g=050XX00US36085\\$1400000_060XX00US3608570915_1400000US36085013800&moe=false](https://data.census.gov/table/ACSDT5Y2010.B02001?q=B02001:+Race&g=050XX00US36085$1400000_060XX00US3608570915_1400000US36085013800&moe=false).

¹¹ *Id.*

comparable to the overall county median.¹² Asian students are well-represented in local and regional institutions of higher education. Among university graduates in Richmond County in 2023, 11.6% of those awarded a degree were of Asian descent.¹³ In 2021, 12.1% of all students at College of Staten Island CUNY were of Asian descent, a number that has only increased in recent years, indicating that a significant number of Asian families are moving from Brooklyn to Staten Island.¹⁴

Hispanic Demographics in Richmond County, NY

According to 2023 estimates, Hispanic or Latino people make up about 19.5% of Richmond County's population, making it the second-largest ethnic group on the Island.¹⁵ This reflects a significant increase from previous decades, with the Hispanic population rising over 19% between 2010 and 2020.¹⁶

Hispanics in Richmond County are a diverse minority group, not necessarily sharing a common community of interest. While the most common birthplace of foreign-born Hispanics in New York is the Dominican Republic, Staten Island has a much broader population of Hispanic residents from throughout the Caribbean, Central and South America.¹⁷ Historically, Puerto Ricans have been the most numerous Hispanic subgroup in Staten Island.¹⁸ This is verified in multiple

¹² *Asian-American Studies*, Data USA, available at <https://datausa.io/profile/cip/asian-american-studies> (last visited Dec. 8, 2012).

¹³ *Id.*

¹⁴ *College of Staten Island CUNY*, Data USA, available at [https://datausa.io/profile/university/college-of-staten-island-cuny#:~:text=with%20their%20applications.-,Enrollment,and%20White%20Male%20\(15.3%25](https://datausa.io/profile/university/college-of-staten-island-cuny#:~:text=with%20their%20applications.-,Enrollment,and%20White%20Male%20(15.3%25) (last visited Dec. 8, 2025).

¹⁵ *BO3002 Hispanic or Latino Origin by Race*, U.S. Census Bureau, available at [https://data.census.gov/table/ACSDT5Y2023.B03002?q=Latino&g=050XX00US36085\\$1400000_060XX00US3608570915_140000US36085013800&moe=false](https://data.census.gov/table/ACSDT5Y2023.B03002?q=Latino&g=050XX00US36085$1400000_060XX00US3608570915_140000US36085013800&moe=false) (last visited December 8, 2012).

¹⁶ *Id.*

¹⁷ *Richmond County Data*, *supra* n.3.

¹⁸ *Demographic Characteristics – Staten Island Community District 1*, available at https://www.nyc.gov/assets/planning/download/pdf/data-maps/census/census2000/demo_cd_si.pdf; *Population*, NYC Planning, available at <https://experience.arcgis.com/experience/c625a78991d34ae59deb7a33806ac0d1/page/Hispanic-7C-Mexican>.

data points from the 2010 and 2020 Censuses which show that not only are Puerto Ricans the dominant Hispanic subset, but also that Puerto Ricans are also a large subset of Brooklyn that makes up the current 11th Congressional District, unlike in lower Manhattan where the predominant Hispanic subset is Mexican.¹⁹

That said, Richmond's noteworthy Mexican population has seen significant growth recently, which is reflected in the abundance of Mexican markets. Significant pockets of Mexican and Central American stores have also popped up across the borough in New Dorp, Great Kills, Rosebank, and St. George. The diversity of this community is evident, and according to then-Wagner College professor Abe Unger, "there are Guatemalans and others coming in. So it's not just Mexicans coming in. . . . And even among those Mexicans, you're ranging from cosmopolitan Mexicans to rural Mexicans who don't speak Spanish, but rather native Indian dialects, and so it's a much more diverse Hispanic population than we can really imagine."²⁰

This diverse Hispanic population is spread significantly throughout the borough with no single zip code containing a majority of Hispanics; although concentrations are highest on the North Shore.²¹ For example, while Hispanics make up 20% of the population of Staten Island, no single zip code is made up of more than 50% Hispanics, suggesting that housing among ethnic groups is less segregated by neighborhood than other parts of New York City. Of the island's 12

¹⁹*Hispanic or Latino Origin by Race*, U.S. Census Bureau, available at [https://data.census.gov/table/ACS DT5Y2023.B03002?q=Latino&g=050XX00US36085\\$1400000_060XX00US3608570915_1400000US36085013800&moe=false](https://data.census.gov/table/ACS DT5Y2023.B03002?q=Latino&g=050XX00US36085$1400000_060XX00US3608570915_1400000US36085013800&moe=false); [https://data.census.gov/table/ACSDT5Y2010.B03002?q=Latino&g=050XX00US36085\\$1400000_060XX00US3608570915_1400000US36085013800&moe=false](https://data.census.gov/table/ACSDT5Y2010.B03002?q=Latino&g=050XX00US36085$1400000_060XX00US3608570915_1400000US36085013800&moe=false).

²⁰ *Urban studies professor provides insight on Staten Island demographics for New York 1 series*, Wagner College, (May 19, 2014), available at <https://wagner.edu/newsroom/urban-studies-professor-provides-insight-on-staten-island-demographics-for-new-york-1-series/>.

²¹ *Ranking by Number of People (Hispanic or Latino)*, Data Commons, available at [https://datacommons.org/ranking/Count_Person_HispanicOrLatino/CensusZipCodeTabulationArea/geoId/3608570915?h=geoId%2F3608570915&pc=1&scaling=100&unit=%25#:~:text=Ranking%20by%20Number%20of%20People%20\(Hispanic%20or, NY%2010308%2C%20NY%2010307%2C%20NY%2010309%2C%20NY](https://datacommons.org/ranking/Count_Person_HispanicOrLatino/CensusZipCodeTabulationArea/geoId/3608570915?h=geoId%2F3608570915&pc=1&scaling=100&unit=%25#:~:text=Ranking%20by%20Number%20of%20People%20(Hispanic%20or, NY%2010308%2C%20NY%2010307%2C%20NY%2010309%2C%20NY).

zip codes, all are made up of between 9 and 47% Hispanic households, calling into question Dr. Sugrue's findings of racial segregation.²² This wide residual distribution provides evidence of ethnic integration in Richmond County and challenges Dr. Sugrue's claims of potential racial discrimination and segregation toward Hispanics.

Although Dr. Sugrue relies on dissimilarity rates to suggest "Latinos experience a moderate degree of segregation," Rep. ¶ 26, a manual calculation of the Index of Dissimilarity through the American Community database reveals that for Hispanics on Staten Island in 2023, 2020, and 2010, their dissimilarity against Whites in Staten Island was 42, 41, 42, respectively.²³ Dr. Sugrue's report lists an index of 47 for 2010, Rep. ¶ 26, but the manual calculations reveal the index to be 42.²⁴ The reason for this discrepancy is unclear. The manual calculations demonstrate dissimilarity numbers on the *lower* end of the moderate segregation range for the past 25 years.

Notably, the Hispanic population in Richmond County has reached high educational attainment, obtaining educations at rates comparable to other residents of Richmond County. While Hispanics make up 19% of the County, they earned over 22% of all college degrees awarded in the borough in 2023 (674 of the 3,078 degrees awarded) and make up 26% of current enrollees at the College of Staten Island.²⁵

²² *Id.*

²³ For the census data used for these calculations, *see supra* n.19.

²⁴ The calculations were determined using a widely accepted formula. *See Housing Patterns: Appendix B: Measures of Residential Segregation*, U.S. Census Bureau, available at <https://www.census.gov/topics/housing/housing-patterns/guidance/appendix-b.html>.

²⁵ *Richmond County Data*, *supra* n.3; *Semester Enrollment: Student Demographic Profile*, College of Staten Island CUNY (Fall 2024), available at https://applications.csi.cuny.edu/Institutional_Profile/SemesterEnroll_Profile.html?_gl=1*1e5xw19*_gcl_au*NzI0ODY3MjIyLjE3NjQ2OTE4OTM.

Black Demographics in Richmond County, New York

Black residents make up 9% of Richmond County's population, making them one of the smaller ethnic groups on Staten Island,²⁶ as demonstrated in the map below.²⁷ Within this community, there are sharp differences between country of origin, culture, and arrival in the United States. In fact, only 5% of Staten Island residents identify as African American, the other 4% of Blacks on Staten Island come from Sub-Saharan Africa.²⁸

Staten Island's Black residents come from numerous countries, including Cameroon, Ethiopia, Ghana, Guinea, the Ivory Coast, Kenya, Liberia, Mali, Nigeria, Senegal, Sierra Leone, South Africa, Sudan, Togo, Antigua and Barbuda, the Bahamas, Barbados, the Dominican Republic, Grenada, Haiti, Jamaica, Saint Kitts and Nevis, St. Lucia, Trinidad and Tobago, the U.S. Virgin Islands, Saint Vincent, and the West Indies.²⁹ Even within the communities that come from the same continent, such as Africa, there are pronounced differences, rivalries, and distinct interests between the residents. It would, therefore, be a mistake to lump all Black residents of Staten Island into a single "community of interest," as Dr. Sugrue attempts to do.

As far as education, despite making up only 9% of the population, Black students represent 10.7% of the students graduating from universities in Richmond County.³⁰ And, as will be discussed more below, Black educational attainment on Staten Island has steadily increased over the past decade, such that 90.2% of Black residents held a high school degree in 2024.

²⁶ *Population FactFinder*, NYC Planning, available at <https://popfactfinder.planning.nyc.gov/explorer/boroughs/5?source=acs-current>.

²⁷ *2020 Census Data Demographic Data Map Viewer*, *supra* n.7.

²⁸ Erik Bascome, *Cultures from across the world: See the full ethnic breakdown of Staten Island residents*, silive, (September 2, 2024), available at <https://www.silive.com/data/2024/09/cultures-from-across-the-world-see-the-full-ethnic-breakdown-of-staten-island-residents.html#>.

²⁹ *Id.*

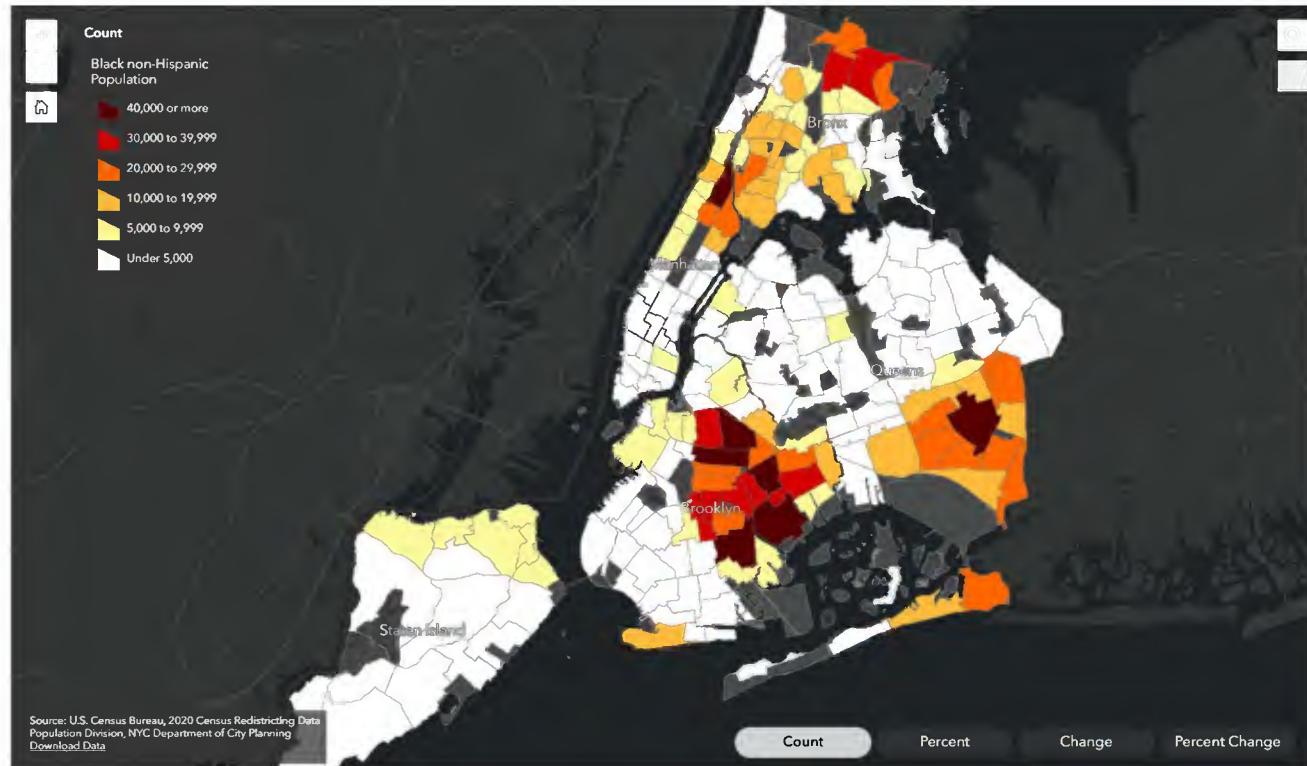
³⁰ *Richmond County Data*, *supra* n.3.

Staten Island's Unique Demographics and Practical Realities

The unique demographics and the practical realities of Staten Island's geographic isolation refute the suggestion that the 11th Congressional District should connect "communities of interest in Staten Island's North Shore and Southern Manhattan." Dkt.1 ("Pet.") ¶ 4.

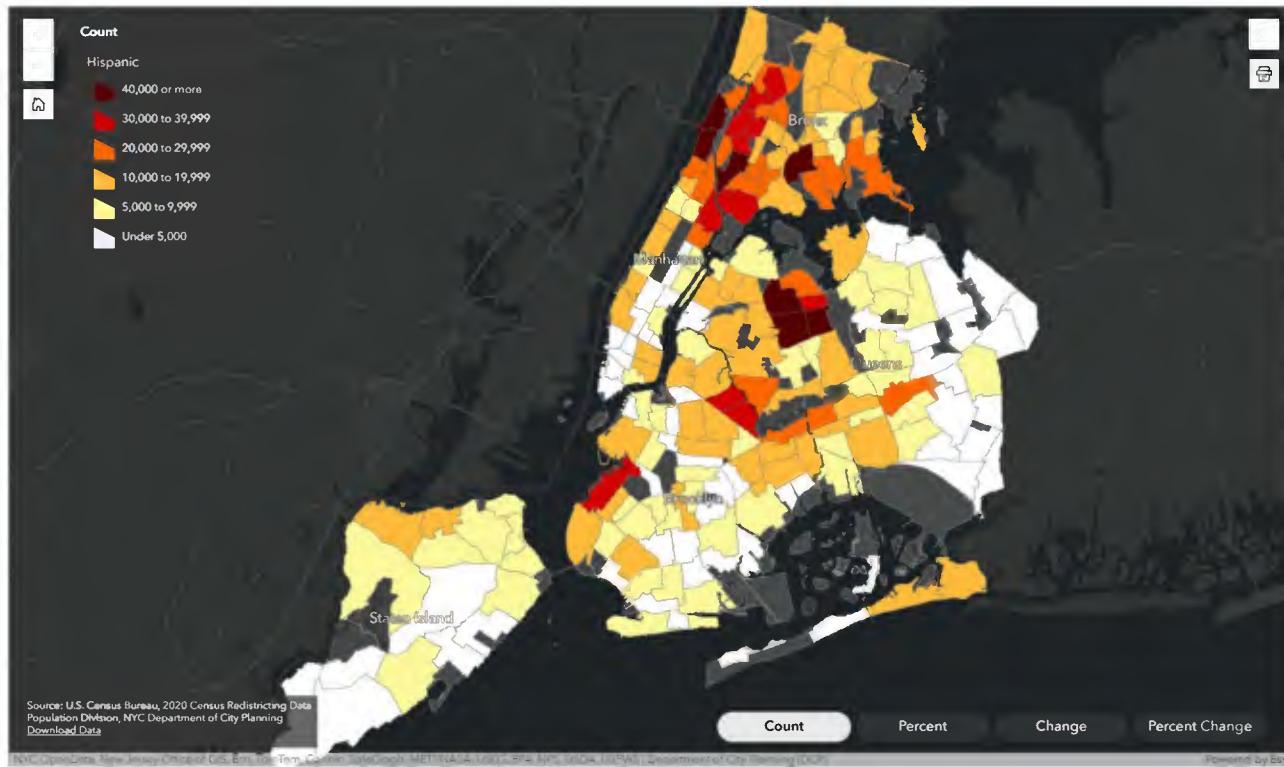
From a demographics perspective, Staten Island and Southern Manhattan are nothing alike. Southern Manhattan is a largely White population, lacking northern Staten Island's diversity. Data from the 2020 Census, shown on the maps below, demonstrates that Southern Manhattan lacks the significant Black and Latino populations found in Staten Island.³¹

Black Non-Hispanic Population in New York City



³¹ *Population*, NYC Planning, available at <https://experience.arcgis.com/experience/c625a78991d34ae59d eb7a33806ac0d1/page/Hispanic-%7C-Mexican>; <https://experience.arcgis.com/experience/c625a78991d34 ae59deb7a33806ac0d1/page/Race%2FEthnicity-%7C-Black-non-Hispanic> (last visited Dec. 8, 2025).

Hispanic Population in New York City

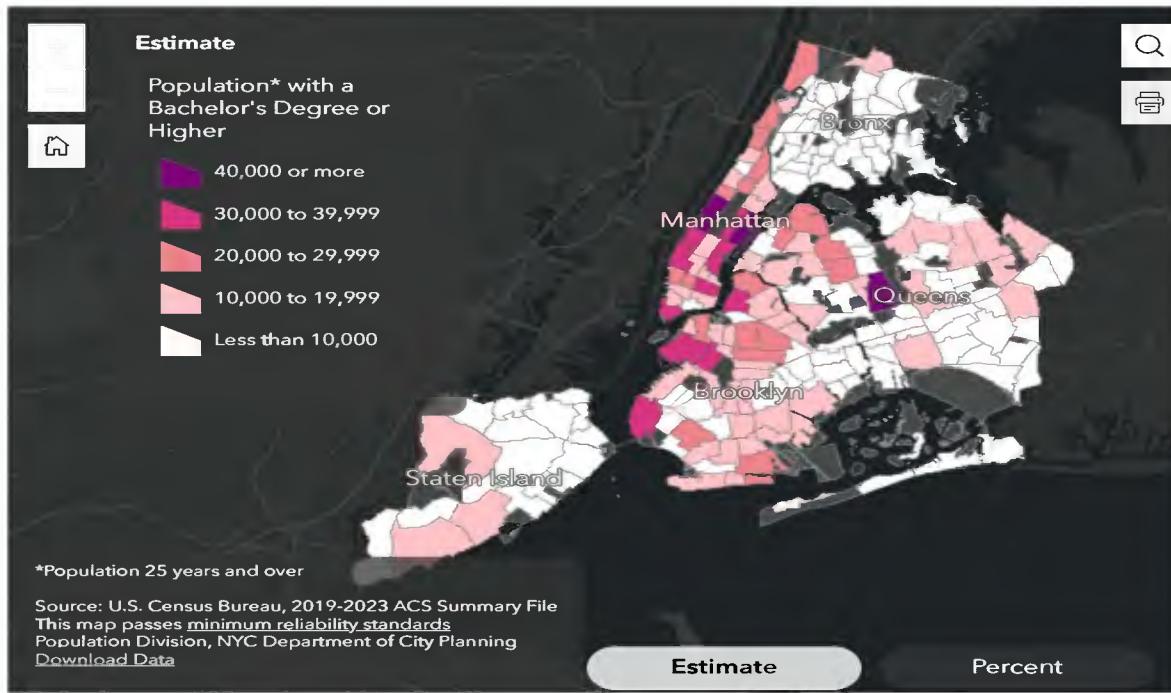


Southwestern Brooklyn, on the other hand, has a moderate Hispanic population, matching northern Staten Island's low-to-moderate Hispanic population.

Manhattan also has a greater population with a bachelor's degree or higher, as demonstrated by the map below.³²

³²*Population* with A Bachelor's Degree or Higher*, NYC Planning, available at <https://experience.arcgis.com/experience/c625a78991d34ae59deb7a33806ac0d1/page/Education-%7C-Bachelor%27s-Degree-or-Higher> (last visited Dec. 8, 2025).

New York City Population with a Bachelor's Degree or Higher



Beyond these demographic realities, the practical realities of Staten Island's geographic isolation from Manhattan further differentiate the two populations. Indeed, Staten Island's geography and distance from other boroughs affect its demography more than any other pattern. While those in lower Manhattan can travel to Staten Island via ferry, Staten Island's more suburban atmosphere makes such travel impractical. Staten Island's ferry does not carry cars,³³ but driving is almost a must in Staten Island, which lacks Manhattan's transit system. In fact, Staten Island "has the highest vehicle ownership rate, with the average number of vehicles per household nearly six times that of Manhattan's, which is the lowest."³⁴ That may be in part why, as discussed more below, people from Manhattan (whose vehicle ownership is less than six times that of Staten Island) have not migrated to Richmond County.

³³ *Terminals*, Staten Island Ferry, available at <https://siferry.com/terminals/>.

³⁴ *Shifting Gears: Transition to a Car Light New York City* 12, UPP Hunter (May 2024), available at Car-Light-NYC-Studio-May-2024.pdf.

The effect of a physical connection on the creation of a similar resident base is best shown through Staten Island's relationship with Brooklyn, an area that Staten Island's residents have much more in common with. Before completing the Verrazzano Bridge, Staten Island was sparsely populated,³⁵ but once that connection was made, countless Brooklynites—particularly those that lived nearest the bridge—began settling in Staten Island's growing neighborhoods. This caused the population growth in Staten Island to far outpace the other four boroughs throughout the later twentieth century.³⁶ This pattern was long anecdotally associated with the historic Italian communities of Bensonhurst and Bay Ridge, but this has also held true as those neighborhoods have begun to see influxes of Asian and Middle Eastern residents. For example, a recent Spectrum news piece told the story of several Asian families moving from Brooklyn to Staten Island as part of a broad migratory pattern. "It's the new Chinatown," said Angie Cheung, a new Staten Islander who had moved from Brooklyn.³⁷ The pattern is nothing new, as the *New York Times* reported on a similar pattern of Asian migration in 1993.³⁸ For Arabs and other Muslims, this pattern has started more recently with the opening of new houses of worship and community centers.

Since COVID, that general pattern has remained unchanged. In 2020, 26% of all Staten Island homebuyers were from Brooklyn, a number that grew to 31% in the first half of 2021.³⁹ During the first half of this year, 2025, of all Staten Island homebuyers that come from New York

³⁵ Ann Marie Barron, *How the Verrazzano-Narrows Bridge changed everything for Staten Island's population*, silive (Nov. 18, 2024).

³⁶ *Id.*

³⁷ Victoria Manna, *Asian population grows significantly on Staten Island* (May 17, 2024), available at <https://ny1.com/nyc/all-boroughs/news/2024/05/17/asian--staten-island--population-->

³⁸ Brooke Tarabour, *New Jersey Bound: The Staten Island Migration* (Jan. 20, 1993), <https://www.nytimes.com/1993/01/10/nyregion/new-jersey-bound-the-staten-island-migration.html>

³⁹ Georgia Worrell, *This if the one borough NYC homebuyers have left in droves: report*, NY Post, available at <https://nypost.com/2025/08/16/real-estate/new-report-reveals-the-one-borough-nyc-homebuyers-are-leaving-in-droves/>.

City, excluding those already living on Staten Island, a whopping 92% came from Brooklyn. Only 13 homes in total were purchased by former Manhattanites.⁴⁰

Thus, any assertion that Staten Island bears more similarity or has deeper connections—by any metric—to any community in New York City other than southwest Brooklyn is both ahistorical and preposterous on its face. As Staten Island historians Daniel Kramer and Richard Flanagan note, “Staten Island has never had enough inhabitants to constitute a congressional district on its own, but at times its district has included communities *much less similar than Bay Ridge [Brooklyn], such as lower Manhattan.*”⁴¹

B. Dr. Sugrue’s Erroneous Findings Under The New York Voting Rights Act

i. Factor (a): There Is No History Of Discrimination In Or Affecting The Political Subdivision

Dr. Sugrue contends that a history of slavery, a literacy test, and isolated incidents of racism impair the ability of Black and Hispanic voters to fully participate through voting or electing favored candidates to office today. But Dr. Sugrue’s claims regarding the alleged history of discrimination in Staten Island can be explored in detail to show his tendency to cherry-pick facts, obscure context, ignore progress, and disregard good intentions of public officials in national, state, and county offices seeking to address serious and complex social and economic problems.

History of Racial Discrimination Affecting the Political Subdivision

Dr. Sugrue’s report presents a brief, anecdotal history of racism in New York, and to a lesser extent begins with a history of discrimination against Blacks and Hispanics nationally, in New York State, and in Staten Island. A fuller history of racial discrimination in New York tells a

⁴⁰ *Id.*

⁴¹ Kramer, Daniel and Richard Flanagan, Staten Island: Conservative Bastion in a Liberal City 3 (2012) (emphasis added).

more complex story, and much more importantly, shows considerable progress in addressing racial discrimination in housing, employment, and voting rights on the state and national levels through both legal decisions and legislation.

For example, Dr. Sugrue disregarded completely the history of the abolition movement on Staten Island, which is crucial to understanding the history of slavery and racial discrimination on the Island. Indeed, by some measure, Staten Islanders were not just participants in the abolition movement, they were its architects.

Historian Richard S. Newman wrote in his history of abolitionism that the movement “was born with the American republic,” or perhaps even earlier.⁴² New York was an important part of that story, both as it developed at the national level and in a state that had deep economic ties to the Southern slave economy, a sizeable population of free Blacks and slaves, and more than its share of virulent racists. Unfree labor—slavery, serfdom, and indentured servitude—was the lot of the majority of people who came to colonial America. In the United States during the colonial period, indentured White and Black workers and slaves shared an inferior status. Their political participation was limited to demonstrations and riots, while work, festivals, religious revivals, and illegal activities brought them together.⁴³ As the number of Whites willing to move to North America as indentured servants declined, unfree labor became a mark of race, even as the number of free Blacks increased.

Slavery in both the North and South came into obvious conflict with the revolutionary rhetoric of natural rights, while abolition collided with a commitment to property rights. In the

⁴² Richard S. Newman, *The Transformation of American Abolitionism: Fighting Slavery in the Early Republic* 2 (Chapel Hill: University of North Carolina Press, 2002).

⁴³ Lois E. Horton, *From Class to Race in Early America: Northern Post-Emancipation Racial Reconstruction*, 19 J. Early Republic 629, 631–35 (1999).

North, states openly discussed the abolition of slavery in the aftermath of the Revolution. States with few slaves or Black people, such as Vermont, moved quickly to outlaw slavery.

New York, with a relatively large slave population, tried to balance freedom and property rights. Following Pennsylvania, Connecticut, and Rhode Island, New York voted for gradual emancipation in 1799. The law was passed with the help of multiple organizations and individuals.

For example, the law passed only after the New York Manumission Society's steady agitation. Founded in 1783, its membership included slaveowners such as John Jay, who introduced abolition laws in 1777 and 1785.⁴⁴ In addition to trying to change state law, the New York Manumission Society, including its members from Richmond County, organized a national convention to explore how to persuade Congress to pass anti-slavery legislation and to coordinate efforts to prevent free Blacks from being kidnapped by slave traders.⁴⁵ One of their central projects was educational: removing the “cloud of prejudice” that hung over Whites about the capabilities of Blacks for citizenship and providing education to Blacks to equip them for citizenship.⁴⁶ This approach may seem timid, but it provided education that went beyond basic literacy to include financial skills essential to merchants and skills important to free Black leaders.

The American Anti-Slavery Society, founded in 1833, counted women and free Blacks among its members. Calling for immediate abolition, it had an immense presence in New York. By 1836, one-fifth of the chapters in the nation were in New York.⁴⁷ Their activism, often in the

⁴⁴ Both Aaron Burr and Alexander Hamilton were members, as were three future governors. David N. Gellman's *Liberty's Chain: Slavery, Abolition, and the Jay Family of New York* explores the tension in John Jay's advocacy while still owning human beings.

⁴⁵ Paul Polgar, “*To Raise Them to an Equal Participation*”: Early National Abolitionism, Gradual Emancipation, and the Promise of African American Citizenship 31 J. Early Republic 229, 239–40 (2011).

⁴⁶ *Id.* at 240.

⁴⁷ John L. Myers, *The Beginning of Anti-Slavery Agencies in New York State, 1835-1836*, 43 New York History 149, 150 (1962).

face of opposition, kept abolitionism in the consciousness of the state and nation, even amid internal divisions.

The cause was also taken up by one of Staten Island's most notable residents, Governor Daniel Tompkins, who was long a champion of abolition. The legislature passed Tompkins's manumission bill in 1817, which emancipated every slave in New York State within ten years.⁴⁸ On July 4, 1827, the act went into effect with great fanfare in Richmond County, including an official reception at the Swan Hotel in New Brighton.⁴⁹ The commemoration was celebrated by both Democrats and Whigs, and nearly every elected official on the island participated.⁵⁰ The neighborhood of Tompkinsville on the North Shore is named in honor of Daniel Tompkins.

The American Anti-Slavery Society was active in the Hudson Valley, especially in areas where Quakers settled. Abolitionists in the Hudson Valley "played a significant role in the Underground Railroad."⁵¹ Staten Island was a significant stop along two routes of the Underground Railroad, with passengers crossing the kill either at Perth Amboy or Elizabeth. The passage was dangerous, as schooners operating in the waters during the 1850s were often searched for fugitive slaves in violation of Virginia's broad inspection laws.⁵² This continued right up to the outbreak of the war.

⁴⁸ Charles H. Wesley, "The Negroes of New York in the Emancipation Movement," 24 J. Negro History 65–103 (Jan. 1939).

⁴⁹ 1 Charles W. Leng and William T. Davis, *Staten Island and Its People: A History, 1629–1929*, 236 (New York: Lewis Historical, 1930–33).

⁵⁰ 2 Ira K. Morris, *Morris's Memorial History of Staten Island, New York*, 46–47 (New York: Memorial Publishing, 1898).

⁵¹ Amy Jacaruso, *The Mid-Hudson Anti Slavery History Project*, available at <https://www.hudsonrivervalley.org/mid-hudson-antislavery-history-project> (last visited Dec. 8, 2025; Rebecca Edwards et al, *Mid-Hudson Anti Slavery History Project* (June 2007), available at <http://mhantislaveryhistoryproject.org/documents/2007%20Research%20Report.pdf>; 27 A.J. Williams-Myers, *The Underground Railroad in the Hudson River Valley: A Succinct Historical Composite*, Afro-Americans in New York Life and History, 1–12 (Jan., 2003).

⁵² Debbie-Ann Paige, *National Parks Service: National Underground Railroad Network to Freedom Application: Louis Napoleon House c/o The Sandy Ground Historical Society* (July 1, 2011), available at https://www.academia.edu/3088830/NPS_UGRR_Louis_Napoleon_House_Site_Application.

Additionally, the Liberty Party emerged from a meeting in upstate New York involving Anti-Slavery Society members who were frustrated with the Whig and Democratic parties for their unwillingness to take a stand on slavery. With two slaveowners running in 1844, the Liberty Party hoped for a breakthrough, but the party won only 2.3% of the vote nationally and 3.25% in New York, which the Democrat Polk carried with 48.9% of the vote.⁵³

Similarly, the election of 1856 brought forward a new organization of the abolition movement on Staten Island, when the county played a role in the start of the Republican Party. Its nominee for President, the anti-slavery John C. Fremont, lived for a time on Staten Island's North Shore⁵⁴ while contemporary accounts unofficially named the county as the "First National Headquarters of the Republican Party."⁵⁵ This moniker was well-earned, as it was the longtime home of prominent abolitionists like Sydney Howard Gay, George William Curtis, and Francis George Shaw.⁵⁶

Efforts to undermine the institution of slavery were not limited to White Staten Islanders. The county itself became a magnet for freed slaves, themselves. In 1828, a free Black ferryboat captain named John Jackson purchased land just south of Rossville, in an area known as Sandy Ground. For nearly two hundred years, this settlement continues to hold the distinction of being the longest continually occupied settlement of former slaves, and many of the descendants of the original families still live in the neighborhood.⁵⁷ The Sandy Ground Museum is located, to this

⁵³ 1844 *Presidential General Election Results*, U.S. Election Atlas, available at <https://uselectionatlas.org/RESULTS/national.php?year=1844> (last visited Dec. 8, 2025).

⁵⁴ New York Public Library, NYPL Map Warper: Layer 869.

⁵⁵ 1 Vernon B. Hampton, *Staten Island's Claim to Fame: "The Garden Spot of New York Harbor"*, 23 (1925).

⁵⁶ 1 Leng and Davis, *Staten Island and Its People*, 275 (1929).

⁵⁷ 565 and 569 BLOOMINGDALE ROD COTTAGES, New York City Landmarks Preservation Commission (Feb. 1, 2011), available at http://www.nyc.gov/html/records/pdf/govpub/5808baymens_cottages_sandy_ground.pdf.

day, in one of the homes settled by freed slaves, and a nearby school has been named in honor of the community.

Although Dr. Sugrue focuses on a more negative picture of Sandy Ground, historically at Sandy Ground, the growing Black community owned property and grew in congruence with the overall prosperity of Staten Island in the mid-1800s. Its heyday came after the Civil War, during the era of Reconstruction, when, as sociologist William Askins claimed, the Sandy Ground community achieved both “economic success and a recognition of relative equality in their residential community.”⁵⁸ In 1900, about half of the community’s residents were White,⁵⁹ and its school educated the community’s students of all races. In 1849, Reverend William H. Pitts, a Virginia-born African Methodist Episcopal Zion minister, purchased land on Crabtree Avenue and held home prayer services for the town. By 1854, the congregation had built its own church and was large enough to accommodate 150 worshipers.⁶⁰ Of note, there is evidence that one of Sandy Ground’s residents, Louis Napoleon, served along the Underground Railroad in the 1840s; and by war’s end, he had likely helped more than three thousand self-emancipators find freedom.⁶¹

With context, it is therefore clear that New York, and specifically, Staten Island, have a history of opposing slavery and furthering abolition, which Dr. Sugrue ignores.

Dr. Sugrue’s report also incorrectly asserts that New York has a long history of suppressing the political power of people of color. His discussion lacks context and ignores significant civil rights legislation.

⁵⁸ 2 William Askins, *Oysters and Equality: Nineteenth Century Cultural Resistance in Sandy Ground, Staten Island, New York*, *Anthropology of Work Rev.*, 7–13 (June 1991).

⁵⁹ *Id.*

⁶⁰ New York City Landmarks Preservation Commission, *565 and 569 BLOOMINGDALE ROAD COTTAGES*.

⁶¹ Debbie-Ann Paige, *supra* n.52.

Although Black men who had certificates of freedom originally voted in significant numbers,⁶² in 1822 a new constitution created a property qualification.⁶³ Black and White abolitionists attempted to remove the property qualification on three occasions through state referenda. The first, in 1846, lost decisively, gaining 27.6% of the vote. The attempts in 1860 and 1869 were caught up in a new and unstable Republican coalition shy about making the case for justice, and they lost, if by closer margins.⁶⁴ New York politics was intensely competitive in the 19th century, and while Democrats invoked race in 1860 and 1869, Republicans in the state were reluctant to make Black suffrage a party issue. Nationally, Black suffrage faced headwinds everywhere in the 19th-century North. Only Iowa managed to pass a constitutional amendment allowing for Black suffrage.⁶⁵

The New York state legislature proved to be a more reliable venue for progress on civil rights. In 1873, New York was one of the first states to pass a civil rights statute—a state version of the 14th Amendment. It banned racial discrimination in public accommodations, including public schools. Challenges to discriminatory behavior brought by Black citizens, especially in the late-19th century, faced an uncertain outcome when courts followed the federal court's narrow interpretation of the 14th Amendment. But that changed in the 1920s and 1930s. By World War II, “the nation viewed New York courts and legislature as leading agencies in the broader advocacy of civil rights.”⁶⁶

⁶² Sarah L.H. Gronningsater, “‘Expressly Recognized by Our Election Laws’: Certificates of Freedom and the Multiple Fates of Black Citizenship in the Early Republic,” 75 *Wm. & Mary Q.*, July 2018, at 465–506.

⁶³ Edward Countryman, *The Empire State and the Albany Regency*, in Milton M. Klein, *The Empire State: A History of New York*, 302–304 (Ithaca: Cornell University Press, 2001).

⁶⁴ Phyllis F. Field, *The Politics of Race in New York: The Struggle for Black Suffrage in the Civil War Era* (Ithaca: Cornell University Press, 1982).

⁶⁵ Robert R. Dykstra, *Bright Radical Star: Black Freedom and White Supremacy on the Hawkeye Frontier* (Cambridge: Harvard University Press, 1993).

⁶⁶ 71 David McBride, *Fourteenth Amendment Idealism: The New York State Civil Rights Law, 1873–1918*, *New York History*, 208 (Apr. 1990).

The postwar reputation for progress in civil rights legislation was cemented by the passage of the Ives-Quinn Act in 1945 with broad bipartisan support.⁶⁷ The Act was aimed at preventing discrimination in employment, which it declared was a civil right. It created a state commission with broad powers to investigate claims, formulate policy, and create local and regional boards to implement policy. New York was the first state to establish such an agency.⁶⁸

The state Commission against Discrimination was renamed the Division of Human Rights in 1968, which better reflected its wider and growing scope. Many New York counties have their own Human Rights Commissions and procedures for filing complaints.⁶⁹

Response to Dr. Sugrue Charges of KKK and Historical Racism in Staten Island

Dr. Sugrue focuses on a Ku Klux Klan (KKK) incident that occurred on Staten Island in the 1920s. However, a search of New York City newspapers turned up no other incidents in the 1920s, while at the same time there were numerous reports of KKK events and reactions against them elsewhere in New York and New Jersey. Some notable incidents include the 1924 Democratic National Convention in Manhattan, which was given the moniker “The Klanbake,” as its members played a prominent role in opposing New York Governor Al Smith.⁷⁰ Another such incident occurred in Peekskill, NY in 1949, when members of the KKK and violent anti-communists rioted in response to a concert being held by Black folk singer Paul Robeson.⁷¹

⁶⁷ Leo Egan, *ANTI-RACIAL BILL PASSED BY SENATE AND SENT TO DEWEY; Ives-Quinn Measure Wins by 49-to-6 Vote in Late Session at Albany A LAST-MINUTE BATTLE Amendment for Referendum Rejected—Governor's Support Commended Dewey Corralled Votes Structure of Law Praised Functions of Commission* (Mar. 6, 1945), available at <https://www.nytimes.com/1945/03/06/archives/antiracial-bill-passed-by-senate-and-sent-to-dewey-ivesquinn.html>.

⁶⁸ Division of Human Rights Homepage, New York State, available at <https://dhr.ny.gov/about>.

⁶⁹ See, e.g., Human Rights Page, Orange County New York, available at <https://www.orangecountygov.com/1108/Human-Rights>.

⁷⁰ Jack Schaefer, *1924: The Wildest Convention in US History*, Politico Mag. (Mar. 7, 2016), available at <https://www.politico.com/magazine/story/2016/03/1924-the-craziest-convention-in-us-history-213708/>.

⁷¹ Roger Williams, *A Rough Sunday in Peekskill*, 27 American Heritage (Apr. 1976), available at <https://www.americanheritage.com/rough-sunday-peekskill>.

Even in the late 1980s and 1990s, when there was an uptick in KKK movements, KKK and neo-Nazi activity remained minimal in Staten Island. In 1992, the possibility that a KKK chapter existed on Staten Island was front-page news, based on the discovery of literature marked “Staten Island Chapter,” and a source that claimed there were 50 members. That story was immediately followed by denunciations of racism by community groups and a promise from the mayor to dispatch the police if any reports of racist incidents came in. The newspaper trail did not indicate whether any incidents traceable to the KKK were uncovered.

In 1988, there were an estimated fifty skinheads on Staten Island, out of perhaps 500 throughout New York City.⁷² In 1995, sixty skinheads who tried to disrupt an anti-hate rally inspired by the discovery of hate literature and stickers, were removed and detained by police. In a report leading up to the rally, police noted that there had been no evidence of KKK or organized racist activity in recent years.⁷³

While racist incidents occurred throughout the country, Richard Prideaux, a civil rights activist who helped found the Congress of Racial Equality chapter in Staten Island that worked for housing integration, had a positive experience in moving to the Todt Hill Houses in the late 1950s. While the recently-built complex attracted mostly Whites, there were residents of many races living there, and tenants “got along very well,” he reported. “All of the children played outside together. It was safe and ideal, like living in a park.”⁷⁴

Political historians Daniel Kramer and Richard Flanagan certainly note the limited incidents that Dr. Sugrue cited in his report in their seminal work on the borough’s 20th century political history. However, they conclude, “Thankfully, Staten Island never had the kind of high-

⁷² David Martin, *A brat pack on the prowl*, Staten Island Advance (Sept. 11, 1988).

⁷³ Tom Berman, *Skinheads crash anti-hate rally*, Staten Island Advance (Dec. 11, 1995).

⁷⁴ Clare M. Regan, ‘*A force for racial equality*,’ Staten Island Advance (Mar. 15, 2021).

stakes confrontation between African-Americans and whites that rocked neighboring Brooklyn.

There were no full scale race riots.”⁷⁵

Federal Housing Policy

Dr. Sugrue maintains that federal housing policy in the 1930s and 1940s discriminated against Blacks, although specific data is not offered to show that these policies affected or were implemented in Staten Island, with a largely small and rural population. Furthermore, scholars differ on “redlining” federal housing policy in the 1930s.

Especially useful in understanding federal housing mortgage policy and allegations of federal racial discrimination through lending is a quantitative study by economists Price Fishback, Jonathan Rose, Kenneth A. Snow, and Thomas Storrs. The researchers examined three cities, Baltimore, Maryland, Peoria, Illinois, and Greensboro, North Carolina. They examined every financing loan made by the Federal Housing Administration in these cities. Over 16,000 loans were examined. The researchers concluded that “The evidence from the three cities shows that [the Home Owners Loan Corporation (HOLC)] refinanced loans in neighborhoods throughout each city and that the share of loans made by HOLC to Black Americans was close to proportionate to the share of homeowners who were Black.”⁷⁶

The researchers further concluded, contrary to the scholars who allege racial redlining by the HOLC and the Federal Housing Administration (FHA), that the pattern of loans in these three cities bore no relationship between HOLC mapping program and actual FHA loan policy.⁷⁷ Dr. Sugrue ignores this contrary literature, but more importantly provides no empirical evidence of alleged discriminatory loan policy toward Blacks or Hispanics on Staten Island.

⁷⁵ Kramer and Flanagan, *supra* n.41, at 107.

⁷⁶ Price Fishback, et al, *New Evidence on Redlining by Federal Housing Programs in the 1930s*, J. Urb. Econ. (Jan. 2022).

⁷⁷ *Id.*

Furthermore, even should Dr. Sugrue find some informational points to support his claim, it is not clear how federal housing loan policies in place seventy years ago impair the ability of Black or Hispanic voters currently in Staten Island from electing minorities to office. Dr. Sugrue's theory offers no causality and runs contrary to the state of politics today. Congresswoman Nicole Malliotakis, the representative from the 11th Congressional District, which encompasses the entirety of Staten Island, is Hispanic, and she previously represented part of the Island in the State Assembly. Dr. Sugrue also does not account for Kamillah Hanks and Charles Fall, two Black legislators, who also currently serve Staten Island constituencies. He further ignores that several other minority candidates have run credible campaigns after receiving nominations from both the Republican and Democratic parties, qualified for the ballot, and—when appropriate—received public matching funds, as discussed below.

In sum, regardless of the history to overcome the legacy of slavery and to expand legislative and judicial protection and advancement for racial and ethnic minorities, Dr. Sugrue fails to explain how a history of slavery or isolated incidents of racism impairs the ability of Black, Hispanic, or Asian voters from fully participating through voting or electing favored candidates to office today.

ii. Factor (b): Blacks and Hispanics Have Achieved Success in Being Elected to Office in Staten Island

Dr. Sugrue incorrectly contends that Black and Hispanic candidates "have long been under-represented in political offices in Staten Island." Rep. ¶ 90. There is no evidence that members of the protected class have been excluded from public office, and, to the contrary, racial and ethnic minorities have had great success in Staten Island.

The New York City Council representative for District 49, which covers nearly the entire North Shore of Staten Island, is represented by Kamillah Hanks, a Black woman who has made,

according to the city council website, a career of advocacy, innovation, and leadership.⁷⁸ She chaired the critical Public Safety Committee and serves as co-chair of the Staten Island Delegation. She also succeeded Debi Rose, another Black woman, who represented the district from 2010 to 2021 and served as the dean of the Staten Island delegation.

Similarly, the Assemblyman for New York 61st State Assembly District, which covers the North Shore of Staten Island, is Charles B. Fall, a Black, Muslim man whose family is from Guinea, West Africa.⁷⁹ Fall has also been elected to serve as the Chairman of the Staten Island Democratic Party and leads the party's political efforts throughout Staten Island.

Staten Islanders also elect diverse candidates to the bench. The Honorable Anne Thompson, a Black woman; the Honorable Tashanna Golden, a Black woman; the Honorable Raymond Rodriguez, a Hispanic man; the Honorable Alexander Jeung, an Asian man; the Honorable Biju Koshy, an Asian man; and the Honorable Raja Rajeswari, a South-Asian woman, all currently serve as members of the Staten Island judiciary.

The 11th Congressional District, which encompasses the entirety of Staten Island, is also represented by Hispanic Congresswoman Nicole Malliotakis in the House of Representatives. Both of Congresswoman Malliotakis' parents are recent immigrants and non-native English speakers. She has made her heritage a prominent feature of her campaigns and work in public office. Congresswoman Malliotakis also previously served as one of the borough's Assembly Members between 2011 and 2021. Although Dr. Sugrue looks to historical practices that existed in the 1920s, Rep. ¶ 80, to conclude that members of protected classes are excluded from public

⁷⁸ *Kamillah Hanks*, New York City Council, available at <https://council.nyc.gov/district-49/> (last visited December 5, 2025).

⁷⁹ *Assemblyman Charles D. Fall*, N.Y. Assembly, <https://nyassembly.gov/mem/Charles-D-Fall>.

office, his failure to account for the demonstrative success of protected class members serving Staten Island shows that such conclusions are implausible in modern-day Staten Island.

iii. Factor (c): The Use of Voting Qualifications or Prerequisites to Vote to Enhance the Dilutive Effects of the Election Scheme

Dr. Sugrue contends that New York's use of literacy tests in the 1920s has "long prevented or hindered minority groups in Staten Island from participating in the political process." Rep. ¶ 88. The history of literacy testing in New York, however, is considerably more complex than portrayed by Dr. Sugrue, and, moreover, he fails to explain how these state-wide tests uniquely affected minorities in Staten Island.

Although New York required a literacy test in 1921, the State funded evening programs, public schools, and community centers to provide an extensive educational campaign to ensure an expanded electorate would pass the exam.⁸⁰ New York also revised the test two years later to use simpler text, after testing it in two hundred public schools to fourth graders in Troy, Albany, Schenectady, and New York City.⁸¹ Due to these efforts, within its first decade, the fail rate for the exam fell from 21.4% to 10.1%.⁸² This occurred even while more people took the exam, including 129,000 exam takers in 1928. These sustained efforts often allowed immigrants to pass in greater numbers.

Notably, the U.S. Supreme Court upheld state-imposed literacy tests in the states as late as 1959.⁸³ In an opinion by William O. Douglas, the Court found that the tests were constitutional because they applied equally to all races and were not "merely a device to make racial

⁸⁰ Marco Balestri, *The Fight to Read, Write, and Vote: The New York State Literacy Test, 1922-1965*, 52, Columbia University, December 2021, available at https://sites.asit.columbia.edu/wp-content/uploads/sites/29/2022/05/Balestri-Marco_Final-Thesis.pdf.

⁸¹ J. Cayce Morrison, *New York State Regents Literacy Test*, J. Educ. Rsch. (1925).

⁸² Balestri, *supra* n.80, at 73.

⁸³ *Lassiter v. Northampton Cnty. Bd. of Elections*, 360 U.S. 45, 53–54 (1959).

discrimination easy.”⁸⁴ The Court explained that a state could use its power to “determine the conditions under which the right of suffrage may be exercised.”⁸⁵ The Voting Rights Act of 1964 prohibited states from preventing people with a sixth-grade education from voting, which arguably the New York Literacy Test did not target. And in 1966, the U.S. Supreme Court confirmed in *Katzenbach v. Morgan* that Congress had the right to halt English-language requirements and established that the federal government could extend language-based voting protections.⁸⁶ And shortly thereafter, Congress did just that.

Due to increased migration of Spanish speaking people to the mainland United States, including up to 1.4 million Puerto Ricans by 1970, the literary test re-emerged as an obstacle to voting.⁸⁷ But Spanish speaking minorities were not politically weak, as legal and education organizations for Mexicans and Puerto Ricans helped lobby Congress, brought successful legal challenges, and helped introduce legislation to protect Spanish speakers.⁸⁸ These groups, along with those like the League of United Latin American Citizens, championed the Voting Rights Act of 1975 which declared that Spanish-speaking people were a protected group and recognized them as a language minority.⁸⁹ The act banned literacy tests and required providing ballots in Spanish, and other recognized languages. This was the first time that a language group, not a race or ethnic group, was designated a protected class as embodied in the Voting Rights Act of 1965.⁹⁰ And literacy tests have not served to bar any voter from the political process in the last fifty years.

⁸⁴ *Id.* at 53.

⁸⁵ *Id.* at 50.

⁸⁶ 384 U.S. 641 (1966).

⁸⁷ Rosina, Lozano, *Vote Aquí Hoy: The 1975 Extension of the Voting Rights Act and the Creation of Language Minorities*, *J. Pol'y His.* 68, 69–72 (Dec. 22, 2022).

⁸⁸ *Id.* at 73–75.

⁸⁹ *Id.* at 77.

⁹⁰ *Id.* at 69.

To the contrary, today, there are extensive government resources meant to ensure that all eligible voters have access to the ballots, regardless of their country of origin or primary language. For example, New York City provides foreign language services for protected classes in voting, appearing at the polls to assist non-English speakers.⁹¹ It also provides printable resource guides in 14 different languages, including English, Spanish, Arabic, Bengali, Chinese (traditional and simplified), French, Haitian Creole, Italian, Korean, Polish, Russian, Urdu, and Yiddish. Thus, Staten Island has come a long way from the days of literacy tests.⁹²

iv. Factor (d): Denying Eligible Voters or Candidates Access to Ballots, Financial Support, or Other Support in a Given Election

Neither Dr. Sugrue nor Petitioners provide any support for the suggestion that Black and Latino voters or candidates have been denied access to the ballot, financial support, or other support. To the contrary, dozens of candidates have run for office who not only qualified to be on the ballot over the last few decades but have also qualified for the City's and, more recently, the State's matching funds program—which provide candidates of all ethnicities with matching funds at a multiplier rate in addition to the dollars they raise from traditional donations. This has resulted in diverse candidates in every election cycle.

v. Factors (e)/(f): The Extent to Which Members of a Protected Class Contribute to Political Campaigns and Vote at Lower Rates than Other Members of the Electorate

Voting turnout in the state of New York is not categorized by race or ethnicity, so an exact determination of turn-out of protected classes is not discernable, but the available regional and national data suggests that Black and Hispanic voters in Staten Island are not being denied access

⁹¹ *Voter Language Assistance Services*, NYC Civic Engagement Commission, available at <https://www.nyc.gov/site/civicengagement/our-programs/poll-site-language-access.page> (last visited Dec. 7, 2025).

⁹² *Id.*

to voting or blocked from voting for candidates of their choice. Nor does Dr. Sugrue contend otherwise.

Hispanic voters have increased their participation in New York City throughout the last decade. According to the Hispanic Federation in New York City, Hispanic voter turnout increased in the City's municipal elections in 2025.⁹³ Indeed, during the June 2025 municipal primaries, more than 165,000 Hispanics voted, apparently "shattering previous voter turnout records."⁹⁴

This is consistent with national data showing increased Hispanic voter eligibility throughout the country. In 2024, for example, the number of eligible Hispanic voters increased from 32.3 million in 2020 to an estimated **36.2 million**, significantly increasing the potential size of the Hispanic voting bloc.⁹⁵

The national data also consistently shows increased voter registration and turnout across the country. A report by CUNY Center of for Latin American, Caribbean and Latino Studies concludes that Hispanic voters are registering and voting nationally and in the state of New York more than ever before.⁹⁶ Data from the National Association of Latino Elected and Appointed Officials (NALEO), shown in Table 3, similarly shows an increase in Hispanic turnout for the Presidential election, highlighting a 13.1% increase in Hispanic participation in the electoral process between 2016 and 2024.⁹⁷

⁹³ *Hispanic Federation Celebrates Record-Breaking Voter Turnout in New York City Municipal Elections*, Hispanic Federation (Nov. 4, 2025), available at <https://www.hispanicfederation.org/news/hispanic-federation-celebrates-record-breaking-voter-turnout-in-new-york-city-municipal-elections/>.

⁹⁴ *Id.*

⁹⁵ Bruno Vega Hübner & F.J. Pueyo Meno, *The Hispanic Vote in the 2024 U.S. Presidential Elections*, Estudios del Observatorio 5 (2025), available at https://cervantesobservatorio.fas.harvard.edu/sites/default/files/95_en_the_hispanic_vote_in_the_2024_u.s._presidential_elections.pdf.

⁹⁶ Laird W. Bergad, *Latino Voter Participation in the 2018 and 2022 Midterm Elections*, Ctr. for Latin Am., Caribbean, and Latino Stud. at City U. of N.Y. (Sept. 2023), available at https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1121&context=clalst_pubs.

⁹⁷ New York Primary Election Profile, NALEO 5 (2024) https://naleo.org/COMMS/PRA/2024/New_York_Primary_Pofile_FINAL.pdf.

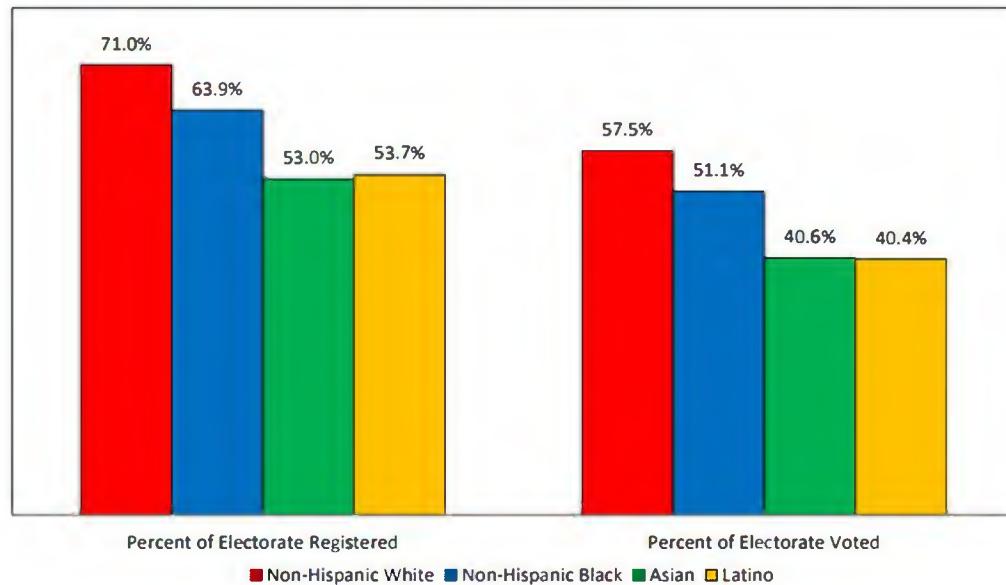
Table 3


PROJECTED LATINO VOTE 2024	LATINO VOTE 2020	% CHANGE BETWEEN 2020 AND 2024	LATINO VOTE 2016	% CHANGE BETWEEN 2016 AND 2024
992,900	883,000	12.4%	878,000	13.1%

This is confirmed by surveys from City University of New York, concluding that Spanish speaking voters are increasingly involved in politics, as shown in Tables 4 and 5.⁹⁸

Table 4

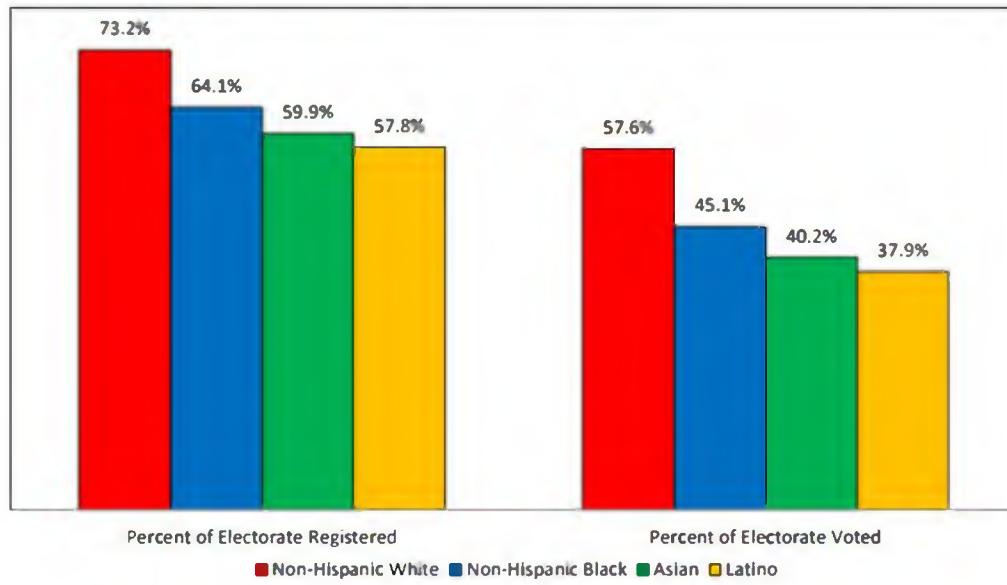
Percentage of Electorate Registered and Voted by Race/Ethnicity
Mid-Term Elections 2018



⁹⁸ *Latino Voter Participation in the 2018 and 2022 Midterm Elections*, *supra* note 96, at 5–6.

Table 5

Percentage of Electorate Registered and Voted by Race/Ethnicity
Mid-Term Elections, 2022



Further, according to the Center for Latin American, Caribbean and Latino Studies (CLALS), there was about a 13% difference in Hispanic voter registration and turnout in 2018. And in 2022, Hispanic voter registration increased by 4% from 2018.⁹⁹

Contrary to the bleak picture painted by Dr. Sugrue, the data shows immense progress, not racial suppression, and it suggests that Hispanic voters in Staten Island will only increase their political participation in the future. As of 2024 Hispanics make up 15% of the current voting population in Richmond County.¹⁰⁰ This is one of the highest percentages of any New York State County.¹⁰¹ And the growth of the Hispanic voting population and increased participation around the country suggests that Staten Island will see more Hispanics voting and being elected to office in the county, without expanding the district. This is particularly true given that the Hispanic

⁹⁹ *Id.*

¹⁰⁰ *Latina Representation in New York Government*, HOPE 7 (2024), available at <https://www.latinas.org/wp-content/uploads/HOPE-NY-Latina-Representation-Report-2024-FINAL.pdf>.

¹⁰¹ *Id.*

community in Staten Island is both active and well organized, including such organizations as La Colmena, the Hispanic Federation, Make the Road NY, and El Centro.

Additionally, Blacks have even higher voter turnout than Hispanics nationally. In fact, Black voter turnout was almost the same as White voter turnout in 2008 (65.2% as compared to 66.1%) and was actually higher than White voter turnout in 2012 (66.6% compared to 64.1%).¹⁰² Dr. Sugrue does not contend that Black voters in Staten Island vote in elections at a lower rate than Black voters nationally. These statistics therefore suggest a politically active Black community, comparable to the White community.

vi. Factor (g): The Extent to Which Members of the Protected Class are Disadvantaged in Areas Such as Education, Employment, and Housing

Education

Dr. Sugrue contends that there are “significant disparities” in educational attainment between White, Black, and Hispanic adults on Staten Island. But he fails to discuss the complexity of education responsibility, wholly ignores that Hispanic and Black educational attainment have been largely increasing in Staten Island, and does not discuss other measures of inequality in education, which do not support his contention.

Education is a complex social issue that is not the sole responsibility of Staten Island. In their account of education policy and politics in *The Oxford Handbook of New York State Government and Politics*, political scientists Jack Buckley and Allison Armour-Garb explain that “education in New York is the result of a political balancing act between many actors . . . including the Board of Regents, the legislature, the governor, the courts, mayors, teachers’ unions, school

¹⁰²Thom File, *Voting in America: A Look at the 2016 Presidential Election* (May 10, 2017), available at https://www.census.gov/newsroom/blogs/random-samplings/2017/05/voting_in_america.html.

administrators, and democratically elected local school boards.”¹⁰³ Any disparity in educational attainment cannot therefore be the fault of Staten Island’s leadership alone.

Moreover, Black and Latino educational attainment have increased over the past decade in Staten Island. As the tables below indicate, the percentage of Blacks attaining a high school degree in Staten Island increased from 85.8% in 2015 to 86.4% in 2020 and 90.2% in 2024. The percentage of Blacks attaining bachelor’s degrees similarly increased from 24.6% in 2015 to 28.7% in 2020 and 30.0% in 2024. Likewise, the percentage of Hispanics in Staten Island earning a high school degree increased from 78.4% in 2020 to 82.8% in 2024, and the percentage of Hispanics who earned a bachelor’s degree increased from 18.0% in 2015 to 22.0% in 2024.

2024 Educational Attainment by Race¹⁰⁴

Race & Educational Attainment	Total	Percent	Percent of White
White - High school graduate or higher	186,170	92.9%	100.00%
White - Bachelor's degree or higher	83,716	41.8%	100.00%
Black - High school graduate or higher	27,572	90.2%	97.09%
Black - Bachelor's degree or higher	9,182	30.0%	71.77%
Asian - High school graduate or higher	39,590	75.7%	81.49%
Asian - Bachelor's degree or higher	17,841	34.1%	81.58%
Latino - High school graduate or higher	49,975	82.8%	89.13%
Latino - Bachelor's degree or higher	13,304	22.0%	52.63%

¹⁰³ Gerald Benjamin, Jack Buckley & Allison Armour-Garb, The Oxford Handbook of New York State Government and Politics, New York State Education Policy and Politics, 563 (Oxford University Press, 2012).

¹⁰⁴ 2024 Educational Attainment, U.S. Census Bureau, available at <https://data.census.gov/table?q=educational+attainment&g=060XX00US3608570915> (select “View All 28 Products” under S1501 | Educational Attainment, then select 2024: ACS 1-Year Estimates Subject Tables).

2020 Educational Attainment by Race¹⁰⁵

Race & Educational Attainment	Total	Percent	Percent of White
White - High school graduate or higher	196,906	92.7%	100.00%
White - Bachelor's degree or higher	79,808	37.6%	100.00%
Black - High school graduate or higher	26,692	86.4%	93.20%
Black - Bachelor's degree or higher	8,868	28.7%	76.33%
Asian - High school graduate or higher	27,008	79.2%	85.43%
Asian - Bachelor's degree or higher	14,494	42.5%	113.03%
Latino - High school graduate or higher	40,984	78.4%	84.57%
Latino - Bachelor's degree or higher	11,014	21.1%	56.12%

2015 Educational Income by Race¹⁰⁶

Race & Educational Attainment	Total	Percent	Percent of White
White - High school graduate or higher	198,170	91.7%	100.00%
White - Bachelor's degree or higher	70,905	32.8%	100.00%
Black - High school graduate or higher	25,539	85.8%	93.57%
Black - Bachelor's degree or higher	7,339	24.6%	75.00%
Asian - High school graduate or higher	22,813	84.7%	92.37%
Asian - Bachelor's degree or higher	11,513	42.8%	130.49%
Latino - High school graduate or higher	37,727	79.0%	86.15%
Latino - Bachelor's degree or higher	8,605	18.0%	54.88%

Other measures of inequality in education also contradict Dr. Sugrue's finding of discrimination. For example, one classic measure of inequality in education is per pupil spending in public schools. And disparities in pupil spending in Staten Island high schools do not vary

¹⁰⁵ 2020 Education Attainment, U.S. Census Bureau, available at <https://data.census.gov/table/ACSST5Y2020.S1501?q=educational+attainment&g=060XX00US3608570915> (select "View All 28 Products" under S1501 | Educational Attainment, then select 2020: ACS 5-Year Estimates Subject Tables).

¹⁰⁶ 2015 Educational Attainment, U.S. Census Bureau, available at <https://data.census.gov/table/ACSST5Y2015.S1501?q=educational+attainment&g=060XX00US3608570915> (select "View All 28 Products" under S1501 | Educational Attainment, then select 2015: ACS 1-Year Estimates Subject Tables).

significantly by location. Among the twelve public high schools in Staten Island, only five have funding allocations above the New York City average,¹⁰⁷ and all five of those schools educate higher percentages of non-White students, as shown in the table below.

School	Spending	Econ Need	Asian	Black	Hispanic	White ¹⁰⁸
David Marquis School of the Arts*	112,153	84%	14%	10%	24%	49%
South Richmond High School*	76,982	91%	5%	32%	35%	24%
Eagle Academy for Young Men of Staten Island	33,162	90%	2%	52%	39%	4%
Ralph R. McKee Career and Technical	31,362	81%	2%	22%	59%	11%
Port Richmond High School	23,718	83%	7%	23%	54%	13%
Tottenville High School	17,278	45%	16%	2%	18%	61%
Michael J. Petrides School	20,507	65%	13%	21%	35%	28%
Gaynor McCown Expeditionary Learning School	19,414	51%	15%	4%	28%	46%
New Dorp High School	18,883	65%	19%	8%	30%	40%
Curtis High School	18,162	81%	7%	30%	49%	10%
CSI High School for International Studies	15,739	55%	37%	6%	24%	33%
Staten Island Technical High School	13,205	46%	67%	1%	4%	27%

* Schools serving special need students

¹⁰⁷ New York City average: \$22,857 per pupil; New York special needs schools: \$76,763 per pupil. School Budget At a Glance, The New York City Department of Education, available at New York City Department of Education and can be found at <https://www.nycenet.edu/publicapps/Offices/FSF/BudgetAtGlance.aspx> (select 2024-2025 school year, search for specific school within drop down menu).

¹⁰⁸ The racial breakdown does not total to 100% because the small multi-racial, missing, and Native American categories are not included in the table.

The reason for increased funding is not ambitious White parents, but in fact a mission to educate hard-to-serve populations. Schools that work with students with intellectual disabilities, including those on the autism spectrum, spend significantly more than the Island's average. At both the David Marquis School of the Arts and the South Richmond High School, 100% of the students have intellectual disabilities. Some at David Marquis are non-verbal.

Another school well above the New York City average is the Eagle Academy for Young Men of Staten Island, which largely serves Black and Hispanic students, nearly half of whom have disabilities.¹⁰⁹ The school has been highlighted by the Staten Island Advance for its success in educating and providing pathways to college for young Black and Hispanic men.¹¹⁰

Although there are gaps in achievement among Whites, Blacks, and Hispanics, the increase in Black and Hispanic educational attainment, and the fact that the per pupil spending in Staten Island does not support a finding of discrimination, demonstrate that Dr. Sugrue's myopic focus on current disparities presents an unbalanced image of the educational realities on Staten Island.

Housing

Dr. Sugrue discusses "wide" gaps in homeownership rates between Whites, Blacks, and Hispanics. Rep. ¶ 79. He ignores, however, that Staten Island has a far higher rate of homeownership than the New York City, New York State, and national averages, and he disregards the fact that the high demand for housing in Staten Island has greatly increased the cost of housing.

In Richmond County, the homeownership rate is 67.9%, which is more than 2 times greater than New York City's average of 31%.¹¹¹ It is also significantly higher than the statewide average

¹⁰⁹ *The 2025 Staten Island Trailblazers*, City & State, (Nov. 24, 2025), available at <https://www.cityandstateny.com/power-lists/2025/11/2025-staten-island-trailblazers/409605/>.

¹¹⁰ Annalise Knudson, *A lifelong passion becomes reality: How this NYC principal works to empower young men of color*, (June 17, 2021), available at <https://www.silive.com/education/2021/06/a-lifelong-passion-becomes-reality-how-this-nyc-principal-works-to-empower-young-men-of-color.html>.

¹¹¹ *Richmond County Data*, *supra* n.3.

of 53.6% and slightly better than the national average of 65%.¹¹² This indicates that Blacks and Hispanics have historically had, and will likely continue to have, a better chance of owning a home in Staten Island than they would elsewhere in the area, in the State, or around the country.

Of course, given the high demand for homes on Staten Island from people of all ethnic groups—especially East Asians, South Asians and Middle-Easterners, Blacks, Hispanics, and Orthodox Jews—attempting to move to Staten Island, Staten Island has experienced a housing shortage and an accompanying increase in housing prices. This makes it more difficult for all on Staten Island to purchase a home.

Between 2022 and 2023 the median property value increased from \$637,100 to \$658,500, a 3.36% increase. The 2023 median property value in Richmond County, New York, again, \$658,500, was 2.17 times larger than the national average of \$303,400.¹¹³

Even so, Staten Island's housing shortage is decreasing, meaning that the overall population experiencing housing shortages has decreased from 2014 to 2025. In 2025, 22.9% of the population was living with severe housing problems in Richmond County, New York, which was a decline of .257% in the indicator from 2014.¹¹⁴

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ The data supporting this statement and the tables below can be found on the Census Reporter website. *See Total Population in Occupied Housing United by Tenure by Year Householder Moved Into Unit, ACS 2023 1-year*, Census Reporter, available at https://censusreporter.org/data/table/?table=B25026&primary_geo_id=05000US36085&geo_ids=05000US36085,04000US36,01000US; *Value, 2023 1-year*, Census Reporter, available at https://censusreporter.org/data/table/?table=B25075&primary_geo_id=05000US36085&geo_ids=05000US36085,04000US36,01000US; *Geographical Mobility in the Past Year by Sex for Current Residence in the United States, ACS 2023 1-year*, Census Reporter, https://censusreporter.org/data/table/?table=B07003&primary_geo_id=05000US36085&geo_ids=05000US36085,04000US36,01000US.

Units & Occupancy

184,959 ±71

Number of housing units

New York: 8,631,232 ±832United States: 145,333,460 ±10,062

Occupied vs. Vacant



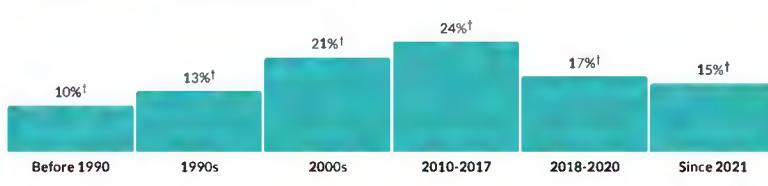
Ownership of occupied units



Types of structure



Year moved in, by percentage of population

Comparing Income Across Racial Lines

Dr. Sugrue narrowly focuses on the “significant socio-economic disparities” between Black and Hispanics on Staten Island as compared to Whites on Staten Island. Rep. ¶ 78. Again, Dr. Sugrue ignores that Black and Hispanic median income has been increasing steadily and decreasing the income disparity.

As shown in the tables below, since 2010, Blacks in Staten Island have increased their mean income by more than 33%, growing from \$20,785 in 2010 to \$32,154 in 2024. This resulted in a 4.14% increase in Black income as a percentage of White income.

Hispanics have similarly increased their mean income on Staten Island. Hispanic mean income grew from \$21,379 in 2010 to \$31,399 in 2024, increasing their percentage as compared to White income. Likewise, Asians on Staten Island have seen an increase in mean income, with an increase from \$26,439 in 2010 to \$35,068 in 2024.

Median Income¹¹⁵**2024 Household Income**

Race	Population Distribution	Mean Income	Percent of White Income
White	57.7%	\$48,903	100%
Black or African American	9.2%	\$32,154	65.75%
Asian	14.4%	\$35,068	71.71%
Hispanic or Latino origin (of any race)	19.6%	\$31,399	64.21%

2020 Household Income

Race	Population Distribution	Mean Income	Percent of White Income
White	71.6%	\$41,569	100%
Black or African American	10.2%	\$26,786	64.44%
Asian	10.0%	\$35,277	84.86%
Hispanic or Latino origin (of any race)	18.4%	\$26,364	63.42%

2010 Household Income

Race	Population Distribution	Mean Income	Percent of White Income
White	75.8%	\$33,739	100%
Black or African American	10.0%	\$20,785	61.61%
Asian	7.6%	\$26,439	78.33%
Hispanic or Latino origin (of any race)	16.30%	\$21,379	63.37%

¹¹⁵ Mean Income in the Past 12 Months (in 2024 Inflation-Adjusted Dollars), S1902, U.S. Census Bureau, available at [https://data.census.gov/table/ACSST1Y2024.S1902?q=median+income&g=050XX00US36085\\$1400000_060XX00US3608570915%20.%20.%20.%20.](https://data.census.gov/table/ACSST1Y2024.S1902?q=median+income&g=050XX00US36085$1400000_060XX00US3608570915%20.%20.%20.%20;); Poverty Status in the Past 12 Months by Sex by Age, ACS 2023 1-year, Census Reporter, available at https://censusreporter.org/data/table/?table=B17001&primary_geo_id=05000US36085&geo_ids=05000US36085,04000US36,01000US.

The income disparity must therefore be viewed in context, which shows that the disparity is decreasing and will likely continue to do so.

vii. Factors (h): Hispanics and Blacks on Staten Island Are Not Disadvantaged in Other Areas in a Way that Hinders Their Ability to Participate Effectively in the Political Process

Dr. Sugrue focuses on factor (g)—considering socioeconomic status, housing, and income—and disregards Staten Island’s clear commitment to supporting its minority residents and ending racism through community resources and other support. Without acknowledging these facts, Dr. Sugrue’s presentation of Staten Island is incomplete.

Community Resources:

To start, Staten Island has extensive minority resources meant to protect legal rights and provide an array of services for minorities, ensuring community development, voting rights, legal counseling, and minority integration.

In 2024, New Yorkers “identif[ied] the actions government must take to improve well-being for communities harmed by racism and social injustice,” and determined that governments needed to “[i]ncrease and appropriately fund the number of organizations working with NYC government to provide health, mental health, and substance use programs that understand the lived experience of community members most harmed by racism.”¹¹⁶ Indeed, 78.1% of respondents agreed or strongly agreed that the increase of mental health and substance use programs would be most helpful to communities harmed by racism, choosing that option over (1) “[i]ntegrat[ing] diverse voices in government decision-making”; (2) “[i]ncreasing equity in income and employment supports”; (3) “lessen[ing] burdens and increase[ing] supports for students and their

¹¹⁶ *Staten Island Community Equity Priority Feedback*, NYC Commission on Racial Equity, available at https://www.nyc.gov/assets/core/downloads/pdf/05_29_25%20Staten%20Island%20Borough%20Based%20Data%20Profile.pdf.

families"; and (4) promoting "stable and low-cost housing."¹¹⁷ In other words, the residents of Staten Island believed the best way to help communities harmed by racism and social injustices was not increasing income or employment or helping with housing costs, but funding organizations that could help these communities.

Staten Island has an extensive number of agencies and community groups, public and private, focused on aiding minority residents, including through economic development, legal aid to immigrants, integration of minorities into community, and fighting racism. These include the New York Immigration Coalition, El Centro, and the Staten Island office of the Mayor's Office of Immigrant Affairs, as well as:

- **Richmond County Black & Minority Chamber of Commerce (BMC):** A non-profit organization dedicated to the economic empowerment of African American and other minority communities through business support and networking opportunities.
- **NAACP - Staten Island Branch #2227:** Part of the national organization that works to ensure a society in which all individuals have equal rights without discrimination based on race.
- **La Colmena:** A center that supports the immigrant community on Staten Island by offering various services, including courses, food drives, legal advice, and workshops.
- **Migration Resource Center:** A non-profit organization providing affordable immigration legal services for low-income individuals in the area.
- **Sauti Yetu Center for African Women:** This organization works with African immigrant women and families, providing support and resources.
- **Project Hospitality:** While serving the broader community, this organization offers a wide range of social services including immigrant support, food pantries, and housing assistance that help many minority residents in need.
- **Arab-American Family Support Center (AAFSC):** Supports Arab-American immigrant communities with various family and social services.

¹¹⁷ *Id.*

- **South Asian Council for Social Services (SACSS):** Provides social services and support tailored to the needs of the South Asian community.
- **Bait-ul Jamaat House of Community:** Formed in 2015 on the South Shore, it protects a broad scope of underserved members of the community.
- **Central Family Life Center:** A non-profit organization formed in 1991 that seeks to improve the lives and environment of Staten Island residents.
- **Coalition for Asian American Children and Families:** A non-profit that coordinates resources for Asian Americans on Staten Island and throughout NYC.
- **Muslim Sisters of Staten Island:** An organization founded in 2014 to empower underserved women and children affected by trauma and other life challenges through civic and community engagement, education, resources, and support.
- **The Panafrican Cultural and Training Center:** A non-profit that supports economic growth through training comprehensive skills.
- **Project Caribbean:** A non-profit cultural and arts program supporting members of the Caribbean diaspora.
- **National Council of Negro Women – Staten Island Section:** A non-profit organization founded in 1935 with the mission to advance the opportunities and the quality of life for African American women, their families, and communities.
- **Staten Island Community Alliance:** A non-profit which several events including the boroughs annual Juneteenth celebration.
- **Staten Island S.T.R.O.N.G.:** A non-profit which provides tours, access and information about historically Black colleges and universities to Staten Island students.

Staten Island also has groups specifically dedicated to increasing political participation.

Groups like La Colmena and Make the Road NY have been at the forefront of political issues on Staten Island for many years and have increased political involvement by Hispanics. Prominent groups like the Richmond County Black and Minority Chamber of Commerce, the Central Family Life Center, the Staten Island Urban Center, have increased community participation among

Blacks. Other organizations like the NAACP and the Staten Island Unity Coalition have also routinely hosted legislative forums to bring candidates into communities of color.¹¹⁸

2020 Election Rallies. In 2020, various groups that support minority rights held several rallies around the borough in an effort to get voters engaged in the 2020 election. These included La Colmena, the National Action Network, and the Young Leaders of Staten Island.¹¹⁹

Staten Island's Marked Decrease in Hate Crimes and The Community's Response to Racism

After fixating on racism that occurred decades ago during a time in which racism was prolific throughout the country, Dr. Sugrue myopically focuses on a handful of purported “hate crimes” that have occurred on Staten Island more recently. Rep. ¶ 63–75. Dr. Sugrue’s report lacks important context and misses Staten Island’s progress in combating hate crimes.

According to the Southern Poverty Law Center’s (SPLC) 2015 “Hate Map,” there are no hate groups in Staten Island—and the SPLC tends to err on the side of overreporting.¹²⁰ Additionally, Staten Island has consistently had one of the lowest incident rates of hate crimes in its precincts for several decades. In 2025, the New York City Police Department Hate Crimes dashboard shows a total of twelve incidents reported on Staten Island, and ten of those incidents targeted Jewish residents.¹²¹ Only two incidents in 2025 targeted Blacks.¹²² Additionally,

¹¹⁸ Dr. Gracelyn Santos, *Legislative forum hosted by Staten Island Unity Coalition focused on community issues* (Nov. 3, 2025), available at <https://www.silive.com/news/2025/11/legislative-forum-hosted-by-staten-island-unity-coalition-focused-on-community-issues.html>

¹¹⁹ Clifford Michel, *Their Anti-Racism Marches Were Twisted in a \$4 Million GOP Attack Ad Campaign. Now, They Just Want to Get Out the Vote*, (Nov. 22, 2020), available at <https://www.thecity.nyc/2020/11/22/anti-racism-marches-young-leaders-of-staten-island-voter-registration/>.

¹²⁰ Tom Wroblecki, *Despite our reputation, Staten Island is no home for hate groups (commentary)*, silive (Mar. 24, 2015), available at https://www.silive.com/opinion/columns/2015/03/despite_our_reputation_staten.html.

¹²¹ *NYPD Hate Crimes Dashboard*, NYPD, available at <https://app.powerbigov.us/view?r=eyJrIjoiNTAwY2MzZWUtZTFjMy00YjQ3LTk1YWEtZGE0MDhkN2UzYTRhIwidCI6IjJiOWY1N2ViLTc4ZDEtNDZmYi1iZTgzLWEyYWZkZDdjNjA0MyJ9>.

¹²² *Id.*

quarterly-reported hate crimes in Staten Island, most of which involve graffiti and literature rather than physical attacks,¹²³ decreased 66% from 2018 to 2019 in Staten Island, while the city as a whole saw a 67% increase.¹²⁴

Nonetheless, Dr. Sugrue cherry-picks recent incidents that he claims involved “hate crimes.” But a closer look often demonstrates that he is wrong. For example, he claims that the Proud Boys were at a rally on August 12, 2023 alongside Staten Island’s elected officials—when the article he cites in support does not. Rep. ¶ 71. The article merely reports a statement by one rally attendee who said that he would call on other protestors in the future—without identifying any group. There is no basis in fact for the conclusion that the Proud Boys attended, and the article does not support Dr. Sugrue’s statement, let alone, suggest that Staten Island is overrun with hate groups.

Additionally, Dr. Sugrue cites “anti-immigrant” protests. Rep. ¶ 71. But referring to these protests as “anti-immigrant” is simplistic and naïve. Immigration was often at the top of every poll as to what concerned Americans leading into the 2024 election, and it was driven, by numerous legitimate concerns, *not* anti-immigrant sentiments. For example, the New York City mayor invited migrants to stay in converted hotels, which became de facto homeless shelters, and collectively this had a negative impact on the surrounding communities.¹²⁵ These protests were not unique to Staten Island, and in fact, they occurred in nearly every neighborhood, and in every

¹²³ Kyle Lawson, *From gang markings to hate crimes, D.A. McMahon’s cleanup crew goes to work on Staten Island* (Nov. 4, 2025), available at <https://www.silive.com/crime-safety/2025/11/from-gang-markings-to-hate-crimes-da-mcmahons-clean-up-crew-goes-to-work-on-staten-island.html>.

¹²⁴ Irene Spezzamonte, *Hate crimes decrease drastically on Staten Island as they rise sharply citywide* (May 17, 2019), available <https://www.silive.com/crime/2019/05/hate-crimes-decrease-drastically-on-staten-island-as-they-rise-sharply-citywide.html>.

¹²⁵ Craig McCarthy & Matt Troutman, *Shocking data detail NYC illegal migrant crime with 3.2K arrests — including assault, robbery, murder*, NY Post (May 2, 2025), available at <https://nypost.com/2025/05/02/us-news/shocking-data-details-nyc-illegal-migrant-crime-with-3-2k-arrests-including-assault-robbery-murder/>.

borough, where the hotels were sited, including even the most progressive neighborhoods¹²⁶ and communities of color.¹²⁷ The protests in fact, demonstrate Staten Islanders' active participation in the political process by exercising their First Amendment rights. Dr. Sugrue's framing of this issue as unique to Staten Island is deliberately inaccurate and factually ahistorical.

Moreover, when instances of hate have occurred, residents of Staten Island have taken action in response, expressing their objection to such conduct. Some notable examples include:

Staten Island Hate Crimes Task Force. In the aftermath of the horror of the 2018 murders at the Tree of Life synagogue in Pittsburgh, Staten Island created the Staten Island Hate Crimes Task Force as a division of the Richmond County District Attorney's Office, and the District Attorney made a point of prosecuting hate crimes. These efforts have resulted in a generally downward trend in hate crimes, as discussed above.

Staten Islanders against Hate. In 2019, private citizens representing a broad spectrum of community leaders formed Staten Islanders against Hate, to bring educational materials and educational programs to the community and schools. The Mission Statement of the group states the following: "The Staten Island Hate Crimes Task Force, composed of leaders who represent communities that are historically targeted and victimized by hate-based crime, is committed to securing the right of every person to live their lives free from bias and hate on Staten Island. The Task Force shall seek, develop, and execute programming and other efforts to prevent hateful acts before they occur, particularly through education and immersive experiences. Members of the Task Force shall serve as ambassadors within and beyond their own communities to promote

¹²⁶ Louis Finley, *Group of Clinton Hill residents protest migrant shelters*, Spectrum News NY1 (July 23, 2024), available at <https://ny1.com/nyc/brooklyn/news/2024/07/24/group-of-clinton-hill-residents-protest-migrant-shelters>.

¹²⁷ FOX 5 New York, *Anger, frustrations in the Bronx over proposed 2,200-bed migrant shelter*, (YouTube, Jan. 27, 2025), available at <https://www.youtube.com/watch?v=WQjLQE9qNJw>.

greater understanding and tolerance of those with different backgrounds and to educate Staten Islanders of all ages about the need to live peaceably together in our community.”¹²⁸

Black Lives Matter. In 2020, Staten Island was home to several Black Lives Matter marches and rallies, in response to the murder of George Floyd by police, including one which Staten Island’s Congressman attended¹²⁹ and another which the local member of the State Assembly attended.¹³⁰

The aftermath of the Eric Garner incident. Dr. Sugrue highlights the Eric Garner killing and a grand jury’s decision not to indict officer Daniel Pantaleo to infer disparities in policing without any discussion of the community’s response to that incident. For one, as NPR pointed out, when compared to the aftermath of the Michael Brown incident in Ferguson, the response to Garner’s death was entirely “peaceful” in part because Staten Island’s elected officials proactively addressed concerns.¹³¹ Shortly after the incident, District Attorney Dan Donovan announced “it is appropriate to present evidence regarding circumstances of his death to a Richmond County Grand Jury.”¹³² Countless Staten Islanders of all races and ethnicities took part in rallies and vigils throughout 2014, including one of 2,500 people lead by Reverend Al Sharpton and attended by numerous of Staten Island’s community leaders.

¹²⁸ Staten Islanders Against Hate, Office of the District Attorney Richmond County, available at <https://www.statenislandda.org/silove/>.

¹²⁹ Rebeka Humbrecht, *Protesters rally at 122nd Precinct, march down Hylan; exchange words with motorists*, SI Live (June 3, 2020), available at <https://www.silive.com/news/2020/06/protestors-face-backlash-as-they-march-down-hylan-blvd.html>.

¹³⁰ Joseph Ostapiuk, *Sandy Ground march retraces historic steps of Underground Railroad on Staten Island*, SI Live (Aug. 1, 2020), available at <https://www.silive.com/news/2020/08/sandy-ground-march-retraces-historic-steps-of-underground-railroad-on-staten-island.html>.

¹³¹ Joel Rose, *In New York And Ferguson, Two Deaths, Two Different Responses*, NPR (Aug. 22, 2014), available at <https://www.npr.org/2014/08/22/342470785/in-new-york-and-ferguson-two-deaths-two-different-responses>.

¹³² *Timeline: Eric Garner Death*, NBC New York (Dec. 5, 2014), available at <https://www.nbcnewyork.com/news/local/timeline-eric-garner-chokehold-death-arrest-nypd-grand-jury-no-indictment/1427896/>.

Response to New York Young Republican's Racist Group Chat. In response to racist group chat messages from the Manhattan based New York Young Republic Club that were leaked to the media in 2025, every Staten Island elected official, including every Republican politician, rallied against the messages and denounced all those involved at multiple press conferences.¹³³

i. Factor (i): The Lack of Subtle Racial Appeals in Congressional Campaigns

Dr. Sugrue's evidence of racial appeals in political campaigns does not include any incident in a congressional campaign, provides a remarkably incomplete account of the secession campaign, and summarizes four disparate incidents across a dozen years that do not qualify under his own definition of racial appeals. He also relies on a 1967 cartoon that has nothing to do with elections. Instead of reaching for outlier incidents, a more complete look shows that candidates, Republicans and Democrats alike, campaigned on bread-and-butter issues and Staten Island-specific issues relevant to their constituents. It also shows that the Staten Island Secession movement arose from legitimate concerns about Staten Island losing political standing among the boroughs and the City exporting its problems to Staten Island's detriment, exemplified by the Fresh Kills Landfill.

Lack of Racial Appeals in Congressional Races

To determine the prevalence of racial appeals as might have appeared in congressional races, a search of Staten Island and other New York newspapers was conducted through Newspapers.com, a search engine regularly used by scholars. Newspaper research is standard methodology in history. Political historians have used newspapers to understand political campaigns for as long as there has been a historical profession. They provide a sense of what

¹³³ Tracey Porpora, *Staten Island GOP condemns hate speech in Young Republican leaders' text thread* (Oct. 15, 2025), available at <https://www.silive.com/news/2025/10/staten-island-gop-condemns-hate-speech-in-young-republican-leaders-text-thread.html>.

candidates wished to project to voters, a limited sense of public opinion, and a stronger sense of what was controversial or important to the press and public. Although accusations of racial appeals are often subjective in nature, an examination of newspapers in which charges of racism are reported against a candidate provides an objective measure in collecting racial appeals, as newspapers typically report such controversy. This method can be replicated by other investigators, a standard practice of social scientists.

As Dr. Sugrue reports, some social scientists and historians define racial appeals as either overt or subtle. In other words, Dr. Sugrue believes that scholars determine what counts as a racial appeal, no matter how the population at the time understood the appeal.

The method used here follows a well-understood historical method that focuses on how people at the time interpreted campaign appeals, instead of on how scholars now judge them and those issues. It assumes that charges of racism are politically powerful and would be reported in newspapers—even if the alleged appeal was subtle. In this analysis, there was a search for instances of the term “racism” along with “issues” from January to January in election years. It is an objective measure for collecting racial appeals, as newspapers typically report such controversy.

The search examined racial appeals in congressional campaigns from 2000 to 2024, a twenty-four-year period. The search focused on “racism” and “issues” for each general election race. Searching “racism” permits historians to accurately identify what people in a particular time believe to be racist. Historians seek to learn how people in the past understood their world and do not try to impose their present values. What some or most see as racist today might not have been understood as racist in the past. For example, the phrase “illegal aliens” may be considered racist or disrespectful by some today, the term was in common circulation in the past by members of both political parties that sought to stop illegal entry to the United States.

The search results showed that there was only one charge of racism and one potential charge of antisemitism that was not reported as such. In 2008, the losing candidate in the Republican primary charged the winner with racism for pointing out he had used a different first name that what he used professionally to hide his Pakistani heritage. In 2010, the Democratic candidate's staff claimed that the Republican candidate was supported by Jewish money. And in reviewing the central election issues, they reflected hot policy topics of the time: war on terrorism, transportation costs, prescription drugs and Social Security, the economy in the aftermath of the 2008 financial crisis, immigration policies, defunding the police, green policies, the size of government, charges of corruption, rising crime rates, social policy (like abortion), and blaming incumbents as ineffective.

Between 2008 and 2020, the country, state and borough saw significant milestones. In 2008, the nation elected its first Black President, and in 2012 President Obama carried Staten Island by thousands of votes. In that period, the State also saw its first black governor, David Patterson, and the first Black person was elected to office on Staten Island, Debi Rose. In 2020, the nation elected Kamala Harris as its first Black female Vice President.

As racial issues became more prominent nationally from 2014, it is remarkable that in 2020, racial identity politics played a small role in that congressional race. As Republican Nicole Malliotakis ran to unseat Democrat Max Rose, no charges of racism emerged for either candidate. Even though post-George Floyd defund-the-police demand occasionally hit news reports, Democrat incumbent Max Rose proclaimed his full support for the police and funding.

Dr. Sugrue also incorrectly frames the Staten Island Secession movement solely in racial terms. In the most comprehensive description of Staten Island secession movement, political historians Daniel Kramer and Richard Flanagan do not attribute substantial racial motives to its

inception and popular support. Only one paragraph out of a twenty-page chapter entitled “The Landfill and Secession Movement” discusses it. While they admit some Staten Islanders may have had racial motives in an ever-more-diverse city, they specifically downplay the notion: “[T]he ‘Manhattan-centered view’ of the anti-secessionist side overemphasized the extent to which racism motivated their opponents.”¹³⁴

Instead they ascribed secessionists motives largely to poor infrastructure, overcrowded schools, a lack of sewers, tolling on the Verrazzano Bridge, and the long history of the Fresh Kills Landfill.¹³⁵ Additionally, as Dr. Sugrue also cites, the Island’s ability to govern itself, and its resident’s ability to influence political outcomes, changed with the case of *New York City Board of Estimate v. Morris* in 1989.

As a source Dr. Sugrue relies on explains, “the catalyst for secession was the demise of the Board of Estimate, with its ‘one borough, one vote’ rule, and the concomitant reduction of Staten Island’s power in the City’s governing structure.”¹³⁶ Until 1983, Staten Island had equal voting power with the other boroughs on the Board of Estimate, which “wielded broad authority over the City’s land use and zoning process, the disposition of City property, and the grant of contracts and franchises, and it shared power with the City Council over the budget.”¹³⁷ When that was disbanded and power re-apportioned to the City Council, “Staten Island sustained a severe loss of political power within the City.”¹³⁸ Soon after that, Staten Island politicians submitted bills that would begin the secession process because the “borough would lose its political clout in the city

¹³⁴ Kramer and Flanagan, *supra* note 41, at 127.

¹³⁵ *Id.*

¹³⁶ Richard Briffault, *Voting Rights, Home Rule, and Metropolitan Governance: The Secession of Staten Island As A Case Study in the Dilemmas of Local Self-Determination*, 92 Colum. L. Rev. 775, 788 (1992).

¹³⁷ *Id.* at 783.

¹³⁸ Jeffrey Underweiser, *The Legality of Staten Island’s Attempt to Secede from New York City*, 19 Fordham Urb. L.J. 147, 147 (Fall 1991).

under a reorganization that eliminated the powerful Board of Estimate.”¹³⁹ Staten Island’s political establishment, both Democratic and Republican, supported the measure, which “sailed through the Senate by a vote of 58 to 1” and “passed the Assembly by a vote of 117 to 21” with bipartisan agreement.

In signing the bill, Governor Cuomo described “the secession movement [a]s fueled by a ‘long list of grievances by the people of Staten Island over the years,’ and by a sense of Staten Island’s differences from the rest of the City.”¹⁴⁰ Some reports noted that “Secession has long been sought by some residents of New York City’s smallest borough, who complain they have little voice in city affairs compared to residents of more populous Manhattan, the Bronx, Brooklyn and Queens.” One prime example of that voice was that when the City “decided that Fresh Kills [located on Staten Island] would become a major garbage dump” where a “mountain of waste reache[d] into the sky.”¹⁴¹

Dr. Sugrue’s narrative exaggerates the influence of race on the secession movement. He notes that “North Shore neighborhood leader David Goldfarb” ascribed racial assumptions others held, Rep.¶ 95, but Mr. Goldfarb was also reported as believing “the movement simply a matter of misplaced emotion” because “[t]here is a lot of dislike of the city of New York.”¹⁴² Similarly, Dr. Sugrue misapplies some observations by Professor Briffault, who describes high racial tensions between Jewish, Irish, and Italian groups, and Professor Briffault notes that the Staten Island secession could be perceived as (but was not motivated by) White flight.¹⁴³ His other quotes

¹³⁹ Koch Vows to Fight Staten Island Secession in Court, AP (Dec. 28, 1989).

¹⁴⁰ Cuomo Signs Bill Allowing State Island Secession Vote, AP (Dec. 15, 1989).

¹⁴¹ Dr. Joseph Vitteri, *Should Staten Island Leave the City*, The City Journal (Autumn 1992), available at <https://www.city-journal.org/article/should-staten-island-leave-the-city>.

¹⁴² Catherine S. Manegold, *Staten Island Secession More Than Fringe Threat*, NY Times, A1 (Aug. 9, 1993).

¹⁴³ Richard Briffault, *Voting Rights, Home Rule, and Metropolitan Governance: The Secession of Staten Island As A Case Study in the Dilemmas of Local Self-Determination*, 92 Colum. L. Rev. 775, 844 (1992).

about Staten Island attitudes do not show racial animus but rather address the City's failings, *e.g.*, people "who are homeless, poor or on welfare." Rep. ¶ 96. Moreover, there is evidence that the Staten Island secession plan intended to address some of these concerns with provisions which would "strengthen[] minority candidates" and was championed by Lani Guinier—a civil rights theorist from Harvard and woman of color who was nominated to lead the Clinton Administration's civil rights division in DOJ.¹⁴⁴ Thus, Dr. Sugrue fails to consider the whole context of the Staten Island secession movement in the 1990s.

More broadly, Staten Island (and other New York localities) threaten secession for political, not racial, reasons. Some have observed that the "secession" talk is more bluster to gain leverage with state and City leaders. They note that secession measures "pressure[] City Hall and Albany to maybe make some concessions."¹⁴⁵ And they cite the Staten Island Secession movement in the 1990s as supremely successful. Examples of this success are "when the city closed the Fresh Kills landfill, made the Staten Island Ferry free, built a minor league ballpark and gave out other concessions after residents made their anger known at the ballot box." In later years, threats of secession or the introduction of bills in support of it, were almost always done when Staten Island elected officials felt powerless to stop policies which they felt would adversely affect their constituencies. Efforts to revive the movement between 2008 and 2011 by one State Senator erupted around growing property tax bills,¹⁴⁶ while a push by a majority of the island's council delegation in 2019 over a property tax imbalance eventually lead the city, with bipartisan support

¹⁴⁴ Staten Island Secession, the Debate That Wouldn't Die, Now Reaches Albany, AP (1992).

¹⁴⁵ Kate Kelberg, *in New York, the Secession Obsession Still Lingers*, HUFFPOST (Sept. 10, 2009).

¹⁴⁶ Jonathan P. Hicks, *A New Call for Staten Island to Secede*, NY Times (Dec. 17, 2008), available at <https://archive.nytimes.com/cityroom.blogs.nytimes.com/2008/12/17/a-new-call-for-staten-island-to-secede/>.

from the Mayor and Comptroller, to empanel a property tax commission to reform the system.¹⁴⁷

The messy reality of a secession heavily weighs in favor of compromise and taking Staten Island's objections seriously.

Response to Dr. Sugrue's Alleged Racial Appeals

Dr. Sugrue cites to a handful of alleged racial appeals, but none rise to the level of an actual racial appeal.

First, Dr. Sugrue cites to the criminal conduct of Mr. Richard A. Luthmann, who was indicted for election law violations and a bevy of criminal charges, during the 2016-2017 election cycle. Dr. Sugrue claims that when impersonating Democratic Council member Debi Rose, Mr. Luthmann "tapped radicalized fears of welfare receipt and criminality." Rep. ¶ 99. But Mr. Luthmann was an equal opportunity political impersonator—as he had "impersonated three local politicians on social media" including the district attorney and a Republican candidate Janine Materna for the State Assembly.¹⁴⁸ Notably, Mr. Luthmann was paid by Member Rose's primary opponent and reporting indicates it had contact with the opponents in the other races.¹⁴⁹ Although the fake social media posts were intended to harm the primary opponents, Mr. Luthmann was targeting Ms. Materna for not being conservative enough (with a photograph of a democrat-appointed U.S. Attorney General).¹⁵⁰ And the attacks on Ms. Rose centered around bringing criminals onto Staten Island with drugs. Rep. ¶ 99. The main point to take away is that this bizarre

¹⁴⁷ Rich Calder, *Staten Island councilmen pushing plan for borough to secede from NYC*, NY Post (Nov. 8, 2019), available at <https://nypost.com/2019/11/08/staten-island-councilmen-pushing-plan-for-borough-to-secede-from-nyc/>.

¹⁴⁸ Michael Gold, *Lawyer Accused of Using Fake Facebook Pages to Sway Elections in Staten Island*, NY Times (Nov. 30, 2018), available at <https://www.nytimes.com/2018/11/30/nyregion/lawyer-luthmann-fake-facebook-election.html>.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

conduct was prosecuted and Mr. Luthman's efforts do not reflect the thoughts, wishes, or views of any politician or political party.

Second, Dr. Sugrue cites four isolated incidents (more than a decade apart) as evidence of racial appeals, but they all show local government officials acting to protect racial minorities. In 2009, four men of unknown origin attacked minorities who they assumed had voted for Barack Obama.¹⁵¹ Dr. Sugrue overlooks that the criminal prosecution of four men was brought about with the assistance of the New York City Police Department and the Richmond County District Attorney's Office.¹⁵² Likewise, when a Community Education Council member forwarded racist jokes to colleagues, the Staten Island Borough President took action and caused the member to step down.¹⁵³ And in 2020, law enforcement arrested and prosecuted a man who had threatened violence for political reasons (Joe Biden's election in 2020 and nonviolent protesters) against people celebrating in the streets and blowing up the FBI Building in Washington, DC.¹⁵⁴ And finally, the man in 2021 that wrote racist slurs on campaign posters in Staten Island was apprehended by the New York City Police Department and the affected candidate explained that the actions were out of step with community values: "this is not New York, this is not Staten Island—this is not who we are as a borough or as a city."¹⁵⁵ None of these one-off incidents amount

¹⁵¹ Press Release, *Four Men Sentenced to a Combined 293 Months in Prison for Election Night Assaults*, DOJ (Sept. 10, 2009), available at <https://www.justice.gov/archives/opa/pr/four-men-sentenced-combined-293-months-prison-election-night-assaults..>

¹⁵² *Id.*

¹⁵³ Jen Chung, *S.I. Education Council Member Resigns Over Racist E-mail*, Gothamist (Mar. 3, 2009), available at <https://gothamist.com/news/si-education-council-member-resigns-over-racist-e-mail>.

¹⁵⁴ Press Release, *Staten Island Felon Sentenced to Prison for Possessing Illegal Firearm*, DOJ (May 18, 2022), available at <https://www.justice.gov/usao-edny/pr/staten-island-felon-sentenced-prison-possessing-illegal-firearm>.

¹⁵⁵ Joseph Ostapiuk, *Man charged with hate crime after allegedly defacing North Shore candidate posters*, SI Live (Dec. 1, 2021), available at <https://www.silive.com/crime-safety/2021/03/man-charged-with-hate-crime-after-allegedly-defacing-north-shore-candidate-posters.html>.

to a negative stereotype among the electorate and, instead demonstrate the opposite: that Islanders will not stand for racial appeals or hate-based crime.

VI. Conclusions

The unique demographics and practical realities of Staten Island's geographic isolation belie Petitioners' request to connect the "communities of interest" in Staten Island and Southern Manhattan. Southern Manhattan's largely White population has little in common with Staten Island's diverse community. The practical realities of no physical connection between the boroughs have created significant distinctions between the two areas, including the fact that Staten Island is more suburban area, with a higher rate of home and car ownership. It makes little sense, therefore, to connect the two communities in a congressional district.

Moreover, in making his argument for the "totality of the circumstances" as a foundation for redistricting the New York's Congressional Map, Dr. Sugrue cherry-picks facts, ignores context, disregards significant progress, often fails to tie his evidence to Staten Island, and does not support his arguments. Moreover, he fails, at any point, to make any assertion that redrawing the 11th Congressional District to include lower Manhattan, a borough long plagued with its own problems, would somehow resolve these concerns.

Dr. Sugrue's rendition of Staten Island's history is one-sided, excluding facts that do not fit his narrative. Omitted from Dr. Sugrue's discussion is New York's anti-slavery activity prior to the Civil-War and a history of civil rights activism thereafter. Indeed, a closer examination of New York's, and particularly Staten Island's, history demonstrates that New York was often on the forefront of efforts countering unequal treatment of minorities. Staten Island, specifically, boasts the distinction of containing the longest continually occupied settlement of former slaves.

Further, Dr. Sugrue ignores the significant progress Staten Island has made in addressing racial discrimination.

Dr. Sugrue provides no evidence that Blacks and Hispanics have been excluded from public office, and, to the contrary, racial and ethnic minorities have had great political success in Staten Island. Indeed, the current Congresswoman for the 11th Congressional District is Hispanic and the child of immigrants. Nor does he grapple with the reality that approximately one-third of all legislators representing Staten Island are Black or Hispanic.

Dr. Sugrue erroneously maintains that Black and Hispanic voters were structurally prevented from voting because of a history of using literacy tests for voting. But the testing in New York is considerably more complex than portrayed by Dr. Sugrue and is not unique to Staten Island. Moreover, Dr. Sugrue ignores that New York, including Staten Island, has actually expanded language services to assist minority voters.

Neither Dr. Sugrue nor Petitioners provide any support for the suggestion that eligible Black and Latino voters or candidates have been denied access to the ballot, financial support, or other support. In fact, Black and Hispanic candidates have run for office with the support of both major parties and have often qualified for matching funds programs to ensure they are well-financed. Additionally, the current chairman of one of the major political parties is Black.

Dr. Sugrue also ignores the regional and national data showing a marked increase in Hispanic voting eligibility, Hispanic voter turnout, and Hispanic voter participation.

Dr. Sugrue's examination of disadvantages faced by Black and Hispanic residents of Staten Island in education, housing, and median income ignores the complexity of these issues and is completely linear. Black and Hispanic residents' education attainment has consistently increased,

the housing statistics are much better in Staten Island than elsewhere, and Black and Hispanic mean income has steadily increased over the past decade.

In discussing the disadvantages Black and Hispanic residents of Staten Island allegedly face, Dr. Sugrue fails to recognize that Staten Island's demonstrable dedication to ending hate and discrimination. Staten Island is replete with public and private organizations committed to assisting minorities, including by ensuring their access to the political process. Dr. Sugrue also disregards Staten Island's low occurrence of hate crimes and that hate crimes have consistently decreased on the Island.

Dr. Sugrue's evidence of racial appeals in political campaigns omits any discussion of congressional campaigns, provides an incomplete account of the secession campaign, and summarizes four disparate incidents across a dozen years that do not qualify under his own definition of racial appeals.

In sum, Dr. Sugrue's opinions on the "totality of the circumstances" factors do not include the full context of Staten Island's history, diversity, and great progress. His opinions are therefore unreliable.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
Michal Williams; José Ramírez-Garofalo; Aixa Torres; and
Melissa Carty,

Petitioners,

-against-

Board of Elections of the State of New York; Kristen
Zebrowski Stavisky, in her official capacity as Co-
Executive Director of the Board of Elections of the State of
New York; Raymond J. Riley, III, in his official capacity as
Co-Executive Director of the Board of Elections of the
State of New York; Peter S. Kosinski, in his official
capacity as Co-Chair and Commissioner of the Board of
Elections of the State of New York; Henry T. Berger, in his
official capacity as Co-Chair and Commissioner of the
Board of Elections of the State of New York; Anthony J.
Casale, in his official capacity as Commissioner of the
Board of Elections of the State of New York; Essma
Bagnuola, in her official capacity as Commissioner of the
Board of Elections of the State of New York; Kathy
Hochul, in her official capacity as Governor of New York;
Andrea Stewart-Cousins, in her official capacity as Senate
Majority Leader and President *Pro Tempore* of the New
York State Senate; Carl E. Heastie, in his official capacity
as Speaker of the New York State Assembly; and Letitia
James, in her official capacity as Attorney General of New
York,

Index No. 164002/2025

Hon. Jeffrey H. Pearlman

Motion Seq.

Respondents,

-and-

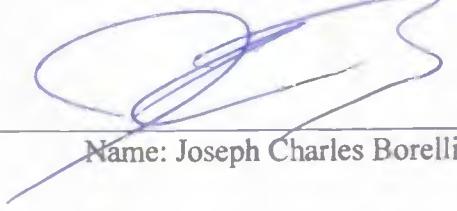
Nicole Malliotakis; Edward L. Lai, Joel Medina, Solomon
B. Reeves, Angela Sisto, and Faith Togba,

Intervenors-Respondents,

-----X
VERIFICATION

Joseph C. Borelli, being duly sworn, deposes and says:

1. I am over 18 years of age and am not a party to this case.
2. I swear under penalty of perjury to the faithfulness of the opinions expressed in the foregoing Response to Plaintiffs' Expert Report of Thomas J. Sugrue, and to the best of my knowledge, to the truth and accuracy of the factual statements made therein.
3. If asked to testify on these matters, I could and would testify under oath to their contents, under penalty of perjury.
4. I affirm this 8th day of December 2025, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.



Name: Joseph Charles Borelli

Exhibit N

Corrected Rebuttal Expert Report

D. Stephen Voss

December 8, 2025

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Williams et al. v. Board of Elections of the State of New York et al.

Index No. 164002/2025

CORRECTED RESPONSE TO EXPERT REPORT OF MAXWELL PALMER*

D. STEPHEN VOSS

I. INTRODUCTION & QUALIFICATIONS

- A. I am a political scientist who earned his Ph.D. from Harvard University in 2000, with **political methodology** (i.e., quantitative analysis) as my focus field.
- B. I currently am employed with the University of Kentucky's Department of Political Science, where I am a **senior professor** at the Associate rank. I am part of my university department's rotation of methods instructors, having taught graduate methods most recently in Fall 2024. I fill two administrative positions for my department: Internship Director and Publicity Coordinator. I am one of the three social scientists on our college's Educational Policy Committee, and one of my college's two Faculty Senators at the university level.
- C. I have served as **president of the Kentucky Political Science Association** and I co-founded that association's journal, the *Commonwealth Review of Political Science*.
- D. My dissertation explored **elections and voting behavior** related to race & ethnicity,¹ and I have published scholarly work in that topical area from 1996 through the current year, including in peer-reviewed disciplinary journals.² Some of that work included analysis focused on redistricting and/or voting rights.³
- E. My primary Ph.D. advisor was Gary King, originator of commonly used methods and software for conducting **ecological inference**. I was on the ground floor when King wrote the 1997 book introducing his method, as illustrated by the use of my data in his book's opening analysis,⁴ and I authored a solo chapter in King's follow-up edited volume.⁵ I employed King's EI software throughout my dissertation,⁶ and I have published work using EI in invited,⁷ peer-reviewed,⁸ and trade articles.⁹
- F. Another of my dissertation advisors was Bradley Palmquist, also a specialist in ecological inference. A conference paper Palmquist and I coauthored to help introduce EI has enjoyed widespread visibility due to its influence on a

*This version corrects the original report dated December 8, 2025, in which Table 1 was inadvertently duplicated and substituted for Table 3 on page 13 of Appendix B. This corrected version contains the correct Table 3. This report is otherwise unchanged.

prominent racial-politics scholar; it has been “read” (i.e., accessed) more than 5,000 times just from one source: the scholarly archive site ResearchGate.¹⁰

- G. I am interviewed frequently by state, national, and international news organizations as a **non-partisan commentator**. I work as a political analyst for Spectrum One News, after a long stint as an analyst for ABC-36 (WTVQ). I am a recurring guest and periodic guest host on WVLK talk radio, and I have been a recurring columnist for a progressive outlet, the *Kentucky Lantern*. Students at UK recognize my non-partisan orientation. I’ve served as faculty advisor for student groups across the political spectrum – including, currently, both UK’s College Democrats and College Republicans – as well as UK’s Phi Alpha Delta pre-law chapter. In the past, I advised the Moderates Club and the NAACP chapter.
- H. Although I do not pursue, and in the past have usually turned down, offers to engage in consulting work, I have served as a **consultant and expert witness** in a handful of redistricting and voting-rights cases, starting with an Indianapolis case early in my career and most recently (not counting ongoing litigation) a Tampa case. About half of those cases required me to conduct and evaluate ecological inferences. I’ve also been admitted as a quantitative-analysis expert in cases unconnected to elections and voting (e.g., for automobile risk analysis), and I have been hired as a data scientist by public & private entities focused on policy.
- I. Accompanying this expert report as Appendix A is my CV, which, among other things, lists my publications and cases in which I provided expert testimony.

II. SCOPE OF WORK & MATERIALS RELIED ON

- A. Counsel retained me to evaluate the report submitted by Dr. Maxwell Palmer, especially his use of ecological inference to estimate racial/ethnic voting behavior in New York City. In evaluating the Palmer analysis, my main charge was to assess (1) whether Dr. Palmer's analysis used scientific best practices, and (2) whether Dr. Palmer's methodology could be trusted to produce accurate results. By extension, because the Palmer report analyzed New York congressional maps, I was expected to evaluate both the enacted New York congressional districts and illustrative maps developed by plaintiff's expert William Cooper.
- B. To verify and debug the Palmer analysis itself, I use the same programming language (R), the same ecological-inference package (eiPack with command ei.MD.bayes), and the same racial/ethnic and vote-choice data that Dr. Palmer employed. Only when I extend past CD11 and the rival illustrative district do I use other Census data and election data (provided by Dr. Sean Trende through counsel), as well as other ecological-inference algorithms commonly used in the field (i.e., so-called Iterative EI, and the package EI-COMPARE). I also draw on ecological inferences for New York made available to the public through the Web site VoteHub, partly as a verification of my work, and partly because of the site's excellent mapping capabilities.
- C. To set up my analysis of New York City's congressional districts, I draw on another online elections site commonly used in the field, Dave's Redistricting application. DRA uses different, and slightly older, election results than Dr. Palmer's when determining partisanship in New York.¹¹ Nonetheless, I will not be using DRA data for any of my ecological-inference work, only to aid with background and visualizations.
- D. As compensation for accepting this assignment, I was retained at a pay scale of \$400 per hour billed, with an additional \$50 for time spent under oath. I was assisted in this work by a part-time employee of my consulting partnership, an experienced R programmer and simulation expert named Dr. Corrine F. Elliott (Ph.D. in Statistics, UC Berkeley). Neither her compensation nor mine was dependent on the results of our analysis or on the conclusions in this report. Because I supervised and vetted all work, I take responsibility for everything presented here.

III. SUMMARY OF OPINIONS OFFERED

- A. My technical report accompanies this document as Appendix B. It reaches a number of conclusions that I believe might be relevant to the litigation in question.
- B. I was quickly and easily able to replicate Dr. Palmer's ecological-inference analysis, thanks to the highly professional way he conducted his work and submitted his materials through disclosure. My results from that replication were substantively identical to the results he reports. Dr. Palmer did what he said he did, and his results were as he characterized them.
- C. Unfortunately, as my report explains and documents, some of the decisions Dr. Palmer made for his analysis do not conform to best practices with ecological-inference research. Addressing those shortcomings results in estimates of voting behavior by race and ethnicity – and, therefore, estimates of group cohesion and racially polarized voting – that differ in substantive ways from what Dr. Palmer reports.
- D. Dr. Palmer employs a simple or “naïve” version of ecological inference that assumes members of a group vote the same way everywhere (aside from random variation and the occasional quirky deviation from the norm). Yet an evaluation of the data Dr. Palmer used – encapsulating only Staten Island and parts of Brooklyn and lower Manhattan – suggests that this assumption is false. Hispanic and Asian voters do not appear to be politically uniform across Staten Island and (perhaps stating the obvious) Whites voters on most of Staten Island hold partisan preferences distinct from the White voters elsewhere in New York City, especially those living in lower Manhattan.
- E. Neglecting to allow for the likelihood that racial/ethnic groups are internally diverse in systematic ways can result in ecological inferences plagued by what's called aggregation bias. If Asians or Hispanics are more likely to vote Republican when they live near one group and more likely to vote Democratic when they live near another group – that is, when vote choice is contextual in some way – then the pattern will be attributed falsely to the other group.
- F. The statistical package Dr. Palmer employed provides a simple way to (1) soften assumptions of homogeneity within racial/ethnic groups and instead (2) invite the methodology to take into account possible contextual patterns. (I've needed to make such adjustments in all of my peer-reviewed work using ecological inference, because racial and ethnic groups rarely vote the same way everywhere in a state or region.) When I repeated Dr. Palmer's analysis with that simple adjustment, the ecological inferences changed, putting them more in line with ecological inferences for New York City reported by VoteHub (which employed an even more complex methodology to adjust for aggregation bias). Dr. Palmer apparently missed some of the rich contextual variation in how Asians, Hispanics, and Whites vote.
- G. Dr. Palmer pays little attention to Asian voters. They appear in a pair of tables near the end of his report, as well as in a turnout graph, but they are excluded

entirely from his discussion and from most of his graphs/figures. Their erasure is remarkable, given that the main thing separating an analysis of racially polarized voting from an analysis of whether the Black/Hispanic candidate of choice usually will lose is how everyone else votes. Insofar as Dr. Palmer's simple ecological inferences result in instability or error in how he estimates Asian (and Hispanic) voting preferences, it also will undermine the usefulness of the analysis for determining whether a candidate preferred by minority voters usually will be defeated.

- H. Even if one does not reject Dr. Palmer's simpler ecological inferences on behalf of my context-based results – and it's true that I'm limited in my ability to document their relative merits, because Dr. Palmer's code does not retain intermediate results – it should be troubling that I am getting estimates well outside of his "confidence intervals" despite tweaking only one feature of the computer code. At best, Dr. Palmer's ecological inferences are reported with false precision, and the simulations underlying his results exhibit unreliable levels of instability.
- I. Dr. Palmer's decision to restrict his analysis to a single congressional district's precincts – either only the precincts in the current CD11 or only the illustrative district's precincts – does not conform to best practices. There is no consensus answer as to how far out an analyst ought to zoom to obtain best results: Being too inclusive, for example by conducting ecological inference for an entire state all at once, can skew results just as zooming in too closely can. Still, Dr. Palmer should have used more than just the small number of precincts with which he worked, even if all he and the Court cared about was the voting behavior or the likely election outcomes in a single district.
- J. Of course, the need to expand the scope of the data becomes even more compelling if, as a matter of law, an analysis of group cohesion and of racially polarized voting (RPV) needs to extend beyond a single legislative district – which, as a scholar of elections, I believe it ought. Focusing on only a single district to judge racial gerrymandering renders a vote-dilution analysis practically worthless, because mapmakers can manipulate the level of racial/ethnic voting cohesion – by separating or merging like-minded members of a demographic group – just as easily as they can manipulate the partisan slant of a district. Dr. Palmer's analysis illustrates the instability of such an analysis of RPV, with White voters becoming less cohesive and Asian voters becoming more cohesive in Staten Island's district after Cooper reshapes it. Focusing only on one district will give a misleading picture of how cohesive a racial or ethnic group actually is in the area where mapmakers were working, and will give a distorted view of the level of racial polarization as well.
- K. Perhaps more important, if the goal is free and fair elections: Judging racial polarization using a single legislative seat or focusing solely on likely election outcomes in a single district risks imposing active discrimination against White (and in places like Staten Island, also Asian) voters. Whereas pockets of Black or Hispanic voters could opt to vote Republican with no negative

consequence, should they wish to do so, the only way White (and Asian) voters would be allowed regularly to opt for Republican representation in most metro areas would be if they were subject to racial gerrymandering (by packing those Republicans into an especially homogenous district, thereby diluting the vote of their racial/ethnic groups) or perhaps partisan gerrymandering (in the unlikely event they can be packed into a district with an uncharacteristically Republican minority population, diluting the Republican vote). The case at hand illustrates this dynamic. Cooper's illustrative map makes the single-district polarization numbers look better not because it groups protected minority populations who have been separated from each other artificially by district lines – the original purpose for fighting vote dilution – but instead because the White and Asian Republicans of Staten Island are cracked away from like-minded voters right across a bridge and instead submerged with White and Asian Manhattanites across the water who will cancel out their votes.

- L. Within the limitations of the time and data provided to me, therefore, I conducted ecological inferences for all of the congressional districts centered in New York City. I conclude that New York City's congressional districts as a whole do not exhibit racially polarized voting, so the candidates of choice preferred by African-American and Hispanic voters are not usually going to be defeated. White voting is not cohesive, and neither Whites nor Asians consistently vote against the candidates preferred by African-American and Hispanic citizens. To repeat: My extended analysis of New York City voting shows that White voters are not cohesive in the region, that voting behavior is not racially polarized across the city as a whole, and that on the whole, people of color do not face an especially low likelihood of electing their candidates of choice in general elections. That conclusion extends to the entire state of New York as well, if as a matter of law that is the proper scope of analysis – as judged not only by numerous pre-election polls and by VoteHub's ecological inferences for New York state, but also because of the Democratic Party's dominance statewide.

(References listed on following page)

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² Voss, D. Stephen. 1996. "Beyond Racial Threat: Failure of an Old Hypothesis in the New South." *Journal of Politics* 58:1156-70. Voss, D. Stephen. "Less White than Ever? Using Ecological Inference to Probe the Trump Coalition's Diversity in Louisiana" *The Forum*, 2025. <https://doi.org/10.1515/for-2025-2007>.

³ For example, Lublin, David, and D. Stephen Voss. 2000. "Racial Redistricting and Realignment in Southern State Legislatures." *American Journal of Political Science* 44(October):792-810.

⁴ King, Gary. 1997. A Solution to the Ecological Inference Problem: Reconstructing Individual Behavior from Aggregate Data. Princeton, NJ: Princeton University Press. Pp. xxii, 22-24.

⁵ Voss, D. Stephen. 2004. "Using Ecological Inference for Contextual Research: When Aggregation Bias Is the Solution as Well as the Problem." In Gary King, Ori Rosen, and Martin Tanner (eds.), *Ecological Inference: New Methodological Strategies*. New York: Cambridge University Press. Pp. 69-96.

⁶ Voss, D. Stephen. 2000. "Familiarity Doesn't Breed Contempt: The Political Geography of Racial Polarization," https://www.researchgate.net/publication/376798358_Familiarity_Doesn't_Breed_Contempt_The_Political_Geography_of_Racial_Polarization.

⁷ Voss, D. Stephen. "Less White than Ever? Using Ecological Inference to Probe the Trump Coalition's Diversity in Louisiana" *The Forum*, 2025. <https://doi.org/10.1515/for-2025-2007>.

⁸ Voss, D. Stephen, and David Lublin. 2001. "Black Incumbents, White Districts: An Appraisal of the 1996 Congressional Elections." *American Politics Research* 29(March): 141-82; Voss, D. Stephen, and Penny Miller. 2001. "Following a False Trail: The Hunt for White Backlash in Kentucky's 1996 Desegregation Vote." *State Politics and Policy Quarterly* 1(March):63-82; Lublin, David, and D. Stephen Voss. 2002. "Context and Francophone Support for Sovereignty: An Ecological Analysis." *Canadian Journal of Political Science* 35(March):75-101.

⁹ Voss, D. Stephen and David Lublin. 1998. "Ecological Inference and the Comparative Method." APSA-CP: Newsletter of the APSA Organized Section in Comparative Politics 9(1):25-31; Voss, D. Stephen, and Penny Miller. 2017. "The Phantom Segregationists: Kentucky's 1996 Desegregation Amendment and the Limits of Direct Democracy." *Commonwealth Review of Political Science* 4(1): 21-38.

¹⁰ See Palmquist and Voss, "Racial Polarization and Turnout in Louisiana: New Insights from Aggregate Data Analysis," Midwest Political Science Association (April 1996) https://www.researchgate.net/publication/268341180_Racial_Polarization_and_Turnout_in_Louisiana_New_Insights_from_Aggregate_Data_Analysis.

¹¹ <https://davesredistricting.org/maps#aboutdata>.

RESPONSE TO EXPERT REPORT OF MAXWELL PALMER

D. STEPHEN VOSS

APPENDIX A: CURRICULUM VITAE

VOSS RESPONSE TO MAXWELL PALMER (APPENDIX A)

D. STEPHEN VOSS

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UNIVERSITY OF KENTUCKY

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EDUCATION

Ph.D., Harvard University: Government 1998-2000

Dissertation: “Familiarity Doesn’t Breed Contempt:
The Political Geography of Racial Polarization”
Committee: Gary King (chair), James Alt, Bradley Palmquist

A.M., Harvard University: Government 1990-1993; 1995-1998

Focus Field: Political Methodology (advisor: Gary King)

B.A., Louisiana State University: History, minor in Political Science 1986-1990

B.A.J., Louisiana State University: (Print) Journalism, minor in Sociology 1986-1990

Graduated: *Summa Cum Laude*

RESEARCH (ORC ID #0000-0001-6933-0268)

Peer-Reviewed Articles, Books, and Chapters

Morina, Dastid, Ridvan Peshkopia, and D. Stephen **Voss**. 2025. “You Can Go Your Own Way: How Transit-Country Migration Attitudes Are Influenced by European Union Ideals.” *Journal of International Migration and Integration*. Published online March 25. <https://doi.org/10.1007/s12134-025-01254-0>.

Voss, D. Stephen, and Ridvan Peshkopia. 2025. “Discovering Neighbors: The Regional Migration Experience as a Source of Intergroup Contact.” *European Politics and Society* 26(1): Pp. 207-225. Published online July 24. <https://doi.org/10.1080/23745118.2024.2380692>. Pp. 207-225.

Marleku, Alfred, Ridvan Peshkopia, and D. Stephen **Voss**. 2025. “Let’s Get Numerical: Explaining Social-Science Student Preferences for Quantitative Studies.” *International Journal of Mathematical Education in Science and Technology* 56(6): Pp. 1114-1131. <https://doi.org/10.1080/0020739X.2024.2327560>.

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Marleku, Alfred, Ridvan Peshkopia, and D. Stephen Voss. 2024. "Research-Oriented Studies in Political Science: How Research Collaboration Shapes Southeast European Student Learning Preferences." *Journal of Political Science Education* 20(1): 31-46. <https://doi.org/10.1080/15512169.2023.2196023>.

Marleku, Alfred, Ridvan Peshkopia, and D. Stephen **Voss**. 2023. "Using Survey Research as an Education Tool: Cross-Cultural Lessons on How to Balance Research and Teaching." In Charity Butcher, Tavishi Bhasin, Elizabeth Gordon, and Maia C. Hallward (eds.), *The Palgrave Handbook of Teaching and Research in Political Science*. New York: Palgrave Macmillan (Political Pedagogies Series). Chap. 16. Pp. 181-194. https://doi.org/10.1007/978-3-031-42887-6_16.

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Peshkopia, Ridvan, Mergin Cahani, Festim Cahani, and D. Stephen **Voss**. 2014. "SKUTHI: Developing a Tablet-Based Survey Technology and its Application in Teaching Research Methods in Social Sciences." *Applied Technologies & Innovations* 10(3): 91-100.

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Voss, D. Stephen, and Donald Gross. 2011. "Poster Child for the Tea Party: Rand Paul of Kentucky." In William J. Miller and Jeremy D. Walling (eds.), *Tea Party Effects on 2010 Senate Elections: Stuck in the Middle to Lose*. Lanham, MD: Lexington Books. Pp. 141-172. Chap. 8.

Bartilow, Horace A., and D. Stephen **Voss**. 2009. "Market Rules: The Incidental Relationship between Democratic Compatibility and International Commerce." *International Studies Quarterly* 53(March): 103-124.

Bartilow, Horace A., and D. Stephen **Voss**. 2006. "[No Guns, No Butter:] International Politics and the Disaggregation of Major-Power Trade, 1962-1997." *International Politics* 43 (July): 362-383.

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Voss, D. Stephen, Andrew Gelman, and Gary King. 1995. "Preelection Survey Methodology: Details 3 from Eight Polling Organizations, 1988 and 1992." *Public Opinion Quarterly* 59:98-132.

Other Professional Publications

Voss, D. Stephen. 2004. "Multicollinearity." In Kimberly Kempf-Leonard (ed.), *The Encyclopedia of Social Measurement*. San Diego, CA: Academic Press. Revision in progress for 2026.

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Voss, D. Stephen. 2023. "Assessment of Expert Witness Analysis & Reports for *Graham v. Adams* (2022)." Lexington, KY: doubleDenny Consulting. Report #dDC 003. Post-Litigation Version.

Voss, D. Stephen. 2020. "Curtailing Election Day Voting Opportunities: What Does the Research Literature Say?" Lexington, KY: doubleDenny Consulting. Report #dDC 002.

Voss, D. Stephen. 2018. "An Evaluation of Automatic Voter Registration & Fayette County Registration Rates." Lexington, KY: doubleDenny Consulting. Report #dDC 001.

Voss, D. Stephen. 2016. "The End of Kentucky's Dual Partisanship?" *P.S.: Political Science & Politics* 49(2): 234-235. This was an invited submission, so not peer-reviewed.

Voss, D. Stephen. 2016. "Will Superdelegates Pick the Democratic Nominee?" The *Washington Post* Monkey Cage blog (February 26). <https://www.washingtonpost.com/news/monkey-cage/wp/2016/02/26/will-superdelegates-pick-the-democratic-nominee-heres-everything-you-need-to-know>

Kreis, Doug, Roy E. Sturgill, Jr., Brian K. Howell, Chris Van Dyke, and D. Steve **Voss**. 2014. *Inland Waterway Operational Model & Simulation along the Ohio River*. Lexington, KY: Kentucky Transportation Center. Research Report KTC -14-13/MTIC3-14-1F.

Fiorina, Morris P., Paul E. Peterson, Bertram Johnson, D. Stephen **Voss**, and William G. Mayer. 2008. *America's New Democracy*. New York: Longman. Fourth edition. Coauthor of the three previous versions as well.

Voss, D. Stephen. 2005. "Review of *The New Electoral Politics of Race*, by Matthew J. Streb." *Journal of Politics* 67(Feb.): 301-302.

Fine, Jeffrey A., and D. Stephen **Voss**. "Politics, Use of Polls In." In Kimberly Kempf-Leonard (ed.), *The Encyclopedia of Social Measurement*. San Diego, CA: Academic Press.

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Soifer, Paul, Abraham Hoffman, and D. Stephen **Voss**. 2001. *CliffsQuickReview American Government*. Indianapolis, IN: Hungry Minds.

Michie, Jonathan (ed.). 2001. *Reader's Guide to the Social Sciences*. Chicago and London: Fitzroy Dearborn. **Voss** authored entries on: Race and Politics; Civil Rights (US); Martin Luther King, Jr.; Congress; the New Deal; and Opinion Polls.

Voss, D. Stephen. 1999. "Racial Redistricting and the Quest for Legislative Diversity." *Extensions of Remarks: APSA Legislative Studies Section Newsletter*: 22(July):11-14.

Voss, D. Stephen and David Lublin. 1998. "Ecological Inference and the Comparative Method." *APSA-CP: Newsletter of the APSA Organized Section in Comparative Politics* 9(1):25-31.

Shrum, Wesley, Carl L. Bankston III, and D. Stephen **Voss**. 1995. *Science, Technology, and Society in the Third World: An Annotated Bibliography*. Metuchen, NJ: Scarecrow Press

Selected Conference Involvement (excludes papers listed elsewhere)

2025 Presenter (with Tasnia Symoom), “The Dangers of Denim: Attitudes toward Southern Asian Women Who Wear Western Garb,” Kentucky Political Science Association. A rewrite is scheduled to be presented at the 2026 Southern Political Science Association meeting.

2025 Panelist, “Elections Roundtable,” Kentucky Political Science Association.

2025 Panel Chair & Discussion, Kentucky Political Science Association.

2025 Chair & Discussant, “Public Opinion about Immigration,” Midwest Political Science Association

2025 Discussant, “Shaping Immigration Attitudes,” Midwest Political Science Association

2024 Presenter, Kentucky Political Science Association, panel on Race, Gender, and Public Law. Paper titled, “The Siege Effect: Using Spatial Measures to Inform Group-Threat Research.” With Candice Y. Wallace.

2024 Discussant, Kentucky Political Science Association, “Partisanship, the Presidency, and COVID-19.”

2024 Panelist, Kentucky Political Science Association, “Election Roundtable.”

2023 Discussant, Midwest Political Science Association, “Energy, Infrastructure, and Resource Politics.”

2023 Panelist, Kentucky Political Science Association, “Election Roundtable.”

2022 Presenter, Kentucky Political Science Association, panel on “Foreign Policy and Political Behavior.” Paper titled, “How Can You Bring a Child into This? The Effect of Triggering Threat on Ukrainian Attitudes toward Fertility.” With Celeste Beasley and Rose McDermott.

2020 Panelist, Kentucky Political Science Association, “Kentucky Politics.”

2018 Poster Advisor, Midwest Political Science Association, “Elections, Campaigns, and Candidates” session (April 6)

2018 Discussant, Midwest Political Science Association, “Representation” session.

2018 Presenter, Kentucky Political Science Association. Paper titled, “Why Does Education Lead to Increased Tolerance for Migrants.” With Anne Klette. Also panelist for “Roundtable on Kentucky Politics.”

2018 Poster Advisor, Midwest Political Science Association. Sessions on “Political Communication II” and “Politics of Immigration.”

OTHER WORKS IN PROGRESS

McDermott, Rose, and D. Stephen Voss. N.d. "Attitudes toward Gender Equality: Australia and New Zealand." Under revise & resubmit for *Political Science* (Taylor & Francis).

Beasley, Celeste, Rose McDermott, and D. Stephen Voss. N.d. "Benevolent Sexism and Constraints on the Social Role of Post-Soviet Women: The Case of the Ukraine."

With Rose McDermott (untitled book project): Cross-national survey research on attitudes about violence toward women. Focuses especially on the role of religion in shaping those attitudes.

Clinger, James, Scott Lasley, Joshua Tucker, and D. Stephen **Voss** (eds.). N.d. *Kentucky Politics and Government*. Lexington: University of Kentucky Press. Second edition.

Voss, D. Stephen, Corrine F. Elliott, and Sherelle Roberts. Forthcoming. "Seeing Red in the Bluegrass: Voting Behavior in the First Quarter of the 21st Century [working title only]." In James Clinger, Scott Lasley, Joshua Tucker, and D. Stephen Voss (eds.), *Kentucky Politics and Government*. Lexington: University of Kentucky Press. Second edition.

RELATED WORK EXPERIENCE

POLITICAL ANALYST, SPECTRUM ONE NEWS 2023-present
Appearing both live & in recorded news segments for coverage of election-related events.

CONSULTANT AND EXPERT WITNESS, Holtzman Vogel 2024-2025
Worked on a Florida redistricting case, *Hodges v. Albritton* (originally *Hodges v. Passidomo*) analyzing reports from two witnesses, one by Matthew Barreto using ecological inference & a second by Cory McCartan, as well as a Louisiana case, *Nairne v. Landry*, conducting ecological inference. Also, a consulting expert in a second Florida case.

EXPERT WITNESS, Kightlinger & Gray 2025
Worked on a civil action, *Bcyp v. True the Vote*, growing out of 2020 Pennsylvania voting-rights case in which I briefly served as a non-testifying expert, *Pirkle v. Wo.f*. My role initially involved evaluating and criticizing a method for trying to measure voter fraud presented by employees of TTV. In the follow-up case, I was asked to review my criticism of TTV's methodology (as well as the presentation of it) because it was relevant to the civil dispute.

CONSULTANT AND EXPERT WITNESS, Graves Garrett Greim 2024
For a federal redistricting lawsuit in Louisiana, *Callais v. Landry*. I analyzed reports from two witnesses, especially one by Cory McCartan that used simulated congressional districts. I replicated and extended McCartan's simulations.

NON-TESTIFYING CONSULTING EXPERT, Consovoy McCarthy 2023
I was approached to be a consultant and expert witness for a Wisconsin redistricting case, *Clark v. Wisconsin Elections Commission*, but didn't want to take on the work. We signed a retainer agreement just in case they needed me, but while I consulted with them a couple of times by phone, they didn't use me beyond that, so I didn't charge them.

CONSULTANT AND EXPERT WITNESS, Kentucky Attorney General's office 2022
For a redistricting lawsuit, *Graham v. Adams*. I analyzed reports from Harvard professor Kosuke Imai and M.I.T. professor Devin Caughey for their fidelity capturing the dynamics of Kentucky elections. Involved replicating and extending both Imai's districting simulations and Caughey's efficiency gap calculations.

CONSULTANT AND DATA ANALYST, Chris Wiest, Attorney at Law, PLLC 2020
For a voting-rights lawsuit, Nemes v. Bensinger. I produced a literature review outlining evidence on the effects of various election policies as well as a statistical analysis of Kentucky's 2020 primary-election voting rules to estimate the extent to which they were suppressing the vote.

CONSULTANT AND DATA ANALYST, Fayette County Clerk 2018
Study of Kentucky registration and turnout data, with a focus on determining the likely impact of automatic voter registration.

CONSULTANT AND DATA ANALYST, Kentucky Transportation Center 2013

CONSULTANT AND DATA ANALYST, Zooknic, Inc. 2007-2013
Specialist in matters related to Internet domain pricing and e-commerce activity:
Analyst for APTLD: Asian Internet domain sellers (Fall, 2007)
Analyst for CENTR, European Internet domain sellers (Summer 2008)
Analyst for Verisign Market (2009)
Analysis for CENTR, European Internet domain sellers (2012)

CONSULTANT AND DATA ANALYST in Voting-Rights Cases, for Kroger, Gardis, and Regas
Pirkle v. Wolf (Winter 2020-2021): non-testifying expert
Borst v. Peterson (Winter 2003): affidavit submitted; trial testimony given
Dillard v. Lawrence (Fall 2006): affidavit submitted

METHODOLOGICAL CONSULTANT in Auto Liability Cases, for Perlman Law Offices, Lexington, KY

- *Vaughn v. DaimlerChrysler* (Spring 2004): affidavit submitted
- *Weuchler v. GM* (Fall 2004): affidavit submitted
- *Aldridge v. DaimlerChrysler* (Spring 2005): affidavit submitted
- *Robins v. Wayne* (Fall 2006): affidavit submitted
- *Harrison v. DaimlerChrysler* (Summer 2007): affidavit submitted

METHODOLOGICAL CONSULTANT in Auto Liability Cases, Coben & Associates (Scottsdale, AZ)

- *Turner v. Subaru* (Fall 2004 - Spring 2005): affidavit and phone deposition
- *Varelas v. GM* (Summer 2005): brief consultation only
- *Hinkle v. Dorel* (Fall 2005 - Spring 2006): retained, listed as rebuttal witness
- *Ricci v. Volvo* (Summer 2007): brief consultation only

ASSISTANT PROFESSOR OF POLITICAL SCIENCE, University of KY 1998-2004

TECHNICAL EDITOR, *Politics for Dummies* 2002

RESEARCH ASSISTANT FOR GARY KING. Job included: writing & editing 1992 edition of Judge-It manual, gathering data, replicating results (Budge & Hofferbert, Green & Krasno), producing graphs & charts (e.g. consulting work for Ohio redistricting case), indexing (*Designing Social Inquiry*). (1991-1995)

CONSULTANT AND DATA ANALYST for the Washington, D.C., law firm of Baker and Hostetler in New York state redistricting litigation, working under Gary King (Summer 1992).

RESEARCH ASSISTANT FOR DEREK BOK, Harvard President Emeritus. Job included: methodological consultant for a sweeping project predicting the failure of U.S. social policies. (1992-1998)

RESEARCH ASSISTANT FOR PAUL E. PETERSON. Job included: out-of-sample forecasting for *We.fare Magnets* model to produce chapter 5 of *The Price of Federalism*; producing charts and

graphs, preparing survey data for analysis. (1991- TBA)

EDITOR-IN-CHIEF of *Let's Go: USA, 1992 edition*, the year's top-selling travel guide for the entire United States. (Summer 1991).

LEGISLATIVE AIDE to Louisiana State Sen. Sydney Nelson, D-Shreveport. Job included: legal research, legislative tracking, public relations (Spr.-Sum. 1990).

HONORS AND AWARDS

David Hughes Memorial Award

2023

Recognizes "the outstanding paper presented at the 2023 Annual Meeting of the Kentucky Political Science Association.

A&S Summer Research Fellowship

2013

Student Activities Board Faculty Partner Award

2012

College of Arts & Sciences Outstanding (Social Sciences) Teacher Award 2007-2008

College-wide award granted to one faculty member each year that recognizes excellence and outstanding contribution in all aspects of teaching, not just classroom performance.

Pi Sigma Alpha Award for Excellence in Scholarly Writing

2006

Award given to the best paper presented at the annual meeting of the Southern Political Science Association. Received with Jeff Fine and Mac Avery.

Great Teacher Award

2003

University award granted to six faculty members annually by the UK Alumni Association.

National Science Foundation Grant, "The Federal Elections Project"

2001-2002

Grant totaling \$140,000 used to collect the 2000 federal election precinct level results and match them with demographic data from the 2000 U.S. Census. Voss portion: \$50,607

Faculty Summer Research Grant

1999, 2001

Grant awarded to outstanding faculty to allow tenure-track assistant professors without summer support to launch programs or finish a project involving their research or creative activities. Voss portion \$5,000.

Lights of Liberty Award, Advocates for Self-Government

2001

Recognition for public service that advanced liberty in the United States.

Mellon Dissertation Completion Fellowship, Harvard University Spr. 1995-Fall 1996

Grant given to outstanding students toward defrayment of living costs during the pursuit of a degree.

Mellon Dissertation Research Fellowship, Harvard University Summer, 1994
Grant given to outstanding students toward defrayment of living costs during the pursuit of a degree.

Paul Solis Top Scholar Award, Louisiana State University 1990
Kappa Tau Alpha Top Scholar Award, Louisiana State University 1990

THESIS ADVISING AND MENTORING

Primary Adviser or Mentor

Kirkwood, Chris (Ph.D., still in program)
Al Amin, MD (Ph.D., still in program)
Symoom, Tasnia (Ph.D., 2025)
Taylor, Travis M. (Teaching Post-Doc, 2022-2023)
Kaiser, Steven J., Jr. (Ph.D., 2020)
Ledford, Chris (Ph.D., 2019)
East, Jack (Ph.D., 2014)

Advisory Committee

Crumrine, Chris (Ph.D., still in program)
Gantner, John (Ph.D., still in program)
Brewer, Caedmon (Ph.D., still in program)
Taylor, Travis (Ph.D., 2020)
Schoellhammer, Ralph (Ph.D., 2020)
Enjaian, Brian – Psychology (Ph.D., 2019)
Wei, Wenchi – Public Policy & Administration (Ph.D., 2019)
Poe, John (Ph.D., 2017)
Mihai Paraschiv – Economics (Ph.D., 2016)
Martin, Andrew (Ph.D., 2015)
Wallace, Candice – Geography (Ph.D., 2015)
Ouyang, Yu (Ph.D., 2015)
Morgan, Michael (Ph.D., 2014)
Ke, Yanyu (Ph.D., 2014)
Mattei, Nick – Computer Science (Ph.D., 2012)
Sharma, Ramesh (Ph.D., 2012)
Weinberg, Erik – History (Ph.D., 2012)
Peshkopia, Ridvan (Ph.D., 2011)
Kehrberg, Jason (Ph.D., 2011)
Jeong, Hanbeom (Ph.D., 2010)
Martin, Tom (Ph.D., 2008)
Bailey, Mandi Bates (Ph.D., 2007)
Fine, Jeffrey A. (Ph.D., 2006)
Bond, Maurey (M.A., 2006)
Prince, David (Ph.D., 2005)

Avery, J. Mac (Ph.D. 2004)
Eom, Kihong (Ph.D., 2003)

Also helped advise some students who eventually left their program: Donald Darmsteadt (primary advisor), Corey Chaise Camp, Samantha Ferrell, Jim Glenn, John Hajner, Cyrus Karimian, Hossein Motamed, Daniel Partin, Chris White, Sean Chick (History), Matt Hall (History), Stephen Pickering (History), Will Stone (History)

Select Undergraduate Advising

Basinic, Dalia (Honors, 2025)
Tanner, Grace (NCUR, 2025)
Everett, Mackenzie (Honors, co-advisor, 2025)
Slish, Regan (Chellgren Research, 2025)

PROFESSIONAL AFFILIATIONS

Kentucky Political Science Association

KPSA President (2012-2013)
Executive Board member (2011-2014)
Editorial Board member, *Commonwealth Review of Political Science* (until present)
Co-editor, *Commonwealth Review of Political Science* (first two volumes)

I also, off and on, have been a member of the following:

American Political Science Association

Midwest Political Science Association

Southern Political Science Association

UNIVERSITY AND DISCIPLINARY SERVICE

Administrator, University of Kentucky Department of Political Science

2024-present Internship Director (also 2014-15, 2010-11, 2005)
2015-present Publicity Director (also 1999-2002)
2012-2014 Associate Chair
2005-2013 Director of Undergraduate Studies (sabbatical 2007-2008, hiatus 2010-2011)
2004-2005 Co-Director of Undergraduate Studies
2003-2004 Assistant Director of Undergraduate Studies

University/Faculty Senate

2025-present Faculty Senator (one of two representing the College of Arts & Sciences)
2024-2025 Provisional Faculty Senator (sole representative of College of Arts & Sciences)
2005-2007 University Senate (social science rep for the College of Arts & Sciences)

Arts & Sciences Educational Policy Committee

2025 Acting member
2009-2011 Member
2006-2007 Chair
2004-2006 Member (2004 - 2007, 2009-2011)
2003-2004 Member, Area B Curriculum Committee

Faculty Advisor for campus groups

- Phi Alpha Delta pre-law fraternity (2004-2008, 2025-present)
- UK College Democrats (2022-present)
- UK College Republicans (2024-present)
- Pi Sigma Alpha poli sci honorary (2005-2007, 2008-2010, 2011-2012)
- UK Moderates
- UK-NAACP (2001)
- UK Liberty Club (Fall 2000)

WilDCats at the Capitol, Steering Committee member (2024-2025)

Student Affairs/Success Task Force (to rewrite UK's Admin Regs related to students)

Member, 2024

Search Committee for Associate Dean of Agriculture & V.P. of Land-Grant Extension

Member, 2024

Department of Political Science Faculty Merit Evaluation Review Committee

Member, 2024-2025
Member, 2022-2023
Member, 2010-2011
Member, 2008-2009
Member, 1999-2000

College of Arts & Sciences, Political Science Acting Chair Search Committee

Chair, Spring 2023

Appeals Board Member, University of Kentucky (2018-2020)**Scholarship Committees**

- T. Marshall Hahn, Jr., Graduate Fellowship Selection Committee (2005, 2009-2010, 2025)
- Schwarte, Gorman, and Jewell awards committees (2019)
- Trunzo Scholars Program (2015-2017)
- Arts & Sciences Scholarship Committee (2004-2008)
- Interdisciplinary Program (IDP) Committee, American Studies Rep. (2005-2006)

Online Colloquium Coordinator, UK Political Science Department 2020-2021

Department of Political Science Search Committee Member

Judicial Politics position, Fall, 2008
American Institutions, Fall 2006
Judicial Politics, Fall, 2006
International Relations, Fall, 2006
Chair Search Fall, 2006
American Politics senior search, Fall, 2001

Department of Political Science Field Committee – I've been on these so many times that I decided to remove the year-by-year listings. I'm been appointed to the exam committee in Political Methodology, American Politics, Policy Studies (chairing in 2020), and Political Behavior.

American Studies Committee

- Acting Director (2005-2006)
- Steering Committee Member (2003-2007)

UK President's Commission on Diversity

- Member (2003 - 2006)
- Chair, Campus Environment Subcommittee (2004 - 2005)

General Education U.S. Citizenship Vetting Committee

- Chair, 2009-2010

Award Committees and Judge Panels

- UK Homecoming judge (2012)
- Singletary Service and Leadership Award Committee (2003-2006)
- Oswald Undergraduate Research Award Committee (2003)
- UK Homecoming Queen competition interviewer (2002)
- UK Homecoming King competition interviewer (2001)

Section Head

Southern Political Science Association meeting, 2009
Southern Political Science Association meeting, 2006

V.O. Key Book Award Committee

Chair, 2002
Member, 2001

Peer-Reviewed Articles for (among others):

- *American Political Science Review*
- *American Journal of Political Science*
- *Journal of Politics*
- *Political Analysis*
- *Sociological Methods and Research*
- *American Politics Quarterly/Research*
- *American Review of Politics*

- *Comparative Politics*
- *Electoral Studies*
- *International Politics*
- *Political Behavior*
- *Politics and Polity*
- *Political Research Quarterly*
- *Social Forces*
- *State Politics and Policy Quarterly*

INVITED TALKS & UNPAID PUBLIC APPEARANCES

Due to my focus on elections and voting behavior, and my long residence in Kentucky, I engage in extensive **media outreach** on behalf of UK. The result has been years of local, national, and international media appearances spanning TV, radio, and print journalism, a list much too long to provide here. I can list a few recurring gigs, though:

POLITICAL ANALYST, WVLK 590AM 92.9FM 2022-present
Weekly 45-minute appearance on the Larry Glover Live show to discuss a wide-ranging variety of topics related to politics, government, policy, and society (unpaid post).

POLITICAL ANALYST, CINCINNATI EDITION 2023-2025
Recurring appearances on public radio program to discuss topics related to politics and elections. Included appearances on 11 March 2025.

POLITICAL ANALYST, KENTUCKY EDUCATIONAL TELEVISION 2023-2025
Recurring appearances on public television station to discuss topics related to politics and elections. Included appearances on 22 November 2024.

POLITICAL ANALYST, BEHIND THE BLUE (UK PUBLIC AFFAIRS PODCAST) 2014 (?) - 2024
I've recorded regular podcasts with UK public relations during election season. Appearances on 4 November 2014, 17 May 2016, 19 October 2016, 18 January 2017, 31 October 2018, 30 October 2020, 21 April 2022, 27 October 2022, 18 November 2022 9 November 2023, 29 October 2024.

POLITICAL ANALYST, WRFL ? - 2024
Appearing in studio for coverage of elections and election-related events (unpaid post). Includes appearances on 6 November 2024.

POLITICAL ANALYST, WTVQ ABC-36 2013-2023
Appearing in studio for coverage of elections and election-related events (unpaid post).

OPINION COLUMNIST, THE KENTUCKY LANTERN (NEWS FROM THE STATES) 2023-2024
Biweekly column on politics, elections, and policy. See <https://kentuckylantern.com/author/d-stephen-voss/>

GUEST COLUMNIST, LEXINGTON HERALD-LEADER 2023
Columns on Kentucky politics and elections (unpaid post).

POLITICAL ANALYST, WKYT 2020-2021
Recurring guest on The Breakdown, a deep dive into the political topics of the day (unpaid post).

POLITICAL ANALYST, LEX-18 2019
Appeared in studio for coverage of Kentucky statewide elections (unpaid post).

Select Other Invited Appearances

- 2025 Keynote Address, Indiana Political Science Association
- 2024 Presenter, Berkeley Immigration Workshop
- 2023 Presenter, Berkeley Immigration Workshop
- 2021 Co-presenter, annual meeting of WomanStats (virtual, Texas A&M)
- 2021 Co-presenter, Gender & Political Violence Workshop (virtual, Cornell University)
- 2020 New Leaders Council of Kentucky (18 April)
- 2019 Moderator, “Gun Control,” with John Lott, UK Student Activities Board (29 Jan.)
- 2018 Bluegrass Activist Alliance: “What Went Wrong in the 6th District and Where Do Progressives Go from Here.” (18 Nov.)
- 2018 Japanese Embassy delegation, “Kentucky’s 6th Congressional District Race.” (Oct. 25)
- 2018 UK College of Arts & Sciences Dean’s Circle, “Undergraduate Research.” (Oct. 19)
- 2018 UK College of Arts & Sciences Ambassadors, “The Undergraduate Political Science Degree at UK.” (Oct. 1)
- 2018 Bellarmine University, “Voting Rights and Election Reforms.” (Sept. 17)
- 2018 Henry Clay Congress (May 17)
- 2018 New Leaders Council of Kentucky (April 21)
- 2018 UK College of Law Federalist Society, “Partisan Gerrymandering”
- 2018 Harvard University Center for Public Leadership, “Kentucky’s Culture, Challenges, and Opportunities.”
- 2018 UK Lewis Honors College, “American Social-Welfare Policy” (Aug. 22)
- 2017 Henry Clay Congress, “Polarization and Distrust in American Politics” (June 13)
- 2008 Moderator, election debate between the UK College Democrats & College Republicans (28 October)
- 2008 Moderator, election debate between the UK College Democrats & College Republicans (26 September)
- 2007 Moderator, policy debate between the UK College Democrats & College Republicans (Spring)
- 2006 Moderator, Mayoral Candidate Debate sponsored by UK Student Government Association (Fall)
- 2006 Moderator, SGA Presidential Candidate Debate, sponsored by UK’s G-PAC (Spring)
- 2005 Moderator, screening of Steven Greenstreet’s “This Divided State” (18 April)
- 2005 Moderator, SGA Presidential Candidate Debate, sponsored by UK’s G-PAC (Spring)
- 2004 Discussant, screening of “School of the Americas, School of Assassins,” sponsored by Amnesty International of UK (4 November)
- 2004 Moderator, election debate between the UK College Democrats & College Republicans (Fall)

Moderator (selected examples)

- Discussant, screening of Michael Moore’s “Fahrenheit 9/11” sponsored by the Cats’ Den (18 Oct. 2004)

- University-Affiliated Conferences and Symposia
- Presenter, "Probabilities in the Courtroom: How Expert Witnesses (Mis)Use Risk Analysis," Judith Goldsmith's UK colloquium on the psychology of probabilities (Fall 2008)
- Panelist, Diversity Dialogue (23 January 2007)
- Participant, General Education Process Planning Workshop (August 2006)
- Moderator and Discussant, "History of Race Relations in 1940s US," Fifteenth Annual Bluegrass Symposium (7-8 April 2006)
- Panelist, Diversity Dialogue, "Uses, Misuses, and Abuses: Race, Ethnicity, Diversity, and Related Concepts" (30 March 2004)
- Panelist, "Education Beyond *Brown*: Future Perspectives," UK President's Commission on Diversity and African American Studies and Research Program (26 March 2004)
- Videographer, "Affirmative Action Forum: How Brown vs. Board of Education Affected You," sponsored by UK-NAACP and UK President's Commission on Diversity (18 Nov. 2003)
- Panelist, campus NAACP forum, "Affirmative Action: Under Siege and Under Fire" (26 Feb. 2003)
- Chair and Discussant, National Council on Undergraduate Research (2001)
- Presenter, How to Express & Explain Your Results," Quantitative Methods Committee in the Social and Behavioral Sciences (7 Dec. 2000)
- Panelist, Gaines Center forum on the 2000 elections (2000)

Guest Speaker (selected examples, service to Univ. of Kentucky only)

- UK College of Arts & Sciences speaker series (17 Oct 2024)
- Ford Lecture panelist, UK Martin School (8 Oct 2024)
- Bourbon County High School Candidate Forum (6 Oct 2014)
- #TrendingTopics Debate: Immigration (2014)
- See Tomorrow speaker series, "UK's Partnership with the Commonwealth (9 Sept 2014)
- American University of Tirana, on online instruction (2012)
- American University of Tirana, on the presidential election (2012)
- Bellarmine University, Constitution Day address (2012)
- UK College of Arts & Sciences podcast on the presidential election (Sept 2012)
- UKC 180 course on elections taught by A&S Dean Kornbluh & Prof. Kathy Kern (2012)
- Student Activities Board Trending Topics Obamacare Debate (2012)
- National Assn. of Women Business Owners, Lexington Chapter (21 Oct 2008)
- Fayette County Chapter of UK Alumni Association (2004)
- Clark County Chapter (23 Sept 2004)
- Sorority Rush, "Surviving UK Academics" (2002)
- Guest Speaker, Lexington Catholic High School, National Honor Society Induction Ceremony (20 Feb. 2002)
- Lexington Catholic English class (2001, 2002)
- Bryan Station H.S. political science class (11 Sept. 2001)
- Emerging Leader Institute Presenter (Fall 2005, Spring 2005, Fall 2004)

COMPUTER SOFTWARE

Microsoft Office (i.e., Excel, Word, Powerpoint, Outlook), STATA, R, GAUSS, Camtasia, etc.

RESPONSE TO EXPERT REPORT OF MAXWELL PALMER**D. STEPHEN VOSS****APPENDIX B: ANALYSIS AND TECHNICAL REPORT**

Counsel retained me to evaluate the report submitted by Dr. Maxwell Palmer, especially his use of ecological inference to estimate racial/ethnic voting behavior in New York City. In evaluating Palmer's analysis, I understood my main charge to be assessing:

(1) whether Dr. Palmer's analysis used scientific best practices; and

(2) whether Dr. Palmer's methodology and his presentation of results were reliable enough that they could be trusted to produce accurate assessments.

By extension, I was expected to analyze both the enacted New York congressional districts and the illustrative alterations put forward by plaintiff.

Finally, counsel also asked me to consider, to the extent possible, whether requiring the dissolution of New York's 11th Congressional District ("CD11") based on racial grounds might have the perverse effect of diluting the vote of other groups on a broader scale.

Successful Verification of Palmer's Estimations

The first step in verifying an expert's analysis is to determine whether it can be replicated by another expert: to see if the analyst performed the work as claimed, and to see if the results match what the analyst reported.

To verify and debug the Palmer analysis itself, I use the same programming language (R), the same ecological-inference package (eiPack with command ei.MD.bayes), and the same data that Dr. Palmer employed. In fact, Dr. Palmer disclosed materials with such a high level of transparency—clear code, clear file organization, and generally a direct connection to the results appearing in his report—that the verification stage was simpler than any replication I have attempted (either for litigation or research) in my lengthy career. Dr. Palmer's work showed a high degree of professionalism, and the critiques I will lay out do not impugn the quality of Dr. Palmer's work, only the appropriateness of his choices to the questions at hand.

I successfully replicated Dr. Palmer's analysis of CD11 and the illustrative map. The results were substantively similar to Dr. Palmer's, with my results falling within the narrow "confidence intervals" he reported in every case (see Table 1).¹ Dr. Palmer did what he said he did, and his results were as he characterized them—so any significant differences produced by my extension of Dr. Palmer's method will be the result of my explicit deviations from his approach, not due to data or software.

TABLE 1 – Dr. Palmer’s Results Replicated Easily and Almost Perfectly

		PALMER RESULTS									
Year	Office	Black		White		Hispanic		Asian		Other	
		Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)
2017	City Comptroller	91.10%	88.9	93.1	34.80%	33.6	36.1	87.10%	83.8	89.9	50.90%
2017	Mayor	89.10%	86.4	91.3	13.50%	12.2	14.8	79.80%	74.7	84.2	51.00%
2017	Public Advocate	88.80%	86.3	91	26.90%	25.4	28.3	83.00%	79.1	86.2	47.50%
2018	Attorney General	94.10%	92.7	95.3	35.90%	34.7	37.2	92.60%	90.4	94.2	79.20%
2018	Governor	93.50%	91.9	94.7	36.90%	35.5	38.2	92.00%	89.9	93.6	77.50%
2018	State Comptroller	94.70%	93.4	95.9	39.70%	38.5	41	93.60%	91.4	95	80.60%
2018	U.S. Senate	94.50%	92.4	96.2	39.70%	37.6	41.5	92.20%	89	94.6	74.80%
2019	Public Advocate	90.20%	87.2	92.8	18.70%	16.2	21	86.90%	82.2	90.4	65.10%
2020	President	93.10%	90.6	94.9	27.00%	25.7	28.4	90.00%	86.5	93.4	73.50%
2021	City Comptroller	86.50%	83	89.5	23.70%	22.4	24.9	77.80%	72.2	82.5	34.00%
2021	Mayor	87.30%	83.8	90.2	20.50%	19.3	21.6	82.10%	77.3	86.4	43.50%
2021	Public Advocate	88.20%	85.2	90.7	21.00%	19.8	22.2	81.90%	77.9	85.3	40.70%
2022	Attorney General	90.50%	85.7	94.1	22.80%	21	25.1	89.90%	85.3	93.4	60.40%
2022	Governor	89.80%	85	93.6	22.00%	20.1	23.9	89.30%	84.7	92.9	53.20%
2022	State Comptroller	89.50%	84.5	93.6	25.60%	23.7	27.8	90.40%	85.9	93.8	65.50%
2022	U.S. House	90.40%	85.1	94.1	24.10%	22.1	26.4	89.10%	83.9	93	57.50%
2022	U.S. Senate	91.00%	87.1	93.9	26.40%	24.7	28	92.90%	89	95.2	64.30%
2024	President	88.70%	83.1	93.4	22.20%	20.4	23.9	88.10%	81.1	92.4	49.00%
2024	U.S. House	88.70%	83.6	92.9	20.00%	18.1	21.9	87.70%	81.1	92.8	51.60%
2024	U.S. Senate	89.80%	85	93.4	25.40%	23.8	27	88.40%	82.4	93.1	58.80%

VERIFICATION OF PALMER RESULTS											
Year	Office	Black		White		Hispanic		Asian		Other	
		Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)
2017	City Comptroller	90.98	88.5	92.9	34.77	33.5	36.0	86.70	82.6	90.0	53.49
2017	Mayor	88.37	85.4	90.8	13.60	12.4	14.8	79.55	74.7	83.4	53.11
2017	Public Advocate	88.53	85.5	91.1	26.94	25.4	28.4	83.11	78.8	86.5	45.89
2018	Attorney General	94.39	93.0	95.6	35.89	34.7	37.4	92.13	90.3	93.6	81.22
2018	Governor	93.62	92.0	95.0	36.79	35.5	38.2	91.94	89.9	93.7	77.71
2018	State Comptroller	94.66	93.2	95.8	39.65	38.4	40.9	93.29	91.1	94.9	81.50
2018	U.S. Senate	94.83	92.8	96.4	39.33	37.4	41.3	92.38	88.5	94.9	76.12
2019	Public Advocate	90.28	86.6	93.1	18.24	15.8	20.5	88.49	84.8	91.3	69.64
2020	President	92.87	90.7	94.7	26.95	25.7	28.2	89.73	85.7	93.2	73.80
2021	City Comptroller	86.71	83.2	89.6	23.45	22.1	24.8	77.85	72.4	82.5	40.16
2021	Mayor	86.97	83.2	89.9	20.54	19.3	21.7	81.06	76.3	85.6	42.20
2021	Public Advocate	87.41	84.5	90.0	21.27	20.1	22.4	83.49	79.3	86.7	33.00
2022	Attorney General	90.46	85.9	94.2	22.66	20.6	24.6	90.59	86.5	93.7	56.63
2022	Governor	89.64	84.3	93.7	22.23	20.5	24.0	88.69	83.5	92.5	48.88
2022	State Comptroller	90.82	85.4	94.7	26.08	23.9	28.1	89.29	84.1	93.0	58.73
2022	U.S. House	90.03	85.0	93.9	24.16	22.0	26.2	88.57	82.7	92.6	59.12
2022	U.S. Senate	91.33	87.4	94.3	26.40	24.8	28.1	91.75	87.7	94.8	65.33
2024	President	87.50	81.5	92.0	21.94	20.1	23.6	90.94	86.6	94.2	48.26
2024	U.S. House	86.63	80.9	91.2	20.17	18.3	21.9	88.32	83.2	92.2	48.00
2024	U.S. Senate	90.60	86.6	93.6	25.53	23.9	27.3	87.91	81.7	92.6	57.51

NOTE: The top table repeats the ecological inferences reported on page 10 of Dr. Palmer’s report. The bottom table is my verification of his results using his data, code, and approach to post-estimation calculations. All my verification estimates fall within his reported confidence intervals, as they should. Later differences will be as a result of modelling choices.

What Is Ecological Inference?

Before critiquing Dr. Palmer's analysis and ecological inferences, I will offer in this section a basic overview of how Dr. Gary King's EI works. I will describe the original version, not RxC version, for simplicity's sake. Understanding this part is not strictly necessary for understanding the rest of the report—so a reader could skip it without misunderstanding my conclusions—but by “showing receipts,” I am trying to minimize the extent to which a reader needs to take my criticism of Dr. Palmer's method and conclusions on authority.

Voting by secret ballot complicates any attempt to assess the racial or ethnic implications of legislative districts. We know how a locale voted, and we know the racial/ethnic makeup of the place, but we do not know the cross-tabulation between those two things. We cannot follow voters into the booth. We cannot calculate how voting differed by race and ethnicity.

Even in the best of circumstances, therefore, an analyst is stuck trying to infer how race/ethnicity cross-tabulates with vote choice—that is, how social groups differed in their voting behavior. We might know that 55.7% of CD11 usually vote Republican, and we might know that 54.1% of CD11's population is White, but we can only estimate what percentage of White voters prefer Republicans. Some of those White voters no doubt are Democrats, and some of those Republican voters no doubt came from Asian, Hispanic, and African-American voters in the district—but we are stuck estimating how each racial/ethnic group voted.

Notice the implication for voting-rights cases. Neither the level of group voting cohesion nor the level of racially polarized voting—the gap between races in how they voted—can ever be known factually. It can only be estimated using quantitative inference, and the success or failure of those inferences cannot be confirmed with certainty because we do not know the truth. Guess too high for one group, and the analyst likely is guessing too low for the other, either exaggerating or minimizing polarization.

Attempting to estimate such hidden quantities goes under the jargon “ecological inference.” Inferences of this sort, while necessary for many purposes, are problematic because they can go astray easily. A vibrant research literature going back to before my birth documents the risks associated with such analysis (*i.e.*, the risk of committing “ecological fallacies”). The methodology enjoyed a landmark breakthrough in the late 1990's, when my mentor Dr. Gary King offered “a solution to the ecological inference problem,” popularly called EI (after the implementing software), that lessened the risk of faulty ecological inferences. Later, Dr. King and collaborators developed the so-called RxC version of EI that made EI more flexible. King's method stood head and shoulders above anything in regular use before, because it employed more of the information available in low-level areal units (*e.g.*, precincts) and because it allowed researchers a

direct way to compensate for “aggregation bias” that led to fallacious conclusions.

Dr. King’s EI does not start out by estimating what is happening across the entire area of interest (for example, across an entire state, city, or congressional district). Instead, the method ideally starts with the smallest units of aggregation available at which demographic information and voting behavior can be matched (*e.g.*, a low-level Census or the precinct level), picking up on how political behavior changes as the composition of the place changes. For each smaller unit, EI takes advantage of inputs the analyst *knows to be true*—the population demographics of that small area and the election returns from that small area—to restrict what it can guess for each little unit. Ensuring that the method will not guess impossible results for each of these little spaces implicitly ensures that any estimate developed for a larger place also will be mathematically possible.

Figure 1 presents the inputs that would go into ecological inference for a hypothetical tract, expressed both as counts and as proportions, and shows as question marks the cross-tabulations we might need to know: how Hispanics voted, and how everyone else did. Here is how Dr. King’s method ensures estimates will be mathematically possible for each of these little units, a process called the method of bounds:

1. Hispanics: Trump received 1,129 votes, but only 854 non-Hispanic voters turned

FIGURE 1 – The Method of Bounds in a Heavily Hispanic Precinct

Raw Counts

	Hispanic	Non-Hispanic	
Biden	?	?	916
Trump	?	?	1129
	1191	854	2045

Vote Proportions

	Hispanic	Non-Hispanic	
Biden	?	?	0.45
Trump	?	?	0.55
	0.58	0.42	2045

out, so Trump's Hispanic support there could not have been 0%. At a minimum, he picked up $1,129 - 854 = 275$ Hispanic votes. That is, at least $275/1,191 = 23.1\%$ of Hispanic voters backed Trump. At the same time, more Hispanics showed up than Trump received votes in the tract, so Trump could not have received 100%; at least $1,191 - 1,129 = 62$ Hispanic voters picked Biden.

2. Non-Hispanics: We cannot narrow down how other voters behaved. Anything from 0% to 100% Trump support would be mathematically possible here. Still, we know a lot about how those non-Hispanic voters could have behaved because once we know Trump's rate of Hispanic support, then only one rate of non-Hispanic support would be possible. Combined Trump support is linear:

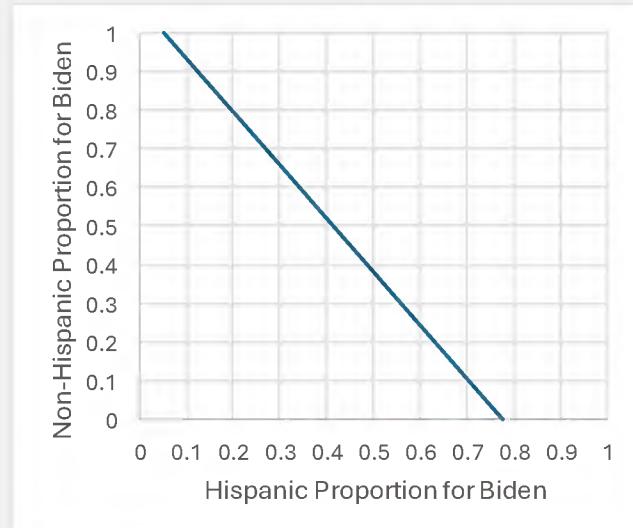
$$\begin{aligned} \text{Trump Vote} &= \text{Votes from Hispanics} + \text{Votes from Non-Hispanics} \\ &= \text{Hispanic Turnout} \times \text{Rate of Hispanic Support} + \\ &\quad \text{Non-Hispanic Turnout} \times \text{Rate of Non-Hispanic Support} \end{aligned}$$

If we know the two turnout rates in the precinct, then once we hypothesize a particular level of Hispanic support, the corresponding level of non-Hispanic support could be only one number:

$$\text{Non-Hispanic Rate} = (\text{Trump Vote} - \text{Number of Hispanic Votes}) / \text{Non-Hispanic Turnout}$$

Obviously neither of these rates can fall below 0% or go higher than 100%, so if we were going to graph what is possible for this particular precinct, the result would be a line segment rather than a line. The line segment for this hypothetical precinct appears as Figure B, illustrating possible rates of support for Biden rather than Trump. The location of that line segment indicates

FIGURE B – Heavily Hispanic Precinct



what we have already determined from simple calculations: because the line segment extends from top to bottom, the non-Hispanic rate of support for Biden can range from 0 – 100%, whereas the line segment does not extend all the way from left to right—showing that Biden’s Hispanic support could not have been greater than $100 - 23.1 = 77.9\%$ (because that is the farthest right that the segment reaches), but also was not zero (because the left-hand side of the segment never reaches the left-hand side of the box).

Note that what is possible for each group depends on the size of that group in the unit’s population, with our certainty about how the group voted depending on the relative size of the group. Thus, the slope of the line segment also tells us which racial/ethnic group is most numerous in the locale. A line that is either vertical or horizontal is almost homogenous; we know precisely how one group voted but have no idea about the other group. A locale that is almost equally balanced between the two groups, as this first example was, will cut diagonally across the box, because either group could have given high or low support to the candidate. We know less about tracts such as this one. But the true combination of Hispanic and non-Hispanic support for Biden must appear somewhere on that line segment, and when Dr. King’s method tries to estimate what those rates were, it will only pick a spot somewhere along that segment.

A second example shows a second way that a small area can be especially informative. It is also closely balanced, but it is heavily lopsided toward Joe Biden. Figure

FIGURE C – The Method of Bounds in a Pro-Biden Precinct

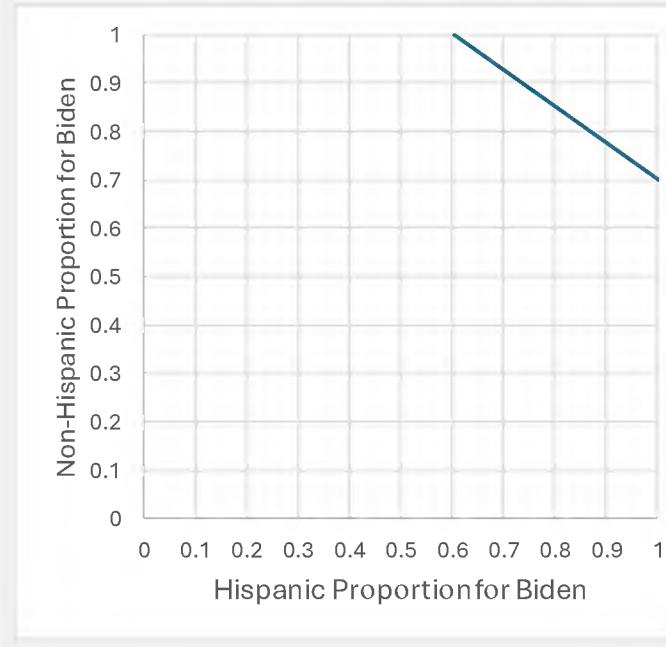
Raw Counts

	Hispanic	Non-Hispanic	
Biden	?	?	798
Trump	?	?	242
	416	543	959

Vote Proportions

	Hispanic	Non-Hispanic	
Biden	?	?	0.83
Trump	?	?	0.25
	0.43	0.57	959

FIGURE D – Heavily Pro-Biden Precinct

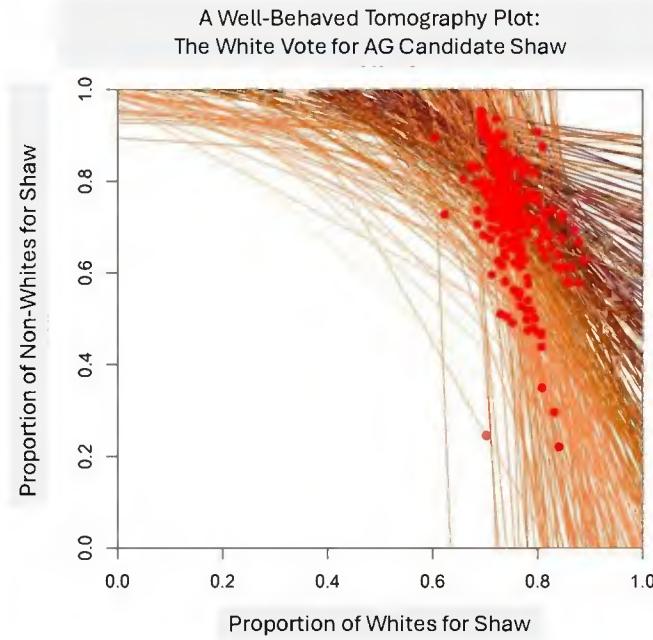


C shows why we will have a much easier time estimating political behavior in such a precinct, compared to the last. Joe Biden received 798 votes here (or 83%). Even if every Hispanic cast a vote for Biden, at least $798 - 416 = 382$ non-Hispanics (or 70.3% of them) must have sided with him. Even if every non-Hispanic backed Biden, at least $798 - 543 = 255$ (or 61.3%) of Hispanics must have backed him. So even though the line segment for this tract will be angled about like the last one, because the population is fairly evenly balanced like in the last one, we are still going to be able to narrow what is mathematically possible to a much greater extent here because of the very high level of Biden support. It will be crammed up in the top right of the square. Biden did so well that both groups mathematically must have supported him at high levels. Figure D shows all possible combinations of Hispanic and Non-Hispanic Biden support in that precinct.

If we put all the line segments for every single precinct into a single box—collecting everything that's mathematically possible for all the precincts in one place—we get what Dr. King calls a tomography plot. The contents of such plots contain no guesses, inferences, or estimations—only what is known to be true (assuming the source data are good). An experienced EI user, who has looked at a lot of tomography plots and analyzed a large variety of datasets, can tell a lot about whether ecological inference is likely to work—and what problems might plague it—from the visualization of all those segments.

For example, Figure E shows a tomography plot capturing the White vote in a recent Florida attorney general primary. Each line segment represents one Census tract in Hillsborough County, with each tract's true combination of White and non-White support for candidate Shaw appearing somewhere on the line segment associated with that tract.

FIGURE E –



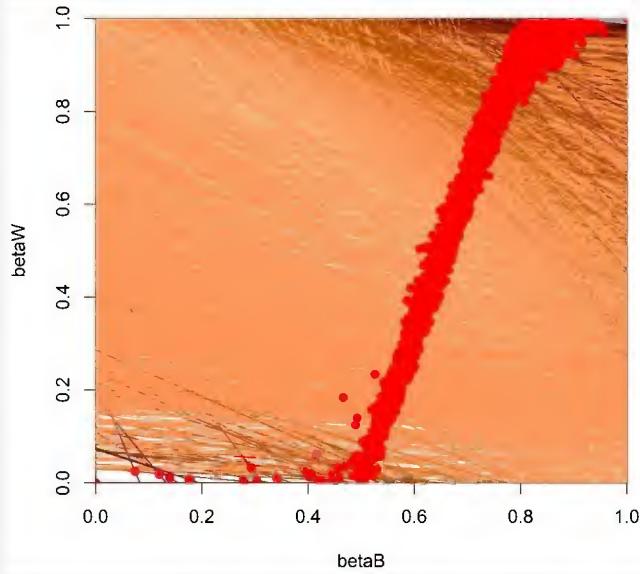
NOTE: The horizontal, lateral, and vertical lines all tend to converge around the same spot in the upper-right-hand corner of this tomography plot. For that reason, it is fairly easy to identify the region of the square where the combination of White and non-White candidate support is most likely to appear.

This circumstance lent itself to fairly strong ecological inferences because the line segments—horizontal, lateral, and vertical—all appear to pass through roughly the same section of the square, with most segments either fairly vertical (*i.e.*, heavily white tracts), fairly horizontal (*i.e.*, tracts with a large minority populations), or stuffed so far into the top-right corner that voters of both groups heavily favored Shaw. Homogeneous units and those with extreme outcomes make life easier. Having that arrangement of line segments tells me that EI will not have a hard time inferring support rates. I can also tell polarization is likely to be low. Polarization normally would cause the segments to converge either on the top left or the bottom right in a segregated place like Hillsborough.

The red dots represent EI's best guess as to what happened in each tract: what the likely combination of White and Non-White support actually was. Because this estimation was relatively easy, those red dots are able to cluster where the line segments tend to come together. The county estimate basically comes from combining those dots.

The reason I needed to start with a Florida example is that New York City does not lend itself as well to ecological inference. Figure F shows support for Governor Kathy Hochul in New York City in the 2022 general election, with Hispanic citizens along the

FIGURE F – An Ill-Behaved Tomography Plot from New York City



NOTE: The horizontal axis (betaB) represents precinct-level support for Democrat Kathy Hochul in the 2022 gubernatorial election among Hispanic citizens, while the vertical axis (betaW) represents non-Hispanic support for Hochul. The red dots show best guesses for each precinct drawn from naïve ecological inference.

bottom axis (betaB) and other citizens along the left axis (betaW). Both the spread of lines all over the square, and the rightward drift in red dots as they move upward—not to mention the many segments on the bottom left and top right—all tell me that an analyst needs to be much more careful when conducting ecological inferences in this region. Such signs of trouble led me to doubt Dr. Palmer’s simple inferences.

Once Dr. King’s method picks a spot on each of these line segments, with each spot representing a mathematically possible level of combined White and non-White support for Shaw or Hispanic and non-Hispanic support for Hochul, those guesses are added up (weighted by population size) to represent an estimate for how groups voted across the whole area. Because the higher-level estimates build directly from a whole series of lower-level estimates that are mathematically possible, the method’s overall guess for how groups behaved also will be possible, too. Indeed, disciplining each step using those bounds means that the method may perform well, coming close to the truth, even if some of the method’s underlying assumptions are not met. That is, EI can be robust to some level of assumption violations.

Having laid that groundwork, I now can explain why Dr. Palmer’s analysis does not conform to best practices when conducting ecological inference—and therefore why his conclusions are unreliable.

Contextual Effects and Aggregation Bias

The simple or naïve version of Dr. King's method, like the main approach that it replaced (ecological regression), makes a simplifying assumption: it assumes that each group has the same basic underlying political preferences everywhere being analyzed, give or take the presence of one or two quirky neighborhoods and the usual randomness in human behavior. With the RxC version Dr. Palmer used, building from citizen voting-age population (CVAP), EI also assumes that a group's turnout rate will be uniform across the region, aside from randomness. Hispanics and Asians must have the same basic turnout rate. Whites should be equally Republican, Hispanics equally Democratic.

Trying to make ecological inferences if racial/ethnic group behavior varies geographically can blow up the estimation. Such error appears when a group's turnout or partisanship is higher or lower from place to place depending on the size of other groups around them (a "contextual" pattern). If African Americans living in heavily Black communities turn out at a different rate from those in mixed-race locales, then the assumption is violated in a way likely to bias estimates. If Asians living in heavily minority neighborhoods are more Democratic than Asians living in heavily White areas, then estimates likely will be biased. If Hispanics living near fewer Whites are more Democratic than those in White neighborhoods, then inferences can go astray.

Ignoring contextual effects can result in "aggregation bias" that skews conclusions. Changes in a group's behavior from place to place will be attributed, falsely, to other groups—with the joint effect of: (1) making the level of polarization between the groups look either higher or lower than it really is; and (2) distorting conclusions about whether each group's candidate of choice will win when they are mixed together in a district. For that reason, the first thing I did after being provided Dr. Palmer's materials was to check whether he had adjusted his ecological inferences to avoid such aggregation bias. Unfortunately, judging from the code he provided, Dr. Palmer only employed the simple or "naïve" version of ecological inference, assuming that members of each racial/ethnic group participate and vote more or less the same way everywhere.

I have no doubt that the naïve version of ecological inference is inappropriate for New York City. Assuming uniformity for purposes of ecological inference among White voters makes no sense. New York 10th Congressional District ("CD10") and CD11 are adjacent districts with approximately the same share of the population being White—they are within 5 percentage points of each other—yet the former is overwhelmingly Democratic while the latter tilts to the GOP. The inappropriateness of Dr. Palmer's assumption shows up in his own analysis: he reports big differences in the White vote between CD11 and the illustrative version, despite both having the same Staten Island core. White voters on Staten Island (and in the part of Brooklyn in CD11) clearly are more

TABLE 2 – Illustrative CD11 Mostly Decreases the Asian Population Share

DRA DISTRICT ANALYSIS

	VAP	White	Hispanic	Black	Asian	Other
CD10	633,635	49.71	18.43	8.14	23.87	1.87
CD11	612,426	54.05	16.47	8.19	21.67	1.61
Illus CD10	608,667	44.52	18.33	6.37	30.89	1.87
Illus CD11	637,394	58.83	16.63	9.87	15.05	1.63

CVAP DISTRICT ANALYSIS

Location in:	Enacted	Cooper	Citizen Voting-Age Population				Citizen Voting-Age Population (%)					
			Whites	Hispanics	Blacks	Asians	Others	Whites	Hispanics	Blacks	Asians	Others
10	10	10	157,329	52,337	22,043	53,246	2,677	54.70	18.20	7.66	18.51	0.93
10	11	11	126,367	33,152	12,858	30,255	1,447	61.92	16.24	6.30	14.83	0.71
11	10	10	84,191	20,678	3,947	48,642	1,059	53.11	13.04	2.49	30.69	0.67
11	11	11	220,290	57,520	30,736	34,830	1,512	63.87	16.68	8.91	10.10	0.44

NOTE: The proposed remedy for CD11 tacitly recognizes contextual patterns in the vote.

Republican than White voters in Manhattan. Indeed, known variation in White political preferences within New York City are one reason Democratic partisans would prefer that CD11 hop across the water to the Financial District (eroding district compactness) instead of simply following I-278 across the Verrazzano-Narrows Bridge into Brooklyn.² The White voters in Manhattan are notably more Democratic than those in Brooklyn.

What stands out about the change in CD11 imposed by the illustrative map is not that it reduces the number of White voters, but instead that it strips CD11 of Asians. That conclusion holds up regardless of whether I look at VAP in DRA or at citizen voting-age population (CVAP) data, as provided to me by counsel. The population moved into CD11 would be much less Asian than the population taken out. Almost a third of the citizens stripped from CD11 would be Asian. *See Table 2.*

I also suspected that Asians and Hispanics in New York should not be treated as an undifferentiated mass—both because of a well-known partisan sorting that has taken place in where people live, with Democrats and Republicans more likely to live near people who share their politics, and because I have seen such patterns myself analyzing vote choice in other metro areas.³ Minority support for Republicans varies with the size of the White population nearby. Also, I was suspicious of Dr. Palmer’s claim that Hispanics in CD11 have voted almost identically to African Americans since 2020, including in the 2024 presidential election, contrary to well-known national patterns⁴—and contrary to what pre-election surveys were showing specifically for New York.⁵

The statistical package Dr. Palmer employed provides a simple way to: (1) soften assumptions of uniformity within racial/ethnic groups; and instead (2) invite the methodology to take into account contextual patterns. (I have needed to make such adjustments in all my peer-reviewed work using EI, because racial and ethnic groups rarely

vote the same way everywhere in a state or region.). After replicating Dr. Palmer's own analysis, therefore, I tried to verify his estimates while allowing vote choice to covary by the size of the combined Black and Hispanic population. That is, EI Rx C was asked to allow for the possibility that people vote differently when they live in heavily minority areas than if they live in places without much of a minority population.

Normally, I do not include computer code in a report like this. But it is important for the reader to understand how easy it was to check whether adding this wrinkle to the analysis made a difference.⁶ Here is a line from Dr. Palmer's code:

```
md.out <- ei.MD.bayes(formula=f, data = dat, sample = ei.samples,
```

Here is my replacement for that line, identical except for the option added at the end:

```
md.out <- ei.MD.bayes(formula=f, data = dat, sample = ei.samples, covariate=f_cov,
```

where f_cov is the proportion of the electorate that is Black or Hispanic.

When I repeated Dr. Palmer's analysis with that simple adjustment, the ecological inferences changed, sometimes dramatically. The differences were greatest when it came to Hispanic voters: the share of the Hispanic vote received by Democratic candidates (*i.e.*, the candidates of choice for African Americans) sometimes plummeted by double digits. *See Table 3.* Rather than Hispanic and Black voters converging over the time period, as Dr. Palmer claims, these more nuanced results suggest that the two groups have diverged recently, consistent with national patterns.

I know of no polling data focused solely on CD11 that could verify whether my estimates might be more accurate than Dr. Palmer's. Public-opinion polls sometimes divide results from New York City by borough or by race/ethnicity, but they do not present the cross-tabulations between location and demographic group, presumably because the sample sizes would be irresponsibly small and the margins of error unhelpfully large.⁷ And I have already mentioned that statewide polls, like my results here, contradict Dr. Palmer's conclusion that New York's Hispanic population is just as Democratic as African Americans are. (It would be strange for some of the most-Republican areas of New York City to contain a remarkably Democratic Hispanic population.). But it is not possible to turn to polling data for a second opinion.

One possible resource is VoteHub. That organization conducted ecological inferences for the 2024 Presidential Election, against which we can compare Dr. Palmer's estimates as well as mine. VoteHub's ecological inferences may not be perfect, but their methodology actively sought to capture possible aggregation bias and correct for it—and in a more tailored way than my solution.⁸ VoteHub's results have been available online

TABLE 3 – Dropping the Assumption that People are the Same Everywhere

Year	Office	PALMER RESULTS									
		Black		White		Hispanic		Asian		Other	
2017 City Comptroller		91.10%	88.9	93.1	34.80%	33.6	36.1	87.10%	83.8	89.9	50.90%
2017 Mayor		89.10%	86.4	91.3	13.50%	12.2	14.8	79.80%	74.7	84.2	51.00%
2017 Public Advocate		88.80%	86.3	91	26.90%	25.4	28.3	83.00%	79.1	86.2	47.50%
2018 Attorney General		94.10%	92.7	95.3	35.90%	34.7	37.2	92.60%	90.4	94.2	79.20%
2018 Governor		93.50%	91.9	94.7	36.90%	35.5	38.2	92.00%	89.9	93.6	77.50%
2018 State Comptroller		94.70%	93.4	95.9	39.70%	38.5	41	93.60%	91.4	95	80.60%
2018 U.S. Senate		94.50%	92.4	96.2	39.70%	37.6	41.5	92.20%	89	94.6	74.80%
2019 Public Advocate		90.20%	87.2	92.8	18.70%	16.2	21	86.90%	82.2	90.4	65.10%
2020 President		93.10%	90.6	94.9	27.00%	25.7	28.4	90.00%	86.5	93.4	73.50%
2021 City Comptroller		86.50%	83	89.5	23.70%	22.4	24.9	77.80%	72.2	82.5	34.00%
2021 Mayor		87.30%	83.8	90.2	20.50%	19.3	21.6	82.10%	77.3	86.4	43.50%
2021 Public Advocate		88.20%	85.2	90.7	21.00%	19.8	22.2	81.90%	77.9	85.3	40.70%
2022 Attorney General		90.50%	85.7	94.1	22.80%	21	25.1	89.90%	85.3	93.4	60.40%
2022 Governor		89.80%	85	93.6	22.00%	20.1	23.9	89.30%	84.7	92.9	53.20%
2022 State Comptroller		89.50%	84.5	93.6	25.60%	23.7	27.8	90.40%	85.9	93.8	65.50%
2022 U.S. House		90.40%	85.1	94.1	24.10%	22.1	26.4	89.10%	83.9	93	57.50%
2022 U.S. Senate		91.00%	87.1	93.9	26.40%	24.7	28	92.90%	89	95.2	64.30%
2024 President		88.70%	83.1	93.4	22.20%	20.4	23.9	88.10%	81.1	92.4	49.00%
2024 U.S. House		88.70%	83.6	92.9	20.00%	18.1	21.9	87.70%	81.1	92.8	51.60%
2024 U.S. Senate		89.80%	85	93.4	25.40%	23.8	27	88.40%	82.4	93.1	58.80%

Year	Office	PALMER DATA & CODE WITH COVARIATES ALLOWED									
		Black		White		Hispanic		Asian		Other	
2017 City Comptroller		88.80	84.0	92.2	33.75	31.3	36.2	81.37	72.3	88.4	48.05
2017 Mayor		88.40	83.6	91.6	12.83	11.0	14.9	70.99	56.2	79.5	50.02
2017 Public Advocate		86.04	81.1	90.1	27.56	24.4	31.0	73.11	63.7	80.8	41.89
2018 Attorney General		92.42	89.5	94.5	36.44	33.8	39.0	79.71	70.9	90.2	78.92
2018 Governor		91.46	86.0	94.8	37.83	34.8	40.5	73.44	64.8	81.5	79.93
2018 State Comptroller		93.05	87.6	95.5	40.20	37.7	42.5	76.30	66.3	88.3	81.56
2018 U.S. Senate		94.04	91.0	96.3	37.01	33.6	39.9	91.81	87.5	94.8	68.44
2019 Public Advocate		89.55	84.2	93.4	18.78	14.5	22.1	85.54	77.8	89.7	60.64
2020 President		82.55	77.8	86.7	31.37	29.5	33.4	54.75	48.2	60.4	87.70
2021 City Comptroller		81.75	73.9	87.2	25.68	22.8	28.7	58.88	44.9	68.7	33.94
2021 Mayor		87.54	83.0	91.1	20.69	18.3	23.1	65.96	51.8	77.2	38.92
2021 Public Advocate		85.16	79.7	89.5	22.89	19.9	25.4	57.70	46.7	66.8	40.52
2022 Attorney General		90.43	82.1	94.7	17.87	15.9	20.6	87.00	68.6	94.4	40.33
2022 Governor		92.97	89.2	95.9	18.25	15.5	22.5	76.95	54.9	92.0	44.20
2022 State Comptroller		90.25	81.2	94.9	20.89	17.8	25.1	80.34	62.6	93.3	46.58
2022 U.S. House		91.40	86.7	95.0	19.55	16.9	22.9	75.26	59.4	91.1	54.01
2022 U.S. Senate		87.60	78.2	94.3	25.49	22.8	28.2	60.40	52.7	69.1	53.76
2024 President		89.61	78.5	95.1	20.56	16.5	23.4	65.13	53.6	92.3	47.59
2024 U.S. House		88.90	79.4	94.1	17.42	14.7	21.2	74.05	55.8	91.7	43.07
2024 U.S. Senate		88.21	72.2	95.3	26.36	24.1	28.7	57.75	52.9	64.3	63.99

NOTE: The bottom table is my extension of his results. I use his data, almost all his code, and his approach to post-estimation calculations—but I add a single option that allowed the ecological inference method to estimate a “covariate” for quantities of interest, permitting them to be higher or lower depending on the size of the combined Black/Hispanic population share. More than half of my estimates are not outside of Dr. Palmer’s confidence intervals.

for a while now, and they are part of a nationwide package of ecological inferences—and so clearly not generated for this litigation. So, I consulted that resource to see if they were coming up with numbers closer to Dr. Palmer’s. If anything, however, VoteHub’s estimate of Hispanic support for Kamala Harris in CD11 was even lower than mine. VoteHub’s estimates, like mine, suggest that Dr. Palmer’s ecological inferences are pretty far off.

TABLE 4 – Dr. Palmer Likely Exaggerates Racially Polarized Voting in CD11

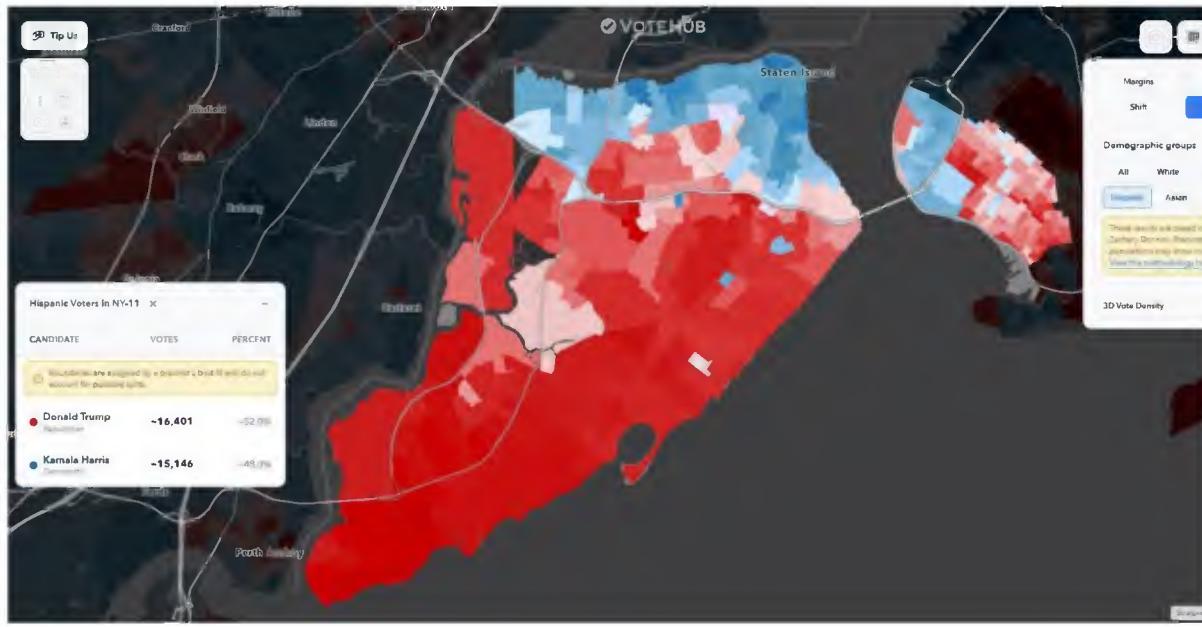
Source	Blacks	Whites	Hispanics	Asians	Others
Palmer Report Table	88.7	22.2	88.1	49.0	65.3
Palmer Replication	87.5	21.9	90.9	48.3	64.1
Voss with Covariates	89.6	20.6	65.1	47.6	52.0
VoteHub	86.4	28.0	48.0	46.3	54.7

NOTE: The top three rows use the same data and, aside from the addition of the covariate option in one instance, use the same code. The VoteHub results, which like the row above it also attempt to remove aggregation bias, use different data and methodology. My analysis shows greater racial polarization than Dr. Palmer's, but only when we are talking RPV between Whites and the small African-American population in CD11. In keeping with national polling and analysis, as well as VoteHub's estimates, I find that Hispanics vote GOP much more than Dr. Palmer reports.

Table 4 displays the results of my new ecological inferences for the four definable racial/ethnic groups. Those results can be compared to Dr. Palmer's from his report (page 10), what I generated running Dr. Palmer's exact code on his exact data, and what VoteHub estimates. Dr. Palmer apparently missed some of the rich contextual variation in how Hispanics vote—specifically, that those who live in whiter neighborhoods are more Republican than those in heavily minority areas, something both my analysis and VoteHub's detected. *See Figure G.* Implication of this error? Dr. Palmer makes the Hispanic vote look more cohesive, makes the Black and Hispanic voters of Staten Island look more politically alike, and makes racial voter polarization in CD11 look wider than appears to be true.

Asians, similarly, tend to be more Republican beneath the interstate loop. *See Figure H.* Dr. Palmer pays little attention to Asian voters. They appear in a pair of tables near the end of his report, as well as in a turnout graph, but they are excluded entirely from his discussion and from most of his graphs/figures. Their erasure is remarkable, given that the main thing separating an analysis of racially polarized voting from an analysis of whether the Black/Hispanic candidate of choice usually will lose is how everyone else votes. Ignoring Asians also is remarkable because the main change Dr. Cooper makes to CD11 is not to decrease the size of the White population or increase the share of the Black/Hispanic voting-age population—in fact, he increases the former and diminishes the latter—but instead to slice the share of Asians. Leaving aside any concern a court might have with the possibility that a redistricting remedy would dilute the vote of Asian citizens, if Dr. Palmer is not estimating Asian voting patterns correctly across the region, then he is also unable to give reliable conclusions about whether redrawing a district in fact would give protected groups success in electing their candidate of choice (the supposed purpose

FIGURE G – VoteHub’s Map of the 2024 Presidential Vote among Hispanics in CD11

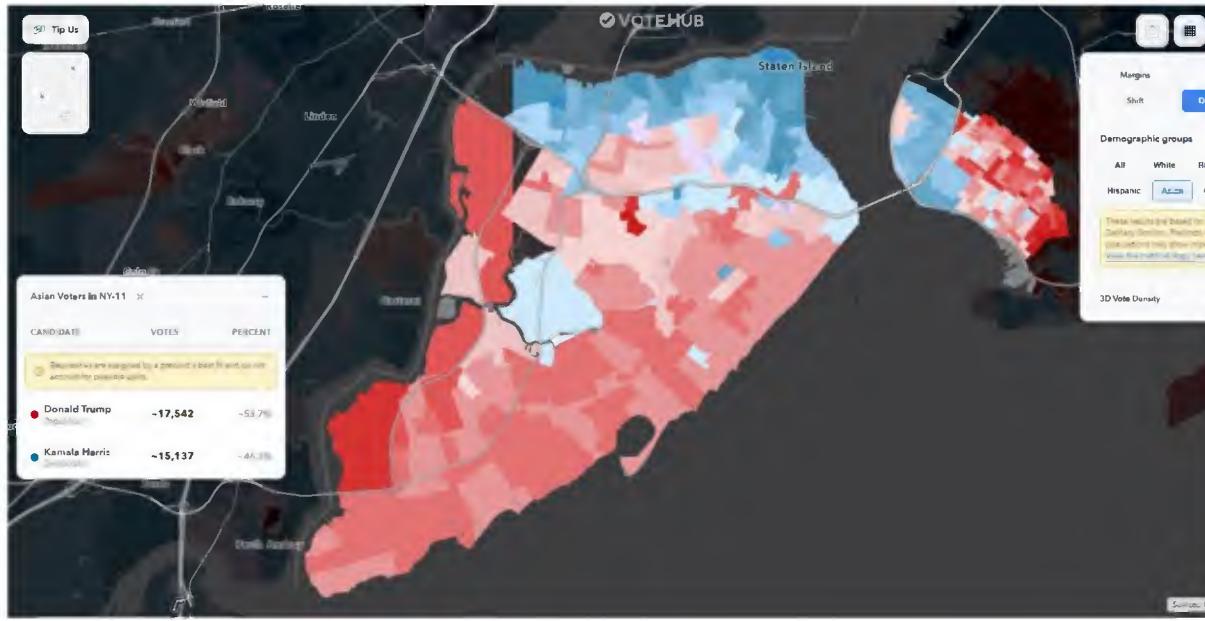


NOTE: VoteHub’s methodology focused specifically on trying to eliminate aggregation bias in their ecological inferences. The result is an estimate of Harris support among CD11 Hispanics that is even farther from Dr. Palmer’s than my contextual model, due to the tendency of Staten Island Hispanics to vote similarly to their White neighbors.

of his table on page 12 of his report).

I need to be clear about something. If one accepted the VoteHub estimates at face value, they would invalidate Dr. Palmer’s report and conclusions almost entirely. VoteHub’s numbers dispute the claim of racially polarized voting between White voters and Hispanic voters, as well as the claim that Hispanic voters are politically cohesive in CD11. I am not advocating such a dramatic conclusion based on a methodology that I have not probed in detail. The sole purpose of referencing those publicly available ecological inferences (aside from the utility of their mapping function) was to back up the plausibility that an analyst who actively tries to target aggregation bias can get big estimation differences from someone who ignores it. My own ecological inferences, although not as tailored as VoteHub’s, do still show some racial polarization in CD11 between the White majority and the quarter of the electorate that is Hispanic or African American, although the gap is not nearly as wide and the level of cohesion not nearly as strong as Dr. Palmer claims. I do not know the extent to which my ecological inferences would converge on what VoteHub has reported if I had time to explore, develop, and optimize the model. What I am advocating is that Dr. Palmer’s ecological inferences be recognized for what they are:

FIGURE H – VoteHub’s Map of the 2024 Presidential Vote among Asians in CD11



NOTE: VoteHub’s methodology focused specifically on trying to eliminate aggregation bias in their ecological inferences. The result is an estimate of Harris support among Asians that, like mine, shows them voting Republican in many areas of CD 11.

a series of basic analyses, produced in bulk, that are in no way tailored to the time period, the political context, or the possibility that racial/ethnic groups differ across a diverse metropolitan area.

The narrow confidence intervals that come with Dr. Palmer’s ecological inferences, meanwhile, pretend to a level of certainty in the estimates that surely cannot be supported given how unstable the simulations are to a single change in the programming code. (One way to catch when simulations are unreliable is to see whether they show instability across similar approaches.⁹). At best, Dr. Palmer’s ecological inferences are reported with false precision, and his report runs the risk of confusing laypeople by claiming a greater degree of confidence than warranted.

Estimating Who Votes

One feature of my covariate-based analysis concerned me, which is that I estimated lower support for Kamala Harris among most of the racial/ethnic groups in the data. The exception, African Americans, constitute a small portion of Staten Island. Having all the percentages drift downward raised a red flag because each group’s Democratic voting rate, when weighted by their size of the electorate, needs to add up to the actual vote totals reported for the Democratic candidate. Having all my numbers drop raised the specter of some kind of error in the data handling, before or after running ecological inferences. Such

results seemed mathematically unlikely.

My exploration to solve this mystery ended up exposing what I believe to be another flaw in Dr. Palmer's report, one that was hidden from me during my initial verifications of his analysis. To generate his ecological inferences after using citizen voting-age population to capture the size of different racial/ethnic groups, Dr. Palmer's RxC analysis needs to do more than only estimate vote choice. He also must estimate turnout by these demographic groups, to determine their share of the electorate. Notably, Dr. Palmer did not report what his analysis was claiming about the relative mobilization of these social groups, and he specifically instructed his code (contrary to his package's default) to hide the turnout part of his analysis (inserting an option to make it True that the turnout column would be deleted when the results were preserved):

```
ei_output(md.out, formula=f, drop_last_col = T)
```

Significant differences in our turnout estimates would explain how voting choices of different groups could rise or fall consistently, instead of moving in different directions to balance out.

So, I took a step back and reran my verification of Dr. Palmer's work, this time asking it to keep voter turnout in the mix. (This adjustment, regrettably, took more than half a day to run on my computer, so I was only able to complete it shortly before needing to submit this report.). What I found is that Dr. Palmer was estimating turnout rates for each group that did not make much sense. *See Table 5.* African American voters, for example, not only show up as having sat out the 2024 presidential contest, compared to their engagement in the congressional elections, they supposedly preferred to vote in the 2022 House race over New York's two top-ticket contests, and voted in the 2021 Public Advocate race more than in the mayoral race. Hispanics who showed up in 2022 and voted for attorney general and state comptroller supposedly sat out the senatorial election, and they supposedly preferred to vote for comptrollers and public advocates—in both 2017 and 2021—than they preferred to vote in the city's mayoral election. Asians, similarly, show up as preferring down-ballot races over top-ticket contests. All these results fly in the face of the well-known tendency of voters to “roll off” when voting, participating at higher rates for top-ticket offices but not necessarily casting votes in less-visible contests.

I am not saying that my estimates using covariates would be free of these sorts of counterintuitive patterns, if I had had time to rerun that analysis as well. Having only made one tweak to the code to allow more nuance—rather than having worked my way to the best estimates—likely my results would have similar anomalies. Still, the point, as before, is that these ecological inferences are much less stable, when run in bulk across

TABLE 5 – Turnout Estimates from the Palmer Verification

Year	Contest	Black	White	Hispanic	Asian
2017	Mayor	26.1	33.2	17.3	5.7
2017	City Comptroller	23.5	31.4	18.0	3.9
2017	Public Advocate	24.6	30.8	19.0	5.1
2018	United States Senator	44.5	41.7	35.8	13.2
2018	Governor	46.0	42.9	33.6	14.5
2018	Attorney General	46.8	42.2	32.9	13.9
2018	State Comptroller	45.1	42.7	32.1	13.5
2019	Public Advocate	18.2	17.3	13.8	4.5
2020	President	55.1	64.2	53.2	34.7
2021	Mayor	22.0	36.2	17.2	4.7
2021	City Comptroller	21.7	34.2	18.7	5.5
2021	Public Advocate	22.7	34.7	17.5	4.8
2022	United States Senator	25.7	47.5	28.4	9.3
2022	Governor	24.5	47.5	32.5	8.0
2022	Congress	26.0	47.0	30.7	9.6
2022	Attorney General	24.9	46.3	31.9	9.6
2022	State Comptroller	23.8	46.6	30.7	8.9
2024	President	40.7	63.3	47.7	20.6
2024	United States Senator	41.8	61.6	47.6	20.9
2024	Congress	41.6	62.2	47.8	16.1

NOTE: One possible explanation for Dr. Palmer's unrealistic estimates, and his deviation from my estimates using covariates, is that he likely had errors in his estimation of voter turnout by race/ethnicity. While he estimated that White voters, in general, voted more heavily for candidates at the top of the ballot, he generally estimates (wrongly I believe) that minority candidates would increase their participation for lower-ballot races.

years and contests, than Dr. Palmer's report would lead a layperson to believe.

The Proper Scope of Analysis

The other immediate concern I had with Dr. Palmer's report was when I discovered that he was only conducting his ecological inferences within a single congressional district, even when the election was taking place on a broader scale. Purely as a technical matter, ecological inferences usually will improve when the analyst takes advantage of more data. Even if, at the end of the analysis, the researcher will only care about the results produced for a smaller subdivision of the data—say, a congressional district—the superior approach is to cast a wider net so that the estimates can “borrow strength” from similar nearby locations.

I should stress: the principle in favor of more data can be taken too far. The broader the scope of an ecological inference, the more likely the analyst will be combining dissimilar places, creating all the difficulties with internal group variation discussed earlier in my response. A single, statewide ecological inference rarely will be the optimal choice,

even if the end goal is to estimate how groups are behaving statewide. Ideally, an analyst identifies meaningful subdivisions within a state—such as regions with a shared history or that share known economic or cultural commonalities—and conducts the ecological inferences within those regions, combining them into statewide results if desired. The need for identifying a socially, culturally, or politically meaningful region can be essential when the area of interest is transient and manipulable, like a legislative or city council district.

My understanding is that Petitioners are relying on the New York Voting Rights Act for their legal arguments, so I consulted that source to see if it would provide guidance as to the proper scope of analysis. But the language I found there positioned vote-dilution claims within entire political subdivisions. If an analysis of local elections would consider the entire locality at once, then the parallel for congressional elections would be the entire state—and that is too much territory to run through the ecological-inference software at once.

Instead, I settled on what I often endorse for ecological inference, which is to conduct the analysis within a broader metro area. New York City, as a construct, is meaningful socially, culturally, and politically. Counsel provided me with data for congressional districts 5-15, the districts that had most of their populations in New York City—data that included both citizen voting-age population (CVAP) and the returns from a handful of recent elections.

In the interests of time, I needed to select a focal contest to see how results changed when conducted on a broader scale. I selected for that purpose the 2022 gubernatorial election, won by Democrat Kathy Hochul, because it was competitive enough to bring out variations in how people were voting. Because the purpose is to contrast my results with Dr. Palmer's, I dropped the covariate option again, despite its advisability. That simplification also allowed me to produce results in a timely fashion. Even after that simplification, the analysis took more than 12 hours to complete.

Results appear in Table 6. In the interest of brevity, I will underscore some key features of that analysis, but note that since then, I have been able to replicate the analysis for other statewide elections and these conclusions are supported in other elections.

First, results from CD11 for racial polarization look more like what I reported from my covariate analysis than like what Dr. Palmer reports. African American support for the Democrat is significantly higher than Hispanic support, the latter being more dominant on Staten Island. Polarization between Whites and Hispanics in CD11 therefore is weaker than the impression Dr. Palmer gives. It is only with the smaller groups—Asians and Others—that these results look more like the analysis performed without covariates. Note the implication: had Dr. Palmer widened the scope of his analysis, having more data could have corrected for unrealistically high Hispanic vote-choice estimates without him needing to run a covariate analysis.

Second, Asian voters in CD11 apparently did not prefer the Democratic choice for governor. She was, in fact, apparently not popular with Asian voters citywide. This conclusion fits with polling from 2022, which showed her job approval with Asians was almost as poor as it was with Whites.¹⁰ My ecological inferences here of course contain some random noise—guesses above 50% do appear within the confidence intervals—but either way, it is clear that CD11 contains a majority of White and Asian voters who prefer Republican representation. As a result, these results suggest that submerging the White and Asian voters into illustrative districts 10 and 11 would dilute their vote enough that they would likely be represented by a pair of Democratic members of Congress instead.

Third, racially polarized voting between White voters and Black/Hispanic voters appears in some, but not all, of New York City's current congressional districts. Specifically, in the case of this contest, we see racially polarized voting in congressional districts 5, 6, 8, and 9 but not in districts 7, 10, 12, 13, 14, and 15. Late in this process, I was asked whether such polarization was appearing in other contests, especially for districts 5, 8, and 9. The answer is yes, it appeared in other contests. Table 7 shows similar polarization in the 2020 presidential election.

Fourth, the racial nature of the illustrative maps, and therefore their partisan implications, can be seen in the breakdown of precincts across four subdivisions: precincts that appear in CD10 and CD11 in both the enacted and the illustrative maps, but also the precincts that Dr. Cooper either shifted to CD11 or shifted to CD10. Dr. Cooper cracks CD11's Republican White voters and Asian voters and spreads them between illustrative CD10 and illustrative CD11 so that they will be submerged. Both the White voters and the Asian voters that Dr. Cooper considers moving out of CD11 are more Republican (only giving Hochul around 32% and 46% of their support) than the voters pulled in, burying those voters in the heavily Democratic CD10. Meanwhile, the voters joined to Staten Island tilt Democratic across the board. The result is that both illustrative maps submerge White voters, who lean Republican, with populations expected to cohere against them.

Looking at those subcategories of CD10 and CD11 brings to light another, more substantive, problem with conducting ecological inferences only within a single district—at least when it comes to trying to decide how to configure districts that will impact a wider area. Those same voters can be made to look polarized, or not polarized, depending on how one draws the lines. A cohesive White and Asian population in Staten Island can be brought into relief, or hidden, depending on the other precincts tossed into the district. Fairly cohesive Republican communities in Brooklyn can be made to look less cohesive by merging them into CD10.

TABLE 6 – Citywide Ecological Inferences by Race and Congressional District

Location	Subdivision	Blacks		Whites		Hispanics		Asians		Other	
		Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)
NYC		0.962	0.959	0.965	0.600	0.596	0.605	0.765	0.758	0.772	0.518
CD05		0.960	0.956	0.964	0.338	0.319	0.357	0.749	0.736	0.763	0.548
CD06		0.945	0.929	0.961	0.423	0.399	0.446	0.744	0.730	0.757	0.468
CD07		0.949	0.940	0.959	0.700	0.691	0.709	0.774	0.764	0.785	0.561
CD08		0.971	0.967	0.975	0.408	0.399	0.417	0.782	0.772	0.793	0.524
CD09		0.962	0.959	0.966	0.379	0.371	0.388	0.776	0.764	0.787	0.519
CD10 TOTAL		0.956	0.946	0.965	0.841	0.834	0.847	0.764	0.752	0.776	0.539
Part that stays		0.955	0.944	0.966	0.807	0.798	0.815	0.759	0.744	0.773	0.531
Moves to CD11		0.956	0.939	0.971	0.884	0.874	0.894	0.773	0.756	0.790	0.553
Illustrative		0.955	0.945	0.965	0.636	0.625	0.645	0.759	0.746	0.771	0.495
CD11 TOTAL		0.950	0.933	0.966	0.201	0.192	0.210	0.751	0.736	0.766	0.481
Moves to CD10		0.955	0.933	0.974	0.316	0.293	0.339	0.759	0.738	0.780	0.455
Part that stays		0.949	0.930	0.967	0.157	0.148	0.165	0.748	0.731	0.765	0.517
Illustrative		0.951	0.937	0.965	0.422	0.415	0.429	0.757	0.744	0.771	0.533
CD12		0.952	0.938	0.965	0.842	0.836	0.847	0.762	0.747	0.777	0.501
CD13		0.972	0.967	0.977	0.884	0.870	0.897	0.783	0.775	0.790	0.635
CD14		0.952	0.942	0.963	0.544	0.529	0.560	0.743	0.734	0.752	0.490
CD15		0.961	0.955	0.967	0.614	0.590	0.637	0.766	0.758	0.773	0.532
											0.491
											0.573
											0.808
											0.721
											0.892

NOTE: Using data provided by counsel, I ran a single ecological RxR ecological inference for most of New York City. The precinct-level estimates developed in producing citywide numbers can be reaggregated to produce voting estimates for lower-level places as well. The numbers in all of the rows, therefore, come from the same estimation procedure.

TABLE 7 – Racial Polarization in Presidential Voting

2020 Presidential	Cong. District		
	5	8	9
Black Vote	96.77	97.06	97.46
Hispanic Vote	82.20	87.44	85.52
White Vote	45.22	49.45	46.45
Asian Vote	72.48	61.92	63.95
Other Vote	79.68	81.62	80.63

NOTE: Shows the level of racial polarization in the 2020 presidential contest in districts 5, 8, and 9, taken from an analysis parallel to that in Table 6.

(References listed on following page)

REFERENCES

¹ The same was true of his analysis of the illustrative district (not shown). Theoretically, because Dr. Palmer set a seed as part of his code – another rare sign of professionalism in how he conducted his work – my results should not just be like Dr. Palmer’s. They should be identical. We’re guessing that the differences are not a sign of trouble with Dr. Palmer’s table generation, just a computer issue: They’re not identical because the analysis spreads out over multiple cores, and my computer works at a different speed from Dr. Palmer’s, so likely the cores are trying to draw “random” numbers at a different pace than when he did his work. If that hypothesis is correct, then this only adds to the reliability of the verification: It means Dr. Palmer’s results were robust to a different pacing through the random-number generator.

² DRA provides three measures of compactness: the Reock (which captures the extent the district resembles a perfect circle), the Polsby-Popper (which functions like the Reock but punishes the score for zigzags and tendrils that add to the district perimeter), and the KIWYSI score (which summarizes over the various considerations that people take into account when judging whether a district has been gerrymandered. Districts are judged to be tidier if the scores are higher. All three scores worsen, for both CD10 and CD11, in the illustrative plan compared to the enacted versions. For CD11, the scores drop from .45 to .29 (Reock), from .54 to .28 (P-P), and from 100 to 37 (KIWYSI). For CD10, they drop from .56 to .39 (Reock), from .36 to .19 (P-P), and from 66 to 41 (KIWYSI). Some degree of compactness is being sacrificed on behalf of the mapmaker’s goals.

³ Bishop, Bill. 1953-. 2008. *The Big Sort: Why the Clustering of Like-minded America Is Tearing Us Apart*. Houghton Mifflin.

⁴ Fraga, Bernard L., Yamil R. Velez, and Emily A. West. 2024. “Reversion to the Mean, or Their Version of the Dream? Latino Voting in an Age of Populism.” *American Political Science Review*. doi:10.1017/S0003053424000406.

⁵ <https://www.cygnal.com/wp-content/uploads/2024/10/22669-Cygnal-National-NVT-Oct24-2-Deck-Public.pdf>.

⁶ Note that I say “check” for the error because if it were necessary to generate authoritative estimates for these voting rates – rather than just seeing whether allowing for a covariate made a big difference – I would not have stopped here. To get optimal estimates for the effect of covariates, I could have run the model in various ways, with different possible “priors” related to the covariate – the sort of thing that Dr. Palmer’s code, by embedding everything within an R function that discards intermediate results, did not accommodate exploring in a timely way.

⁷ I did not put in a ton of effort looking for polling data, because it only would have been for verification purposes, and poll results shouldn’t necessarily be treated as trustworthy anyhow. But for what it’s worth, I did set ChatGPT looking, and ChatGPT had no more luck than I did. I received the following response to my query: “I poked around, and I have not found any publicly-available poll (2017–2025) that gives what you’re asking for: that is, vote-choice or political-orientation data broken out by both borough and race/ethnicity — e.g. ‘Hispanic Staten Island’ vs ‘Black Staten Island.’”

⁸ <https://votehub.com/2025/09/15/2024-precinct-map-demographics-methodology/>.

⁹ Elliott, Corrine F., James PC Duncan, Tiffany M. Tang, Merle Behr, Karl Kumbier, and Bin Yu. 2025. “Designing a Data Science simulation with MERITS: A Primer.” <https://arxiv.org/abs/2403.08971>.

¹⁰ <https://scri.siena.edu/wp-content/uploads/2022/06/NYC0522-Crosstabs-Final.pdf>.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X

Michal Williams; José Ramírez-Garofalo; Aixa Torres; and
Melissa Carty,

Index No. 164002/2025

Petitioners,

Hon. Jeffrey H. Pearlman

-against-

Motion Seq.

Board of Elections of the State of New York; Kristen
Zebrowski Stavisky, in her official capacity as Co-
Executive Director of the Board of Elections of the State of
New York; Raymond J. Riley, III, in his official capacity as
Co-Executive Director of the Board of Elections of the
State of New York; Peter S. Kosinski, in his official
capacity as Co-Chair and Commissioner of the Board of
Elections of the State of New York; Henry T. Berger, in his
official capacity as Co-Chair and Commissioner of the
Board of Elections of the State of New York; Anthony J.
Casale, in his official capacity as Commissioner of the
Board of Elections of the State of New York; Essma
Bagnuola, in her official capacity as Commissioner of the
Board of Elections of the State of New York; Kathy
Hochul, in her official capacity as Governor of New York;
Andrea Stewart-Cousins, in her official capacity as Senate
Majority Leader and President *Pro Tempore* of the New
York State Senate; Carl E. Heastie, in his official capacity
as Speaker of the New York State Assembly; and Letitia
James, in her official capacity as Attorney General of New
York,

Respondents,

-and-

Nicole Malliotakis; Edward L. Lai, Joel Medina, Solomon
B. Reeves, Angela Sisto, and Faith Togba,

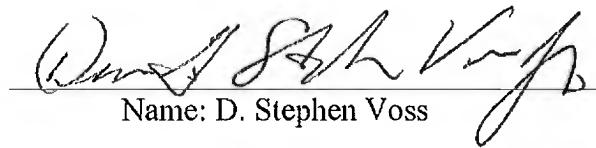
Intervenors-Respondents,

-----X

VERIFICATION

D. Stephen Voss, being duly sworn, deposes and says:

1. I am over 18 years of age and am not a party to this case.
2. I swear under penalty of perjury to the faithfulness of the opinions expressed in the foregoing Response to Petitioners' Expert Report of Maxwell Palmer, and to the best of my knowledge, to the truth and accuracy of the factual statements made therein.
3. If asked to testify on these matters, I could and would testify under oath to their contents, under penalty of perjury.
4. I affirm this 8th day of December 2025, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.



A handwritten signature in black ink, appearing to read "D. Stephen Voss", is written over a horizontal line. The signature is fluid and cursive.

Name: D. Stephen Voss

Exhibit O

Corrected Expert Report
Thomas M. Bryan
January 2, 2026

Expert Demographic Report of Thomas M. Bryan

¶

*Michael Williams, José Ramírez-Garofalo, Aixa Torres, and
Melissa Carty v. Board of Elections of the State of New York, et
al.*

“Williams v. NYBOE”

January 2, 2026

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XII. Thomas M. Bryan Vitae	95

EXPERT QUALIFICATIONS

1. I am an expert in demography with 30 years of experience in demographic consulting and advanced analytic expertise in litigation support, state and local redistricting, and census data. I graduated with a Bachelor of Science in History from Portland State University in 1992 and obtained a Master's Degree in Urban Studies (MUS) from Portland State University in 1996. In 2002, I completed my second graduate degree in Management and Information Systems (MIS) from George Washington University and concurrently earned a Chief Information Officer certification from the General Services Administration. I recently served on the 2030 Census Advisory Committee.¹
2. My background and experience in demography, census data, and advanced analytics with statistics and population data began in 1996 with an analyst role for the Oregon State Data Center. I continued to accumulate my broad range of experience in 1998 when I began working as a statistician for the U.S. Census Bureau in the Population Division, developing population estimates and innovative demographic methods. In 2001, I joined the Environmental Systems Research Institute's (ESRI)² Business Information Solutions team, where I served as a professional demographer working with Geographic Information Systems (GIS) for population studies. Over the next 20 years, I continued developing extensive cross-industry experience serving in various advanced analytic and leadership roles as a demographer and data scientist for companies such as Altria and Microsoft.
3. In 2001, I founded my consultancy, BryanGeoDemographics (BGD), to meet the expanding demand for advanced analytic expertise in applied demographic research and analysis. My consultancy has broadened to include litigation support, state and local redistricting, school redistricting, and municipal infrastructure initiatives. Since 2001, I have undertaken over 160 such engagements in three broad areas:
 1. state and local redistricting,
 2. applied demographic studies, and
 3. school redistricting and municipal infrastructure analysis.
4. My expertise in redistricting began with McKibben Demographics, where I provided expert demographic and analytic support in over 120 separate school redistricting projects between 2004 and 2012. During this time, I informally consulted on redistricting projects with Dr. Peter

¹ <https://www.census.gov/newsroom/press-releases/2024/members-2030-census-advisory-committee.html>. My membership on this committee does not constitute an endorsement of BGD or this report by the Committee, the Census Bureau, the Department of Commerce, or the U.S. Government. The views expressed herein are my own and do not represent the views of the Committee, the Census Bureau, the Department of Commerce, or the U.S. Government.

² The global market leader in geographic information system (GIS) software, location intelligence, and mapping, see: <https://www.esri.com/en-us/about/about-esri/overview>

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Morrison. In 2012, I formally began performing redistricting analytics, and I continue my collaboration with Dr. Morrison to this day. I have been involved in over 45 redistricting projects, serving in roles of increasing responsibility from population and statistical analyses to report writing, to directly advising and supervising redistricting initiatives. In many of these roles, I performed *Gingles* analyses, risk assessments, and Federal and State Voting Rights Act (VRA) analyses in state and local areas. In each of those cases, I personally built or supervised the building of one or more databases combining demographic data, local geographic data, and election data from sources including the 2000, the 2010, the 2020 Decennial Census, and numerous vintages of the American Community Survey.

5. In 1996, I began publicly presenting my work at professional conferences. I have presented on the Census, using Census data, measuring effective voting strength, developing demographic accounting models, measuring voting strength and voter registration, and turnout statistics. I have also led numerous presentations and tutorials on redistricting. My recent demographic and redistricting work includes:
 - Chairing the “Uses of Census Data and New Analytical Approaches for Redistricting” session at the 2023 Population Association of America meetings in Annapolis, MD.;
 - Chairing the “Population Projections” session at the 2024 Population Association of America meetings, February 2024 (remote conference);
 - Presenting “Uses of Demographic Data and Statistical Information Systems in Redistricting and Litigating Voting Rights Act Cases: Case studies of the CPS and CES, and the ACS and EAVS” at the 2024 Population Association of America Applied Demography Conference, February 2024 (remote conference).
 - Presenting “Use of Current Population Survey (CPS) and Cooperative Election Study (CES) in Analyzing Registered Voter Turnout” at the American Statistical Association Symposium on Data Science and Statistics (SDSS), Richmond, VA. June 2024
6. I have been published since 2004. My works include “Population Estimates” and “Internal and Short Distance Migration” in the definitive demographic reference “The Methods and Materials of Demography.” In 2015, I served alongside a team of advanced demographic experts in *Evenwel et al. v. Texas*. In *Evenwel*, I served in a leadership role in writing an Amicus Brief on the use of the American Community Survey (ACS) in measuring and assessing one person, one vote. In 2019, I co-authored “Redistricting: A Manual for Analysts, Practitioners, and Citizens,” which provides a comprehensive overview of U.S. Census data and demographic methods for redistricting applications.
7. I have significant expertise in the collection, management, analysis, and reporting of complex demographic, economic, voting, and electoral data, including the Decennial Census, the American Community Survey and associated Public Use Microdata (or “ACS PUMS” <https://www.census.gov/programs-surveys/acs/microdata.html>), the Current Population Survey Voting Supplement (or “CPS” <https://www.census.gov/topics/public>

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sector/voting.html), the Cooperative Election Study (or “CES” <https://cces.gov.harvard.edu/>), the Election Administration and Voting Survey (or “EAVS” <https://www.eac.gov/research-and-data/studies-and-reports>).

8. I have been previously retained to provide expert analytics of the Current Population Survey Voting Supplement and the Cooperative Election Study in the matter of *White et al. v. Mississippi State Board of Election Commissioners* (2022-2024) in support of Defendants’ demographic expert, Dr. David A. Swanson. These voter turnout analytics were used to rebut and correct erroneous analytics by the Plaintiffs’ expert - and were accepted by the court. I was also retained to use these election datasets to provide analytics of Arizona voter registration and turnout in *Swoboda v. Fontes* (2024) and analytics of North Carolina voter registration in *Green v. Bell* (2024).
9. In addition to my expert witness work in redistricting, I have a long history of developing expert applied demographic analyses, ranging from public health data analysis of mortality statistics related to opioid use and tobacco use, public housing discrimination, municipal infrastructure, and small-area population estimates and forecasts.
10. I have been deposed in the matter of *Harding v. County of Dallas* and have been deposed and/or testified in the matters of *Milligan v. Merrill*, *Thomas v. Merrill*, and *Singleton v. Merrill* over Alabama’s 2020 Congressional redistricting initiatives; *Robinson v. Ardoin* and *Galmon v. Ardoin* over Louisiana’s 2020 Congressional redistricting initiatives; *Christian Ministerial Alliance v. State of Arkansas* over their 2020 Congressional Redistricting Initiative, *Navajo Nation v. San Juan County Board of Commissioners* over San Juan County, New Mexico’s commissioner districts, *Petteway v. Galveston County, TX* over their county commissioner districts, and *Bautista v. Humble ISD* (2025) and *Jaso v. Angleton ISD* over their school district board of trustees.
11. I have provided bipartisan expert witness support of redistricting cases, including being retained by Democratic counsel as the demographic and redistricting expert for the State of Illinois in the matter of *McConchie v. State Board of Elections*.
12. I maintain affiliations with several professional demographic organizations, including:
 - American Statistical Association
 - Population Association of America
 - Southern Demographic Association
13. I, Thomas M. Bryan, affirm the conclusions I express in this report and that these opinions are provided to a reasonable degree of professional certainty. My compensation for my work on this case is not dependent on the substance of my opinions or the outcome of this case.

I. REPORT OVERVIEW

15. Section II provides the background 2020 redistricting in New York and an introduction to the *Williams v. NYBOE* case
16. Section III provides a summary of the report
17. Section IV provides major demographic concepts and the demographics of New York's congressional districts.
18. Section V provides an analysis of the compactness of each plan.
19. Section VI provides an analysis of New York City's Communities of Interest.
20. Section VII provides a Differential Core Retention Analysis (or "DCRA").
21. Section VIII provides political performance for the 2018, 2020, 2022, and 2024 elections.
22. Section IX provides conclusions
23. Section X provides references.
24. Section XI provides appendices.
25. Section XII provides my complete Vitae.
26. In forming my opinions, I have considered all materials cited in this report, as well as:
 1. Original Petition "Dkt.1 – Petition (35192942.1)" dated 10/27/25 and received from counsel on 11/18/2025.
 2. Plaintiffs' demographic expert witness report "Dkt. 62 - Aff Celli Ex. C (Expert Report of William S. Cooper)" dated 11/17/2025 and received from counsel on 11/18/2025.
 3. Report of the Special Master Jonathan Cervas from *Harkenrider v. Hochul* received from counsel on 11/18/2025
 4. New York City Board of Elections precinct shapefiles (<https://www.nyc.gov/content/planning/pages/resources/datasets/election-districts>)
 5. "The Dynamics of Racial/Hispanic Composition in NYC Neighborhoods" (<https://storymaps.arcgis.com/stories/46a91a58447d4024afd00771eec1dd23>)
 6. The 2024 U.S. Supreme Court decision in *Alexander v. South Carolina* (see https://www.supremecourt.gov/opinions/23pdf/22-807_3e04.pdf)
 7. *Schneider v. Rockefeller* opinion, 31 N.Y.2d420 (1972)
 8. *Bay Ridge Community Council, Inc. v. Carey*, 103 A.D.2d 280 (1984)
 9. *Clarke v Town of Newburgh*, 237 A.D.3d 14 (2025)
 10. *Alpha Phi Alpha Fraternity Inc. v. Raefensperger*, 700 F.Supp.3d 1136 (2023)
27. Information was also used from Morrison, P. and T. Bryan (2019). Redistricting: A Manual for Analysts, Practitioners, and Citizens. Springer. Cham, Switzerland
28. I reserve the right to further supplement my report and opinions.

II. N.Y. 2020 REDISTRICTING BACKGROUND and *WILLIAMS v. NYBOE* INTRODUCTION

A. Redistricting Background

29. After the 2018 mid-term elections, the Democrats held a 21 to 6 edge in representation over the Republicans. The Democrats won the 11th, 19th, and 22nd in close races. Despite having a Black-Hispanic minority population of under 15%, a Black-Hispanic, Anthony Delgado, won the 19th with 51.4% of the vote. Two Democrats in other districts ran unopposed.
30. After the 2020 Census, New York lost one Congressional seat, going from 27 to 26 Congressional members. The Independent Redistricting Commission (I.R.C.), created in 2014 through a ballot initiative, was tasked to draw a new map. However, after the I.R.C. could not reach an agreement on the final map, the Democratic-controlled New York State Legislature adopted its own Congressional districts. In April 2022, the New York State Court of Appeals struck down the map as an unconstitutional partisan gerrymander, as it improperly superseded the authority of the I.R.C. in releasing a new map. An Independent Special Master, Jonathan Cervas, was then assigned by the court to draw a new map. In his report, Dr. Cervas wrote (Cervas Report of the Special Master, ¶1):

In *Harkenrider v. Hochul* (2022), the State of New York Supreme Court ruled that the congressional and state senate plan passed by the Legislature and signed by the Governor had bypassed the Redistricting Commission and thus were not enacted through a constitutionally valid process. For the congressional plan, the Court also held that the Respondents “engaged in prohibited gerrymandering when creating the districts” (2022.03.21 [243] *Harkenrider v. Hochul* DECISION and ORDER at 1). The findings that there were no constitutional maps for either New York’s Congressional delegation or for the New York State Senate triggered the new provision of the State Constitution that shifted the burden to state courts to specify a process for creating constitutional maps for each body. On April 18, 2022, I was asked by Judge and Acting Supreme Court Justice Patrick McAllister to serve as Special Master in preparing a remedial plan for the New York congressional delegation to be considered by the Court; after the State of New York Court of Appeals heard the case on appeal, my responsibilities were extended by Justice McAllister to include preparing a remedial plan for the state senate for the Court’s consideration on April 27, 2022.

31. Under these new districts, the Republican Party flipped three seats in the 2022 general election: the 3rd, the 17th, and the 19th, reducing the seat count of the Democrats to 15 and bringing their total to 11 seats. Two Hispanics, George Santos and Anthony D’Esposito, won the 3rd and 4th, respectively, running as Republicans. Nicole Malliotakis, a Cuban-American Hispanic, held her Republican seat in the 11th. The Democrats lost 4 races in which they received 48% of the vote or higher: the 4th, 17th, 19th, and 22nd.

32. In March 2023, New York Democrats challenged the 2022 map, claiming the Special Master had superseded the constitutional authority of the State Legislature and the I.R.C. in drawing the 2022 map. In July 2023, an intermediate appeals court ruled that the I.R.C. must draw a new map for the 2024 Congressional Elections. The New York State Republicans lost their challenge to the State Court of Appeals, and the 2022 map was to be redrawn by the I.R.C. or the State Legislature. On February 27, 2024, the State Legislature rejected the bipartisan I.R.C. map and drew a new map that favored the Democrats. On February 28, 2024, the state legislature passed the new map. As a result, the Democrats flipped four seats (one in a special election held on February 13, 2024, as a result of the resignation of Republican George Santos), bringing their total to 19 while the Republicans held just 7 seats. Democrats performed well in some low-minority districts, winning the 3rd, 12th, 19th, 20th, and 22nd. They also won 4 elections with under 55% of the vote: the 3rd, 4th, 19th, and 22nd. Two of the three Hispanic Republican incumbents, George Santos and Anthony D'Esposito, failed to retain their seats as Rep. Santos resigned and D'Esposito lost re-election. Republican Hispanic Nicole Malliotakis expanded her margin of victory for the third election in a row.

B. Williams v. NYBOE Introduction

33. Against this backdrop, even more litigation is now being brought under the N.Y. VRA over the only congressional district in or around New York City (NYC) that currently has an elected Republican representative: the 11th: [Williams v. NYBOE](#).

34. My assignment in this case was to assess the key features of the Plaintiffs' complaint in *Williams v. NYBOE*. To do so, I assess the demographic, geographic, and political performance characteristics of congressional districts in and around New York City (NYC) for:

- The plan *prior* to the 2020 census, which I refer to throughout as the pre-2020 Census, or “116th” plan,
- The first post-2020 Census plan (which I refer to throughout as the “2021 Plan” and “118th”),
- The second post-2020 Census plan (which I refer to throughout as the “2024 Plan” and “119th”), and
- The Plaintiffs’ expert, William Cooper’s proposed Congressional Districts 10 and 11

35. In their Petition, Plaintiffs state (10/27/25 Petition, ¶1):

Petitioners bring this action to challenge New York’s congressional district map, SB S8653A, codified at New York State Law §§ 110-112 (McKinney 2024) (the “2024 Congressional Map”). Black and Latino Staten Islanders have less opportunity than other members of the electorate to elect a representative of their choice and influence elections in New York’s 11th Congressional District (“CD-11”), in violation of the prohibition against racial vote dilution in Article III, Section 4(c)(1) of the New York Constitution.

36. As a legal framework for the case, Plaintiffs first cite the 2014 redistricting amendments N.Y. Const. Art. III, § 4(c)(1), which states (10/27/25 Petition, ¶1):

expressly prohibit race discrimination and racial vote dilution in voting in state assembly, senate, and congressional elections. In particular, Article III, Section 4(c)(1) provides that: “districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement” of minority voting rights. N.Y. Const. Art. III, §4(c)(1). Further, “[d]istricts shall be drawn so that, based on the totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice.

37. Then, Plaintiffs pivoted to the John R. Lewis Voting Rights Act of New York, stating (10/27/25 Petition, ¶7):

The language of the NY VRA mirrors the language of the constitutional prohibition against vote dilution in Article III, Section 4(c)(1): it provides that “[n]o voting qualification, prerequisite to voting, law, ordinance, standard, practice, procedure, regulation, or policy shall be enacted or implemented by any board of elections or political subdivision in a manner that results in a denial or abridgment of the right of members of a protected class to vote.

38. The N.Y. VRA is consistent with the N.Y. Constitution and the U.S. VRA in protecting against vote dilution. But it differs in other important regards, such as precluding the consideration of compactness and core retention in the development of a remedy. Unlike federal law, the N.Y. VRA allows any minority population of any size to claim dilution (the minority population does not need to be a majority). Further, different minority populations are not only *allowed* to be considered in combination to create influence or majority districts, but the N.Y. VRA *requires* these combinations to create coalitions (10/27/25 Petition, ¶46). See [Appendix B](#) for a detailed discussion comparing the U.S. VRA and N.Y. VRA.

39. Plaintiffs are quite right when they state (10/27/25 Petition, ¶48): “no court has yet ruled on what precisely constitutes impermissible vote dilution under that provision. This case thus presents an issue of first impression for New York courts.”

40. This report follows a model of investigation under the U.S. VRA and the aforementioned N.Y. Constitution, which reveals numerous differences from the N.Y. VRA. Through a rigorous investigation, the report documents the features, as well as the errors and consequences of the Illustrative Plan proposed by Plaintiffs’ expert William Cooper.

III. REPORT SUMMARY

A. Demographic Analysis

41. In this report, the area in and around New York City (NYC) is demographically assessed using total population and the citizen voting age population (CVAP). The total population is the metric used to balance the population, while CVAP is used to measure the universe of potential voting strength in each district. Within these metrics, I assess the White non-Hispanic (WNH), Any Part Black, non-Hispanic (APBNH), Asian non-Hispanic (ANH), and Hispanic (HISP)³ populations. Other populations, such as Native Hawaiian and Pacific Islander, American Indian, “other”, and multi-race (not including Black), are generally grouped in an “Other” (meaning all other) category or are not included.
42. Both of New York’s 2021 and 2024 redistricting plans rebalanced the total population from the pre-2020 Census plan to within one person (see [Table IV.E.1](#) and [Table IV.G.1](#)), in compliance with legal requirements. In both the 2021 and 2024 Plans, numerous enhancements were made beyond simply balancing the population.
43. Compared to the existing 2024 plan, Cooper’s Illustrative Plan *increases* the CVAP percentage of White, non-Hispanic (WNH) in D11 by +2.6PP⁴, from 59.7% to 62.3%. APBNH CVAP increases by +1.1PP from 7.3% to 8.4%. Hispanic CVAP increases by +0.9PP, from 15.3% to 16.3%. While Asian CVAP is reduced by -4.6PP, from 17.0% to 12.4%. That is, all of Cooper’s efforts to redraw a district benefitting APBNH and Hispanics result in significantly increased representation of WNH, a fractional increase for APBNH and Hispanics combined, and the slashing of the largest single minority CVAP in D11: Asians. See [Section IV: Demographic Analysis](#).

³ Throughout this report, “Hispanic” and “Latino” are used interchangeably. Demographically, “Hispanic” refers to people of Spanish-speaking origin or descent, while “Latino” refers to people from or descended from Latin America, encompassing a broader geographical area and including non-Spanish speakers such as Portuguese-speaking Brazilians. The Decennial Census form asks if persons are of “Hispanic, Latino, or Spanish origin” – and my analysis captures all of these reported populations by all definitions and characterizations.

⁴ PP represents “Percentage Points.”

B. Compactness

44. Compactness is a traditional redistricting criterion and is a requirement of the first Gingles precondition under the U.S. VRA, stating that a minority group must be able to demonstrate that it is sufficiently large and **geographically compact** to constitute a majority in a single-member district.⁵ [emphasis added] The New York Constitution closely parallels this guidance. N.Y. Const. Art. III, §4(c)(1)⁶ states, “**Each district shall be as compact in form as practicable.**”[emphasis added] And in N.Y. Const. Art. III, §5⁷ it states:

the body exercising the powers of a common council, shall assemble at such times as the legislature, making an apportionment, shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of **convenient and contiguous territory in as compact form as practicable.** [emphasis added]

45. However, the N.Y VRA specifically instructs (Section 2(c)) “evidence concerning whether members of a protected class are geographically compact or concentrated shall not be considered.” Putting it in direct conflict with New York’s Constitution and the U.S. VRA.

46. What is compactness? The definition of “compact” has historically been elusive and difficult for courts. Little has been written about what compactness definitively “is” by a court until 2023, when, in the matter of *Alpha Phi Alpha v. Raffensperger* (Georgia, 2023), the court provided a clear and useful framework that included empirical compactness scores, added an “eyeball test,” and clarified that the U.S. VRA’s definition of compactness was really population compactness, not geographic compactness.⁸ While the case was not in New York, this opinion is valuable and relevant because it is the first comprehensive framework for compactness outlined by a court, and the illustrative districts drawn in that case (*APA*) were drawn by the same William Cooper as is the Plaintiffs’ expert in this case.

47. Analysis of Cooper’s D10 and D11 was conducted using empirical compactness scores. Cooper’s report contains numerous errors in the reporting of these statistics. When corrected, it is revealed that Cooper’s Illustrative Plan reduces the geographic compactness of the 10th and 11th significantly. Using a comparable illustrative district (D23) from the *APA* case, I conclude that Cooper’s Illustrative draw of D11 does not pass the “eyeball test”. The court described Cooper’s D23 as an “oddly shaped, sprawling district,” which is language that could easily be used to characterize Cooper’s Illustrative D11.

⁵ <https://supreme.justia.com/cases/federal/us/478/30/#F16>

⁶ Readjustments and reapportionments; when federal census to control

⁷ Apportionment of assembly members; creation of assembly districts

⁸ *Alpha Phi Alpha Fraternity, Inc., et al v. Secretary, State of Georgia*, 11th Cir., November 28, 2023

48. Further, Cooper's D11 does not exhibit population compactness. The populations Cooper connects in Manhattan are five miles away and are connected to Staten Island by Ferry – while the population under the existing 2024 plan is just one mile away and connected directly by the Verrazano Bridge. Therefore, Cooper's choice to join Staten Island with Lower Manhattan significantly dilutes geographic compactness (compared to the 2024 Plan) by multiple empirical measures. It does not pass the “eyeball test” and significantly reduces population compactness.

49. Further, Cooper's conclusion that his draw of D11 is compact because the two separate pieces of it (Staten Island and Lower Manhattan) are compact is a novel approach that I believe lacks precedent. If held under the N.Y. VRA, which directs map drawers to ignore compactness, this argument could easily be carried to the point of absurdity. Compact places with high minority populations hundreds of miles away (separated by water) could be considered fair game to be paired to create a district. See [Section V: Compactness](#).

C. Communities of Interest

50. A comprehensive dissertation on New York City's numerous and vast communities of interest is beyond the scope of this report.⁹ Communities of interest are assessed in three ways. First, voting precincts, or Voting Tabulation Districts splits.¹⁰ Second, neighborhood splits, as measured by NTAs. Third, by examining the impact of Cooper's proposed changes on the Asian, specifically the Chinese population.

51. Cooper assesses the political geography splits of his Illustrative Plan and the 2024 Plan by using antiquated VTDs from 2020. He concludes that the 2024 Plan splits four VTDs (see [Figure VI.A.1](#)) and that his Illustrative Plan splits 20 (see [Figure VI.A.2](#)). This is misleading, because VTDs are not the current political boundaries in NYC. Using *current* voting precinct

⁹ I note the *How Communities of Interest Are Evolving in New York City Today* document, produced by members of the CUNY Research Consortium on Communities of Interest, provided as an Appendix in Cooper's expert report.

¹⁰ Precincts commonly refer to the administrative electoral geography of a county and are typically contiguous areas within which all electors go to a single polling place to cast their ballots. VTDs are similar to precincts and are often identical. But there are two important distinctions. First, the term covers other commonly used electoral geography. The Census Bureau characterizes a VTD as “a generic term adopted by the Bureau of the Census to include the wide variety of small polling areas, such as election districts, precincts, or wards, that State and local governments create for the purpose of administering elections.” VTDs can also differ from actual election precincts because precincts do not always follow census geography. Since these electoral geographies serve the purpose of bounding a group of eligible voters for the purpose of casting their ballots, they are typically small, with no more than 5,000 people.¹⁰ Both precincts and VTDs can and do change over time, along with changes in the population in an area and the availability of places that can effectively serve as a polling place. Finally, Census VTDs for some areas are an amalgamation of two or more electoral geographies. Conceptually, precincts are the geography that votes are collected in, and VTDs (tabulation districts) are geographies that voting data can be reported in that are consistent with Census geography and population data.

boundaries, I find that the 2021 and 2024 plans split no precincts, while Cooper's Illustrative Plan splits 12. Either way, the 2024 Plan complies with the traditional redistricting criteria by maintaining political geography, while Cooper's Illustrative Plan does not (see [Section VI.A](#)).

52. New York City is a vast tapestry of neighborhoods and local communities, each with a rich history, unique characteristics, and distinctive populations. Neighborhoods are measured here using Neighborhood Tabulation Areas, or "NTAs."¹¹ because they are a stable and reliable geography for statistical reporting and enable comparison with statistics that Cooper produces. Analysis shows that both the 2024 Plan and Cooper's Illustrative Plan have two NTA splits between D10 and D11 (see [Section VI.B](#)). There are numerous other neighborhood splits on the outer border of D10 and D11 with other districts, but these are not being considered because those districts are not litigated here.

53. As for racial and ethnic communities of interest, I focused on the population Cooper discusses in his report: Asians, and specifically the Chinese. Cooper's characterization of his Illustrative Plan being somehow unifying is significantly misleading. In Lower Manhattan, Cooper's draw may maintain the formal boundaries of Chinatown in D10 – but his draw structurally separates large numbers of contiguous Chinese population (see [Figure VI.C.2](#)) and unites parts of Lower Manhattan's Chinatown with discontiguous Sunset Park (which is majority Hispanic) and Bensonhurst (also known as Brooklyn's Little Italy and is majority White). These Asian neighborhoods in Brooklyn are not only separated by the East River, but also by neighborhoods such as Brooklyn Heights, Carroll Gardens, and Park Slope, with minimal Asian population, and Downtown Brooklyn, with a moderate Asian population. See [Section VI Communities of Interest](#).

D. Differential Core Retention

54. Differential Core Retention Analysis (DCRA) analyzes the size of population moves that were made, in total and by race and ethnicity, to rebalance population between a prior and new plan. While the total number of people moved as an outcome of balancing these principles is relevant, *who* was moved is also important. [Table VII.A.1](#) shows the core retention rates between the pre-2020 Census (116th) Plan and the 2024 Plan (119th) for the total population, white, non-Hispanic, Any Part Black, Asian, and Hispanic. District 10 (with 803,803 population) was overpopulated by nearly 27,000 people – making that draw an exercise in *decreasing* its footprint.

¹¹ New York City Planning reports that Neighborhood Tabulation Areas (or "NTAs") are "2020 and 2010 Neighborhood Tabulation Areas (NTAs) are medium-sized statistical geographies for reporting Decennial Census and American Community Survey (ACS)."

55. The 2024 Plan moved significant numbers of people from D10 – and this impact was relatively equally distributed by race and ethnicity. Since D11 needed to increase its population – its core retention was very high – approximately 90% and again well distributed between different population groups (see Section VII.A). As a result, Asians in D10 and D11 have nearly equal population (169K in D10 and 160K in D11), which makes them the largest single minority group in each district (see Table IV.G.1).

56. By comparison, Cooper's Illustrative Plan moves large numbers of the population, and there are significant differences by race and ethnicity. The Asian population (the largest minority in D10 and D11) is moved far more than other racial and ethnic groups in Cooper's Illustrative Plan (Table VII.B.1). In D11, 31.5% of CVAP were moved overall, but this is an average between 12.9% of APBNH being moved, compared to 57.1% of Asians.

57. As a result, the Asian population is significantly *increased* to 224K in D10, and significantly *decreased* to 105K in D11 (see Table IV.I.2). Cooper's combination of Blacks and Hispanics to create a district that somehow benefits them comes at the cost of subordinating the strength of the Asian population in D11. In this regard, the significant dilution of the largest single minority population's representational rights in Cooper's Illustrative D11 would likely be a violation under the N.Y. VRA. See Section VII Differential Core Retention.

E. Political Performance

58. The subjects of political performance and partisan benefit have been the subject of rich discussion and litigation in New York. While the New York Constitution expressly forbids partisan redistricting, stating N.Y. Const. Art. III, §4(c)(5)

Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties. The commission shall consider the maintenance of cores of existing districts, of pre-existing political subdivisions, including counties, cities, and towns, and of communities of interest.

59. Yet the post-2020 redistricting process has been partisan to an extreme. On Feb 26, 2024, the New York Times reported¹²

Democrats seized control over drawing New York's congressional districts on Monday, rejecting a map proposed by the state's bipartisan redistricting commission in favor of drafting new lines that could make key swing seats more Democratic.

On a day of high drama inside the State Capitol in Albany, party leaders argued that the Senate and Assembly had no choice but to reject the commission map in lopsided votes because it improperly split counties, broke up naturally occurring communities and favored incumbents.

¹² <https://www.nytimes.com/2024/02/26/nyregion/redistricting-maps-ny-congress.html>

But in private conversations, they made little effort to hide their true objective. With the battle for control of the House likely to run through New York this fall, Democrats here and in Washington are determined to use their supermajority in the State Legislature to tilt the playing field against Republicans from Long Island to Syracuse.

60. This followed a series of electoral events, where Democrats won every district in and around NYC in 2018, but lost one of these districts in each subsequent election: the 11th, being litigated here. Not only has a Republican won D11 in each successive election, but their Representative, Nicole Malliotakis, has done so by increasing margins:
61. In the 2020 election, Republican candidate Nicole Malliotakis (see [Figure VIII.B.3](#)) won with 53.1% of the votes, or a +6.5PP increase over Republican candidate Dan Donovan in 2018.
62. The new configuration of D11 under the 2021 Plan had 22.7% combined APBNH and Hispanic CVAP. In this election, candidate Nicole Malliotakis won 62.1% of the vote (see [Figure VIII.C.3](#)) – an increase of +9.0PP over 2020.

The new 2024 configuration of D11 also had 22.7% combined APBNH and Hispanic CVAP (see [Figure IV.H.1](#)). But in this election, candidate Nicole Malliotakis won 64.1% of the vote (see [Figure VIII.D.3](#)) – an increase of +11.0PP over 2020.

63. Cooper's Illustrative Plan significantly increases WNH CVAP representation in D11, fractionally increases APBNH and Hispanics, and significantly lowers Asian representation compared to the 2024 plan. Since the majority of the Cooper's population change is WNH, and the political characteristics of the precincts he moved skew heavily for Democrats in D11 - it is difficult to arrive at any other conclusion than Cooper's draw benefits Democrats because of an increase in White, non-Hispanic Democrats – and not because of the fractional changes to the two smaller minority populations in and around the district. See [Section VIII Political Performance](#).
64. The current landscape of the New York Congressional Delegation is diverse and heavily Democratic. In 26 districts, there are five Black / African American representatives – each representing a Black majority Democratic district. Two of these (Adriano Espailla and Ritchie Torres) are Black *and* Hispanic. There is one Asian representative, and three Hispanic alone representatives (all but one Democratic). One of these, Republican Nicole Malliotakis, represents the D11 being litigated here.
65. There are 11 White, non-Hispanic Representatives of Democratic districts, all of whom were elected to some degree from APBNH + Hispanic influence districts.
66. There are six remaining districts (1, 2, 17, 21, 23, and 24) that are represented by White Republicans and have a WNH majority. Four of these (1, 2, and 17) have enough APBNH + Hispanic minority representation to plausibly qualify as “influence”. Meaning that under the N.Y. VRA, only two U.S. House Republican districts (21, 23, and 24) have a sufficiently small

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minority population (<10%) to have any chance of not being interrogated. And since under the N.Y. VRA, there is no lower limit on the size of the minority population that can claim relief, even these districts are exposed (see Appendix A).

67. I note for the record that I was both retained and provided Plaintiffs' petitions and expert reports on Monday, November 18, 2025, and was given a deadline of Monday, December 8, 2025. This represents three weeks exactly, including the Thanksgiving holiday. The content of this type of report typically takes several months to develop, not considering the incredible complexity of New York geography, demography, communities of interest, the New York political landscape, and the evolution of the N.Y. Voting Rights Act. Every effort was made to ensure the accuracy of the data and reliability of the conclusions herein under this extraordinary deadline, but I reserve the right to address and remediate errors identified between this delivery date of December 8, 2025, and the expected testimony dates of January 6 and 7, 2026.

IV. DEMOGRAPHIC ANALYSIS

68. In this section, I introduce the demographic measures of total population, voting age population (VAP), and citizen voting age population (CVAP). The use of each of these measures is important because they offer a different view of the populations and assess different parts of the Plaintiffs' complaint. Total population is used for determining apportionment and representation. VAP is used to assess the population who could be eligible to vote, and CVAP is used to measure who is currently eligible to vote. Using these metrics, I measure New York's U.S. House districts under the different plans and assess the differences between them.

A. Decennial Census

69. The Decennial Census counts people in the United States on a De Jure basis¹³ (Wilmoth, 2004: 65) and the U.S. Census Bureau attempts to count everybody once, only once, and in the right place (Cork and Voss, 2006). It is mandated by the U.S. Constitution to occur every 10 years, in years ending in zero, to provide the numbers needed to reapportion the House of Representatives, which also results in a reapportionment of the Electoral College. The decennial census numbers are also used by state governments to redraw legislative districts, and the federal government uses the numbers in various funding formulas to distribute some \$2.8 trillion in funding for highways, hospitals, schools, and many other purposes.¹⁴

70. In order for states to redraw legislative and other districts, the U.S. Census Bureau issues the PL 94-171 redistricting data file.¹⁵ Because the decennial census itself does not ask a "citizenship" question or questions about voting activities, other sources of data produced by the U.S. Census Bureau are often used in redistricting activities to include the American Community Survey (ACS) and the Current Population Survey (Morrison and Bryan, 2019).

B. ACS Citizen Voting Age Population

71. The American Community Survey (ACS) is the national source of record for CVAP data. The ACS is a set of "rolling" annual sample surveys conducted by the U.S. Census Bureau (Morrison and Bryan, 2019; U.S. Census Bureau, 2020a). It is distinct and different from the decennial census and the Current Population Survey, which are also conducted by the U.S. Census Bureau. While the American Community Survey CVAP data are not commonly used to draw districts as part of decennial redistricting, they are used in redistricting litigation to determine voting strength – particularly among minority populations.

¹³ all of its usual residents, regardless of whether they are present or legal.

¹⁴ <https://www.census.gov/newsroom/press-releases/2023/decennial-census-federal-funds-distribution.html#:~:text=The%20Census%20Bureau%20does%20not,census%2C%20ACS%20and%20other%20surveys>

¹⁵ <https://www.census.gov/programs-surveys/decennial-census/about/rdo/summary-files.html>

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72. The U.S. DOJ provides guidance to use CVAP to quantify voting strength for the purposes of Section 2 cases.¹⁶ That guidance states: “Section 2 prohibits both voting practices that result in *citizens* being denied equal access to the political process on account of race, color, or membership in a language minority group, and voting practices adopted or maintained for the purpose of discriminating on those bases.”¹⁷ That is – the DOJ states explicitly that Section 2 assesses the concern of the *eligible* voting age population (that is: eligible citizens), not just the voting age population. To that end, the DOJ requests a “special tabulation” of the U.S. Census Bureau’s American Community Survey(ACS), which includes a question on citizenship (the decennial census does not).¹⁸ For the purpose of evaluating districting plans’ compliance under Section 2 of the Voting Rights Act, the DOJ provides specific guidance on how to measure minority populations:¹⁹

The Department of Justice will follow both aggregation methods defined in Part II of the Bulletin. The Department’s initial review will be based upon allocating any response that includes White and one of the five other race categories identified in the response. Thus, the total numbers for “Black/African American,” “Asian,” “American Indian/Alaska Native,” “Native Hawaiian or Other Pacific Islander,” and “Some other race” reflect the total of the single-race responses and the multiple responses in which an individual selected a minority race and White race.

The Department will then move to the second step in its application of the census data by reviewing the other multiple-race category, which is comprised of all multiple-race responses consisting of more than one minority race. Where there are significant numbers of such responses, the Department will, as required by both the OMB guidance and judicial opinions, allocate these responses on an iterative basis to each of the component single-race categories for analysis. *Georgia v. Ashcroft*, 539 U.S. 461, 473, n.1 (2003)

73. In response to this guidance, the U.S. Census Bureau reports CVAP statistics for race and ethnicity alone (non-Hispanic) and select non-Hispanic races in combination (non-Hispanic), as seen in [Figure IV.B.1](#):

¹⁶ Refining a CVAP estimate to a VEP by removing felons, those judged mentally incapacitated or incarcerated (who are all included in the DOJ CVAP estimates) is a difficult exercise not commonly undertaken and is not required by the DOJ.

¹⁷ <https://www.justice.gov/opa/press-release/file/1429486/download>

¹⁸ <https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.2021.html#list-tab-1518558936>

¹⁹ [https://www.justice.gov/opa/press-release/file/1429486/dl#:~:text=%2010303\(f\),of%20discriminating%20on%20those%20bases.](https://www.justice.gov/opa/press-release/file/1429486/dl#:~:text=%2010303(f),of%20discriminating%20on%20those%20bases.)

Figure IV.B.1 American Community Survey DOJ VRA Race and Ethnicity Reporting Classifications

1	Total CVAP
2	Not Hispanic or Latino (NH)
3	American Indian or Alaska Native Alone (NH)
4	Asian Alone (NH)
5	Black or African American Alone (NH)
6	Native Hawaiian or Other Pacific Islander Alone (NH)
7	White Alone (NH)
8	American Indian or Alaska Native and White (NH)
9	Asian and White (NH)
10	Black or African American and White (NH)
11	American Indian or Alaska Native and Black or African American (NH)
12	Remainder of Two or More Race Responses (NH)
13	Hispanic or Latino

Source: https://www2.census.gov/programs-surveys/decennial/rdo/technical-documentation/special-tabulation/CVAP_2016-2020_ACS_documentation_v3.pdf.

74. The DOJ directs that two levels of minority population be produced. In order to create the first-level required DOJ estimate of the Black or African American population alone or in combination with white, the following groups are aggregated:

- Group 5 Black or African American Alone; and
- Group 10 Black or African American alone and White (NH – or “Not Hispanic”).

75. In recent cases, this first level has proven just to be a demographic exercise. Plaintiffs in cases such as these are commonly going straight to the second-level “any part” definition (see *Robinson v. Ardoin* in Louisiana, for example). In order to create the second-level “any part” estimate of the Black or African American population, the following groups are aggregated:

- Group 5 Black or African American alone,
- Group 10 Black or African American alone and White (NH); and
- Group 11 American Indian or Alaska Native and Black or African American (NH).

The addition of Group 11 (adding American Indian or Alaska Natives) frequently adds little to no population to the first-level estimate of Black alone or in combination with white. Since these groups do not capture all of the possible Black or African American multi-race combinations, and do not include Black Hispanics, this aggregation can be thought of as a lower bound of the actual any-part Black or African American CVAP. The Census Bureau does not provide a true “Any Part Black” CVAP estimate.

76. Again, we have two sources of population data: (1) the decennial census from 2020 provides the total and Voting Age Population, or “VAP” and separately (2) the most recent ACS provides Citizen Voting Age Population, or “CVAP”.²⁰ Here, I will analyze and compare the total population and Citizen Voting Age Population (CVAP) for:

- The plan *prior* to the 2020 census, which I refer to throughout as the pre-2020 Census, or “116th” plan,
- The first post-2020 Census plan (which I refer to throughout as the “2021 Plan” and “118th”),
- The second post-2020 Census plan (which I refer to throughout as the “2024 Plan” and “119th”), and
- The Plaintiffs’ expert, William Cooper’s proposed Congressional Districts 10 and 11

C. Pre-2020 Census Plan Total Population

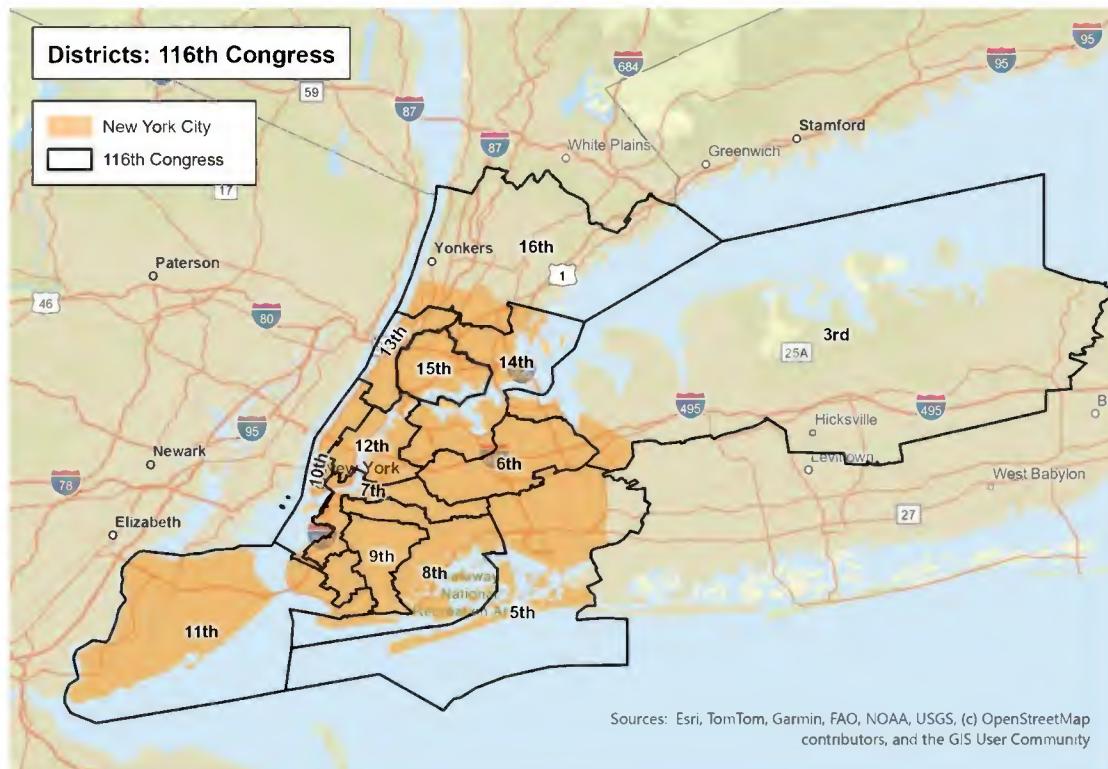
77. The prior (pre-2020 Census) plan for NYC is shown in [Figure IV.C.1](#). By 2020, the total population in each house district deviated significantly from an equal distribution, as measured by the 2020 Census. [Table IV.C.1](#) shows the 2020 total population and by race and ethnicity for the pre-2020 Plan (or that of the 116th Congress). With the demographic changes in population in New York since 2010, it was in need of significant moves of district boundaries to rebalance the population.²¹

78. The 2020 target population per district was 776,971. Under the prior plan, District 10 (with 803,803 population) was overpopulated by nearly 27,000 people – making that draw an exercise in *decreasing* its footprint. While District 11 (with 766,236 population) was underpopulated by over 10,000 people – making that draw an exercise in *increasing* its footprint.

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²⁰ For the purposes of this exercise, I procured the ACS 2019-2023 DOJ CVAP Special Tabulation, which is published at the Census Block Group level of geography. I then disaggregated these data with an iterative proportional fitting (IPF) algorithm using PL94-171 block-level data by race and ethnicity as “marginals.” See Morrison and Bryan, 2019 Section 3.6.1 for more information on iterative proportional fitting.

²¹ Note, this table does not include other races such as American Indian and Alaska Natives, Native Hawaiian and Pacific Islander, and “other”.

Figure IV.C.1: Pre-2020 Census Plan: 13 Districts in and Around NYC

Source: U.S. Census TIGER shapefile for 116th Congress

Table IV.C.1: Pre-2020 Census Plan Total Population: : 13 Districts in and Around NYC

<u>116th</u>	<u>Total</u>	<u>WNH</u>	<u>APBNH</u>	<u>ANH</u>	<u>HISP</u>	<u>APBNH + HISP</u>
3	739,197	456,745	25,452	143,371	94,411	119,863
5	778,780	77,603	371,157	115,152	152,479	523,636
6	769,247	228,178	33,132	334,874	151,703	184,835
7	762,833	237,068	65,755	146,708	287,100	352,855
8	804,400	195,145	379,726	60,080	146,876	526,602
9	755,842	236,338	344,470	60,633	89,503	433,973
10	803,803	463,818	38,103	161,969	104,973	143,076
11	766,236	421,112	60,010	129,745	136,847	196,857
12	811,688	499,146	46,301	123,239	110,046	156,347
13	736,348	107,171	187,744	37,261	388,290	576,034
14	750,025	156,499	68,085	142,055	363,991	432,076
15	767,335	19,507	222,154	19,019	494,246	716,400
16	770,401	251,664	239,811	40,989	216,245	456,056
Total	10,016,135	3,349,994	2,081,900	1,515,095	2,736,710	4,818,610

Sources: 2020 U.S. Census, PL94-171, BGD calculations

79. In the 13 congressional districts covering NYC, the White, non-Hispanic (WNH) population makes up 33.4% of the total population, and the Any Part Black, non-Hispanic (APBNH) makes up 20.8% of the total population. The Asian alone, non-Hispanic, make up 15.1% of the total population. And Hispanics make up 27.3% of the total population. Combined, the APBNH and Hispanic population make up 48.1% of the population (see [Table IV.C.2](#)).

80. In District 10, there were 57.7% White, non-Hispanic (WNH), 4.7% Any Part Black, non-Hispanic (APBNH), and 13.1% Hispanic, for a combined total of 17.8%. In addition, there were 20.2% Asian (non-Hispanic, alone).

81. In District 11, there were 55.0% White, non-Hispanic (WNH), 7.8% Any Part Black, non-Hispanic (APBNH), and 17.9% Hispanic, for a combined total of 25.7%. In addition, there were 16.9% Asian (non-Hispanic, alone).

Table IV.C.2: Pre-2020 Plan Total Pop. Percentages: 13 Districts in and Around NYC

<u>116th</u>	<u>WNH</u>	<u>APBNH</u>	<u>ANH</u>	<u>HISP</u>	<u>APBNH + HISP</u>	<u>>25% BNH + HISP</u>	<u>>50% BNH + HISP</u>
3	61.8%	3.4%	19.4%	12.8%	16.2%	0	0
5	10.0%	47.7%	14.8%	19.6%	67.2%	1	1
6	29.7%	4.3%	43.5%	19.7%	24.0%	0	0
7	31.1%	8.6%	19.2%	37.6%	46.3%	1	0
8	24.3%	47.2%	7.5%	18.3%	65.5%	1	1
9	31.3%	45.6%	8.0%	11.8%	57.4%	1	1
10	57.7%	4.7%	20.2%	13.1%	17.8%	0	0
11	55.0%	7.8%	16.9%	17.9%	25.7%	1	0
12	61.5%	5.7%	15.2%	13.6%	19.3%	0	0
13	14.6%	25.5%	5.1%	52.7%	78.2%	1	1
14	20.9%	9.1%	18.9%	48.5%	57.6%	1	1
15	2.5%	29.0%	2.5%	64.4%	93.4%	1	1
16	32.7%	31.1%	5.3%	28.1%	59.2%	1	1
Total	33.4%	20.8%	15.1%	27.3%	48.1%		

Sources: 2020 U.S. Census, PL94-171, BGD calculations

D. Pre-2020 Census Plan CVAP

82. In the 13 congressional districts covering NYC, the White, non-Hispanic (WNH) population makes up 39.9% of the total population. This represents a higher share compared to the total population because of higher rates of citizenship among White, non-Hispanics than other population groups. The APBNH makes up 22.8% of CVAP. The Asian alone, non-Hispanic, make up 13.0% of the total population. And Hispanics make up 23.4% of CVAP. Combined, the APBNH population and Hispanic population make up 46.2% of the population (see [Table IV.D.1](#)). Numeric counts of CVAP by district for the pre-2020 Census are provided in [Appendix C.1](#).

Table IV.D.1: Pre-2020 Plan CVAP Percentages: 13 Districts in and Around NYC

116th	WNH	APBNH	ANH	HISP	APBNH + HISP	>25% BNH + HISP	>50% BNH + HISP
3	70.4%	3.3%	15.8%	9.7%	13.0%	0	0
5	13.2%	52.0%	16.5%	16.4%	68.4%	1	1
6	39.4%	5.4%	35.0%	19.1%	24.5%	0	0
7	37.3%	11.2%	16.0%	34.7%	45.8%	1	0
8	27.4%	49.1%	6.7%	15.9%	65.0%	1	1
9	34.7%	46.6%	7.4%	10.5%	57.1%	1	1
10	65.2%	5.6%	16.6%	11.9%	17.4%	0	0
11	62.1%	7.7%	14.4%	15.3%	23.0%	0	0
12	67.7%	6.2%	12.5%	12.5%	18.7%	0	0
13	18.6%	29.2%	5.4%	46.1%	75.2%	1	1
14	29.0%	11.8%	17.1%	41.2%	53.1%	1	1
15	3.7%	34.1%	2.0%	59.3%	93.4%	1	1
16	37.9%	31.4%	5.3%	24.7%	56.1%	1	1
Total	39.9%	22.8%	13.0%	23.4%	46.2%		

Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD calculations

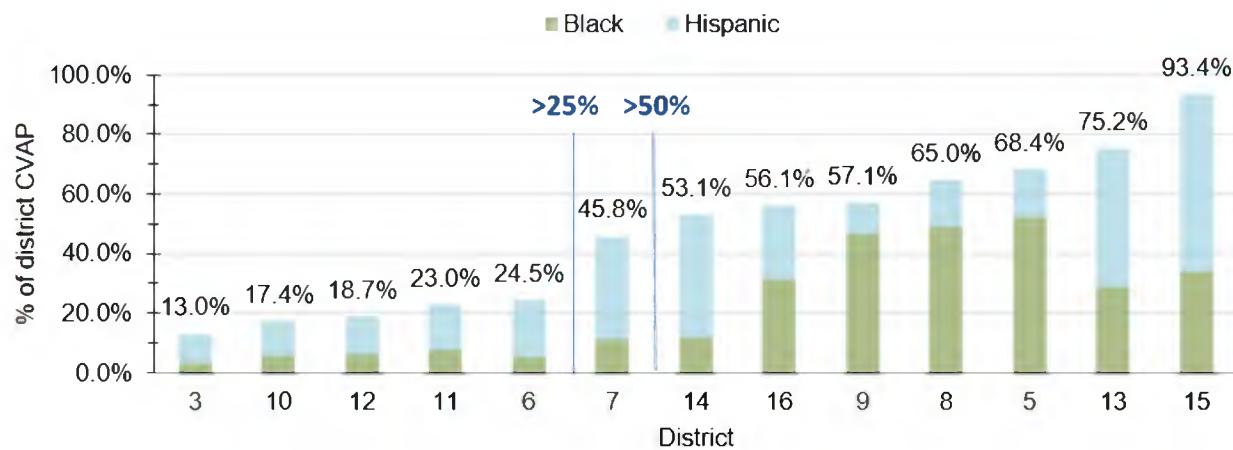
83. In District 10, there were 65.2% White, non-Hispanic (WNH), 5.6% APBNH, and 11.9% Hispanic, for a combined total of 17.4%. In addition, there were 16.6% Asian (non-Hispanic, alone) (see [Table IV.D.1](#)).

84. In District 11, there were 62.1% WNH, 7.7% APBNH, and 15.3% Hispanic, for a combined total of 23.0%. In addition, there were 14.4% Asian (non-Hispanic, alone) (see [Table IV.D.1](#)).

85. Out of the 13 districts, eight had more than 25% combined APBNH and Hispanic, and seven had more than 50% combined APBNH and Hispanic (see [Table IV.D.1](#) and [Figure IV.D.1](#)). In this environment, *every one* of the 13 districts elected a Democratic representative in 2018 (see [Figure VII.A.1](#)).

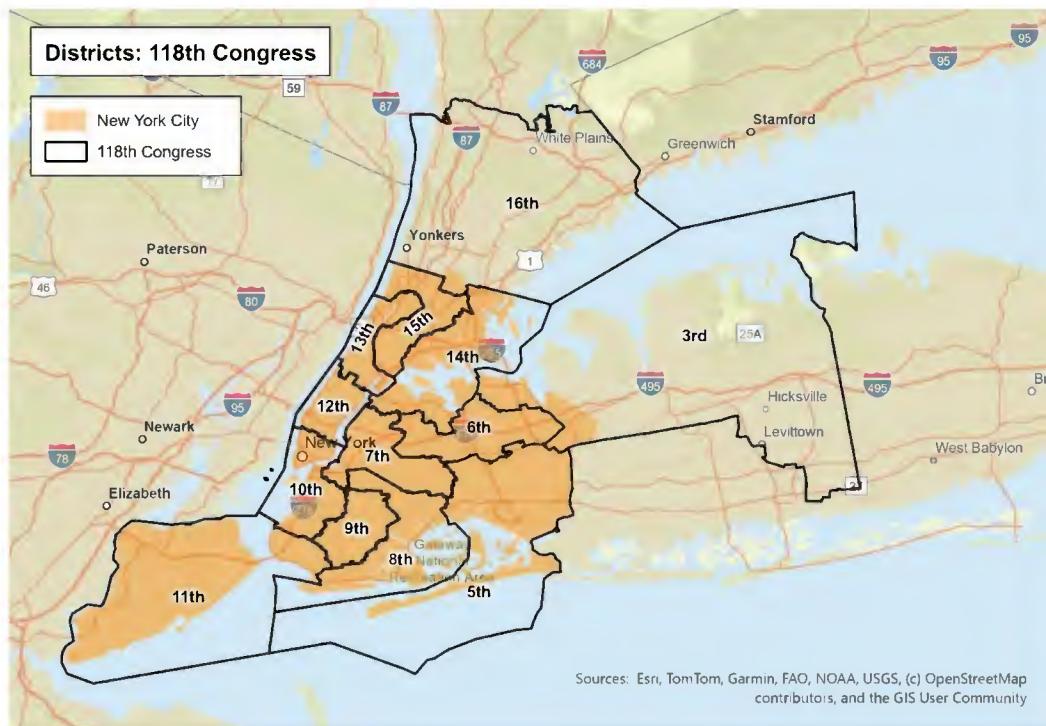
86. It is instructive to examine the minority CVAP characteristics of the 13 congressional districts in and around NYC, and how they changed through each of the two rounds of post-2020 Census redistricting. Prior to the 2020 Census (during the 116th Congress), the percent combined APBNH and Hispanic ranged from 13.0% in District 3 to 93.4% in District 15 – or a range of 80.4PP.²² If not for the fact that the congressional districts in and around NYC vote almost uniformly Democratic, these statistics bear the hallmarks of “packing” and “cracking” minority vote-eligible populations.

²² PP: “Percentage Points”

Figure IV.D.1: Pre-2020 Plan CVAP Percentages: 13 Districts in and Around NYC

Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD tabulations

E. 2021 Plan Total Population

Figure IV.E.1: 2021 Plan: 13 Districts in and Around NYC

Source: U.S. Census TIGER shapefile for 118th Congress

87. The brief history of redistricting in New York is that after the 2020 Census, the State of New York lost one Congressional seat, going from 27 to 26 Congressional members. The Independent Redistricting Commission (I.R.C.), created in 2014 through a ballot initiative, was tasked to draw a new map. However, after the I.R.C. could not reach an agreement on the final map. An Independent Special Master was then assigned by the court to draw a new map, resulting in the “2021 Plan”, shown in [*Figure IV.E.1*](#).

88. In the 2021 Plan, the total population in each of the 13 districts in and around New York was balanced to within one person of the population target of 776,971. [*Table IV.E.1*](#) shows the 2020 total population by race and ethnicity, illustrating that the population by race and ethnicity still differed significantly by district – although less so than pre-2020 Census.

Table IV.E.1: 2021 Plan Total Population: 13 Districts in and Around NYC

118th	Total	WNH	APBNH	ANH	HISP	APBNH + HISP
3	776,971	432,998	31,489	181,776	108,842	140,331
5	776,971	99,311	339,806	115,728	159,791	499,597
6	776,971	188,182	32,441	352,461	183,275	215,716
7	776,971	281,488	89,136	102,318	274,246	363,382
8	776,972	214,213	347,228	65,998	130,271	477,499
9	776,972	252,005	338,272	70,920	88,290	426,562
10	776,971	377,605	51,624	167,500	148,997	200,621
11	776,971	399,675	57,363	160,301	142,031	199,394
12	776,971	506,527	43,487	109,511	87,200	130,687
13	776,971	119,776	194,410	39,265	406,407	600,817
14	776,972	137,512	131,571	89,031	398,657	530,228
15	776,971	72,152	241,880	24,983	424,926	666,806
16	776,971	307,809	169,600	51,734	224,212	393,812
Total	10,100,626	3,389,253	2,068,307	1,531,526	2,777,145	4,845,452

Sources: 2020 U.S. Census, PL94-171, BGD calculations

89. In District 10, the 57.7% WNH decreased by -9.1PP, from 57.7% to 48.6% (compared to the pre-2020 Census Plan). The Any Part Black, non-Hispanic (APBNH) increased by +1.9PP, from 4.7% to 6.6%. Hispanics increased by +6.1PP, from 13.1% to 19.2%. The combined APBNH and Hispanic reflected an increase of +8.0PP, from 17.8% to 25.8%. In addition, the 20.2% Asian (non-Hispanic, alone) increased by +1.4PP, from 20.2% to 21.6%.²³ (See [*Table IV.E.2*](#)).

90. In District 11, the WNH decreased to -3.5PP, from 55.0% to 51.4%. The APBNH decreased by -0.4PP, from 7.8% to 7.4%, while Hispanics increased by +0.4PP, from 17.9% to 18.3%. APBNH and Hispanics combined for a total of 25.7% - identical to the 11th prior to

²³ Some numbers may not foot due to rounding

redistricting. In addition, Asian (non-Hispanic, alone) increased by +3.7PP. from 16.9% to 20.6% (see *Table IV.E.2*).

Table IV.E.2: 2021 Plan Total Population Percentages: 13 Districts in and Around NYC

<u>118th</u>	<u>WNH</u>	<u>APBNH</u>	<u>ANH</u>	<u>HISP</u>	<u>APBNH + HISP</u>	<u>>25% BNH + HISP</u>	<u>>50% BNH + HISP</u>
3	55.7%	4.1%	23.4%	14.0%	18.1%	0	0
5	12.8%	43.7%	14.9%	20.6%	64.3%	1	1
6	24.2%	4.2%	45.4%	23.6%	27.8%	1	0
7	36.2%	11.5%	13.2%	35.3%	46.8%	1	0
8	27.6%	44.7%	8.5%	16.8%	61.5%	1	1
9	32.4%	43.5%	9.1%	11.4%	54.9%	1	1
10	48.6%	6.6%	21.6%	19.2%	25.8%	1	0
11	51.4%	7.4%	20.6%	18.3%	25.7%	1	0
12	65.2%	5.6%	14.1%	11.2%	16.8%	0	0
13	15.4%	25.0%	5.1%	52.3%	77.3%	1	1
14	17.7%	16.9%	11.5%	51.3%	68.2%	1	1
15	9.3%	31.1%	3.2%	54.7%	85.8%	1	1
16	39.6%	21.8%	6.7%	28.9%	50.7%	1	1
Total	33.6%	20.5%	15.2%	27.5%	48.0%		

Sources: 2020 U.S. Census, PL94-171, BGD calculations

F. 2021 Plan CVAP

91. As with the total population, the distribution of CVAP changed significantly during the first round of post-2020 redistricting in 2021. Numeric counts of CVAP by district for the 2021 Plan are provided in *Appendix C.2*.
92. In District 10, WNH decreased by -8.5PP, from 65.2% to 56.7% (compared to the pre-2020 Census plan). The APBNH was increased by +2.3PP, from 5.6% to 7.8%. Hispanics increased by +5.2PP from 11.9% to 17.1%. The combined APBNH and Hispanics reflected a total increase of +7.5PP, from 17.4% to 24.9%. In addition, Asians (non-Hispanic, alone) increased by +1.0PP from 16.6% to 17.5%.²⁴ (see *Table IV.F.1*)
93. In District 11, WNH decreased by -2.3PP, from 62.1% to 59.7%. The APBNH decreased by -0.4PP, from 7.7% to 7.3%, while Hispanics remained flat at 15.3%. The combined APBNH and Hispanic reflected a decrease of -0.3PP, from 23.0% to 22.7%. In addition, Asian (non-Hispanic, alone) increased by +2.6PP, from 14.4% to 17.0% (see *Table IV.F.1*).
94. It is instructive to examine the minority CVAP characteristics of the 13 congressional districts in and around NYC, and how they changed through each of the two rounds of post-2020 Census redistricting. Under the 2021 plan, the percent combined APBNH and Hispanic ranged

²⁴ Some numbers may not foot due to rounding

from 15.2% in District 3 to 84.5% in District 15 – or a range of 69.3PP. Large, but a significant reduction from the 80.4PP range prior to 2020 redistricting.

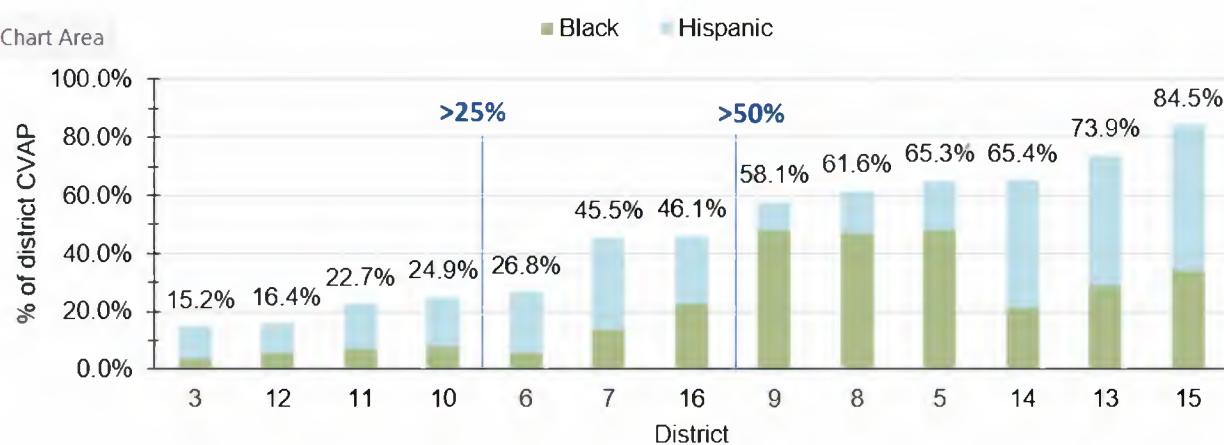
95. Out of the 13 districts in and around NYC, nine had more than 25% combined APBNH and Hispanic, while D11 (with 24.9%) very nearly made ten. Six districts had more than 50% combined APBNH and Hispanic (a decrease of one district compared to the pre-2020 Plan) (see [Figure IV.F.1](#)). In this environment, *all but two* of the 13 districts elected a Democratic representative in the 2022 election (see [Figure VIII.C.1](#))

Table IV.F.1: 2021 Plan CVAP Percentages: 13 Districts in and Around NYC

<u>118th</u>	<u>WNH</u>	<u>APBNH</u>	<u>ANH</u>	<u>HISP</u>	<u>APBNH + HISP</u>	<u>>25% BNH + HISP</u>	<u>>50% BNH + HISP</u>
3	64.1%	3.8%	19.8%	11.5%	15.2%	0	0
5	16.7%	48.0%	16.2%	17.3%	65.3%	1	1
6	34.7%	5.7%	37.4%	21.2%	26.8%	1	0
7	41.3%	13.9%	12.1%	31.6%	45.5%	1	0
8	30.2%	47.0%	7.5%	14.6%	61.6%	1	1
9	33.6%	48.0%	7.5%	10.1%	58.1%	1	1
10	56.7%	7.8%	17.5%	17.1%	24.9%	0	0
11	59.7%	7.3%	17.0%	15.3%	22.7%	0	0
12	71.8%	5.7%	11.0%	10.7%	16.4%	0	0
13	19.9%	28.8%	5.3%	45.1%	73.9%	1	1
14	23.1%	20.9%	10.6%	44.5%	65.4%	1	1
15	11.6%	34.2%	3.0%	50.3%	84.5%	1	1
16	47.1%	22.7%	6.1%	23.4%	46.1%	1	0
Total	40.1%	22.5%	13.0%	23.5%	46.0%		

Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD calculations

Figure IV.F.1: 2021 Plan CVAP Percentages: 13 Districts in and Around NYC

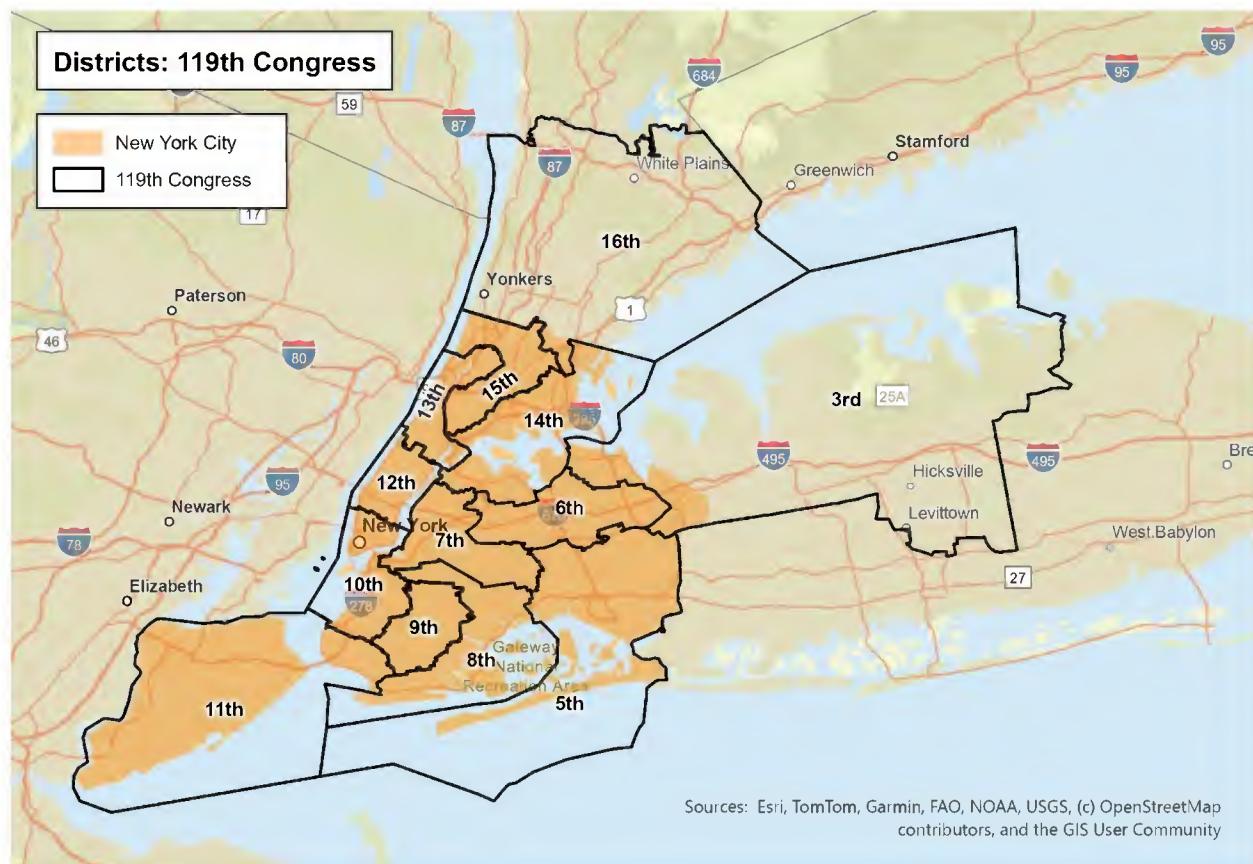


Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD tabulations

G. 2024 Plan Total Population

96. In March 2023, New York Democrats challenged the 2022 map, claiming the Special Master had superseded the constitutional authority of the State Legislature and the I.R.C. in drawing the 2022 map. In July 2023, an intermediate appeals court ruled that the I.R.C. must draw a new map for the 2024 Congressional Elections. The New York State Republicans lost their challenge to the State Court of Appeals, and the 2022 map was to be redrawn by the I.R.C. or the State Legislature. On February 27, 2024, the State Legislature rejected the bipartisan I.R.C. map and drew a new map that favored the Democrats. On February 28, 2024, the state legislature passed the new map. The 2024 Plan for NYC is shown in [Figure IV.G.1](#).

Figure IV.G.1: 2024 Plan

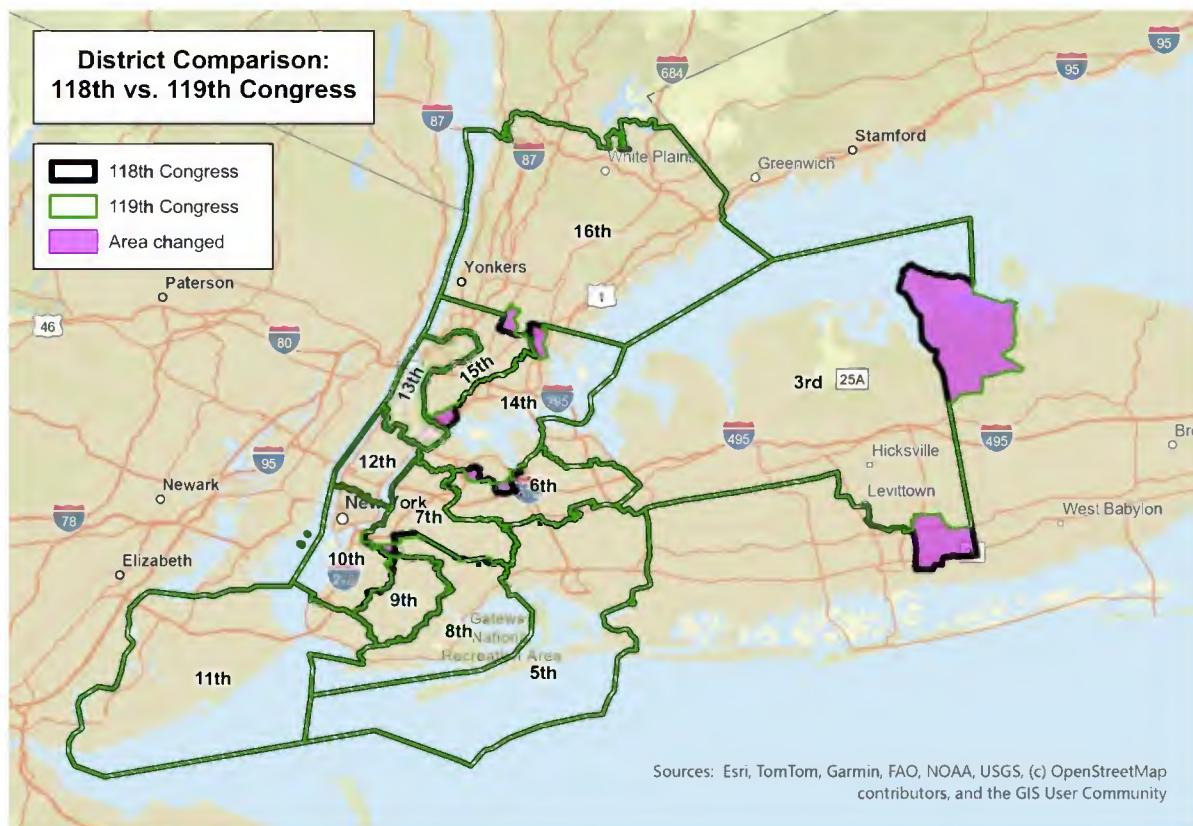


Source: U.S. Census TIGER shapefile for 119th Congress

97. The changes between the 2021 and 2024 Plan for NYC are shown in [Figure IV.G.2](#).

98. [Table IV.G.1](#) shows the 2020 total population and by race and ethnicity for the 2024 Plan.

Figure IV.G.2: 2021 vs 2024 Plans: 13 Districts in and Around NYC



Source: U.S. Census TIGER shapefile for 118th and 119th Congress

Table IV.G.1: 2024 Plan Total Population: 13 Districts in and Around NYC

<u>119th</u>	<u>Total</u>	<u>WNH</u>	<u>APBNH</u>	<u>ANH</u>	<u>HISP</u>	<u>APBNH + HISP</u>
3	776,971	423,148	33,153	182,215	116,410	149,563
5	776,971	99,311	339,806	115,728	159,791	499,597
6	776,972	181,840	34,407	347,637	193,052	227,459
7	776,972	283,418	85,446	99,265	279,031	364,477
8	776,971	212,838	350,554	68,740	125,497	476,051
9	776,971	250,805	340,028	70,152	88,516	428,544
10	776,972	378,250	50,232	168,579	148,760	198,992
11	776,971	399,675	57,363	160,301	142,031	199,394
12	776,971	506,527	43,487	109,511	87,200	130,687
13	776,971	119,776	194,410	39,265	406,407	600,817
14	776,970	142,925	112,697	93,720	406,921	519,618
15	776,971	72,234	257,042	25,974	407,458	664,500
16	776,972	308,656	171,346	50,878	223,639	394,985
Total	10,100,626	3,379,403	2,069,971	1,531,965	2,784,713	4,854,684

Sources: 2020 U.S. Census, PL94-171, BGD calculations

99. In District 10, WNH decreased by -9.0PP, from 57.7% to 48.7% (compared to the pre-2020 Census Plan). Any Part Black, non-Hispanic (APBNH) was increased by +1.7PP, from 4.7% to 6.5%. Hispanics increased by +6.1PP, from 13.1% to 19.1%. The combined total of APBNH and Hispanic reflected a combined total increase of +7.8PP, from 17.8% to 25.6%. In addition, the Asian (non-Hispanic, alone) was increased by +1.5PP, from 20.2% to 21.7%.²⁵ (see [Table IV.G.2](#))

100. In District 11, WNH was decreased to -3.5PP, from 55.0% to 51.4%. The APBNH decreased by -0.4PP, from 7.8% to 7.4%. Hispanics increased by +0.4PP, from 17.9% to 18.3%. The combined APBNH and Hispanic total of 25.7% is again identical to the 11th prior to redistricting. The Asian (non-Hispanic, alone) increased by +3.7PP, from 16.9% to 20.6% (see [Table IV.G.2](#)). These differences from 2024 for the D11 are invariant from the 2021 differences.

Table IV.G.2: 2024 Plan Total Population Percentages: 13 Districts in and Around NYC

119th	WNH	APBNH	ANH	HISP	APBNH + HISP	>25% BNH + HISP	>50% BNH + HISP
3	54.5%	4.3%	23.5%	15.0%	19.2%	0	0
5	12.8%	43.7%	14.9%	20.6%	64.3%	1	1
6	23.4%	4.4%	44.7%	24.8%	29.3%	1	0
7	36.5%	11.0%	12.8%	35.9%	46.9%	1	0
8	27.4%	45.1%	8.8%	16.2%	61.3%	1	1
9	32.3%	43.8%	9.0%	11.4%	55.2%	1	1
10	48.7%	6.5%	21.7%	19.1%	25.6%	1	0
11	51.4%	7.4%	20.6%	18.3%	25.7%	1	0
12	65.2%	5.6%	14.1%	11.2%	16.8%	0	0
13	15.4%	25.0%	5.1%	52.3%	77.3%	1	1
14	18.4%	14.5%	12.1%	52.4%	66.9%	1	1
15	9.3%	33.1%	3.3%	52.4%	85.5%	1	1
16	39.7%	22.1%	6.5%	28.8%	50.8%	1	1
Total	33.5%	20.5%	15.2%	27.6%	48.1%		

Sources: 2020 U.S. Census, PL94-171, BGD calculations

²⁵ Some numbers may not foot due to rounding

H. 2024 Plan CVAP

101. As with the total population, the distribution of CVAP changed only slightly during the second round of post-2020 redistricting. Numeric counts of CVAP by district for the 2024 Plan are provided in [Appendix C.3](#).

102. In District 10, WNH was decreased by -8.5PP, from 65.2% to 56.7% (compared to the pre-2020 Census plan). APBNH increased by +2.3PP, from 5.6% to 7.8%. Hispanics increased by +5.2PP, from 11.9% to 17.1%. The combined total of APBNH and Hispanic reflected an increase of +7.5PP, from 17.4% to 24.9%. In addition, Asian (non-Hispanic, alone) increased by +1.1PP, from 16.6% to 17.7%.²⁶ (see [Table IV.H.1](#))

103. In District 11, WNH decreased by -2.3PP, from 62.1% to 59.7%. The APBNH decreased by -0.4PP, from 7.7% to 7.3%, while Hispanics remained flat at 15.3%. The combined APBNH and Hispanic reflected a decrease of -0.3PP, from 23.0% to 22.7%. In addition, Asian (non-Hispanic, alone) increased by +2.6PP, from 14.4% to 17.0% (see [Table IV.H.1](#)). These differences from 2024 for the D11 are invariant from the 2021 differences.

104. Under the 2024 plan, the percent combined APBNH and Hispanic CVAP ranged from 15.9% in District 3 to 84.2% in District 15 – or a range of 68.4PP. Large, but a further reduction from the 69.2PP range under the 2021 Plan.

105. Out of the 13 districts, nine had more than 25% combined APBNH and Hispanic (an increase of one compared to the 116th pre-2020 Plan), while District 11 (with 24.7%) very nearly made ten districts with more than 25% combined. Six had more than 50% combined APBNH and Hispanic (a decrease of one compared to the 116th pre-2020 Plan). In this environment, *all but one* of the 13 districts elected a Democratic representative in the 2024 election.

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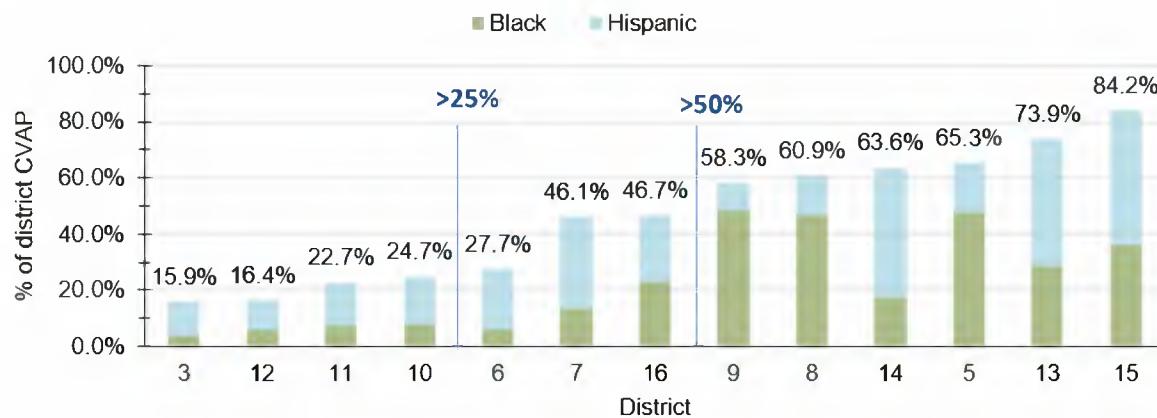
²⁶ Some numbers may not foot due to rounding

Table IV.H.1: 2024 Plan CVAP Percentages

119th	WNH	APBNH	ANH	HISP	APBNH + HISP	>25% BNH + HISP	>50% BNH + HISP
3	63.2%	4.1%	20.1%	11.8%	15.9%	0	0
5	16.7%	48.0%	16.2%	17.3%	65.3%	1	1
6	33.9%	6.1%	37.4%	21.6%	27.7%	1	0
7	41.1%	13.6%	11.9%	32.5%	46.1%	1	0
8	30.7%	47.0%	7.7%	13.9%	60.9%	1	1
9	33.5%	48.2%	7.4%	10.1%	58.3%	1	1
10	56.7%	7.6%	17.7%	17.1%	24.7%	0	0
11	59.7%	7.3%	17.0%	15.3%	22.7%	0	0
12	71.8%	5.7%	11.0%	10.7%	16.4%	0	0
13	19.9%	28.8%	5.3%	45.1%	73.9%	1	1
14	24.2%	17.7%	11.1%	45.9%	63.6%	1	1
15	11.7%	36.3%	3.3%	47.9%	84.2%	1	1
16	46.6%	22.9%	5.9%	23.8%	46.7%	1	0
Total	40.0%	22.5%	13.0%	23.5%	46.1%		

Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD calculations

Figure IV.H.1: 2024 Plan CVAP Percentages

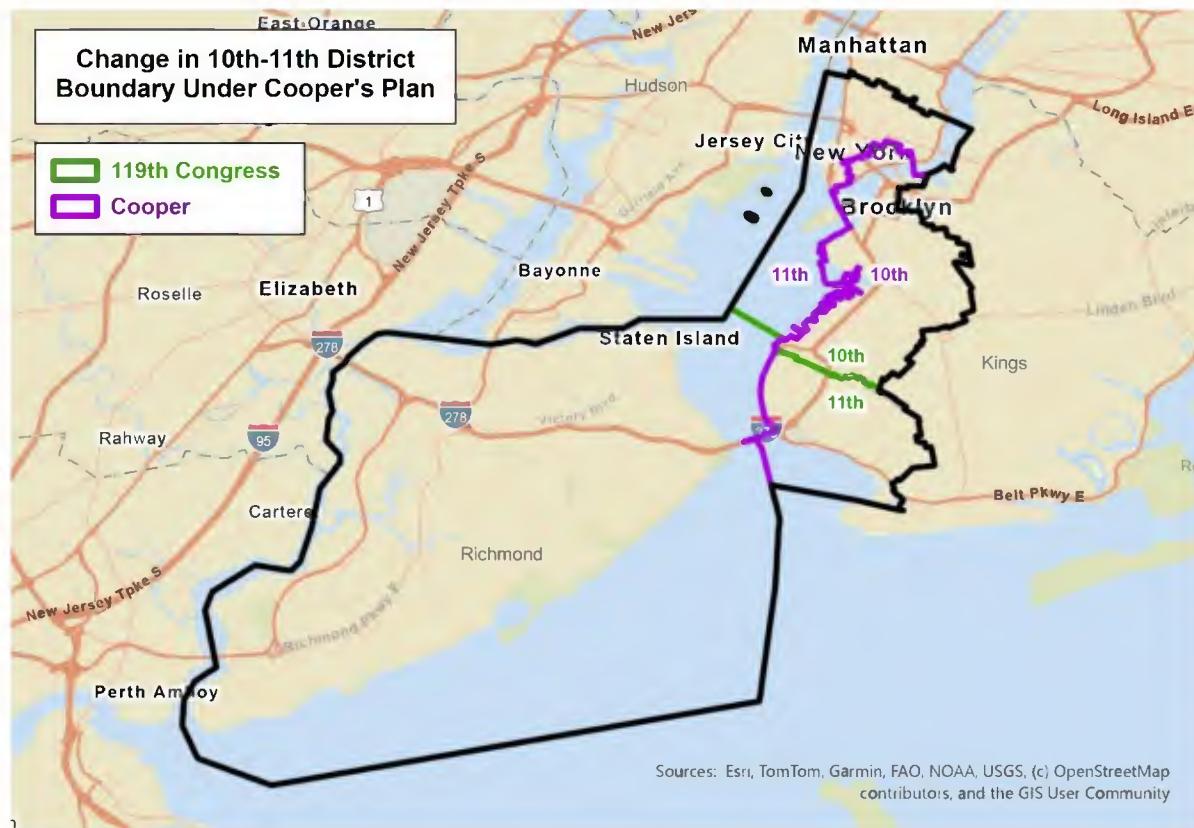


Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD tabulations

Total Population of Cooper Illustrative Plan

106. Cooper's plan is a radical departure from the 2024 Plan (see [Figure IV.I.1](#)). D11 is changed from a nearly perfectly compact district to an elongated and contorted one.

Figure IV.I.1: Cooper Alternative Plan and 2024 Plan



Source: U.S. Census TIGER shapefile for 119th Congress

107. Cooper does not share his population totals in his report, only the percent distribution of race for the total population by borough, and part of his Illustrative plan (see [Table IV.I.1](#)). In examining his percentages, I find that his calculation of percentages in Lower Manhattan CD10 is impossible. His NH AP Black + Latino (27.09%) plus NH SR Asian (49.57%) plus NH White (56.447%) is 133.1%. While the remaining pieces of his plan are mathematically possible (because they sum to values less than 100%), each piece of CD10 and CD11 must sum to a correct whole for each congressional district. If one piece is wrong, so must the others. Cooper does not provide the actual population values to determine if and where the other errors lie. This error follows through the rest of his analysis and undermines an accurate characterization of his plan. This type of error does not meet the minimum best practices and standards of demographers and statisticians, and leads to questions about the reliability of his analysis and report.

Table IV.I.1: Cooper Illustrative Plan Figure 10 Population Percentages by Borough

3-Borough Focus Area	NH AP Black	Latino	NH AP Black + Latino	NH SR Asian	NH White
Staten Island: CD 11	10.45%	19.56%	30.01%	11.85%	56.07%
Lower Manhattan: CD 11	6.19%	16.03%	22.21%	16.4%	57.08%
Lower Manhattan: CD 10	8.91%	18.28%	27.09%	49.57%	56.447%
Brooklyn: CD 10 (Part)	4.94%	19.15%	24.08%	26.97%	43.695

Source: Cooper Report, P.19

108. The total correct population for Cooper's Illustrative Plan, by race and ethnicity, is shown in [Table IV.I.2](#). The total populations of 776,971 and 776,972 are balanced.

Table IV.I.2: Cooper Illustrative Plan Total Population

<u>Cooper</u>	<u>Total</u>	<u>WNH</u>	<u>APBNH</u>	<u>ANH</u>	<u>HISP</u>	<u>APBNH + HISP</u>
10	776,971	339,426	38,368	224,005	148,763	187,131
11	776,972	438,499	69,227	104,875	142,028	211,255
Total	1,553,943	777,925	107,595	328,880	290,791	398,386

Source: 2020 Census PL94171

109. The percentage by race and ethnicity of the total population is shown in [Table IV.I.3](#). Comparing the percentages with those of the 2024 Plan for D10, Cooper significantly *reduces* the percentage of White, non-Hispanic (WNH) by -5.0PP, from 48.7% to 43.7%. APBNH decreases by -1.5PP, from 6.5% to 4.9%. Hispanics remain flat at 19.1%. While Asians are increased by +7.1PP, from 21.7% to 28.8%.

110. Comparing the percentages with those of the 2024 Plan for D11, Cooper significantly *increases* the percentage of White, non-Hispanic (WNH) by +5.0PP, from 51.4% to 56.4%. APBNH increases by +1.5PP, from 7.4% to 8.9%. Hispanics remain flat at 18.3%. While Asians are reduced by -7.1PP, from 20.6% to 13.5%.

111. That is – all of Cooper's efforts result in significantly *increased* representation of WNH, a fractional increase for APBNH, no increase for Hispanics, and the slashing of the largest single minority population in D11: Asians. In this regard, the largest single minority population's representational rights in Cooper's Illustrative D11 (Asians) would likely be violated under the N.Y. VRA.

Table IV.I.3: Cooper Illustrative Plan Total Population Percentages

<u>Cooper</u>	<u>WNH</u>	<u>APBNH</u>	<u>ANH</u>	<u>HISP</u>	<u>APBNH + HISP</u>
10th	43.7%	4.9%	28.8%	19.1%	24.1%
11th	56.4%	8.9%	13.5%	18.3%	27.2%
Total	50.1%	6.9%	21.2%	18.7%	25.6%

Sources: 2020 Census PL94171

I. CVAP of Cooper Illustrative Plan

112. Cooper also does not provide CVAP populations in his report, only percentages (see [Table IV.J.1](#)). In examining the statistics in his Figure 9 – the sum of his percentages for District 11 is 100.7%, which again is not possible. And this is without considering “other” populations not included outside of his demographic groupings. This is deeply concerning because these are *the* statistics the court is being asked to rely on to determine the influence of minorities in Cooper's Illustrative Plan. As with his total population statistics, Cooper's CVAP statistics are also likely in error. According to the professional standards of demographers and statisticians, these repetitive errors are again unacceptable and lead to questions about the reliability of his analysis and report.

Table IV.J.1: Cooper Plan CVAP Percentages: Cooper Figure 9

District	NH AP Black CVAP	Latino CVAP	NH AP Black+ Latino CVAP	NH SR Asian CVAP	NH White CVAP
11	8.42%	16.30%	24.71%	13.7%	62.31%
10	6.39%	16.11%	22.50%	22.40%	53.30%

Source: Cooper Report, P.18

113. The corrected CVAP percentages for Cooper's Illustrative Plan are shown in **Table IV.J.2.**

Table IV.J.2: Cooper Plan CVAP Percentages

<u>Cooper</u>	<u>WNH</u>	<u>BNH</u>	<u>ANH</u>	<u>ONH</u>	<u>HISP</u>	<u>APBNH + HISP</u>
10th	53.2%	6.4%	23.4%	0.9%	16.1%	22.5%
11th	62.3%	8.4%	12.4%	0.6%	16.3%	24.7%
Total	58.2%	7.5%	17.3%	0.7%	16.2%	23.7%

Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD calculations

114. Comparing the percentages with those of the existing 2024 Plan for D10, Cooper *decreases* the percentage of White, non-Hispanic (WNH) CVAP by -3.5PP from 56.7% to 53.2%. APBNH decreases by -1.3PP, from 7.6% to 6.4%. Hispanics decrease by -1.0PP from 17.1% to 16.1%. While Asians are increased by +5.7PP from 17.7% to 23.4%.

115. Comparing the percentages with those of the existing 2024 Plan for D11, Cooper *increases* the percentage of White, non-Hispanic (WNH) CVAP by +2.6PP from 59.7% to 62.3%. APBNH increases by +1.1PP from 7.3% to 8.4%. Hispanics increase by +0.9PP from 15.3% to 16.3%. While Asians are reduced by -4.6PP from 17.0% to 12.4%.²⁷ That is – all of Cooper's efforts result in significantly increased representation of WNH, a fractional increase for APBNH and Hispanics, and the slashing of the largest single CVAP minority population in D11: Asians.

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²⁷ The change in percentages between D10 and D11 do not offset exactly, as they do for total population, because the size of the total population is identical (within 1 person) in D10 and D11, while CVAP differs.

V. COMPACTNESS

A. What is Compactness

116. The National Conference of State Legislatures (NCSL)²⁸ reports: Some principles have been adopted and used for decades by many states.²⁹ They are often called "traditional" criteria, including:

Compactness: Based largely on a district's physical shape and on the distance between all parts of a district. A circle is a perfectly compact district under most measures.

Contiguity: All parts of SMD1 are connected. States sometimes make exceptions for parts of a district separated by water.

117. I previously wrote (Hood, Morrison, and Bryan, 2018, PP.4-8):

A compact district minimizes the distance between all the parts of a constituency (Butler and Cain, 1992:157). Where race is an important consideration, the courts have viewed bizarrely shaped districts with low levels of compactness as a warning sign that the district may be an unconstitutional racial gerrymander.³⁰ Even a majority-minority district that is mathematically possible may be viewed as constitutionally questionable if it is noncontiguous and/or is not compact.

118. The discussion of compactness in federal VRA cases typically focuses on the first Gingles precondition, which states that a minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district.³¹ The definition of what is sufficiently compact has been the subject of earnest debate in numerous cases.

119. The New York Constitution closely parallels this guidance. N.Y. Const. Art. III, §4(c)(1)³² states, "**Each district shall be as compact in form as practicable.**"[emphasis added] And in N.Y. Const. Art. III, §5³³ it states:

the body exercising the powers of a common council, shall assemble at such times as the legislature, making an apportionment, shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of

²⁸ The National Conference of State Legislatures, created by state legislators and legislative staff in 1975, serves America's 50 states, commonwealths, territories and the District of Columbia. Every state legislator and staffer is a member of the organization and has complete access to the latest in bipartisan policy research, training resources, and technical assistance tailored specifically to their needs. <https://www.ncsl.org/about-us>

²⁹ <https://www.ncsl.org/redistricting-and-census/ncsl-redistricting-and-census-resources>

³⁰ See Bullock (2010) and Pildes and Niemi (1993) on the constitutionality of districts and the issue of compactness.

³¹ <https://supreme.justia.com/cases/federal/us/478/30/#F16>

³² Readjustments and reapportionments; when federal census to control

³³ Apportionment of assembly members; creation of assembly districts

convenient and contiguous territory in as compact form as practicable. [emphasis added]

120. The subject of compactness has been addressed in litigation in New York previously. In 1972, the N.Y Court of Appeals opined in *Schneider v. Rockefeller*:³⁴

The term ‘compact’, on the other hand, has no precise meaning within the context of the constitutional mandate. Moreover, the Constitution does not provide unqualifiedly for compactness. (Matter of *Sherrill v. O'Brien*, Supra.) At a minimum, the Legislature may, in good faith, take account of existing political subdivision lines, topography, means of transportation, and lines of communication without violating this standard. (Matter of *Sherrill v. O'Brien*, Supra.)

121. In the case of Cooper’s draw of a new 11th, the “means of transportation” is relevant because his plan fundamentally changes the mode of transportation between two communities separated by water. Staten Island is directly connected to Brooklyn by the Verrazano Bridge, while it is only connected to Lower Manhattan by ferry.

122. In 1984, the N.Y Supreme Court opined in *Community Council v. Carey*:³⁵ “Legislative districts need only be as compact as practicable.”

123. While often a redistricting requirement, what compactness is has remained elusive. Only recently, in the 2023 federal VRA case of *Alpha Phi Alpha Fraternity v. Rejfensperger*,³⁶ did a court provide a detailed description of what compactness is. The court wrote:³⁷

The compactness inquiry for the Supreme Court’s first Gingles precondition for a vote dilution claim under § 2 of the VRA, requiring the plaintiffs to prove that the minority group is sufficiently large and geographically compact to constitute a majority in a reasonably configured district, involves the compactness of the minority population, not the compactness of the contested district. [emphasis added] Voting Rights Act of 1965 § 2, [52 U.S.C.A. § 10301](#).

124. According to the *Alpha Phi Alpha Fraternity v. Rejfensperger* (APA) Court, the relevant factors for compactness under the first Gingles precondition include: population equality, contiguity, empirical compactness scores, the eyeball test for irregularities and contiguity, respect for political subdivisions, and uniting communities of interest.³⁸ Importantly, the Court

³⁴ 293 N.E.2d 67, 340 N.Y.S.2d 889

³⁵ 479 N.Y.S.2d 746

³⁶ William Cooper as in this case, was an expert for the Plaintiffs

³⁷ Alpha Phi Alpha Fraternity, Inc., et al v. Secretary, State of Georgia, 11th Cir., November 28, 2023 Decision [21] <https://law.justia.com/cases/federal/district-courts/georgia/gandce/1:2021cv05337/298476/333/>

³⁸ Alpha Phi Alpha Fraternity, Inc., et al v. Secretary, State of Georgia, 11th Cir., November 28, 2023 Decision P.97 [21] <https://law.justia.com/cases/federal/district-courts/georgia/gandce/1:2021cv05337/298476/333/>

specifically states, “A district that reaches out to grab small and apparently isolated minority communities’ is not reasonably compact.³⁹ [emphasis added].

125. The N.Y. Constitution requires districts to be compact. However, in stark contrast to both the N.Y. Constitution *and* Gingles, the N.Y. VRA states: “evidence concerning whether members of a protected class are geographically compact or concentrated shall *not* be considered, but may be a factor in determining an appropriate remedy.”⁴⁰

B. Cooper’s Compactness Analysis

126. The *APA* Court provided very specific direction that “compactness” pertains to the compactness of population, not physical compactness. Nevertheless, Cooper explains that compactness is a traditional redistricting principle (Cooper Report, ¶26, b.) and only provides a geographic compactness analysis here.

127. Based on creative and novel logic that because two separate pieces of D11 plan are compact (though separated by five miles of water), Cooper summarily concludes that his plan “is compact” (Cooper Report, ¶31) Cooper acknowledges that his plan is *less* compact (and is in fact significantly less compact than the existing 2024 plan), but explains that this is because of the water features that separate Staten Island and Manhattan (Cooper Report, ¶54):

By the numbers, the Illustrative Map appears less compact than the 2024 Plan in a head-to-head comparison, though in reality it is comprised of two significantly compact sub-parts, Staten Island and Lower Manhattan—that are connected by around-the-clock free ferry service. There is no population of voters between these two sub-parts of the illustrative CD 11—just Upper New York Bay. The lower compactness score is reflective chiefly of this geographic water and shoreline feature, rather than on-the-ground features of the district.

128. In the existing 2024 Plan, Staten Island and Brooklyn are connected by the Verrazano Bridge across approximately one mile of water. It usually takes approximately ten minutes to cross, but it can be longer depending on traffic.⁴¹ By comparison, Staten Island is separated from Manhattan by approximately 5 miles of water and is connected by the Staten Island Ferry route, running between the St. George Terminal in Staten Island and the Whitehall Terminal in Manhattan. This route takes approximately 25 minutes⁴², not including time to queue, load, and unload at the terminals.

129. In an effort to defend the significantly greater distance between these component pieces, Cooper focuses on their individual compactness instead, stating (Cooper Report, ¶55):

³⁹ Id

⁴⁰ NY VRA § 17-206(2)(c)(viii)

⁴¹ Source: author experience

⁴² <https://www.nyc.gov/html/dot/html/ferrybus/siferryschedule.shtml>

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Looking more closely at the two components of CD 11 under the Illustrative Map reveals it is in fact significantly compact on land. To start the Staten Island component of the Illustrative Map scores exactly the same as the Staten Island component of the 2024 Plan by any compactness measure. That is not surprising-nothing about this part of the district has changed, but, as under the 2024 Plan, it must be joined with some other part of NYC to achieve sufficient population to form a full district.

130. Of the lower Manhattan piece he creates in his plan, Cooper states (Cooper Report, ¶56):
The densely populated Lower Manhattan component of CD 11 under the Illustrative Map is compact as well. It scores .48 on Reeck and .33 on Polsby-Popper very respectable compactness score relative to New York's other congressional districts. The Manhattan component of CD 10-including Chinatown, part of the Financial District, and 22 persons in Tribeca (included to zero out the deviation) - scores .51 on Reock and .40 on Polsby Popper. It, too, therefore is quite compact.
131. Of the Brooklyn piece he creates in his plan, Cooper states (Cooper Report, ¶57):
By the same token, the densely populated Brooklyn component of CD 10 under the Illustrative Map scores high—.43 on Reock and .38 on Polsby-Popper.
132. Then, Cooper takes a statistical leap and calculates the *average* compactness of the individual, separate pieces (Cooper Report, ¶58):
Taken together (excluding Staten Island), the mean average scores for the two sets of the Illustrative Map equate to .44 Reock and .35 Polsby-Popper, which is slightly better than the mean average across the 26 congressional districts in the 2024 Plan.
133. In my experience, this approach lacks both precedent and logic. To defend his creative manipulation of conventional compactness measurements, Cooper relies on a novel and counterintuitive narrative that the compactness of his Illustrative Plan should be considered as two separate pieces. This is illogical - since a necessary criterion for all redistricting endeavors is contiguity of geographic space. One cannot simply ignore areas that are either unpopulated or consist solely of water to improve compactness measures.
134. The water area (essentially Upper New York Bay) in Cooper's Illustrative District 11 is a functional piece of geography that serves as a link between Staten Island and the portion in southern Manhattan, without which his draw would violate the requirement of contiguity. The suggestion that each be considered separately and that the water area between them somehow doesn't count suggests that these pieces of geography are not in fact contiguous.
135. In addition, his proposal to consider each land portion as separate pieces for the purpose of compactness lacks precedent both in scholarship and court-accepted litigation. In splitting his Illustrative District 11 compactness analysis into two pieces, he is only attempting to mask his plan's obvious failure in preserving any form of prior compactness obtained in recently court-approved plans.

136. If Cooper's logic is held, what are the practical limits? Could Staten Island potentially be connected to the Bronx via the East River? Going further, what about the highly compact Poughkeepsie City (nearly 90 miles up the Hudson), which has a 35.4% Black population and 22.5% Hispanic population?⁴³ Or perhaps Hudson City (130 miles up the Hudson), with 16.5% Black population and 10.4% Hispanic Population?⁴⁴ Those are connected to Staten Island by water? The actual compactness scores of those combinations would be effectively zero – but by Cooper's logic, the compactness would be acceptable – because each distant individual piece is compact. And according to the N.Y. VRA, these combinations are permissible because “evidence concerning whether members of a protected class are geographically compact or concentrated shall not be considered”.⁴⁵

C. BGD Compactness Analysis

137. My analysis of compactness takes place in three stages, following the direction provided by the *APA* court. First, I use empirical scores from geographic compactness measures commonly used in redistricting. Second, I use an “eyeball test”. Third, I analyze the compactness of minority communities relative to each other.

Empirical Compactness Scores

138. Four of the most common empirical compactness measures are Polsby-Popper, Reock, Convex Hull, and Schwartzberg, and each has unique measurement features (see [Appendix D](#)). For Polsby-Popper, Reock, and Convex-Hull, the range of possible values is 0-1, where *greater scores* closer to 1 indicate more compactness. For Schwartzberg, the range of possible values descends to 1, where *lower scores* closer to 1 indicate more compactness. [Table V.C.1](#) shows the compactness values of the pre-2020 Census Plan, the 2021 Plan, the 2024 Plan, and Cooper's Illustrative Plan for D10 and D11 (see [Table V.C.2](#)).

139. Cooper reports compactness in three different places. First, in the main part of his report in Figure 11, he reports what are implied to be the correct numbers for his districts (Cooper Report, P.21). Second, in his Appendix (Cooper Report, P.252), Cooper reports compactness values from the Dave's Redistricting Application.⁴⁶ Third, also in his Appendix (Cooper Report, P.258), he reports values from the Maptitude. BGD calculates compactness scores

⁴³ 2020 Census P1

⁴⁴ Id

⁴⁵ N.Y. VRA § 17-206(2)(c)(viii)

⁴⁶ Dave's compactness scores have historically been inconsistent with both results from BGD and Maptitude due to the mathematical properties of their base projection. We believe Dave's uses some variation of the Plate carrée projection with Cartesian coordinates, which distorts shapes and distances. BGD and Maptitude use an equal-area projection, which most accurately preserves area and distances. See Bar-Natan, et al. 2020.

using rigorous and quality-controlled code and have found that our results consistently and reliably replicate results from “Maptitude.”

140. In [Table V.C.1](#), Cooper reports a Reock statistic for the existing 2024 Plan from Dave's Redistricting of .56 (shown in green, at A) for D10, which is clearly in error compared to Cooper's own reported Reock statistic of .43 (shown in yellow, at B) and BGD's Reock statistic of .42 (shown in yellow, at C).

Table V.C.1 D10 Compactness Scores of Enacted and Cooper's Illustrative Plan

D10	Reock	Polsby-Popper	Convex Hull	Schwartzberg
116th (BGD)	0.12	0.09	0.46	3.29
118th (BGD)	0.43	0.35	0.79	1.69
119th (Cooper)	0.43	0.35	NA	NA
119th (BGD)	0.42	0.35	0.79	1.68
119th (Daves)	0.56	0.36	NA	NA
Cooper (BGD)	0.30	0.19	0.75	2.32
Cooper (Cooper)	0.30	0.20	NA	NA
Cooper (Maptitude)	0.30	0.19	NA	NA

Sources: BGD Analytics, Cooper's Report

Cooper Report: P. 11 (Cooper's reporting of 2024 Plan)

Cooper Report: P. 21 (Cooper's reporting of Cooper's Illustrative Plan)

Cooper Report: P. 252 (Dave's reporting of 2024 Plan)

Cooper Report: P. 258 (Maptitude reporting of Cooper's Illustrative Plan)

141. In [Table V.C.2](#), Cooper reports a Reock statistic for D11 from Dave's Redistricting for the existing 2024 Plan of .45 (shown in yellow, at A), which again is clearly in error compared to his own reported statistic of .52 (shown in green, at B) and BGD's compactness statistic of .52 (shown in green, at C). Most concerning, Cooper reports a Reock statistic for D11 of his own plan of .18 (shown in red, at D), which again is a significant error compared to BGD's and Maptitude's compactness statistics of .30 (shown at E and F). It is unclear where the .18 statistic came from, or why Cooper would report an erroneous statistic so detrimental to his argument that his plan “is compact”. Further evidence that the statistic is in error is the 2-district average (between D10 and D11) Cooper reports right next to it, of .33. If D10 is .30 and .18, then the average cannot be .33. How poor is a Reock compactness score of .18? This would rank D11 at approximately 420th out of 435 congressional districts.⁴⁷ Or worse than all

⁴⁷ BGD analytics

but a handful of the very least compact congressional districts in the country. Without any context at all, a redistricting expert would recognize that score as being “very poor” and questionable. This error is again an example of reporting that falls short of acceptable standards for demographers and statisticians, and further undermines the reliability of Cooper’s report.

Table V.C.2 D11 Compactness Scores of Enacted and Cooper’s Illustrative Plan

D11	Reock	Polsby-Popper	Convex Hull	Schwartzberg
116th (BGD)	0.47	0.47	0.85	1.47
118th (BGD)	0.52	0.57	0.89	1.32
119th (Cooper)	0.52	0.57	NA	NA
119th (BGD)	0.52	0.57	0.89	1.32
119th (Daves)	0.45	0.54	NA	NA
Cooper (BGD)	0.30	0.28	0.70	1.91
Cooper (Cooper)	0.18	0.27	NA	NA
Cooper (Maptitude)	0.30	0.28	NA	NA

Sources: BGD Analytics

Cooper Report: P. 11 (Cooper’s reporting of 2024 Plan)

Cooper Report: P. 21 (Cooper’s reporting of Cooper’s Illustrative Plan)

Cooper Report: P. 252 (Dave’s reporting of 2024 Plan)

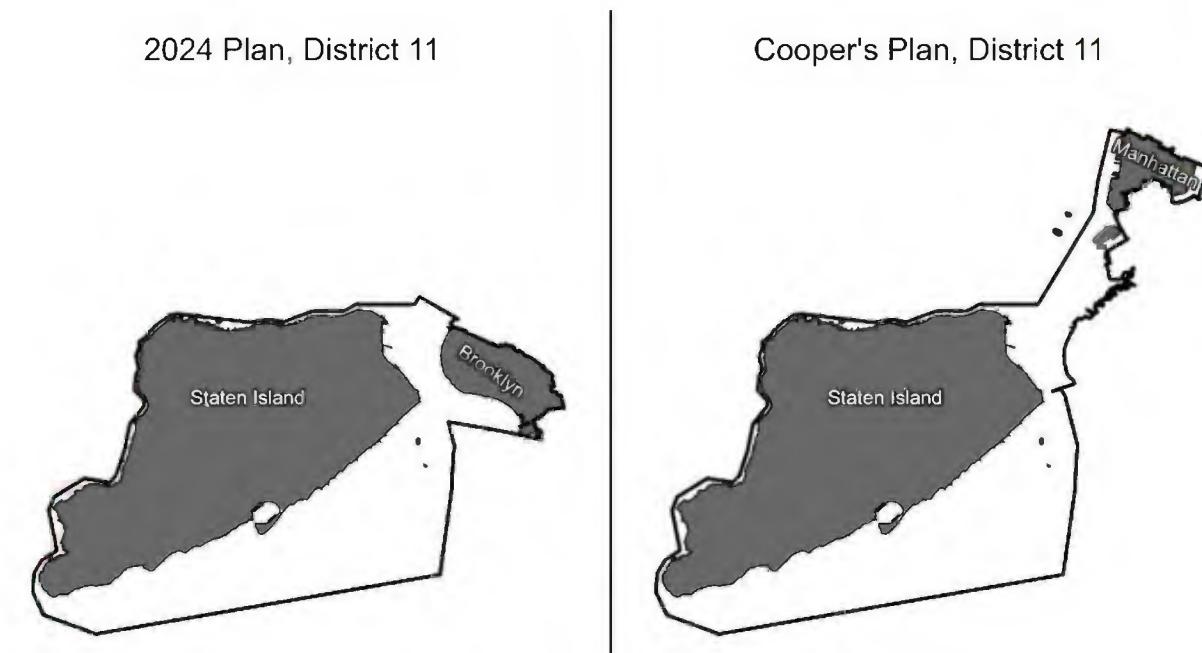
Cooper Report: P. 258 (Maptitude reporting of Cooper’s Illustrative Plan)

142. Because of these errors in Cooper’s work, the following analysis is based on BGD / Maptitude’s reported compactness statistics instead.

143. In the pre-2020 Plan, D10 scored very poorly due to its highly irregular shape. In the 2021 and 2024 Plans, the compactness scores improved significantly. Cooper’s Illustrative Plan, in turn, reduces the compactness of the 10th significantly - cutting the Reock score from .42 to .30, and the Polsby-Popper score by half - from .35 to .19.

144. In the pre-2020 Plan, D11 scored well due to its regular, geometric shape. In the 2021 plan, the compactness scores improved somewhat. In the 2024 plan, the compactness scores were stable. Cooper’s draw again reduces the compactness of the 11th significantly – cutting the Reock score from .52 to .30, and the Polsby-Popper score by half - from .57 to .28.

Figure V.C.1 Compactness of D11 from 2024 Plan to Cooper's Illustrative Plan



Source: BGD analysis

Eyeball Test

145. Besides empirical compactness scores, there is also “the eyeball test”. In *APA v. GA*⁴⁸ the Court contemplated whether each of the 16 Plaintiff illustrative districts passed the “eyeball test” separately from each district’s empirical compactness scores. In four of these districts (Cooper SD23, Cooper HD133, Cooper HD145, and Esselstyn SD25), the court determined that the district did not pass.

146. The discussion of one of these, Cooper’s SD23 (see [**Figure V.C.1**](#)), is relevant here. In determining whether Cooper’s SD23 passed the “eyeball test” they wrote⁴⁹:

The Court concludes that Cooper SD-23 does not pass the eyeball test for visual compactness: Cooper SD-23 is an oddly shaped, sprawling district that spans north to south from Wilkes County to Jenkins County and east to west from Twiggs County to Burke County.

The court goes on to say:

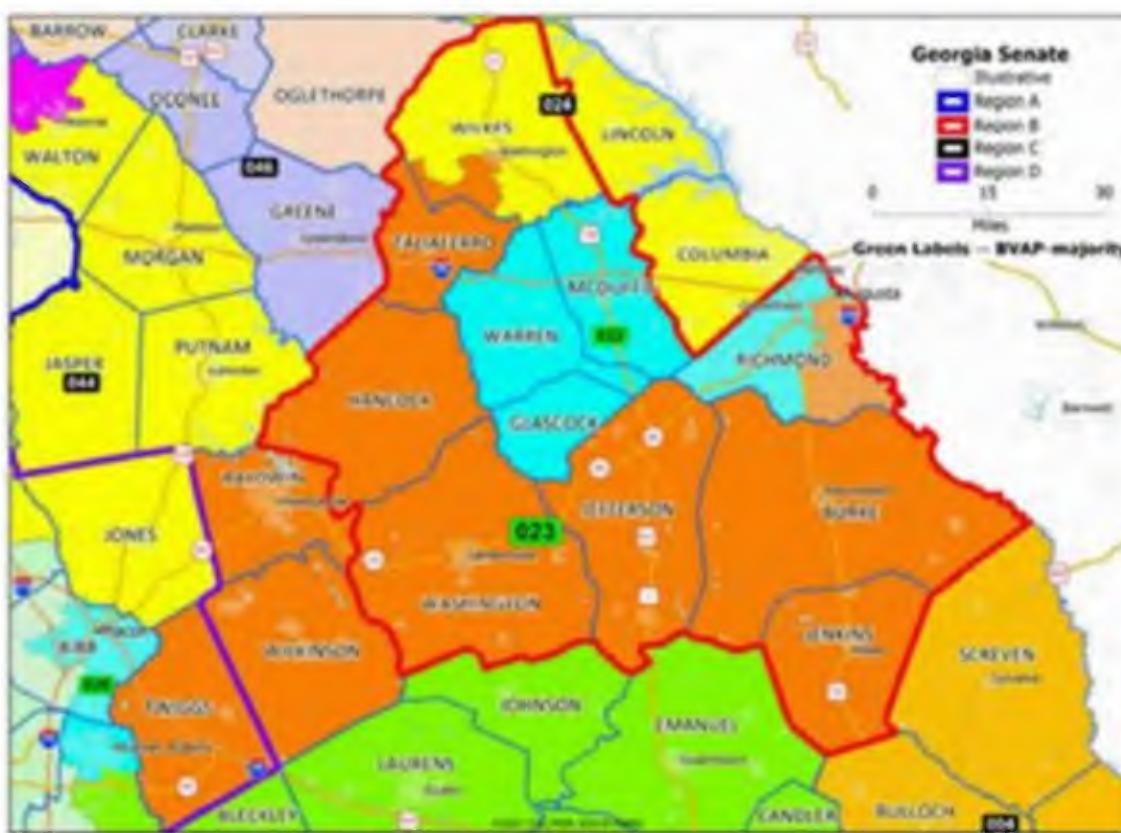
Moreover, plaintiffs, who have alleged a Section 2 violation, have the burden to show that the minority community is sufficiently compact to create the proposed majority-minority

⁴⁸ 700 F.Supp.3d 1136

⁴⁹ *Alpha Phi Alpha Fraternity, Inc., et al v. Secretary, State of Georgia*, 11th Cir., November 28, 2023 Decision P.317 [127]

district. Based on the foregoing, the Court concludes Alpha Phi Alpha Plaintiffs have not met their burden to show visual compactness.

Figure V.C.1 Cooper SD23 from APA v. Rajfensperger Opinion



147. Consistent with these observations and findings, Cooper has drawn an extremely elongated and irregular district in New York's 11th. With the *APA* Court's assessment of SD23 as a basis of comparison, I conclude that Cooper's Illustrative Plan D11 does not pass the eyeball test.

Population Compactness

148. Last, I examine the compactness of the Hispanic population in SMD1. In *APA v. GA*, the Court stated:⁵⁰

An electoral district that reaches out to grab small and apparently isolated minority communities is not reasonably compact, for purposes of the compactness inquiry for the Supreme Court's first Gingles precondition for a vote dilution claim under § 2 of the VRA, requiring the plaintiffs to prove that the minority group is sufficiently large and geographically compact to constitute a majority in a reasonably configured district. Voting Rights Act of 1965 § 2, [52 U.S.C.A. § 10301](#).

⁵⁰ *Alpha Phi Alpha Fraternity, Inc., et al v. Secretary, State of Georgia*, 11th Cir., November 28, 2023 Decision [22]

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149. The population of D11 is concentrated in Staten Island. Since its total population was 495,747 population (as of the 2020 Census), it needed 281,225 additional persons to create a sufficiently populous congressional district. In the 2024 Plan, the closest minority population (in Brooklyn, only one mile away) is connected by the Verrazano Bridge. By comparison, under Cooper's Illustrative Plan, Staten Island is separated from Manhattan by approximately 5 miles of water and is connected by the Staten Island Ferry.

150. The extension of a congressional district four extra miles to Manhattan is the definition of reaching out to grab small and apparently isolated minority communities. By the criteria of the APA court, Cooper's Illustrative Plan is not compact from a population perspective. Therein lies the tension in the law. The New York Constitution and the U.S. VRA *requires* compactness, while the N.Y. VRA compels a map drawer to disregard compactness entirely.

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VI. COMMUNITIES OF INTEREST

151. Defining what exactly a “Community of Interest” or “COI” is a topic of lengthy debate in redistricting (Forest, 2004; Grofman and Cervas, 2021). The Brennan Center for Justice provides an inventory of the variety of ways in which states advocate for the use of Communities of Interest and attempt to explain what they are.⁵¹ I have also written about Communities of Interest and have developed frameworks for evaluating them (Swanson and Bryan, 2023). I have observed (Morrison and Bryan, 2019, P.48) that in the broadest sense, a “Community of Interest” is: “a group of people concentrated in a geographic area who share similar interests and priorities—whether social, cultural, ethnic, economic, religious, or political.” I have concluded (2019, P.48):

Preserving a community of interest may mean keeping a neighborhood, village, town, or city intact. Respecting existing communities of interest is often a proxy for ensuring that people with common interests are grouped within the same district. Fragmenting communities of interest unnecessarily may indicate an underlying motive.

152. Many other interested parties (states, scholars, academic institutions, nonprofits, and more) have weighed in on what they think communities of interest are. I have found the definition provided by Loyola Law School to be particularly useful:

A community of interest is a neighborhood, community, or group of people who have common policy concerns and would benefit from being maintained in a single district. Another way of understanding a community of interest is that it is simply a way for a community to tell its own story about what neighbors share in common and what makes it unique when compared to surrounding communities. They are defined by the local community members.⁵²

153. It is a traditional redistricting principle that splits of political and administrative geographies and communities of interest should be minimized. However, some splits are almost always necessary, and avoiding splits of one level of geography (such as counties) may actually cause splits in other layers of geography (such as places and school districts). In redistricting for congressional districts, where the differences in population between districts must be minimized, precincts (or VTDs) may be kept intact, but splitting political geographies is unavoidable.

⁵¹ <https://www.brennancenter.org/sites/default/files/analysis/6%20Communities%20of%20Interest.pdf>

⁵² <https://redistricting.lls.edu/wp-content/uploads/Basics-English6.pdf>

154. A comprehensive dissertation on NYC's numerous and vast communities of interest is beyond the scope of this report.⁵³ I focus here on three practical ones: voting precincts/VTDs, neighborhoods (NTAs), and the Asian (specifically Chinese) population Cooper discusses in his report.

A. VTD Splits

155. An important traditional redistricting criterion is to avoid splitting political and administrative geography, such as voting precincts, unless it is necessary to enable balancing the population (as required by law). Cooper presents a summary of the number of geographic splits for the existing 2024 Plan in his report in Figure 5 ([Figure VI.A.1](#)). Included in this table are neighborhoods and VTDs:

Figure VI.A.1 Cooper's Reported NTA and VTD Splits (Figure 5 of Cooper Report)

Splits Between CDs 10 & 11 in the 2024 Plan	
Census Geography	
Neighborhoods (NTAs)	4
2020 Voting Districts (VTDs)	4
Population in Split VTDs	133,535

156. Later, Cooper presents a summary of the number of geographic splits for his Illustrative Plan in his report (see [Figure VI.A.2](#)):

Figure VI.A.2 Cooper's Reported NTA and VTD Splits (Figure 12 of Cooper Report)

Splits Between CDs 10 & 11 in the Illustrative Plan	
Census Geography	
Neighborhoods (NTAs)	3
2020 Voting Districts (VTDs)	20
Population in split VTDs	20,762

157. Cooper goes on to characterize the differences between the 2024 Plan and his Illustrative Plan as (Cooper Report, ¶62): "The Illustrative Map contains 20 populated VTD splits versus four populated splits in the 2024 Plan." In fact, what Cooper is reporting is the number of VTD splits, which are a 2020 layer of geography. I do not know with certainty, but I believe Cooper drew his illustrative plan in Dave's Redistricting application (since he reports metrics

⁵³ I note the *How Communities of Interest Are Evolving in New York City Today* document, produced by members of the CUNY Research Consortium on Communities of Interest, provided as an Appendix in Cooper's expert report.

from this application in his report).⁵⁴ If he did, then current New York precinct boundaries are not available there (“This state [New York] has no precinct updates available”).⁵⁵

158. In reality, since 2020, there have been numerous updates and revisions to the 2020 VTDs that have resulted in a different set of boundaries defined by the *current* precinct files. These boundaries are easily accessible through well-known, publicly available resources such as the NY Board of Elections⁵⁶ and the University of Florida Elections Lab for each annual vintage.⁵⁷ Using current precincts and software capable of analyzing them⁵⁸ I determined that neither the 2021 Plan nor the 2024 Plan split *any* current voting precincts. By comparison, Cooper’s Illustrative Plan splits 12 (see **Table VI.A.1**).

159. In this regard, Cooper has mischaracterized the number of political geography splits because he uses an antiquated layer of geography. Further, he provides no evidence that these splits were required to achieve population equality in his Illustrative Plan. Either way, the 2024 Plan complies with traditional redistricting criteria (by maintaining existing political geography). However, Cooper’s Illustrative Plan does not.

Table VI.A.1 Cooper Illustrative Plan Precinct Splits: Total Population

2024 ED	D10	D11
61067	843	2,034
61068	19	3,339
65002	1,793	856
65003	431	3,376
65004/65069	2,157	656
65020	1,735	948
65021	2,624	242
65027	1,987	96
65032/65033	898	3,265
65051	1,789	1,166
65052	1,375	703
66072	372	1,177

Sources: 2020 Census, NY Board of Elections, University of Florida Election Lab, BGD analytics

⁵⁴ <https://davesredistricting.org/>

⁵⁵ <https://davesredistricting.org/maps#state::NY>

⁵⁶ <https://www.nyc.gov/content/planning/pages/resources/datasets/election-districts>

⁵⁷ <https://election.lab.ufl.edu/>

⁵⁸ The industry gold standard: ESRI ArcGIS Pro <https://www.esri.com/en-us/arcgis/products/arcgis-pro/overview>

B. Neighborhood Splits

160. New York City is a vast tapestry of neighborhoods and local communities, each with a rich history, unique characteristics, and distinctive populations. The fabric of these can be thought of and measured in innumerable ways. From formal planning⁵⁹ to Community Districts, which monitor quality-of-life issues,⁶⁰ to local area beliefs,⁶¹ and countless definitions in between. Here, they are measured using Neighborhood Tabulation Areas, or “NTAs,” because they are a stable and reliable geography for statistical reporting and enable comparison with statistics that Cooper produces.⁶²

161. Under the pre-2020 Census plan, five NTAs were split into 12 pieces⁶³ (see *Table VI.B.1*). After the first round of post-2020 Census Redistricting, the 2021 Plan reduced the number of these NTA splits to two, dividing them into four pieces⁶⁴ (see *Table VI.B.2*). These splits did not change in the drawing of the 2024 Plan.

Table VI.B.1 Pre-2020 Census (116th) Congressional Plan NTA Splits: Total Population

NTA	D7	D10	D11
Bay Ridge	143	10,100	76,536
Bensonhurst		80,960	23,974
Dyker Heights	2,612	13,563	30,581
Gravesend (East)-Homecrest		561	52,236
Gravesend (West)		42,761	17,762

Sources: BGD Analytics, NYC Planning

⁵⁹ <https://www.nyc.gov/site/housing/action/neighborhoods.page>

⁶⁰ <https://www.nyc.gov/content/planning/pages/resources/datasets/community-districts>

⁶¹ <https://www.nytimes.com/interactive/2023/10/29/upshot/new-york-neighborhood-guide.html>

⁶² NYC Planning goes on to report: 2020 NTAs are created by aggregating 2020 census tracts and nest within Community District Tabulation Areas (CDTA). NTAs were delineated with the need for both geographic specificity and statistical reliability in mind. Consequently, each NTA contains enough population to mitigate sampling error associated with the ACS, yet offers a unit of analysis that is smaller than a Community District.

Though NTA boundaries and their associated names roughly correspond with many neighborhoods commonly recognized by New Yorkers, NTAs are not intended to definitively represent neighborhoods, nor are they intended to be exhaustive of all possible names and understandings of neighborhoods throughout New York City. Additionally, non-residential areas, including large parks, airports, cemeteries, and other special areas, are represented separately within this dataset and are assigned codes according to their type.

Source: <https://www.nyc.gov/content/planning/pages/resources/datasets/neighborhood-tabulation>

⁶³ >0 Population

⁶⁴ >0 Population

162. Cooper's assessment of the number of NTA splits in the 2024 Plan is four (see [Figure VI.A.1](#)), which is the measurement of two pieces of Bay Ridge and Dyker Heights into four pieces (see [Table VI.B.2](#)).

Table VI.B.2 2021 Plan and 2024 NTA Splits: Total Population

NTA	D10	D11
Bay Ridge	10,243	76,536
Dyker Heights	5,148	41,608

Sources: BGD Analytics, NYC Planning

163. Cooper reports the number of NTA splits in his Illustrative Plan as three (see [Figure VI.A.2](#)). The Financial District and Tribeca are each split into *four* pieces (see [Table VI.B.3](#)) – although the D10 piece of Tribeca is of almost no consequence.

Table VI.B.3 Cooper NTA Splits

NTA	D10	D11
Financial District-Battery Park City	21,243	31,728
Tribeca-Civic Center	22	25,368

Sources: Cooper Report, P.265, Exhibit H-5, BGD analytics

C. Racial and Ethnic Communities of Interest

164. There are numerous distinct racial and ethnic neighborhoods across New York City. Cooper chooses to focus on the Chinese population, stating (Cooper Report, ¶24):

And, as in the 2024 Plan, Chinatown remains entirely within CD 10, keeping it together with Sunset Park—a predominantly Chinese-American neighborhood in Brooklyn. Under the Illustrative Map, Bensonhurst and Bath Beach—two other predominantly Chinese-American neighborhoods in Brooklyn—are located in CD 10 along with Chinatown and Sunset Park.

165. New York's Asian population is discussed in detail in *How Communities of Interest Are Evolving in New York City Today*⁶⁵:

The Asian population grew across all five boroughs, with the greatest percentage increase in Staten Island (69%). The Asian population increase in the Bronx (43%) and Brooklyn (43%) was also greater than the citywide Asian population increase of 34%. This increasing overall population has many parts. Asian Americans are highly diverse with respect to national origin, language, ethnicity, and religions and faiths. While the Chinese remain the

⁶⁵ 2023. Section IV: Asian New Yorkers, by Tarry Hum. P.50

<https://www.nyc.gov/assets/districting/downloads/pdf/Communities-of-Interest-Report.pdf>

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largest ethnic group at 48% of Asian New Yorkers, the city's Asian population also includes substantial populations of Asian Indians (20%), Koreans (7%), Bangladeshis (6%), Filipinos (6%), Pakistanis (4%), Japanese (2%), Taiwanese (1%), Nepalese (1%) and Thai (1%) as well as small but significant groups of Sri Lankans, Burmese, Indonesians, Cambodians, and Malaysians. Moreover, the Asian Indian population itself is not a monolith because India is home to so many different religions, languages, cultures, and identities. Two percent of Asian New Yorkers identified as Other Asian (2%) or two or more Asian (2%).

166. The authors go on to detail Chinese New Yorkers⁶⁶:

Chinese New Yorkers remain the city's largest Asian subgroup. Table IV-1 provides some overall characteristics. Chinese New Yorkers are highly stratified by educational attainment and English speaking language ability. The percentage (36%) of highly educated Chinese adults (25 years and older) is comparable to the percentage of Chinese adults who have not completed a high school degree (33%). This bifurcation is also evident in English language speaking ability as 12% of Chinese New Yorkers indicate they speak only English and 14% speak no English. Chinese New Yorkers have a homeownership rate of 51% but the share of Chinese homeowners varies across "Chinatown" neighborhoods (as grouped in Census Bureau Public Use Microdata Areas or PUMAs). The median household income for Chinese New Yorkers is \$66,877, significantly less than most Asian subgroups in New York City. The poverty rate for Chinese New Yorkers is 20% comparable to the poverty rate for Bangladeshi (22%) and Pakistani New Yorkers (21%). As shown in Map IV-1, Chinese New Yorkers are concentrated in Manhattan's historic Chinatown in the Lower East Side and sizable "Chinatowns" in the Sunset Park in Brooklyn and Flushing/Whitestone in Northeast Queens.

167. However, these population changes differed dramatically by neighborhood (see *Figure VI.C.1*). According to the NY City Department of City Planning, Population Division, the population of Asians in Lower Manhattan is in decline, while it is growing significantly in other parts of the city.

168. Of Southern Brooklyn, they report:⁶⁷

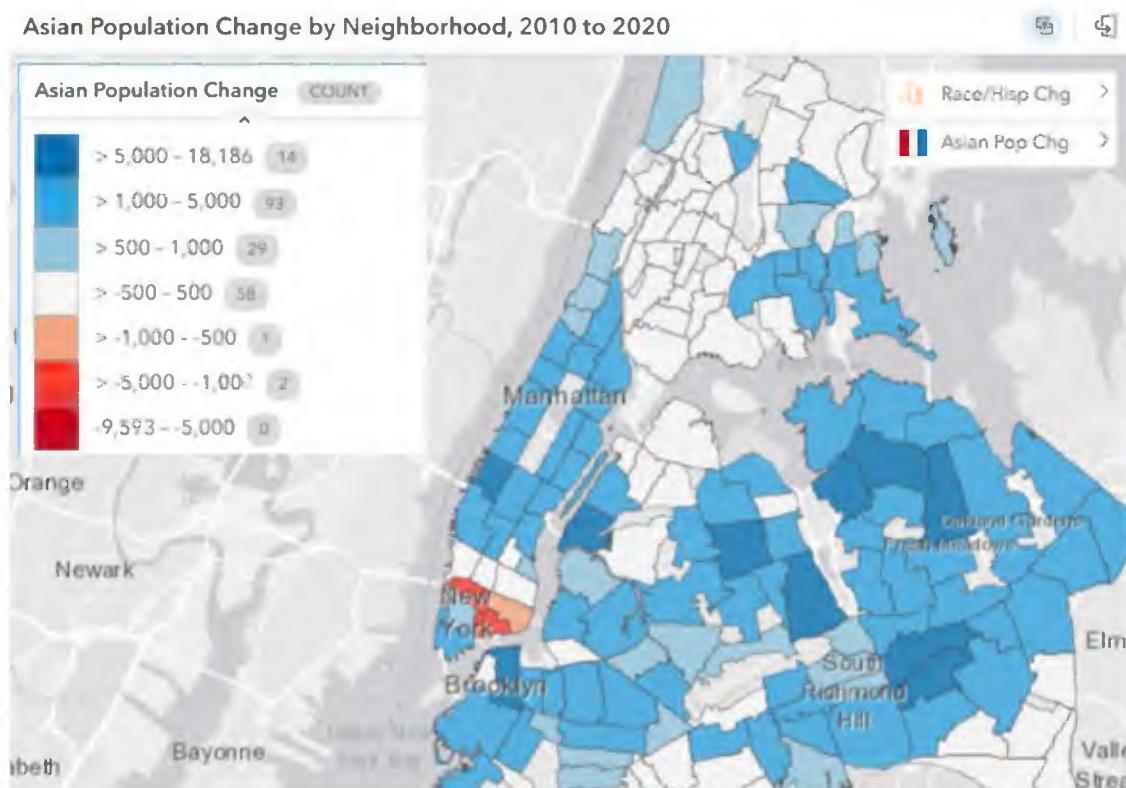
large Asian population increases in Bensonhurst, Gravesend W., and Dyker Heights occurred concomitantly with increases in the Hispanic population, in contrast to Sunset Park Ctr. In western Brooklyn, where the Hispanic population declined somewhat. Asian increases in southern Brooklyn, however, were larger than Hispanic increases. The White population largely declined across southern Brooklyn as well.

⁶⁶ Id, P.51

⁶⁷ <https://storymaps.arcgis.com/stories/46a91a58447d4024afd00771eec1dd23>

169. Neither the Asian nor the Chinese population in New York City are homogeneous. Cooper asserts that his plan, which divides large numbers of adjacent Chinese in Lower Manhattan, not only preserves this community of interest but actually “**advances this preservation of communities of interest** by joining the existing Chinese-American communities in CD 10 (Chinatown and Sunset Park) with two additional Chinese-American communities (Bensonhurst and Bath Beach).” [emphasis added].

Figure VI.C.1 Asian Population Change 2010-2020



Source: NY Department of City Planning,
<https://storymaps.arcgis.com/stories/46a91a58447d4024afd00771eec1dd23>

170. In reality, Cooper's draw *divides* the Chinese-American community of interest in Lower Manhattan that has the most in common, and unifies its pieces with non-adjacent and distant Chinese-American populations that are in fact quite different. Chinatown's majority is Asian, whose origins are immigrants from southeastern China and Hong Kong. The neighborhood's median household income of \$35,805 is significantly lower than that of Manhattan (\$86,553) and New York (\$63,998), and is reflected in the fact that 28% of residents live below the poverty line.⁶⁸ Sunset Park (in Brooklyn) is mixed with a majority Hispanic community and

⁶⁸ <https://www.nyc.gov/assets/sbs/downloads/pdf/neighborhoods/avenyc-cdna-chinatown.pdf>

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is more than half foreign-born. Their median household income is much higher, at \$50,270.⁶⁹ Bensonhurst is regarded as the “Little Italy” of Brooklyn, but is majority White, and (As reported by the NY Department of City Planning) has a growing Asian population. Its median income is \$59,756, while only 18% of its population lives below the poverty line. NYC Small Business Services reports⁷⁰:

More than half of the 173,000 residents of Bensonhurst are foreign-born. The racial makeup of the neighborhood is comprised of 41% White, 38% Asian, 17% Hispanic/Latinx, 3% two or more races, and 1% African American. In recent decades, the Asian population has increased by 57% and comprises the city’s largest concentration of immigrants from Hong Kong and the second largest Cantonese population. More than half of the 173,000 residents of Bensonhurst are foreign-born.

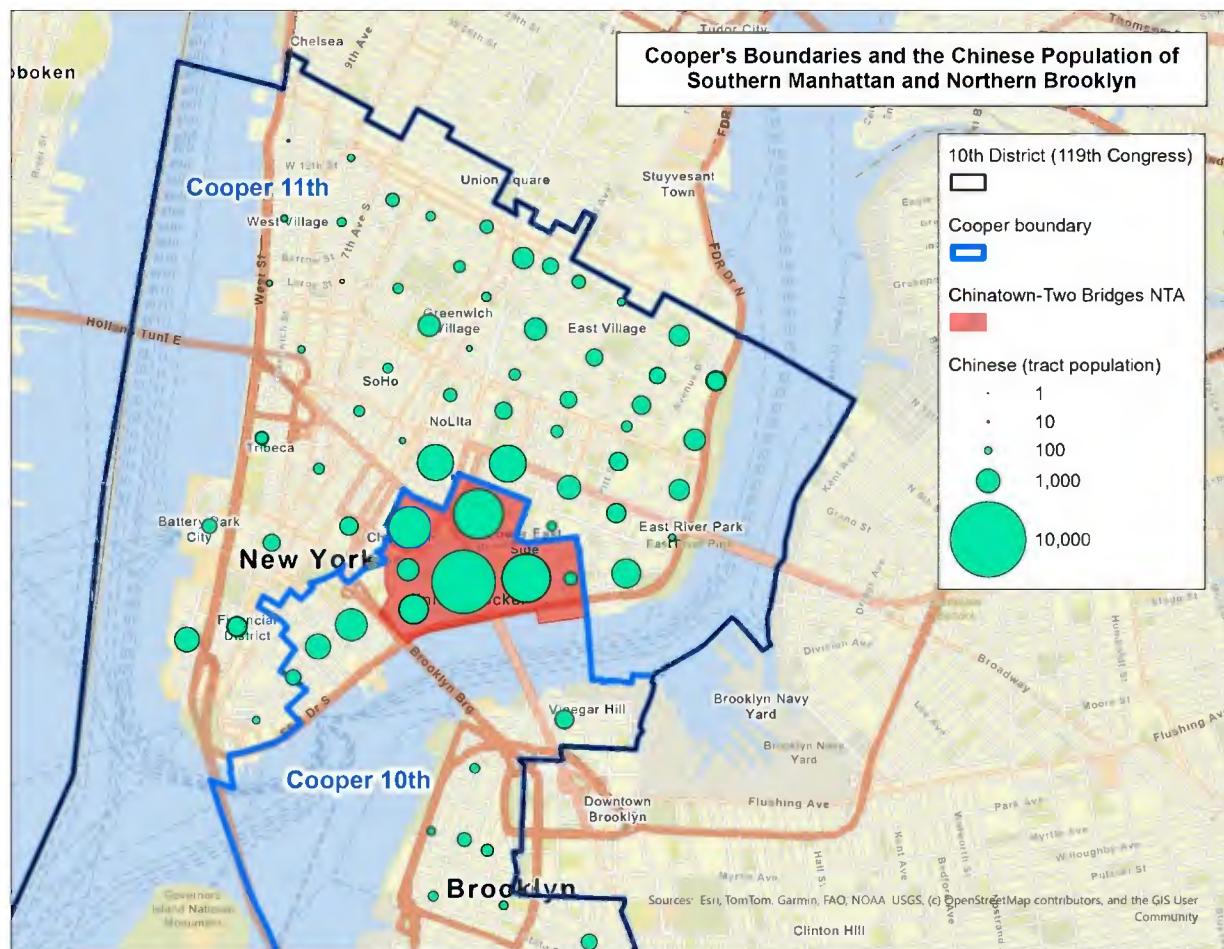
171. These neighborhoods listed by Cooper neglect two of the highest concentrations in Brooklyn: Dyker Heights and Gravesend (West), each with its own unique history and differences from Chinatown. Dyker Heights, for example, originated as a luxury housing development in 1895.⁷¹ These Asian neighborhoods in Brooklyn are not only separated by the East River, but also by other neighborhoods such as Brooklyn Heights, Carroll Gardens, and Park Slope, with almost no Asian population, and Downtown Brooklyn, with only a modest Asian population. According to Google Maps, Bensonhurst is ten miles away, and between a 30-minute and an hour drive from Chinatown. While the Chinese populations Cooper divides in Lower Manhattan are literally across the street from each other. Cooper’s characterization of his Illustrative Plan being somehow unifying and the inference that they are somehow the same community of interest are significantly misleading.

172. *How* these populations are split in Cooper’s Illustrative Plan is illuminating. In Lower Manhattan, Cooper’s draw may maintain the formal boundaries of Chinatown in D10 – but his draw structurally separates large numbers of Chinese (see [Figure VI.C.2](#)). Chinatown may be *a* community of interest, but the actual location and concentration of the Chinese population should be the overriding consideration in defining a community of interest (see [Section V Population Compactness](#)).

⁶⁹ <https://www.nyc.gov/assets/sbs/downloads/pdf/neighborhoods/avenyc-cdna-sunsetpark.pdf>

⁷⁰ <https://www.nyc.gov/assets/sbs/downloads/pdf/neighborhoods/Bensonhurst.pdf>

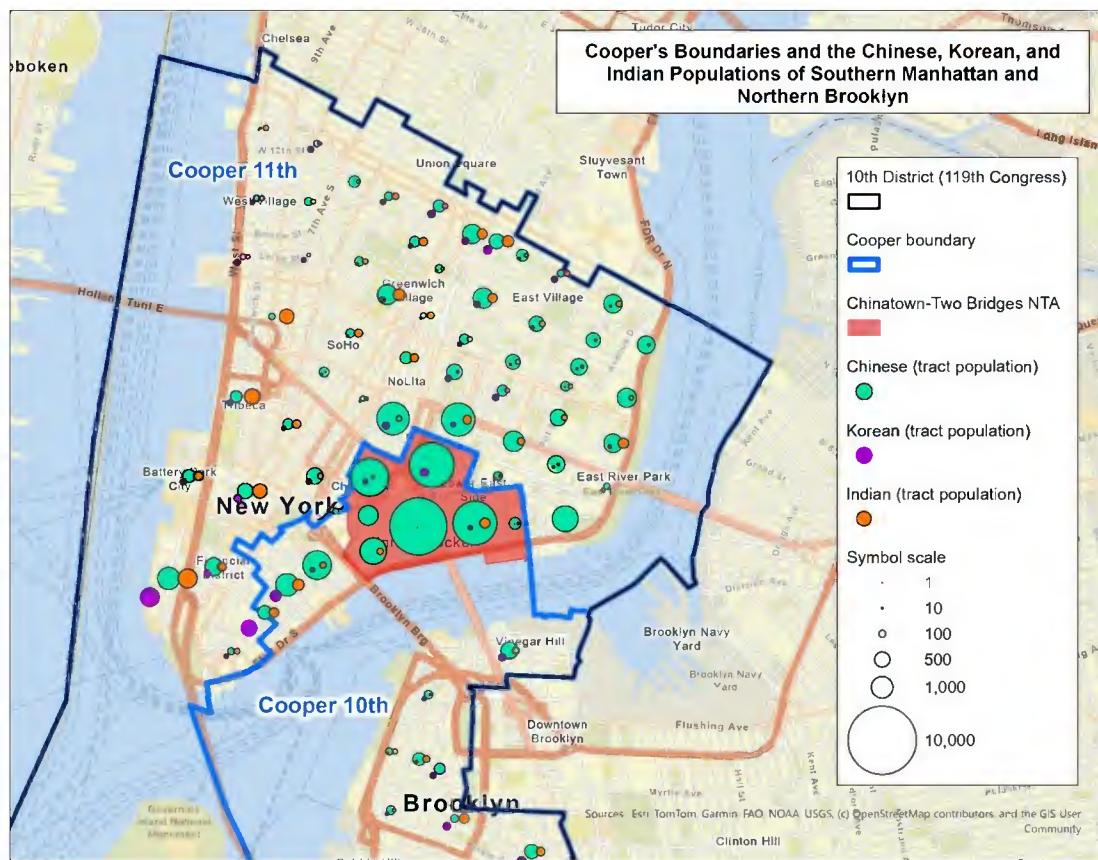
⁷¹ <https://hdc.org/borough/dyker-heights/#:~:text=Dyker%20Heights%20originated%20as%20a,neighborhood%20through%20the%2020th%20century.>

Figure VI.C.2 Chinese Population

Source: 2019-2023 American Community Survey B02015 Asian Alone Chinese, except Taiwanese, total population

173. The Chinese are not the only population in Lower Manhattan. Other groups, such as Koreans and Indians, are mixed with the larger Chinese population, making Cooper's subdivision of Lower Manhattan impactful to multiple minority groups (see [Figure IV.C.3](#)).

Figure VI.C.3 Asian Population by National Origin



Source: BGD analytics, American Community Survey B02015 Asian Alone by Selected Groups
[https://data.census.gov/table/ACSDT5Y2023.B02015?q=B02015:+Asian+Alone+by+Selected+Groups&ps=500XX00US36047\\$1400000,36061\\$1400000,36085\\$1400000](https://data.census.gov/table/ACSDT5Y2023.B02015?q=B02015:+Asian+Alone+by+Selected+Groups&ps=500XX00US36047$1400000,36061$1400000,36085$1400000)

174. Not only are local, highly concentrated populations of Asians divided by Cooper's plan, but also the number of Asians and their representation in each district. In the existing 2024 plan, the Asian population was nearly perfectly distributed between D10 and D11, with 21.7% of D10, and 20.6% of D11 being Asian (see *Table IV.G.2*).

175. Under Cooper's Illustrative Plan, large numbers of Asians are displaced. 36.2% of the Asian population is moved from D10 (at 1), and 57.1% are moved from D11 (at 2) for a total of 46.5% of the Asian population changing districts (see *Table VII.B.1*). This is significantly higher than any other racial and ethnic group. This results in a significant redistribution of Asian CVAP to 23.4% of D10, and 12.4% of D11 being Asian (see *Table IV.J.2*)

VII. DIFFERENTIAL CORE RETENTION

176. A *Core Retention Analysis* (CRA) is simply a demographic accounting of the movement of persons from one district to another brought about by redistricting. A CRA is a way of quantifying precisely how a realignment affects the continuity of representation among a district's residents. Courts have recognized the need to preserve the core of a prior established district as a legitimate redistricting criterion.⁷² In the New York Constitution, it states:⁷³

Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties. **The commission shall consider the maintenance of cores of existing districts**, [emphasis added]

177. In the *Alexander v. S.C. State Corf. cf the NAACP* decision by the U.S. Supreme Court (referring to minimizing change and core retention analysis) stated, “Lawmakers do not typically start with a blank slate; rather, they usually begin with the previous map and make alterations to fit various districting goals.⁷⁴ In describing what constitutes a traditional redistricting criterion, the *Alexander* court stated⁷⁵

Indeed, as we have defined them, “traditional districting principles” are simply anything relevant to drawing districts other than race. They include “principles such as compactness, contiguity, and respect for political subdivisions.” Id., at 647. They also include “keeping communities of interest together, and protecting incumbents,” Rucho, 588 U. S., at 706–707, as well as “minimizing change,” Alabama Legislative Black Caucus v. Alabama, 575 U. S. 254, 259 (2015). [emphasis added]

178. Cooper characterizes minimizing change (as measured by core retention) during redistricting *differently* from the *Alexander* court and the guidance provided by the New York Constitution. Not only does he say that he doesn't consider minimizing change to be a traditional redistricting criterion (only a “background consideration”) – but that this consideration is inherently problematic (Cooper report, ¶27):

Core retention of a previous districting plan (or “least change”) is always a background consideration as well. But it should never preempt traditional redistricting principles. Otherwise, problematic or flawed redistricting plans could become locked in and self-perpetuating. Nonetheless, I considered core retention for the Illustrative Map.

⁷² *Abrams v. Johnson*, 521 U.S. 74, 84 (1997)

⁷³ N.Y. Const. art. III, § 4(c)(5)

⁷⁴ *Alexander v. S.C. State Corf. cf the NAACP*, 144 S. Ct. 1221 (2024), see https://www.supremecourt.gov/opinions/23pdf/22-807_3e04.pdf P. 22

⁷⁵ Id, PP. 45-46

179. Core Retention Analysis has historically only considered the *total* populations of districts. Our strategy is to broaden this model to analyze core retention of groups by race and ethnicity. This is known as a Differential Core Retention Analysis – or “DCRA”. The “differential” is the result of the analytic findings by race and ethnicity, such as White non-Hispanic and Black or African Americans, Asian non-Hispanics, and Hispanics.⁷⁶

180. A DCRA of populations by race and ethnicity can frequently reveal significant differences from the total population. This is an invaluable tool for identifying whether a subgroup has been targeted for disproportionate or discriminatory moves. In this case, a DCRA provides valuable insights on how the 2024 Plan compares to the pre-2020 Census Plan. In short, while there were large numbers of people moved from D10 (to reduce it towards the target population and improve its compactness, among other criteria), each racial and ethnic group was moved more or less equally. In D11, core retention was very high because it was already a highly compact district and only needed to add people towards the target population. Again, each racial and ethnic group was moved more or less equally. How Cooper “considered” core retention in his Illustrative Plan is unclear, because the analysis shows that *significant* numbers of the population by race and ethnicity are moved differentially between D10 and D11.

A. Pre-2020 Census to 2024 Plan DCRA

181. Table VII.A.1 shows the core retention rates between the existing pre-2020 Census Plan and the 2024 Plan for the total population, white, non-Hispanic, Any Part Black, Asian, and Hispanic. District 10 (with 803,803 population) was overpopulated by nearly 27,000 people – making that draw an exercise in *decreasing* its footprint. While District 11 (with 766,236 population) was underpopulated by over 10,000 people – making that draw an exercise in *increasing* its footprint. We know that D10 was significantly reconfigured during redistricting – beyond what was needed to balance its population.

182. And this is borne out in its DCRA numbers. As shown in Table VII.A.1 (at 1), 72.4% of the existing CVAP was moved out of D10, and this was spread relatively equally between different population groups. D11, by comparison, was left relatively intact, as shown in Table VII.A.1 (at 2), again with limited differential impact by race and ethnicity. The complete DCRA tables with all moves are shown in Appendix E.

⁷⁶ “Differential” core retention is not novel. We have calculated and reported these metrics in every case we have participated in during and after the 2020 redistricting cycle, and in some cases, these metrics were foundational to opinions. For example, in the Wisconsin Supreme Court decision during their redistricting litigation:

see: https://www.wicourts.gov/courts/supreme/origact/docs/21ap1450_opdec.pdf

Table VII.A.1 Pre-2020 Census (116th) – 2024 Plan (119th) Differential Core Retention of CVAP Population⁷⁷

<u>116th</u>	<u>119th</u>	<u>Total</u>	<u>WNH</u>	<u>BNH</u>	<u>ANH</u>	<u>HISP</u>
D10	Retained	139,715	97,810	6,699	20,302	13,980
	Moved	366,401	232,252	21,591	63,462	46,044
D11	Retained	457,204	283,155	36,066	62,331	73,102
	Moved	53,959	34,056	3,268	11,181	5,284
Total	Retained	596,919	380,966	42,765	82,633	87,082
	Moved	420,360	266,308	24,859	74,643	51,328
D10%	Retained	27.6%	29.6%	23.7%	24.2%	23.3%
	Moved	1 72.4%	70.4%	76.3%	75.8%	76.7%
D11%	Retained	2 89.4%	89.3%	91.7%	84.8%	93.3%
	Moved	10.6%	10.7%	8.3%	15.2%	6.7%
Total%	Retained	58.7%	58.9%	63.2%	52.5%	62.9%
	Moved	41.3%	41.1%	36.8%	47.5%	37.1%

Sources: 2019-2023 American Community Survey, 2019-2023 DOJ Special Tabulations, BGD Calculations

B. 2024 to Cooper Illustrative Plan DCRA

183. Table VII.B.1 shows the core retention rates between the existing 2024 Plan and Cooper's Illustrative Plan for the total population, White, non-Hispanic; Any Part Black, non-Hispanic, Asian, non-Hispanic and Hispanic. The DCRA numbers show significant changes from the existing plan, including the movement of 41.4% of CVAP in D10 (at 4) and 31.5% of D11 (at 5). Among the D11 population that was moved, there are significant differences by race and ethnicity. The 31.5% who are moved overall is an average between only 12.9% of APBNH, and 57.1% of Asians, with the 27.6% of WNH and 26.5% of Hispanics being closer to the overall average.

⁷⁷ Total: Total CVAP, WNH: White non-Hispanic, BNH: Any Part Black, non-Hispanic, ANH: Asian, non-Hispanic, HISP: Hispanic

Table VII.B.1 2024 Plan – Cooper Illustrative Plan Differential Core Retention of CVAP Population

<u>119th</u>	<u>Cooper</u>	<u>Total</u>	<u>WNH</u>	<u>BNH</u>	<u>ANH</u>	<u>HISP</u>
D10	Retained	292,800	157,093	24,089	56,382	52,289
	Moved	207,107	126,308	14,151	31,962	33,134
D11	Retained	349,205	220,157	32,615	37,128	57,481
	Moved	160,312	84,119	4,824	49,448	20,683
Total	Retained	642,005	377,250	56,704	93,510	109,771
	Moved	367,419	210,427	18,975	81,411	53,817
D10%	Retained	58.6%	55.4%	63.0%	63.8%	61.2%
	Moved	41.4%	44.6%	37.0%	36.2%	38.8%
D11%	Retained	68.5%	72.4%	87.1%	42.9%	73.5%
	Moved	31.5%	27.6%	12.9%	57.1%	26.5%
Total%	Retained	63.6%	64.2%	74.9%	53.5%	67.1%
	Moved	36.4%	35.8%	25.1%	46.5%	32.9%

Sources: 2019-2023 ACS, BGD Calculations

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VIII. Political Performance

184. In order to understand the redistricting landscape of New York, it is important to not only understand the demographic and physical characteristics of each plan, but also the political landscape of the plans.⁷⁸ I use election outcomes and standard demographic techniques to report election outcomes under four plans:

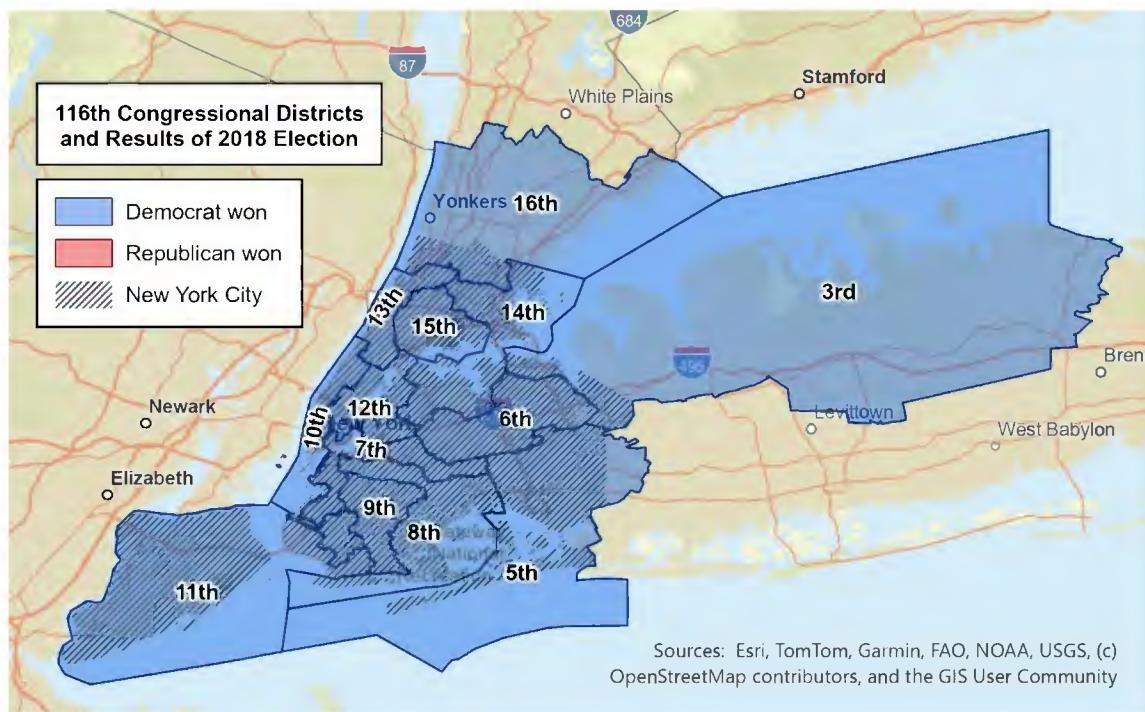
- The 2018 election, under the Existing Plan (pre-2020 Census, or 116th Congress),
- The 2022 election, under the 2021 Plan (first post-2020 Census, or 118th Congress),
- The 2024 election, under the 2024 Plan (second post-2020 Census, or 119th Congress), and
- The 2024 election, under Cooper's Illustrative Plan

A. 2018 Election

185. NYC voters overwhelmingly vote Democrat. In the 2018 election, every one of 13 U.S. House districts in and around NYC elected a Democrat, including D11 (see [Figure VIII.A.1](#)). In D10, the election was a landslide, with 82.1% of the votes going to Democratic candidate Jerrold Nadler (see [Figure VIII.A.2](#)). In D11, the election was much closer, with 53.0% of the votes going to Democratic candidate Max Rose (see [Figure VIII.A.3](#)) while Republican candidate Dan Donovan garnering 46.6% of the votes.

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⁷⁸ My analysis is a simple mathematical calculation and reporting of New York's election results and is not a definitive or scientific analysis of election results or is intended as proof of political gerrymandering. Such analysis and measures exist. "a definitive measure of partisan gerrymandering has long been the "holy grail," and adjudication of partisan gerrymandering claims has long been a dialectic between courts demanding and academics striving to provide quantitative measures of increasing sophistication. This dialectic has spurred a proliferation of such measures and techniques. Some of the leading ones include partisan bias, the efficiency gap, the declination, the mean-median difference, the lopsided-outcomes test, and ensemble methods." (Cover and Niven, 2021)

Figure VIII.A.1 NYC 2018 U.S. House Results

Sources: BGD analytics, <https://www.nytimes.com/interactive/2018/11/06/us/elections/results-house-elections.html>

Figure VIII.A.2 New York 2018 U.S. House District 10 Results

Percent	Candidate	Party	Votes	Winner
82.1%	Jerrold Nadler*	Dem	173,095	✓
17.9%	Naomi Levin	GOP	37,619	

100% of precincts reporting (559/559)

*Incumbent

210,714 total votes

Source: <https://www.politico.com/election-results/2018/new-york/>

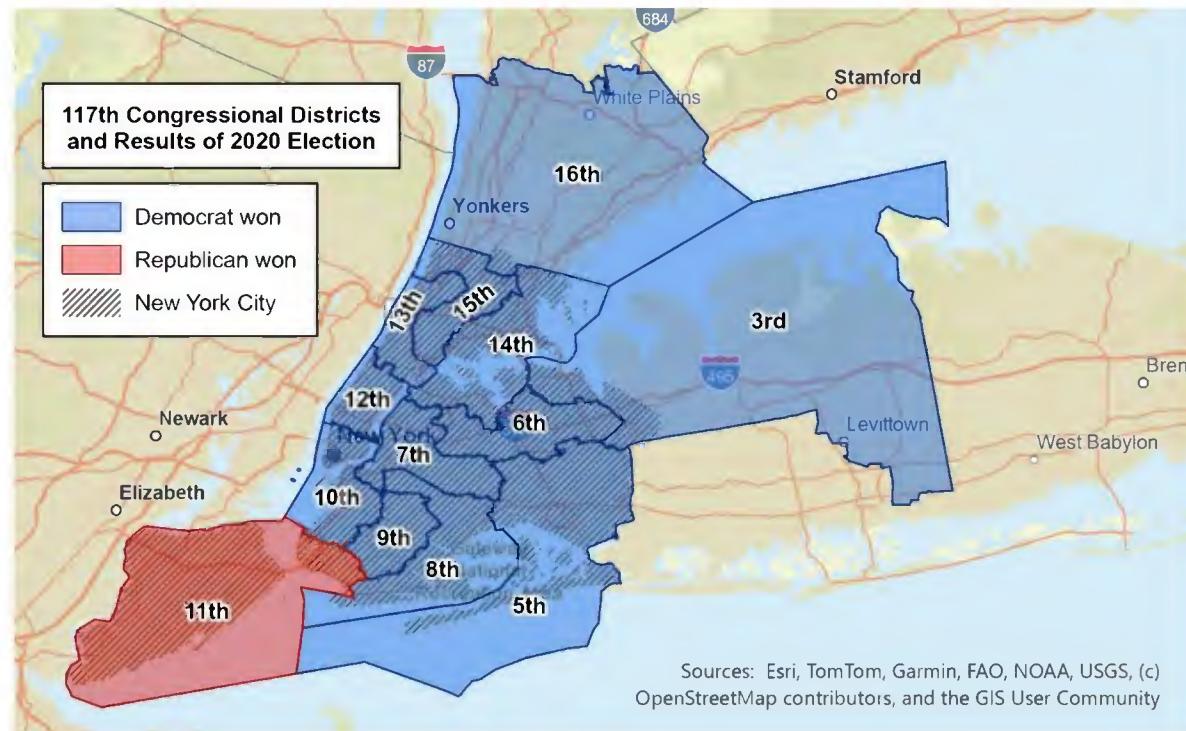
Figure VIII.A.3 New York 2018 U.S. House District 11 Results

Percent	Candidate	Party	Votes	Winner
53%	Max Rose	Dem	101,823	✓
46.6%	Dan Donovan*	GOP	89,441	
0.4%	Other		774	

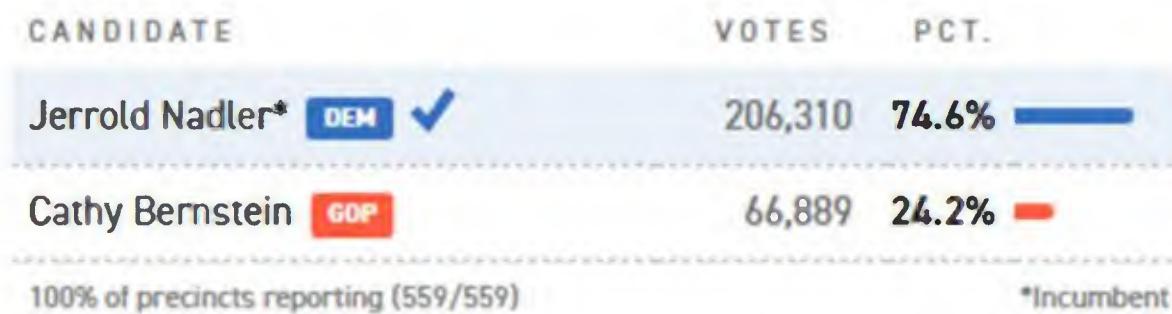
Source: <https://www.politico.com/election-results/2018/new-york/>

B. 2020 Election

186. In D10, the election was again a landslide, albeit with a lower 74.6% of the votes going to Democratic candidate Jerrold Nadler (see *Figure VIII.B.2*). But unlike the 2018 election, D11 swung to Republican candidate Nicole Malliotakis (see *Figure VIII.B.3*) with 53.1% of the votes, or a +6.5PP increase over Republican candidate Dan Donovan in 2018.

Figure VIII.B.1 NYC 2020 U.S. House Results

Sources: BGD analytics, <https://www.nytimes.com/interactive/2020/11/03/us/elections/results-house.html>

Figure VIII.B.2 New York 2020 U.S. House District 10 Results

Source: <https://www.politico.com/2020-election/results/new-york/house/>

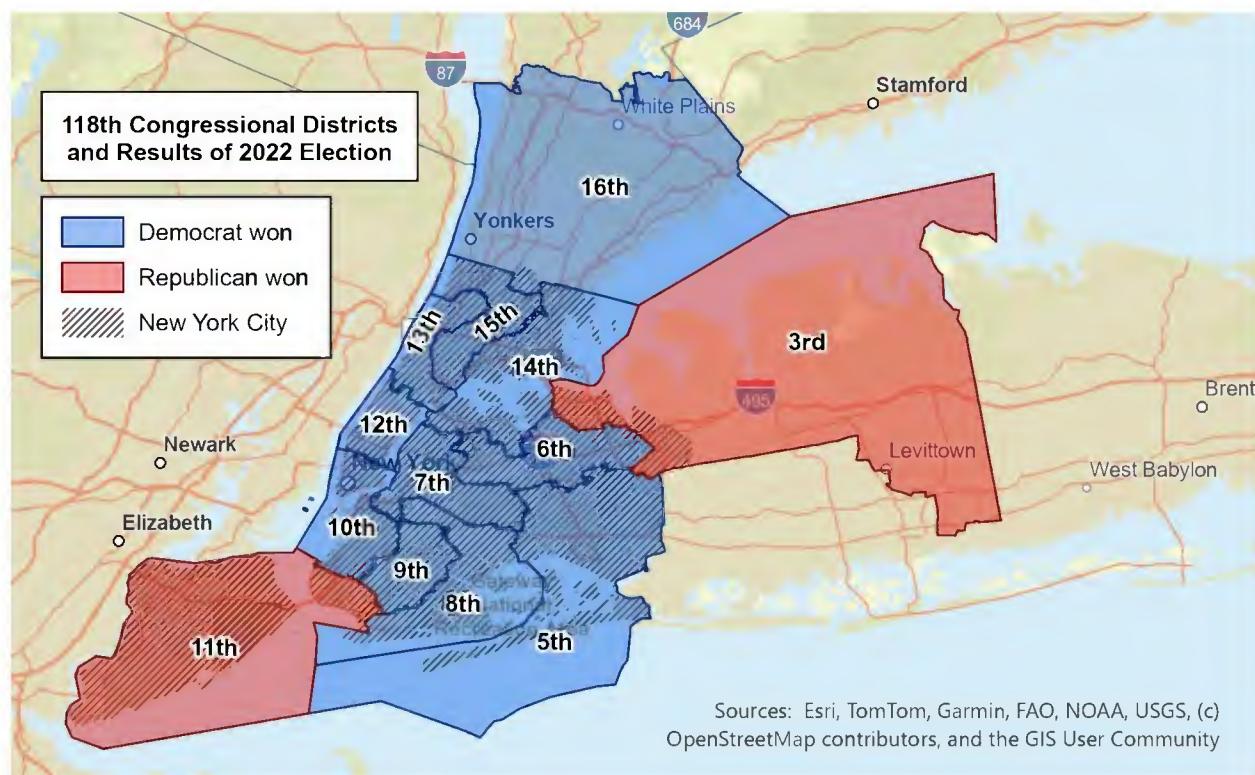
Figure VIII.B.3 New York 2020 U.S. House District 11 Results

Source: <https://www.politico.com/2020-election/results/new-york/house/>

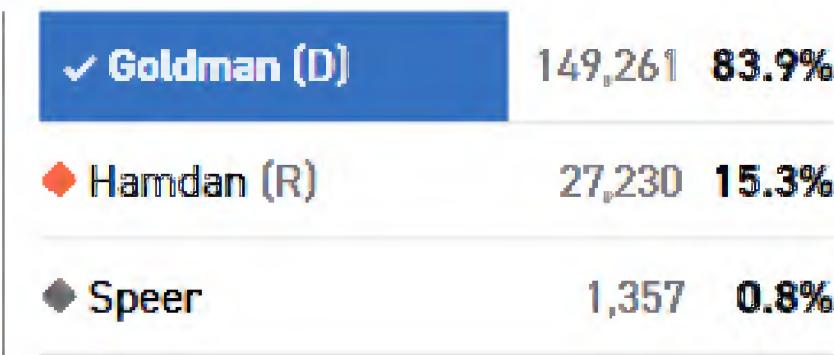
C. 2022 Election

187. The 2022 election was held under the newly drawn district boundaries coming out of the NY Special Master's draw for the 118th. This time, every U.S. House seat in and around NYC, except *two* (the 3rd and 11th), elected a Democrat (see [Figure VIII.C.1](#)). In D10, the election was again a landslide, with 83.9% of the votes going to Democratic candidate Daniel Goldman (see [Figure VIII.C.2](#)).

188. The new configuration of D11 under the 2021 Plan had 22.7% combined APBNH and Hispanic CVAP (see [Figure IV.F.1](#)) – comparable to the previous configuration that had 23.0% combined CVAP (see [Figure IV.D.1](#)). In this election, candidate Nicole Malliotakis won 62.1% of the vote (see [Figure VIII.C.3](#)) – an increase of +9.0PP over 2020.

Figure VIII.C.1 NYC 2022 U.S. House Results

Sources: BGD analytics, <https://www.nytimes.com/interactive/2018/11/06/us/elections/results-house-elections.html>

Figure VIII.C.2 New York 2022 U.S. House District 10 Results

Source: <https://www.politico.com/2022-election/results/new-york/house/>

Figure VIII.C.3 New York 2022 U.S. House District 11 Results



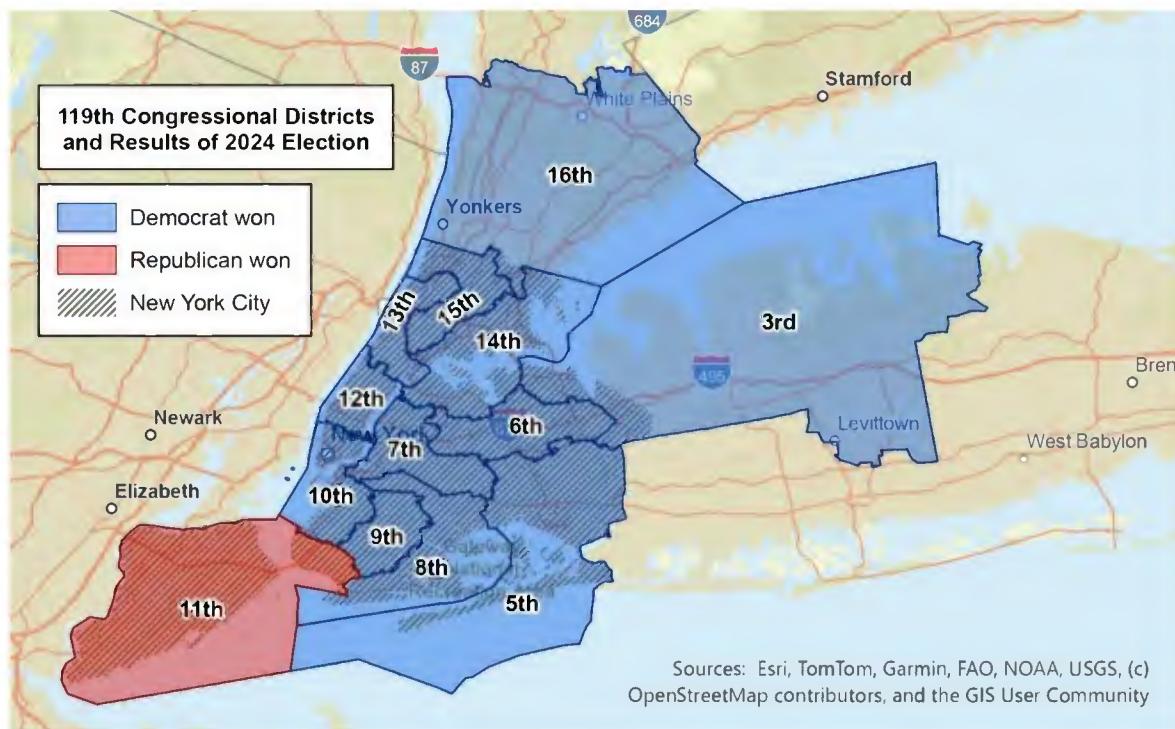
Source: <https://www.politico.com/2022-election/results/new-york/house/>

D. 2024 Election

189. The 2024 election was held under the second set of newly drawn district boundaries for the 119th. In U.S. House District 10, the election was again a landslide, with 82.3% of the votes going to Democratic candidate Daniel Goldman. (see [Figure VIII.D.2](#)). And just like the 2020 election, the 11th elected Republican Nicole Malliotakis (see [Figure VIII.D.3](#)). The new 2024 configuration of D11 had 22.7% combined APBNH and Hispanic CVAP (see [Figure IV.H.1](#)) – nearly identical to the % combined CVAP under the 2021 Plan. And in this election, candidate Malliotakis won 64.1% of the vote (see [Figure VIII.D.3](#)) – an increase of +11.0PP over 2020 and +2.0PP over 2022.

190. In total, over 52 U.S. House races in and around NYC (2018, 2020, 2022, and 2024 for 13 districts), Democrats won 48.

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Figure VIII.D.1 NYC 2022 U.S. House Results

Sources: BGD analytics, <https://www.politico.com/2024-election/results/new-york/house/>

Figure VIII.D.2 New York 2024 U.S. House District 10 Results

	Votes	Pct.
✓ Daniel Goldman* (D)	206,206	82.3%
● Alexander Dodenhoff (R)	37,537	15.0
● Paul Briscoe (Oth.)	6,747	2.7

Source: <https://www.politico.com/2024-election/results/new-york/house/>

Figure VIII.D.3 New York 2024 U.S. House District 11 Results

	Votes	Pct.
✓ Nicole Malliotakis* (R)	167,099	64.1%
○ Andrea Morse (D)	93,586	35.9

* Incumbent

99% of expected vote in

Source: <https://www.politico.com/2024-election/results/new-york/house/>**E. Cooper Plan**

191. The percentage voting Democrat in the 2024 elections is shown by precinct in [Figure VIII.E.1](#).⁷⁹ In order to assess the hypothetical U.S. House performance in Districts 10 and 11 under Cooper's Illustrative Plan, I have measured election outcomes of the individual voting precincts that Cooper moved, then aggregated those precincts to Cooper's Districts 10 and 11.

192. Cooper's draw moves 137 voting precincts (2024) from District 10 to District 11. In the 2024 election, those precincts had a distinct political preference. In the 2024 presidential race, 80.2% voted Democrat. In the 2024 U.S. Senate race, 81.4% voted Democrat. And in the 2024 U.S. House race, 80.5% voted Democrat (see [Table VIII.E.1](#)).

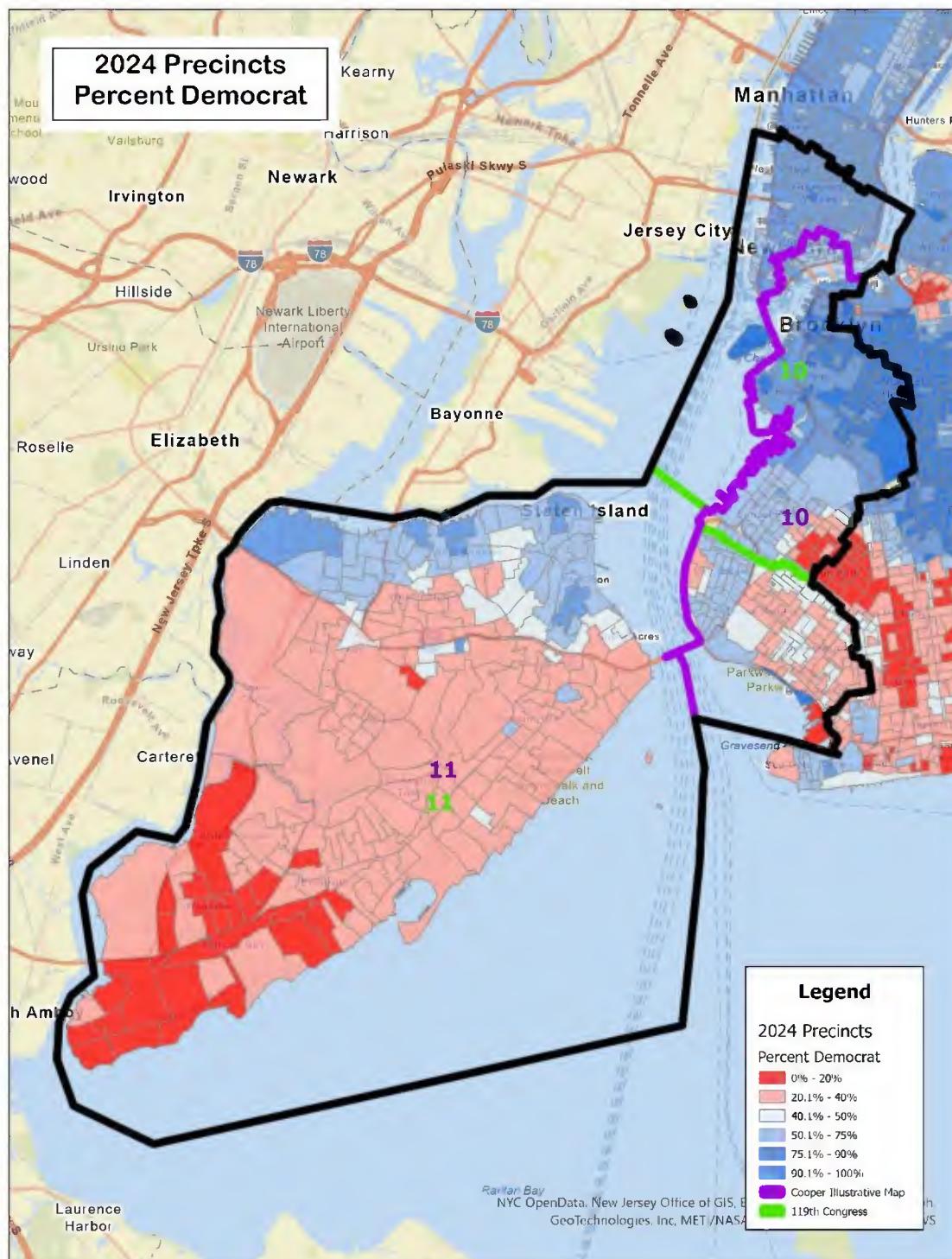
193. Cooper's draw moves 119 voting precincts (2024) from District 11 to District 10. In the 2024 election, those precincts *also* had a distinct political preference. In the 2024 presidential race, 41.5% voted Democrat. In the 2024 U.S. Senate race, 47.0% voted Democrat. And in the 2024 U.S. House race, 41.9% voted Democrat. (see [Table VIII.E.1](#)).

Table VIII.E.1 Cooper Illustrative Plan 2024 % Democrat Election Results for Moved Precincts

	Presidential	U.S. Senate	U.S. House
D10 to D11	80.2%	81.4%	80.5%
D11 to D10	41.5%	47.0%	41.9%

Sources: BGD analytics, University of Florida Elections Lab <https://election.lab.ufl.edu/>⁷⁹ As an average of the percentage voting Democrat in the presidential, U.S. Senate, and U.S. House races.

Figure VIII.E.1 Map of New York 2024 Voting Precincts % Democrat



Sources: BGD analytics, University of Florida Election Lab <https://election.lab.ufl.edu/>

194. As a result of these moves, Cooper's Illustrative Plan incurs a significant cost for Republicans in the only Republican congressional district among 13 in and around NYC. Had the 2024 U.S. House race been held under his plan, Democrats would have garnered 72.5% of the votes in Cooper's D10 (compared to the 82.3% in the actual election). While D11 becomes a dead heat (see Table VIII.E.2).

Table VIII.E.2 Cooper Illustrative Plan 2024 U.S. House Results

Cooper's	D11	D11	D10	D10	D10	Total	Total	Percent
District	Nicole Malliotakis (Rep.)	Andrea S. Morse (Dem.)	Paul J. Briscoe (Cons.)	Alexander Dodenhoff (Rep.)	Daniel Goldman (Dem.)	Rep. / Cons.	Dem.	Rep.
10	36,371	28,720	4,399	21,871	124,808	58,242	153,528	27.5%
11	130,728	64,866	2,348	15,684	81,398	146,412	146,264	50.0%

Sources: BGD Analytics, University of Florida Elections Lab <https://election.lab.ufl.edu/>

195. In summary, Cooper's Illustrative Plan significantly increases WNH CVAP representation in D11, fractionally increases APBNH and Hispanics, and significantly lowers Asian representation compared to the 2024 plan. Since the majority of the population change was WNH, yet the political characteristics of the precincts moved skew heavily against Republicans - it is difficult to arrive at the conclusion that Cooper's draw is intended to somehow benefit the two smaller minority populations in and around the district.

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IX. CONCLUSIONS

196. I have assessed the population characteristics of the pre-2020 Census, the 2021, the 2024, and Cooper's Illustrative Plan. My conclusions fall into two categories. First, how does Cooper's Illustrative Plan compare to the existing 2024 Plan? Then, what conflicts between the N.Y. VRA and the U.S. VRA does this case raise?

A. Demographics

197. Cooper's plan is inferior to the existing 2024 Plan in every traditional redistricting criterion. In summary, compared to the existing 2024 plan, Cooper's Illustrative Plan *increases* the percentage of White, non-Hispanic (WNH) CVAP by +2.6PP. He increases APBNH by +1.1PP and Hispanics by +0.9PP. While Asians are reduced by -4.6PP. That is, all of Cooper's efforts to redraw a district benefitting APBNH and Hispanics result in significantly increased representation of WNH, a fractional increase for APBNH and Hispanics, and the slashing of the largest single minority CVAP in D11: Asians.

B. Compactness

198. The compactness of Cooper's plan is inferior to that of the existing plan in every regard. His defense of his draw being compact because two separate, distant pieces connected by water are compact defies logic and precedent and invites future draws that could be absurd. The empirical compactness scores of Cooper's Illustrative Plan are all inferior to those of the 2024 Plan. Per the criteria of the *APA* court, Cooper's draw of the 11th fails the "eyeball test". And since D11 clearly "reaches out to grab small and apparently isolated minority communities," it does not provide population compactness. While this is fundamentally important under the U.S. VRA and the N.Y Constitution (under which this case was filed) – compactness (or the lack thereof) of minority districts is irrelevant under the N.Y. VRA. The guidance of the N.Y. VRA for a map drawer to ignore compactness has the potential to result in absurd, unbelievable districts. It is conceivable under the existing N.Y. VRA guidance that a small minority population that could potentially have influence could be joined to some other small minority population far away that would have effectively no compactness and would subordinate the will of an overwhelming majority of voters in both places.

C. Communities of Interest

199. The impact of Cooper's draw on communities of interest is profound. His draw splits 20 VTDs from 2020, and a dozen existing, and known 2024 New York precincts – and says nothing to explain why. By comparison, the current 2024 Plan splits no precincts. Both the 2024 Plan and Cooper's Illustrative Plan split two neighborhoods, defined as NTAs. Last, Cooper's draw of the 10th and the 11th significantly divides and unbalances the Asian population. In D11, Asians would be reduced from the single largest CVAP minority population (at 17.7%) to only 12.4% - while in D10 they would be elevated to being larger

(23.4%) than APBNH and Hispanics combined (22.5%). Not only are the changes in the numbers of minorities striking, but *where* Cooper draws his boundaries is remarkable as well. He divides a large, contiguous Asian population in Lower Manhattan in half, leaving one smaller part on its own (in D11) and joins the other (primarily defined by Chinatown) to distant neighborhoods in Brooklyn – all of which are majority White or Hispanic, and have different characteristics of Asians than in Lower Manhattan.

D. Politics

200. It is notable that D11 is being litigated, since it is the only district currently being held by a Republican. Every congressional district in and around New York has a wide variety of coalition APBNH and Hispanic populations. Some with far more, and some with far less – all of which are reliably electing Democrats. Yet D11 is alleged to be uniquely violating the N.Y. VRA. The proposed remedy for this is to significantly rearrange D10 and D11, to strengthen WNH CVAP far more than the APBNH + Hispanics – at the expense of the Asian community.

201. Notably, the percentage of APBNH + Hispanics has remained nearly the same under each one of the different districting configurations, from pre-2020 Census, to the 2021 Plan, to the 2024 Plan. And politically, all that has changed is that a district that elected a Democrat in 2018 has now elected a Republican by increasing margins in each successive election. Under Cooper's Illustrative Plan, that Republican majority is erased, and D11 would become a dead heat. The greatest feat of Cooper's plan is to make the only Republican-held congressional district in and around New York competitive for Democrats.

E. N.Y. Constitution, U.S. VRA vs the N.Y. VRA

202. In assessing Cooper's Illustrative Plan, several conflicts emerge between the N.Y. Constitution, the N.Y. VRA, and the U.S. VRA. In the U.S. VRA, the first Gingles precondition states that a minority population must be two things: a majority in an area, and compact. And the N.Y. Constitution (under which this case was filed) requires compactness. By comparison, the N.Y. VRA requires neither a majority nor compactness. If any population's rights are infringed, they are entitled to protection under the N.Y. VRA. However large they must be to constitute an "influence" is undetermined. Is 10% an influence? 20%? What if other districts are already electing the political candidate of choice of the minorities when they have even fewer minorities? If a district has a single large majority-minority population (such as Asians in D11), are their rights somehow subordinate to a coalition of larger minorities? And what if it were determined that a minority of White, non-Hispanics were unable to elect a candidate of *their* choice? The language of §17-204 states:

"Protected class" means a class of individuals who are members of a race, color, or language minority group, including individuals who are members of a minimum reporting category that has ever been officially recognized by the United States Census Bureau.

203. The literal reading of this is *any* demographic group, not just minority groups whose voting rights have historically been infringed. In the recent (2025) *Clarke v Town of Newburgh* decision, the New York Supreme Court wrote⁸⁰

Bearing this maxim in mind, **we agree with the plaintiffs and the AG that the statute should be construed as allowing members of all racial groups, including white voters, to bring vote dilution claims**, [emphasis added] including when white voters constitute a minority in a political subdivision, as is the case in certain jurisdictions in New York (see *Portugal v Franklin County*, 1 Wash 3d at 648, 530 P3d at 1006 [stating that the Washington Voting Rights Act, which similarly allows “voters who are members of a race, color, or language minority group in the state of Washington, as this class is referenced and defined in the (FVRA)” (Wash Rev Code § 29A.92.010 [6]) to bring vote dilution claims, “on its face, . . . requires equal opportunit(ies) for voters of all races, colors, and language minority groups” (internal quotation marks omitted)]; *Sanchez v City of Modesto*, 145 Cal App 4th 660, 666, 51 Cal Rptr 3d 821, 826 [Ct App 2007] [stating that the CVRA, which similarly allows “voters who are members of a race, color, or language minority group, as this class is referenced and defined in the federal Voting Rights Act of 1965” (Cal Elec Code § 14026 [d]) to bring vote dilution claims, “gives a cause of action to members of any racial or ethnic group that can establish that its members’ votes are diluted through the combination of racially polarized voting and an at-large election system” and *34 that “any racial group can experience the kind of vote dilution the CVRA was designed to combat, including Whites. Just as non-Whites in majority-White cities may have a cause of action under the CVRA, so may Whites in majority-non-White cities.

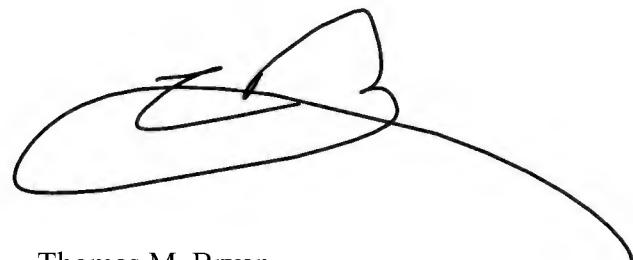
204. So in congressional districts such as the 13th, 14th, and 15th, where White non-Hispanics are significant minorities, the N.Y. VRA appears to avail *them* relief, if it is determined that the existing elected representatives are not *their* candidate of choice. In D14, for example, where Alexandria Ocasio-Cortez is the representative, what if a minority of White, non-Hispanic voters claimed Rep. Ocasio-Cortez was not *their* candidate of choice and demanded representation because *they* were a minority? What if those minority White voters were Republican? Should they be entitled to a different representative to replace Rep. Ocasio-Cortez because they are minorities, overriding the majority electoral will of the numerous majority-minority population who elected Rep. Ocasio-Cortez? If this case is held, then does the precedent become that any minority voter’s rights prevail over the majority in every congressional district in the state? Or any representative district? And whichever minorities rights prevail (Asians, Hispanics, Blacks, or Whites) and their subsequent representation becomes a matter of litigation, not the electoral will of the majority of the voters.

⁸⁰ 237 A.D.3d 14, 226 N.Y.S.3d 310, 2025 N.Y. Slip Op. 00518 Supreme Court, Appellate Division, Second Department, New York 2024-11753, 2460/24 January 30, 2025

ADMITTED 01/07/2026

205. The guidance of the N.Y. VRA needs to be clarified to help determine what exactly is, and is not allowed, and to resolve differences with the U.S. VRA and the N.Y. Constitution.

Submitted: January 2, 2026

A handwritten signature in black ink, appearing to read "Thomas M. Bryan". The signature is fluid and cursive, with a large, sweeping flourish on the right side.

Thomas M. Bryan

X. REFERENCES

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XI. APPENDICES

Appendix A: Current New York House of Representatives Delegation

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Appendix A: Current New York House of Representatives Delegation

Representative	% APBNH + Hispanic	% Democrat 2024	Race
1. Nick LaLota (R)	20.1%	44%	WNH
2. Andrew Garbarino (R)	38.0%	40%	WNH
3. Tom Suozzi (D)	19.2%	52%	WNH
4. Laura Gillen (D)	39.7%	51%	WNH
5. Gregory Meeks (D)	64.3%	73%	Black
6. Grace Meng (D)	29.3%	61%	Asian
7. Nydia Velázquez (D)	46.9%	78%	Hispanic
8. Hakeem Jeffries (D)	61.3%	75%	Black
9. Yvette Clarke (D)	55.2%	74%	Black
10. Dan Goldman (D)	25.6%	82%	WNH
11. Nicole Malliotakis (R)	25.7%	36%	Hispanic
12. Jerry Nadler (D)	16.8%	81%	WNH
13. Adriano Espaillat (D)	77.3%	84%	Black & Hisp.
14. Alexandria Ocasio-Cortez (D)	66.9%	69%	Hispanic
15. Ritchie Torres (D)	85.5%	77%	Black & Hisp.
16. George Latimer (D)	50.8%	72%	WNH
17. Mike Lawler (R)	27.8%	46%	WNH
18. Pat Ryan (D)	29.5%	57%	WNH
19. Josh Riley (D)	12.5%	51%	WNH
20. Paul Tonko (D)	18.3%	61%	WNH
21. Elise Stefanik (R)	6.9%	38%	WNH
22. John Mannion (D)	16.5%	55%	WNH
23. Nick Langworthy (R)	6.7%	34%	WNH
24. Claudia Tenney (R)	7.7%	34%	WNH
25. Joseph Morelle (D)	25.6%	61%	WNH
26. Tim Kennedy (D)	27.0%	65%	WNH

Sources, 2024 U.S. House election results, <https://history.house.gov/People/Search/>,
<https://www.politico.com/2024-election/results/new-york/house/>

Appendix B: U.S. VRA vs. N.Y. VRA

State Voting Rights Act Overview

In recent years, a growing number of states have turned to State Voting Rights Acts (SVRAs) to fill the gaps left by the weakening of federal protections offered by the Voting Rights Act of 1965 (VRA). Many have been enacted in response to the outcome of *Shelby v. Holder* (2013), which dismantled the Section 4 preclearance formula. This invalidated the coverage formula determining which jurisdictions required federal review prior to the implementation of new rules, due to a history of racial discrimination.⁸¹ As a result, states seeking to guard against racial vote denial, dilution, and retrogression have increasingly begun enacting their own, more expansive safeguards. Unlike the federal VRA, which reaches from congressional districts down to local governments, SVRAs typically focus on local political jurisdictions and do not apply to congressional redistricting.

California enacted the first SVRA in 2002, followed by Illinois in 2011. After *Shelby*, six more states followed suit: Washington in 2018, Oregon in 2019, Virginia in 2021, New York in 2022, Connecticut in 2023, and Minnesota in 2024.⁸² With the newer, post-*Shelby* statutes, state and federal voting-rights protections have meaningfully diverged. Modern SVRAs often provide broader and more flexible tools than those available under federal law, including remedies that go far beyond mandatory single-member districts to address vote dilution.⁸³ Their provisions often include state-level preclearance requirements, prohibitions on voter intimidation, authorization of coalition or crossover districts, enhanced private rights of action, and the creation of state voting-related databases or dedicated enforcement funds.⁸⁴ State VRAs therefore often not only mirror, but exceed the goals of the federal VRA. For example, they encourage courts to craft locally tailored remedies, prioritize community input in the remediation process, and prevent discriminatory jurisdictions from defaulting to their preferred remedial plans.⁸⁵

The N.Y. VRA

In 2014, New York voters approved constitutional amendments (the “Redistricting Amendments”) that expressly prohibit race discrimination and racial vote dilution in voting in state assembly, senate, and congressional elections. In particular, Article III, Section 4(c)(1) provides that: “districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement” of minority voting rights. Further, “[d]istricts shall be drawn so that, based on the

⁸¹ <https://www.oyez.org/cases/2012/12-96>

⁸² <https://www.ncsl.org/state-legislatures-news/details/legislatures-pursue-state-level-voting-rights-acts>

⁸³ <https://fordhamdemocracyproject.com/2025/05/08/new-horizons-for-protecting-and-expanding-voting-rights-in-the-states/>

⁸⁴ <https://www.ncsl.org/elections-and-campaigns/state-voting-rights-acts>

⁸⁵ <https://campaignlegal.org/update/new-york-joins-other-states-enacting-state-level-voting-rights-act>

totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice.”

In 2022, the New York Legislature passed new legislation that extended the Constitution’s prohibition on voter suppression and vote dilution to local political subdivisions—the John R. Lewis Voting Rights Act of New York (the “NY VRA”) (N.Y. Elec. Law § 17-200). It is the most comprehensive SVRA in the country.⁸⁶ The language of the NY VRA mirrors the language of the constitutional prohibition against vote dilution in Section II, which states that “No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.” Courts have long interpreted this to include vote dilution, such as at-large elections that drown out minority voting power, gerrymandered districts that split or pack minority communities, and multi-member districts that minimize minority influence. Voter dilution in federal VRA cases is generally established through the Gingles preconditions.

§ 17-206(1)(a) of the N.Y. VRA provides that “No voting qualification, prerequisite to voting, law, ordinance, standard, practice, procedure, regulation, or policy shall be enacted or implemented by any board of elections or political subdivision in a manner that results in a denial or abridgment of the right of members of a protected class to vote.” Further, “No board of elections or political subdivision shall use any method of election, having the effect of impairing the ability of members of a protected class to elect candidates of their choice or influence the outcomes of elections, as a result of vote dilution.” The NYVRA is vastly broader than the U.S. VRA in that this is determined when the voting patterns of members of the protected class within the political subdivision are racially polarized, *or (not “and”)*, under the totality of the circumstances, the ability of members of the protected class to elect candidates of their choice or influence the outcome of elections is impaired.

§ 17-206(3) is a comprehensive outline of how exactly the NYVRA determines whether a violation has occurred. The VRA does not specify an exact formula or list of criteria, instead relying on the Gingles preconditions to identify dilution under a totality of circumstances. Factors that may be considered include, but are not limited to:

- (a) the history of discrimination in or affecting the political subdivision;
- (b) the extent to which members of the protected class have been elected to office in the political subdivision;

⁸⁶ <https://campaignlegal.org/update/new-york-joins-other-states-enacting-state-level-voting-rights-act>

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- (c) the use of any voting qualification, prerequisite to voting, law, ordinance, standard, practice, procedure, regulation, or policy that may enhance the dilutive effects of the election scheme;
- (d) denying eligible voters or candidates who are members of the protected class to processes determining which groups of candidates receive access to the ballot, financial support, or other support in a given election;
- (e) the extent to which members of the protected class contribute to political campaigns at lower rates;
- (f) the extent to which members of a protected class in the state or political subdivision vote at lower rates than other members of the electorate;
- (g) the extent to which members of the protected class are disadvantaged in areas including but not limited to education, employment, health, criminal justice, housing, land use, or environmental protection;
- (h) the extent to which members of the protected class are disadvantaged in other areas which may hinder their ability to participate effectively in the political process;
- (i) the use of overt or subtle racial appeals in political campaigns;
- (j) a significant lack of responsiveness on the part of elected officials to the particularized needs of members of the protected class; and
- (k) whether the political subdivision has a compelling policy justification that is substantiated and supported by evidence for adopting or maintaining the method of election or the voting qualification, prerequisite to voting, law, ordinance, standard, practice, procedure, regulation, or policy.

The N.Y. VRA does *not* require the plaintiff to show that a district could have been drawn that would have a majority of residents of a single protected class. A plaintiff need only show that the current district map is responsible for the protected class's lack of electoral influence based on the existence of racially polarized voting or the totality of the circumstances. Otherwise, the NYVRA strengthens and adds several other provisions that make it easier to challenge discriminatory election practices. Specific comparisons of the U.S. VRA and N.Y. VRA follow:

Coalition Districts

The N.Y. VRA offers more flexible and expansive remedies than the U.S. VRA. NY courts may order coalition districts, crossover districts, influence districts, and alternative voting systems to solve voter dilution cases. By contrast, coalition districts are not protected under the U.S. VRA, as determined in *Petteway v. Galveston County*.

§ 17-206 2(c) prescribes:

- (iv) where there is evidence that more than one protected class of eligible voters are politically cohesive in the political subdivision, members of each of those protected classes may be combined;
- (v) evidence concerning the intent on the part of the voters, elected officials, or the political subdivision to discriminate against a protected class is not required;
- (vi) evidence that voting patterns and election outcomes could be explained by factors other than racially polarized voting, including but not limited to partisanship, shall not be considered;
- (vii) evidence that sub-groups within a protected class have different voting patterns shall not be considered;
- (viii) evidence concerning whether members of a protected class are geographically compact or concentrated shall not be considered, but may be a factor in determining an appropriate remedy;

and (ix) evidence concerning projected changes in population or demographics shall not be considered, but may be a factor, in determining an appropriate remedy.

The salient parts of the N.Y. VRA and comparative features of the U.S. VRA are as follows:

Language Proficiency

§ 17-208: Language access requirements for voters with limited English proficiency are expanded beyond what is required by federal law. For jurisdictions whose populations have more than 2% or over 4,000 voting-age citizens, or contain a Native American Reservation, the subdivision is required to provide all voting materials (such as registration, ballots, voting notices, etc.) in both English and the language of the applicable language-minority group. The NYVRA also lowers the threshold of the required voting age population for each particular language minority, covering languages in more jurisdictions than the federal VRA.⁸⁷

Section 203 of the U.S. VRA requires that certain states and political subdivisions provide language assistance during elections for certain language minority groups who are unable to

⁸⁷ <https://www.naacpldf.org/wp-content/uploads/NYVRA-Fact-Sheet-Language-Assistance.pdf>

speak or understand English adequately enough to participate in the electoral process. The law covers those localities where there are more than 10,000, or over 5%, of the total voting age citizens in a single political subdivision who are members of a single language minority group, have depressed literacy rates, and do not speak English very well. Political subdivisions also may be covered through a separate determination for Indian Reservations. Determinations are based on data from the most recent Census, and the determinations are made by the Census Director.

Preclearance

§ 17-210: The NYVRA establishes state-level preclearance guidelines, requiring certain localities to obtain approval from the New York Attorney General's Civil Rights Bureau or a state court before implementing specified election-related changes. Covered policies include alterations to voting qualifications; prerequisites to voting; method of election; annexation, incorporation, or consolidation of political subdivisions; removal of voters from enrollment lists' number, location, or hours of poll sites; dates of elections; voter registration; and assistance for language-minority groups. "Covered entities" are defined as jurisdictions that have either (1) been found to violate civil rights laws within the past twenty-five years, or (2) demonstrated a dissimilarity index exceeding fifty within the previous ten years. For preclearance disputes, the statute also provides expedited judicial proceedings and preliminary relief options.

Section 5 of the U.S. VRA was enacted to freeze changes in election practices or procedures in covered jurisdictions until the new procedures have been determined, either after administrative review by the Attorney General, or after a lawsuit before the United States District Court for the District of Columbia, to have neither a discriminatory purpose nor effect. Section 5 provides two methods for a covered jurisdiction to comply with Section 5. The first method is by means of a declaratory judgment action filed by the covered jurisdiction in the D.C. District Court, and the second method is administrative review by the Civil Rights Division of the Department of Justice. Although the Court's decision in *Shelby* invalidated the Section 4 coverage formula, Section 5 itself remains intact. The Court left open the possibility that "Congress may draft another formula based on current conditions" using "current data reflecting current needs,"⁸⁸ but Congress has not done so despite several unsuccessful proposals.⁸⁹

⁸⁸ <https://democrats-judiciary.house.gov/media-center/press-releases/bipartisan-judiciary-members-supreme-court-acknowledges-the-work-of-the-voting-rights-act-is-not-complete>

⁸⁹ <https://www.brennancenter.org/our-work/research-reports/preclearance-under-voting-rights-act>

Voter Intimidation

§ 17-212: The NYVRA establishes robust protections against voter intimidation, deception, and obstruction. A violation occurs when an individual: (1) uses or threatens force in a manner reasonably likely to influence a person's voting behavior; (2) knowingly spreads deceptive or fraudulent information about election logistics, voter eligibility, consequences of voting, or endorsements, in a way that is reasonably likely to interfere with someone's ability to vote or voting behavior; or (3) obstructs access to polling places or election offices, or otherwise delays voters or the voting process, including ballot canvassing and tabulation. It provides flexible civil remedies for victims: "Upon a finding of a violation of any provision of this section, the court shall implement appropriate remedies that are tailored to remedy the violation, including but not limited to providing for additional time to cast a ballot that may be counted in the election at issue. Any party who shall violate any of the provisions...shall be liable to any prevailing plaintiff party for damages, including nominal damages for any violation, and compensatory or punitive damages for any intentional violation.

Section 11(b) of the U.S. VRA prohibits actual or attempted "intimidation," "threats," or "coercion" against a person "for voting or attempting to vote" or "for urging or aiding any person to vote or attempt to vote." No intent to intimidate is required so long as the behavior has the effect of intimidating voters. Section 12 notably provides criminal penalties absent from the NYVRA: "Whoever shall deprive or attempt to deprive any person of any right secured by section 2, 3, 4, 5, 7, or 10 or shall violate section 11(a) or (b), shall be fined not more than \$5,000, or imprisoned not more than five years, or both." This applies to those conspiring to commit a violation as well. The U.S. Attorney General may also bring actions for preventive relief, including temporary or permanent injunctions, restraining orders, or other directives requiring state or local election officials to permit eligible persons to vote and to count those votes.

Enforcement

§ 17-214: The N.Y. VRA is enforced by the New York Attorney General, who is authorized to bring civil actions to prevent or remedy violations.

The U.S. VRA is enforced primarily by the U.S. Department of Justice as well as private plaintiffs, who may bring lawsuits seeking injunctions, declaratory judgments, or other equitable relief.

Interpretation

§ 17-200: The N.Y. VRA instructs state judges to interpret election laws in a pro-voter way whenever possible: "all statutes, rules and regulations . . . shall be construed liberally in favor of . . . ensuring voters of race, color, and language-minority groups have equitable access to fully participate in the electoral process in registering to vote and voting."

The U.S. VRA provides rigorous guidance through Gingles Preconditions and totality of circumstance guidance for courts to determine VRA compliance

NYVRA Controversies

On March 26, 2024, six Black and Hispanic voters filed a complaint against the town of Newburgh, N.Y., for utilizing an at-large voting system that allegedly violated the newly enacted NYVRA. Newburgh contended that the vote-dilution provisions of N.Y. VRA violate the Equal Protection Clause of both the U.S. Constitution (14th Amendment) and the New York Constitution. They argued that the N.Y. VRA creates race-based classifications: by banning election systems (like at-large elections) that have racially polarized effects, Newburgh claimed the law forces them to make decisions based on race, triggering strict scrutiny. It creates a sort of catch-22: changing their election system to comply would mean adopting another election system based entirely on race, a violation of equal protection itself.⁹⁰ The trial judge issued a ruling invalidating the N.Y. VRA as unconstitutional, but it was swiftly overturned on appeal.⁹¹ The appellate judge decided that the N.Y. VRA does not necessarily force an equal protection violation, as there are remedies available that are not based on race (such as ranked-choice voting and increasing voter education). Just days ago, on November 20th, the Court of Appeals affirmed that local government cannot assert a state or federal equal protection challenge to the vote dilution provision of the state's VRA, and the plaintiff's challenge did not fall within a narrow exception for when compliance with legislation would force the municipality to violate the Constitution.

⁹⁰ https://vhdsf2oms2wcnsvk7sdv3so.blob.core.windows.net/thearp-media/documents/NY_2024_11753_12.9.24_1259.pdf

⁹¹ https://campaignlegal.org/cases-actions/defending-new-yorkers-ability-use-new-york-voting-rights-act-challenge-discrimination?utm_source=chatgpt.com

Appendix C.1: CVAP Pre-2020 Census

<u>116th</u>	<u>Total</u>	<u>WNH</u>	<u>APBNH</u>	<u>ANH</u>	<u>HISP</u>	<u>APBNH + HISP</u>
3	541,378	381,176	18,118	85,789	52,399	70,516
5	522,721	69,122	271,915	86,025	85,851	357,766
6	457,365	180,373	24,756	160,254	87,336	112,092
7	458,913	171,321	51,240	73,520	159,029	210,269
8	556,584	152,712	273,133	37,213	88,441	361,574
9	499,237	173,365	232,443	37,119	52,606	285,049
10	506,116	330,062	28,289	83,764	60,024	88,313
11	511,163	317,211	39,335	73,512	78,386	117,721
12	560,097	379,438	34,958	70,161	69,853	104,811
13	484,060	89,919	141,131	26,013	222,956	364,087
14	400,149	115,913	47,307	68,240	164,996	212,303
15	434,223	16,281	148,131	8,784	257,468	405,599
16	517,080	195,733	162,241	27,291	127,741	289,983
Total	6,449,086	2,572,626	1,472,997	837,683	1,507,085	2,980,083

Sources: 2019-2023 American Community Survey, Census TIGER, BGD analysis

Total: Total CVAP

WNH: White, non-Hispanic CVAP

APBNH: Any Part Black, non-Hispanic CVAP, including Black or African American Alone, in combination with White and American Indian or Alaska Native.

ANH: Asian, non-Hispanic CVAP, including Asian alone and in combination with White

HISP: Hispanic

Appendix C.2: CVAP 2021 Plan

<u>118th</u>	<u>Total</u>	<u>WNH</u>	<u>APBNH</u>	<u>ANH</u>	<u>HISP</u>	<u>APBNH + HISP</u>
3	559,447	358,685	21,064	110,928	64,230	85,294
5	520,923	87,103	249,866	84,301	90,254	340,120
6	434,427	150,819	24,564	162,376	92,079	116,642
7	490,454	202,737	68,086	59,437	155,085	223,172
8	517,532	156,231	243,414	38,780	75,475	318,889
9	485,960	163,393	233,344	36,565	48,951	282,295
10	500,756	283,817	39,259	87,635	85,569	124,828
11	509,518	304,276	37,439	86,576	78,164	115,603
12	548,664	394,163	31,364	60,175	58,695	90,059
13	510,852	101,492	147,162	27,318	230,375	377,537
14	440,634	101,570	92,233	46,626	195,924	288,157
15	456,954	53,138	156,415	13,871	229,640	386,055
16	521,326	245,384	118,180	31,974	122,248	240,428
Total	6,497,447	2,602,808	1,462,388	846,564	1,526,692	2,989,080

Sources: 2019-2023 American Community Survey, Census TIGER, BGD analysis

Total: Total CVAP

WNH: White, non-Hispanic CVAP

APBNH: Any Part Black, non-Hispanic CVAP, including Black or African American Alone, in combination with White and American Indian or Alaska Native.

ANH: Asian, non-Hispanic CVAP, including Asian alone and in combination with White

HISP: Hispanic

Appendix C.3: CVAP 2024 Plan

<u>119th</u>	<u>Total</u>	<u>WNH</u>	<u>APBNH</u>	<u>ANH</u>	<u>HISP</u>	<u>APBNH + HISP</u>
3	555,988	351,543	22,608	111,534	65,760	88,368
5	520,923	87,103	249,866	84,301	90,254	340,120
6	426,340	144,503	25,885	159,506	92,081	117,966
7	485,998	199,561	66,001	57,755	157,879	223,880
8	522,204	160,072	245,380	40,186	72,636	318,016
9	486,593	163,144	234,481	36,132	49,143	283,625
10	499,907	283,401	38,241	88,344	85,423	123,664
11	509,518	304,276	37,439	86,576	78,164	115,603
12	548,664	394,163	31,364	60,175	58,695	90,059
13	510,852	101,492	147,162	27,318	230,375	377,537
14	441,719	107,020	78,142	48,962	202,930	281,072
15	458,048	53,485	166,380	15,052	219,518	385,899
16	527,234	245,903	120,983	31,328	125,362	246,345
Total	6,493,988	2,595,666	1,463,932	847,170	1,528,222	2,992,154

Sources: 2019-2023 American Community Survey, Census TIGER, BGD analysis

Total: Total CVAP

WNH: White, non-Hispanic CVAP

APBNH: Any Part Black, non-Hispanic CVAP, including Black or African American Alone, in combination with White and American Indian or Alaska Native.

ANH: Asian, non-Hispanic CVAP, including Asian alone and in combination with White

HISP: Hispanic

Appendix D: Compactness

The Reock compactness score (Reock, 1961) is computed by dividing the area of the district by the area of the smallest circle that would completely enclose it. Since the circle encloses the district, its area cannot be less than that of the district, and so the Reock compactness score will always be a number between 0 and 1 (which may be expressed as a percentage). The Reock Score is the ratio of the area of the district to the area of a minimum bounding circle that encloses the district's geometry.

Reock score:

$$\frac{\text{Area (D)}}{\text{Area of the Minimum Bounding Circle}}$$

The Area/Convex Hull test computes the ratio of is the ratio of the area of the district to the area of the convex hull of the district - the minimum convex polygon that completely contains the district. This measure is always between 0 and 1, with 1 being the most compact.

Convex Hull score

$$\frac{\text{Area (D)}}{\text{Area of the Convex Hull of the District}}$$

Reock: Area of district relative to area of smallest circle that contains it.



Convex-Hull: Area of district relative to area of smallest convex polygon containing it.



Polsby-Popper: Area of district relative to area of circle with same circumference as the district perimeter.

The Polsby-Popper (PP) measure is the ratio of the area of the district to the area of a circle whose circumference is equal to the perimeter of the district. The factor 4π ensures that the resulting score takes a value between 0 and 1 - with 1 being entirely circular and the most compact.

Polsby-Popper score

$$P_P = \frac{4\pi \times \text{Area}(D)}{\text{Perimeter}(D)^2}$$

The Schwartzberg test (Schwartzberg, 1966) is a perimeter-based measure that compares a simplified version of each district to a circle, which is considered to be the most compact shape possible. Taking the square root of the inverse Polsby-Popper score gives the Schwartzberg score (Belotti, 2023) which notably results in an identical ranking of geographies. Unlike other measures, the scale of Schwartzberg values is *above* 1, with *lower* values approaching 1 being the most compact.

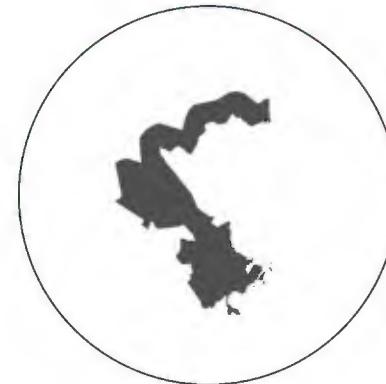
Schwartzberg score

$$P_P = \frac{4\pi \times \text{Area}(D)}{\text{Perimeter}(D)^2}$$

The Polsby-Popper and Schwartzberg ratios place high importance on district perimeter. Belotti, et al. (2025) report:

One criticism of perimeter-related scores is that they suffer from the Coastline Paradox, in which boundary lengths are not well-defined and depend on the choice of map projection and the “size of your ruler” (Bar-Natan et al. 2020, Barnes and Solomon 2021). Another criticism can be summarized with the slogan “land does not vote; people do”. In 2010, 47% of all census blocks were uninhabited (Freeman 2014); reassigning these blocks to different districts can significantly change the Polsby-Popper score, but the districts would function the same.

This is precisely why it is important to use multiple compactness scores (in this case the Polsby-Popper, Schwartzberg, Reock and Convex Hull measures) and let the reader judge which one is a better fit based on the geography of the district and method of calculation each score uses. A higher score means more compact, but the scores using different measures cannot be directly compared to each other.



Schwartzberg: Ratio of district to a circle with the same area as the district.



Appendix E: Differential Core Retention between the Pre-2020 Census (116th) and 2024 (119th) Enacted Plans

<u>116th</u>	<u>119th</u>	<u>Total</u>	<u>WNH</u>	<u>BNH</u>	<u>ANH</u>	<u>HISP</u>
7	8	227	71	20	4	132
7	10	207,469	86,984	19,349	47,637	51,544
7	11	206	78	0	128	0
7 Total		207,902	87,133	19,369	47,769	51,677
8	8	408,753	105,814	220,193	19,910	59,308
8	9	32,887	3,319	25,073	1,624	2,680
8	10	11,667	6,051	2,118	1,714	1,416
8 Total		453,308	115,183	247,384	23,248	63,404
9	8	73,889	31,113	22,297	10,884	9,289
9	9	366,821	100,588	205,489	20,117	37,749
9	10	58,526	41,664	4,657	6,118	5,567
9 Total		499,237	173,365	232,443	37,119	52,606
10	9	72,260	48,256	3,521	12,598	7,336
10	10	139,715	97,810	6,699	20,302	13,980
10	11	52,108	21,042	1,372	24,117	5,062
10	12	220,333	150,351	14,388	23,726	30,250
10	13	21,701	12,602	2,310	3,021	3,397
10 Total		506,116	330,062	28,289	83,764	60,024
11	8	39,334	23,075	2,870	9,388	3,905
11	9	14,625	10,981	399	1,793	1,378
11	11	457,204	283,155	36,066	62,331	73,102
11 Total		511,163	317,211	39,335	73,512	78,386
12	10	82,529	50,892	5,418	12,573	12,916
12	12	328,135	243,792	16,965	36,361	28,369
12	13	2,095	320	1,135	25	575
12 Total		412,760	295,004	23,518	48,959	41,861
13	12	196	20	11	89	76
13	13	379,219	80,227	119,602	20,633	155,547
13 Total		379,414	80,247	119,613	20,721	155,623
Total		2,969,900	1,398,205	709,950	335,092	503,581
116th	119th	Total	WNH	BNH	ANH	HISP
D10	Retained	139,715	97,810	6,699	20,302	13,980
	Moved	366,401	232,252	21,591	63,462	46,044
D11	Retained	457,204	283,155	36,066	62,331	73,102
	Moved	53,959	34,056	3,268	11,181	5,284
Total	Retained	596,919	380,966	42,765	82,633	87,082
	Moved	420,360	266,308	24,859	74,643	51,328
D10%	Retained	27.6%	29.6%	23.7%	24.2%	23.3%
	Moved	72.4%	70.4%	76.3%	75.8%	76.7%
D11%	Retained	89.4%	89.3%	91.7%	84.8%	93.3%
	Moved	10.6%	10.7%	8.3%	15.2%	6.7%
Total%	Retained	58.7%	58.9%	63.2%	52.5%	62.9%
	Moved	41.3%	41.1%	36.8%	47.5%	37.1%

Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD calculations

Appendix F: Terms and Definitions

Term	Description
ACS	American Community Survey.
APB	Any Part Black population – defined as Black or African American alone or in combination, including Hispanic.
APBNH	Any Part Black Non Hispanic population – defined as Black or African American alone or in combination, including Hispanic.
CVAP	Citizen Voting Age Population. See: https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.2019.html
DCRA	Differential Core Retention Analysis - which measures how many total VAP were retained in each district when the new plan was drawn (the “core”) and how many VAP by race and ethnicity were retained (the “differential”) by district.
VAP	Voting Age Population, 18+. See: https://www.census.gov/topics/public-sector/voting/about/faqs.html
VRA	Voting Rights Act of 1965 See: https://www.archives.gov/milestone-documents/voting-rights-act
VTD	Voting Tabulation District, comparable with precincts.

XII. Thomas M. Bryan Vitae

Introduction

I am an applied demographic, analytic, and research professional who leads a team of experts in state and local redistricting cases. I have subject matter expertise in political and school redistricting and Voting Rights Act-related litigation, U.S. Census Bureau data, geographic information systems (GIS), applied demographic techniques, and advanced analytics.

Education & Academic Honors

2002 MS, Management and Information Systems - George Washington University
2002 GSA CIO University graduate - George Washington University
1997 Graduate credit courses taken at University of Nevada at Las Vegas
1996 MUS (Master of Urban Studies) Demography and Statistics core - Portland State University
1992 BS, History - Portland State University

Online

BGD company website: <https://www.bryangeodemo.com/>
ResearchGate: <https://www.researchgate.net/profile/Thomas-Bryan-6>
LinkedIn: <https://www.linkedin.com/in/thomas-bryan-424a6912>

Bryan GeoDemographics, January 2001-Current: Founder and President

I founded Bryan GeoDemographics (BGD) in 2001 as a demographic and analytic consultancy to meet the expanding demand for advanced analytic expertise in applied demographic research and analysis. Since then, my consultancy has broadened to include expert support of political, state, local and school redistricting. Since 2001, BGD has undertaken over 150 such engagements in two broad areas:

- 1) state and local redistricting; and
- 2) applied demographic studies, including health sciences and municipal Infrastructure

In 2024, I was appointed to the 2030 Census Advisory Committee for a period of one year.

The core of the BGD consultancy has been in state and local redistricting and bipartisan expert witness support of litigation. Engagements include:

Redistricting

- 2025: In the matter of *Jaso v. Angleton School District* in the US District Court for the Southern District of Texas. Providing expert demographic and analytic litigation support to Defendants.
 - <https://dockets.justia.com/docket/texas/txsdce/3:2024cv00194/1964626>
- 2024-2025: In the matter of *Bautista v. Humble School District* in the US District Court for the Southern District of Texas. Providing expert demographic and analytic litigation support to Defendants.
 - <https://dockets.justia.com/docket/texas/txsdce/4:2024cv01744/1959524>
- 2024-2025: In the matter of *CMA v. Thurston* in the US District Court for the Eastern District of Arkansas. Providing expert demographic and analytic litigation support to Defendants.
 - <https://arkansasadvocate.com/2023/12/06/federal-panel-allows-4th-arkansas-congressional-redistricting-lawsuit-to-continue/#:~:text=Thurston%20%E2%80%94%20This%20was%20the%20only,subject%2Dmatter%20jurisdiction%20in%20May>
- 2024: Providing expert demographic and analytic litigation support to Franklin County Public Utility District (PUD) in defense of Washington Voting Rights Act violation claim by UCLA Voting Rights Project.
 - https://www.nbcrightnow.com/news/franklin-county-puds-at-large-election-system-challenged-by-voting-rights-project/article_c06332a2-250f-11ef-8b04-17ccb3eda4e3.html
- 2024: In the matter of *Jessica Garcia Shafer and Dona Kim Murphey v. Pearland Independent School District, et al.* in US District Court for the Southern District of Texas. Providing expert demographic and analytic litigation support to Defendants.
 - <https://dockets.justia.com/docket/texas/txsdce/3:2022cv00387/1894835>
- 2023: In the matter of *Grace, Inc. v. City of Miami* in U.S. District Court for the Southern District of Florida. Providing expert demographic and analytic litigation support to Defendants.
 - <https://thearp.org/litigation/grace-inc-v-city-miami/>
- 2023: In the matter of *Navajo Nation v. San Juan County Board of Commissioners* in the US District Court for the District of New Mexico. Providing expert demographic and analytic litigation support to Defendants. Deposed in May 2023.
 - <https://dockets.justia.com/docket/new-mexico/nmdce/1:2022cv00095/470450>

- 2022: In the matter of *White v. Mississippi State Board of Election Commissioners* in United States District Court, Northern District of MS In collaboration with demographic testifying expert Dr. David Swanson, on behalf of Defendants. Provided expert demographic and analytic litigation support of MS Supreme Court redistricting litigation.
 - <https://www.aclu-ms.org/en/cases/white-v-mississippi-board-election-commissioners>
- 2022: Retained as demographic and redistricting expert for the Louisiana Attorney General in *Robinson v. Ardoin* and *Galmon v. Ardoin* and related Louisiana redistricting litigation. Offering opinions on demography and redistricting for their congressional redistricting plan and Plaintiff's proposed illustrative plans as a testifying expert. My testimony and analysis were not credited in the court's decision.
 - <https://news.ballotpedia.org/2022/04/04/louisiana-enacts-new-congressional-district-boundaries-after-legislature-overrides-governors-veto/>
- 2022: Retained by counsel as demographic and redistricting expert for the Kansas Legislature in support of *Rivera et al. v Schwab* litigation. Kansas Supreme Court found in favor of Kansas Legislature plan on June 21, 2022.
 - <https://thearp.org/litigation/rivera-v-schwab/>
 - https://www.kscourts.org/KSCourts/media/KsCourts/Opinions/125092_1.pdf?ext=.pdf
- 2022: Retained by counsel as demographic and redistricting expert for the State of Michigan in the matter of *Banerian v. Benson* and related Michigan redistricting litigation. Offering opinions on demography and redistricting for Michigan's Congressional redistricting plan. Currently before SCOTUS pending jurisdictional statement.
 - <https://www.scotusblog.com/case-files/cases/banerian-v-benson/>
- 2021: Retained as demographic and redistricting expert for the Wisconsin Legislature in *Johnson v. Wisconsin Elections Commission*, No. 2021AP001450-OA (Wis. Supreme Court) and related Wisconsin redistricting litigation. Offering opinions on demography and redistricting for redistricting plans proposed as remedies in impasse suit. The Wisconsin Supreme Court decided in favor of the Democratic Governor's plan on March 2, 2022.
 - <https://www.wpr.org/us-supreme-court-rejects-legislative-map-drawn-everwas-endorsed-wisconsin-supreme-court>
 - <https://www.nytimes.com/2022/04/15/us/wisconsin-districts-gerrymander-supreme-court.html>

- 2021: Retained as demographic and redistricting expert by counsel for Galveston County, TX. Galveston County, TX was later sued by the US Department of Justice (*Petteway v. Galveston County, Texas*). Testified before U.S. District Judge Jeffrey Vincent Brown, who found for the Plaintiffs. Judge Brown said of my testimony “the court credits Bryan – an eminently believable witness” and that I “testified credibly”. Defendants appealed to SCOTUS who reviewed the case in December in 2023 and refused to intervene. The case will continue in 2024 before the 5th Circuit Court.
 - <https://thearp.org/litigation/united-states-v-galveston-county-tex/>
 - <https://www.scotusblog.com/2023/12/supreme-court-wont-block-new-maps-for-galveston-county/>
- 2021: Retained as demographic and redistricting expert by the State of Alabama Attorney General’s office in the matters of *Milligan v. Merrill*, *Thomas v. Merrill* and *Singleton v. Merrill* over Alabama’s Congressional redistricting initiatives. My testimony and analysis were not credited in the court’s decision.
- 2021: Retained as nonpartisan demographic and redistricting expert by counsel in the State of North Carolina to prepare commissioner redistricting plans for Granville County, Harnett County, Jones County and Nash County. Each proposed plan was approved and successfully adopted.
- 2021: Served as Consultant to the Arizona Independent Redistricting Commission, presenting “Pros and Cons of (Census data) Differential Privacy”. July 13, 2021.
 - <https://irc.az.gov/sites/default/files/meeting-agendas/Agenda%207.13.21.pdf>
- 2021: Retained as demographic and redistricting expert by Democratic Counsel for the State of Illinois in the case of *McConchie v. State Board of Elections*. Prepared expert report in defense of using the American Community Survey to comply with state constitutional
 - <https://redistricting.lls.edu/case/mcconchie-v-ill-state-board-of-elections/>.
- 2021: Retained by counsel for the Chairman and staff of the Texas House Committee on Redistricting as a consulting demographic expert. Texas House Bill 1 subsequently passed by the Legislature 83-63.
 - <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=873&Bill=HB1>
- 2021: In the matter of the *State of Alabama, Representative Robert Aderholt, William Green and Camaran Williams v. the US Department of Commerce; Gina Raimondo; the US Census Bureau and Ron Jarmin* in US District Court of Alabama Eastern Division. Prepared a

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demographic report for Plaintiffs analyzing the effects of using Differential Privacy on Census Data in Alabama and was certified as an expert witness by the Court.

- <https://www.alabamaag.gov/Documents/news/Census%20Data%20Manipulation%20Lawsuit.pdf>
- <https://www.courtlistener.com/docket/59728874/3/6/the-state-of-alabama-v-united-states-department-of-commerce/>
- 2020-2021: Providing expert demographic and analytic litigation support of Franklin County, WA (in collaboration with Dr. Peter Morrison) in defense of Washington Voting Rights Act violation claim by UCLA Voting Rights Project. The case later proceeded (without my participation) to become *Gimenez v. Franklin County, WA*.
 - <https://thearp.org/litigation/gimenez-v-franklin-county-washington/>
- 2020: In the matter of The Christian Ministerial Alliance (CMA), *Arkansas Community Institute v. the State of Arkansas*. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Providing demographic and analytic litigation support.
 - <https://www.naacpldf.org/wp-content/uploads/CMA-v.-Arkansas FILED-without-stamp.pdf>
- 2020: In the matter of *Aguilar, Gutierrez, Montes, Palmer and OneAmerica v. Yakima County* in Superior Court of Washington under the Washington Voting Rights Act ("WVRA" Wash. Rev. Code § 29A.92.60). In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Providing demographic and analytic litigation support.
 - <https://bloximages.newyork1.vip.townnews.com/yakimaherald.com/content/tncms/assets/v3/editorial/a/4e/a4e86167-95a2-5186-a86c-bb251bf535f1/5f0d01eec8234.pdf.pdf>
- 2018-2020: In the matter of *Rene Flores, Maria Magdalena Hernandez, Magali Roman, Make the Road New York, and New York Communities for Change v. Town of Islip, Islip Town Board, Suffolk County Board of Elections* in US District Court. On behalf of Defendants - provided a critical analysis of plaintiff's demographic and environmental justice analysis. The critique revealed numerous flaws in both the demographic analysis as well as the tenets of their environmental justice argument, which were upheld by the court. Ultimately developed mutually agreed upon plan for districting.
 - <https://nyelectionsnews.wordpress.com/2018/06/20/islip-faces-section-2-voting-rights-act-challenge/>
 - <https://casetext.com/case/flores-v-town-of-islip-3>

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- 2017-2020 In the matter of *NAACP, Spring Valley Branch; Julio Clerveaux; Chevon Dos Reis; Eric Goodwin; Jose Vitelio Gregorio; Dorothy Miller; and Hillary Moreau v East Ramapo Central School District (Defendant)* in United States District Court Southern District Of New York (original decision May 25, 2020), later the U.S. Second Circuit Court of Appeals. On behalf of Defendants, developed mutually agreed upon district plan and provided demographic and analytic litigation support.
 - <https://www.lohud.com/story/news/education/2020/05/26/federal-judge-sides-naACP-east-ramapo-voting-rights-case/5259198002/>
- 2017-2020: In the matter of *Pico Neighborhood Association et al v. City of Santa Monica* brought under the California VRA. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Providing demographic and analytic litigation support. Executed geospatial analysis to identify concentrations of Hispanic and Black CVAP to determine the impossibility of creating a minority majority district, and demographic analysis to show the dilution of Hispanic and Black voting strength in a district (vs at-large) system. Work contributed to Defendants prevailing in landmark ruling in the State of California Court of Appeal, Second Appellate District.
 - <https://www.santamonica.gov/press/2020/07/09/santa-monica-s-at-large-election-system-affirmed-in-court-of-appeal-decision>
- 2019: In the matter of *Johnson v. Ardoin / the State of Louisiana* in United States District Court. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Provided expert demographic and analytic litigation support.
 - <https://www.brennancenter.org/sites/default/files/2019-10/2019-10-16-Johnson%20v%20Ardoin-132-Brief%20in%20Opposition%20to%20MTS.pdf>
 - <https://casetext.com/case/johnson-v-ardoin>
- 2019: In the matter of *Suresh Kumar v. Frisco Independent School District et al.* in United States District Court. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Provided expert demographic and analytic litigation support. Successfully defended.
 - <https://www.friscoisd.org/news/district-headlines/2020/08/04/frisco-isd-wins-voting-rights-lawsuit>
 - <https://www.courthousenews.com/wp-content/uploads/2020/08/texas-schools.pdf>

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- 2019: At the request of the City of Frisco, TX in collaboration with demographic testifying expert Dr. Peter Morrison. Provided expert demographic assessment of the City's potential liability regarding a potential Section 2 Voting Rights challenge.
- 2019: In the matter of *Vaughan v. Lewisville Independent School District et al.* in United States District Court. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Provided expert demographic and analytic litigation support.
 - <https://www.nbcdfw.com/news/local/lawsuit-filed-against-lewisville-independent-school-district/1125/>
- 2019: In the matter of *Holloway, et al. v. City of Virginia Beach* in United States District Court, Eastern District of Virginia. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Provided expert demographic and analytic litigation support.
 - <https://campaignlegal.org/cases-actions/holloway-et-al-v-city-virginia-beach>
- 2018: At the request of Kirkland City, Washington in collaboration with demographic testifying expert Dr. Peter Morrison. Performed demographic studies to inform the City's governing board's deliberations on whether to change from at-large to single-member district elections following enactment of the Washington Voting Rights Act. Analyses included gauging the voting strength of the City's Asian voters and forming an illustrative district concentrating Asians; and compared minority population concentration in pre- and post-annexation city territory.
 - https://www.kirklandwa.gov/Assets/City+Council/Council+Packets/021919/8b_SpecialPresentations.pdf#:~:text=RECOMMENDATION%3A%20It%20is%20recommended%20that%20City%20Council%20receive,its%20Councilmembers%20on%20a%20citywide%2C%20at-%20large%20basis
- 2018: At the request of Tacoma WA Public Schools in collaboration with demographic testifying expert Dr. Peter Morrison. Created draft concept redistricting plans that would optimize minority population concentrations while respecting incumbency. Client used this plan as a point of departure for negotiating final boundaries among incumbent elected officials.
- 2018: At the request of the City of Mount Vernon, Washington., in collaboration with demographic testifying expert Dr. Peter Morrison. Prepared a numerous draft concept plans that preserves Hispanics' CVAP concentration. Client utilized draft concept redistricting plans

to work with elected officials and community to agree upon the boundaries of six other districts to establish a proposed new seven-district single-member district plan.

- 2017: In the matter of *Pico Neighborhood Association v. City of Santa Monica*. In collaboration with demographic testifying expert Dr. Peter Morrison. Worked to create draft district concept plans that would satisfy Plaintiff's claim of being able to create a majority-minority district to satisfy Gingles prong 1. Such district was not possible, and the Plaintiffs case ultimately failed in California State Court of Appeals Second Appellate District.
 - <https://law.justia.com/cases/california/court-of-appeal/2020/b295935.html>
- 2017: In the matter of *John Hall, Elaine Robinson-Strayhorn, Lindora Toudle, Thomas Jenkins, v. Jones County Board of Commissioners*. In collaboration with demographic testifying expert Dr. Peter Morrison. Worked to create draft district concept plans to resolve claims of discrimination against African Americans attributable to the existing at-large voting system.
 - <http://jonescountync.gov/vertical/sites/%7B9E2432B0-642B-4C2F-A31B-CDE7082E88E9%7D/uploads/2017-02-13-Jones-County-Complaint.pdf>
- 2017: In the matter of *Harding v. County of Dallas* in U.S. District Court. In collaboration with demographic testifying expert Dr. Peter Morrison. In a novel case alleging discrimination *against* White, non-Hispanics under the VRA, I was retained by plaintiffs to create redistricting scenarios with different balances of White-non-Hispanics, Blacks and Hispanics. Deposed and provided expert testimony on the case.
 - <https://www.courthousenews.com/wp-content/uploads/2018/08/DallasVoters.pdf>
- 2016: Retained by The Equal Voting Rights Institute to evaluate the Dallas County Commissioner existing enacted redistricting plan. In collaboration with demographic testifying expert Dr. Peter Morrison, the focus of our evaluation was twofold: (1) assess the failure of the Enacted Plan (EP) to meet established legal standards and its disregard of traditional redistricting criteria; (2) the possibility of drawing an alternative Remedial Plan (RP) that did meet established legal standards and balance traditional redistricting criteria.
 - <http://equalvotingrights.org/wp-content/uploads/2015/01/Complaint.pdf>
- 2016: In the matter of *Jain v. Coppell ISD et al* in US District Court (Texas). In collaboration with demographic testifying expert Dr. Peter Morrison. Consulted in defense of Coppell Independent School District (Dallas County, TX) to resolve claims of discriminatory at-large voting system affecting Asian Americans. While Asians were shown to be sufficiently numerous, I was able to demonstrate that they were not geographically concentrated - thus

successfully proving the Gingles 1 precondition could not be met resulting the complaint being withdrawn.

- <https://dockets.justia.com/docket/texas/txndce/3:2016cv02702/279616>
- 2016: In the matter of *Feldman et al v. Arizona Secretary of State's Office et al* in SCOTUS. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Provided analytics on the locations and proximal demographics of polling stations that had been closed subsequent to *Shelby County v. Holder* (2013) which eliminated the requirement of state and local governments to obtain federal preclearance before implementing any changes to their voting laws or practices. Subsequently provided expert point of view on disparate impact as a result of H.B. 2023. Advised Maricopa County officials and lead counsel on remediation options for primary polling place closures in preparation for 2016 elections.
 - <https://arizonadailyindependent.com/2016/04/05/doj-wants-information-on-maricopa-county-election-day-disaster/>
 - https://www.supremecourt.gov/DocketPDF/19/19-1257/142431/20200427105601341_Brnovich%20Petition.pdf
- 2016: In the matter of *Glatt v. City of Pasco, et al.* in US District Court (Washington). In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Provided analytics and draft plans in defense of the City of Pasco. One draft plan was adopted, changing the Pasco electoral system from at-large to a six-district + one at large.
 - <https://www.pasco-wa.gov/DocumentCenter/View/58084/Glatt-v-Pasco---Order---January-27-2017?bidId=>
 - <https://www.pasco-wa.gov/923/City-Council-Election-System>
- 2015: In the matter of *The League of Women Voters et al. v. Ken Detzner et al* in the Florida Supreme Court. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Performed a critical review of Florida state redistricting plan and developed numerous draft concept plans.
 - <http://www.miamiherald.com/news/politics-government/state-politics/article47576450.html>
 - <https://www.floridasupremecourt.org/content/download/322990/2897332/file/OP-SC14-1905 LEAGUE%20OF%20WOMEN%20VOTERS JULY09.pdf>

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- 2015: In the matter of *Evenwel, et al. v. Abbott / State of Texas* in SCOTUS. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Plaintiffs. Successfully drew map for the State of Texas balancing both total population from the decennial census and citizen population from the ACS (thereby proving that this was possible). We believe this may be the first and still only time this technical accomplishment has been achieved in the nation at a state level. Coauthored SCOTUS Amicus Brief of Demographers.
 - https://www.supremecourt.gov/opinions/15pdf/14-940_ed9g.pdf
 - <https://www.scotusblog.com/wp-content/uploads/2015/08/Demographers-Amicus.pdf>
- 2015: In the matter of *Ramos v. Carrollton-Farmers Branch Independent School District* in US District Court (Texas). In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Used 2009-2013 5-year ACS data to generate small-area estimates of minority citizen voting-age populations and create a variety of draft concept redistricting plans. Case was settled decision in favor of a novel cumulative voting system.
 - https://starlocalmedia.com/carrolltonleader/c-fb-isd-approves-settlement-in-voting-rights-lawsuit/article_92c256b2-6e51-11e5-adde-a70cbe6f9491.html
- 2015: In the matter of *Glatt v. City of Pasco et al.* in US District Court (Washington). In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Consulted on forming new redistricting plan for city council review. One draft concept plan was agreed to and adopted.
 - <https://www.pasco-wa.gov/923/City-Council-Election-System>
- 2015: At the request of Waterbury, Connecticut, in collaboration with demographic testifying expert Dr. Peter Morrison. As a result of a successful ballot measure to convert Waterbury from an at-large to a 5-district representative system, consulted an extensive public outreach and drafted numerous concept plans. The Waterbury Public Commission considered alternatives and recommended one of our plans, which the City adopted.
 - <http://www.waterburyobserver.org/wod7/node/4124>
- 2014-15: In the matter of *Montes v. City of Yakima* in US District Court (Washington). In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Analytics later used to support the Amicus Brief of the City of Yakima, Washington in the U.S. Supreme Court in *Evenwel v. Abbott*.
 - <https://casetext.com/case/montes-v-city-of-yakima-3>

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- 2014: In the matter of *Harding v. County of Dallas* in the US Court of Appeals Fifth Circuit. In the novel case of Anglo plaintiffs attempting to claim relief as protected minorities under the VRA. Served as demographic expert in the sole and limited capacity of proving Plaintiff claim under Gingles prong 1. Claim was proven. Gingles prongs 2 and 3 were not and the case failed.
 - <https://electionlawblog.org/wp-content/uploads/Dallas-opinion.pdf>
- 2014: At the request of Gulf County, Florida in collaboration with demographic testifying expert Dr. Peter Morrison. Upon the decision of the Florida Attorney General to force inclusion of prisoners in redistricting plans – drafted numerous concept plans for the Gulf County Board of County Commissioners, one of which was adopted.
 - <http://myfloridalegal.com/ago.nsf/Opinions/B640990E9817C5AB85256A9C00631387>
- 2012-2015: In the matter of *GALEO and the City of Gainesville* in Georgia. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants -consulted on defense of existing at-large city council election system.
 - <http://atlantaprogressivenews.com/2015/06/06/galeo-challenges-at-large-voting-in-city-of-gainesville/>
- 2012-: Confidential. Consulted (through Morrison & Associates) to support plan evaluation, litigation, and outreach to city and elected officials (1990s - mid-2000s). Executed first statistical analysis of the American Community Survey to determine probabilities of minority-majority populations in split statistical/administrative units of geography, as well as the cumulative probabilities of a “false-negative” minority-majority reading among multiple districts.
- 2011-: Confidential. Consulted on behalf of plaintiffs in Committee (Private) vs. State Board of Elections pertaining to citizen voting-age population. Evaluated testimony of defense expert, which included a statistical evaluation of Hispanic estimates based on American Community Survey (ACS) estimates. Analysis discredited the defendant's expert's analysis and interpretation of the ACS.

National Voting Rights Act (NVRA) Projects

In addition to political redistricting cases, BGD has provided demographic and analytic expertise in National Voting Rights Act (NVRA) cases. Examples include:

- 2024: In the matter of *Green v. Bell* (NC Board of Elections) in US District Court for the Western District of North Carolina, Charlotte Division. Providing expert demographic support to Plaintiffs, analyzing the American Community Survey (ACS) and US Election Administration and Voting Survey (EAVS) to measure and assess compliance with the National Voter Registration Act (NVRA). Case successfully resolved with settlement.
 - <https://www.democracydocket.com/cases/north-carolina-voter-purge-nvra-challenge/>
- 2024: In the matter of *Swoboda v. Fontes* (AZ Secretary of State) in US District Court for the District of Arizona. Providing expert demographic support to Plaintiffs, analyzing the American Community Survey (ACS) and US Election Administration and Voting Survey (EAVS) to measure and assess compliance with the National Voter Registration Act (NVRA). Case dismissed Dec. 5, 2024 on standing, appeal pending.
 - https://prod-static.protectthevote.com/media/document/filing/AZ_NVRA_complaint_01wik4ab.pdf

Applied Demography Studies

In addition to political redistricting cases, BGD has provided demographic and analytic expertise across a broad array of issues, oftentimes creating pivotal evidence that has been decisive in legal cases and analytics that were core to the success of clients. Example:

- 2012 - Consulted (through Morrison & Associates) in generating a time-series of ACS Citizen voting-age population estimates by race and ethnicity from 2005-2010 ACS to assess the impact of a State of Wisconsin proposed rule requiring driver licenses to verify voters' current addresses.

School Redistricting and Municipal Infrastructure Projects

BGD worked with McKibben Demographics from 2004-2012 providing expert demographic and analytic support. These engagements involved developing demographic profiles of small areas to assist in building fertility, mortality and migration models used to support long-range population forecasts and infrastructure analysis in the following communities:

Fargo, ND 10/2012	Charleston, SC 8/08
Columbia, SC 3/2012	Woodland, IL 7/08
Madison, MS 9/2011	White County, IN 6/08
Rockwood, MO 3/2011	Gurnee District 56, IL 5/08
Carthage, NY 3/2011	Central Noble, IN 4/08
NW Allen, IN 9/2010	Charleston First Baptist, SC 4/08
Fayetteville, AR 7/2010	Edmond, OK 4/08
Atlanta, GA 2/2010	East Noble, IN 3/08
Caston School Corp., IN 12/09	Mill Creek, IN 5/06
Rochester, IN 12/09	Rhode Island 5/06
Urbana, IL 11/09	Garrett, IN 3/08
Dekalb, IL 11/09	Meridian, MS 3/08
Union County, NC 11/09	Madison County, MS 3/08
South Bend, IN 8/09	Charleston 12/07
Lafayette, LA 8/09	Champaign, IL 11/07
Fayetteville, AR 4/09	Richland County, SC 11/07
New Orleans, LA 4/09	Lake Central, IN 11/07
Wilmington New Hanover 3/09	Columbia, SC 11/07
New Berry, SC 12/08	Duneland, IN 10/07
Corning, NY 11/08	Union County, NC 9/07
McLean, IL 11/08	Griffith, IN 9/07
Lakota 11/08	Rensselaer, IN 7/07
Greensboro, NC 11/08	Hobart, IN 7/07
Guilford 9/08	Buffalo, NY 7/07
Lexington, SC 9/08	Oak Ridge, TN 5/07
Plymouth, IN 9/08	Westerville, OH 4/07

Projects Continued

Baton Rouge, LA 4/07
Cobb County, GA 4/07
Charleston, SC District 20 4/07
McDowell County, NC 4/07
East Allen, IN 3/07
Mt. Pleasant, SC District 2 2/07
Peach County, GA 2/07
North Charleston, SC District 4 2/07
Madison County, MS revisions 1/07
Portage County, IN 1/07
Marietta, GA 1/07
Porter, IN 12/06
Harrison County, MS 9/06
New Albany/Floyd County, IN 9/06
North Charleston, SC 9/06
Fairfax, VA 9/06
Coleman 8/06
DeKalb, GA 8/06
LaPorte, IN 7/06
NW Allen, IN 7/06
Brunswick, NC 7/06
Carmel Clay, IN 7/06
Calhoun, SC 5/06
Hamilton Community Schools, IN 4/06
Dilworth, MN 4/06
Hamilton, OH 2/06
West Noble, IN 2/06
New Orleans, LA 2/06
Norwell, IN 2/06
Middletown, OH 12/05
West Noble, IN 11/05
Madison, MS 11/05
Fremont, IN 11/05
Concord, IN 11/05
Allen County 11/05
Bremen, IN 11/05
Smith Green, IN 11/05
Steuben, IN 11/05
Plymouth, IN 11/05
North Charleston, SC 11/05
Huntsville, AL 10/05
Dekalb, IN 9/05
East Noble, IN 9/05
Valparaiso, IN 6/05
Penn-Harris-Madison, IN 7/05
Elmira, NY 7/05
South Porter/Merriville, IN 7/05
Fargo, ND 6/05
Washington, IL 5/05
Addison, NY 5/05
Kershaw, SC 5/05
Porter Township, IN 3/05
Portage, WI 1/05
East Stroudsburg, PA 12/04
North Hendricks, IN 12/04
Sampson/Clinton, NC 11/04
Carmel Clay Township, IN 9/04
SW Allen County, IN 9/04
East Porter, IN 9/04
Allen County, IN 9/04
Duplin, NC 9/04
Hamilton County / Clay TSP, IN 9/04
Hamilton County / Fall Creek TSP, IN 9/04
Decatur, IN 9/04
Chatham County / Savannah, GA 8/04
Evansville, IN 7/04
Madison, MS 7/04
Vanderburgh, IN 7/04
New Albany, IN 6/04

Publications

- In the matter of *CMA v. Thurston*, No. 4:23-cv-471-DPM-DRS-JM, in the Eastern District Court of Arkansas. Declaration and Rebuttal Declaration of Thomas M. Bryan. Assessing Plaintiffs' claims and alternative maps. October, 2024.
- "Using cluster analysis to identify communities of interest for purposes of legislative redistricting: A case study of parishes in Louisiana" (with David A. Swanson) May 12, 2024, Papers in Applied Geography, DOI: 10.1080/23754931.2024.2346326
 - <https://doi.org/10.1080/23754931.2024.2346326>
 - <https://sda-demography.org/news/13355939>
- "Forensic Demography: An Overlooked Area of Practice among Applied Demographers" *Review of Economics and Finance* (with David A. Swanson and Jeff Tayman). January 2023.
 - <https://refpress.org/ref-vol20-a94/>
- In the matter of *Banerian v. Benson*, No. 1:22-CV-00054-RMK-JTN-PLM, in US District Court of the Western District of Michigan. Declaration of Thomas Bryan. Assessing the performance of plaintiff and defendant plans against the Michigan Constitution and traditional redistricting principles. February 2022.
- In the matter of *Johnson v. Wisconsin Elections Commission*, No. 2021AP001450OA, in the Supreme Court of Wisconsin. Declaration and Rebuttal Declaration of Thomas M. Bryan. Assessing the features of proposed redistricting plans by the Wisconsin Legislature and other parties to the litigation. December 2021.
- In the matters of *Caster v. Merrill* and *Milligan v. Merrill* in US District Court of the Northern District of Alabama. Civil Action NOS. 2:21-cv-01536-AMM; 2:21-cv-01530-AMM. Declaration of Thomas Bryan. Assessing the compliance and performance of the demonstrative VRA congressional plans of Dr. Moon Duchin and Mr. William Cooper. December 2021.
- In the matter of *Milligan v. Merrill* in US District Court of the Northern District of Alabama. Civil Action NO. 2:21-cv-01530-AMM. Declaration of Thomas M. Bryan. Assessing the compliance and performance of the Milligan and State of Alabama congressional redistricting plans. December 2021.
- In the matter of *Singleton v. Merrill* in US District Court of the Northern District of Alabama. Civil Action NO. 2:21-cv-01291-AMM. Declaration of Thomas M. Bryan. Assessing the

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compliance and performance of the Singleton and State of Alabama congressional redistricting plans. December 2021.

- "The Effect of the Differential Privacy Disclosure Avoidance System Proposed by the Census Bureau on 2020 Census Products: Four Case Studies of Census Blocks in Alaska" PAA Affairs, (with D. Swanson and Richard Sewell, Alaska Department of Transportation and Public Facilities). March 2021.
 - <https://www.populationassociation.org/blogs/paa-web1/2021/03/30/the-effect-of-the-differential-privacy-disclosure>
 - <https://redistrictingonline.org/2021/03/31/study-census-bureaus-differential-privacy-disclosure-avoidance-system-produces-Produces-concerning-results-for-local-jurisdictions/>
 - <https://www.ncsl.org/research/redistricting/differential-privacy-for-census-data-explained.aspx>
- In the matter of the *State of Alabama, Representative Robert Aderholt, William Green and Camaran Williams v. the US Department of Commerce; Gina Raimondo; the US Census Bureau and Ron Jarmin* in US District Court of Alabama Eastern Division. Declaration of Thomas M. Bryan, Exhibit 6. Civil Action NO. 3:21-CV-211, United States District Court for Middle Alabama, Eastern Division. Assessing the impact of the U.S. Census Bureau's approach to ensuring respondent privacy and Title XIII compliance by using a disclosure avoidance system involving differential privacy. March 2021.
 - <https://redistricting.lls.edu/wp-content/uploads/AL-commerce2-20210311-Pl.zip>
 - <https://www.alabamaag.gov/Documents/news/Census%20Data%20Manipulation%20Lawsuit.pdf>
 - <https://www.courtlistener.com/docket/59728874/3/6/the-state-of-alabama-v-united-states-department-of-commerce/>
- Peter A. Morrison and Thomas M. Bryan, Redistricting: A Manual for Analysts, Practitioners, and Citizens (2019). Springer Press: Cham Switzerland.
 - <https://link.springer.com/book/10.1007/978-3-030-15827-9>
- M.V. Hood III, Peter A. Morrison, & Thomas M. Bryan, From Legal Theory to Practical Application: A How-To for Performing Vote Dilution Analyses, 99 SOC. SCI. Q. 536, 536–52 (2018)

- In the Supreme Court of the United States Sue Evenwel, Et Al., *Appellants*, V. Greg Abbott, in his official capacity as Governor of Texas, et al., *Appellees*. *On appeal from the United States District Court for the Western District of Texas. Amicus Brief of Demographers Peter A. Morrison, Thomas M. Bryan, William A. V. Clark, Jacob S. Siegel, David A. Swanson, and The Pacific Research Institute - As amici curiae in support of Appellants.* August 2015.
 - www.scotusblog.com/wp-content/uploads/2015/08/Demographers-Amicus.pdf
- Workshop on the Benefits (and Burdens) of the American Community Survey, Case Studies/Agenda Book 6 “Gauging Hispanics’ Effective Voting Strength in Proposed Redistricting Plans: Lessons Learned Using ACS Data.” June 14–15, 2012
 - <http://docplayer.net/8501224-Case-studies-and-user-profiles.html>
- “Internal and Short Distance Migration” by Bryan, Thomas in J. Siegel and D. Swanson (eds.) *The Methods and Materials of Demography, Condensed Edition, Revised.* (2004). Academic/Elsevier Press: Los Angeles (with D. Swanson and P. Morrison).
- “Population Estimates” by Bryan, Thomas in J. Siegel and D. Swanson (eds.) *The Methods and Materials of Demography, Condensed Edition, Revised.* (2004). Academic/Elsevier Press: Los Angeles (with D. Swanson and P. Morrison).
- Bryan, T. (2000). U.S. Census Bureau Population estimates and evaluation with loss functions. *Statistics in Transition*, 4, 537–549.

Professional Presentations and Conference Participation

- 2025 “Broadband, Race and Poverty in Rural Mississippi: 2020 Census Response Rates”. Scheduled for February 4-6 at the PAA Applied Demography Conference (ADC) meetings, Tucson, AZ.
- 2024 “Use of Current Population Survey and Cooperative Election Study in Analyzing Registered Voter Turnout”. June 5, 2024 at the American Statistical Association Symposium on Data Science and Statistics (SDSS) meetings, Richmond, VA.
- 2024 Uses of Demographic Data and Statistical Information Systems in Redistricting and Litigating Voting Rights Act Cases: Case studies of the CPS and CES, and the ACS and EAVS. Presented at the 2024 Population Association of America Applied Demography Conference, February 2024.
 - <https://events.rdmobile.com/Sessions/Details/2193084>

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- 2023 Population Association of America Applied Demography Conference, Annapolis, MD. February 2023.
 - <https://events.rdmobile.com/Sessions/Details/2193084>
 - "Applications of Differential Core Retention in Redistricting"
 - "Census CVAP vs. VAP in a Redistricting Context"
 - "Different Census Race Definitions in a Redistricting Context"
- 2022 Southern Demographic Association Meetings. "Census 2020 and Political Redistricting" session. Knoxville, TN, October 2022.
 - https://sda-demography.org/resources/Documents/SDA%202022%20Preliminary%20Program_Vfinal_V12.pdf
 - "Addressing Latent Demographic Factors in Redistricting: An Instructional Case" (with Dr. Peter Morrison)
- "Analysis of Differential Privacy and its Impacts on Redistricting" Presented as invited expert on the Panel on the 2020 Census at the American Statistical Association JSM meetings, Washington DC August 8, 2022.
 - <https://ww2.amstat.org/meetings/jsm/2022/onlineprogram/AbstractDetails.cfm?abstractid=323887>
- "Re-purposing Record Matching Algorithms to assess the effect of Differential Privacy on 2020 Small Area Census Data" SAE 2022: Small Area Estimation, Surveys and Data Science University of Maryland, College Park, USA 23 - 27 May, 2022. With Dr. David Swanson.
 - <https://sae2022.org/program>
- "Redistricting 101: A Tutorial" 2022 Population Association of America Applied Demography Conference, February 2022. With Dr. Peter Morrison.
 - <https://www.populationassociation.org/paa2022/home>
- "The Effect of the Differential Privacy Disclosure Avoidance System Proposed by the Census Bureau on 2020 Census Products: Four Case Studies of Census Blocks in Alaska". 2021 American Statistical Association - Symposium on Data Science and Statistics (ASA-SDSS). With Dr. David Swanson.
 - <https://ww2.amstat.org/meetings/sdss/2021/index.cfm>
- "New Technical Challenges in Post-2020 Redistricting" 2020 Population Association of America Applied Demography Conference, 2020 Census Related Issues, February 2021. With Dr. Peter Morrison.

- "Tutorial on Local Redistricting" 2020 Population Association of America Applied Demography Conference, February 2021. With Dr. Peter Morrison.
- "Demographic Constraints on Minority Voting Strength in Local Redistricting Contexts" 2019 Southern Demographic Association meetings (coauthored with Dr. Peter Morrison) New Orleans, LA, October 2019. Winner of annual E. Walter Terrie award for best state and local demography presentation.
 - <http://sda-demography.org/2019-new-orleans>
- "Applications of Big Demographic Data in Running Local Elections" 2017 Population and Public Policy Conference, Houston, TX.
- "Distinguishing 'False Positives' Among Majority-Minority Election Districts in Statewide Congressional Redistricting," 2017 Southern Demographic Association meetings (coauthored with Dr. Peter Morrison) Morgantown, WV.
- "Devising a Demographic Accounting Model for Class Action Litigation: An Instructional Case" 2016 Southern Demographic Association (with Peter Morrison), Athens, GA.
- "Gauging Hispanics' Effective Voting Strength in Proposed Redistricting Plans: Lessons Learned Using ACS Data." 2012 Conference of the Southern Demographic Association, Williamsburg, VA.
- "Characteristics of the Arab-American Population from Census 2000 and 1990: Detailed Findings from PUMS." 2004 Conference of the Southern Demographic Association, (with Samia El-Badry) Hilton Head, SC.
- "Small-Area Identification of Arab American Populations," 2004 Conference of the Southern Demographic Association, Hilton Head, SC.
- "Applied Demography in Action: A Case Study of Population Identification." 2002 Conference of the Population Association of America, Atlanta, GA.

Professional Conference Chairs, Peer Reviews and Conference Discussant Roles

- 2024 Population Association of America Applied Demography Conference, "Population Projections" session chairman. February 2024.
 - <https://events.rdmobile.com/Sessions/Details/2195280>
- 2023 Population Association of America Applied Demography Conference, "Uses of Census Data and New Analytical Approaches for Redistricting" session chairman. Annapolis, MD, February 2023.
 - <https://www.populationassociation.org/events-publications/adc>

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- DOJ Section 2 Data Requirements vs Reality and the Impact on Redistricting
- DOJ ACS CVAP annual data file inconsistencies
- Differences in CVAP and VAP Reported by the USCB and the Impact on Redistricting
- Changing Multi-Race Definitions and the Impact on Redistricting
- 2020 Population Association of America "Assessing the Quality of the 2020 Census" session chairman including Census Director Ron Jarmin. Virtual meeting, May 5, 2021.
 - <https://paa2021.secure-platform.com/a/organizations/main/home>
- "The Historical Roots of Contentious Litigation Over Census Counts in the Late 20th Century". Peer reviewer for presentation at the Hawaii International Conference on the Social Sciences, Honolulu, Hawaii, June 17-19, 2004 with David A. Swanson and Paula A. Walashek.
- 2004 - Population Research and Policy Review External Peer Reviewer / MS #253 "A New Method in Local Migration and Population Estimation".
- Session Discussant on "Spatial Demography" at the 2003 Conference of the Southern Demographic Association, Arlington, VA.
- Subject Moderator at the International Program Center (IPC) 2000 Summer Workshop on Subnational Population Projections for Planning, Suitland, MD.
- Session Chairman on "Population Estimates: New Evaluation Studies" at the 2002 Conference of the Southern Demographic Association, Austin, TX.
- Conference Session Chairman at the 2000 Conference of the Federal Forecasters Conference (FFC), Washington, DC.
- Session Discussant on "New Developments in Demographic Methods" at the 2000 Conference of the Southern Demographic Association, New Orleans, LA.
- Panel Discussant on GIS Applications in Population Estimates Review at the 2000 Conference of the Population Association of America, Los Angeles, CA.
- Panel Discussant on Careers in Applied Demography at the 2000 Conference of the Population Association of America, Los Angeles, CA.

Primary Software Competencies

ESRI ArcGIS

SAS

Microsoft Office

Professional Affiliations

American Statistical Association

Population Association of America

Southern Demographic Association

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Relevant Work Experience**January 2001- April 2003 ESRI Business Information Solutions / Demographer**

Responsibilities included demographic data management, small-area population forecasting, IS management and software product and specification development. Additional responsibilities included developing GIS-based models of business and population forecasting, and analysis of emerging technology and R&D / testing of new GIS and geostatistical software.

May 1998-January 2001 U.S. Census Bureau / Statistician

Responsibilities: developed and refined small area population and housing unit estimates and innovative statistical error measurement techniques in support of the Population Estimates Program and the Current Population Survey.

Service

Eagle Scout, 1988, Boy Scouts of America. Member of the National Eagle Scout Association. Involved in leadership of the Boy Scouts of America Heart of Virginia Council.



Founder: SCOVETH, Virginia Scouting and Veterans Oral History Project, in collaboration with the Virginia War Memorial

**References**

Dr. David Swanson

Professional Peer

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Dr. Peter Morrison

Professional Peer

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310-266-9580

Exhibit P

Expert Report

John Alford

December 8, 2025

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Michael Williams, et al.

Petitioners,

-against-

Board of Elections of the State of New York,
et al.

Respondents.

Index No.: 164002/2025

EXPERT REPORT OF JOHN R. ALFORD, Ph.D.

December 8, 2025

Scope of Inquiry

I have been retained by counsel for Respondents Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York (“BOE”), Anthony J. Casale, in his official capacity as a Commissioner of the BOE, and Raymond J. Riley, III, in his official capacity as Co-Executive Director of the BOE (collectively, “Respondents”), as an expert to provide analysis related to the challenge to the 2024 version of the 11th Congressional District map for the State of New York. I have been asked by counsel to examine and respond primarily to the expert report provided by the petitioners’ expert, Dr. Maxwell Palmer, and the associated data and materials provided in his disclosures. My rate of compensation in this matter is \$800 per hour, and my compensation does not depend on the outcome of this lawsuit.

Qualifications

I am a tenured Full Professor of Political Science at Rice University. In my forty years at Rice University, I have taught courses on redistricting, elections, political representation, voting behavior, and statistical methods at both the undergraduate and graduate levels. I am the author of numerous scholarly works on political behavior. These works have appeared in academic journals such as the *American Journal of Political Science*, *Journal of Politics*, *Science*, *Annual Review of Political Science*, *Legislative Studies Quarterly*, *Annals of the American Academy of Political and Social Science*, *Political Psychology*, and *Political Research Quarterly*, and my research has been funded by granting institutions including The National Science Foundation.

Over the last thirty-five years, I have worked with numerous local governments on districting plans and on Voting Rights Act issues. I have previously provided expert reports and/or testified as an expert witness in voting rights and statistical issues in a variety of court cases in Alabama, Arkansas, Florida, Georgia, Kansas, Louisiana, Michigan, Mississippi, New Mexico, New York, Pennsylvania, Washington, and Wisconsin. The details of my academic background, including all publications in the last ten years, and my work as an expert, including all cases in

which I have testified by deposition or at trial in the last four years, are covered in the attached CV (Appendix A).

Data and Sources

In preparing my report, I have reviewed the reports filed by the petitioners' experts Dr. Maxwell Palmer and Mr. William Cooper. In addition, I have relied on the various data and materials Dr. Palmer disclosed, and like Mr. Cooper have utilized Dave's Redistricting.

Methods

Dr. Palmer and I utilize the statistical technique of Ecological Inference (EI), developed originally by Professor Gary King.¹ EI is a more efficient technique intended specifically to improve on ecological regression (ER), the analysis technique previously used in VRA lawsuits to assess voter cohesion and polarization. In a nutshell, traditional ecological regression is a mathematical technique for estimating the single best-fitting straight line that could be drawn to describe the relationship between two variables in a scatter plot. Applied to voting rights cases, the logic of ecological regression analysis is to determine to what degree, if any, the vote for a candidate increases in a linear fashion as the concentration of voters of a given ethnicity in the precincts increases. In contrast, King's EI procedure utilizes a method of bounds analysis, combined with a more traditional statistical method, to improve on standard ecological regression. While the details are mathematically complex, the differences mostly center on utilizing deterministic bounds information contained in individual precinct results that would not be exploited in ecological regression. In addition, EI relaxes the linear constraint that a traditional ecological regression analysis would impose on the pattern across precincts. This combination in EI of relaxing some assumptions and utilizing more information typically yields a more efficient estimation of cohesion and polarization when compared to standard ecological regression,

¹ King, Gary. (1997). *A Solution to the Ecological Inference Problem*. Princeton Univ. Press.

although in many cases the results from EI are not substantively different than ER results for the same election data.

In its original form, King's EI could only be used to estimate voter support when there were two racial groups (e.g., White and Black) and two candidates; hence, the label "2 x 2 EI" often applied to the original form. Often there are more than two racial groups (e.g., White, Black, and Latino), or more than two possible vote choices. To accommodate these situations, one would have to run an independent 2 x 2 EI analysis for each race of interest and for each candidate of interest (and for the no voting category), an approach suggested by King and labeled the 'iterative' approach to "R x C" (Rows by Columns) estimation.

Shortly after suggesting the iterative method, King published a more advanced theoretical approach to R x C estimation using a Multinomial-Dirichlet Bayesian technique. A fully Bayesian implementation of this approach was viewed by King and his coauthors as computationally impractical, given that it could take as long as a week or more to run a single model on the computers available at that time, and they provided instead an implementation that relied on nonlinear least-squares.² Finally, in 2007 Lau and colleagues, taking advantage of advancements in computing technology, implemented the fully Bayesian estimation procedure outlined by King, et al., and provided a software module called "eiPack" that included the module 'ei.MD.bayes' that allowed for the estimation of the true Bayesian approach.³ This is the implementation of EI R x C that I have relied on here.⁴ Dr. Palmer relies on the same implementation of EI Rx C that I used.

² See Rosen, Jiang, King, and Tanner., *Bayesian and Frequentist Inference for Ecological Inference: The R x C Case*, 55 STATISTICA NEERLANDICA 134 (2001).

³ See Lau, Olivia, Ryan T. Moore, and Michael Kellermann. "eiPack: Ecological Inference and Higher-Dimension Data Management," R News, vol.7, no. 2 (October 2007).

⁴ The EI analysis provided here was conducted by my Rice University colleague Prof. Randy Stevenson under my direction and control.

Introductory Discussion

My report will proceed with the assumption that the standard empirical analysis that I have presented in numerous voting rights cases over the last several decades relevant to the Gingles factors and the totality of the circumstances should also be useful here. Like many of the previous cases where I have provided an expert report and testimony, this case involves a challenge to a U.S. congressional district map, and my report here will prove analysis similar to that I provide previously in congressional casers. This ensures that the standard empirical analysis will be available for the Court to evaluate if the Court finds it applicable.

Background

The 11th New York Congressional District is an Anglo majority district being challenged by Black and Latino petitioners despite its relatively small minority population. Table 1 below reproduces the demographics for CD 11, and the adjacent CD 10, provided by Mr. Cooper in his report in this case. As the added ‘Total’ column makes clear, these are not entirely accurate numbers, as they should add to 100, but the substantive point is clear. The Black adult citizen population is below ten percent in both the existing 2024 district and the proposed illustrative district. Likewise, the Latino adult citizen population is only slightly over fifteen percent in both the existing 2024 district and the proposed illustrative district. Even combined the Black and Latino adult citizen population is less than a quarter of the district in either configuration. What is also apparent from Mr. Cooper’s numbers is the fact that the illustrative district does not derive any asserted improvement in minority performance from an increase in minority population relative to the Anglo population. The increase in the combined Black and Latino population, at two percentage points, is very slight, and actually smaller than the increase in the Anglo share of the population.

Table 1: Existing and Illustrative CD 10 and 11 Comparison from Cooper

		CVAP From Cooper Figure 2 and 9					
		NH AP					
		Latino	Black +				
District	NH AP Black	CVAP	Latino	NH SR Asian	NH White	Total	
2024	11	7.36%	15.35%	22.70%	16.38%	59.76%	98.85%
2024	10	7.65%	17.10%	24.76%	16.70%	56.75%	98.20%
Illustrative	11	8.42%	16.30%	24.71%	13.70%	62.31%	100.73%
Illustrative	10	6.39%	16.11%	22.50%	22.40%	53.30%	98.20%
Change in D11		1.06%	0.95%	2.01%	-2.68%	2.55%	

Dr. Palmer's Report

Dr. Palmer's report provides a Racial Polarized Voting (RPV) election analysis for CD 11 from 2017 to 2024 that includes 18 contested exogenous elections, as well as 2 CD 11 contests. Dr. Palmer also provides the results of his RPV analysis for the same 18 exogenous general elections in the geography of the illustrative 11th District. Dr. Palmer's Table 1 provides his EI estimates for the existing CD 11, and his Table 2 provides his EI estimates for the illustrative CD 11. Although Dr. Palmer does not provide any party labels, in every case in both tables, the preferred candidate of minority voters is the Democrat. Table 2 below reproduces the EI estimates from Dr. Palmer's Table 1 for the existing CD 11, and Table 3 below reproduces the EI estimates from Dr. Palmer's Table 2 for the illustrative CD 11. Comparing the two tables provides some insight into what the changes are between these two forms of CD 11.

Table 2: Existing CD 11 from Palmer Table 1

Year	Office	Black	White	Hispanic	Asian
2017	City Comptroller	91.1%	34.8%	87.1%	50.9%
2017	Mayor	89.1%	13.5%	79.8%	51.0%
2017	Public Advocate	88.8%	26.9%	83.0%	47.5%
2018	Attorney General	94.1%	35.9%	92.6%	79.2%
2018	Governor	93.5%	36.9%	92.0%	77.5%
2018	State Comptroller	94.7%	39.7%	93.6%	80.6%
2018	U.S. Senate	94.5%	39.7%	92.2%	74.8%
2019	Public Advocate	90.2%	18.7%	86.9%	65.1%
2020	President	93.1%	27.0%	90.0%	73.5%
2021	City Comptroller	86.5%	23.7%	77.8%	34.0%
2021	Mayor	87.3%	20.5%	82.1%	43.5%
2021	Public Advocate	88.2%	21.0%	81.9%	40.7%
2022	Attorney General	90.5%	22.8%	89.9%	60.4%
2022	Governor	89.8%	22.0%	89.3%	53.2%
2022	State Comptroller	89.5%	25.6%	90.4%	65.5%
2022	U.S. House	90.4%	24.1%	89.1%	57.5%
2022	U.S. Senate	91.0%	26.4%	92.9%	64.3%
2024	President	88.7%	22.2%	88.1%	49.0%
2024	U.S. House	88.7%	20.0%	87.7%	51.6%
2024	U.S. Senate	89.8%	25.4%	88.4%	58.8%
Average		90.5%	26.3%	87.7%	58.9%

Table 3: Illustrative CD 11 from Palmer Table 2

Year	Office	Black	White	Hispanic	Asian
2017	City Comptroller	89.5%	44.3%	87.1%	80.8%
2017	Mayor	87.8%	24.5%	79.3%	68.5%
2017	Public Advocate	86.9%	37.9%	80.1%	74.2%
2018	Attorney General	93.5%	51.2%	90.5%	88.3%
2018	Governor	92.1%	51.2%	90.4%	87.0%
2018	State Comptroller	93.4%	53.6%	92.0%	88.2%
2018	U.S. Senate	93.5%	55.3%	88.8%	89.1%
2019	Public Advocate	89.5%	37.7%	83.5%	78.4%
2020	President	90.3%	43.5%	83.3%	86.2%
2021	City Comptroller	83.7%	35.5%	71.7%	69.4%
2021	Mayor	79.7%	32.4%	80.4%	72.1%
2021	Public Advocate	85.9%	32.8%	77.1%	71.3%
2022	Attorney General	86.3%	41.1%	83.1%	77.3%
2022	Governor	84.5%	39.6%	82.5%	81.1%
2022	State Comptroller	85.9%	43.1%	82.5%	80.4%
2022	U.S. Senate	87.3%	44.3%	87.3%	80.2%
2024	President	84.6%	41.2%	77.7%	73.8%
2024	U.S. Senate	88.3%	42.8%	78.6%	79.8%
Average		87.9%	41.8%	83.1%	79.2%
Average Existing CD 11 (without U.S. House)		90.6%	26.8%	87.7%	59.4%
Difference Illustrative minus Existing		-2.6%	15.0%	-4.6%	19.8%

If we compute the average vote share for each of the racial/ethnic voter groups in the 18 areawide contests in his Table 1 we can see that Black voters in existing CD 11 gave an average of 90.6% of their vote to their preferred candidate, compared to an average support among Black voters of 87.9% for the illustrative district in Table 2. Similarly, we can see that Hispanic voters in existing CD 11 gave an average of 87.7% of their vote to their preferred candidate, compared to an average support among Hispanic voters of 83.1% for the illustrative district in Table 2. In other words, the slight increase in the number of Black and Hispanic voters in the illustrative district is at least partially offset by the decline in cohesion among Black and Hispanic voters in the illustrative district. What then accounts for the improved performance for minority preferred candidates (Democrats) that Dr. Palmer reports in the illustrative district, especially as the proportion of White voters is actually higher in the illustrative district? Based on Dr. Palmer's Table 1, White voters in existing CD 11 gave an average of 23.8% of their vote to the Democratic candidate, compared to an average support among White voters of 41.8% for the Democratic candidates in the illustrative district in Table 2. In other words, the improved performance for minority preferred candidates that Dr. Palmer reports in the illustrative district comes largely from swapping White voters between District 11 and District 10 to net more Democratic leaning voters in the illustrative District 11, and to a lesser extent from making a similar swap of Asian voters.

Party Versus Race

Dr. Palmer describes his tables as reporting the estimated levels of support provided by racial and ethnic voter groups for the Black and Hispanic preferred candidate in each contest. While the tables do not indicate the party or the name of these candidates, in every one of his 20 contests the preferred candidate of Black and Hispanic votes is the Democratic candidate, by very wide margins. Similarly, the preferred candidate of White voters is typically the Republican candidate, although here, there is a substantial level of White crossover vote for the Democratic candidate.

I began my analysis with an attempt to replicate the results of the Ecological Inference (EI) RxC analysis provided by Dr. Palmer in this case using the materials Dr. Palmer provided in his disclosure. The replication results do not differ substantively from those reported by Dr. Palmer. To avoid confusion over whether my conclusions detailed below depend in any way on methodological or data differences, I am basing my comments below on Dr. Palmer's results.

Table 4 below reproduces Dr. Palmer's EI results from his Table 1 for CD 11, but groups the contests into the six contests where the Democratic candidate was Black and the 13 Contests where the Democratic candidate was a non-Hispanic White. In a single contest at the bottom of the table the Democratic candidate was Asian. Looking first at the estimated vote shares of Black voters, Black voter support of Black Democratic candidates, at 89.6%, is very similar to Black voter support of non-Hispanic White Democratic candidates at 90.9%. Turning to the estimated vote shares of Hispanic voters, Hispanic voter support of Black Democratic candidates, at 86.3%, is very similar to Hispanic voter support of non-Hispanic White Democratic candidates at 88.5%. Likewise, White voter support of Black Democratic candidates, at 24.9%, is very similar to White voter support of non-Hispanic White Democratic candidates at 27.6%. All three voter groups show very slightly higher support for White Democratic candidates than they do for Black Democratic candidates but given the credible intervals for these estimates are typically two or more percentage points, these differences are not of any substantive importance.

Table 4: Palmer's Table 1 EI Estimates Organized by Race of Candidate

Year	Office	Race of Dem. Candidate	EI Estimate of Vote Share by Voter Race/Ethnicity				
			Black	White	Hispanic	Asian	Other
2017	Public Advocate	Black	88.8%	26.9%	83.0%	47.5%	67.0%
2018	Attorney General	Black	94.1%	35.9%	92.6%	79.2%	75.3%
2021	Mayor	Black	87.3%	20.5%	82.1%	43.5%	54.6%
2021	Public Advocate	Black	88.2%	21.0%	81.9%	40.7%	48.2%
2022	Attorney General	Black	90.5%	22.8%	89.9%	60.4%	75.7%
2024	President	Black	88.7%	22.2%	88.1%	49.0%	65.3%
Average for Black Democratic Candidates			89.6%	24.9%	86.3%	53.4%	64.4%
2017	City Comptroller	White	91.1%	34.8%	87.1%	50.9%	67.5%
2017	Mayor	White	89.1%	13.5%	79.8%	51.0%	61.0%
2018	Governor	White	93.5%	36.9%	92.0%	77.5%	73.3%
2018	State Comptroller	White	94.7%	39.7%	93.6%	80.6%	77.4%
2018	U.S. Senate	White	94.5%	39.7%	92.2%	74.8%	83.0%
2020	President	White	93.1%	27.0%	90.0%	73.5%	73.4%
2021	City Comptroller	White	86.5%	23.7%	77.8%	34.0%	49.2%
2022	Governor	White	89.8%	22.0%	89.3%	53.2%	77.5%
2022	State Comptroller	White	89.5%	25.6%	90.4%	65.5%	73.6%
2022	U.S. House	White	90.4%	24.1%	89.1%	57.5%	78.8%
2022	U.S. Senate	White	91.0%	26.4%	92.9%	64.3%	75.3%
2024	U.S. House	White	88.7%	20.0%	87.7%	51.6%	60.0%
2024	U.S. Senate	White	89.8%	25.4%	88.4%	58.8%	66.3%
Average for White Democratic Candidates			90.9%	27.6%	88.5%	61.0%	70.5%
Difference			1.3%	2.7%	2.2%	7.6%	6.1%
2019	Public Advocate	Asian	90.2%	18.7%	86.9%	65.1%	70.8%

In all of the contests, Black voters are highly supportive of the Democratic candidate and White voters are typically giving majority support to the Republican candidate. This is consistent with a polarized response to the party affiliation of the candidates as indicated on the ballot. In contrast to the strong impact of candidate party affiliation, the race of the candidates does not appear to have a polarizing impact on vote choice. With vote shares around 90% Black voters are indeed showing a very one-sided preference, but this preference is for Democratic candidates, not candidates of a particular race. Similarly, with vote shares in the high 80% range, Hispanic voters are indeed showing a very one-sided preference, but this preference is again for Democratic candidates, not candidates of a particular race. And again, with vote shares in the mid 70% range, White voters are indeed showing a clear preference, but this preference is for Republican candidates, not candidates of a particular race. Across these elections we see a pattern of polarized

voting with Blacks and Hispanic favoring Democratic candidates and White voters preferring their Republican opponents, but no indication of any significant difference in voter behavior based on the race of the Democratic candidate.

District Performance

Dr. Palmer comments on the performance of various adopted and demonstration districts. As noted above, all of the candidates preferred by Black and Hispanic voters are also the Democratic candidates in the general elections. As such, the assessment of the election performance of a district is simply the expected Democratic share of the general election vote in the district. As such, as Dr. Palmer's Table 3 indicates, in its current form CD 11 leans Republican, but in a good year for Democrats, like President Trump's midterm in 2018, Democrats can carry the district as they did in all four of the statewide contests. Illustrative CD 11 leans Democratic, but in a good year for Republicans, like 2021, Republicans can carry the district, as they did in all three districtwide contests.

The other impact of the fact that it is the party of the candidates, and not their race or ethnicity, that is associated with their levels of support, is that the number of minority candidates that are elected will not depend simply on the demographics of the voters. Instead, the number of minority candidates elected in a district will vary depending on the party affiliation of the minority candidates in interaction with the majority vote direction. Table 5 below illustrates this for existing CD 11 and illustrative CD 11 using the performance calculations from Dr. Palmer's Table 3.

Table 5: District Performance from Palmer's Table 3 with Candidate Race/Ethnicity

Year	Office	Democratic Vote Share			
		Existing CD 11	Illustrative CD 11		
2017	City Comptroller	45.70%	R-Black	55.80%	D-White
2017	Mayor	28.10%	R-Hisp	39.80%	R-Hisp
2017	Public Advocate	39.50%	R-Hisp	50.40%	D-Black
2018	Attorney General	52.50%	D-Black	64.50%	D-Black
2018	Governor	52.80%	D-White	64.20%	D-White
2018	State Comptroller	55.00%	D-White	66.00%	D-White
2018	U.S. Senator	55.40%	D-White	67.60%	D-White
2019	Public Advocate	38.50%	R-White	52.70%	D-Black
2020	President	46.10%	R-White	58.60%	D-White
2021	City Comptroller	34.10%	R-Hisp	46.10%	R-Hisp
2021	Mayor	31.50%	R-White	44.00%	R-White
2021	Public Advocate	32.50%	R-Asian	44.40%	R-Asian
2022	Attorney General	37.50%	R-White	51.90%	D-Black
2022	Congress	38.20%	R-Hisp	—	
2022	Governor	36.30%	R-White	51.20%	D-White
2022	State Comptroller	39.50%	R-Hisp	53.30%	D-White
2022	U.S. Senator	39.90%	R-Black	54.40%	D-White
2024	Congress	36.00%	R-Hisp	—	
2024	President	37.60%	R-White	52.70%	D-Black
2024	U.S. Senator	40.90%	R-White	54.40%	D-White
Number of winners by Race/Ethnicity		Black	3	Black	5
		Hisp	6	Hisp	2
		Asian	1	Asian	1

As Table 5 indicates, the result of the reconstructed election results that Dr. Palmer provides in his Table 3 in the existing CD 11 would be three Black and six Hispanic candidates elected. In illustrative CD 11, the result would be five Black and two Hispanic candidates elected. This in part reflects the fact that of the 17 minority major party candidates in these 20 election contests 10 have been Republicans (3 Black, 6 Hispanic, and 1 Asian), and 7 have been Democrats (7 Black).

Summary Conclusions

This is an unusual case. Petitioners do not claim that it is possible to create a combined Black and Hispanic majority district, or that the configuration of the 11th District divides any larger, even if sub-majority, natural community of Black and Hispanic voters. As discussed above the illustrative district does not alter the relative minority share of the district population, as the slight increase Black and Hispanic share of the district is actually smaller than the slight increase in the

Anglo population. Instead, the illustrative district shifts the political balance from leaning Republican to leaning Democrat by swapping out Republican voters for Democratic voters in the Anglo and Asian population.

This focus on party voting patterns is no accident. Black and Hispanic voters in the 11th District prefer Democratic candidates. Anglo voters in the 11th District prefer Republican candidates. The partisan nature of this polarization clarifies the context for the attempt in the illustrative district to alter the configuration of the district to achieve a Democratic majority despite actually increasing the Anglo CVAP share of the district population.

This case is also unusual in that the existing 11th district is a part of a statewide plan that appears to provide substantial minority representation both in the New York City area and in the state as a whole. The New York City area currently includes 17 congressional districts. The 13 congressional districts (the 3rd through the 10th and the 12th through 16th) at the center are mostly securely Democratic districts, all of which are currently represented by Democrats. At the edges are four majority Anglo districts that are currently represented by a Republican - the 1st and 2nd, at the east end of Long Island, the 11th to the south, anchored by Staten Island, and the 17th, to the north in the lower Hudson Valley, that leans Democratic but is currently represented by a Republican. Taken together, roughly 75% of these 17 congressional districts are represented by Democrats and the 17 districts have a citizen voting age population that is about 40% combined Black and Hispanic. Of the remaining 9 congressional districts in the state, 6 (67%) are represented by Democrats and have a total citizen age population that is below 15% combined Black and Hispanic. As such, the current configuration of congressional districts in the New York City area, and in the state as a whole, provides a more than proportional number of districts that can usually elect the preferred candidate of Black and Hispanic voters.

The case is also unusual in that the challenged district is not itself a non-compact gerrymander, nor does the statewide plan appear problematic. In fact, the Princeton Gerrymandering Project gives the map an 'A' overall, and a 'A' for partisan fairness and

geographic features including compactness and county splits.⁵ The current 11th District is a compact district with a combined Black and Hispanic CVAP of less than 25% that leans Republican and currently is represented by a Hispanic Republican. The illustrative 11th District detailed in Mr. Cooper's report is a less compact district that would also have a combined Black and Hispanic CVAP of less than 25%, but that would lean Democratic because Anglo voters in the existing 11th voted roughly 75% Republican, compared to a less than 60% Republican vote share for Anglo voters in the illustrative 11th.

Note that the existing 11th is not unique, with no lower bound on the proportion of minority voters needed, any Republican leaning district with any minority population, which is effectively any Republican district, is subject to the same legal liability. For example, the Black or Hispanic voters in the 1st and 2nd districts could sue to compel both districts to be reconfigured to achieve a pro-Democratic lean by reaching further west into more Democratic voting areas, and the 17th could be forced to be reconfigured to reach down the Hudson River to incorporate more Democratic voters to the south.

December 8, 2025.



John R. Alford, Ph.D.

⁵ Princeton Gerrymandering Project found at <https://gerrymander.princeton.edu/>

Appendix A

John R. Alford

Curriculum Vitae

December 2025

Dept. of Political Science
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Employment:

Full Professor, Rice University, 2015 to present.
Associate Professor, Rice University, 1985-2015.
Assistant Professor, University of Georgia, 1981-1985.
Instructor, Oakland University, 1980-1981.
Teaching-Research Fellow, University of Iowa, 1977-1980.
Research Associate, Institute for Urban Studies, Houston, Texas, 1976-1977.

Education:

Ph.D., University of Iowa, Political Science, 1981.
M.A., University of Iowa, Political Science, 1980.
M.P.A., University of Houston, Public Administration, 1977.
B.S., University of Houston, Political Science, 1975.

Books:

Predisposed: Liberals, Conservatives, and the Biology of Political Differences. New York: Routledge, 2013. Co-authors, John R. Hibbing and Kevin B. Smith. 2nd Edition 2024.

Articles:

“Political Attitudes Vary with Detection of Androstenone.” With Kevin Smith, Amanda Friesen, and Mike Gruszczynski. **Politics and the Life Sciences.** (Spring, 2020).

“Intuitive ethics and political orientations: Testing moral foundations as a theory of political ideology.” with Kevin Smith, John Hibbing, Nicholas Martin, and Peter Hatemi. **American Journal of Political Science.** (April, 2017).

“The Genetic and Environmental Foundations of Political, Psychological, Social, and Economic Behaviors: A Panel Study of Twins and Families.” with Peter Hatemi, Kevin Smith, and John Hibbing. **Twin Research and Human Genetics.** (May, 2015.)

“Liberals and conservatives: Non-convertible currencies.” With John R. Hibbing and Kevin B. Smith. **Behavioral and Brain Sciences** (January, 2015).

“Non-Political Images Evoke Neural Predictors Of Political Ideology.” with Woo-Young Ahn, Kenneth T. Kishida, Xiaosi Gu, Terry Lohrenz, Ann Harvey, Kevin Smith, Gideon Yaffe, John Hibbing, Peter Dayan, P. Read Montague. **Current Biology.** (November, 2014).

“Cortisol and Politics: Variance in Voting Behavior is Predicted by Baseline Cortisol Levels.” with Jeffrey French, Kevin Smith, Adam Guck, Andrew Birnie, and John Hibbing. **Physiology & Behavior**. (June, 2014).

“Differences in Negativity Bias Underlie Variations in Political Ideology.” with Kevin B. Smith and John R. Hibbing. **Behavioral and Brain Sciences**. (June, 2014).

“Negativity bias and political preferences: A response to commentators Response.” with Kevin B. Smith and John R. Hibbing. **Behavioral and Brain Sciences**. (June, 2014).

“Genetic and Environmental Transmission of Political Orientations.” with Carolyn L. Funk, Matthew Hibbing, Kevin B. Smith, Nicholas R. Eaton, Robert F. Krueger, Lindon J. Eaves, John R. Hibbing. **Political Psychology**, (December, 2013).

“Biology, Ideology, and Epistemology: How Do We Know Political Attitudes Are Inherited and Why Should We Care?” with Kevin Smith, Peter K. Hatemi, Lindon J. Eaves, Carolyn Funk, and John R. Hibbing. **American Journal of Political Science**. (January, 2012)

“Disgust Sensitivity and the Neurophysiology of Left-Right Political Orientations.” with Kevin Smith, John Hibbing, Douglas Oxley, and Matthew Hibbing, **PlosONE**, (October, 2011).

“Linking Genetics and Political Attitudes: Re-Conceptualizing Political Ideology.” with Kevin Smith, John Hibbing, Douglas Oxley, and Matthew Hibbing, **Political Psychology**, (June, 2011).

“The Politics of Mate Choice.” with Peter Hatemi, John R. Hibbing, Nicholas Martin and Lindon Eaves, **Journal of Politics**, (March, 2011).

“Not by Twins Alone: Using the Extended Twin Family Design to Investigate the Genetic Basis of Political Beliefs” with Peter Hatemi, John Hibbing, Sarah Medland, Matthew Keller, Kevin Smith, Nicholas Martin, and Lindon Eaves, **American Journal of Political Science**, (July, 2010).

“The Ultimate Source of Political Opinions: Genes and the Environment” with John R. Hibbing in **Understanding Public Opinion**, 3rd Edition eds. Barbara Norrander and Clyde Wilcox, Washington D.C.: CQ Press, (2010).

“Is There a ‘Party’ in your Genes” with Peter Hatemi, John R. Hibbing, Nicholas Martin and Lindon Eaves, **Political Research Quarterly**, (September, 2009).

“Twin Studies, Molecular Genetics, Politics, and Tolerance: A Response to Beckwith and Morris” with John R. Hibbing and Cary Funk, **Perspectives on Politics**, (December, 2008). This is a solicited response to a critique of our 2005 APSR article “Are Political Orientations Genetically Transmitted?”

“Political Attitudes Vary with Physiological Traits” with Douglas R. Oxley, Kevin B. Smith, Matthew V. Hibbing, Jennifer L. Miller, Mario Scalora, Peter K. Hatemi, and John R. Hibbing, **Science**, (September 19, 2008).

“The New Empirical Biopolitics” with John R. Hibbing, **Annual Review of Political Science**, (June, 2008).

“Beyond Liberals and Conservatives to Political Genotypes and Phenotypes” with John R. Hibbing and Cary Funk, **Perspectives on Politics**, (June, 2008). This is a solicited response to a critique of our 2005 APSR article “Are Political Orientations Genetically Transmitted?”

"Personal, Interpersonal, and Political Temperaments" with John R. Hibbing, **Annals of the American Academy of Political and Social Science**, (November, 2007).

"Is Politics in our Genes?" with John R. Hibbing, **Tidsskriftet Politik**, (February, 2007).

"Biology and Rational Choice" with John R. Hibbing, **The Political Economist**, (Fall, 2005)

"Are Political Orientations Genetically Transmitted?" with John R. Hibbing and Carolyn Funk, **American Political Science Review**, (May, 2005). (The main findings table from this article has been reprinted in two college level text books - Psychology, 9th ed. and Invitation to Psychology 4th ed. both by Wade and Tavris, Prentice Hall, 2007).

"The Origin of Politics: An Evolutionary Theory of Political Behavior" with John R. Hibbing, **Perspectives on Politics**, (December, 2004).

"Accepting Authoritative Decisions: Humans as Wary Cooperators" with John R. Hibbing, **American Journal of Political Science**, (January, 2004).

"Electoral Convergence of the Two Houses of Congress" with John R. Hibbing, in **The Exceptional Senate**, ed. Bruce Oppenheimer, Columbus: Ohio State University Press, (2002).

"We're All in this Together: The Decline of Trust in Government, 1958-1996." in **What is it About Government that Americans Dislike?**, eds. John Hibbing and Beth Theiss-Morse, Cambridge: Cambridge University Press, (2001).

"The 2000 Census and the New Redistricting," **Texas State Bar Association School Law Section Newsletter**, (July, 2000).

"Overdraft: The Political Cost of Congressional Malfeasance" with Holly Teeters, Dan Ward, and Rick Wilson, **Journal of Politics** (August, 1994).

"Personal and Partisan Advantage in U.S. Congressional Elections, 1846-1990" with David W. Brady, in **Congress Reconsidered** 5th edition, eds. Larry Dodd and Bruce Oppenheimer, CQ Press, (1993).

"The 1990 Congressional Election Results and the Fallacy that They Embodied an Anti-Incumbent Mood" with John R. Hibbing, **PS** 25 (June, 1992).

"Constituency Population and Representation in the United States Senate" with John R. Hibbing, **Legislative Studies Quarterly**, (November, 1990).

"Editors' Introduction: Electing the U.S. Senate" with Bruce I. Oppenheimer. **Legislative Studies Quarterly**, (November, 1990).

"Personal and Partisan Advantage in U.S. Congressional Elections, 1846-1990" with David W. Brady, in **Congress Reconsidered** 4th edition, eds. Larry Dodd and Bruce Oppenheimer, CQ Press, (1988). Reprinted in **The Congress of the United States, 1789-1989**, ed. Joel Silby, Carlson Publishing Inc., (1991), and in **The Quest for Office**, eds. Wayne and Wilcox, St. Martins Press, (1991).

"Can Government Regulate Fertility? An Assessment of Pro-natalist Policy in Eastern Europe" with Jerome Legge. **The Western Political Quarterly** (December, 1986).

"Partisanship and Voting" with James Campbell, Mary Munro, and Bruce Campbell, in **Research in Micropolitics. Volume 1 - Voting Behavior**. Samuel Long, ed. JAI Press, (1986).

"Economic Conditions and Individual Vote in the Federal Republic of Germany" with Jerome S. Legge. **Journal of Politics** (November, 1984).

"Television Markets and Congressional Elections" with James Campbell and Keith Henry. **Legislative Studies Quarterly** (November, 1984).

"Economic Conditions and the Forgotten Side of Congress: A Foray into U.S. Senate Elections" with John R. Hibbing, **British Journal of Political Science** (October, 1982).

"Increased Incumbency Advantage in the House" with John R. Hibbing, **Journal of Politics** (November, 1981). Reprinted in *The Congress of the United States, 1789-1989*, Carlson Publishing Inc., (1991).

"The Electoral Impact of Economic Conditions: Who is Held Responsible?" with John R. Hibbing, **American Journal of Political Science** (August, 1981).

"Comment on Increased Incumbency Advantage" with John R. Hibbing, Refereed communication: **American Political Science Review** (March, 1981).

"Can Government Regulate Safety? The Coal Mine Example" with Michael Lewis-Beck, **American Political Science Review** (September, 1980).

Awards and Honors:

CQ Press Award - 1988, honoring the outstanding paper in legislative politics presented at the 1987 Annual Meeting of the American Political Science Association. Awarded for "The Demise of the Upper House and the Rise of the Senate: Electoral Responsiveness in the United States Senate" with John Hibbing.

Research Grants:

National Science Foundation, 2009-2011, "Identifying the Biological Influences on Political Temperaments", with John Hibbing, Kevin Smith, Kim Espy, Nicolas Martin and Read Montague. This is a collaborative project involving Rice, University of Nebraska, Baylor College of Medicine, and Queensland Institute for Medical Research.

National Science Foundation, 2007-2010, "Genes and Politics: Providing the Necessary Data", with John Hibbing, Kevin Smith, and Lindon Eaves. This is a collaborative project involving Rice, University of Nebraska, Virginia Commonwealth University, and the University of Minnesota.

National Science Foundation, 2007-2010, "Investigating the Genetic Basis of Economic Behavior", with John Hibbing and Kevin Smith. This is a collaborative project involving Rice, University of Nebraska, Virginia Commonwealth University, and the Queensland Institute of Medical Research.

Rice University Faculty Initiatives Fund, 2007-2009, "The Biological Substrates of Political Behavior". This is in assistance of a collaborative project involving Rice, Baylor College of Medicine, Queensland Institute of Medical Research, University of Nebraska, Virginia Commonwealth University, and the University of Minnesota.

National Science Foundation, 2004-2006, "Decision-Making on Behalf of Others", with John Hibbing. This is a collaborative project involving Rice and the University of Nebraska.

National Science Foundation, 2001-2002, dissertation grant for Kevin Arceneaux, "Doctoral Dissertation Research in Political Science: Voting Behavior in the Context of U.S. Federalism."

National Science Foundation, 2000-2001, dissertation grant for Stacy Ulbig, "Doctoral Dissertation Research in Political Science: Sub-national Contextual Influences on Political Trust."

National Science Foundation, 1999-2000, dissertation grant for Richard Engstrom, "Doctoral Dissertation Research in Political Science: Electoral District Structure and Political Behavior."

Rice University Research Grant, 1985, Recent Trends in British Parliamentary Elections.

Faculty Research Grants Program, University of Georgia, Summer, 1982. Impact of Media Structure on Congressional Elections, with James Campbell.

Papers Presented:

"The Physiological Basis of Political Temperaments" 6th European Consortium for Political Research General Conference, Reykjavik, Iceland (2011), with Kevin Smith, and John Hibbing.

"Identifying the Biological Influences on Political Temperaments" National Science Foundation Annual Human Social Dynamics Meeting (2010), with John Hibbing, Kimberly Espy, Nicholas Martin, Read Montague, and Kevin B. Smith.

"Political Orientations May Be Related to Detection of the Odor of Androstenone" Annual meeting of the Midwest Political Science Association, Chicago, IL (2010), with Kevin Smith, Amanda Balzer, Michael Gruszcynski, Carly M. Jacobs, and John Hibbing.

"Toward a Modern View of Political Man: Genetic and Environmental Transmission of Political Orientations from Attitude Intensity to Political Participation" Annual meeting of the American Political Science Association, Washington, DC (2010), with Carolyn Funk, Kevin Smith, and John Hibbing.

"Genetic and Environmental Transmission of Political Involvement from Attitude Intensity to Political Participation" Annual meeting of the International Society for Political Psychology, San Francisco, CA (2010), with Carolyn Funk, Kevin Smith, and John Hibbing.

"Are Violations of the EEA Relevant to Political Attitudes and Behaviors?" Annual meeting of the Midwest Political Science Association, Chicago, IL (2010), with Kevin Smith, and John Hibbing.

"The Neural Basis of Representation" Annual meeting of the American Political Science Association, Toronto, Canada (2009), with John Hibbing.

“Genetic and Environmental Transmission of Value Orientations” Annual meeting of the American Political Science Association, Toronto, Canada (2009), with Carolyn Funk, Kevin Smith, Matthew Hibbing, Pete Hatemi, Robert Krueger, Lindon Eaves, and John Hibbing.

“The Genetic Heritability of Political Orientations: A New Twin Study of Political Attitudes” Annual Meeting of the International Society for Political Psychology, Dublin, Ireland (2009), with John Hibbing, Cary Funk, Kevin Smith, and Peter K Hatemi.

“The Heritability of Value Orientations” Annual meeting of the Behavior Genetics Association, Minneapolis, MN (2009), with Kevin Smith, John Hibbing, Carolyn Funk, Robert Krueger, Peter Hatemi, and Lindon Eaves.

“The Ick Factor: Disgust Sensitivity as a Predictor of Political Attitudes” Annual meeting of the Midwest Political Science Association, Chicago, IL (2009), with Kevin Smith, Douglas Oxley Matthew Hibbing, and John Hibbing.

“The Ideological Animal: The Origins and Implications of Ideology” Annual meeting of the American Political Science Association, Boston, MA (2008), with Kevin Smith, Matthew Hibbing, Douglas Oxley, and John Hibbing.

“The Physiological Differences of Liberals and Conservatives” Annual meeting of the Midwest Political Science Association, Chicago, IL (2008), with Kevin Smith, Douglas Oxley, and John Hibbing.

“Looking for Political Genes: The Influence of Serotonin on Political and Social Values” Annual meeting of the Midwest Political Science Association, Chicago, IL (2008), with Peter Hatemi, Sarah Medland, John Hibbing, and Nicholas Martin.

“Not by Twins Alone: Using the Extended Twin Family Design to Investigate the Genetic Basis of Political Beliefs” Annual meeting of the American Political Science Association, Chicago, IL (2007), with Peter Hatemi, John Hibbing, Matthew Keller, Nicholas Martin, Sarah Medland, and Lindon Eaves.

“Factorial Association: A generalization of the Fulker between-within model to the multivariate case” Annual meeting of the Behavior Genetics Association, Amsterdam, The Netherlands (2007), with Sarah Medland, Peter Hatemi, John Hibbing, William Coventry, Nicholas Martin, and Michael Neale.

“Not by Twins Alone: Using the Extended Twin Family Design to Investigate the Genetic Basis of Political Beliefs” Annual meeting of the Midwest Political Science Association, Chicago, IL (2007), with Peter Hatemi, John Hibbing, Nicholas Martin, and Lindon Eaves.

“Getting from Genes to Politics: The Connecting Role of Emotion-Reading Capability” Annual Meeting of the International Society for Political Psychology, Portland, OR, (2007.), with John Hibbing.

“The Neurological Basis of Representative Democracy.” Hendricks Conference on Political Behavior, Lincoln, NE (2006), with John Hibbing.

“The Neural Basis of Representative Democracy” Annual meeting of the American Political Science Association, Philadelphia, PA (2006), with John Hibbing.

“How are Political Orientations Genetically Transmitted? A Research Agenda” Annual meeting of the Midwest Political Science Association, Chicago Illinois (2006), with John Hibbing.

"The Politics of Mate Choice" Annual meeting of the Southern Political Science Association, Atlanta, GA (2006), with John Hibbing.

"The Challenge Evolutionary Biology Poses for Rational Choice" Annual meeting of the American Political Science Association, Washington, DC (2005), with John Hibbing and Kevin Smith.

"Decision Making on Behalf of Others" Annual meeting of the American Political Science Association, Washington, DC (2005), with John Hibbing.

"The Source of Political Attitudes and Behavior: Assessing Genetic and Environmental Contributions" Annual meeting of the Midwest Political Science Association, Chicago Illinois (2005), with John Hibbing and Carolyn Funk.

"The Source of Political Attitudes and Behavior: Assessing Genetic and Environmental Contributions" Annual meeting of the American Political Science Association, Chicago Illinois (2004), with John Hibbing and Carolyn Funk.

"Accepting Authoritative Decisions: Humans as Wary Cooperators" Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (2002), with John Hibbing

"Can We Trust the NES Trust Measure?" Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (2001), with Stacy Ulbig.

"The Impact of Organizational Structure on the Production of Social Capital Among Group Members" Annual Meeting of the Southern Political Science Association, Atlanta, Georgia (2000), with Allison Rinden.

"Isolating the Origins of Inc incumbency Advantage: An Analysis of House Primaries, 1956-1998" Annual Meeting of the Southern Political Science Association, Atlanta, Georgia (2000), with Kevin Arceneaux.

"The Electorally Indistinct Senate," Norman Thomas Conference on Senate Exceptionalism, Vanderbilt University; Nashville, Tennessee; October (1999), with John R. Hibbing.

"Interest Group Participation and Social Capital" Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (1999), with Allison Rinden.

"We're All in this Together: The Decline of Trust in Government, 1958-1996." The Hendricks Symposium, University of Nebraska, Lincoln. (1998)

"Constituency Population and Representation in the United States Senate," Electing the Senate; Houston, Texas; December (1989), with John R. Hibbing.

"The Disparate Electoral Security of House and Senate Incumbents," American Political Science Association Annual Meetings; Atlanta, Georgia; September (1989), with John R. Hibbing.

"Partisan and Incumbent Advantage in House Elections," Annual Meeting of the Southern Political Science Association (1987), with David W. Brady.

"Personal and Party Advantage in U.S. House Elections, 1846-1986" with David W. Brady, 1987 Social Science History Association Meetings.

"The Demise of the Upper House and the Rise of the Senate: Electoral Responsiveness in the United States Senate" with John Hibbing, 1987 Annual Meeting of the American Political Science Association.

"A Comparative Analysis of Economic Voting" with Jerome Legge, 1985 Annual Meeting of the American Political Science Association.

"An Analysis of Economic Conditions and the Individual Vote in Great Britain, 1964-1979" with Jerome Legge, 1985 Annual Meeting of the Western Political Science Association.

"Can Government Regulate Fertility? An Assessment of Pro-natalist Policy in Eastern Europe" with Jerome Legge, 1985 Annual Meeting of the Southwestern Social Science Association.

"Economic Conditions and the Individual Vote in the Federal Republic of Germany" with Jerome S. Legge, 1984 Annual Meeting of the Southern Political Science Association.

"The Conditions Required for Economic Issue Voting" with John R. Hibbing, 1984 Annual Meeting of the Midwest Political Science Association.

"Inc incumbency Advantage in Senate Elections," 1983 Annual Meeting of the Midwest Political Science Association.

"Television Markets and Congressional Elections: The Impact of Market/District Congruence" with James Campbell and Keith Henry, 1982 Annual Meeting of the Southern Political Science Association.

"Economic Conditions and Senate Elections" with John R. Hibbing, 1982 Annual Meeting of the Midwest Political Science Association. "Pocketbook Voting: Economic Conditions and Individual Level Voting," 1982 Annual Meeting of the American Political Science Association.

"Increased Inc incumbency Advantage in the House," with John R. Hibbing, 1981 Annual Meeting of the Midwest Political Science Association.

Other Conference Participation:

Roundtable Participant – Closing Round-table on Biopolitics; 2016 UC Merced Conference on Bio-Politics and Political Psychology, Merced, CA.

Roundtable Participant "Genes, Brains, and Core Political Orientations" 2008 Annual Meeting of the Southwestern Political Science Association, Las Vegas.

Roundtable Participant "Politics in the Laboratory" 2007 Annual Meeting of the Southern Political Science Association, New Orleans.

Short Course Lecturer, "What Neuroscience has to Offer Political Science" 2006 Annual Meeting of the American Political Science Association.

Panel chair and discussant, "Neuro-scientific Advances in the Study of Political Science" 2006 Annual Meeting of the American Political Science Association.

Presentation, "The Twin Study Approach to Assessing Genetic Influences on Political Behavior" Rice Conference on New Methods for Understanding Political Behavior, 2005.

Panel discussant, "The Political Consequences of Redistricting," 2002 Annual Meeting of the American Political Science Association.

Panel discussant, "Race and Redistricting," 1999 Annual Meeting of the Midwest Political Science Association.

Invited participant, "Roundtable on Public Dissatisfaction with American Political Institutions", 1998 Annual Meeting of the Southwestern Social Science Association.

Presentation, "Redistricting in the '90s," Texas Economic and Demographic Association, 1997.

Panel chair, "Congressional Elections," 1992 Annual Meeting of the Southern Political Science Association.

Panel discussant, "Incumbency and Congressional Elections," 1992 Annual Meeting of the American Political Science Association.

Panel chair, "Issues in Legislative Elections," 1991 Annual Meeting of the Midwest Political Science Association.

Panel chair, "Economic Attitudes and Public Policy in Europe," 1990 Annual Meeting of the Southern Political Science Association

Panel discussant, "Retrospective Voting in U.S. Elections," 1990 Annual Meeting of the Midwest Political Science Association.

Co-convener, with Bruce Oppenheimer, of Electing the Senate, a national conference on the NES 1988 Senate Election Study. Funded by the Rice Institute for Policy Analysis, the University of Houston Center for Public Policy, and the National Science Foundation, Houston, Texas, December, 1989.

Invited participant, Understanding Congress: A Bicentennial Research Conference, Washington, D.C., February, 1989.

Invited participant--Hendricks Symposium on the United States Senate, University of Nebraska, Lincoln, Nebraska, October, 1988

Invited participant--Conference on the History of Congress, Stanford University, Stanford, California, June, 1988.

Invited participant, "Roundtable on Partisan Realignment in the 1980's", 1987 Annual Meeting of the Southern Political Science Association.

Professional Activities:

Other Universities:

Invited Speaker, Annual Lecture, Psi Kappa -the Psychology Club at Houston Community College, 2018.

Invited Speaker, Annual Allman Family Lecture, Dedman College Interdisciplinary Institute, Southern Methodist University, 2016.

Invited Speaker, Annual Lecture, Psi Sigma Alpha – Political Science Dept., Oklahoma State University, 2015.

Invited Lecturer, Department of Political Science, Vanderbilt University, 2014.

Invited Speaker, Annual Lecture, Psi Kappa -the Psychology Club at Houston Community College, 2014.

Invited Speaker, Graduate Student Colloquium, Department of Political Science, University of New Mexico, 2013.

Invited Keynote Speaker, Political Science Alumni Evening, University of Houston, 2013.

Invited Lecturer, Biology and Politics Masters Seminar (John Geer and David Bader), Department of Political Science and Biology Department, Vanderbilt University, 2010.

Invited Lecturer, Biology and Politics Senior Seminar (John Geer and David Bader), Department of Political Science and Biology Department, Vanderbilt University, 2008.

Visiting Fellow, the Hoover Institution, Stanford University, 2007.

Invited Speaker, Joint Political Psychology Graduate Seminar, University of Minnesota, 2007.

Invited Speaker, Department of Political Science, Vanderbilt University, 2006.

Member:

Editorial Board, Politics and the Life Sciences, 2025.

Editorial Board, Journal of Politics, 2007-2008.

Planning Committee for the National Election Studies' Senate Election Study, 1990-92.

Nominations Committee, Social Science History Association, 1988

Reviewer for:

American Journal of Political Science

American Political Science Review

American Politics Research

American Politics Quarterly

American Psychologist

American Sociological Review

Canadian Journal of Political Science

Comparative Politics

Electoral Studies

Evolution and Human Behavior
International Studies Quarterly
Journal of Politics
Journal of Urban Affairs
Legislative Studies Quarterly
National Science Foundation
PLoS ONE
Policy Studies Review
Political Behavior
Political Communication
Political Psychology
Political Research Quarterly
Public Opinion Quarterly
Science
Security Studies
Social Forces
Social Science Quarterly
Western Political Quarterly

University Service:

Department - Interim Director of Undergraduate Studies 2025

Member, University Senate, 2021-2023.

Member, University Parking Committee, 2016-2023.

Member, University Benefits Committee, 2013-2016.

Internship Director for the Department of Political Science, 2004-2018.

Member, University Council, 2012-2013.

Invited Speaker, Rice Classroom Connect, 2016.

Invited Speaker, Glasscock School, 2016.

Invited Speaker, Rice Alumni Association, Austin, 2016.

Invited Speaker, Rice Alumni Association, New York City, 2016.

Invited Speaker, Rice TEDxRiceU , 2013.

Invited Speaker, Rice Alumni Association, Atlanta, 2011.

Lecturer, Advanced Topics in AP Psychology, Rice University AP Summer Institute, 2009.

Scientia Lecture Series: "Politics in Our Genes: The Biology of Ideology" 2008

Invited Speaker, Rice Alumni Association, Seattle, San Francisco and Los Angeles, 2008.

Invited Speaker, Rice Alumni Association, Austin, Chicago and Washington, DC, 2006.

Invited Speaker, Rice Alumni Association, Dallas and New York, 2005.

Director: Rice University Behavioral Research Lab and Social Science Computing Lab, 2005-2006.

University Official Representative to the Inter-university Consortium for Political and Social Research, 1989-2012.

Director: Rice University Social Science Computing Lab, 1989-2004.

Member, Rice University Information Technology Access and Security Committee, 2001-2002

Rice University Committee on Computers, Member, 1988-1992, 1995-1996; Chair, 1996-1998, Co-chair, 1999.

Acting Chairman, Rice Institute for Policy Analysis, 1991-1992.

Divisional Member of the John W. Gardner Dissertation Award Selection Committee, 1998

Social Science Representative to the Educational Sub-committee of the Computer Planning Committee, 1989-1990.

Director of Graduate Admissions, Department of Political Science, Rice University, 1986-1988.

Co-director, Mellon Workshop: Southern Politics, May, 1988.

Guest Lecturer, Mellon Workshop: The U.S. Congress in Historical Perspective, May, 1987 and 1988.

Faculty Associate, Hanszen College, Rice University, 1987-1990.

Director, Political Data Analysis Center, University of Georgia, 1982-1985.

External:

Expert Witness, Hazleton ISD, 2025.

Expert Witness, Angleton ISD, 2025.

Expert Witness, Humble ISD, 2024.

Expert Witness, City of Miami, 2023.

Expert Witness, State of North Carolina, 2023.

Expert Witness, State of Mississippi, 2023.

Expert Witness, State of Florida, 2023.

Expert Witness, LULAC et al v. City of Houston, racially polarized voting analysis, 2023.

Expert Witness, Shafer et al v. Pearland ISD, racially polarized voting analysis, 2023.

Expert Witness, Johnson v. Wisconsin Elections Commission, racially polarized voting analysis, 2023.

Expert Witness, Palmer v. Hobbs, State of Washington redistricting, racially polarized voting analysis, 2023.

Expert Witness, 10 consolidated cases challenging Texas redistricting, racially polarized voting analysis, 2023.

Expert Witness, Sutlar, et al v. State of Arkansas, racially polarized voting analysis, 2023.

Expert Witness, Elizondo v. Spring Branch ISD, racially polarized voting analysis, 2023.

Expert Witness, United States v. Galveston County, racially polarized voting analysis, 2023.

Expert Witness, Dixon v. Lewisville ISD, racially polarized voting analysis, 2023.

Expert Witness, Pendergrass v. State of Georgia, racially polarized voting analysis, 2023.

Expert Witness, Rivera, et al v. State of Kansas, racially polarized voting analysis, 2022.

Expert Witness, Robinson v. Ardoin, (Louisiana), racially polarized voting analysis, 2022.

Expert Witness, Christian Ministerial Alliance et al v. State of Arkansas, racially polarized voting analysis, 2021.

Exhibit Q

Decision and Order
January 21, 2026

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. JEFFREY H. PEARLMAN **PART** 44M

Justice

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INDEX NO. 164002/2025

MICHAEL WILLIAMS, JOSE RAMIREZ-GAROFALO, AIXA TORRES, MELISSA CARTY,

10/27/2025,
12/08/2025,

Petitioner,

MOTION DATE 12/08/2025

- v -

MOTION SEQ. NO. 001 006 007

BOARD OF ELECTIONS OF THE STATE OF NEW YORK,
 KRISTEN ZEBROWSKI STAVISKY, RAYMOND J. RILEY,
 PETER S. KOSINSKI, HENRY T. BERGER, ANTHONY J.
 CASALE, ESSMA BAGNUOLA, KATHY HOCHUL, ANDREA
 STEWART-COUSINS, CARL E. HEASTIE, LETITIA JAMES,

**DECISION + ORDER ON
MOTION**

Respondent.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 10, 52, 53, 56, 59, 60, 61, 62, 63, 95, 98, 142, 143, 144, 145, 154, 167, 168, 175, 186, 187

were read on this motion to/for MISCELLANEOUS.

The following e-filed documents, listed by NYSCEF document number (Motion 006) 97, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 128, 130, 146, 147, 148, 149, 155, 157, 159, 160, 161, 169, 170, 188, 189

were read on this motion to/for DISMISS.

The following e-filed documents, listed by NYSCEF document number (Motion 007) 116, 117, 118, 119, 120, 121, 122, 129, 131, 150, 151, 152, 153, 156, 158, 171, 172, 173, 174, 176, 190, 191

were read on this motion to/for DISMISSAL.

This election case was heard on an expedited basis, beginning with a hearing on

November 7, 2025. The parties submitted briefings on the motions addressed in this Order,

including reply memoranda, as well as exhibits including reports from expert witnesses.

Additional briefing was provided by Amici Curiae. A trial was held from January 5, 2026

through January 8, 2026, during which Petitioners and Respondents were provided with equal

time to make their cases. After the completion of trial, parties provided additional briefing regarding the remedy in this case, as well as post-trial memoranda.

Background

On October 24, 2025, Petitioner Michael Williams, an elector of the state of New York, residing in Richmond County, Petitioner José Ramírez-Garofalo, an elector of the state of New York, residing in Richmond County, Petitioner Aixa Torres, an elector of the state of New York, residing in New York County, and Melissa Carty, an elector of the state of New York, residing in New York County (Collectively, “Petitioners”), filed a petition pursuant to Article III, Sections 4 and 5 of the New York Constitution, Unconsolidated Laws § 4221 (L 1911, ch. 773, § 1), and Civil Practice Law and Rules 3001, requesting: (1) that the Court declare “that the 2024 Congressional Map violates Article III, Section 4(c)(1) of the New York Constitution by unlawfully diluting the votes of Black and Latino voters in CD-11;” (2) “Pursuant to Art. III, Section 5 of the New York Constitution, ordering the Legislature to adopt a valid congressional redistricting plan in which Staten Island is paired with voters in lower Manhattan to create a minority influence district in CD-11 that complies with traditional redistricting criteria;” (3) that the Court issue “a permanent injunction enjoining [Respondents] and their agents and successors in office, from enforcing or giving any effect to the boundaries of the congressional districts as drawn in the 2024 Congressional Map, including an injunction barring [Respondents] from conducting any further congressional elections under the current map;” and (4) that the Court “[hold] hearings, [consider] briefing and evidence, and otherwise tak[e] actions necessary to order a valid plan for new congressional districts in New York that comports with Article III, Section 4(c)(1) of the New York Constitution.” *NYSCEF Doc. No. 2.* On December 8, 2025 Intervenor-Respondents Congresswoman Nicole Malliotakis’ and Individual Voters Edward L. Lai, Joel Medina, Solomon

B. Reeves, Angela Sisto, and Faith Togba (“Intervenor-Respondents”) filed a Cross-Motion, seeking to dismiss this matter. *NYSCEF Doc. No. 97.*

On December 8, 2025, Respondents Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York (“BOE”), Anthony J. Casale, in his official capacity as a Commissioner of the BOE, and Raymond J. Riley, III (“BOE Respondents”, in his official capacity as Co-Executive Director of the BOE filed an additional Cross-Motion, also seeking dismissal. *NYSCEF Doc. No. 116.*

Article III § 4(c) of the New York State Constitution governs redistricting of the state legislative districts and congressional districts, “[s]ubject to the requirements of the federal constitution and statutes and in compliance with state constitutional requirements.” Article III § 4(c)(1) states:

When drawing district lines, the commission shall consider whether such lines would result in the denial or abridgement of racial or language minority voting rights, and districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement of such rights. Districts shall be drawn so that, based on the totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice.

This case arises out of and relates to Petitioners’ claim that that in New York’s 11th Congressional District (“CD-11”), “Black and Latino Staten Islanders have less opportunity than other members of the electorate to elect a representative of their choice and influence elections... in violation of the prohibition against racial vote dilution in Article III, Section 4(c)(1) of the New York Constitution.” *NYSCEF Doc. No. 1.* CD-11 contains the entirety of Staten Island and extends into a portion of southern Brooklyn, reflecting district boundaries that have existed since 1980. *Pet. Exh. C., NYSCEF Doc. No. 62.* In the same period, the racial demographics have shifted drastically, from “85.3 percent white, 7 percent Black, 5.4 percent Latino, and 1.9 percent Asian”

to “56.6 percent white, 19.5 percent Latino,...9 percent Black,” and 12 percent Asian, with “[t]he remaining 2.9 percent” largely comprised of “people who consider themselves members of two or more races.” *NYSCEF Doc. No. 61*. Petitioners’ proposed remedy would move the boundaries of CD-11, grouping Staten Island with a portion of southern Manhattan.

This is an issue of first impression; New York courts have yet to determine the appropriate legal standard to evaluate a vote dilution claim under Article III, Section 4 of the New York State Constitution. Petitioners assert that in evaluating this claim, the Court should utilize the vote dilution framework provided in the 2022 John R. Lewis New York Voting Rights Act (“NY VRA”). Intervenor-Respondents and BOE Respondents both argue that consideration of the NY VRA is impermissible under the state constitution and that the case should be dismissed as a result. *NYSCEF Docs. No 115, 122*. Respondents Kathy Hochul, in her official capacity as Governor of the State of New York, Andrea Stewart-Cousins, in her official capacity as Senate Majority Leader and President *Pro Tempore* of the New York State Senate, Carl E. Heastie, in his official capacity as Speaker of the New York State Assembly, and Letitia James, in her official capacity as Attorney General of the State of New York (collectively, “State Respondents”), for their part, claim that a “totality of the circumstances” standard is appropriate pursuant to the text of Article III Section 4(c)(1) but make no argument as to the result that would be reached under such a standard. *NYSCEF Doc. No. 95*.

Analysis

Article III, Section 4(c)(1) was part of a series of 2014 constitutional amendments regarding redistricting approved by the voters of New York State. As stated by State Respondents, it calls for a totality of the circumstances standard, reading in relevant part: “Districts shall be drawn so that, *based on the totality of the circumstances*, racial or minority language groups do

not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice.” *New York State Constitution, Article III, Section 4(c)(1)* (Emphasis Added). The state constitution provides no guidance as to how to evaluate the totality of the circumstances, nor does the legislative history of the redistricting amendments. Petitioners point to the NY VRA, which bans vote dilution in local subdivisions based on the protections provided by Article III, Section 4, while providing detailed guidance on evaluating the totality of the circumstances. *NYSCEF Doc. No. 1*.

Utilizing the NY VRA, however convenient, is impermissible. Article III, Section 4 specifically states that the redistricting of congressional districts is “[s]ubject to the requirements of the federal constitution and statutes and in compliance with state constitutional requirements.” Here, the text of the state constitution directly contradicts the notion that the Court can use the NY VRA, a state statute, to interpret a constitutional vote dilution claim. Not only was the NY VRA passed years after the redistricting amendments were ratified, the provision names “the federal constitution and statutes” and “state constitutional requirements,” with no mention of state statutes. *Id.* That the phrase “the federal constitution” is paralleled “state constitutional requirements” while federal statutes receive no such mirror implies that state legislation was excluded on purpose and it should not be used to interpret Article III, Section 4. Moreover, there is no legislative history that provides any evidence that Article III, Section 4(c)(1) should be influenced by legislation that would be passed after the amendment took effect, even if that legislation is meant to bolster efforts against vote dilution.

That conclusion, however, does not end the inquiry, as Petitioners *are* correct in their assertion that the New York State Constitution provides greater protections against racial vote dilution than the federal constitution or the federal Voting Rights Act. That the protections of

Article III, Section 4 are broader than those provided by the federal constitution and federal statutes can be gleaned from the text itself and from case law regarding state legislation. Assertions that the federal Voting Rights Act controls simply do not hold up under a basic logical analysis. Article III, Section 4(c) says “[s]ubject to the requirements of the federal constitution and statutes and in compliance with state constitutional requirements,” that under Section 4(c)(1), “[d]istricts shall be drawn so that, based on the totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice.” These provisions, taken in conjunction, simply imply that the protections provided by the redistricting amendments should not violate federal or state constitutional requirements or the state constitution, not that these protections cannot expand on those provided by the federal government. *See Harkenrider v. Hochul*, 38 N.Y.3d 494, 509 (2022) (“In construing the language of the Constitution as in construing the language of a statute, ... [we] look for the intention of the People and give to the language used its ordinary meaning”). Were the redistricting amendments simply meant to establish that the federal constitution and federal statutes should be used to protect voting rights in New York, the amendments would have no purpose. *See People v. Galindo*, 38 N.Y.3d 199, 205–206 (2022) (a statute should not be read in a way that “hold[s] it a legal nullity.”) Moreover, under *People v. P.J. Video, Inc.*, “[i]f the language of the State Constitution differs from that of its Federal counterpart, then the court may conclude that there is a basis for a different interpretation of it.” 68 N.Y.2d 296, 302 (1986). As pointed out by State Respondents, there are differences between the Voting Rights Act (52 U.S.C. § 10301(b)), which uses phrases referring to particularized groups including “a class of citizens” and “its members” and Article III, Section 4(c)(1), which protects the ability of “racial or minority groups [from having] less opportunity to participate in the political process than other members of the

electorate and to elect representatives of their choice.” Here, the state’s expansion on federal protections can be observed in language that literally expands on that included in the Voting Rights Act.

As a case of first impression, it falls on the Court to establish a standard for evaluating the totality of the circumstances. The Court notes that Article III, Section 4(c)(1) states “Districts shall be drawn so that, based on the totality of the circumstances, racial or minority language groups *do not have less opportunity to participate* in the political process than other members of the electorate and to elect representatives of their choice” (emphasis added). This language is key, as it does not demand that a district suppress minority voters who could make up a majority under different lines in order to find that opportunity has been denied. Instead, it must be shown that the lines unfairly reduce their impact on electoral outcomes as drawn. While Article III, Section (4)(c) goes beyond the scope of the federal Voting Rights Act, the VRA is still instructive. As such, the Court turns to case law regarding the VRA to establish factors that can be evaluated in this analysis. In *Thornburg v. Gingles*, the United States Supreme Court utilized factors laid out by the United States Senate during the passage of the VRA to evaluate a vote dilution claim. 478 U.S. 30, 44-45. Those factors included “the extent to which voting in the elections of the State or political subdivision is racially polarized;...the exclusion of members of the minority group from candidate slating processes; the extent to which minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process; the use of overt or subtle racial appeals in political campaigns; and the extent to which members of the minority group have been elected to public office in the jurisdiction.” *Id.* This list is not intended to encompass the entirety of what factors should be considered in a vote dilution claim, nor is there any specific threshold that must be met to establish that a totality of the

circumstances has been met. *Id.* The Court elects to follow these principles in evaluating a vote dilution claim under Article III, Section 4(c)(1).

Fundamental to this claim is the extent of racially polarized voting in CD-11. As a racial vote dilution claim is predicated on the notion that minority voters cannot elect their candidate of choice, it is vital that Petitioners show that there is, in fact, a predominant choice among minority voters in a congressional district. Not only that, but it must also be demonstrated that White voters vote as a bloc that usually defeats minority-preferred candidates. *See Gingles* 478 U.S. at 56. Racially polarized voting must be observed as a pattern; a single election is not a sufficient basis to satisfy this portion of the claim. *Id.* This allows room for elections that break from the general pattern (such as a minority-preferred candidate winning or racially-polarized voting blocs breaking from one another) without reading these exceptions as negating said general pattern. *Id.* That voting is racially polarized can be proven through mere correlation between the race(s) of a voting bloc and need not rise to the level of causation. *Id.*

Here, racially polarized voting has been clearly demonstrated. Dr. Maxwell Palmer, an expert witness from New York University who testified in this case, showed in his report and shared on the record that across federal, state, and city elections from 2017 to 2024, Black voters in CD-11 voted together an average 90.5 percent of the time, while Latino voters voted together 87.7 percent of the time.¹ *NYSCEF Doc. No. 60.* Asian voters voted for the Black and Latino-preferred candidates 58.93 percent of the time, displaying less cohesion than Black or Latino voters but still demonstrating a consistent preference. *Id.* White voters, meanwhile, voted against the candidates preferred by Black and Latino 73.7 percent of the time. *Id.* Across the 20 most recent elections in CD-11 used in the analysis, the Black and Latino-preferred candidates won merely

¹ The Court notes that the expert witness' analysis does not include either state Assembly or state Senate races.

five (5) races. Respondents raised doubts as to the significance of this number on the record, asserting that roughly 30 percent of the population saw its preferred candidate win roughly 25 percent of the time. The Court does not read a racial vote dilution claim so simply. Vote dilution claims do not turn on whether minority-preferred candidates win elections at a rate that matches the relative population of minority groups in a district. A demonstration of racially polarized voting shows that the minority groups at issue vote as a bloc, as do White voters, and that the minority-preferred candidates “usually” lose. *See Gingles* 478 U.S. at 56. Petitioners have demonstrated that here.

Petitioners have also shown through testimony and by empirical data that the history of discrimination against minority voters in CD-11 still impacts those communities today. Staten Island has a long history of racial discrimination. Expert witness Dr. Thomas J. Sugrue reports that “Staten Island has a long history of racial segregation, discrimination, and disparate treatment against Blacks and Latinos.” *NYSCEF Doc. No. 61*. Staten Island was the subject of intense redlining, a process in which the federal government enforced segregation by drawing race-based lines around different neighborhoods and ensured that Black people would not be allowed to obtain loans or mortgages. *Id.* This process largely confined Black people to neighborhoods north of the Staten Island Expressway with low property values and lowered the property values in areas where Black people resided, even majority-White neighborhoods. *Id.* These neighborhoods also had significant environmental hazards, leading to long-term health issues for residents over time. *Id.* Black and Latino people were often excluded from public housing in predominantly White neighborhoods and the real estate industry worked to keep them away from private property in White neighborhoods. *NYSCEF Doc. No. 61*. Even as racial protections were codified at a federal

level, Black and Latino Staten Islanders experienced harsh racial intimidation, violence, and hate-crimes. *Id.*

In the 1920s, New York state began requiring literacy tests to vote, a practice specifically designed to target immigrants and non-English speakers and prevent them from voting; this practice had a particularly negative impact on Black and Latino New Yorkers. *NYSCEF Doc. No. 61.* The long-term effects of this history has resulted in significant gaps in the lives of Black and Latino populations of Staten Island and the White population to this day, impacting “housing, education, [and] socioeconomic status...—all of which are known to have a negative impact on political participation and the ability to influence elections.” *Id.* White Staten Islanders enjoy notably higher education rates than Black and Latino residents; “[m]ore than 1 in 5 Latinos and 1 out of 9 Blacks but only 1 in 14 Whites are not high school graduates” and “[a] little less than a quarter of Latinos and a little more than a quarter of Blacks, but more than one-third of Whites, have obtained at least a bachelors’ degree.” *Id.* White Staten Islanders have a per capita income of \$52,273.00, Black Staten Islanders’ per capita income is \$31,647.00 and Latinos’ is \$30,748.00. *Id.* Moreover, where the White poverty rate on Staten Island is 6.8 percent, the Latino poverty rate is 16.3 percent, and the Black poverty rate is 24.6 percent. *NYSCEF Doc. No. 61.* Over 75 percent of White Staten Island residents own homes while only 43.7 percent of Latino residents, and 35.8 percent of Black residents do. *Id.* According to Dr. Sugrue’s testimony on the record, de facto segregation remains the norm, with moderate segregation rates between Hispanic and White residents and significant segregation between Black and White residents.

The impact of discrimination is not only social and economic, political, as Black, Latino, and Asian Staten Islanders’ political representation and participation in politics still lags behind White Staten Islanders. Expert witness Dr. Palmer’s report analyzes voter turnout on Staten Island

the 2020, 2022, and 2024 elections, showing that while White voter turnout averaged 65.3 percent across those races, Black voter turnout averaged 48.7 percent, Latino turnout averaged 51.3 percent, and Asian turnout averaged 47.7 percent. *NYSCEF Doc. No. 60*. In the same years, the average voter turnout was 58.7 percent. The election of minority candidates in CD-11 presents more complexity, though representation still low.² Staten Island has elected a minority candidate to represent the district in Congress: Intervenor-Respondent Representative Nicole Malliotakis, became the first elected official of Latin American descent elected in Staten Island when she won a race for the New York State Assembly in 2010. *NYSCEF Doc. No. 61*. The first Black elected official in Staten Island, won a North Shore council race in 2009. *Id.*. Petitioners have shown that “minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process” to a noteworthy extent. *Gingles*, 478 U.S at 44-45.

Petitioners have additionally shown that both overt and subtle racial appeals are common in campaigns in CD-11. The Court lends this less relative weight than other factors given the prevalence of racial appeals in political campaigns across the country. However, as a part of the broader suite of factors considered in a totality of the circumstances analysis, it is still meaningful. Dr. Palmer’s report provides strong examples of racial appeals in Staten Island politics. For instance, in the 1960s, there was strong opposition to minorities moving to the island, with one popular political cartoon decrying “ghetto areas” being delivered by Mayor John Lindsay. *NYSCEF Doc. No. 61*. In the 1990s, a movement advocating for the secession of Staten Island from New York City rose, driven in part by frustration at minority New Yorkers moving from other boroughs into public housing on Staten Island. *Id.* More recently, the first Black elected

² It is important to note that the election of minority candidates is distinct from the election of minority-preferred candidates. Here, the Court analyzes the former factor.

official on Staten Island was the subject of racially charged political attacks during her 2017 reelection campaign. *Id.* One Facebook page critical of her campaign accused her of supporting “a ‘welfare hotel full of criminals and addicts’ and turning a property into ‘a heroin/methadone den.’” *Id.* This follows common trends linking Black candidates to negative stereotypes associated with Black people. *Id.*

Based on the facts presented by the expert witness reports and on the record, it is clear to the Court that the current district lines of CD-11 are a contributing factor in the lack of representation for minority voters. In state and local races, Staten Island is allowed be divided in a way that has enabled Black and Latino voters to show some political power, however insufficient. *See Sugrue Report, NYSCEF Doc. No. 61.* In the redistricting process, a county can only be broken up to draw congressional districts if that country has a population greater than the “ideal population size” for a district. *Cooper Report, NYSCEF Doc. No. 62.* Because “the ideal population size for a congressional district in New York is 776,971” and Staten Island’s population is 495,747, “[Staten Island] must be joined with a neighboring portion of another New York City borough.” *Id.* Under the historic makeup of CD-11, which links Staten Island to southern Brooklyn, however, Black and Latino voters, who are already affected by a history of discrimination in the political process, education, housing, and more, are essentially guaranteed to have their votes diluted. *Id; Sugrue Report, NYSCEF Doc. No. 61.*

In this case, a totality of the circumstances analysis indicates that as drawn, the district lines for CD-11 “result in the denial or abridgement of racial or language minority voting rights minority voters,” particularly Black and Latino voters, violating Article III, Section 4(c)(1) of the New York State Constitution. Petitioners have shown strong evidence of racially polarized voting bloc (including preferences from Asian voters that align with Black and Latino voters, though the latter

two are the subject of Petitioners' arguments), they have demonstrated a history of discrimination that impacts current day political participation and representation, and they have shown that racial appeals are still made in political campaigns today. Taken together, these circumstances provide strong support for the claim that Black and Latino votes are being diluted in the current CD-11. Moreover, it is evident that without adding Black and Latino voters from elsewhere, those voters already affected by race discrimination will remain a diluted population indefinitely.

The Court must next determine, then, the proper remedy for unlawful vote dilution. Although Petitioners have shown a violation of the state constitution, their remedy must align with the law. Petitioners request that the Court mandate a new set of district lines for CD-11, shifting the boundaries from the entirety of Staten Island and a portion of Brooklyn to the entirety of Staten Island and a portion of Southern Manhattan; this map would redraw Congressional District 10 so that it would retain the Chinatown neighborhood and the portion of Brooklyn it currently holds while extending down into the portions of Southern Brooklyn currently contained in CD-11.

NYSCEF Doc. No. 62.

To determine whether ordering a redrawing of the congressional lines is a proper remedy, Petitioners must first show that minority voters make up a sufficient portion of the district's population. Under *Gingles*, the minority group must be "sufficiently large and geographically compact to constitute a majority in a single-member district." 478 U.S. at 51. Because the New York State Constitution is more sweeping than the VRA, such a high bar need not be cleared under a vote dilution claim in this state. *See supra*. Still, minority voters must comprise a sufficiently large portion of the population of the district's voting population that they would be able to influence electoral outcomes. However, the Court can still find guidance from the federal jurisprudence. In *Bartlett v. Strickland*, the United States Supreme Court differentiated between

“majority-minority” districts, where minority voters make up a majority of the electorate and “crossover” districts, where “members of the majority help a ‘large enough’ minority to elect its candidate of choice.”³ 556 U.S. 1, 13 (2009); *Cooper v. Harris*, 581 U.S. 285, 303 (2017) (quoting *Bartlett*, 556 U.S. at 13). Nowhere in their papers do Petitioners assert that a majority-minority district can or should be drawn here; as such, the Court sees this as a crossover claim.

While crossover claims were rejected under the VRA in *Bartlett*, the Article III, Section 4(c)(1)’s language indicated that they are allowed in actions in the state of New York. In *LULAC v. Perry*, Justice David Souter proposed a bar for crossover claims as establishing a district where “minority voters . . . constitute a majority of those voting in the primary of the dominant party, that is, the party tending to win in the general election.” 548 U.S. 399, 485-86 (2006) (Souter, J., concurring in part and dissenting in part). Based on this opinion, and on legal scholarship, Amici Professors Ruth M. Greenwood and Nicholas O. Stephanopoulos propose the following standard for a crossover claim: “a proposed district should count as a crossover district if minority voters (including from two or more racial or ethnic groups) are able to nominate candidates of their choice in the primary election and if these candidates are ultimately victorious in the general election.” *NYSCEF Doc. No. 135*. Also in *LULAC*, Justice Stephen Breyer went a step beyond Justice Souter’s proposed definition, arguing that a crossover claim should “show that minority voters in a reconstituted or putative district constitute a majority of those voting in the primary of the dominant party, that is, the party tending to win in the general election” (*LULAC*, 548 US at 485-86) (Breyer, J., dissenting in part). Based on Justice Breyer’s opinion, Amici New York Civil Liberties Union, NAACP Legal Defense and Education Fund, Asian American Legal Defense and Education Fund, and Center for Law and Social Justice propose that the Court follow a similar

³ A majority-minority district may come in the form of a simple majority or a “coalition” district, where multiple minority voting groups form a majority of voters. *Bartlett*, 556 U.S. 1, 13 (2009).

logic so that “crossover claims [are not] easily...distorted for partisan maximization.” NYSCEF

Doc. No. 139

The Court adopts a three-pronged standard for evaluating a proposed crossover district in a vote dilution case pursuant to Article III, Section 4(c)(1) of the New York State Constitution. First, a proposed district should count as a crossover district if minority voters (including from two or more ethnic groups) are able to select their candidates of choice in the primary election. Second, these candidates must usually be victorious in the general election. Third, the reconstituted district should also increase the influence of minority voters, such that they are decisive in the selection of candidates.

The Court emphasizes two aspects of this standard for clarity. First, the minority-preferred candidates must “usually” win the general election so that the standard for establishing a crossover district closely mirrors the standard for establishing vote dilution, which says that minority-preferred candidates must “usually” fail. *See Gingles* 478 U.S. at 56. “Usually be victorious” should only be interpreted to the extent that minority-preferred candidates win more often than not. Second, that prong three requires minority voters to be “decisive” in primary races so that crossover districts cannot be used to achieve vote dilution in favor of a different political party. As stated above, racial vote dilution claims should not be used for the purpose of simply bolstering a political party’s power and influence. Otherwise, it would be relatively simple to use vote dilution claims to establish districts in which minority voters *do not* gain actual influence but *are* grouped with White voters who would elect minority-preferred candidates regardless of whether those minority voters were drawn into a new district or not.

While Petitioners offer new district lines for the Court to adopt, the New York State Constitution points the Court in a different direction. Under Article III, Section 5 of the New York

State Constitution, “the legislature shall have a full and reasonable opportunity to correct the law’s legal infirmities,” should the Court find a congressional map invalid. In *Harkenrider v Hochul*, the New York State Court of Appeals found that, where the election calendar’s start was imminent and the Independent Redistrict Commission (“IRC”) process was in disarray, it was appropriate to appoint a special master to draw new congressional maps, as the redistricting plan was unconstitutional and “incapable of a legislative cure.” 38 NY3d 494, 523 (2022). In *Hoffmann v New York State Ind. Redistricting Commn*, the Court of Appeals built on this, stating that “[c]ourt-drawn judicial districts are generally disfavored because redistricting is predominantly legislative.” 41 NY3d 341, 361 (2023). Instead, the Court pointed to Article III, Section 5(b), which states that “at any other time a court orders that congressional or state legislative districts be amended, an independent redistricting commission shall be established to determine the district lines for congressional and state legislative offices.” *Hoffman*, 41 NY3d 341, 360 (2023). Under a Court-ordered IRC redistricting process, the redrawing of the maps is considered “adopted by the IRC and legislature.” *Id.*

As in *Harkenrider*, time is of the essence to fix congressional lines in this case. *Harkenrider v. Hochul*, 38 NY3d 494, 523. Respondent New York State Board of Elections has stated that to properly implement a new congressional map, a multiagency process including county boards, borough staff, central New York City staff, the New York City Department of Planning, and the Board itself, would need to be completed. *NYSCEF Doc. No. 204*. This includes the redrawing of election districts, which is a city-wide process, and requires as much time as possible before the election calendar begins on February 24, 2026. *Id.* Unlike *Harkenrider*, though, the IRC has not had the chance to redraw maps, meaning that constitutionally, they should receive an opportunity to do so. *Harkenrider*, 38 NY3d at 523. Therefore, in keeping with the precedent established

Hoffman, and following the requirements of Article III, Section 5(b) of the New York State Constitution, the proper remedy in this case is to reconvene the IRC to redraw the CD-11 map so that it comports with the standard described above. 41 NY3d 341, 360. Per the request of the Board of Elections, new congressional lines must be completed by February 6, 2026. The Court has considered Respondents additional arguments, including regarding the Elections clause and laches, and finds them unavailing.

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Based on the reasoning above, the parties' arguments on the record, and the documents submitted to the Court, it is hereby **ORDERED** that the configuration of New York State's 11th Congressional District under the 2024 Congressional Map is deemed unconstitutional under Article III, Section 4(c)(1) of the New York State Constitution; and it is further

ORDERED that Respondents are hereby enjoined from conducting any election thereunder or otherwise giving any effect to the boundaries of the map as drawn; and it is further

ORDERED that the Independent Redistricting Commission shall reconvene to complete a new Congressional Map in compliance with this Order by February 6, 2026; and it is further

ORDERED that this case shall not be deemed resolved until the successful implementation of a new Congressional Map complying with this order.

1/21/2026
DATE

CHECK ONE:

APPLICATION:

CHECK IF APPROPRIATE:

<input type="checkbox"/>	CASE DISPOSED
<input type="checkbox"/>	GRANTED
<input type="checkbox"/>	SETTLE ORDER
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN

DENIED

<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
<input checked="" type="checkbox"/>	GRANTED IN PART
<input type="checkbox"/>	SUBMIT ORDER
<input type="checkbox"/>	FIDUCIARY APPOINTMENT

OTHER

REFERENCE

HON. JEFFREY H. PEARLMAN
J.S.C.
JEFFREY H. PEARLMAN, J.S.C.

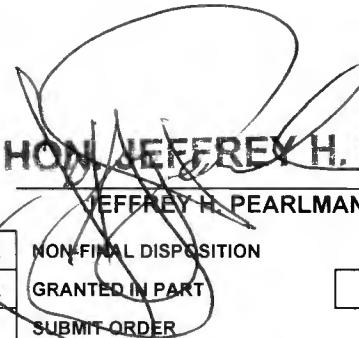


Exhibit R

Affirmation of Raymond J. Riley, III
January 12, 2026

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Michael Williams, José Ramírez-Garofalo, Aixa Torres, and
Melissa Carty,

Petitioners,

-against-

Board of Elections of the State of New York; Kristen
Zebrowski Stavisky, in her official capacity as Co-Executive
Director of the Board of Elections of the State of New York;
Raymond J. Riley, III, in his official capacity as Co-
Executive Director of the Board of Elections of the State of
New York; Peter S. Kosinski, in his official capacity as Co-
Chair and Commissioner of the Board of Elections of the
State of New York; Henry T. Berger, in his official capacity
as Co-Chair and Commissioner of the Board of Elections of
the State of New York; Anthony J. Casale, in his official
capacity as Commissioner of the Board of Elections of the
State of New York; Essma Bagnuola, in her official capacity
as Commissioner of the Board of Elections of the State of
New York; Kathy Hochul, in her official capacity as
Governor of New York; Andrea Stewart-Cousins, in her
official capacity as Senate Majority Leader and President Pro
Tempore of the New York State Senate; Carl E. Heastie, in
his official capacity as Speaker of the New York State
Assembly; and Letitia James, in her official capacity as
Attorney General of New York,

Respondents,

-and-

Representative Nicole Malliotakis, Edward L. Lai, Joel
Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba,

Intervenor-Respondents.

**AFFIRMATION OF
RAYMOND J. RILEY, III**

Index No.: 164002/2025
Hon. Jeffrey H. Pearlman

Mot. Seq. 001

I, RAYMOND J. RILEY, III, affirm this 12th day of January, 2026, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the following is true, and I understand that this document may be filed in an action or proceeding in a court of law.

1. I am the Co-Executive Director of the New York State Board of Elections since 2023 (“NYSBOE”). Previous to this, I was the Chief Clerk of the Kings County Board of Elections, part of the New York City Board of Elections, responsible for all operations in the borough since 2017. I submit this affirmation to explain the upcoming election calendar deadlines and administrative realities relevant to any remedial order concerning congressional district boundaries for the 2026 election cycle.

2. I have personal knowledge of the matters set forth below based on my responsibilities at NYSBOE, my experience with statewide election administration, and my experience serving at the New York City Board of Elections (“NYCBOE”).

3. As described below, the election calendar begins on February 24, 2026, which is the first day candidates may circulate designating petitions.

4. I understand that regardless of the outcome of this proceeding, it is likely that emergency appellate proceedings will ensue, meaning there would be uncertainty as to the district lines in the weeks leading up to the petitioning period.

5. To implement a new map for the 2026 election, the map must be completed in advance of petitioning to give NYSBOE sufficient time to prepare for the possibility of that map being implemented at the conclusion of the appellate process.

6. As detailed below, if the current map remains unchanged, NYSBOE will have sufficient time to implement that map. Similarly, if a new map is completed by February 6, 2026, NYSBOE will have sufficient time to plan for the contingency of that map being implemented.

7. This schedule is driven by certain administrative actions at both the state and city level that must occur before the formal launch of the election cycle.

8. Changes to congressional district boundaries necessarily require corresponding changes to election districts (“EDs” or an “ED”).

9. EDs are the basic precinct units used for voter assignment, party enrollment, polling places, and ballot creation. Each ED must be wholly contained within a single configuration of higher-level districts (including congressional, state senate, state assembly, and, in New York City, city council districts). When a revised congressional line bisects existing EDs, county boards must redraw ED boundaries so that no ED incorporates more than one congressional district. This reapportionment entails updating geographic information system files, splitting and renumbering affected EDs, geocoding addresses and migrating voters to their correct EDs, reconciling the changes in the statewide registration system, reassessing poll-site capacity and assignments, and generating updated enrollment-by-ED reports.

10. These downstream tasks—which involve work across multiple government agencies—may occur only after district lines have been completed.

11. The first day to circulate designating petitions is February 24, 2026 (Election Law § 6-134 [4]).

12. This statutory deadline is not the only consideration relevant to the feasibility of adopting a new map for Congressional Districts 10 and 11.

13. When a redistricting affects New York City, additional steps are required at the NYCBOE level that must occur in advance of petitioning.

14. These NYC-level technical and administrative steps cannot be compressed into only a few days.

15. Once a map affecting NYC is finalized, it is sent to NYCBOE for reapportionment. This is the process by which EDs are drawn to ensure that they do not cross the lines of the various legislative and judicial districts.

16. In NYC, the process of reapportionment is a borough-by-borough project, requiring each individual borough to redraw EDs based on the new lines for Congress and existing lines for all other districts.

17. Following reapportionment, NYC Central Staff compiles the changes, prints maps based on the proposed EDs, and provides copies to the boroughs for their review. This review is necessary to ensure that EDs meet statutory requirements (contiguity, compactness, number of voters, *etc.*) and that no ED crosses any district line.

18. Once approved by Borough Staff and NYC Central Staff, ED changes are sent to the NYC Department of City Planning (“NYCDCP”), which geocodes every address in NYC for all districts.

19. Critically, this process cannot be done for a subset of the city but must be completed for the entirety of NYC.

20. There are no statutory time constraints for NYCDCP to complete this process.

21. Once NYCDCP finishes this process, it sends a geocoded file back to NYCBOE, which then applies the geocoded addresses to the voter registration system. Since changes to any

congressional district within NYC necessarily affect other parts of the city, this process must be completed citywide and cannot be limited to the affected congressional districts.

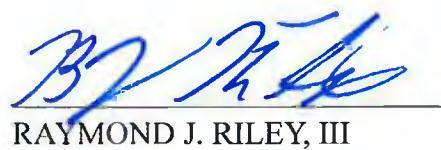
22. Central NYC and Borough Staff then perform a manual check to ensure that all voters have been migrated correctly.

23. Next, NYSBOE confirms any changes against its own records to ensure that changes were correctly received by the state registration system. If any errors are found, NYSBOE must work with the relevant counties to have them correct any migration issues.

24. Once NYSBOE and the relevant counties complete their diligence, any affected EDs must be reassigned to existing poll sites or assigned to new poll sites if the creation of additional EDs impacts the capacity of any poll sites.

25. This process would be particularly challenging in 2026 because both New York County and Queens County are currently conducting three active special elections between them, which will burden NYCBOE with the work of managing these election certifications while also potentially redrawing maps as a result of this proceeding.

26. Accordingly, to prepare for the contingency of a new map being implemented for the 2026 election, the map must be completed by February 6, 2026. This would allow sufficient time to either implement that map or the current map at the conclusion of this litigation.



RAYMOND J. RILEY, III

CERTIFICATE OF COMPLIANCE

The undersigned counsel hereby certifies pursuant to the word count stipulation in this action that, with the exception of the caption, table of contents, table of authorities, and signature block, the foregoing memorandum contains 951 words, based on the calculation made by the word-processing system used to prepare this document.

I certify that no generative artificial intelligence program was used in the drafting of any affidavit, affirmation, or memorandum of law contained within the submission.

Dated: January 12, 2026
Albany, New York

/s/ Nicholas J. Faso

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION, FIRST DEPARTMENT

Michael Williams, José Ramírez-Garofalo, Aixa Torres, and
Melissa Carty,

Petitioners,

-against-

Board of Elections of the State of New York; Kristen
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Raymond J. Riley, III, in his official capacity as Co-
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capacity as Commissioner of the Board of Elections of the
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as Commissioner of the Board of Elections of the State of
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Governor of New York; Andrea Stewart-Cousins, in her
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his official capacity as Speaker of the New York State
Assembly; and Letitia James, in her official capacity as
Attorney General of New York,

Respondents,

-and-

Representative Nicole Malliotakis, Edward L. Lai, Joel
Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba,

Intervenor-Respondents.

**AFFIRMATION OF
RAYMOND J. RILEY, III**

Appellate Division Case No.:
2026-00384

NY County Index No.:
164002/2025

I, RAYMOND J. RILEY, III, affirm this 27th day of January, 2026, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the following is true, and I understand that this document may be filed in an action or proceeding in a court of law.

1. I have been the Co-Executive Director of the New York State Board of Elections (“NYSBOE”) since 2023. Previously, I was the Chief Clerk of the Kings County Board of Elections, which is part of the New York City Board of Elections (“NYCBOE”), responsible for all operations in the borough since 2017.

2. I submit this affirmation in support of the motion of Appellants-Respondents Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York, Anthony J. Casale, in his official capacity as Commissioner of the Board of Elections of the State of New York, and myself, in my official capacity as Co-Executive Director of the Board of Elections of the State of New York (collectively, “Appellants”) for a stay of any portion of the Order of Supreme Court, New York County (Pearlman, J.), dated January 21, 2026 (the “Order”), not automatically stayed by CPLR 5519(a)(1).

3. I have personal knowledge of the matters set forth herein based on my responsibilities at NYSBOE, my experience with statewide election administration, and my prior service at NYCBOE.

4. Since the Court’s Order directs the Independent Redistricting Commission (“IRC”) to “reconvene and complete a new Congressional Map,” the Order will potentially have statewide consequences. I understand that portion of the Order directing the IRC to reconvene has been automatically stayed as a result of Appellants-Respondents’ appeal of the Order. Nevertheless, as explained below, absent a stay of Supreme Court’s injunctive relief, the election calendar for all

seats across the state will be disrupted, since Supreme Court not only declared that CD-11's configuration is unconstitutional, but also enjoined "any election" under the 2024 Congressional map.

5. CD-11, which encompasses all of Staten Island and a portion of southern Brooklyn, shares borders with Congressional Districts 10, 9, 8, and 5. Those districts, in turn, border Congressional Districts 12, 7, 6, 4, and 3.

6. Consequently, any new map drawn by the IRC will impact a minimum of two congressional districts and, potentially, multiple adjacent congressional districts.

7. The injunction's prohibition on "conducting any election" or "giving any effect to the boundaries of the map as drawn" appears to prohibit the NYSBOE and local boards of elections from engaging in preparatory work for all Congressional districts statewide, or at least any districts adjacent to CD-11, not merely the congressional election for CD-11.

8. This is untenable. As I explained in my prior affirmation, the election calendar formally begins on February 24, 2026, which is the first day candidates may circulate designating petitions pursuant to Election Law § 6-134(4).

9. That statutory petitioning deadline is not the only relevant consideration. Substantial preparatory work by NYSBOE and local boards of elections must occur before the petitioning period begins.

10. Even assuming the congressional map is not changed, NYSBOE and local boards of elections are currently preparing for multiple administrative tasks for both the June and November elections, including processing of voter registrations in preparation of publishing the list of registered voters by congressional district, preparing the designation of polling places, and preparing to receive all ballot access documents. NYSBOE provides county board of elections and

NYCBOE with an informational calendar, which details these tasks, deadlines, and the related statutory basis, if any. The 2026 Informational Calendar is appended to this Affirmation as **Exhibit A**. Many of these tasks not only must be completed on a set schedule, but in many instances, build upon previous prerequisite tasks. Allowing the county board of elections and NYCBOE to continue to prepare for the scheduled elections would avoid the disruption and delay that will result if the injunction is allowed to remain in place.

11. Additionally, NYCBOE is currently conducting three special elections, whose canvass timeline will extend at a minimum to February 16th, and potentially longer based on cures of deficient absentee, affidavit, and military/UOCAVA ballots.

12. If the injunction remains in place, NYSBOE and, in turn, local boards of election cannot complete this preparatory work, meaning it will be impossible to timely commence the election process on February 24, 2026, not just for CD-11, but for multiple other districts.

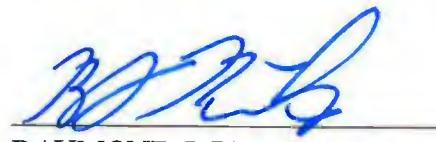
13. Allowing the injunction to remain in place would, therefore, guarantee a disruption to the 2026 election cycle, causing great confusion for the NYSBOE, candidates, and the voters.

14. By contrast, if we are permitted to move forward with the calendar as is, candidates can continue to prepare for the election and plan to collect petitions under the Legislatively adopted map, and boards of elections can move forward with their necessary tasks for all offices and districts. Proceeding with preparations under existing lines would allow the election process to continue unencumbered in the event the Court's Order is reversed on appeal.

15. As I stated in my prior affirmation, if the NYSBOE has certainty as to what the potential remedy would be by February 6, 2026, then the NYSBOE and local boards of election could complete their preparatory work in time for the February 24 2026 petitioning season, under either contingency (that is, under the adopted map or the remedial map), depending on what the

appellate courts order. Any uncertainty as to the potential remedy after February 6, 2026 would jeopardize the ability of the NYSBOE, local boards of election, and candidates to timely commence petitioning and have a domino effect on the remainder of the election calendar. The currently in place injunction makes that impossible, as the NYSBOE now cannot prepare to run the election under the adopted map and it is exceedingly unlikely that a remedial map will be available by February 6, in light of the automatic stay.

16. For the foregoing reasons, I respectfully submit that this Court should grant a stay of the Court's Order.



RAYMOND J. RILEY, III

New York State Board of Elections

2026 Informational Calendar

Published 01/13/2026

Task	Due Date	Details	Statute Number	Statute Text
NVRA Dot-Code Tracking Report	During the Month	CBOEs send to PIO@elections.ny.gov		
Grant Documents	During the Month	CBOEs send to grants@elections.ny.gov		
Monthly Enrollment Totals	During the Month	Compare local enrollment totals to NVSVoter enrollment totals		
Organizational Board Meeting				
§§ 212 (1)	During the Month	After January 1st of each year CBOEs must meet to organize	§ 212 (1)	after the 1st day of January
New Year's Day		1/1/2026 New York State is Closed		
New York State Election Commissioners Association Winter Conference	begins	1/5/2026 Crowne Plaza Albany - The Desmond Hotel		
New York State Election Commissioners Association Winter Conference	ends	1/8/2026 Crowne Plaza Albany - The Desmond Hotel		
January Periodic Financial Disclosure Cutoff Date				
§§ 108 (2)	1/1/2026		§ 108 (2)	including 4th day next preceding the day specified for the filing
January Periodic Campaign Financial Disclosure Report		1/15/2026 Cut Off Date: January 11th	§ 108 (1)	at least once every 6 months
Certification of Offices to be Filled at June Village Election by Village Clerk				
§§ 106 (2)	1/16/2026 if Applicable		§ 106 (2)	no later than 5 months before village elections
Dr. Martin Luther King, Jr. Day		1/19/2026 New York State is Closed		
Annual Statistical Survey		1/23/2026 CBOEs send to election_ops@elections.ny.gov		
2026 Voter Registration Action Plan				
§§ 212 (4)(a) & (b)	1/23/2026	CBOEs send to election_ops@elections.ny.gov	§ 212 (4)(a) & (b)	no later than the last day of January
Annual Report to County Legislature		CBOE Annual Report made to the county legislative body. Send to SBOE no later than January 31st each year		
§§ 212	1/31/2026	CBOEs send to PIO@elections.ny.gov	§ 212 (4)(a)	no later than the last day of January
NVRA Dot-Code Tracking Report	During the Month	CBOEs send to PIO@elections.ny.gov		
Grant Documents	During the Month	CBOEs send to grants@elections.ny.gov		
Monthly Enrollment Totals	During the Month	Compare local enrollment totals to NVSVoter enrollment totals		
Process National Change of Address (NCOA)		Results from SBOE NCOA Process will be distributed to CBOEs for processing		
§§ 708 (5)(a)	During the Month	Vacant offices must be certified by February 1st in the year of a general election	§ 708 (5)(a)	during Feb
Certification of Offices to be Filled at General Election by SBOE and CBOE		2/1/2026 CBOEs send to election_ops@elections.ny.gov	§ 106 (1) & (2)	by February 1st in the year of each general election
State Committee Meeting to Nominate Candidates for Statewide Office for June Primary Election	begins			
§§ 104 (6)		2/3/2026	§ 104 (6)	no earlier than 21st day before 1st day to sign designating petitions for the primary election
Party Calls: Last Day for State and County Party Chairs to File a Statement of Party Positions to be Filled at the June Primary Election		No later than two weeks before the 1st day on which designating		
§§ 120		2/10/2026 petitions for a primary election may be signed	§ 120 (1)	2 weeks before 1st day on which designating petitions for the primary election may be signed
Last Day to Receive Party Enrollment Changes				
§§ 304 (3)	2/14/2026		§ 304	received after February 14th
Washington's Birthday / Presidents' Day		2/16/2026 New York State is Closed		
Last Day to Process Timely Received Party Enrollment Changes				
§§ 604 (1)	2/19/2026	Such lists shall be published before February 21st	§ 604	before the 21st day of February
List of Registered Voters		Such lists shall be published before February 21st		
§§ 604 (1)	2/20/2026	Used to determine number of required early voting sites	§ 604	before the 21st day of February
First Day to Hold a Town Caucus				
§§ 108	2/24/2026		§ 108	no earlier than 1st day on which designating petitions for primary election
First Day for Signing Designating Petitions for June Primary Election				
§§ 134 (4)	2/24/2026		§ 134 (4)	no earlier than 41st day before last day to file designating petitions for the primary election
State Committee Meeting to Nominate Candidates for Statewide Office for June Primary Election	ends			
§§ 104 (6)	2/24/2026		§ 104 (6)	no later than no later than the 1st day to sign designating petitions for the primary election
NVRA Dot-Code Tracking Report	During the Month	CBOEs send to PIO@elections.ny.gov		
Grant Documents	During the Month	CBOEs send to grants@elections.ny.gov		
Monthly Enrollment Totals	During the Month	Compare local enrollment totals to NVSVoter enrollment totals		
		If Applicable		
Testing Maintenance Certification Form and Log for March Village Election		No later than two days before a village election, CBOEs must test a voting system before it is used		time specified shall be not less than 2 days prior to the date of the election
§§ 6210.2 (a), 6210.2 (g)-(i)	During the Month	CBOEs send to election_ops@elections.ny.gov	§ 6210.2 (e)	
Publish Legal Notice for March Village Election	begins	3/4/2026 Once in each week	§ 120 (1)	once in each of the 2 weeks preceding a village election
§§ 120 (1)		Provide list of registered voters to village clerk if election is run by the		
List of Registered Voters for March Village Election		§ 11/2026 village no later than seven days before village election	§ 612 (1)	no later than the 7th day before a village election

Amended Early Voting Security Plans, Network Security Survey, Procedure to Prevent Duplicate Voting, and Prevention of Public Release of Vote Results prior to June Primary Election §9-209 (2)(d), 6211.2, 6211.6	Submit either a revised plan, if amended, or notification that no changes occurred. Due no later than 90 days before they are effective 3/14/2026 CBOEs send to election_ops@elections.ny.gov	§9-209 (2)(d) §6211.2 §6211.6	no later than 90 days before they are effective no later than 60 days before 1st day of general election early voting no later than 60 days before 1st day of general election early voting
Designation of Polling Places for General Election §8-104 Publish Legal Notice for March Village Election ends §4-120 (1)	Polling places and their hours of operation for a general election shall be designated by March 15th of each year 3/15/2026 Upload designations to NYSVoter in July	§4-104 (1)	designated by March 15th once in each of the 2 weeks preceding a village election
Pre-Election Testing for March Village Election §6210.2 March Village Election §15-104 (b)	3/16/2026 No later than two days before a village election 3/18/2026 If Applicable	§6210.2 (e) §15-104 (b)	no later than 2nd day before general election 3rd Tuesday of March (unless it falls on 17th/St. Patty's day, then is moved to the 18th) no earlier than 16th day before the last day to file designating petitions for the primary election
First Day for Signing Opportunity to Ballot Petitions for June Primary Election §6-164 NCOA Blackout for June Primary Election §§5-708 (5), 5-712 (4)	3/21/2026 3/25/2026 If Applicable	§6-164 §§5-708 (5), 5-712 (4)	For those Counties with Federal Primaries
Certification of Completed 3% Audit for March Village Election §§9-211, 6210.18 Recanvass of March Village Election Returns §9-208 (1)	Random selection and audit must occur within seven days after a village election 3/25/2026 CBOEs send to election_ops@elections.ny.gov Recanvass of election results must occur within seven days after a village election 3/25/2026 Village election	§9-211 (1) §6210.18 §9-208 (1)	no later than 7th day after the village election time fixed by §9-211 no later than 7th day after village elections if run by the county
Cyber Incident Response Contact List for June Primary Election §§6220.3 (a)(10)(iii)	3/25/2026 CBOEs send to secure@elections.ny.gov Word/PDF No later than 90 days before a primary election Email confirmation	§6220.3 (a)(10)(iii)	no later than 90 days before primary election
Test Restoration of Critical Data and Information Systems for June Primary Election §§6220.3 (a)(6)	3/25/2026 CBOEs send to secure@elections.ny.gov No later than 90 days before a primary election	§6220.3(a)(6)(i)	no later than 90 days before primary election
Filing Period for Designating Petitions for June Primary Election begins §6-158 (1)	3/30/2026	§6996 §6-158 (1)	no earlier than 13th Monday before the primary election
INVARA Dot-Code Tracking Report Grant Documents Monthly Enrollment Totals	During the Month CBOEs send to PIO@elections.ny.gov During the Month CBOEs send to grants@elections.ny.gov During the Month Compare local enrollment totals to NYSVoter enrollment totals		
Last Day for Signing Designating Petitions for June Primary Election §6-134 (4-a)	4/2/2026	§6996 §6-134 (4-a)	no later than the 12th Thursday before the primary election
Filing Period for Designating Petitions of June Primary Election ends §6-158 (1)	4/6/2026	§6996 §6-158 (1)	no later than the 12th Thursday before the primary election
Last Day to File Opportunity to Ballot Petition for June Primary Elector §6-158 (4)	4/9/2026	§6-158 (4)	no later than 11th Thursday preceding the primary election filed no later than 4th day after the last to day to file the designating petition, certificate of nomination or certificate of substitution to which the authorization relates
Last Day to Authorize Designation for June Primary Election §6-120 (3)	4/10/2026	§6-120 (3)	
Last Day to Accept or Decline Designation for June Primary Elector §6-158 (2)	4/10/2026	§6-158 (2)	filed no later than the 4th day after the last to file designation
Last Day for Member of Committee to Receive Notices to File Acceptance for Opportunity to Ballot Petition for June Primary Election §6-166 (3)	4/13/2026	§6-166 (3)	no later than the 4th day after the last day to file petitions for the opportunity to ballot
Last Day to Fill a Vacancy after a Declination of a Designation for the June Primary Election §6-158 (3)	4/14/2026	§6-158 (3)	no later than 4th day after the last day to decline
First Day for Signing Independent Nominating Petitions for General Election §6-138 (4)	4/14/2026	§6-138 (4)	no earlier than 6th week before the last day to file independent petitions
Send Contribution Limits for Local Elections to SBOE and Post Limits to CBOE Website §14-114 (11)	Send to SBOE and post on CBOE website 4/15/2026 CBOEs send to training@elections.ny.gov	§14-114 (11)	on or before the 15th day of April
Last Day to File an Opportunity to Ballot Petition if there has been a Declination by a Designated Candidate for the June Primary Election §6-158 (4)	4/16/2026	§6-158 (4)	no later than 10th Thursday preceding the primary election
For CBOEs that Assist School Districts: Last Day for Candidates to Submit Petitions to District Clerk for School Election EDN §2018 (a)	4/19/2026 If Applicable	EDN §2018 (a)	no later than 30 days before the election
List of Registered Voters for School Election §5-612 (3)	Provide list of registered voters to school administrator if election is run by the school district no later than 30 days before school election	§5-612 (3)	no later than 30 days immediately prior to the regularly scheduled school district election
Last Day to File Authorization of Substitution after Declination of a Designation for the June Primary Election §6-120 (3)	4/20/2026	§6-120 (3)	filed no later than 4th day after the last to day to file the designating petition, certificate of nomination or certificate of substitution to which the authorization relates

Last Day for Member of Committee to Receive Notices to File Acceptance for an Opportunity to Ballot Petition if Declaration Filed for June Primary Election §§ 166 (3)	4/20/2026		\$6-166 (3)	no later than the 4th day after the last day to file petitions for the opportunity to ballot
Mail Check to Voters begins §4-117(1)	4/21/2026	CBOEs must send mail checks to registered voters between the third Tuesday in April and the second Friday in May	\$4-117	3rd Tuesday in April
Send out Application for June Primary Election Ballot to Special Federal and Active UOCAVA Voters begins §11-210	4/24/2026	No earlier than 60 or later than 40 days before a primary election in which special federal and active UOCAVA voters are eligible to vote No later than 60 days before a primary election according to Hernandez settlement	\$11-210	no earlier than 60 days before each primary election
Accessible Ballot Readiness Survey for June Primary Election	4/24/2026	CBOEs send to election_ops@elections.ny.gov	Hernandez et al v. NYSSBOE et al	within 60 days of a primary election
Last Day to Send List of "Hospitalized Veterans" Entitled to Receive Absentee Ballots for June Primary Election to Veterans' Health Administration Hospitals §8-404 (1)(a)	4/24/2026	If Applicable	\$8-404 (1)(a)	60 days before each election
Certification of Candidates for June Primary Election Ballot by SBOE §4-110	4/29/2026	SBOE no later than 55 days before a primary shall certify candidates whose designation filed in its office	\$4-110	no later than 55th day before the primary election
Certification of Candidates for June Primary Election Ballot by CBOE §4-114	4/30/2026	CBOE no later than 54 days before a primary shall certify candidates whose designation filed in its office	\$4-114	no later than 54th day before the primary election
Send Local Filers of Designating Petitions to SBOE, CAPAS/FIDAS – Candidates §7-118 (3)	4/30/2026	Send a copy of the candidate and contest information to be contained on each of the ballot styles to the SBOE	\$7-118 (3)	CBOE shall transmit electronically, as it is available, a copy of the candidate and contest information contained on each of its ballot styles to the SBOE
NYRA Dot-Code Tracking Report	During the Month	CBOEs send to PIO@elections.ny.gov		
Grant Documents	During the Month	CBOEs send to grants@elections.ny.gov		
Monthly Enrollment Totals	During the Month	Compare local enrollment totals to NYSVoter enrollment totals		
Testing Maintenance Certification Form and Log for School Election §§6210.2 (a), 6210.2 (g) – (i)	During the Month	If Applicable No later than two days before a school election, CBOEs must test a voting system before it is used CBOEs send to election_ops@elections.ny.gov	\$6210.2 (c)	time specified shall be not less than 2 days prior to the date of the election
Rolling Canvas of Absentee, Early Mail, Military, and Special Ballots for June Primary Election §9-209 (1) & (2)	During the Month		\$9-209 (1) & (2)	within 4 days of receipt
Send Copies of Sample Ballots for June Primary Election to SBOE §7-118 (3)	During the Month	Each CBOE shall transmit electronically, a copy of the candidate and contest information contained on each of its ballot styles to the SBOE CBOEs send to election_ops@elections.ny.gov	\$7-118 (3)	as it is available
Send Candidate Notice for June Primary Election §§7-128(2)(a), 9-208(1), 9-209(7), 9-209(8)(b), 6210.2(d), 6210.18 (b)(1)	During the Month	Send Candidate notice to all candidates including Presidential electors (if applicable), party chairs, and send to election_ops. Candidates must receive by May 8th and be sent with sufficient time. CBOE's send to election_ops@elections.ny.gov	\$7-128(2)(a) §9-208(1) §9-209(7) §9-209(8)(b) §6210.2(d) §6210.18 (b)(1)	shall give written notice, by first class mail shall give notice in writing pursuant to paragraph (a) of subdivision eight of this section shall send notice by first class mail shall give written notice shall send notice
Last Day to File Early Voting Communication Plan §6211.7	5/1/2026	CBOEs send to PIO@elections.ny.gov	\$6211.7 (c)	no later than May 1st
Designation of Early Voting Polling Places for General Election §§8-600 (4)(e), 6211.1 (a)	5/1/2026	Early voting polling places and their hours of operation for early voting at a general election shall be designated by May 1st of each year Upload designations to NYSVoter	\$8-600 (4)(e) §6211.1 (a)	by May 1st of each year by May 1st of each year
Last Day for Parties to Recommend Election Inspectors and Poll Clerks §3-404 (2)	5/1/2026		\$3-404 (2)	no later than May 1st
UOCAVA Ballot Survey for June Primary Election – Pre-Election	5/4/2026	CBOEs send to PIO@elections.ny.gov		requested in federal election years unless there is a federal special election
Mail Check to Voters ends §4-117 (1)	5/8/2026		\$4-117	2nd Friday in May
Last Day to Inspect the Ballot for the June Primary Election §7-128 (2)	5/8/2026		\$7-128 (2)	no later than 46th day before the election
Deadline to Transmit June Primary Election Ballots to Eligible Military, Special Federal, UOCAVA Voters via Preferred Method Requested by Voter §§10-108 (1) & 11-204 (4)	5/8/2026	Via preferred method requested by voter (US Mail, email, fax) Early voting polling places and their hours of operation for early voting at a primary election shall be designated 45 days prior to a primary election	\$10-108 (1) \$11-204 (4)	no later than 46th day before the primary election no later than 46th day before the primary election
Designation of Early Voting Polling Places for June Primary Election §§8-600 (4)(e), 6211.1 (a)	5/9/2026	Upload designations to NYSVoter	\$8-600 (4)(e) §6211.1 (a)	no later than 45 days before the primary election no later than 30 days before the primary election
Last Day to Receive Notated List of "Hospitalized Veterans" Entitled to Receive Absentee Ballots for June Primary Election back from Veterans' Health Administration Hospitals §8-404 (1)(a)	5/9/2026	If Applicable No later than 15 days after the veterans' health administration hospital was given original list	\$8-404 (1)(a)	no later than 15 days following the receipt of such list
Supplemental List of Registered Voters for School Election §5-612 (3)	5/9/2026	Provide supplemental list of registered voters to school administrator if election is run by the school district no later than ten days before school election	\$5-612 (3)	no later than 10 days prior to each regular school district election

UOCAVA Ballot Survey for June Primary Election – 45 Day Deadline	5/11/2026 CBOEs send to PIO@elections.ny.gov		Requested in federal election years unless there is a federal special election
Send out Application for June Primary Election Ballot to Special Federal and Active UOCAVA Voters ends §11-210	No earlier than 60 or later than 40 days before a primary election in which special federal and active UOCAVA voters are eligible to vote 5/14/2026	§11-210	no later than 40 days before each primary election
Pre-Election Testing for School Election §6210.2	5/17/2026 No later than two days before a school election	§6210.2	no later than 2 days before a school election
32 Days Pre-Primary Election Financial Disclosure Cutoff Date §14-108 (2)	5/18/2026	§14-108 (2)	including 4th day next preceding the day specified for the filing
School Election EDN §2022	5/19/2026 If Applicable	EDN §§1804 (4), 2022	3rd Tuesday in May
Filing Period for Independent Nominating Petitions for the General Election begins §6-158 (9)	5/19/2026	§6-158 (9)	no earlier than the 24th week preceding the general election
32 Day Pre-Primary Election Campaign Financial Disclosure Report §14-108 (1)	5/22/2026 Cut Off Date: May 18th	§14-108 (1)	no less than 30 days nor more 45 days before primary election
24 Hour Notice Primary Election Additional Independent Expenditure Report begins §14-107 (4)(a)	5/24/2026 XML file	§14-107 (4)(a)(ii)	within 30 days before the primary election
Election Night Reporting Zero File for June Primary Election	5/24/2026 Upload to NYSVoter		SBOE requires upload no later than 30 days before primary election
Memorial Day	5/25/2026 New York State is Closed		
UOCAVA Ballot Survey for June Primary Election – 30 Day Deadline	5/25/2026 CBOEs send to PIO@elections.ny.gov		Requested in federal election years unless there is a federal special election
Filing Period for Independent Nominating Petitions for the General Election ends §6-158 (9)	5/26/2026	§6-158 (9)	no later than the 23rd week preceding the general election
Last Day to Accept or Decline an Independent Nomination for the General Election §6-158 (11)	5/28/2026	§6-158 (11)	no later than 3rd day after the 23rd Tuesday preceding the general election
NRVA Dot-Coded Tracking Report	During the Month CBOEs send to PIO@elections.ny.gov		
Grant Documents	During the Month CBOEs send to grants@elections.ny.gov		
Monthly Enrollment Totals	During the Month Compare local enrollment totals to NYSVoter enrollment totals if Applicable		
Testing Maintenance Certification Form and Log for June Village Election §56210.2 (a), 6210.2 (g)-(i)	During the Month No later than two days before a village election, CBOEs must test a voting system before it is used	§6210.2 (e)	time specified shall be not less than 2 days prior to the date of the election
Rolling Canvass of Absentee, Early Mail, Military, and Special Ballots for June Primary Election §9-209 (1) & (2)	During the Month CBOEs send to election_ops@elections.ny.gov	§9-209 (1) & (2)	within 4 days of receipt
Testing-Maintenance Certification Form and Log for June Primary Election §56210.2 (a), 6210.2 (g)-(i)	During the Month No later than two days before a primary election, CBOEs must test a voting system before it is used	§6210.2 (c)	time specified shall be not less than 2 days prior to the date of the election
NCOA Blackout begins §5-708 (5), 5-712 (4)	6/1/2026	§5-708 (5) §5-712 (4)	no later than June 1st and the general election no later than June 1st and the general election
Last Day to Fill Vacancy after a Declination on an Independent Nomination for the General Election §6-158 (12)	6/1/2026	§6-158 (12)	no later than 6st day after the 23rd Tuesday preceding the general election
Publish Legal Notice for June Village Election begins §4-120 (1)	6/2/2026 Once in each week	§4-120 (1) §7-128 (3)	once in each of the 2 weeks preceding the village election
Public Inspection and Pre-Election Testing of Machines for June Primary Election §7-128 (3), 6210.2 (c)	6/3/2026 No less than 20 days prior to a primary election	§6210.2 (c)	no later than 20th day before the primary election no later than 2 days before the early voting for the primary election
Last Day that Change of Address on Voter Registration for June Primary Election Received must be Processed §5-208 (3)	6/8/2026	§5-208 (3)	at least 15th day before the primary election
11 Days Pre-Primary Election Financial Disclosure Cutoff Date §14-108 (2)	6/8/2026	§14-108 (2)	including 4th day next preceding the day specified for the filing
24 Hour Notice Primary Election Campaign Financial Disclosure begins §§14-108 (2), 6200.2 (g)	6/9/2026	§§14-108 (2), 6200.2 (g)	within 14 days of the primary election
List of Registered Voters for June Village Election §5-612 (1)	Provide list of registered voters to village clerk if election is run by the 6/9/2026 village no later than seven days before village election	§5-612 (1)	no later than the 7th day before a village election
Nursing Home Visits for Absentee Ballots for June Primary Election begins §8-407	6/10/2026	§8-407 (3)	no earlier than 13th day before the primary election
Pre-Election Testing for June Primary Election §6210.2	6/11/2026 No later than two days before a primary election	§6210.2 (e)	no later than 2nd day before primary election

Scanning of Canvassed Absentee, Early Mail, Military, Special Federal, UOCAVA ballots prior to Early Voting for June Primary Election §9-209 (6)(b)	6/12/2026	§9-209 (6)(b)	day before the 1st day of early voting
11 Day Pre-Primary Election Campaign Financial Disclosure Report §14-108 (1)	6/12/2026 Cut Off Date: June 8th	§14-108 (1) §8-600	no less than 11 days nor more than 15 days before primary election beginning on 10th day before the primary election
Early Voting for June Primary Election begins	6/13/2026	§5-210 (3)	
Last Day to Receive Voter Registration Application for June Primary Election In-Person or by Mail §§5-210 – 5-212	6/13/2026	§5-211 (11) §5-212 (6)	postmarked no later than 15th day before the primary election and received no later than 10th day before the primary election received by the agency no later than 12th day and transmitted no later than 10th day before the primary election received by the DMV no later than 12th day and transmitted no later than 10th day before the primary election
Last Day for BOE to Receive Absentee or Early Mail Ballot Application or Letter of Application by Mail or Online Portal for June Primary Election §§8-400 (2)(c), 8-700 (2)(c) & (d)	6/13/2026	§8-400 (2)(c) §§8-700 (2)(c) & (d)	no later than 10th day before the primary election no later than 10th day before the primary election
Last Day for BOE to Receive Application for Military, Special Federal, UOCAVA ballot for June Primary Election, if not previously registered §§10-106 (5) & 11-202 (1)(a)	6/13/2026	§10-106 (5) §11-202 (1)(a)	no later than 10th day before the primary election no later than 10th day before the primary election
Publish Legal Notice for June Village Election ends §4-120 (1)	6/13/2026 Once in each week	§4-120 (1)	once in each of the 2 weeks preceding the village election
Publish Legal Notice for June Primary Election begins §4-118 (1)	6/14/2026	§4-118 (1)	in the week ending on the Saturday preceding the primary election
Pre-Election Testing for June Village Election §§6210.2	6/14/2026 No later than two days before a village election	§§6210.2 (c)	no later than 2nd day before the primary election
June Village Election	6/16/2026 If Applicable		date is set according to NYCOM
Last Day for BOE to Receive Application for Military, Special Federal, UOCAVA ballot for June Primary Election, if previously registered §§10-106 (5) & 11-202 (1)(b)	6/16/2026	§10-106 (5) §11-202 (1)(b)	no later than 7th day before primary election no later than 7th day before primary election
Last Day to post Primary Election Sample Ballots on Website or Publish in Newspapers §7-118 (3)	6/16/2026	§7-118 (3)	no later than 1 week before the election
For CBOEs that Assist School Districts: School Revote EDN §2007 (3)(b)	6/16/2026 If Applicable	EDN §2007 (3)(b)	3rd Tuesday in June
Juneteenth	6/19/2026 New York State is Closed		
Publish Legal Notice for June Primary Election ends §4-118 (1)	6/20/2026	§4-118 (1)	in the week ending on the Saturday preceding the primary election
Early Voting for June Primary Election ends §8-600	6/21/2026	§8-600	ending on the 2nd day prior to the primary election
Nursing Home Visits for Absentee Ballots for June Primary Election ends §8-407	6/22/2026	§8-407 (3)	no later than 1 day before the primary election
24 Hour Notice Primary Election Campaign Financial Disclosure ends §§14-108 (2), 6200.2 (g)	6/22/2026	§§14-108 (2), 6200.2 (g)	within 14 days of the primary election
24 Hour Notice Primary Election Additional Independent Expenditure Report ends §14-107 (4)(a)	6/22/2026	§14-107 (4)(a)(ii)	within 30 days before the primary election
Last Day to Apply In-Person for a June Primary Absentee and Early Mail Ballot §§8-400 (2)(c), 8-700 (2)(c)	6/22/2026	§§8-400 (2)(c) §§8-700 (2)(c)	no later than day before the primary election no later than day before the primary election
Last Day to Apply In-Person for Military Ballot for June Primary Election, if previously registered §10-106 (5)	6/22/2026	§10-106 (5)	no later than the day before the election
Scanning of Canvassed Absentee, Early Mail, Military, Special Federal, UOCAVA ballots prior to June Primary Election Day §9-209 (6)(c)	6/22/2026	§9-209 (6)(c)	after the close of polls on the last day of early voting
Upload June Primary Election Early Voting Voter History §§6211.6 (b)	Due before primary election day 6/22/2026 Upload to NYSVoter	§§6211.6 (b)	by primary election day
June Primary Election Day §8-100	6/23/2026	§8-100	4th Tuesday in June
Last Day to Deliver June Primary Election Absentee and Early Mail In-Person to your CBOC or any Poll Site in your county, by close of polls §§8-412 (1), 8-710 (1)	6/23/2026	§8-412 (1) §8-710 (1) §8-412 (1)	received by it before the close of the polls on election day received by it before the close of the polls on election day ballots with postmark no later than primary election day and received by BOE no later than 7th day after the primary election
Last Day to Postmark June Primary Election Absentee and Early Mail Ballot §§8-412 (1), 8-710 (1)	6/23/2026	§8-710 (1)	ballots with postmark no later than primary election day and received by BOE no later than 7th day after the primary election

Last Day to Postmark Military, Special Federal, UOCAVA ballot for June Primary Election §10-114 (1), 11-212	6/23/2026		\$10-114 (1) §11-212	ballots with postmark no later than primary election day and received by BOE no later than 7th day after the primary election ballots with postmark no later than primary election day and received by BOE no later than 7th day after the primary election
Certification of Completed 3% Audit for June Village Election §9-211, 6210.18	6/23/2026	Random selection and audit must occur within seven days after a village election CBOEs send to election_ops@elections.ny.gov	§9-211 §6210.18	within 7 days after a village election time fixed by §9-211
Recanvass of June Village Election Returns §9-208 (1)	6/23/2026	Recanvass of election results must occur within seven days after each village election	§9-208 (1)	Recanvass of election results must occur within 7 days after each village election
Scanning of Canvassed Absentee, Early Mail, Military, Special Federal, UOCAVA ballots post June Primary Election Day §9-209 (6)	6/24/2026		§9-209 (6)	after the close of polls on election day
Last Day to Decline after Acceptance if Nominee Loses Party Primary for General Election §6-158 (11)	6/26/2026		§6-158 (11)	no later than 3rd day after the primary election
Certification of Completed 3% Audit of Central Scanner or Voting System used to Scan Early Canvass Absentee and Early Mail Ballots for June Primary Election §9-211 (2)	6/26/2026	CBOEs send to election_ops@elections.ny.gov	§9-211 (2)	within 3 days of the primary election
Affidavit/Absentee/Early Mail Data from Counties for June Primary Election §6211.6 (c) & (e)	6/26/2026	Due no later than three days after a primary election CBOEs send to election_ops@elections.ny.gov	§6211.6 (c) & (e)	no later than 3rd day, by 5:00 pm, after the primary election
Upload In-Person June Primary Election Day Voter History §6211.6 (c) & (e)	6/26/2026	Due no later than three days after a primary election Upload to NVSVoter	§6211.6 (c) & (e)	no later than 3 days after the primary election
Review of Invalid Absentee, Early Mail, Military, Special, and Undeliverable Ballots and Defects Not Cured Timely from June Primary Election §9-209 (8)(a)	6/29/2026	Within four business days after election Notice needs to be sent at least five days prior to canvass	§9-209 (8)(a)	within 4 business days of the primary election
Canvass Affidavit Ballots from June Primary Election §9-209 (7)(a)	6/29/2026	Within four business days after election	§9-209 (7)(a) §8-412 (1)	within 4 business days for the primary election ballots contained in envelopes with postmark no later than primary election day and received by the BOE no later than 7th day following the primary election
Last Day for BOE to Receive June Primary Election Absentee and Early Mail Ballot §§8-412 (1), 8-710 (1)	6/30/2026	Postmarked by: June 23rd	§8-710 (1)	ballots contained in envelopes with postmark no later than primary election day and received by the BOE no later than 7th day following the primary election
Last Day for BOE to Receive Military, Special Federal, UOCAVA Ballot for June Primary Election §10-114 (1) & 11-212	6/30/2026	Postmarked by: June 23rd	§10-114 §11-212	ballots with postmark no later than primary election day and received by BOE no later than 7th day after the primary election ballots with postmark no later than primary election day and received by BOE no later than 7th day after the primary election
Resume Processing of Party Enrollment Changes §5-304 (3)	6/30/2026		§5-304 (3)	shall take effect on the 7th after the primary election
NYRA Dot-Code Tracking Report	During the Month	CBOEs send to PIO@elections.ny.gov		
Grant Documents	During the Month	CBOEs send to grants@elections.ny.gov		
Monthly Enrollment Totals	During the Month	Compare local enrollment totals to NVSVoter enrollment totals		
Manual Recount for June Primary Election §9-208 (4)	During the Month	If Applicable	§9-208 (4)	no earlier than upon the completion and announcement of the results of the recanvass
Upload of all Voter History from June Primary Election §6211.6 (f)	During the Month	Due no later than seven business days after the completion of the canvass Upload to NVSVoter	§6211.6 (f)	no later than 7 business days after the completion of the canvass
Upload General Election Day Poll Sites	First Week of July	Upload designations to NVSVoter		
Canvass of Absentee, Early Mail, Military, and Special Ballots from June Primary Election §9-209 (2)	7/1/2026	No more than eight days after a primary election	§9-209 (2)	within 1 day of receipt on or after the primary election
Last Day to Decline All Party Nominations after Primary Election Loss §6-146 (6)	7/3/2026		§6-146 (6)	no later than 10 days after the primary election
Independence Day	7/4/2026	New York State is Closed		
Statement of Canvass for June Primary Election by CBOE §9-200 (1)	7/6/2026	BOE shall transmit a certified copy of the statement of the canvassing board within 13 days after primary election CBOEs send to election_ops@elections.ny.gov	§9-200 (1)	no later than 13th day after the primary election
Certification of Completed 3% Audit for June Primary Election §9-211, 6210.18	7/6/2026	Random selection and audit must occur within 13 days after a primary election CBOEs send to election_ops@elections.ny.gov	§9-211 §6210.18	no later than 13th day after the primary election time fixed by §9-211
Last Day to Fill Vacancy after Declination by Primary Election Loser §6-158 (3)	7/7/2026		§6-158 (3)	no later than 4th day after the last day to decline
UOCAVA Ballot Survey for June Primary Election – Post-Election	7/7/2026	CBOEs send to PIO@elections.ny.gov		requested in federal election years unless there is a federal special election

10 Day Post-Primary Election Financial Disclosure Cutoff Date §14-108 (2)	7/11/2026	§14-108 (2)	including 4th day next preceding the day specified for the filing
July Periodic Financial Disclosure Cutoff Date §14-108 (2)	7/11/2026	§14-108 (2)	including 4th day next preceding the day specified for the filing
Last Day to File Authorization of Substitution after Declination by Primary Election Loser §6-120 (3)	7/13/2026	§6-120 (3)	no later than 4th day after last day to file the certificate of substitution
Recanvass of June Primary Election Returns §9-208 (1)	7/13/2026 Due no later 20 days after primary election	§9-208 (1)	no later than 20th day after the primary election
Designate Election Inspectors and Poll Clerks §3-404	7/15/2026 On or before July 15th yearly	§3-404 (1)	no later than July 15th
10 Day Post-Primary Election Campaign Financial Disclosure Report §6200.2 (a)	7/15/2026 Cut Off Date: July 11th	§6200.2 (a)	on the 10th day next succeeding such contested primary election
July Periodic Campaign Financial Disclosure Report §14-108 (1)	7/15/2026 Cut Off Date: July 11th	§14-108 (1)	at least once every 6 months
Manual Recount Survey for June Primary Election Accessible Ballot Survey for June Primary Election	7/17/2026 CBOEs send to election_ops@elections.ny.gov 7/17/2026 CBOEs send to election_ops@elections.ny.gov	Hernandez et al v. NYSBOE et al	
Last Day for Filing Nominations Made at a Town or Village Caucus or by a Party Committee §6-158 (6)	7/23/2026	§6-158 (6)	no later than 30th day after the June primary election
Last Day to File Certificates of Nomination to Fill Vacancies create pursuant to §§6-116, 6-104 & 6-158 (6)	7/23/2026	§6-158 (6)	no later than 30th day after the June primary election
Cure Survey for June Primary Election	7/24/2026 CBOEs send to election_ops@elections.ny.gov		
Amended Early Voting Security Plans, Network Security Survey, Procedure to Prevent Duplicate Voting, and Prevention of Public Release of Vote Results prior to General Election §§9-209 (2)(d), 6211.2, 6211.6	Submit either a revised plan, if amended, or notification that no changes occurred. Due no later than 90 days before they are effective 7/25/2026 CBOEs send to election_ops@elections.ny.gov	§6-209 (2)(d) §6211.2 §6211.6	no later than 90 days before they are effective no later than 60 days before 1st day of general election early voting no later than 60 days before 1st day of general election early voting no later than 3rd day after last day to file the certificate for such party nomination
Last Day to Accept or Decline a Nomination for Office made based on §6-116 & §6-158 (7)	7/27/2026	§6-158 (7)	no later than 4th day after last day to file the certificate of nomination
Last day to File Authorization of Nomination made based on §6-116 §6-120 (3)	7/27/2026	§6-120 (3)	no later than 4th day after last day to file the certificate of nomination
Last Day to Fill a Vacancy after a Declination made based on §6-116 §6-158 (8)	7/31/2026	§6-158 (8)	no later than 4th day after last day to file the declination
NYRA Dot Code Tracking Report	During the Month	CBOEs send to PIO@elections.ny.gov	
Grant Documents	During the Month	CBOEs send to grants@elections.ny.gov	
Monthly Enrollment Totals	During the Month	Compare local enrollment totals to NYSVoter enrollment totals Word/PDF	
Continuity of Operations Plan §6220.3 (a)(11)(iii)	8/1/2026 CBOEs send to secure@elections.ny.gov	§6220.3 (a)(11)(iii)	annually pursuant to section 6220.2 (b)
Cyber Regulation Checklist §6220.2 (b)	8/1/2026 CBOEs send to secure@elections.ny.gov	§6220.2	no later than August 1st
Vacancy Occurring Three Months before General Election in any Year in any Office are Authorized to be Filed at General Election §6-158 (14)	8/3/2026	§6-158 (14)	3 months before the general election
For Any Election Conducted by a BOE, the Clerk of Such Subdivision Shall Provide the BOE with a Certified Text Copy of Any Proposal, Proposition, or Referendum at least three months before General Election §4-108	8/3/2026	§4-108 (1)(b)	3 months before the general election
Send out Registration and Application to Military Voters begins §10-106	8/5/2026 No earlier than 90 or later than 75 days before each general election.	§10-106 (4)	90th day before each general election
Incident Response Contact List for General Election §6220.3 (a)(10)(iii)	Word/PDF No later than 90 days before a general election 8/5/2026 CBOEs send to secure@elections.ny.gov	§6220.3 (a)(10)(iii)	no later than 90 days before general election
Test Restoration of Critical Data and Information Systems for General Election §6220.3 (a)(6)	Email Confirmation No later than 90 days before a general election 8/5/2026 CBOEs send to secure@elections.ny.gov	§6220.3 (a)(6)(i)	no later than 90 days before general election
Dates for Holding Judicial Conventions begins §6-158 (5)	8/6/2026	§6-158 (5)	no earlier than Thursday following the 1st Monday in August preceding the general election
Dates for Holding Judicial Conventions ends §6-158 (5)	8/12/2026	§6-158 (5)	no later than 6 days thereafter
Last Day to File Judicial Certificates of Nomination for General Election §6-158 (6)	8/13/2026	§6-158 (6)(d)	certificate of party nomination made at judicial district convention shall be filed no later than the day after the last day to hold such convention
Last Day to Decline Judicial Nominations for General Election §6-158 (7)	8/17/2026	§6-158 (7)	no later than 3rd day after the last day to file the certificate of party nomination
Send out Registration and Application to Military Voters ends §10-106	8/20/2026	§10-106 (4)	75th day before each general election
Last Day to Fill Judicial Vacancy after a Declination for General Elector §6-158 (8)	8/21/2026	§6-158 (8)	no later than 4 days after last day to file such declination

New York State Election Commissioners Association Summer Conference begins	8/24/2026 Turning Stone		
New York State Election Commissioners Association Summer Conference ends	8/27/2026 Turning Stone		
NVRA Dot Code Tracking Report	During the Month CBOEs send to PIO@elections.ny.gov		
Grant Documents	During the Month CBOEs send to grants@elections.ny.gov		
Monthly Enrollment Totals	During the Month Compare local enrollment totals to NYSVoter enrollment totals		
Rolling Canvass of Absentee, Early Mail, Military, Special Ballots for General Election §9-209 (1) & (2)	During the Month	\$9-209 (1) & (2)	within 4 days of receipt
Send Copies of Sample Ballots for General Election to SBOE §7-118 (3)	During the Month	Each CBOE shall transmit electronically, a copy of the candidate and contest information contained on each of its ballot styles to the SBOE CBOEs send to election_ops@elections.ny.gov	\$7-118 (3) \$7-128(2)(a) \$9-208(1) \$9-209(7) \$9-209(8)(b) \$6210.2(e) \$6210.18 (b)(1) as it is available shall give written notice, by first class mail shall give notice in writing pursuant to paragraph (a) of subdivision eight of this section shall send notice by first class mail shall give written notice shall send notice
Send Candidate Notice for General Election §57-128(2)(a), 9-208(1), 9-209(7), 9-209(8)(b), 6210.2(e), 6210.18 (b)(1)	During the Month	Send Candidate notice to all candidates including Presidential electors (if applicable), party chairs, and send to election ops. Candidates must receive by Sept. 18th and be sent with sufficient time. CBOEs send to election_ops@elections.ny.gov	\$6210.18 (b)(1)
Last Day to Publish Statewide Ballot Proposals on CBOE and SBOE Websites §4-116	9/3/2026	\$4-116	no later than 2 months prior to general election
Send out Application for General Election Ballot to Special Federal and Active UOCAVA Voters begins §111-210	9/4/2026	No earlier than 60 or later than 40 days before each general election in which special federal and active UOCAVA voters are eligible to vote	\$111-210
Accessible Ballot Readiness Survey for General Election	9/4/2026	CBOEs send to election_ops@elections.ny.gov	Hernandez et al v. NYSBOE et al
Last Day to Send List of "Hospitalized Veterans" Entitled to Receive Absentee Ballots for General Election to Veterans' Health Administration Hospitals §8-404 (1)(a)	9/4/2026	If Applicable No later than 60 days before a general election according to Hernandez settlement	\$8-404 (1)(a)
Labor Day	9/7/2026	New York State is Closed	
Certification of Candidates and Propositions for General Election Ballot by SBOE §4-112	9/9/2026	SBOE no later than 55 days before a general election shall certify candidates nominated in any valid certificate filed with it or by the 9/9/2026 returns canvassed by it	\$4-112 (1)
Certification of Candidates and Propositions for General Election Ballot by CBOE §4-114	9/10/2026	CBOE no later than 54 days before a general election shall determine the candidates duly nominated for public office and the ballot questions	\$4-114
Send Local Filers of Designating Petitions and Independent Nominating Petitions to SBOE, CAPAS/FIDAS – Candidates and Propositions §7-118	9/10/2026	questions Send a copy of the candidate and contest information to be contained on each of the ballot styles to the SBOE CBOEs send to election_ops@elections.ny.gov	\$7-118 (3) CBOE shall transmit electronically, as it is available, a copy of the candidate and contest information contained on each of its ballot styles to the SBOE
UOCAVA Ballot Survey for General Election – Pre-Election	9/14/2026	CBOEs send to PIO@elections.ny.gov	requested in federal election years unless there is a federal special election
Veterans' Hospital Voter Registration begins §5-215	9/17/2026	If Applicable	\$5-215 7th Thursday before each general election
Last Day to Inspect the Ballot for the General Election §7-128 (2)	9/18/2026		\$7-128 (2) no later than 46th day before the election
Deadline to Transmit General Election Ballots to Eligible Military, Special Federal, UOCAVA Voters via Preferred Method Requested by Voter §\$10-108 (1) & 11-204 (4)	9/18/2026	Via preferred method requested by voter (US Mail, email, fax)	\$10-108 (1) \$11-204 (4) no later than 46th day before the general election no later than 46th day before the general election
Veterans' Hospital Voter Registration ends §5-215	9/18/2026	If Applicable	\$5-215 If necessary for the completion of its duties, on the 7th Friday before the general election except that if any religious holidays of Yom Kippur, Rosh Hashanah, Simchas Torah, Shmini Atzereth or Succot shall fall on such days, such registrations shall be held on the next business day
Last Day to Receive Notated List of "Hospitalized Veterans" Entitled to Receive Absentee Ballots for General Election Back from Veterans' Health Administration Hospitals §8-404 (1)(a)	9/19/2026	If Applicable No later than 15 days after the veterans' health administration hospital was given original list	\$8-404 (1)(a) no later than 15 days following the receipt of such list Requested in federal election years unless there is a federal special election
UOCAVA Ballot Survey for General Election – 45 Day Deadline	9/21/2026	CBOEs send to PIO@elections.ny.gov	
Send out Application for General Election Ballot to Special Federal & Active UOCAVA Voters ends §111-210	9/24/2026	No earlier than 60 or later than 40 days before each general election in which special federal and active UOCAVA voters are eligible to vote	\$11-210 no later than 40 days before the general election
32 Days Pre-General Election Financial Disclosure Cutoff Date §14-108 (2)	9/28/2026		\$14-108 (2) including 4th day next preceding the day specified for the filing
NVRA Dot Code Tracking Report	During the Month	CBOEs send to PIO@elections.ny.gov	
Grant Documents	During the Month	CBOEs send to grants@elections.ny.gov	
Monthly Enrollment Totals	During the Month	Compare local enrollment totals to NYSVoter enrollment totals	

Rolling Canvass of Absentee, Early Mail, Military, Special Ballots for General Election §9-209 (1) & (2)	During the Month		§9-209 (1) & (2)	within 4 days of receipt
Testing/Maintenance Certification Form and Log for General Election §§6210.2 (a), 6210.2 (g)-(1)	During the Month	No later than two days before a general election, CBOEs must test a voting system before it is used CBOEs send to election_ops@elections.ny.gov	§6210.2 (c)	time specified shall be not less than 2 days prior to the date of the election
Certification of Election Expenses from Preceeding Year to Clerk of County Legislative Body begins §4-138	10/1/2026		§4-138	no earlier than 1st day of October
32 Day Pre-General Election Campaign Financial Disclosure Report §14-108 (1)	10/2/2026	Cut Off Date: September 28th	§14-108 (1)	no less than 30 days nor more than 45 day before general election
24 Hour Notice General Election Additional Independent Expenditure Report begins §14-107 (4)(a)	10/4/2026		§14-107 (4)(a)(ii)	within 30 days before the general election
General Election Night Reporting Zero File	10/4/2026	XML file Upload to NYSVoter		SBOE requires upload no later than 30 days before general election Requested in federal election years unless there is a federal special election
UOCAVA Ballot Survey for General Election – 30 Day Deadline	10/5/2026	CBOEs send to PIO@elections.ny.gov		
Indigenous Peoples' Day / Columbus Day	10/12/2026	New York State is Closed		
Public Inspection and Pre-Election Testing of Machines for General Election §§7-128 (3), 6210.2 (e)	10/14/2026	No less than 20 days prior to a general election	§7-128 (3) §6210.2 (e)	no later than 20th day before the primary election no later than 2 days before the early voting for the primary election
Certification of Offices to be Filled at March Village Election by Village Clerk §4-106 (2)	10/16/2026	If Applicable	§4-106 (2)	no later than 5 months before village elections
Publish Legal Notice for General Election begins §4-120 (1)	10/18/2026	Once in each week	§4-120 (1)	publish once in each of 2 weeks preceding general election
CBOE Extra Office Hours begins §3-214 (3)	10/19/2026		§3-214 (3)	2 calendar weeks before general election
Last Day that Change of Address on Voter Registration for General Election Received must be Processed §§-208 (3)	10/19/2026		§5-208 (3)	at least 15th day before the general election
11 Day Pre-General Election Financial Disclosure Cutoff Date §14-108 (2)	10/19/2026		§14-108 (2)	including 4th day next preceding the day specified for the filing
24 Hour Notice General Election Campaign Financial Disclosure Report begins §§14-108 (2), 6200.2 (g)	10/20/2026		§§14-108 (2), 6200.2 (g)	within 14 days before the general election
Nursing Home Visits for Absentee Ballots for General Election begins §8-407	10/21/2026		§8-407 (3)	no earlier than 13th day before the general election
Pre-Election Testing for General Election §6210.2	10/22/2026	No later than two days before a general election	§6210.2 (e)	no later than 2nd day before general election
Scanning of Canvassed Absentee, Early Mail, Military, Special Federal, UOCAVA Ballots prior to Early Voting for General Election §9-209 (6)(b)	10/23/2026		§9-209 (6)(b)	day before the 1st day of early voting
11 Day Pre-General Election Campaign Financial Disclosure Report §14-108 (1)	10/23/2026	Cut Off Date: October 19th	§14-108 (1)	no less than 11 days nor more than 15 day before general election
Early Voting for General Election begins §8-600	10/24/2026		§8-600 §5-210 (3)	beginning on 10th day before the general election postmarked no later than 15th day before the general election and received no later than 10th day before the general election received by the agency no later than 12th day and transmitted no later than 10th day before the general election received by the DMV no later than 12th day and transmitted no later than 10th day before the general election
Last Day to Receive Voter Registration Application for General Election In-Person or by Mail §§5-210 – 5-212	10/24/2026		§5-211 (11) §5-212 (6)	
Last Day for BOE to Receive Absentee or Early Mail Ballot Application or Letter of Application by Mail or Online Portal for General Election §§8-400 (2)(c), 8-700 (2)(c) & (d)	10/24/2026		§8-400 (2)(c) §§8-700 (2)(c) & (d)	no later than 10th day before the general election no later than 10th day before the general election
Last Day for a BOE to Receive Application for Military, Special Federal, UOCAVA Ballot for General Election, if not previously registered §§10-106 (5) & 11-202 (1)(a)	10/24/2026		§10-106 (5) §11-202 (1)(a)	no later than 10th day before the general election no later than 10th day before the general election
Last Day for an Honorably Discharged Military, Qualifying Discharge, or a Naturalized Citizen to Personally Register at the CBOE where they reside §5-210 (4)	10/24/2026		§5-210 (4)	qualified to vote after 25th day before a general election can register at least 10th day after such registration date
Last Day for BOE to Receive Application for Military, Special Federal, UOCAVA Ballot for General Election, if previously registered §§10-106 (5) & 11-202 (1)(b)	10/27/2026		§10-106 (5) §11-202 (1)(b)	no later than 7th day before general election no later than 7th day before general election
Last Day to post General Election Sample Ballots on Website or Publish in Newspapers §7-118 (3)	10/27/2026		§7-118 (3)	no later than 1 week before the election
CBOE Extra Office Hours ends §3-214 (3)	10/31/2026		§3-214 (3)	2 calendar weeks before general election

Publish Legal Notice for General Election ends §4 120 (1)	10/31/2026	Once in each week CBOEs send to PIO@elections.ny.gov	§4 120 (1)	publish once in each of 2 weeks preceding elections
NVRA Dot-Code Tracking Report	During the Month	CBOEs send to grants@elections.ny.gov		
Grant Documents	During the Month	CBOEs send to grants@elections.ny.gov		
Monthly Enrollment Totals	During the Month	Compare local enrollment totals to NVSVoter enrollment totals		
Upload of all Voter History from the General Election §6211.6 (f)	During the Month	No later than seven business days after the completion of the canvass Upload to NVSVoter	§6211.6 (f)	no later than 7 business days after the completion of the canvass no earlier than upon the completion and announcement of the results of the canvass
Manual Recount for General Election §9-208 (4)	During the Month	If Applicable	§9-208 (4)	ending on the 2nd day prior to the general election
Early Voting for General Election ends §8-600	11/1/2026		§8-600	no later than 1 day before the general election
Nursing Home Visits for Absentee Ballots for General Election ends §8-407	11/2/2026		§8-407 (3)	within 14 days of the general election
24 Hour Notice General Election Campaign Financial Disclosure Report ends §§14-108 (2), 6200.2 (g)	11/2/2026		§§14-108 (2), 6200.2 (g)	
24 Hour Notice General Election Additional Independent Expenditure Report ends §§14-107 (4)(a)	11/2/2026		§§14-107 (4)(a)(ii)	within 30 days before the general election
Last Day to Apply In-Person for General Election Absentee and Early Mail Ballot §§8-400 (2)(c), 8-700 (2)(c)	11/2/2026		§§8-400 (2)(c) §§8-700 (2)(c)	no later than day before the general election no later than day before the general election
Last Day to Apply In-Person for Military Ballot for General Election, if previously registered §10-106 (5)	11/2/2026		§10-106 (5)	no later than the day before the election
Scanning of Canvassed Absentee, Early Mail, Military, Special Federal, UOCAVA Ballots prior to General Election Day §§9-209 (6)(c)	11/2/2026		§9-209 (6)(c)	after the close of polls on the last day of early voting
Upload General Election Early Voting Voter History §6211.6 (b)	11/2/2026	Due day before general election day Upload to NVSVoter	§6211.6 (b)	by Election Day
NCOA Blackout ends §§5-708 (5), 5-712	11/3/2026		§§5-708 (5) §§5-712 (4)	no later than June 1st and the general election no later than June 1st and the general election
General Election Day §§8-100 (1)(c)	11/3/2026		§§8-100 (1)(c)	Tuesday after the 1st Monday in November
Last Day to Deliver General Election Absentee and Early Mail Ballot In-Person to your CBOC or any Poll Site in your county, by close of polls §§8-412 (1), 8-710 (1)	11/3/2026		§§8-412 (1) §§8-710 (1)	received by it before the close of the polls on election day received by it before the close of the polls on election day
Last Day to Postmark General Election Absentee and Early Mail Ballot §§8-412 (1), 8-710 (1)	11/3/2026		§§8-710 (1)	ballots with postmark no later than general election day and received by BOE no later than 7th day after the general election ballots with postmark no later than general election day and received by BOE no later than 7th day after the general election
Last Day to Postmark Military, Special Federal, UOCAVA Ballot for General Election §§10-114 (1), 11-212	11/3/2026		§§10-114 (1) §§11-212	ballots with postmark no later than general election day and received by BOE no later than 13th day after the general election ballots with postmark no later than general election day and received by BOE no later than 13th day after the general election
Scanning of Canvassed Absentee, Early Mail, Military, Special Federal, UOCAVA Ballots post General Election Day §§9-209 (6)	11/4/2026		§§9-209 (6)	after the close of polls on election day
Certification of Completed 3% Audit of Central Scanner or Voting System used to Scan Early Canvass Absentee and Early Mail Ballots for General Election §§9-211 (2)	11/6/2026	CBOEs send to election_ops@elections.ny.gov	§§9-211 (2)	within 3 days of the general election
Affidavit/Absentee/Early Mail Data from Counties for General Election §6211.6 (d) & (e)	11/6/2026	Due no later than three days after a general election CBOEs send to election_ops@elections.ny.gov	§6211.6 (d) & (e)	no later than 3rd day after an election, by 5:00 pm, after the general election
Upload In-Person General Election Day Voter History §6211.6 (d) & (e)	11/6/2026	Due no later than three days after a general election Upload to NVSVoter	§6211.6 (d) & (e)	no later than 3 days after the primary election
Review of Invalid Absentee, Early Mail, Military, Special, and Undeliverable Ballots and Defects Not Cured Timely from General Election §§9-209 (8)(a)	Within four business days after election 11/9/2026	Notice needs to be sent at least five days prior to canvass	§§9-209 (8)(a)	within 4 business days of the general election
Canvass Affidavit Ballots from General Election §§9-209 (7)(a)	11/9/2026	Within four business days after election	§§9-209 (7)(a) §§8-412 (1)	within 4 business days for the general election ballots contained in envelopes with postmark no later than primary election day and received by the BOE no later than 7th day following the primary election ballots contained in envelopes with postmark no later than primary election day and received by the BOE no later than 7th day following the primary election
Last Day for BOE to Receive General Election Absentee and Early Mail Ballot §§8-412 (1), 8-710 (1)	11/10/2026	Postmarked by: November 3rd	§§8-710 (1)	

Veterans' Day	11/11/2026	New York State is Closed		
Last Day for BOE to Receive Military, Special Federal, UOCAVA Ballot for General Election §§10-114 (1) & 11-212	11/16/2026	Postmarked by: November 3rd	\$10-114 \$11-212	ballots with postmark no later than general election day and received by BOE no later than 13th day after the general election ballots with postmark no later than general election day and received by BOE no later than 13th day after the general election
Canvass of Absentee, Early Mail, Military, and Special Ballots from General Election §9-209 (2)	11/17/2026		\$9-209 (2)	within 1 day of receipt on or after the general election
List of Registered Voters for Fire District Election §5-612 (6)	11/17/2026	If Applicable	\$5-612 (6)	no later than the 21st day before each election
Certification of Completed 3% Audit for General Election §§9-211, 6210.18	11/18/2026	CBOEs send to election_ops@elections.ny.gov	\$9-211 \$6210.18	Random selection and audit must occur within 15 days after a general election no later than 15th day after the general election time fixed by §9-211
Recanvass of General Election Returns §9-208 (1)	11/18/2026	Due no later 15 days after a general election	\$9-208 (1)	no later than 15th day after the general election
UOCAVA Ballot Survey for General Election – Post-Election	11/24/2026	CBOEs send to PIO@elections.ny.gov		Requested in federal election years unless there is a federal special election
Thanksgiving Day	11/26/2026	New York State is Closed		
27 Day Post-General Election Financial Disclosure Cutoff Date §14-108 (2)	11/26/2026			
Manual Recount Survey for General Election	11/27/2026	CBOEs send to election_ops@elections.ny.gov	\$14-108 (2)	including 4th day next preceding the day specified for the filing
Accessible Ballot Survey for General Election	11/27/2026	CBOEs send to election_ops@elections.ny.gov	Hernandez et al v. NYSBOE et al	Receive from CBOEs to compile
Statement of Canvass for General Election by CBOEs §9-214	11/28/2026	CBOEs shall transmit a certified copy of the statement of the canvassing board within 25 days after general election	\$9-214	no later than 25th day after the general election
CBOEs to send list of Newly Elected Local Officials to Secretary of State §9-214	11/28/2026	CBOEs send to election_ops@elections.ny.gov	\$9-214	no later than 25 days after the election
27 Day Post-General Election Campaign Financial Disclosure Report §14-108 (1)	11/30/2026	Cut Off Date: November 26th	\$14-108 (1)	no fewer than 3 filings for the general election
INRVA Dot-Code Tracking Report	During the Month	CBOEs send to PIO@elections.ny.gov		
Grant Documents	During the Month	CBOEs send to grants@elections.ny.gov		
Monthly Enrollment Totals	During the Month	Compare local enrollment totals to NYSVoter enrollment totals		
Cure Survey for General Election	12/4/2026	CBOEs send to election_ops@elections.ny.gov		
Fire District Elections				
TWN §62-175	12/8/2026		TWN §62-175	held on the 2nd Tuesday in December
Last Day to file Gubernatorial Results by ED & AD to SBOE §9-214	12/10/2026		\$9-214	no later than 10th day of December in gubernatorial years
Certification of Election Expense from Preceding Year to Clerk of County Legislative Body §§4-138 ends	12/15/2026		\$4-138	no later than 15th day of December
Statement of Canvass for General Election by SBOE §9-216 (2)	12/15/2026	SBOE shall meet on or before the 15th day of December next after each general election	\$9-216 (2)	no later than 15th day of December in non- Presidential Election years
Christmas Day	12/25/2026	New York State is Closed		
End of the Year Testing Maintenance Certification Form and Log §§6210.2 (b), 6210.2 (c)(1)	12/31/2026	All voting equipment NOT already tested or used in an election, must be tested on or before the last day of the year	§§6210.2 (b), 6210.2 (c)(1)	no later than December 31st
Mail Check Certification Report §4-117 (3)	12/31/2026	CBOEs shall file mail check certification with SBOE	\$4-117 (3)	in the month of December
2027 Supply Order Form	12/31/2026	CBOEs send to PIO@elections.ny.gov		
Update Dates and Party Order on All Notices	1/31/2026			in gubernatorial and presidential years
Giving				
List Maintenance				
List of registered voters for Improvement Districts or Fire Districts §5-612 (6)				
3% audit certifications are due for all village elections you conduct and for any special elections you conduct §9-211 (1)			\$9-211(1)	no later than 15 days after general and special elections
Regularly process your DOH, OCA, duplicate resolution tasks, and other list maintenance transactions				
Various Completed Surveys				
Notification of any changes at your BOE: telephone numbers, address changes, new Commissioners and Deputies, e-mails, etc.				
New or Revised Procedures for Compliance with Part §6210				
Formal Opinions				
Chaperoned Laws with memos				
Reminder memos				

Informational material						
Quarterly reports are due to be sent to the NVRA Unit, until all grant funds are expended						
Candidate Participation Letter includes in a single correspondence, the requiring Viewing Voting Systems, Canvass of Absentee, Special and Affidavit Ballot, Recanvass and Post-Election Audit notifications. See the SBOE sample for format						
Holidays						
New Year's Day	1/1/2026					
Dr. Martin Luther King, Jr. Day	1/19/2026					
Washington's Birthday / Presidents' Day	2/16/2026					
Purim	3/2/2026 -					
St. Patrick's Day	3/17/2026					
Passover	4/1/2026 -					
Easter Sunday	4/5/2026					
Shavuot	5/21/2026 -					
Memorial Day	5/25/2026					
Juneteenth "Early voting polls are required to be open"	6/19/2026					
Independence Day	7/4/2026					
Labor Day	9/7/2026					
Rosh Hashanah	9/11/2026 -					
Yom Kippur	9/20/2026 -					
Sukkot	9/25/2026 -					
Shemini Atzeret and Simchat Torah	10/2/2026 -					
Indigenous Peoples' Day / Columbus Day	10/13/2026					
Veteran's Day	11/11/2026					
Thanksgiving Day	11/26/2026					
Christmas Day	12/25/2026					

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION, FIRST DEPARTMENT

Michael Williams, José Ramírez-Garofalo, Aixa Torres, and
Melissa Carty,

Petitioners,

-against-

Board of Elections of the State of New York; Kristen Zebrowski Stavisky, in her official capacity as Co-Executive Director of the Board of Elections of the State of New York; Raymond J. Riley, III, in his official capacity as Co-Executive Director of the Board of Elections of the State of New York; Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York; Henry T. Berger, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York; Anthony J. Casale, in his official capacity as Commissioner of the Board of Elections of the State of New York; Essma Bagnuola, in her official capacity as Commissioner of the Board of Elections of the State of New York; Kathy Hochul, in her official capacity as Governor of New York; Andrea Stewart-Cousins, in her official capacity as Senate Majority Leader and President Pro Tempore of the New York State Senate; Carl E. Heastie, in his official capacity as Speaker of the New York State Assembly; and Letitia James, in her official capacity as Attorney General of New York,

Respondents,

-and-

Representative Nicole Malliotakis, Edward L. Lai, Joel Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba,

Intervenor-Respondents.

Appellate Division Case No.:
26-00384

NY County Index No.:
164002/2025

**APPELLANTS-RESPONDENTS' MEMORANDUM OF LAW
IN SUPPORT OF MOTION FOR A DISCRETIONARY STAY**

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PRELIMINARY STATEMENT

Appellants Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York (“BOE”), Anthony J. Casale, in his official capacity as a Commissioner of the BOE, and Raymond J. Riley, III, in his official capacity as Co-Executive Director of the BOE (collectively, “Appellants”) respectfully submit this memorandum of law in support of their emergency motion for an interim stay, stay pending appeal, and leave to appeal from the January 21, 2026 Decision and Order of Supreme Court, New York County (Pearlman, J.) (the “Decision and Order”), and in support of the motion of Intervenor-Respondents Congresswoman Nicole Malliotakis and Individual Voters Edward L. Law, Joel Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba (collectively, the “Intervenor-Respondents”) seeking the same relief (NYSCEF Doc. No. 9). Appellants adopt and expressly incorporate herein the arguments and fact submissions made by the Intervenor-Respondents.

On the eve of the election season, Supreme Court declared that the decades-old configuration of the 11th Congressional District (“CD-11”) is unconstitutional under Article III, § 4(c)(1) of the NY Constitution. Supreme Court also enjoined “any” election until the non-party Independent Redistricting Commission completes a new map of CD-11 that complies with a vague yet explicitly race-based standard woven out of whole cloth and without any adversarial briefing by the parties.

The irreparable harm resulting from Supreme Court’s Decision and Order is immediate and profound. By enjoining all election activity, Supreme Court’s ruling threatens to disrupt the timely and orderly administration of the 2026 election cycle, which is set to commence with designating petitions on February 24, 2026. This uncertainty not only jeopardizes the rights of candidates and political parties to participate in a timely and fair electoral process, but also risks disenfranchising

voters who may be left without clear information about their districts or representation. Moreover, the abrupt halt to election preparations erodes public confidence in the integrity and reliability of New York’s electoral system, causing confusion and diminishing trust in the democratic process. These harms cannot be remedied after the fact, as the loss of a fair and orderly election process is, by its nature, irreparable.

Supreme Court’s Decision and Order also is deeply flawed on the merits. This entire proceeding rests on Petitioners’ position that the standard for an Article III, § 4(c)(1) vote dilution claim is the dramatically relaxed New York Voting Rights Act (“NYVRA”), which was adopted eight years *after* Article III, § 4(c)(1). Supreme Court rejected this argument out of hand, holding that application of the NYVRA standard to the NY Constitution “is impermissible” (Decision and Order at 5). At that point, Supreme Court should have dismissed this proceeding. Erroneously, it did not and proceeded, without any input from the parties, to invent an entirely new, explicitly race-based standard for Article III, § 4(c)(1) claims. Since Appellants were denied the opportunity to litigate any standard other than the one advanced by Petitioners, due process and the principle of party presentation require reversal of the Decision and Order.

Even if Supreme Court’s new standard for Article III, § 4(c)(1) were accepted, the Decision and Order must still be reversed because Petitioners did not offer any evidence demonstrating that a reconstituted district could satisfy the new standard, and Supreme Court made no such finding. According to Supreme Court’s novel standard for so-called “crossover districts,” minority voters must be able to select their candidates of choice in a *primary* election and minority voters must be decisive in the *selection of candidates* in the reconstituted district. Petitioners, however, did not offer any evidence regarding primary elections in CD-11, let alone evidence as to whether minority voters are able to select their candidates of choice or whether minority voters are decisive in

candidate selection in the reconstituted district. Since Petitioners indisputably failed to satisfy a *prima facie* element of their claim—the availability of a remedy—their claim must be dismissed as a matter of law.

Supreme Court also applied the incorrect standard in declaring that the 2024 Map is unconstitutional. Redistricting legislation such as the 2024 Map may be declared unconstitutional only upon a showing “*beyond reasonable doubt* that it conflicts with the Constitution after every reasonable mode of reconciliation of the statute with the Constitution has been resorted to, and reconciliation has been found impossible” (*Harkenrider v Hochul*, 38 NY3d 494, 509 [2022] [emphasis added] [internal citations and punctuation omitted]). Supreme Court never referenced this standard and instead invalidated the 2024 Map based on its finding that CD-11’s current lines are merely “a *contributing* factor in the lack of representation for minority voters” (Decision and Order at 12 [emphasis added]) and that the totality of circumstances “provide *strong support* for the claim that Black and Latino votes are being diluted” (*id.* at 13 [emphasis added]). Applying this incorrect standard is reversible error particularly since Supreme Court made no attempt to reconcile the 2024 Map with the Constitution.

Finally, the dispositive basis of Supreme Court’s remedy—“adding Black and Latino voters from elsewhere”—is on its face racial, which triggered strict scrutiny analysis under the Equal Protection Clause of the Fourteenth Amendment. Neither Supreme Court nor Petitioners, however, demonstrated that this race-based remedy serves a compelling state interest, much less that it is narrowly tailored to achieve that interest. Thus, the Decision and Order violates the Equal Protection Clause and must be reversed.