



**DISSENTING REPORT**

**2024 MOTOWN SOUND HOUSE MAP, 2024 CRANE SENATE  
MAP, AND 2021 CHESTNUT CONGRESSIONAL MAP**

**Authored by: Commissioner Rebecca Szetela**

***Chair: September 2021-March 2022***

***Vice-Chair: March 2021-September 2021***

**Date: December 17, 2024**

## Dedication

*I dedicate this Report first and foremost to **my husband and our children**, who have been tireless in their support for me and my quest for fairness, justice, and fidelity to the rule of law throughout this process.*

*I also dedicate this Report to my fellow Gen-Xers, Commissioners **Rhonda Lange** and **Erin Wagner**, for their integrity, their dedication to upholding the Constitution, their strong ethical and moral principles, and most importantly - their amazing sense of humor. It's been so much easier to laugh at the folly and absurdity of this Commission with the two of you by my side! I could not have made it through the last two years on this Commission without their presence.*

*I also dedicate this Report to fellow attorney **Sarah Howard**, for sharing her wise counsel with the Commission, even though they did not appreciate it.*

*I dedicate this Report to one of the Commission's two most attentive followers, **James Gallant**, for his limitless advocacy for transparency and for adherence to the Constitution, the law, the Commission's Rules, and Roberts Rules of Order.*

*Lastly, I dedicate this Report to the second of the Commission's two most attentive followers, **Anthony Scannell**, and thank him for his astute insights and his willingness to speak truth to power. By incorporating some of his recommendations into my Dissenting Reports, I hope his voice will carry forward for use by a future Commission.*

**And lastly, in a nod to James Gallant:**

**Disclaimer:** *This Second Dissenting Report contains my opinions, derived from the facts and my personal observations, of the activities of Michigan's Inaugural Independent Citizens Redistricting Commission and its Commissioners.*

## SUMMARY

The Michigan Independent Citizens Redistricting Commission has been held out as a model for citizens redistricting commissions. However, the Commission is neither a shining example of good governance nor of successful democracy at work. Instead, it is a cautionary tale about the hazards of assigning serious governmental obligations to inexperienced, unaccountable individuals.

The Commission adopted its first United States Congressional, Michigan State House, and Michigan State Senate maps on December 28, 2021. Almost two years later, on December 21, 2023, in a case titled *Agee v. Benson* (“Agee”), the United States District Court for the Western District of Michigan struck down the Commission’s State House and State Senate maps on the grounds that the maps were unconstitutional racial gerrymanders in violation of the Equal Protection Clause of the United States Constitution.<sup>1</sup> Exhibit 1, Opinion and Order, *Agee v. Benson* (December 21, 2023). While this Opinion afforded the Commission an opportunity for self-reflection and self-improvement, rather than acknowledging its unconstitutional maps or displaying an iota of remorse for them, the Commission and its staff responded with defiance. This doubling-down upon improper behavior<sup>2</sup> resulted in a citizen commission that failed to fulfill the democratic principles that guided its formation.

Because many of the issues raised in my initial Dissenting Report are still valid, I incorporate my original Dissenting Report, published June 27, 2022, attached as Exhibit 2.

As with my prior report, the intent of this Dissenting Report is to provide an honest and transparent account of the plethora of areas where the Commission failed to satisfy its Constitutional mandate in the creation, revision, and adoption of its U.S. Congressional, State House, and State Senate maps.<sup>3</sup> This Report places a spotlight on the failures of an insular, unqualified, unaccountable, and unelected commission, one that shunned the voice of the people and repeatedly violated the Constitutional rights of others (including its own members). It was, at the end of the day, a process that proved no better for the voters than when politicians controlled the process.

For the reasons set forth below, I dissent to the adoption of Chestnut Congressional, Motown Sound State House, and Crane State Senate Maps by the Commission.

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<sup>1</sup> The Agee v. Benson opinion is also available at: <https://casetext.com/case/agee-v-benson> or [https://vhdsfhf2oms2wcnsvk7sdv3so.blob.core.windows.net/thearp-media/documents/MI\\_122-cv-272\\_131a.pdf](https://vhdsfhf2oms2wcnsvk7sdv3so.blob.core.windows.net/thearp-media/documents/MI_122-cv-272_131a.pdf)

<sup>2</sup> For clarity, reference to the collective actions of the “Commissioners” or the “Commission” never include Erin Wagner or Rhonda Lange, who consistently opposed and voted against the worst instincts of this Commission.

<sup>3</sup> In my June 2022 Dissenting Report, I was conscientious about not individually naming Commissioners or staff. Because not all Commissioners or staff were involved in the behavior described herein, I have abandoned that practice for this Dissenting Report.

## BACKGROUND | THE *AGEE V. BENSON* LITIGATION

Before the adoption of the Commission's initial maps on December 28, 2021, the Commission's staff had been notified by its voting rights analyst, Dr. Lisa Handley, that the analysis the Commission relied upon during drafting did not align to Dr. Handley's final report and recommendations. Exhibit 1, p. 49-51. The Commission's "legal team," including General Counsel Julianne Pastula and Voting Rights Counsel Bruce Adelson, ordered staff to withhold<sup>4</sup> this unsettling information from Commissioners. *Id.* Alarmed by the revelation that the draft Commission maps did not comply with the Voting Rights Act, staff members provided me with a summary of Dr. Handley's report. Upon learning of Dr. Handley's concerns, I notified my fellow Commissioners of Dr. Handley's recommendation that the maps be redrawn and even provided several Commissioners with draft revised maps in advance of the December 28<sup>th</sup> meeting. Exhibit 4, Eid Email to Szetela, Orton, and Kellom. Regrettably, my fellow Commissioners disregarded Dr. Handley's advice and rebuffed requests to make any changes to the maps.<sup>5</sup> As a consequence of the Commission's failure to address its maps lack of compliance with Federal law, the Commission was sued by Black voters in *Agee* and lost.

Although I am mentioned more than 100 times in the *Agee* Opinion, it is not widely known that I volunteered to testify on the behalf of the plaintiffs in the *Agee* case. The decision to testify for the plaintiffs was not taken lightly; rather, it was the result of countless hours of careful consideration. My first concern was justice and fairness. Our expert had told us the Commission's maps violated the rights of voters. While Commissioners Lett, Eid, Clark, Witjes, and Orton rationalized that the concerns of Black voters could be resolved by the next Commission (*in nine years*), such a delay was a profound injustice in my mind. Secondly, and equally important, was my certainty that my fellow Commissioners and the Commission's staff and attorneys intended to advance trial testimony that would be perjurious and potentially criminal.

My conviction arose from the events leading up to the *Agee* trial. In February of 2023, I had my first and only interview with Commission's litigation counsel, consisting of Baker Hostetler attorneys Kate McKnight and Dima Atiya and Nate Fink from Fink Bressack. During this meeting, I conveyed my memory of the basis for the Commission's Detroit-area map drawing decisions, which included the use of racial targets at the insistence of Pastula and Adelson. I also supplied my contemporaneous hand-

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<sup>4</sup> Withholding this information from the Commission was one of many issues I observed with Pastula's performance as General Counsel. Exhibit 3, Szetela Email.

<sup>5</sup> Commissioners Curry, Lange, Wagner, and I voted in favor of changing the maps, but we were overruled by the majority of the Commission, including Eid, Witjes, Lett, Weiss, Clark, Orton, and Valette. See Ex. 16 to June 27, 2022 Dissenting Report, p. 85.

written notes from the Commission’s drafting meetings, reflecting the list that Pastula directed the Commission to create and use to systematically identify and reduce the Black Voting Age Populations (“BVAP”) in its Detroit-area State House and State Senate districts. These notes were copied by Baker Hostetler, but inexplicably never produced to the plaintiffs in the *Agee* litigation. I have attached them to this report to ensure the public has access to them. Exhibit 5.

In June of 2023, I was dismayed to learn the Commission’s attorneys’ theory of the case was that race was not used during map-drawing, but instead district lines were attributable to partisan fairness, communities of interest, and population shifts. Conscious of the “oceanic” public transcripts of the Commission’s work, I recognized these were easily disprovable lies. Exhibit 1, p. 55. The support for the Commission’s theory rested upon an affidavit<sup>6</sup> submitted by Commissioner Anthony Eid in the *Agee* case. Believing the Commission, many of its Commissioners<sup>7</sup>, and its staff and attorneys<sup>8</sup> were on a path to suborn perjury,<sup>9</sup> I attempted to dissuade my fellow Commissioners and Commission staff from proceeding with the plan to have Eid testify. I was unsuccessful.

Cognizant that Eid would perjure himself and mindful that the Commission and its counsel seemingly had no qualms about him doing so, I was resolved to not participate in such a scheme (even through the simple act of silence). I regarded the Commission’s plan as a conspiracy to defraud a Federal Court. Thus, I contacted plaintiffs’ counsel and volunteered to appear as a fact witness on their behalf. I reasoned that my cooperation would ensure that the Court would be provided with an opportunity to hear factually accurate testimony from a key witness and would fulfill my ethical duties as an attorney.<sup>10</sup>

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<sup>6</sup> Eid’s affidavits from the *Agee* and *Banerian* cases are attached as Exhibit 6.

<sup>7</sup> For the purpose of the public record, Commissioners supportive of the plan to have Anthony Eid testify included Cynthia Orton (then Chair), Janice Valette (then Vice Chair), Dustin Witjes, Doug Clark, Richard Weiss, Juanita Curry, Brittini Kellom, MC Rothhorn, Steve Lett (legal liaison), and Eid himself. Commissioners Erin Wagner and Rhonda Lange, who had long been ostracized by the Commission, were unaware of the details of who would be testifying or Eid’s history of dishonesty.

<sup>8</sup> The staff members engaged in pre-trial planning were Executive Director Edward Woods III, General Counsel Nate Fink, and outside counsel Katherine (“Kate”) McKnight.

<sup>9</sup> It was not just the *Agee* affidavit that raised concerns in my mind. A year prior, Eid had also submitted an affidavit in *Banerian v. Benson*, another case filed against the Commission. Dismayed by what I viewed as false and misleading statements contained in Eid’s *Banerian* affidavit (as well as the Commission’s briefs in the case), I personally discussed the contents of Eid’s affidavit in *Banerian* with multiple Commissioners, including Cynthia Orton, MC Rothhorn, Doug Clark, and Dustin Witjes. Each Commissioner agreed that the statements made in the Eid *Banerian* affidavit and the factual representations in the Commission’s *Banerian* briefs were not truthful. Eid’s behavior while on the Commission also raised concerns about his integrity. Exhibit 7, Notice. And Eid had been expelled from Wayne State University’s medical school for dishonesty and harassment of a female undergraduate student, a fact discovered by the Commission in early 2022. Exhibit 8. Thus, there were many indicators that Eid would not provide truthful testimony if called upon as a witness in *Agee*.

<sup>10</sup> An attorney, even one merely appearing as a party, is still an officer of the court with ethical obligations that are mandatory.

Accordingly, I became the first and primary witness of the plaintiffs during the *Agee* trial.

Eid and the Commission's counsel, for their part, performed exactly as I had anticipated at the *Agee* trial. Eid was called as the Commission's principal fact witness, where he offered the same false testimony as contained in his *Agee* affidavit. Exhibit 1, p. 70-71. The Court was not fooled. Wholly rejecting Eid's testimony regarding racial predominance, the Court found that Eid's statements were contradicted by both the Commission's transcripts and Eid's own statements during map-drawing. Exhibit 1, p. 70-71. The Court also noted that Eid's testimony was evasive and improbable and that he was not a credible witness.<sup>11</sup> Exhibit 1, p. 70.

I have no regrets about testifying for the plaintiffs in the *Agee* case. My truthful testimony, along with the testimony of other plaintiffs' witnesses, combined with the Commission's copious records, enabled some justice to be served for metropolitan Detroiters. I am grateful to have contributed to the *Agee* plaintiffs' case and glad the Commission was forced to redraw its unconstitutional maps as a result.

I have one last observation about the *Agee* trial and the Commission in general. In a concurring opinion in *Agee*, the concurring Judge noted that she felt the majority Opinion was unnecessarily harsh on the Commission and expressed her view that the Commission was composed of individuals acting in good faith and trying hard. Exhibit 1, pp. 115-116. Given my years of experience with my fellow Commissioners, I do not share that view. Rather, I agree with the opinion expressed by one public observer that some Commissioners had significant biases and these Commissioners allowed these biases to creep into the Commission's work. Exhibit 9, Public Comment from Will. For example, as far back as October of 2021, many Commissioners<sup>12</sup> openly and consistently (yet privately) described Black voters at the now-infamous TCF Hearing in Detroit on October 20, 2021 as "[ill]informed, uninformed, ignorant, dumb, whinny idiot, stupid or just a moron." Exhibit 10, Weiss Email. Not only were Black voters referred to in this condescending manner, Commissioners were so confident in their own job security that they put this descriptor in writing. Exhibit 10. In addition to Commissioners Orton, Valette, Witjes, Eid, Clark, and Weiss referring to voters using this language, the Commission's Voting Rights Expert, Bruce Adelson, also approved of this characterization, describing it as "Perfect."<sup>13</sup> Exhibit 10. This

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<sup>11</sup> In the ultimate confirmation of their complicity with Eid's false testimony, shortly after the issuance of the *Agee* Opinion identifying Eid as untruthful in his testimony, Commissioners Kellom, Curry, Lett, Weiss, Orton, Valette, Andrade, Callahan, Eid, and Muldoon rewarded Eid by promoting him to Chair of the Commission, a position he had been passed over for on at least seven discrete, prior occasions.

<sup>12</sup> This included Commissioners Eid, Witjes, Weiss, Clark, Orton, and Valette.

<sup>13</sup> While I do not enjoy exposing the language that many Commissioners used to describe the public, the public has a right to know this information as well as the identities of the individual Commissioners who used this language. I also believe individual Commissioners who did **not** use this language (Rhonda Lange, Erin Wagner, and Juanita Curry) are entitled to not have aspersions cast on them when they did not (to my knowledge) use such terms.

language was also volleyed around between individual Commissioners using the Commission's Teams account. Exhibit 11, Eid/Witjes Messages (Witjes to Eid: "as Richard says...ill informed...uninformed..."). During that same timeframe, Commissioners, in the Closed Session that was later made public, dismissed Black voter concerns as "not backed by anything other than their feelings" and suggested other Commissioners "shut out all of the criticisms that are coming." Exhibit 12, Closed Session Transcript, pp. 37, 50 (Commissioners Eid and Orton, respectively). And, of course, one must take into account several Commissioners' frequent characterizations of the *Agee* plaintiffs (who are all Black) as the "enemy" (Eid, Witjes, Clark, and Weiss) and the portrayal of Commissioners that were subpoenaed to testify by the *Agee* plaintiffs as saboteurs (Kellom, Eid, Weiss, and Witjes) or "enemies of democracy" (Woods). In addition to their expressed contempt for voters, many on the Commission maintained an atmosphere of disdain for public comments, particularly dissenting voices, throughout their tenure, which was unfortunately encouraged by Pastula and Adelson. Lastly, as the actions described further below illustrate, many Commissioners appeared to operate with a palpable undercurrent of maliciousness towards voters, particularly Black voters. Members of the public can certainly draw their own conclusions as to the import of this pattern of behavior, but I personally cannot regard the actions of these Commissioners (who time and time again formed a voting block to barricade fair maps for Black voters) as either diligent or well-intentioned.

## **Rationale**

### **OBJECTION 1 | CRITERIA #1 CONTINUED NON-COMPLIANCE WITH FEDERAL LAW, INCLUDING THE VOTING RIGHTS ACT AND THE EQUAL PROTECTION CLAUSE OF THE UNITED STATES CONSTITUTION**

The Commission's U.S. Congressional (Chestnut) and State House (Motown Sound) are, and continue to be, maps that were racially gerrymandered in violation of the United States Constitution and that do not provide minorities, particularly Black voters in the metropolitan Detroit area, with an opportunity to elect their candidates of choice in **both** primary and general elections. These are serious flaws in the Chestnut and Motown Sound maps. In addition, I do not have high confidence that one district (District 7) in the Crane map will permit Black voters to elect their candidate of choice. Thus, I dissent to the adoption of the Crane, Chestnut, and Motown Sound maps.

With respect to the Chestnut Congressional map, as noted in my initial Dissenting Report, and validated by the Court in *Agee*, the Commission had no data or evidence to suggest that Black voters would have an opportunity to elect candidates of choice in the Democratic primary at the BVAP percentages demanded by Pastula and Adelson. Ex. 1, Ex. 2. Further, at the direction of Pastula and

Adelson, the Commission sorted voters into districts based on race in violation of the Equal Protection Clause of the United States Constitution. Despite this lack of evidence and the illegality of racial gerrymandering, the Commission approved the Chestnut map with BVAP populations of 43.81% (District 12) and 44.70% (District 13), where the populations in these districts had been carefully engineered around an announced racial target. Exhibit 13, See 10/5/2021 Transcript, p. 51 (Eid: *“it achieves about the same levels of BVAP we were looking at.”*). Since the Chestnut map was not part of the *Agee* court’s Opinion, no changes to fix the racial gerrymander in the Chestnut Congressional map were made. Thus, I continue to dissent to the Chestnut Congressional map on the grounds it constitutes an illegal racial gerrymander and to the extent it continues to violate the Voting Rights Act.

Although it has been redrawn, the remedial Motown Sound map is similarly problematic because it retains many districts originally drawn using announced racial targets at the direction of Adelson and Pastula. As to the 2021 Detroit-area districts generally, the Commission used an announced racial target to which it subordinated other districting criteria. Exhibit 1, p. 67. This included the districts challenged by the plaintiffs in *Agee* as well as other Detroit-area districts not included in the *Agee* litigation. As noted by the Commission’s counsel during the remedial mapping phase (Richard Raile of Baker Hostetler), the risk to the Commission in changing districts in excess of those struck down by the *Agee* court was very low – in fact, changing more districts was actually preferable. Exhibit 14, 5/20/2024 Transcript, p. 13 (*“Last time around we talked about this question of what is too much? Is there too much change? And the point that I made then and I will make that again now at some point if you went very, very, very far there may be a risk of state Court action down the road...I think that risk is comparatively low.”*). Raile informed the Commission that more change to the maps was better and specifically advocated to change at least twice as many districts in the remedial maps as had been struck down by the court. Exhibit 14, p. 12 (*“To draw new districts you have to change more districts than just the ones that were struck down...You want many districts changed...I like there to be twice as many districts changed. If you have 12 that is probably a good thing. If you have even more than that I think that is generally a good thing.”*). Thus, the Commission easily could have changed any Detroit-area district that was tainted by unconstitutional racial gerrymandering.

Districts 16, 17, 18, 19, and 26 in the Motown Sound House map were so tainted. These districts had been carried over from the invalidated Hickory map, where they were structured using an announced racial target designed to dilute Black voting populations with White, suburban voters. The initial formations for districts 16, 17, and 18 were drawn on September 21, 2021 and September 22, 2021, when the Commission sorted voters into their districts based on race (at the time of map-



drawing, those districts were named 14, 15, and 17). Exhibit 15, Excerpts from 9/21/2021 Transcript, pp. 120 (Kellom: *"Another person can create another shoot using Detroit population...you might want to go kind of northwest...because Redford has a high African/American population."*); Exhibit 15, 9/21/2021 Transcript, p. 124 (Eid: *"But if we take that middle part of Livonia, it might give you the population you need while bringing the Black population down...You could extend...15 also in Livonia and maybe have a third on top of it."*); Exhibit 15, Excerpts from 9/22/2021 Transcript, p. 17-18 (Rothhorn: *"...one of the ways we were trying to balance the white and Black population you will see 14 and 15 those districts 14 and 15."*); Clark: *"Initially we chose a different approach. And what we ended up doing was not getting a balanced District. So we decided to move west where there is less Black population and balance the districts and that is why you see the configuration that you do now in 14 and 15. The big problem we were faced with was if we move north Southfield is predominately or a large percentage Black and end up with the same problem that is why we decided to move west."*). These districts were further refined using the same racial targets as directed by Adelson and Pastula until November 2, 2021, which marked the creation of the Pine 3 map, where the districts took their nearly final forms. Pine 3 districts 5, 9, 14, and 17 were incorporated into the original Hickory House map, where they were renamed districts 16, 17, 18, and 19. Exhibit 15, Excerpts of 10/4/2021 Transcript, pp. 34, 55 (Orton:<sup>14</sup> *"want to reduce the African/American population in 9 so what if we took all of Southfield and put it up into 14, wouldn't that possibly take care of all those problems?"*; Eid: *"the only thing I would potentially change is that area that's on the south end of the District 14 and that borders with district 9, the areas below Southfield or maybe try to include just a couple more precincts with district 9. It's at 38.64%. I say let's get it...let's just add precincts until we are right on 40% [BVAP] which is where we need to be 40 or below"*). Similarly, District 26 was drawn on September 23, 2021 by Steven Lett, who also predominantly considered race. See Exhibit 1, pp. 18-19 (*"Lett drafted what became of House District 26...[h]e asked for the racial-dots 'thematic,' drew the district boundaries, and ended with a black-voter populations of 34.5%"*). Given the Commission's public transcripts, there can be no dispute that the Commission improperly used race to sort people into Districts 16, 17, 18, 19, and

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<sup>14</sup> Even though transcripts and video recordings irrefutably show Orton placing voters into districts 16, 17, 18, and 19 based upon their race, Orton refused to change these districts during the remedial phase, instead claiming she never sorted voters based on race: *"you are putting words in the rest of our mouths. Maybe you draw it with that [race] in mind and maybe that's your opinion. But that's not my opinion of how I was trying to draw things. So please don't characterize all of us as doing what you're saying that you think we did."* See February 28, 2024 Transcript, p. 24. This exchange demonstrates why this Commission continues to adopt racially gerrymandered maps: it's due to the seeming inability of many Commissioners (particularly Orton, Valette, Weiss, Lett, Eid, and Kellom) to acknowledge and accept responsibility for their own actions during the initial mapping phase. Instead, they insist they've been gaslighted by the Court and the Commissioners who testified for the Agee Plaintiffs.

26 in the Motown Sound State House map. Despite appeals to adjust all districts that were drawn using the same discriminatory racial targets as the districts at issue in *Agee*, the Commission, particularly Commissioners Orton, Eid, Lett, Kellom, and Callahan, spurned opportunities to change the discriminatory districts (16, 17, 18, 19, and 26) that the Commission was not expressly ordered to redraw by the *Agee* court.<sup>15</sup>

Finally, there is the issue of District 7 in the Commission's approved State Senate map, the Crane. Although District 7 is supposedly a VRA district according to the Commission's post-trial VRA expert, I question whether District 7 will truly perform to allow Black voters to elect their candidates of choice in this District. Exhibit 16, Comparison of Crane and Szetela District 7. Specifically, the Commission's VRA expert claimed that District 7's 31.2% BVAP population would allow Black voters to elect candidates of choice in a District with 30.6% White voting age population ("WVAP"). Exhibit 17, Response Of The Michigan Independent Citizens Redistricting Commission To Report Of The Reviewing Special Master Regarding Michigan State Senate Map, p. 6. The Commission's attorneys described the 0.6% margin between Black and White voting populations as a "comfortable margin." Exhibit 17, p. 6. In practice, I am doubtful that this razor-thin margin will be sufficient. Although the Commission's attorneys questioned in the *Agee* case whether an alternative district could be configured under the *Gingles* first precondition (drawn without race predominating) or revised without sacrificing (subordinating) non-racial criteria, those hypotheticals had been already answered in the version of District 7 in the Szetela 404 map. Exhibit 17, pp. 8, 10. As the Szetela 404 map demonstrates, higher margins for Black voters could have been obtained without venturing into Detroit or disregarding or subordinating other criteria. The Szetela 404 plan did exactly that by reconfiguring District 7 from the Crane by removing Birmingham and replacing it with Oak Park and portions of Southfield. Exhibit 16. This alteration reunited the Orthodox Jewish community of interest that was split in the Crane map and had an unintended side effect of increasing the BVAP to 35% and lowering the WVAP to 29.1% (a margin of 5.9%).<sup>16</sup> Thus, a district configuration that would generate higher confidence for the performance of District 7 was already drawn. Because the configuration of District 7 contained in the Szetela 404 map was not used in the Crane, and that district configuration would have provided for a

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<sup>15</sup> The *Agee* Court's approval of the Motown Sound map does not equate to a declaration that districts 16, 17, 18, 18, and 26 were not racially gerrymandered. To the contrary, the fact that some of these districts were expressly referenced in the Court's Opinion suggests to me that the Court did believe they were racially gerrymandered and was hopeful the Commission would remedy them. Since those districts did not have individual plaintiffs residing in the districts in question, they were therefore outside the scope of the *Agee* court's jurisdiction. However, the Commission had the discretion to remedy those districts and should have.

<sup>16</sup> An earlier draft of the Szetela 404 map (05 20 24 SD RAS V1) had even higher BVAP (37.1%).

higher chance of Black voters being able to elect their candidate of choice, I object to the Crane map.

In summation, the Commission failed in December 2021 because it approved racially gerrymandered maps, despite being aware of problems with the maps and having an opportunity to adjust them. The Commission had an opportunity to reverse its history of discrimination against Black voters during the remedial phase. Instead, the Commission refused to adjust district lines that it unquestionably knew, based on the *Agee* Opinion, were illegal racial gerrymanders. Because the Commission twice approved maps that violate the Constitutional and Voting Rights of Black Voters, I dissent to the adoption of the Motown Sound State House map and the Chestnut Congressional map. I also object to the adoption of the Crane State Senate map to the limited extent its District 7 may not comply with the Voting Rights Act.

## **OBJECTION 2 | CRITERIA #3 DISREGARDING COMMUNITIES OF INTEREST**

I dissent to the Chestnut, Motown Sound, and Crane maps to the extent they fail to accommodate communities of interest that were identified as significant by the Commission and that the Commission collectively agreed to incorporate into its maps. In the original map-drawing process in 2021, the Commission evaluated and selected a group of communities of interest that it would preserve in its maps. This list was discussed and winnowed at the Commission's meeting on October 28, 2021. Exhibit 18, Excerpts from 10/28/2021 Transcript, pp. 12-15, 120-121. At this time, the Commission created a "nice list" of important Metropolitan Detroit communities of interest, which included Banglatown, the Palmer Park LGBTQ+ community, the Dexter-Linwood neighborhood, Latino, Grandmont/Rosedale/Minock Park neighborhoods, Morningside/East English Village/Cornerstone neighborhoods, Asian-Pacific communities in Novi, the St. Clair Shores lakeshore, the Sikh community in Troy/Rochester Hills, and the Oak Park Orthodox Jewish community. Exhibit 18, pp. 12-15, 120-121. A copy of my contemporaneous, hand-written notes containing the list is attached as Exhibit 19. Regrettably, in the 2024, the Commission chose to disregard the voice of the people and ignore these communities of interest, with some members even going so far to deny such a list ever existed. As noted in my initial Dissenting Report, seven of these communities of interest were divided in the Chestnut Congressional map. In the 2024 remedial maps, at least eleven communities of interest (which were included in the 2021 maps) were unjustifiably severed in the Motown Sound House map. The community of interest splits in the Motown Sound were particularly egregious, with established and easy-to-accommodate neighborhood groups being split across multiple districts (in four cases, the communities of interest were split three times). The Crane performs much better, having only separated one community of interest. I have included maps illustrating most of the community of

interest splits in the Motown Sound, Chestnut, and Crane maps.<sup>17</sup> Exhibit 20, Maps Reflecting Community of Interest Splits in the Chestnut, Motown Sound, and Crane maps. Due to the unexplained failure to accommodate the above-referenced communities of interest, I dissent to the adoption of the Chestnut Congressional map, the Motown Sound State House map, and the Crane State Senate map.

#### **Community of Interest 1: Bengali Community of Interest**

The Bengali community identified Hamtramck and portions of Warren and Macomb County as being a community of interest that should be kept together. This community of interest was divided into two in the Chestnut Congressional map. The Chestnut map is the only final proposed Congressional map published by the Commission that divides this community of interest. This community of interest was also split into three pieces in the Motown Sound House map.

See comments p1511 (Mariam Akanan), p4107 (Nada Alhanooti, Hamtramck), f1514 (Tufayel Reza, Warren), f1516 (Iqbal Hossain, Hamtramck City), f1460 (Nurun Nesa, Warren), f1459 (Nazmin Begum, Warren); w1456 (Sumon Kobir, Warren Township), w1398 (Muzadded Abdullan, Warren City), p1037 (Rebeka Islam, Hamtramck), Map submitted via Portal Comment by Hayg Oshagan, 9/8/2021

#### **Community of Interest 2: Jewish Community of Interest**

Eighty percent of the Metropolitan Detroit-area Jewish community resides in the “core” Oakland County communities of Berkley, Commerce Township, West Bloomfield, Bloomfield Hills, Birmingham, Franklin, Farmington, Farmington Hills, Royal Oak, Oak Park, Huntington Woods, Walled Lake, and Southfield. Seven percent of Jewish households live in the Southfield area and 12% of the population of Southfield is Jewish. Franklin also contains a significant Jewish population. Despite requests to keep Southfield and Franklin with the remainder of the Jewish community in the “core” area, the Chestnut map isolates and separates Southfield and Franklin from the remainder of the Jewish community of interest. In addition, the Commission received requests to preserve the Orthodox Jewish community in Oak Park and portions of Southfield. The Chestnut map was the only final proposed Congressional map published by the Commission to divide both communities of interest. The Motown Sound divides the Orthodox Jewish community of interest into three parts and the Crane divides the Orthodox Jewish community into two parts.

See comments w746 (Todd Schafer, Beverly Hills); c1803 (Menachem Hojda, Oak Park); c5247 (Judah Karesh, West Bloomfield Township); w1000 (Charlotte Massey, Royal Oak)

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<sup>17</sup> Because of changes I made during drafting, the Crane Senate map only has one split community of interest.

### **Community of Interest 3: Indigenous Population Community of Interest**

The Commission received many comments from members of Indigenous populations, who specifically identified their populations as communities of interest throughout the State. The Indigenous populations specifically identified the service areas for the Indian Health Services clinic run by the Nottawaseppi Huron Band of the Potawatomi and the American Indian Health & Family Services clinic in the Detroit area as communities of interest. These areas included areas in and around Westland and in and around Lincoln Park. The Chestnut map does not preserve the community of interest of the Indigenous populations and split these areas in two different districts. Further, the Motown Sound split the Westland-area Indigenous community of interest into two pieces.

See comments p5531, p5527, and p5525

### **Community of Interest 4: LGBTQ+ Community of Interest**

The Commission also received many comments from members and allies of the LGBTQ+ community, who identified their community of interest as encompassing the communities of Southfield, Oak Park, Pleasant Ridge, Huntington Woods, Ferndale, Hazel Park, and the Detroit neighborhood of Palmer Park. The Chestnut map divides this community of interest into three separate districts.

See comments w1924 (Oscar Renautt, Oak Park), w5790 (Ivy Nicole), w5669 (Sarah, Ishpeming Township), w5473 (Troy, Detroit), w5471 (Kathy Randolph), f3493 (Michael Rowady), c777 (LGBT Detroit, Detroit), c819 (LGBT Detroit, Detroit), w1287 (Midge Cone, Ann Arbor), and w1306 (Sue Hadden, Ann Arbor).

### **Community of Interest 5: Sikh Community of Interest**

The Sikh community of Troy and Rochester Hills also identified their community as a community of interest and requested that the Troy and Rochester Hills Sikh community of interest stay together. The Chestnut map divides this community in half.

From June 27, 2022 Dissenting Report: Ex. 8, p. 16; Ex. 16, p. 19.

### **Community of Interest 6: Asian Pacific Islander and Chaldean Populations in Oakland/Macomb Counties Community of Interest**

Members of the Asian Pacific Islander and Chaldean communities in eastern Oakland County and western Macomb counties also identified themselves as a community of interest. The Chestnut map divides these populations in two by following the township boundary between the 10<sup>th</sup> and 11<sup>th</sup> districts for Oakland and Macomb County. Thus, the Chestnut map divides the Asian Pacific Islander

and Chaldean community of interest. The Motown Sound also divides this community of interest in half.

See comments w8699 (Daniel G, Troy) and p7262 (Yousif, Troy).

**Community of Interest 7: Arab & Middle Eastern/North African Community of Interest**

Members of the Arab or Middle Eastern/North African (MENA) community in Wayne County also identified themselves as a community of interest. The Chestnut map divides the Arab or Middle Eastern/North African (MENA) community of interest into two pieces.

See comment c1510 (Mariam Akanan, Dearborn), with supporting comments from Jamie Kim (Dearborn) and Mariam Bazzi (Dearborn).

**Community of Interest 8: Rosedale, Grandmont, and Minock Park Community of Interest**

Members of the neighborhoods of Rosedale, Grandmont, Grandmont 2, and Minock Park requested to remain together as a community of interest. For no identifiable reason, the Motown Sound divides these neighborhoods into two different districts.

See comment w9474.

**Community of Interest 9: Morningside, East English Village, Cornerstone Community of Interest**

Similarly, members of the neighborhoods of Morningside, East English Village, and Cornerstone requested to be placed together as a community of interest. The Motown Sound also divides this community of interest into two districts.

See comment c826.

**Community of Interest 10: Latino Community of Interest**

The Latino community of interest in includes portions of Southwest Detroit, Ecorse, Lincoln Park, and River Rouge. Despite the request to preserve this community of interest, the Motown Sound divided the district into three pieces.

See comment c2453.

**Community of Interest 11: The Grosse Pointes**

Throughout the redistricting process, the Commission received testimony requesting the five Grosse Pointe communities (Grosse Pointe, Grosse Pointe Park, Gross Pointe Farms, Grosse Pointe Woods, and Grosse Pointe Shores) remain together as a community of interest. Despite this request, a portion of Grosse Pointe Woods was ripped out of the Grosse Pointe community of interest and placed

in a district with Macomb county.

See comment p10269, w9936.

### **Community of Interest 12: St. Clair Shores/Lakeshore District**

Similar to the Grosse Pointes, the Commission received significant public commentary identifying a lakeshore community of interest north of the Grosse Pointes and including St. Clair Shores. These lakeshore communities were preserved in the 2021 maps. However, the Motown Sound divides a single community in the lakeshore community of interest (St. Clair Shores) into three separate districts. The southernmost part of this district is combined with Eastpointe and interior (non-lakefront) portions of Detroit.

See comment w10080 (Joseph), p9825.

One of the primary purposes of this Commission was to create a process whereby the public could request that their particular community of interest be preserved in redistricting. However, this Commission repeatedly dishonored this purpose by ignoring the testimony of the thousands of people who commented during the redistricting process. This is an astonishing failure on the part of this Commission. Although the Commission had the discretion to determine which communities of interest it would incorporate into its maps, it is striking that these communities of interest were specifically identified for inclusion by the Commission yet excluded, without explanation, from the Chestnut and Motown Sound. More often than not, these communities of interest could have been easily incorporated into the maps. Indeed, most were incorporated into the Crane during final revisions. However, the Commission continuously displayed indifference to communities of interest, particularly during the drawing of the Motown Sound. Due to the Commission's indifference to communities of interest, I dissent to the adoption of the Chestnut Congressional map, the Motown Sound State House map, and the Crane State Senate map.

### **OBJECTION 3 | CRITERIA #4 PARTISAN FAIRNESS**

I dissent because each of the Commission's Congressional, State Senate, and State House maps (the Chestnut, Motown Sound, and Crane) could have achieved improved (i.e., closer to zero) partisan fairness metrics. As evidenced by maps preferred by the public, and by analysis conducted by Voters Not Politicians, the Commission could have adopted Congressional, State Senate, and State House maps with better (meaning closer to zero) partisan fairness metrics, without compromising other Constitutional criteria. Exhibit 21, Voters Not Politicians Partisan Analysis. Given that an election has already occurred with the Motown Sound, this partisan lean is quite apparent. Exhibit 22, *The results*

*are in: Michigan Republicans break historic democratic trifecta.* Because maps with better partisan fairness metrics were actually achieved yet not adopted, I dissent to the adoption of the Chestnut, the Motown Sound, and the Crane maps.

#### **OBJECTION 4 | DISREGARD OF PUBLIC OPINION**

I dissent to the adoption of the Crane Senate map because it was not the map preferred by the public. The Szetela map (404) was the State Senate map that the majority of the public supported. Exhibit 23, Closeup Report. The Szetela Senate (404) map was a more-partisan-fair version of the Crane and preserved the communities of interest the Commission identified as important in 2021, without deleterious impacts on higher-ranked Constitutional criteria.

The Commission was tasked with soliciting “wide” and “meaningful public participation” as part of its Constitutional obligations. Const. 1963, Art. IV., §6(10). Accordingly, the Commission solicited public feedback and received public comments throughout the redistricting process. However, unlike the 2021 Process, as recommended in my 2022 Dissenting Report, the Commission had an outside vendor compile and analyze the public comments to determine the “preferred” map. For the Senate map, the map unquestionably preferred by the public was the Szetela (404). This map was also preferred by the full cross-section of public commentors and was the best performing map in terms of partisan fairness, preservation of communities of interest, and Voting Rights compliance.

Yet the majority of Commissioners, including Orton, Valette, Eid, Andrade, Lett, Curry, Kellom, and Muldoon, refused to support the public-preferred map. One Commissioner, Donna Callahan, and members of the public found the Commission’s resistance to adopting the Szetela (404) map inexplicable and repeatedly pressed Commissioners to articulate their opposition to the Szetela (404) map. Exhibit 24. Yet the Commissioners refused to offer any legitimate objections. Exhibit 24. The main objection, as expressed by Orton and Lett, was the Szetela 404 map was drawn by an individual Commissioner and was not a “collaborative” map. One frequent commentor, Gary Morehead, chastised the Commission for these comments, observing that the Commission had no authority to elevate the criteria of a map being “collaborative” over the status of the seven ranked Constitutional criteria or the opinions of the public. Exhibit 24. Morehead implored the Commission to not discriminate against maps based on the author. Despite this entreaty from Morehead and others, and despite the Szetela 404 map having the most support and best metrics, the Commission obstinately refused to adopt it.

While the Commission is not required to select the public’s preferred map, during the selection



of the remedial House map, those same Commissioners who refused to adopt the Szetela (404) map (Orton, Valette, Eid, Andrade, Lett, Curry, Kellom, and Muldoon) were the very same Commissioners who insisted they needed to adopt the Motown Sound map because “that’s what the public seems to want.”<sup>18</sup> See 02/28/24 Commission Transcript, pp. 64-66. Yet when the public preferred the Szetela (404) Senate map, instead of focusing on the best interest of the voters or voter preferences, those Commissioners permitted their own personal grievances to usurp the wishes of the public. Thus, I object to the adoption of the Crane map because it was not the map preferred by the public.

## **OBJECTION 5 | THE POISON PILL OF SPLIT PRECINCTS**

I object to the Motown Sound State House map to the extent it improperly splits over two dozen precincts in the City of Detroit. Throughout the Commission’s proceedings, the Commission was cautioned to not split precincts. Precincts are split when voters are divided across 2 or more districts. As noted by Secretary of State Jocelyn Benson in her Supplemental Brief Regarding Remedy Timeline, which was filed before the Commission began its court-mandated remedial redraw of the State House and State Senate maps, Michigan Election Law provides that a precinct, as far as is practical, must not be split between districts. Mich. Comp. Laws § 168.661(2); Exhibit 25, p. 6. As described by Secretary Benson, split precincts “pose problems for both local elections officials and voters.” Exhibit 25, p. 6. Precinct splits can create confusion for both voters and precinct workers. *Id.* They also require additional work for county clerks, local clerks, and election inspectors. *Id.* First, split precincts require more ballot styles to be printed to accommodate the different districts within a precinct. *Id.* These additional ballot styles impose additional costs on elections officials and municipalities, since printing two or more styles of ballots in smaller quantities costs more than printing a larger volume of a single ballot. Second, multiple ballot styles per precinct create the risk that voters will be given the wrong ballot style in absentee, early, or in-person voting, which will lead to ballots being cast in the wrong races and will lead to precincts being out of balance. *Id.* Third, precinct splits cause disruption and longer wait times for in-person voting. As a result, the Commission heard from multiple election clerks during its public comment period to avoid precinct splits.

Further complicating the costs of precinct splits was the inability of municipalities to re-draw precincts to eliminate precinct splits drawn by the Commission during the remedial phase for the

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<sup>18</sup> The Motown Sound wasn’t actually the map preferred by the public. A map submitted by Promote the Vote was preferred by the majority of the public. However, the Commission refused to even evaluate this map because it wasn’t “collaborative,” once again elevating their own criteria over the Michigan Constitution. Thus, I dissent to the Motown Sound on the same grounds.

House map. Under Michigan law, municipalities may need to “re-draw precinct boundaries to correspond to new districts if any new districts split precincts.” Exhibit 25. Because Michigan law prohibits precincts from being re-drawn within 210 days before the primary next preceding the general election, Michigan municipalities were prohibited from re-drawing precincts to correct any precinct splits drawn by the Commission for the State House map. Exhibit 25.

Despite awareness of the issues with splitting precincts and the hardship it would place on Black voters and local election officials for the 2024 election, the Commission (in particular Commissioners Andrade, Kellom, Eid, Orton, Lett, Weiss, Valette, Muldoon, and Callahan) chose, over and over again, as a matter of practice, to split Detroit precincts in its maps, including the Motown Sound map<sup>19</sup>. Exhibit 26, Selected Precinct Splits. These Commissioners even divided one precinct *into three pieces*. In a peculiar turn, these same Commissioners conspicuously avoided splitting precincts outside of Detroit. Once again, the public can draw their own conclusions from this activity, but from my perspective, these precinct splits, limited to Black-majority areas and avoided in White-majority areas, appeared spiteful and designed to retaliate against Black voters. Because the Commission unjustly split precincts in the Motown Sound House map in violation of Michigan law, I object to this map.

#### **OBJECTION 6 | THE OUTSIZED IMPACT OF A DEMOCRATIC POLITICIAN**

The purpose of this Commission was to remove politicians from the business of redistricting. For that reason, the Michigan Constitution prohibits individuals with political connections from serving on the Commission. In addition, the Commission is also prohibited from drawing districts that favor or disfavor incumbents or candidates for office. Lastly, on the advice of their attorneys, the Commission was prohibited from using racial data while completing its remedial maps. As described below, during the drafting the Motown Sound map, the Commission’s map drawing was almost entirely controlled by a Democratic politician who improperly considered race and also drew a district that favored him personally as a candidate for office. Thus, I object to the adoption of the Motown Sound map.

Christopher Gilmer-Hill is a Democratic precinct delegate. Under the Michigan Constitution, Gilmer-Hill is prohibited from serving on the Commission. The Commission was also prohibited from using

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<sup>19</sup> These same Commissioners claimed that “neighborhoods” were communities of interest justifying precinct splits. However, no such community of interest public comments were associated with the precinct splits and, as noted above, many verified communities of interest were split. For example, Petoskey, Brush Pak, Norton, Gateway were all alleged “communities of interest,” yet the Commission did not receive a single public comment identifying these neighborhoods as communities of interest needing to be kept intact in over 30,000 public comments received by the Commission. Rather, much like the Commission used the “neighborhoods” as its rationalization for race-based map drawing in 2021, the Commission was again using that same “cover” in 2024 as an excuse to split precincts.

race when drawing districts during its remedial redraw. However, as is evident from the maps submitted by Gilmer-Hill, Gilmer-Hill was utilizing both Dave’s Redistricting (<https://davesredistricting.org/>) and DistrictR (<https://districtr.org/>) to submit maps to the Commission. Both programs prominently display race as a data point while mapping. Exhibit 27. Despite this, Commissioners Kellom and Eid repeatedly copied maps and accepted direction from Gilmer-Hill when drafting the Spirit of Detroit map, which was renamed and adopted as the Motown Sound.

Kellom initially drew a map called the Lily on January 23, 2024. However, Kellom took care to limit her Detroit districts to within Detroit’s borders while mapping (particularly the northern boundary of 8 Mile). On January 23, 2024, Gilmer-Hill submitted public comments proposing carrying two districts across the 8 Mile boundary: an Oak Park/Detroit district and a Ferndale/Detroit district. Exhibit 27. Also on January 24, 2024, Gilmer-Hill submitted multiple documents associated with a map he was calling the “Tiger Lily,” which was a heavy revision of Kellom’s Lily map. At the Commission’s meeting on January 24, 2024, Kellom directed John Morgan (from EDS) to create a new map, based off the Lily, which directly imported Gilmer-Hill’s Tiger Lily changes. Exhibit 28, 1/24/2024 Transcript, p. 72 (Kellom: *“And in our online platform put forth a plan that I would say I also agree with that could work, that makes minor changes. This individual also supplied a map. I think we heard from him this morning and he called the map Tiger Lily so what I was proposing is that map be overlaid with the current Lily map. And those tweaks be made as quickly as we can....If we do it together we will work quickly.”*). Kellom then directed the map to be renamed the Spirit of Detroit. The adoption of the Tiger Lily by Kellom resulted in dramatic changes to districts 5, 6, 7, 8, 11, and 14 and also changed district 4.

By January 31, 2024, the Commission has submitted its draft maps for analysis by its VRA Expert. The Spirit of Detroit performed poorly, with fewer “VRA districts” (that is, districts where Black voters would be able to elect their candidates of choice) than other draft maps. Due to the Commission’s inability to use race during the court-mandated redraw (as well as their general lack of proficiency mapping), Commissioners Kellom and Eid were struggling with how to fix the number of VRA districts in the Spirit of Detroit. Gilmer-Hill again appeared before the Commission. This time Gilmer-Hill, who had access to racial data in both the DistrictR and Dave’s Redistricting programs, offered a recommendation: *“I would like to speak briefly about a couple of tweaks the Commission should seriously consider as you work to bring everything into perfect compliance with the VAR [sic] and partisan fairness ahead of submitting map. You have done a really good job given the circumstances. I know things are running into a hurdle but should be proud of what you are doing because we are getting there. **It’s possible to fix a lot of the maps that are at 10 – creating a new VRA seat where there is not one in the Grosse Pointes area.**”*

*You can do this without breaking up the COI that includes like five Grosse Pointes and Harper Woods by like in the context of the Spirit of Detroit map, adding Morningside, East English Village, Cornerstone, and Moross and Morang in 10 and moving St. Clair Shores into District 12. **Those balance out.***” Exhibit 29, 01/31/2024 Transcript, p. 7. Gilmer-Hill, with his access to the racial data the Commission was prohibited from accessing, was plainly offering Kellom districts drawn predominately based on race by his comments to “balance out” the district. Later in the meeting, Eid incorporated these changes into the Spirit of Detroit (which later became the Motown Sound). Exhibit 29, p. 48 (Eid: *“We had a suggestion from public comment earlier, I believe from a guy named Chris, he suggested putting Grosse Pointe with Harper Woods, Morningside, East English Village, Cornerstone Village and Manistee [sic] in 10 and putting the St. Clair Shores parts of that District with District 12.”*). Once Gilmer-Hill’s proposed changes were incorporated into the Motown Sound, the Motown Sound increased the BVAP in district 10 from 11.2% BVAP to 37.3% and dropped the BVAP in district 12 from 69.7% to 43%. Exhibit 30, Motown Sound and Spirit of Detroit VRA Maps. To further reduce the White votes in District 10 (and thereby increase the BVAP), Kellom and Eid separated a portion of Grosse Pointe Woods and placed it in with St. Clair Shores, even though this disrupted the Grosse Pointe community of interest. These changes were simply more race-based line drawing, which the Commission was prohibited from doing.

By the time the Motown Sound map was placed for consideration and vote before the Commission, it incorporated seven districts (4, 5, 6, 7, 8, 11, and 14) that had been almost entirely drawn<sup>20</sup> by Gilmer-Hill and three districts (10, 12, and 13) that had been partially drawn by Gilmer-Hill.<sup>21</sup> Overall, the Motown Sound changed 15 districts from the struck-down Hickory map. A politician, Gilmer-Hill, drew 10 of them.<sup>22</sup> The purpose of the formation of the Commission was to ensure multiple individuals from multiple parties were responsible for drafting maps. In the case of the Motown Sound, the Commission abdicated its Constitutional duty to a single politician representing a single political party.

Unsurprisingly, after the approval of the Motown Sound map by the Agee court, Gilmer-Hill

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<sup>20</sup> Because DistrictR and Dave’s Redistricting use different sources of data for map drawing, virtually all maps copied from those sources will have minor population differences. Thus, the exterior lines of the district may vary by a handful of precincts due to population differences. However, the districts are functionally the same as those proposed by Gilmer-Hill.

<sup>21</sup> The unquestioning acceptance of Gilmer-Hill’s individually drawn maps is particularly interesting given the vociferous opposition of certain Commissioners, including Eid, Orton, Lett, Valette, Weiss, and others, to individual and other outside maps, such as the Promote the Vote or Unity maps.

<sup>22</sup> In addition to having a strong hand in redrawing these districts, as noted by the Plaintiffs in *Agee*, Gilmer-Hill also appeared to have changed the districts to prevent current Democratic politicians from being placed in the same district as other current Democratic incumbent politicians. This change favors incumbents in violation of the Michigan Constitution and is another basis for objection to the Motown Sound map.

announced his candidacy in District 8 in the Motown Sound – a district he had drafted himself. If this sounds familiar, it should – this is the same modus operandi the public has witnessed with other Democratic districts drawn under the guidance of Eid.<sup>23</sup> Thus, rather than removing politicians from the redistricting process, the Commission, under the direction of Eid and Kellom,<sup>24</sup> allowed a Democratic politician to effectively hijack the entire remedial drafting process for the State House map. Thus, I object to the adoption of the Motown Sound because it improperly was drawn by an individual who was disqualified from service on the Commission and because it drew districts to favor a candidate for office (Gilmer-Hill).

### **OBJECTION 7 | CONTINUING FAILURE TO ENGAGE IN OPEN AND TRANSPARENT MANNER**

Lastly, I dissent to the adoption of the Chestnut map, Motown Sound map, and Crane map because the Commission repeatedly engaged in “side” conversations and failed to deliberate on matters openly and transparently in violation of their open meetings obligations. Throughout the last year of its work, it has been readily apparent to even casual observers that the bulk of the Commission had repeatedly discussed matters and come to a consensus outside of meetings in violation of the Commission’s rules. An example of this occurred at the Commission’s December 14, 2023 meeting. Orton, using her authority as chair, had cancelled both the Commission’s October and November 2023 meetings. Upon being notified that Orton intended to cancel yet another meeting (the December 14, 2023 meeting), Lange and I objected to the cancellation on the grounds that the Commission’s Rules of Procedure required the Commission to meet monthly. As a result, the meeting was not cancelled. However, immediately after the meeting was called to order and roll was taken on December 14, 2023, Eid moved to adjourn the meeting and Lett immediately seconded the motion. Exhibit 31, 12/14/2023 Transcript, pp. 2-3. With the exception of Lange, Wagner, and myself, no other Commissioner objected to Eid’s motion or even seemed surprised by it. As is obvious from the chain of events, Commissioners Orton, Valette, Lett, Weiss, Curry, Clark, Eid, Witjes, and Rothhorn had clearly discussed and deliberated about their plan to thwart the Commission’s duty to have a meeting and these discussions clearly took place outside of an open meeting. The occurrence of deliberations and discussions outside the realm of a public meeting by these same Commissioners was prevalent throughout the Commission’s tenure, but was particularly pronounced beginning in late 2022. Since there were outside deliberations impacting the drawing and

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<sup>23</sup> This tailoring of districts maps for Democratic political candidates was the basis for the Notice of Removal filed against Eid in December of 2023. Exhibit 7.

<sup>24</sup> Whether Eid and Kellom’s copying of Gilmer-Hill’s work was the product of indolence, incompetence, malfeasance, or a combination of the three, we may never know.

approval of each map, I dissent to the adoption of the Chestnut Congressional, the Motown Sound State House, and the Crane State Senate.

## **Conclusion**

In conclusion, I dissent to the Commission's U.S. Congressional House map (the Chestnut), the State House Map (the Motown Sound), and the State Senate Map (Crane) for the reasons set forth above.

Respectfully submitted,

A handwritten signature in black ink that reads "Rebecca Szetela". The signature is written in a cursive, flowing style.

Rebecca Szetela

Dated: December 17, 2024

## **Exhibit List**

1. Opinion and Order, *Agee v. Benson*, United State District Court – Western District of Michigan – Southern Division (December 21, 2023), available at: <https://law.justia.com/cases/federal/district-courts/michigan/miwdce/1:2022cv00272/104360/131/>
2. Szetela, Rebecca. Dissenting Report (June 27, 2022).
3. Szetela, Rebecca Email (January 16, 2022).
4. Eid, Anthony Email (December 16 2021).
5. Szetela, Rebecca. Handwritten notes (September 30, 2021).
6. Eid, Anthony. *Banerian* Affidavit (2022) and *Agee* Affidavit (2023).
7. Notice of Removal.
8. Opinion and Order, *Eid vs. Wayne State University*.
9. Public Comment, Will.
10. Weiss, Richard. Email.
11. Witjes, Dustin and Eid, Anthony. Text message.
12. Excerpt from Transcript of October 27, 2021 Closed Session.
13. Excerpt from 10/05/2021 Transcript.
14. Excerpt from 05/20/2024 Transcript.
15. Excerpts from 09/21/2021, 09/22/2021, and 10/04/2021 Transcripts.
16. Comparison of Crane District 7 to Szetela 404 District 7.
17. Response Of The Michigan Independent Citizens Redistricting Commission To Report Of The Reviewing Special Master Regarding Michigan State Senate Map.
18. Excerpt from 10/28/2021 Transcript.
19. Szetela, Rebecca. Handwritten notes (October 28, 2021).
20. Maps reflecting Community of Interest Splits in Chestnut, Motown Sound, and Crane maps.
21. Partisan Fairness Analysis by Voters not Politicians.
22. Article re: Democratic Losses.
23. Report from Closeup re: Preferred Maps.
24. Public Comments Re: Senate Maps.
25. Excerpt from Secretary of State’s Supplemental Brief Regarding Remedy Timeline.
26. Selection of Motown Sound Precinct Splits.

27. Chris Gilmer-Hill Public Comment Submissions.
28. Excerpt from 01/24/2024 Transcript.
29. Excerpts from 01/31/2024 Transcript.
30. VRA Maps for Motown Sound and Spirit of Detroit.
31. Excerpts from 12/14/2024 Transcript.



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DONALD AGEE, JR. <i>et al.</i> ,	)	
Plaintiffs,	)	
	)	No. 1:22-cv-272
v.	)	
	)	Three-Judge Court
JOCELYN BENSON, in her official	)	
capacity as the Secretary of State	)	
of Michigan, <i>et al.</i> ,	)	
Defendants.	)	
_____	)	

**Exhibit 1**

KETHLEDGE, J., delivered the opinion of the court in which MALONEY, J., joined, and NEFF, J., joined in the result. NEFF, J., delivered a separate concurring opinion.

**OPINION AND ORDER**

KETHLEDGE, Circuit Judge. “Under the Equal Protection Clause, districting maps that sort voters on the basis of race are by their very nature odious.” *Wisconsin Legislature v. Wisconsin Elections Commission*, 595 U.S. 398, 401 (2022) (per curiam) (internal quotation marks omitted). The plaintiffs here are nineteen African-American Detroiters who live in thirteen different Michigan House and Senate districts that each include a portion of Detroit. They contend that—in Michigan’s 2021 redistricting of its state legislative districts—the boundaries of their districts were drawn predominantly on the basis of race. Those district lines were drawn by the newly created Michigan Independent Citizens Redistricting Commission—a body of 13 citizens, chosen at random, who came to their task with no experience in redistricting and no knowledge of election law. But they hired experts to guide them—notably their “voting rights act legal counsel,” Bruce Adelson, and a political scientist, Dr. Lisa Handley, along with their general counsel, Julianne Pastula.

No. 1-22-cv-272

*Agee et al. v. Benson et al.*

Legislative redistricting is usually performed by state legislatures, which usually do not create a contemporary record of their every move during that process. But here the Commission did create such a record: every decision they made, every word they spoke, was recorded in real time in a body of transcripts that runs some 10,000 pages. In that respect the record here is unique among redistricting cases litigated in federal court. That record makes clear that the commissioners relied heavily on their experts' advice, particularly with regard to compliance with the federal Voting Rights Act, 52 U.S.C. § 10301. And the record shows, overwhelmingly, that those experts—Adelson, especially—expressly told the commissioners, scores if not hundreds of times, to sort Detroit-area voters into different districts on the basis of race.

Specifically, Adelson and Pastula told the commissioners that, to comply with the Voting Rights Act (“VRA”), they must limit the “black voting age population”—known as “BVAP” in redistricting jargon—to approximately 35-45%. That proposition is without support in the Supreme Court’s VRA caselaw. Yet the record further shows that the commissioners did as their experts said—with great difficulty, and misgivings throughout, and over the vociferous objections of Detroit residents at the time—so that, in the end, the Commission limited the percentages of black voters, in the districts at issue here, to the racial targets their experts had given them. And so—in a city whose African-American population is almost 80%—the BVAPs of every Detroit-area district here, with one exception, fell within 35-45%. The exception was Senate District 11, which has a BVAP of 19.19%; but the record shows that most of the African-American voters in that district were put there to lower the BVAP of an adjacent district to the target range.

The record here shows overwhelmingly—indeed, inescapably—that the Commission drew the boundaries of plaintiffs’ districts predominantly on the basis of race. We hold that those districts were drawn in violation of the Equal Protection Clause of the U.S. Constitution.

No. 1-22-cv-272

*Agee et al. v. Benson et al.*

I.

A.

1.

Every ten years, after a federal census mandated by the Constitution, the states redraw their electoral districts “to account for any changes or shifts in population.” U.S. Const. art. I, § 2; *Georgia v. Ashcroft*, 539 U.S. 461, 489 n.2 (2003). State legislatures usually draw the new district lines. *See Rucho v. Common Cause*, 139 S. Ct. 2484, 2495 (2019). Until recently, Michigan was no exception. Following the 2010 decennial census, for instance, the legislature drafted and adopted maps for the state senate and house. In Detroit, where 77.9% of residents are black, these maps included two senate and ten house districts with black-voter populations greater than 50%.

In November 2018, however, Michigan voters approved a state constitutional amendment that vested the power to redraw legislative-district lines in an “Independent Citizens Redistricting Commission” of citizen laypersons. Mich. Const. art. IV, § 6. As amended, the Michigan Constitution required the Commission to “abide by the following criteria in proposing and adopting” new redistricting plans, “in order of priority:”

- (a) Districts shall be of equal population as mandated by the United States constitution, and shall comply with the voting rights act and other federal laws.
- (b) Districts shall be geographically contiguous. Island areas are considered to be contiguous by land to the county of which they are a part.
- (c) Districts shall reflect the state’s diverse population and communities of interest. Communities of interest may include, but shall not be limited to, populations that share cultural or historical characteristics or economic interests. Communities of interest do not include relationships with political parties, incumbents, or political candidates.
- (d) Districts shall not provide a disproportionate advantage to any political party. A disproportionate advantage to a political party shall be determined using accepted measures of partisan fairness.
- (e) Districts shall not favor or disfavor an incumbent elected official or a candidate.

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(f) Districts shall reflect consideration of county, city, and township boundaries.

(g) Districts shall be reasonably compact.

Mich. Const. art. IV, § 6(13). (We will refer to these criteria as the “Michigan criteria.”)

In 2020, Secretary of State Jocelyn Benson formed the new Commission by randomly selecting 13 candidates—four Democrats, four Republicans, and five independents—out of a group of more than 9,000 applicants who had expressed an interest in serving on it. Redrawing legislative-district lines (*i.e.*, “redistricting”) is complicated business, both legally and factually. So the Commission began to hire staff, including specialists in mapping software, an executive director, and a general counsel, Julianne Pastula. In September 2020, the Commission began holding meetings; all of them (save one toward the end of the process) were open to the public—and all of them were transcribed.

2.

The Michigan constitution makes compliance with federal law—including the Voting Rights Act and the federal constitution—a categorical imperative in Michigan redistricting. Mich. Const. art. IV, § 6(13)(a). And the federal constitution’s Supremacy Clause, U.S. Const. Art. VI, cl. 2, itself would invalidate any district lines drawn in violation of federal law. *See Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 324 (2015). The Commission, for its part, recognized early on that Michigan’s demographics—particularly Detroit’s heavily concentrated African-American population—would require close attention to the VRA in the redistricting process. As the Supreme Court has put it, § 2 of the VRA requires that—when a minority group is large and compact enough to elect its preferred candidates, as black voters obviously are in Detroit—those voters cannot be broken up and “submerged in a larger white voting population” that usually defeats the minority group’s preferred candidates. *Cooper v. Harris*, 581 U.S. 285, 301-02 (2017)

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(cleaned up). Separately, the federal Equal Protection Clause bars a state—absent an extremely good reason—from “separating its citizens into different voting districts on the basis of race.”

*Bethune-Hill v. Virginia State Bd. of Elections*, 580 U.S. 178, 187 (2017) (cleaned up).

In February 2021, the Commission held a hearing in which it heard from practitioners of federal election law. Among them was Leah Aden of the NAACP Legal Defense Fund, who warned that partisan justifications might be used to break up majority-black legislative districts:

[Y]ou’re going to hear people say vote dilution is not happening. This is about party. This is not about race . . . . You’re also going to hear we can’t create this geographically compact minority community. . . . And I want it to be in your head that if minority voters are harmed to achieve partisan power or partisan power is an excuse to harm minority voters, each of those can run afoul of the Constitution and the voting rights act.

MICRC Tr. at 2102.

The Commission also heard from David Becker, formerly of the Department of Justice’s Civil Rights Division. By way of background, as a practical matter, in “safe” Democratic districts—like districts in and around Detroit—the dispositive election is the Democratic primary, not the general election; for whoever wins the primary will win the general. (The same dynamic holds, of course, for safe Republican seats.) Whether black voters in Democratic districts can elect their preferred candidates, therefore, depends on whether those candidates can win the Democratic primary elections. Becker therefore urged the Commission as follows:

Another thing I really want to stress to you it’s really going to be important to look at primary election results. It’s not just going to be about general elections. As we know there are places in every state, certainly Michigan, where the outcome of the primary is determinative of the general election. . . . And in those places, you have to look at primary elections.

*Id.* at 2106.

Later, the Commission retained Dr. Lisa Handley, an expert in analyzing voting data for purposes of compliance with the VRA. The Commission also retained Bruce Adelson as its

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“voting rights act legal counsel.” Adelson began practicing law in 1984, worked in the Department of Justice from 2000 to 2006, and was counsel to the Arizona redistricting commission in 2011.

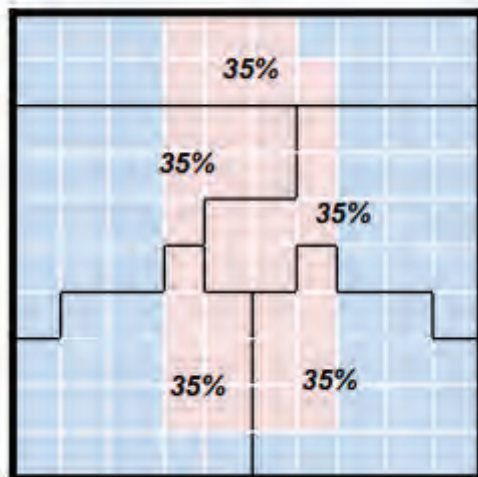
B.

The Michigan constitution required the Commission to draft and approve legislative maps no later than November 1, 2021. Mich. Const. art. IV, § 6(7). But the COVID-19 pandemic delayed the Census Bureau’s release of its 2020 census data; and so the Commission did not begin any drafting until August 2021, when that data arrived.

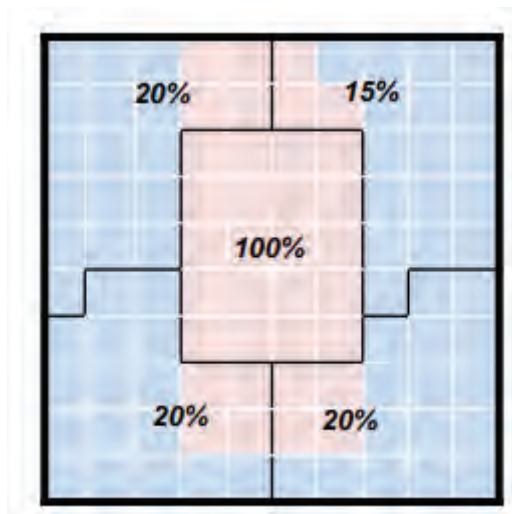
1.

*The Commission’s September 2, 2021 meeting.* This meeting set the course for a great deal of what followed in the next two months. During this meeting, Handley and Adelson alike sought to advise the Commission about the VRA’s requirements. Handley addressed the commissioners first, and went through a power-point presentation in which she said that “redistricting plans cannot crack or pack a geographically concentrated minority community across districts or within a district in a manner than dilutes their voting strength.” *See* Def.’s Ex. 48 at 3. Cracking occurs when a racial group’s members are dispersed “into districts in which they constitute an ineffective minority of voters.” *Cooper*, 581 U.S. at 292 (cleaned up). As an example of unlawful “cracking,” Handley cited (ironically enough, given what shortly followed) the example of a compact racial group that had been broken into five districts, in each of which the group’s members constituted only 35% of the district’s voters:

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*See* Def.’s Ex. 48 at 3. As an example of unlawful “packing,” Handley offered the example of the same compact racial group—this time packed into a district where it constitutes 100% of voters, thereby denying the group potential majorities in two other districts:



*Id.* Rather than crack or pack districts with large numbers of minority voters, Handley said, the Commission should draw districts that “provide minority voters with the opportunity to elect their candidates of choice.” MICRC Tr. at 5383-84. To do otherwise—in areas (like Detroit) where minority voters had previously succeeded in electing their preferred candidates—would likely

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violate the VRA. *Id.* at 5378-86. Handley therefore sought to identify the BVAP necessary for black voters to have that “opportunity.” *Id.* at 5384.

That number in part depended on the percentage of white voters, in particular districts, who vote as a “bloc”—meaning they usually prefer white-preferred candidates over black-preferred ones—as opposed to white voters who “cross over” to support black-preferred candidates. *Id.* at 5379, 5384. The greater the white-bloc voting, the higher the BVAP necessary for black voters to elect their preferred candidates; and the greater the “white crossover” voting, the lower the BVAP necessary to elect black-preferred candidates.

Handley’s role in advising the Commission was to analyze election data and then to determine, for different districts, what those necessary black-voter percentages might be. To that end, as relevant here, Handley said she had analyzed the election results in two counties—Wayne (which includes Detroit) and Oakland—for 14 statewide elections in Michigan since 2012 (e.g., the presidential elections in 2016 and 2020). (Handley did not analyze any election results for Macomb County because black voters are scarce there.) But only one of Handley’s 14 elections, the 2018 Democratic gubernatorial primary, was a primary election—which, as the DOJ’s David Becker had explained, is the election that determines the winning candidate for “safe” seats. *Id.* at 5381. And that primary election played no role in Handley’s analysis because black voters had not shown any clear preference in it. *See* R.108 at PageID 3287. Meanwhile, the other 13 elections that Handley analyzed were all general elections—in which voters (black or white) affiliated with the same party usually vote for the same candidate, regardless of what their preferences might have been in the primary. MICRC Tr. at 5381-82.

Based only on that general-election data, however, Handley told the Commission that it need not create majority-black districts in order to comply with the VRA. Instead—without any



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mention of the differences between primary and general elections in Detroit-area districts— Handley said that black voters in Oakland and Wayne counties could consistently elect their preferred candidate in districts with BVAPs as low as 35 and 40%:

In Oakland County, 35% is going to work. 40 percent looks like it might work. In Wayne County where we have a lot more white crossover vote 35% might well work. I'm not advocating that you draw the districts at this amount. I'm advocating that you keep in mind that the districts do not have to be majority-minority in composition[.]

*Id.* at 5386.

Bruce Adelson then addressed the Commission—and he did advocate, then and ever after, that the Commission “draw the districts” at the BVAPs that Handley had specified. Adelson said that Handley’s analysis would be “very crucial” and “very important” “going forward for the Commission[.]” *Id.* at 5389. He added:

But to the point about packing, remember that the [sic] if a district can be established through analysis to be able to elect candidates of choice of the minority community at, let’s say 40%, if you add on population to that, the courts constitute that as packing.

A commissioner asked, “how do we ensure that we don’t unpack it and then it becomes cracked? And therefore, we are not in compliance in the other direction? How do we ensure that?”

*Id.* at 5390. Handley responded:

you look at the recompiled election results to make sure that the districts you have drawn are effective minority districts. So those four contests I mentioned earlier as bellwether contests [namely, the 2012 U.S. presidential, the 2014 secretary of state, the 2018 gubernatorial, and 2020 U.S. presidential general elections] will be in the redistricting package and as you draw . . . you can hit the button that will tell you how those candidates are doing in the proposed district.

*Id.* The “recompiled election results” to which Handley referred, however, came from the general elections she had analyzed. The “button” for measuring how black-preferred candidates “are doing

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in the proposed districts,” therefore, would measure their success only in general elections, not Democratic primaries.

General Counsel Pastula added that “Dr. Handley’s analysis and her findings and Mr. Adelson’s conclusions he is able to draw from those findings will certainly impact the [Commission’s] critical work going forward in redistricting.” *Id.* at 5391. And software consultant Kim Brace told the Commission about another piece of information that would be available to them throughout the districting process: “when you draw you will have the racial percentages on the districts as they are being created so you will see what is the racial characteristics of the District.” *Id.* at 5393.

2.

*Map-drawing begins.* About a week later, the Commission began drawing Detroit-area senate districts. At first, the Commission focused on a variety of the Michigan criteria when mapping, including communities of interest (or “COIs”). For example, Commissioner Rebecca Szetela expressed concerns about the “complex demands of COIs” around Hamtramck including the “Latin X community” and the “environmental concerns” common to communities in southwest Detroit. *Id.* at 5672. And Commissioner Anthony Eid recommended keeping together several communities near where he had grown up. *Id.* at 5675. But the Commission was also worried about “packing” black voters—as its experts had recently defined that term—into districts. On September 9, Commissioner MC Rothhorn asked the mapping specialists to pull up the “layer with the dots that allow[] you to see the racial composition of the areas.” *Id.* at 5676. Adelson concurred, since they were then mapping in “one of the counties that Dr. Handley analyzed to say there is racially polarized voting, I think we need to have the dots.” *Id.* at 5677.

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The Commission soon began to wrestle with the tension between preserving communities of interest, on the one hand, and what they understood—again, based on what their experts had told them—as “VRA compliance,” on the other. On September 13, for example, Rothhorn asked the other commissioners to “watch those numbers [*i.e.*, racial percentages] as we add districts.” *Id.* at 5733. Eid acknowledged the difficulty of drawing districts in an area with a “very large minority population,” and said, “I don’t know a way to get around it unless we start drawing these districts into the suburbs.” *Id.* Likewise, Commissioner Douglas Clark said that “the only way to resolve that is to go into the suburbs but that is not what the people want. . . That is what I heard in the two town halls or public hearings we had in Detroit.” *Id.* General Counsel Pastula responded:

The districts . . . do not appear to be able to be unpacked unless you go in the suburbs. . . . And while I certainly acknowledge and respect the public comment received, the Voting Rights Act being the first criteria is going to need to be respected and adhered to.

*Id.* at 5734.

Later, Commissioner Szetela echoed this advice. Clark had emphasized that residents of some Detroit neighborhoods near Grosse Pointe—a wealthy, mostly white city next door—had said specifically “during the hearings that they don’t want to be associated with Grosse Pointe because all the money tends to or all the influence tends to flow to Grosse Pointe because they have more money.” *Id.* at 5747. Szetela responded that “I’m trying to balance the Voting Rights Act” against those concerns “because [the] Voting Rights Act is our number one” criterion and “I don’t want to have a super concentrated District.” *Id.* When she finished drawing, she told the Commission to look “at the percentages of African/Americans in District 8. It’s just below 50% so it’s still a minority majority District based on Dr. Handley’s reporting but it’s not packing people in which is exactly what I was trying to accomplish.” *Id.* at 5748.

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Later in the same meeting, Rothhorn told Clark to use the racial-dots tool while mapping because “this is another VRA area and we may want to be aware of the Black white” population. *Id.* at 5765. At the end of the day on September 13, the Commission saved a draft senate map (Draft Map 162) that included three majority-minority districts. As relevant here, the districts that became Senate Districts 1, 3, 6, 8, 10, and 11 had the following BVAPs:

<b>District No.</b>		<b>1</b>	<b>3</b>	<b>6</b>	<b>8</b>	<b>10</b>	<b>11</b>
	Date	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP
<b>Senate Map Plan 162</b>	9/13/2021	10.98	50.82	76.56	63.77	18.1	7.8

That evening, Pastula sent Szetela—who had just been elected Chair of the Commission—an email in which she expressed “Significant Concerns” that she and Adelson shared about that day’s mapping session. Specifically, Pastula told Szetela:

Bruce [Adelson] and I are very concerned and alarmed about the drafting of the packed districts that is occurring during today’s mapping session. While the work is preliminary and future steps can be taken to remediate—this will become much more difficult the more packed districts that are drawn. In addition to not being able to justify the numbers coming out of today to a court, these drafts also create expectations on behalf of the public that will also be difficult to address moving forward.

Pl.’s Ex. 5 at 45. Pastula added that it would be “critical” for the Commission to use the bellwether-elections tool in the “areas where the VRA was implicated,” and that the “Commission is running out of time and [has] an enormous amount of work to do.” *Id.*

The next morning, the mapping specialists installed the “bellwether-elections” tool and taught the Commission how to use it. *See* MICRC Tr. at 5803-05. Adelson then went into a long monologue in which he emphasized the following:

One of the things that I would strongly advise and something that we will be talking a lot about over the next couple of weeks is really study and internalize, Lisa

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Handley's, Dr. Handley's PowerPoint. . . . I have read her Power Point virtually every day for the last few weeks. . . .

Packing means adding or including additional minority voters [beyond] the ones needed to elect what we call candidates of choice. . . .

So look at the percentages here [in Handley's presentation]. Black VAP and percent of the vote and you kind of get a sense of [sic] to highlight in a real way and again going back to the vitality of Dr. Handley's PowerPoint how the districts are created and how many people from which backgrounds are included. . . .

And what I would suggest in moving forward in the areas where you are now, typically aim for Black populations in the 40-45% range. It's a rough estimate. . . . [A]nd remember that the aim, *the requirement of the law is to avoid packing minorities into districts above and beyond the percentage at which analysis* [meaning Handley's analysis] *is determined they need to elect candidates of choice.*

*Id.* at 5810-12 (emphasis added).

Over the next two days, the Commission tried to “unpack” Detroit's majority-black districts. For example, Commissioner Brittni Kellom—herself a Detroiter—said she was “thinking about utilizing Bruce to look at the Metro Detroit area and kind of unpack.” *Id.* at 5825. Adelson responded that she should “remember Dr. Handley's analysis” because “there is good general white cross over support in Wayne County.” *Id.* at 5826. He also said the 36% black-voter population in a draft district was “close to the line” and “I always like to be cautious and not do it exactly 35%, 36% right on the nose. I like to build in a little bit of a cushion.” *Id.* Clark advised Kellom to follow a road boundary while drafting, because that would help to “dilute the Black population.” *Id.* at 5842. Later, as Commissioner Cynthia Orton drafted districts in western Detroit, Adelson said that “District 13 is 71% over all minority and 62% Black population. So I would suggest that all will need to be looked at as well.” *Id.* at 5871. Chair Szetela suggested drawing in Detroit narrowly, “like a spoke coming out” from downtown, so that the Commission could “balance” and “get rid of the highly concentrated [African-American] districts.” *Id.* at 5872.

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On September 15, Rothhorn imitated the “spoke” concept and explained that he was trying to “decrease the minority percentage [] to have a more balanced Black-white ratio.” *Id.* at 5896-5902. The Commission also began to employ the bellwether-elections tool to see whether black-preferred candidates would prevail in the draft districts—which they always did, because the tool measured the success of Democratic candidates in general elections for Democratic safe seats. *See, e.g., id.* at 5876.

Yet some commissioners expressed concern with the way they were drawing maps. Commissioner Juanita Curry—who was herself from Detroit—said, “I’m just a little off on keeping some places whole and some places not . . . . For instance like Detroit we split it up some.” Szetela responded that Adelson had directed the Commission to split up the city to comply with the VRA:

[W]e specifically split up Detroit because our expert, Bruce Adelson had—was uncomfortable with the districts we originally came up with because they were highly concentrated African/American communities to the point where he said that it would likely violate the [VRA]. And so he had indicated that we should try to get those percentages down to maybe 40% African/American population.

*Id.* at 5937.

By September 15, the Commission had completed its first full senate map (Draft Map 165) which reduced the number of black-majority districts in Detroit from three to two:

District No.		1	3	6	8	10	11
	Date	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP
<b>Senate Map Plan 162</b>	9/13/2021	10.98	50.82	76.56	63.77	18.1	7.8
<b>Senate Map Plan 165</b>	9/15/2021	34.86	44.87	51.99	59.06	49.38	11.02

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*Mapping continues.* Beginning five days later, from September 20 to 28, the Commission drafted its initial Detroit-area house map. Adelson reiterated at the outset that “[a]ny district that has majority-minority VAPI think you should aim to let’s see what we can do to kind of potentially unpack that based on Dr. Handley’s analysis. . . . Because just as Dr. Handley said if you can elect [at] 35%, 40% then why would you add 40, 50% minority population?” *Id.* at 6204. Yet the Commission struggled to do what Adelson said. Commissioner Eid, for instance, said, “So I’m just trying to think about how we are going to do this because I mean the population density [of] African/Americans is so high in Detroit it’s probably going to cause a problem with packing unless we have some districts that people may view as oddly shaped[.]” *Id.* at 6205. Szetela agreed: “I don[’t] really know what to do because the Senate districts you saw we sort of stretched them out and I don’t know how to do it with House Districts and I don’t know how we can avoid having house [districts] that are going to be like 75, 85% African/American[.]” *Id.* at 6205-06.

Rothhorn—who had just been elected Vice Chair—then began mapping the area that became House District 1 in southwest Detroit. At first he drew boundaries based on communities of interest, such as “Greektown” and the “Latin X community[.]” *Id.* at 6210-12. But Rothhorn checked the draft district’s racial percentages continually as he drew. *Id.* at 6213. Then Szetela drew what became House District 2—which had a “Bengali community” that she did not “want to split[.]” *Id.* at 6219. But that made the district’s BVAP too high: “now the problem is it’s 77% African/American. I think that’s where the challenge is. So is there anything I can do about that?” *Id.* at 6219. Adelson responded, “I think that [] in exploring the other areas around this District and downtown and greater Detroit there may be other populations that either you could include, you could take some of two and add them to other parts of the City.” *Id.* at 6219. Rothhorn echoed Adelson, telling Szetela “that Hamtramck could be another spoke heading north” and that this

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“will dilute the Black population. I shouldn’t say dilute right. It would be more balanced.” *Id.* at 6220.

Szetela took that advice, and found that “making that change makes a difference. It brings [it] down [] to 54% African/American from where it was.” *Id.* at 6220. Adelson approved, saying the Commission had done:

a substantial job with [the] percentage of the Black population. It kind of shows you that there are ways to approach it. Wherever you find the population east, west or north because I mean you brought it down, I think almost 25% without doing too many adjustments. So I think that you’ll find other ways going forward so that [] with this concept of whether it’s going north or whatever direction I think you will be able to find population to balance the District.

*Id.* at 6221. Rothhorn noted the map’s new configuration: “Detroit has spokes.” *Id.* at 6222. Szetela finished drawing the district and explained that she tried to “draw a District that is compliant with the Voting Rights Act by not packing the African/American community.” *Id.* at 6223.

The Commission thereafter repeatedly used the racial-dots tool to identify high-density African-American communities and then to dilute them using the spoke method. For example, Szetela and Clark collaborated to draw what became House District 10. Clark feared that “[w]e are going to end up with an African/American population that is going to be pretty significant.” *Id.* at 6410. Szetela recommended “grabbing population” from “the Grosse Pointes[.]” *Id.* at 6411. Clark countered, “that eastern part of Detroit specifically said they don’t want to be part of Grosse Pointe.” *Id.* But Szetela said “we have to remember that VRA is first on our list. And so we have to look at accommodating VRA first. And if that requires Grosse Pointe to do it, I think that is where we need to look first.” *Id.* The Commission then added several Grosse Pointe communities to the map, with Adelson assuring them that “the west of Grosse Pointe park does elect [minority] candidates of choice[.]” *Id.* at 6411-16. But Adelson later said that the BVAP in an adjacent



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district—what became House District 11—was still too high, and that having a “minority population that is so in excess of [Dr. Handley’s] opportunity to elect percentage would be difficult to justify.” *Id.* at 6420, 6426, 6433. Clark adjusted the district lines and explained that “what I’m trying to do is reduce the Black population.” *Id.* at 6434.

Adelson frequently used the bellwether-elections tool to check the Commission’s draft districts for “VRA compliance.” *See, e.g.*, 6454-56, 6467-68, 6474. Vice Chair Rothhorn, for instance, finished drawing what became House District 15 and said that he had been “mostly concerned about vote dilution.” *Id.* at 6440. Adelson then used the bellwether-elections tool and reported that, in the district, “across the board the candidates of choice win.” *Id.* at 6441.

Later, Orton drafted what became House Districts 12 and 13. She initially focused on District 12 and tried to keep certain neighborhoods together, such as Eastpointe and Detroit. *Id.* at 6476. But soon she asked the mapping specialist: “Can we also put on the African/American theme,” i.e., the racial-dots tool. *Id.* Then Orton said, “I don’t think we are going to be able to get up into lower[-percentage] minority areas. So that might be a problem. So it looks to me like in order to try to balance it more racially, we would have to split this into two [districts] and do two spokes up.” *Id.* Commissioner Kellom agreed with that approach. *Id.* Orton then continued drafting. In what became District 12, she retained a precinct because it added “a little more white population in to balance it.” *Id.* at 6479. Adelson again used the bellwether-elections tool to confirm that the district elected African-American candidates of choice “across the board.” *Id.* at 6481.

Rothhorn summarized the Commission’s work—in what became House Districts 12, 13, and 14—as “trying to peel off pieces or create spokes, chutes and ladders to create a, yeah, a more racially balanced District.” *Id.* at 6515. Adelson said the Commission was trying “not to pack

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voters of color, Black voters beyond the point at which they can elect candidates of choice,” but urged the Commission to “please be aware of the terminology” it used to describe its work. *Id.* at 6515-16.

As mapping continued, some commissioners became concerned with how the Commission was breaking up communities of interest to create racially balanced districts. For example, Rothhorn said, “We are being challenged here in our House District and you know with sincere apologies to breaking up a COI but I think we had to do that with Grosse Pointes like we are going to have to make hard choices.” *Id.* at 6573. Orton added, “I’m really uncomfortable with all the communities of interest we are cutting up.” *Id.* Adelson acknowledged those concerns, but said “if you look at those districts that were created, I mean there were some hard choices that were made. And acute awareness of what the imperatives were but you created some districts that right now seem pretty strong. As far as Voting Rights Act issues and maintaining the ability to elect.” *Id.* at 6575. Orton remained concerned: “So my feeling is I’m uncomfortable with the amount of communities and communities of interest that were are splitting up [] from a Voting Rights Act perspective.” *Id.* at 6619. Adelson responded at length:

You know, just this discussion the last couple minutes really shows you know kind of being on the knife’s edge in the sense of that I understand is very clear that you’re weighing, competing considerations. And I think that the issues about communities of interest and keeping sort of communities together are I’ve read a lot of public comments in general and I understand that that is a significant consideration. . . . But I think it is very important from a compliance standpoint to look at the ranked criteria and the number one criteria is the U.S. Constitution and Federal law.

*Id.* at 6618-19.

On September 23, Commissioner Steven Lett drafted what became House District 26, west of downtown Detroit. He asked for the racial-dots “thematic,” drew the district boundaries, and ended with a black-voter population of 34.5%. *Id.* at 6724, 6726. Rothhorn said that percentage

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was “a little bit low,” but Lett responded that Handley’s report had said districts with those percentages “elected a candidate of choice.” *Id.* at 6727. Adelson interjected that in “Wayne County, the percentage of the vote where a Black candidate would win at 35% VAP. Yes. Wayne County performs in that respect . . . So I think to your point, yes, according to Dr. Handley’s analysis that in Wayne County, Wayne County can elect candidates of choice at 35% VAP.” *Id.* at 6727.

Then came a dissonant note, as Adelson conceded the importance of data from party primaries. He said:

often in areas where there is a propensity to elect minority candidates of choice, the elections are often decided in the primary. Rather than the general. So having primary results to not compare with but to supplement general results is really important. In my experience it’s certainly something I’ve always been able to look at. We had a lot of primary results in Arizona for example. So I think that it is important to have.

*Id.* at 6729. Orton asked, “will we get that information?” *Id.* But the discussion meandered elsewhere and she did not get an answer.

That same day—September 23—General Counsel Pastula reminded the Commission that “partisan fairness” was another criterion to consider. She explained, though, that “partisan fairness is measured on a statewide plan.” *Id.* at 6712. That meant the Commission could measure partisan fairness only when it finished a statewide plan, rather than as it went along. Nor did the Commission yet have a software tool to evaluate partisan fairness. *See* R.112 at PageID 3675.

In that same meeting, Pastula gave the Commission some more specific BVAP numbers that it should strive to meet: “for Saginaw County looking at notes I have 40% to 45, Genesee was 35-40%. Saginaw is 40% so I wanted to make sure that I updated that from my prior statement. And Oakland County I wrote 42-43% just to be different there but for Saginaw County 40% would be the appropriate measure.” MICRC Tr. at 6768. Orton said that recently she “could not get to

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that threshold of the 35-40% or maybe it was 40% in that County”; Pastula responded that she “would encourage the Commission to do their best efforts at this time.” *Id.*

For the next several days, the Commission almost exclusively mapped outside of Detroit. On September 28, the Commission completed its draft house map and saved it as Draft Map 183. As relevant here, the districts that became House Districts 1, 7, 8, 10, 11, 12, and 14 had the following BVAPs:

District No.		1	7	8	10	11	12	14
	Date	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP
House Map Plan 183	9/28/2021	28.62	79.04	54.09	42.74	65.66	43.74	38.33

4.

*September 29 to 30: Revisions to House map.* The Commission then revised its initial maps with the aim of what Pastula called “compliance analysis.” *Id.* at 7168. The Commission began with areas outside of Detroit, and discussed making changes based on the Michigan criteria of “communities of interest,” “partisan fairness,” and not favoring incumbents. *Id.* at 7162-63. Adelson then interjected: “I also wanted to make the point that as you recall . . . I believe these were the State House districts in the Wayne County area. That several of them are . . . have the appearance of being packed. And that is something that must be addressed. That is one of the changes I envision.” He added, “I don’t have a list of things . . . [an] inclusive list [that] must be addressed. But the [p]acked districts are [an] absolute.” *Id.* at 7164.

The discussion then returned to mapping outside of Detroit, to different ways of measuring partisan fairness, and to Dr. Handley’s upcoming visit to the Commission—her first since the

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outset of its map-drawing—to give a presentation on partisan fairness. But Adelson again steered the Commission back to “packing” and the VRA:

your legal team agrees that Friday is significant in that Dr. Handley will hopefully be able to present partisan fairness. But it is important and I’m sorry I’m going to speak for you. I will speak in one voice that the legal team strongly believes there are issues in addition of course to the partisan fairness. There are many voting rights issues and just in talking about the packed districts in Wayne County . . . So there are other considerations. Certainly we agree with the partisan fairness and that is significant. But there are other issues.

*Id.* at 7167.

At this point, the Commission began to revise house districts in the Detroit area, which Szetela called “bacon strip districts,” based on their shapes extending to the northern suburbs. *Id.* at 7194. She then made changes to draft House Districts 14, 15, and 17—west of downtown Detroit—and noted that she had lowered those districts’ BVAPs: “So you can see that [District 14] dropped from 74% African American to 61 . . . And then 15 dropped from 62.7 to 50.2. And 17 dropped from 69.29 to 56.4.” *Id.* at 7198. Adelson responded that the “percentages are still higher than Dr. Handley’s analysis but I think that is a good start to adjusting and to be more in line with her racially polarized voting analysis and the ability to elect. So while . . . the Black population is still higher than her analysis determined it is still significantly improved from what it had been previously.” *Id.* Rothhorn asked, “Do we need to look at the election results?” *Id.* at 7199. Adelson responded, “as far as the election results, as I recall these districts all proved out pretty well. I think that I would recommend focusing on percentages and comparing them to Dr. Handley’s [BVAP] percentages for Wayne County which as I recall is 35-40%[.]” *Id.* He added that the Wayne County districts required “additional tinkering” which “is going to impact commenters’ preferences on keeping communities whole.” *Id.* “But,” he reminded them, “the

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Voting Rights Act is the number one criterion together with the one person one vote in the U.S. Constitution.” *Id.*

The Commission followed Adelson’s guidance, concluding that the only way to reach the BVAPs in Handley’s report was to continue to stretch districts into predominately white suburbs. *Id.* at 7199-7200. For several Wayne County house districts Rothhorn suggested changes that would “better comply with [the] VRA bringing down the Black voting age population to a range that is closer to 40%.” *Id.* at 7201. Adelson approved, saying the Commission was “figuring out the percentages [corresponding] with Dr. Handley’s analysis.” *Id.* at 7202.

Again, however, some commissioners raised concerns about the lengths they had gone toward that end. For example, Commissioner Dustin Witjes asked, “Looking at the districts we have, how much thinner can they get and how much further can they exten[d] out before they are one precinct or one actual voting precinct wide?” *Id.* at 7219. Commissioner Orton then expressed that she thought the house map was already “VRA compliant” in Detroit and that they should “pay attention to communities of interest” going forward. *Id.* at 7222. Commissioner Janice Vallette agreed. *Id.* at 7222-23. But Adelson said that the district that became House District 11 had a “64% non-Hispanic Black voting age population” and that the BVAP for what became House District 7 was “almost 77% non-Hispanic Black voting age population . . . these numbers are well in [ex]cess of what Dr. Handley analyzed. And in [ex]cess of what I’ve advised the Commission.” *Id.* at 7223. Pastula agreed and “strongly encourage[d]” the Commission to “start fixing them.” *Id.* at 7224.

But Commissioner Rhonda Lange was still focused on communities of interest. Specifically, she said, “I understand VRA []comes above other criteria but we have a criteria of community of interest so if we receive input of community of interest that says they absolutely do

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not want to be split and that drives up the African/American population, then is there leeway in that VRA because we are accommodating for a community of interest which is also part of our state Constitution?” *Id.* at 7225. Adelson responded:

your question goes right to the core of one aspect of redistricting there are competing values and there will be people who may be satisfied or not satisfied. But the bottom line is that if keeping communities of interest, not splitting them, having them implicates the packing of minority voters, the dilution of minority voters then the number one criteria is the Federal criteria . . . the bottom line is the Federal criteria are the absolute priority. And there may be communities of interest that are not able to be included in certain districts because they implicate Voting Rights Act problems.

*Id.* at 7225.

Pastula then recommended that the Commission identify any district “that is higher than 40% for the Black voting age population[,]” so that “those quote unquote fixes can be dealt with and then this map can be ready for the partisan fairness analysis. . . . I would recommend that anything with higher than 40% Black voting age population be looked at.” *Id.* at 7226-27. Szetela said, “I think what she is suggesting [is] we just go down the districts one by one and anything that is over 40% look if we can rebalance it.” *Id.* at 7228. Orton said, “this is a densely populated minority population City so does that mean anything above 40% is not VRA compliant?” *Id.* at 7229. Szetela said, “Commissioner Lange, that is my understanding of what we are looking for is we are trying to bring things down to 35-40%[.]” *Id.* Pastula then referenced Dr. Handley’s report and again offered concrete guidance: “the range for Detroit was 35-40%, Oakland County was above 40%. So it’s based on the area you were in, that is why, that’s why . . . I flagged the 40%.” *Id.* at 7230. She recommended that the Commission could “just make a list and then go back and start fixing them.” *Id.*

The Commission then resumed mapping. It started by revising what later became House Districts 7 and 11 because they had the “highest” black-voter percentages at 76% and 64%,

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respectively. *Id.* at 7232. Commissioner Curry first revised what became District 7, and acknowledged that she needed to “reduce” the black-voter population there to “40, 45” percent. *Id.* at 7234. Curry made adjustments that “took out a lot of African/American population.” *Id.* at 7235. Yet the BVAPs remained high, so Curry determined that the “only way to go is up north” to reduce them. *Id.* at 7239. She did so and reduced the BVAP for that district from “over 75% to about 60%.” *Id.* at 7240. Commissioner Eid said that result was “not perfect but headed in the right direction.” *Id.*

Eid then revised what became House District 11, adding predominately white suburban areas, including Grosse Pointe Woods—which reduced the district’s BVAP from 64% to 53%. *Id.* at 7241. But several commissioners again complained that they had disregarded what the public had said about preserving communities of interest in that area. *Id.* at 7241-42. Commission Orton, for instance, said “I still think we should try and keep the communities of interest together . . . . I hate to split them up.” *Id.* at 7242. Eid responded, “I agree with you. And I hate to split them up but I think for this house map I don’t see another way to do it because that is where the white population is around Detroit . . . . we need to get [the map] to be compliant.” *Id.* Commissioner Clark echoed Orton’s critique saying, “that Section of Detroit at the public hearings [said] they did not want to be connected with Grosse Pointe.” *Id.* But General Counsel Pastula responded that they should continue to strive to reach their “goal” of reducing the districts’ BVAPs to the percentages listed Handley’s analysis. *Id.* at 7243. Eid responded that “I will just continue to finish fixing this.” *Id.*

Around this time, Adelson and Pastula had sidebar conversations with Chair Szetela and Vice Chair Rothhorn. According to Szetela, “the hammer came down on the Commission” and Adelson and Pastula said the Commission needed to “stop thinking about communities of interest,



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to stop thinking about keeping municipal boundaries together” and instead “solely focus on race because we needed to bring these districts down.” R.112 at PageID 3662-63.

Accordingly, Szetela then developed an alternative map that brought “percentages down in most districts below 40%.” MICRC Tr. at 7270-71. She presented this map to the Commission and said she “did what Mr. Adelson asked and tried to lower the numbers,” but acknowledged that, to do so, she had created “some crazy sho[e] string districts.” *Id.* at 7271.

The Commission thereafter continued working on what became House Districts 10 and 11. Some commissioners observed that the districts had not yet reached the “35-40%” goal for Wayne County. *Id.* at 7277. Adelson responded that the changes were an “improvement” and that the Commission was “moving in the right direction” but was not “finished.” *Id.* He encouraged the Commission to continue its “systematic approach” of “going down the list literally of the districts and looking at the voting age population.” *Id.* at 7279.

Later, Commissioner Kellom revised what became House District 8, reducing its black-voter percentage to 56. *Id.* at 7279-80. Adelson encouraged her: “Well look at what you’ve done in just a few minutes. You are diversifying the district and addressing [] the compliance concerns.” *Id.* He then told the Commission to “keep to that systematic approach.” *Id.* at 7281. But some commissioners sought further guidance. Commissioner Eid, for instance, asked, “What is the highest percentage [a district] can be to fend off legal challenges in the future?” *Id.* at 7283. Adelson, referring to what became House District 8, said “there is no like absolute magic bullet . . . but 53.85% yes, it’s an improvement.” He added, “my feeling is that there is more to be done here. Because I am [loth] to just say creating 54, 55, 56% majority minority districts in an area that analysis is determined, Black voters can elect at percentages lower. I’m not prepared to do that.” *Id.* at 7283.

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The Commission then reduced the black-voter population in several districts by connecting downtown African-American communities with still more suburban ones. That led Szetela to tell the Commission that “I think we can accomplish what Mr. Adelson is suggesting we do. It’s just going to require a little creativity.” *Id.* at 7343-44. Later, Commissioner Clark commented on the development of the map: “we took those spokes and went so far north and so far west. . . . But it’s a tradeoff. I mean we have to get compliant so we have to do something and we made the decision to go the route with the spokes.” *Id.* at 7348. By the end of the day on September 30, the Commission had produced Draft Map 193.

<b>District No.</b>		<b>1</b>	<b>7</b>	<b>8</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>14</b>
	Date	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP
<b>House Map Plan 183</b>	9/28/2021	28.62	79.04	54.09	42.74	65.66	43.74	38.33
<b>House Map Plan 193</b>	9/30/2021	36.58	66.54	50.37	58.44	49.23	43.74	39.21

The next day, the Commission paused mapping while Dr. Handley gave a presentation on partisan fairness. She provided several metrics to measure partisan fairness and presented “some political fairness scores for some of the plans” the Commission had already drawn. *Id.* at 7375. Handley said she was “surprised and pleased” to see that their efforts “to adjust the VRA numbers” were “producing better measures” for partisan fairness. *Id.* at 7410. She also explained that the mapping specialists were developing a partisan-fairness tool that “was almost ready” and which would allow it to “run political fairness reports whenever you have a plan that you want to run it on.” *Id.* at 7375.

Dr. Handley also reiterated Pastula’s point that this analysis “can only be done off of a complete plan.” *Id.* at 7380. And Handley, Adelson, and Szetela reminded the Commission that

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the state constitution elevated other criteria, including “compliance” with the Voting Rights Act, over partisan fairness. *Id.* at 7382, 7386-87.

5.

*October 4: Revisions to Senate map.* On October 4, the Commission began its “compliance analysis” of the senate map. At first some commissioners were confused, thinking they had already drawn a VRA-“compliant” senate map. Adelson was absent at this time, but General Counsel Pastula said that Adelson “didn’t sign off” on the senate plan and that it would be “an excellent use of time” to “get those Metro Detroit districts closer to the 30 to 40% [BVAP] range.” *Id.* at 7436, 7440. She reiterated her earlier guidance:

I wanted to also address again the narrative that 50% minority is the—that is not the courts have not supported that wholesale adoption of 50% or 51%. What Dr. Handley’s racial bloc voting analysis has given the Commission is the benchmarks and the guide rails for each of the Counties that need to be adjusted. [In] Wayne County [it] is 35-40%. Genessee is 35-40. Saginaw is 40-45%. And Oakland County is 42, 43%. Again that would provide the opportunity to elect. So you don’t need districts with 60% minority voting age population in any of those four Counties to achieve compliance.

*Id.* at 7440. Pastula referred to these percentages as “the goals identified [] by your racial bloc voting analysis. And the interpretation by your Voting Rights Act counsel,” meaning Adelson. *Id.* at 7441. Clark expressed frustration with this goal, responding: “Now [I] know they want it lower but sometimes you just can’t do that because of the distribution of the people.” *Id.* at 7439. Rothhorn replied: “I think what we can interpret from [our legal counsel’s] advice is if we don’t try to get to 35%, we have not done our due diligence and therefore we may be exposing ourselves to a legal risk we might be able to defend ourselves against but can’t guarant[ee] that.” *Id.*

The Commission duly started to revise its senate map. Commissioner Vallette worked on what became Senate District 10, employing the spoke technique to stretch the district “back up north” to reduce its black-voter population. *Id.* at 7441-42. Rothhorn approved: “Looks like [the

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district] has reduced from 47.3 to 45.8 so you are definitely heading in the right direction, Janice.” *Id.* at 7442. Rothhorn also asked Vallette to consider communities of interest as she drew the district. *Id.* at 7444. But Witjes interjected: “Don’t worry” about the “community of interest . . . That should [] not [be] something we’re looking at. We should be going into looking at just complying with the Voting Rights Act.” *Id.* Commissioner Vallette soon finished working on the district, and Szetela said: “Brought your African/American [population] below 40%. So now you are perfectly in the sweet spot of 35-40.” *Id.* at 7446.

Next, Commissioner Richard Weiss adjusted what became Senate District 3. Rothhorn said “we are currently at 43.25 so you want to try to get it to 35-40” BVAP, and reminded him that “we are not focusing on COI.” *Id.* at 7446-47. Szetela also suggested that Weiss try and find “more white populations” and that his “best bet is going to look up along the border into Oakland County.” *Id.* at 7447. Weiss did so; as he reached into Oakland County, Commissioner Lett interjected, “What’s the target for Macomb? Oakland[.]” Rothhorn responded, “Oakland County the target is 42 to 43ish.” *Id.* at 7449. Weiss reduced the black-voter population, finished drafting, and again Szetela said, “you are in the sweet spot at this point.” *Id.* at 7450.

Commissioner Witjes then revised what became Senate Districts 6 and 8. *Id.* As with the other districts, he sought to dilute the black-voter population in each by “going north.” *Id.* In what became District 8, for instance, he drew the district north to include the entire the city of Birmingham—one of the wealthiest communities in Michigan, where the median household income is \$151,556—thereby uniting it with portions of Detroit, where the median household income is \$37,761. Birmingham city, Michigan, U.S. Census Bureau, <https://www.census.gov/quickfacts/fact/table/birminghamcitymichigan/PST045222> (last visited Dec. 21, 2023); Detroit city, Michigan, U.S. Census Bureau,

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<https://www.census.gov/quickfacts/fact/table/detroitcitymichigan,MI/PST045222> (last visited Dec. 21, 2023).

Commissioner Clark was alarmed, saying, “When you go into Birmingham, we are stretching this thing all the way from mid-Detroit all the way up there.” *Id.* at 7451. Szetela replied, “What other way is [there] to get VRA [compliance]?” *Id.* Rothhorn observed: “Started [at] 57.32 now we are 44.13 nice work.” *Id.* at 7453. Witjes asked, “What does it need to go down to?” *Id.* Szetela answered, “Wayne is 40 ideally. 35-40%.” *Id.* Witjes then reduced what became District 8’s black-voter population to 41.77%, and began working on what became District 6. *Id.* at 7455. Szetela said he should “balance” the district by going north: “you’re going to bring it into Farmington and that will reduce your African/American population.” *Id.* Witjes managed to reduce the district’s black-voter population to 40.7%. *Id.* at 7464. He explained: the “rationale for these adjustment[s] this is taking into account the Voting Rights Act and looking at the voting age population and the Black voting age population to make them so that they . . . so the districts are able to elect candidates of choice.” *Id.*

At this point, as before, some commissioners aired concerns. Eid said, “I don’t like splitting up Canton and I don’t like splitting up Farmington . . . if we have to split both of them, we have to split it but I would rather them be whole.” *Id.* at 7468. Curry added that what became Senate District 1 looked “crazy” and “terrible,” and said, “I mean it just looks like somebody just said well we don’t care about Detroit.” *Id.* at 7469. Rothhorn responded, “I think the reason it’s drawn if my understanding is correct Commissioner Curry it’s related to the VRA. Right where the white and Black populations are balanced.” Curry retorted, “It may be balanced but it looks too crazy.” *Id.* Sarah Reinhardt, attending on behalf of the Michigan Secretary of State’s office,

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then reminded the Commission that compactness was the state constitution's "lowest ranked criteri[on]." *Id.* at 7470.

The Commission thereafter revised what became Senate Districts 5, 6, and 13. *Id.* at 7470. Because the districts bordered one another, the black-voter population fluctuated as commissioners made changes. *See e.g., id.* at 7470-76. Ultimately, though, the Commission continued to lower the percentages towards the goals provided by Adelson and Pastula. As this process went on, Commissioner Curry continued to express concern about splitting up communities of interest. But Rothhorn responded that, "the reason I think we are trying to split it is we are trying to get the numbers that we were given from Dr. Handley at 35% with the Black voting age population that is 35%[.]" *Id.* at 7480. Adelson agreed, saying "as you know it's very important if not essential that Dr. Handley's analysis be followed for compliance." *Id.* at 7481. He added, "the Supreme Court has made it very clear that if you pack voters, if voters are put in a District in [ex]cess of what racial bloc voting analysis shows, that's an issue. And I know we have talked about that. And we are going to continue to adhere to it." *Id.*

Adelson later said the Commission should not try to adhere to single number of "35%, 45%"; instead, he said, "having a range, 35-40%, 40-45%, yeah, I think that's more advisable." *Id.* at 7482. Eid then responded with his own doubts about the premises of Handley's analysis:

I'm becoming increasingly uncomfortable with this direction that we're going under. Because while it is unpacking the districts you know we don't have any District that is close to 90%, 70% or even 60%. But you know the numbers that we are hitting it just makes me question how is that going to work with actually electing a candidate of choice. And I think part of the problem I have with this understanding is the analysis did not include primary election results. So like if we look at District 17 here. We have it at 35.14% Black voting age population. If you have a primary election where there is two Black candidates and a white candidate how is it that you know the candidate of choice is actually going to get elected? I understand that in the general election, yes. All of these districts that we draw are going to be democratic districts. But that's not where the choice actually happens in these areas.

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*Id.* at 7483. Adelson acknowledged that the Commission had data for only one statewide primary election—“the 2018 gubernatorial primary,” which Handley had said was not probative in her analysis—but Adelson said “we have to work with what we have.” *Id.* at 7485. He added that this circumstance “is something that is a little different for me. I really have not been in a situation where so few contested primary elections are on the table.” *Id.*

Later, Adelson used the bellwether-elections tool (which one could fairly call a “general-elections tool”) to check the Commission’s work. Again he found that African-American “candidates of choice prevail” in what became Senate District 10. And again he said that “it’s important to remember the U.S. Supreme Court has been absolutely clear that if you put additional minority voters into a District beyond what is needed to elect candidates of choice that’s an issue.” *Id.* at 7489. (Adelson never provided any legal support for that assertion.)

During this process, Adelson approved the “42-43%” goal for Oakland County, calling it a “good kind of benchmark guidepost.” *Id.* at 7495. He also told the Commission that—unlike Congressional plans, for which the Supreme Court requires the population of each district to be very nearly the same—the Commission had “a lot more leeway” to deviate from that rule in drawing state legislative districts. *Id.* at 7500. Adelson also said he approved of changes the Commission had recently made. *See, e.g., id.* at 7509. Eid said the opposite: “I don’t like the changes at all,” adding, “while it’s better for or might be better for VRA reasons it’s really much worse for community of interest reasons.” *Id.* at 7510. But Rothhorn reminded him that the “VRA” was “criteria number one,” adding, “I know it hurts believe me.” *Id.*

The Commission then determined that it had achieved its VRA compliance goals. Only then did it turn to partisan fairness and “compactness” considerations. In doing so, however, the Commission focused almost exclusively on districts outside of the Detroit area.

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The Commission accordingly made no further changes to the Detroit-area districts and saved its new draft as Draft Map 199. The number of districts with black-voter population percentages above 50% now stood at zero—making Draft Map 199 “an almost final map.” R.112 at PageID 3677.

District No.		1	3	6	8	10	11
	Date	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP
<b>Senate Map Plan 162</b>	9/13/2021	10.98	50.82	76.56	63.77	18.1	7.8
<b>Senate Map Plan 165</b>	9/15/2021	34.86	44.87	51.99	59.06	49.38	11.02
<b>Senate Map Plan 199</b>	10/04/2021	36.73	43.35	40.03	42.45	41.20	18.42

6.

*More house revisions.* The House map still had some districts with BVAPs above 50%, however, and on October 5, the Commission returned to revising it. The Commission decided to use the “same process” it did in the senate, “going District by District looking at VRA[.]” MICRC Tr. at 7639. As before, the commissioners used the “African/American dots” tool to help them see black-voter populations as they mapped. *Id.* at 7640. The first to draft that day, Commissioner Weiss, told the mapping specialist he did not want to use the software’s neighborhoods overlay—a tool for keeping neighborhoods whole if the Commission so chose—because “we are looking at VRA.” *Id.* at 7642. He then adjusted the district based primarily on its black-voter population percentage. *Id.*

Next up, Commissioner Witjes worked on what became House District 10. *Id.* He too focused on bringing the black-voter population in line with Adelson’s prior guidance. *Id.* Szetela



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commented on his adjustments: “Brought it down quite a bit,” and “we have room to go north.” *Id.* at 7463. Witjes brought the percentage “below 40%” and asked whether the “40% sweet spot still appl[ies].” *Id.* at 7644. Adelson replied, “I think providing leeway, a little cushion here . . . is important.” *Id.* In what became District 11, however, Witjes’ changes had increased the black-voter population above 50%. *Id.* at 7646. Clark asked, “Would it be acceptable to keep it that way?” *Id.* Adelson responded, “Looking at [what] the law says and what Dr. Handley analyzed and Dr. Handley’s analysis is in Wayne County BVAP and Black voters can elect candidates of choice at 35% . . . . if you make a District a majority minority District . . . you get into more involved attempts at justification.” *Id.* Clark replied, “But you can’t change the places where these people are living. I mean it’s so concentrated.” *Id.* Adelson answered, “there are some limitations about what you can do. But having a population that is more than 20 points above what Dr. Handley analyzed [] raises my eyebrow. So to the extent it can be done absolutely. And if it’s impossible or unreasonabl[e] then that is [a] justification [we] have to deal with but until that point, I think making reasonable efforts at what the Voting Rights Act and the courts say and what Dr. Handley analyzed I think that that’s important.” *Id.* Witjes then continued mapping, sought to bring the percentages in both districts into line with Adelson’s directives, and succeeded. *See id.* at 7647-48. Adelson then checked the districts using the bellwether-elections tool and (as in every other instance) confirmed that “they all performed.” *Id.* at 7650-51.

As commissioners continued to revise the other Detroit-area districts, Adelson and Pastula repeatedly reminded them of their targeted black-voter population percentages. *See e.g., id.* at 7652. Adelson, for example, said, “remember it’s 35-40% in Wayne County. 40-45% in Oakland.” *Id.* at 7653. The commissioners commented along the same lines as they worked. For example, Szetela told Clark that “when you add African/American population” to a district “you

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have to take some off somewhere else.” *Id.* at 7655. Clark followed her advice and Szetela observed, “you are down to 48 now 47” percent black-voter population. *Id.* at 7656. Adelson applauded the effort: “Commissioner Clark, I think your adjustments have really made a lot of— have a lot of positive effect.” *Id.* The Commission then worked further to “dilute,” as Commissioner Lett put it, the black-voter populations in what became Districts 1, 7, 8, 10, 11, 12, and 14. *See id.* at 7642-7679.

At this point, Dr. Handley joined the meeting remotely and gave the Commission a second, brief presentation on partisan fairness. For the most part she discussed some other states’ plans that scored badly on various partisan-fairness metrics. Pastula said, “none of the plans that the MICRC has put through have come close to those numbers . . . so that is very good news for the Commission indeed.” *Id.* at 7683. The Commission then returned to revising house districts outside the Detroit area. At the end of the day on October 5, the Commission saved their House map as Draft Map 204. By that point, they had reduced the number of Detroit-area districts with BVAPs above 50% to zero.

District No.		1	7	8	10	11	12	14
	Date	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP
<b>House Map Plan 183</b>	9/28/2021	28.62	79.04	54.09	42.74	65.66	43.74	38.33
<b>House Map Plan 193</b>	9/30/2021	36.58	66.54	50.37	58.44	49.23	43.74	39.21
<b>House Map Plan 204</b>	10/05/2021	41.63	39.85	40.72	42.68	47.37	49.89	42.80

The Commission completed further revisions to the house maps on October 6, but these did not affect the Detroit-area districts. *See id.* at 7726-34.

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7.

“*Compliance*” analyses. From October 6 to 11, the Commission did a partisan-fairness and population-deviation “compliance analysis” of its draft house and senate maps. *See, e.g., id.* at 7733-34. It began with the draft house map. From the start, the Commission recognized that by “achieving VRA compliance we did get better partisan fairness scores.” *Id.* at 7735. It then decided to take a “systematic approach” to improve those scores. *Id.* In doing so, however, the Commission also decided that since the districts in Detroit were “drawn that way for VRA reasons [it] might be a better idea to look at the other areas outside of Metro Detroit” to improve those metrics. *See id.* at 7737-81; 7867-77. Later, Adelson echoed this point: “my suggestion is we avoid districts that have VRA implications” and that the Commission work on “districts that are not in the Metro Detroit area.” *Id.* at 7781. The Commission followed this guidance: “we do not want to mess with 17, 14, because those are the VRA districts”, *id.* at 7782; “The reason I didn’t [change those districts] is because they are two VRA districts”, *id.* at 7785; “This was a VRA District that we tried really hard to get it as high as possible African/American vote. And we had lots of comments from Mr. Adelson that we should keep it as good as we got it”, *id.* at 7802; “I don’t want to go back into Detroit. I think it’s a spider’s web to try to sort out again. I think we got it as I recall the way we want it”, *id.* at 7816. This approach worked and changes in other areas improved the maps’ partisan fairness metrics. *See id.* at 7826.

The Commission simultaneously addressed population deviations in their draft plans. As to the so-called “VRA districts,” however, Adelson repeatedly told the Commission not to worry too much about population deviations, reiterating that “VRA compliance is a legitimate rationale for population[] deviations.” *Id.* at 7835. He then recommended “looking at districts first that are

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out of the VRA semicircle . . . . And then we can see where we are at that point.” *Id.* Again, the Commission followed his advice and reduced the population deviations in districts outside of the Detroit-metro area. *See, e.g., id.* at 7836-52; 7896-7902.

The Commission then turned to the draft senate map, addressing partisan fairness and population deviations simultaneously “to kill two birds with one stone.” *Id.* at 7960. As before, the Commission sought to avoid significant changes to VRA districts: “14 was drawn that way with Pontiac for VRA reasons so we might not want to change that one too much”, *id.* at 7960; “Are we identifying also VRA districts where we want to not change the deviation?”, *id.* at 7961; “Before any changes are made maybe we should jot down the VRA numbers just to make sure we don’t mess something up”, *id.*; “That is a VRA let’s put a check on it and move on”, *id.* at 7976; “We decided we had that as good as we could possibly get it for VRA and did not want to touch that at all. So I think we have to undo that”, *id.* at 7983; “there was something about 11 that we need to be careful of. But it does not seem to be a VRA District”, *id.* at 8044; “District 11 did not have a significant Black age voting population, right?”, *id.*; “I just wanted to point out that several of these districts are delicately balanced as far as minority population . . . . Just as an FYI as the [] adjustments are being made”, *id.* at 8046; “we are not going to be able to get [perfect partisan-fairness scores] because of how we have drawn some of the VRA districts to be compliant . . . . So I think this is a good map”, *id.* at 8053. The Commission eventually made small changes to what became Senate Districts 1, 3, 10, and 11. *See id.* at 7987-88. As it did so, however, the Commission continually checked its racial-percentages tool to ensure that it did not compromise its VRA goals. *See, e.g., id.* at 7991-94.

Later, the Commission returned to the draft house map and made further revisions to improve partisan fairness and population deviation. *Id.* at 8074. Again it focused on districts

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outside of Detroit. *See, e.g.*, 8074-8081. The Commission was careful to avoid moving black-voter population percentages out of the target ranges. *See, e.g., id.* at 8081-86. But it found (as Orton pointed out) that the “VRA districts that we worked so hard on” had caused the largest population deviations. *See id.* at 8087-88. Orton said “I just have to accept [the deviations in VRA districts] . . . I mean we may be able to make some improvements but I don’t think we will be able to change the plan deviation.” Clark agreed. But Adelson again reassured the Commission that “compliance with the Voting Rights Act” was a “legitimate state justification” for the deviations. *Id.*

Yet Szetela thought they could reduce deviations in VRA districts without “making changes to the VRA levels[,]” because “we know where the African/American population is” around those districts. *Id.* at 8089. Witjes pushed back, saying these districts “were carefully crafted with VRA in mind. So if we were to start messing with that, we could be opening up another can of worms.” *Id.* at 8090. Szetela persisted and she (and other commissioners) later made small changes to what became House Districts 10 and 11, among others. *See id.* at 8090-91. But the Commission made sure those changes did not move the black-voter population percentages beyond Adelson’s numbers. *See, e.g., id.* at 8090-8102. Throughout this process, commissioners frequently used the racial-dots tool and referred to the “African/American” or “Black voting population.” *See id.* at 8102-03. After one such reference, Adelson (seemingly for the purpose of the record) interjected: “The changes that are being made have nothing to do with race. Race is not predominating these decisions as you are trying to equalize your population deviation.” *Id.* at 8103.

Remarkably, by negative implication, Adelson then suggested that race *could* lawfully predominate when drawing the so-called VRA districts: “So if decisions were being made[,] *if*

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*race was the primary consideration without having anything to do with the VRA, that is another issue.” Id. at 8104 (emphasis added.) But these changes, Adelson said, were “deviation related.”*

*Id.*

By the end of October 8, the Commission had completed Draft House Plan 227, which it later named “Pine.”

District No.		1	7	8	10	11	12	14
	Date	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP
<b>House Map, Pine</b>	10/08/2021	41.63	39.85	40.72	42.05	48.00	49.89	42.80

The Commission had also completed Draft Senate Plan 220, which later it named “Cherry.”

District No.		1	3	6	8	10	11
	Date	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP
<b>Senate Map, Cherry</b>	10/07/2021	37.04	42.84	40.64	42.45	36.63	20.02

Neither map had any Detroit-area districts with black-voter populations above 50%.

C.

*Public reaction to the draft plans.* The Commission then commenced a new round of public hearings throughout Michigan; the one that matters here was held in Detroit, at the TCF Center, on October 20. Before that hearing, however, Detroit-area current and former state lawmakers, along with other community leaders, held a press conference in which they sharply criticized the Commission’s proposed maps. *See* Pl.’s Ex. 130 at 2. A news publication reported that one legislator said, “[t]he commission has drawn zero [black majority districts], and that’s an unacceptable change . . . . That doesn’t elect Black candidates, it doesn’t do Black people any

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good, it is not helpful to our community, it is not helpful to our issues.” *Id.* at 3. Another legislator said, “The current plans have diluted our voting bloc . . . . It will potentially take away all Black representation, potentially all Detroit representation.” *Id.* at 4. The president of the Detroit Branch of the NAACP added, “We want maps that reflect who we are.” *Id.*

Likewise, in the days before the TCF hearing, Michigan State University’s Institute for Public Policy and Social Research published an analysis of the Commission’s proposed plans. Its conclusions were unequivocal. The draft Senate plans, it said

are extremely unusual in engineering maps without a single majority-Black district. . . . These maps appear to deliberately dilute concentrations of Black voting age population above 50%, to create instead as many districts as possible in which the Black vote constitutes a large majority above 35%. . . . [T]he probability that plans like these without a Black-majority district arise by chance are remote. Rather, these plans’ outcome with no majority-Black district, and twice as many districts with a large minority of Black voters as in most other plans, is attained by design, following the advice to the Commission formulated by its VRA Legal Counsel [*i.e.*, Adelson] and its VRA Consultant [*i.e.*, Handley].

*See* Jon X. Eguia, “Michigan Redistricting Draft Map Analysis,” at 46, <https://ippsr.msu.edu/sites/default/files/SOSS/IPPSRRedistrictingReportvOct20v1.1.pdf> (last visited Dec. 21, 2023).

The MSU Institute’s assessment of the House plans was similar:

The 2011 redistricting map arguably packed Black voters around Metro Detroit so that the number of such Black-majority districts increased to eleven . . . These [proposed] plans go in the opposite direction to an extraordinary extreme, arguably cracking the large majorities of Black voters to studiously avoid configuring a single district that would cross the 50% threshold of Black voters. By diluting the concentration of Black voters in the districts with the greatest share of them, these plans manage to generate an improbably high number of districts with over 40% and over 35% of Black voters.

*Id.* at 64. In summary, the Institute concluded, the “absence of majority-Black districts is extraordinary, and impossible to arise except by careful design.” *Id.* at 75.

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The reaction of Detroit residents at the TCF hearing itself, one can fairly say, was vociferous. Over the course of nine hours, more than 200 residents commented on the proposed plans. Most commenters were highly critical; a plurality of them complained specifically about cracking and the absence of any black-majority districts. A handful of examples are enough to convey the hearing's tenor. A former state legislator said, "it was not for you to peel off parts of Detroit and throw them in communities we have nothing in common with. Bloomfield Hills, Birmingham, Canton, Farmington, Madison Heights, New Baltimore and Sterling Heights. How can we advocate for the community when we are cracked into eight parts[?]" *Id.* at 8223. Another commenter said, "Your plan for the next ten years denies Black [and] Brown [people] in Michigan the opportunity to select representatives from their neighborhoods to send to Lansing." *Id.* at 8218.

Another said:

I'm really outraged at the way these maps are breaking up the north end and eliminating the political power of the people in the City of Detroit. . . . It's unfair. Put the north end back together. Keep it intact. Boston Edison, Hamtramck, Highland Park east side of Detroit, Senate District 2 now includes even the Grosse Pointe areas. Don't immigrate us to negate us and leave Black districts intact.

*Id.* at 8256-57. Another Detroiter said: "We know that you can draw better maps for Black Michiganders. Honor the Voting Rights Act to ensure Black people are able to elect leaders that look like themselves. Let's not return to the Jim [C]row politics of old." *Id.* at 8215. Another said, "we want to ensure that Black folks are kept [a] majority minority [in] our districts." *Id.* at 8220; *see also, e.g., id.* at 8233, 8241, 8261, 8320. Another cut to the heart of their complaints, saying a "majority of Black Detroit deserves the chance to be represented by Detroiters. Not just people that might share [a] political party." *Id.* at 8222.



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Some commenters made legal observations. The Executive Director of the Michigan Civil Rights Commission, for example, told the commissioners that its draft Detroit-area districts “violate Federal civil rights law”:

They dilute majority minority districts and strip the ability for minority voter to elect legislatures [that] reflect their community and effect any meaningful opportunity to impact public policy and law making. If you approve any of your maps, we believe that you will be violating both Federal statutory and case law.

*Id.* at 8264. And an NAACP member cited a legal rule about which the Commission had heard very little during its own meetings: “[W]e do not appreciate the way the maps have been drawn to date. We want to remind you that the 14th [A]mendment prohibits legislatures and this Commission from engaging in both intentional and race[] based voter dilution and racial sorting.”

*Id.* at 8303.

#### D.

*The “closed session.”* On October 27—nine days before its November 5 deadline for publishing maps ahead of the 45-day public comment period—the Commission held its first meeting after the TCF hearing. It promptly voted to go into “closed session” (meaning closed to the public)—something it had never done before—to discuss two purportedly “privileged and confidential” memoranda from Adelson. *Id.* at 8754. The meeting was not transcribed at the time; but it was recorded. (The Michigan Supreme Court later ordered the recording to be made public.)

General Counsel Pastula began the meeting by announcing the “rules of the closed session,” namely that “none of the discussion topics or documents may be shared outside of this room.” R.126-1 at PageID 4571. The commissioners had been told to sign a confidentiality agreement: Pastula said, “everyone [has] received the confidentiality agreement,” and told the commissioners to return to their signed copies to her or Sue Ann Hammersmith, the Commission’s

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Executive Director. *Id.* Adelson—who did not attend the TCF hearing—then took the floor, saying among other things:

We [*i.e.*, himself and Pastula] have become concerned that there is so much misinformation out there. We wanted to have an opportunity to set the record straight in a sense, provide our advice, provide you with information about what the law actually says[.]”

*Id.* at PageID 4573.

Adelson insisted that the VRA “does not require any numerical amount of majority-minority districts; indeed, does not even require majority-minority districts at all.” *Id.* at PageID 4572. The public comments to the contrary at the TCF hearing, Adelson said, were “woefully misleading.” *Id.* at PageID 4578. Throughout the closed session, Adelson and Pastula variously described these comments as “infused with either misinformation or lack of information,” based on “specific agendas,” and “flat out incorrect.” *Id.* at PageID 4578, 4596, 4608.

Adelson also discussed the lack of primary data available to the Commission during its mapping process. But he reassured the commissioners that, “while primaries can provide useful information, please be advised that . . . they’re not necessarily dispositive.” *Id.* at PageID 4577. Adelson also discussed the importance of the Commission’s record for the purpose of any future litigation challenging the maps, saying:

one of the things we have to stress, emphasize, insist on, plead, beg and say please, please don’t use phrases about adding black people, subtracting black people, adding white people, subtracting white people.

*Id.* at PageID 4579. He added, “one of the reasons we wanted to have this session is that in looking to the future, looking over the next eight days, we don’t want to give people out there specific paths to challenge what you’re doing. Remember . . . legally, race cannot predominate redistricting. It can be one factor of many.” *Id.*

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Adelson then referenced one of the Commission's earlier decisions to keep together communities of interest in the Flint area. *Id.* at PageID 4580-81. He said that "a path forward" for the Commission might be to mimic that approach in the Detroit-area districts, "rather than focus on race predominantly." *Id.* Eid asked, "so, how do we do that without packing the districts?" *Id.* Commissioner Kellom replied:

I think what I hear Bruce saying is the rhetoric and language that we use to justify. So, like, what we're actually doing in reunifying folks is of course, we're putting certain races together, we know that. But then what we say is that we're observing the fact that these areas are uniquely different, like when we think about Detroit. So we're not using the language that is going to question the maps when it gets to that point. So I think if we go back and look at the cultural aspects and the neighborhoods . . . the places that are completely black [laughing] just saying it like that, um, will be, the undertones will be accomplishing what folks want but doing it in a way that still upholds our criterion.

*Id.* at PageID 4581-82. Adelson suggested that the commissioners focus their future discussions on keeping "neighborhoods" and "communities" whole. *See id.* at PageID 4582-86. Orton echoed his advice: "when we're talking about this, if we choose to put anything together that we currently have separated, we go back to the communities of interest, it's a communities of interest thing not a VRA thing." *Id.* at PageID 4588. Clark then replied to Adelson:

Detroit's different. And so your comments were—it appears to be a neighborhood issue and they want to have the neighborhoods consolidated. So we can do that and make minor modifications to the districts we've done. But that to me doesn't fix the problem that they [Black voters] were complaining about. The problem they were complaining about was, in my mind, was that the districts didn't give them [Black voters] the opportunity to elect. And so changing just the neighborhoods, it's not going to change that problem. So the way to change that would be to make the districts compress them so that more of the blacks are in Detroit.

*Id.* at PageID 4594. Commissioner Lett offered a suggestion about how the Commission could make changes to Detroit-area districts:

[C]ommunities of interest was created as a nebulous criteria that the redistricting commission could use later as cover for whatever map it draws. Communities of interest is a will-o'-the-wisp. It's a wreath of smoke. It can be whatever is

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necessary, the crucial thing is who decides what a community of interest is that gets preserved. The answer? The Commission does. Who gets to review that? Frankly, nobody does. It's up to them. Was it originally intended? Yes. It was built in as nailing Jell-O to the wall. . . . that's what we can use now to justify what we're doing. And it's in the amendment. They put it in there. So let's use what we got.

*Id.* at PageID 4602. Lett concluded by saying the Commission could use communities of interest to “provide ourselves with cover. We can do it. Tomorrow.” *Id.* at PageID 4602-03. Commissioner Eid responded: “I agree with everything Steve [Lett] just said.” *Id.* at PageID 4603-04.

But Kellom said, “I can't ignore the people that are talking about how Southfield is ripped up, and that is true. How Palmer Park is ripped up, and that is true . . . the Detroit area is jacked up and we need to change it. And I don't want us to sit here and start think about ways we can keep it the same.” *Id.* at PageID 4607. Lett reassured Kellom: “Nobody in this room is saying we can't go in and make changes. The only thing that we are saying is when we make those changes, we need to be cognizant of the VRA and how we're doing that.” *Id.* at PageID 4612. Pastula added, “I would strongly advise you to listen to your lawyers” on this topic. *Id.* at PageID 4613. Orton agreed and reminded Kellom: “remember the wording. This can fall under communities of interest.” *Id.*

As the closed session wound up, Clark then reminded the other commissioners: “Anything discussed in this room today should stay in this room period . . . . Not discussed with anybody.” *Id.* at PageID 4617. Pastula then reminded them all to return their signed confidentiality agreements. *Id.*

E.

*Post-TCF changes.* Over the next week, the Commission finalized its draft senate and house maps. The Commission made minimal changes to the draft senate maps, none of which

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substantially affected the BVAPs in Detroit-area districts. *See* R.112 at PageID 3677-78; MICRC Tr at 8919-47, 9003-15. According to Szetela, however, Kellom and Rothhorn came to her and said they “wanted to increase the black voting age population” some Detroit-area house districts and that they had “had a discussion with Bruce Adelson that they could do that as long as they used neighborhoods as the basis.” R.112 at PageID 3718.

On November 2, the Commission began revising the draft house maps. *See* MICRC Tr. at 9157. At first, commissioners made only “small changes” to improve metrics such as population deviation. *See, e.g., id.* at 9164-9200. But then Rothhorn announced that he and Kellom had been “working together” on an “overlay” that included some “major changes” to certain Detroit-area districts. *Id.* at 9199-9201. Kellom and Rothhorn said that they had done so because they were concerned about the comments the Commission had received at the TCF hearing, and wanted to “honor[] our third criteria of diversity and COIs.” *Id.* at 9199-9204. Orton asked whether the map affected “VRA districts.” *Id.* at 9202. Kellom responded, “yes”; but Rothhorn said, “yes and no we don’t know if we got it right. It’s more communities of interest changes.” *Id.*

The Commission decided to create an alternate map based on Kellom and Rothhorn’s overlay. To do so, it deleted most of the districts in Detroit and drew new ones based on the overlay. *Id.* at 9202. As the draft progressed, Kellom explained that their map “honors the COIs” by reuniting “some of the [Detroit] neighborhoods.” *Id.* at 9206-07. She also said that Adelson had told them that, with that rationale, they “could increase BVAP” in Detroit-area districts. *Id.* at 9204.

Szetela responded that Kellom’s suggestion “was not consistent with what I was hearing from Detroit. I don’t remember [] individual commenters saying they wanted neighborhoods put back together. I remember a lot of comments about wanting minority majority districts with more

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than 50% African/American and I don't remember much of anything about neighborhoods honestly.” *Id.* at 9207.

Pastula interjected, “I think what I hear Commissioner Kellom discuss is, again, the third criteria of diversity and communities of interest” and that “the focus of uniting neighborhoods that . . . I hear Commissioner Kellom attempting to do . . . wouldn't have VRA implications . . . would not have a Voting Rights Act component.” *Id.* at 9207. Pastula added that if “the comments were advocating more than 50% majority minority districts based on VRA,” then that “would likely be held to constitute racial gerrymandering. And, again, that would create VRA issues. What—where I see this conversation happening is not rooted or anchored in the VRA at all.” *Id.* In the same vein, Kellom said, “this whole week I've been talking about neighborhoods. I specifically did not mention the VRA.” *Id.* at 9208. Curry added, “communities of interest is all about neighborhoods.” *Id.*

Chair Szetela was skeptical: “I think to me the biggest issue is you're mentioning these communities of interest but when we collaboratively mapped, we discussed many, many communities of interest,” but “what is happening here is that you and [Rothhorn] and Commissioner Curry have individually decided which communities of interest you think are important for this area. And you're asking us as a collective to just accept them without consideration[.]” *Id.* at 9209. But Lett responded, “I think [Rothhorn] is trying to do what Detroit wants done.” *Id.* at 9217.

The Commission moved ahead with the new draft. Kellom and Rothhorn's overlay guided the mapping process, but the Commission also continued to rely on the racial-dots tool and their knowledge of the racial makeup of the area as they mapped: “I think the dots are good”, *id.* at 9217; “they are also pretty much the Black African neighborhoods too”, *id.* at 9218; “when you

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look at Finkle and Dexter they are predominately Black African/Americans”, *id.* at 9219; “if it comes down to deciding between neighborhoods it might be a good idea to think about which of the minority groups in the neighborhood vote the same way”, *id.* at 9225; “7 is 68% nonwhite”, *id.* at 9237. But Commissioner Kellom continued to try and justify the changes on other grounds while the mapping progressed: “This is about the Detroit community,” so “open up your hearts and your minds. This comes from a very sincere place.” *Id.* at 9230.

The new draft revised what became House Districts 1, 7, 8, 10, 11, 12, and 14. *See, e.g., id.* at 9240, 9253. The Commission eventually reached a stopping place and decided to check the map’s “demographics,” i.e., black-voter percentages. Some other Detroit-area house districts now had BVAPs above 50%. Adelson commented on these changes:

This is—as you know we have discussed the VRA analysis and Dr. Handley’s analysis. And there has been nothing that I’m aware of where any of you have said we need to put more Black people in a certain area beyond what the Voting Rights Act says. When you take that and then look at the reunifying neighborhoods that is a different consideration. . . . I think the numbers are an improvement in the sense of responding to concerns about that I took to be community based. So those are my thoughts.

*Id.* at 9256.

Szetela asked, “So you’re okay with 55%, 54.9% Black VAP . . . I just want to confirm that you think that is acceptable.” *Id.* Adelson answered, “I’m fine with that from the perspective of what was discussed today.” *Id.* at 9256-57.

The Commission’s meeting the next day, November 3, began with a short public-comment period. A regular observer of the Commission’s meetings, Sarah Howard of the AFL-CIO Fair Maps Project, commented on the revisions made the day before. Specifically, she questioned why communities of interests had been honored then but not before:

Last night Mr. Adelson said districts can go as high as 55% BVAP as long as it is a side effect of recognizing a community of interest and not an explicit attempt to

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create a majority minority District. This is frankly [] an astonishing reversal. You must reassess all VRA districts based on community of interest testimony. We doubt for example that Birmingham and Detroit are a genuine community of interest. And find it very objectionable they had to protest the low BVAP targets. You missed out on a ton of community of interest data because they were under the incorrect impression their communities of interest didn't matter for this analysis.

*Id.* at 9264-65. The Commission thanked her for comments and moved on.

Over the next two days, the Commission revised house districts in other areas of Michigan. None of these changes, however, substantially affected the November 2 adjustments to the Detroit districts. *See id.* at 9399-9400 (pointing out that the Commission imported all the November 2 Detroit-area districts into the map finalized on November 4). On November 4, the Commission made its final edits to the Detroit-area house districts. In doing so, it again reviewed black-voter populations and "VRA compliance" for many of those districts. (*E.g.*, "That is an Oakland County VRA District where we are trying to keep it above 40", *id.* at 9406; "This is one of our VRA districts we did not want to mess with", *id.* at 9407; "Black voting age population is 44.17", *id.* at 9410; "District 18 is now 45.34% Black", *id.* at 9419.)

At the close of their work on November 4, the Commission named its house map "Hickory," renumbered its districts, and advanced it to a 45-day public comment period. *See id.* at 9484-85. The Commission also renamed its last senate draft "Linden," renumbered its districts, and advanced it to public comment. *Id.* at 9503. The final black-voter population percentages for all the Detroit-area districts at issue here were as follows:



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District No.		1	3	6	8	10	11
	Date	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP
<b>Senate Map Plan 162</b>	9/13/2021	10.98	50.82	76.56	63.77	18.1	7.8
<b>Senate Map Plan 165</b>	9/15/2021	34.86	44.87	51.99	59.06	49.38	11.02
<b>Senate Map, Cherry</b>	10/07/2021	37.04	42.84	40.64	42.45	36.63	20.02
<b>Linden Plan</b>	12/28/2021	35.03	42.09	39.15	40.25	40.43	19.19

District No.		1	7	8	10	11	12	14
	Date	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP
<b>House Map Plan 183</b>	9/28/2021	28.62	79.04	54.09	42.74	65.66	43.74	38.33
<b>House Map Plan 193</b>	9/30/2021	36.58	66.54	50.37	58.44	49.23	43.74	39.91
<b>House Map, Pine</b>	10/08/2021	41.63	39.85	40.72	42.05	48.00	49.89	42.80
<b>Hickory Plan</b>	12/28/2021	38.03	44.29	43.70	38.79	42.82	40.99	41.11

F.

1.

*Developments before final votes.* The Commission set a date of December 28 for votes on its final plans. On December 9, however, Dr. Handley sent an email to Pastula, Adelson, Kim Brace (a software-mapping consultant), and Executive Director Suann Hammersmith, in which Handley said she had begun writing a report for the Commission, but had “run across a serious wrinkle that I would like to discuss. Is this possible?” R.114-6 at Page ID 3982.

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Apparently that discussion took place within a day or so, by way of a “Teams” meeting; because the next day Pastula sent an email to the Commission’s “Legal Team” of outside counsel (all or most of them litigators, including three who have represented the Commission in this case). Pastula referred back to Handley’s September 2 presentation to the Commission—which provided the “analysis” on which all the Commission’s BVAP efforts had been based—and reported the following:

I did want to circulate the information from the Teams meeting and we can address/more fully discuss when appropriate how to present this information to our client [*i.e.*, the Commission] prior to their vote. As indicated during the call, *the percentage ranges provided by Dr. Handley in her September presentation/charts and utilized during drafting did not correspond to the information she shared today.* The lack of primary election data generally as well as promised information regarding whether the white candidates are candidates of choice . . . are relevant.

R.114-7 at PageID 3984 (emphasis added).

Apparently one of the participants in the “Teams” meeting told Chair Szetela about it; because on December 15 she emailed Pastula as follows:

I am deeply concerned to have learned that you personally became aware of critical issues with Dr. Handley’s VRA analysis earlier this week and, in addition to not notifying the Commission about this alarming development, have also directed staff members, vendors, and the [Secretary of State staff] not to alert Commissioners as to the issue until the week of December 28th—almost two weeks away. It’s my understanding that Dr. Handley has informed you, staff, vendors, and members of the [Secretary of State staff] that her analysis was deeply flawed and that, as a result of her flawed analysis, not a single one of our Senate maps are VRA compliant. . . . In addition, it’s my understanding that you were hoping to conceal this information from the public by having yet another closed session the week of the 28th, which contradicts our mission, vision, and values.

Pl.’s Ex. 5 at 69.

On December 27, Szetela also emailed Handley directly, and pointedly asked whether “for the Michigan State Senate, districts with BVAP of 47% or lower” are “able to elect candidates of

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choice.” *Id.* at 21-22. Handley replied that the “minority preferred candidate wins all of the general election[s] above 35%” black-voter population. But she added:

Unfortunately, we do not have sufficient information to anticipate what might happen in the future Democratic primaries in the proposed districts. The reason is that we have only one statewide Democratic primary for which we can recompile results and minority voters were not cohesive in this primary. We simply do not know what would happen in a primary in which minority voters are cohesive.

*Id.* at 21.

2.

On December 28, at 10 a.m., the Commission reconvened to approve the final senate and house maps. Some commissioners said they were unhappy with the maps; others said they were happy with them. Szetela suggested that “we make some changes to accommodate public comments . . . particularly around VRA issues and particularly with primaries and democratic primaries and are these maps representative and do they actually provide the Black community in Detroit with the ability to elect. I think these are things we need to think seriously about[.]” *Id.* at 9877. Eid and Pastula alike said there was no time for that. So did Secretary of State Benson’s representative at the meeting. *See* MICRC Tr. at 9875, 9878-80.

Apparently, Dr. Handley had provided the Commission with her “report” an hour or two before (she undisputedly gave it to them that same day). Rothhorn’s impression of the report was that further “analysis must be undertaken” to confirm that black-preferred candidates could actually prevail in districts with the BVAP numbers that Handley had given them on September 2. *Id.* at 9880. Adelson gave a lengthy response in which (to summarize) he said that “I have no concerns based on her analysis that there are VRA compliance issues, issues that need to be addressed.” *Id.* at 9881. Szetela replied:

So, Mr. Adelson, so my specific concern reading Dr. Handley’s report is that when we were in Detroit . . . the comment we heard over and over and over again is you

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have to look at the primaries and we all know this is true especially in Districts that are heavily leaning democratic or republican the primary is where the real action is at for the election, whoever wins the primary is going to win the seat in that particular District.

And so we heard that very specific comments that we have to look at the primaries and very specific concerns about voter turnout which is also addressed in Handley's report as well and specifically the concern that when you have 35% or less than a certain number in districts which are supposedly VRA districts, those percentages for the Black community are not going to translate to the ability to win primary elections. And what I'm seeing in Dr. Handley's report is she has since validated that concern.

*Id.* at 9882-83. Adelson answered:

I disagree with your characterization of Dr. Handley's report she did not say 48% BVAP is required for bloc voters to elect candidates of choice. Much of the contrary. . . And her conclusion is that, yes, without—with the absence of additional primary election data we have to rely on what we have. What we have are general election results, recompiled election results, the gubernatorial primary from 2018.

*Id.* at 9883-84.

Szetela said that Dr. Handley's report "was a canary in the coal mine" and that she "continue[d] to have concerns because I want to make sure we do right by Detroit. I want to make sure we do right by the Black population, with our ability to elect who they want to elect." *Id.* at 9884-85. Kellom said she had "the same concern." *Id.* But Adelson said that "this is not October or early November. And there are issues that have been discussed with the reality of the calendar. So you know I appreciate your comments and your including me in the discussion." *Id.* at 9888.

The Commission proceeded to adopt—as its final redistricting plans—the "Linden" plan for the Senate and the "Hickory" plan for the House. The Linden plan reduced the number of majority-black senate districts in the Detroit area from two to zero; the Hickory plan reduced the same numbers for the House from ten to six. None of the districts challenged here have BVAPs at 50% or higher.

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G.

In March 2022, plaintiffs brought this suit against the Commission and Michigan Secretary of State Jocelyn Benson. In their complaint, plaintiffs challenged seven Detroit-area senate districts (1, 3, 5, 6, 8, 10, and 11) and ten Detroit-area house districts (1, 2, 7, 8, 10, 11, 12, 13, 14, and 26) under both the U.S. Constitution’s Equal Protection Clause and § 2 of the Voting Rights Act. The parties thereafter filed cross-motions for summary judgment. We denied plaintiffs’ motion and granted defendants’ motion in part. Specifically—on various grounds, some of them jurisdictional—we granted summary judgment to defendants on four of plaintiffs’ equal-protection claims (against House Districts 2, 13, and 26, and Senate District 5) and on eight of plaintiffs’ VRA claims (against House Districts 2, 8, 11, 13, and 26, and Senate Districts 5, 10, and 11). We denied summary judgment to defendants on thirteen of plaintiffs’ equal-protection claims (namely, against House Districts 1, 7, 8, 10, 11, 12, and 14, and Senate Districts 1, 3, 6, 8, 10, and 11). All those claims proceeded to a six-day bench trial, held in November 2023.

At trial, the parties called eleven fact witnesses, including six commissioners (Szetela, Rothorn, Curry, Lange, Wagner, and Eid), Bruce Adelson, Dr. Lisa Handley, Virgil Smith (a former state senator from Detroit), and LaMar Lemmons III (a former house representative from Detroit). We discuss their testimony as relevant below. The parties also presented the testimony of five experts: Sean Trende, Dr. Handley, Dr. Brad Lockerbie, Dr. Maxwell Palmer, and Dr. Jonathan Rodden, all of whom submitted an expert report (Trende also submitted a supplemental report). Their testimony, as it turns out, is less important to our decision here. The parties also submitted more than 100 exhibits as evidence, including a complete transcript of the Commission’s proceedings, which totaled 10,603 pages. About 1800 pages of that transcript are particularly

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important here. This court has reviewed all the evidence in the record, including every page of the Commission's transcript.

## II.

The Fourteenth Amendment's Equal Protection Clause "limits racial gerrymanders in legislative redistricting plans." *Cooper*, 581 U.S. at 291. Specifically—absent some compelling interest which a racial gerrymander is narrowly tailored to serve—the Equal Protection Clause bars a State "from 'separating its citizens into different voting districts on the basis of race.'" *Id.* (quoting *Bethune-Hill*, 580 U.S. at 187).

To prove an unconstitutional racial gerrymander, a plaintiff must prove that "race was the predominant factor motivating" the State's "decision to place a significant number of voters within or without a particular district." *Cooper*, 581 U.S. at 291 (quoting *Miller v. Johnson*, 515 U.S. 900, 916 (1995)). To make that showing, a plaintiff must show that the State "subordinated other factors" to "racial considerations." *Id.* (cleaned up). A plaintiff can make that showing "even if the evidence reveals that [the State] elevated race to the predominant criterion in order to advance other goals, including political ones." *Id.* at 291 n.1; *see also Miller*, 515 U.S. at 914 (stating that the "use of race as a proxy" for "political interest[s]" is "prohibit[ed]").

We determine predominance district-by-district, though a plaintiff, "of course, can present statewide evidence in order to prove racial gerrymandering in a particular district." *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 263 (2015) (emphasis omitted). A plaintiff can show racial predominance "though 'direct evidence'" of the State's intent, or circumstantial evidence, or "a mix of both." *Cooper*, 581 U.S. at 291. Evidence of "an announced racial target that subordinated other districting criteria" is important evidence "that race predominated" in drawing a district. *Id.* at 300-01; *see also Ala. Legis. Black Caucus*, 575 U.S. at 267.

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A.

The record here is almost oceanic in its direct evidence of intent. The relevant state actor in this case is the Commission. And the entirety of the Commission’s proceedings—the commissioners’ every word, as they drew every district, line-by-line, and often precinct-by-precinct—was transcribed. The thousands of pages of those transcripts reveal not only the commissioners’ every move as they drew and redrew legislative-district lines; it reveals also their reasoning, their motivations, their misgivings, in real time as they worked. In that respect this case is singular. We have carefully considered all the evidence in the record, including the testimony of six commissioners at trial, some two years after the fact. But the transcripts of the Commission’s proceedings are by far the most important and most probative evidence in the record here. Our findings based on this record now follow.

1.

Our first group of findings concern the Commission’s mapping process for Detroit-area districts generally.

a.

*BVAP targets for Detroit-area districts.* First, the Commission plainly acted under the constraint of across-the-board racial targets as it drew the boundaries of Detroit-area districts. By way of background, and to reiterate somewhat, Dr. Handley advised the Commission—on September 2, 2021, at the outset of its map-drawing process—about the BVAPs necessary for black voters to be able consistently to elect their “candidates of choice.” Specifically, she said, “[i]n Oakland County, 35% is going to work. 40 percent looks like it might work. In Wayne County where we have a lot more white crossover vote 35% might well work.” MICRC Tr. at 5386. (Those percentages were based only on general-election data, which rendered them close

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to useless in predicting the success of black-preferred candidates in contested primary elections; but neither she nor Adelson flagged that distinction for the Commission. *See, e.g.*, Def.’s Ex. 48 at 16-17.) Bruce Adelson then told the Commission that Handley’s analysis would be “very crucial[,] very important” for the Commission’s map-drawing in those counties. More to the point, Adelson treated those BVAPs as a ceiling, not a floor, in drawing districts in those counties. Specifically—on September 2, in his capacity as the Commission’s “voting rights act legal counsel”—Adelson told the commissioners that BVAPs higher than Handley’s numbers would amount to “packing” in violation of the VRA. He told them on September 2:

But to the point about packing, remember that the [sic] if a district can be established through analysis to be able to elect candidates of choice of the minority community at let’s say 40%, if you add on population to that, the courts constitute that as packing.

MICRC Tr. at 5389.

Handley’s numbers—plus what Adelson sometimes called a “cushion” of about 5%—yielded target BVAPs of 35-40% in Wayne County and about 40-45% (sometimes narrowed to 42-43%) in Oakland County. *See, e.g., id.* at 7230 (“the range for Detroit was 35-40%, Oakland County was above 40%.”); *id.* at 7440 (“What Dr. Handley’s racial bloc voting analysis has given the Commission is the benchmarks and the guide rails for each of the Counties that need to be adjusted. [In] Wayne County [it] is 35-40% . . . . And Oakland County is 42, 43%.”); *id.* at 7495 (“Dr. Handley in her analysis referenced Oakland County as having a 40% approximately [sic] threshold, not 35% . . . . 42-43% . . . . That is a good kind of benchmark guidepost.”); *id.* at 7563 (“remember it’s 35-40% in Wayne County. 40-45% in Oakland.”). And Adelson thereafter told the commissioners, more than 100 times—sometimes directly, sometimes more obliquely—that BVAPs in excess of those targets, in districts in those counties, would potentially violate the VRA. *See, e.g.,* MICRC Tr. at 5810 (“One of the things that I would strongly advise and something that



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we will be talking about a lot over the next couple of weeks is really study and internalize Lisa Handley's, Dr. Handley's PowerPoint . . . . And what I would suggest in moving forward in the areas where you are now, typically aim for Black populations in the roughly 40-45% range."); *id.* at 6201 ("Any District that has majority-minority VAP I think you should aim to let's see what we can do to kind of [p]otentially unpack that based on Dr. Handley's analysis. . . . Because just as Dr. Handley said if you can elect 35%, 40%, then why would you add 40, 50% minority population?"); *id.* at 6688 ("I have to go back to what Dr. Handley analyzed and concluded in early September. That her threshold is the 35-40%. Which is I agree with that."); *id.* at 7199 ("I think that I would recommend focusing on the percentages and comparing them to Dr. Handley's percentages for Wayne County which as I recall is 35-40%."); *id.* at 7481 ("And it is the Supreme Court has made it very clear that if you pack voters, if voters are put in a District in [ex]cess of what racial bloc voting analysis shows, that's an issue. And I know we have talked about that. And we are going to continue to adhere to it[.]"); *id.* at 7482 (regarding the cushion: "So I think as Dr. Handley and I had said previously since they are estimates they are not adhering to absolute 35-40% is not something that in my cautious preference that I necessarily would recommend. Having a range, 35-40%, 40-45%, yeah, I think that is more advisable."); *id.* at 7646 ("Looking at [what] the law says and what Dr. Handley analyzed and Dr. Handley's analysis is in Wayne County BVAP and Black voters can elect candidates of choice at 35%. So if you make a District a majority minority District when that additional population goes beyond the ability to elect that is where you get more involved attempts at justification."); *see also id.* at 5650, 5813-15, 5816, 5821, 5822, 5826, 5828, 5834, 5844, 5845, 5847, 5849, 5871, 5876, 5877, 5881, 6189, 6201, 6202, 6203, 6217, 6219, 6221, 6419, 6420, 6426-27, 6430-31, 6432, 6433, 6445, 6446, 6454, 6508, 6513, 6515-16, 6525-26, 6526, 6566-67, 6568, 6573, 6574-75, 6596, 6619-20, 6625, 6633-34, 6672, 6684-85,

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6688, 6717, 6718, 6721-22, 6725, 6726-27, 6935, 6948, 7068-69, 7070, 7071, 7073, 7164-65, 7167, 7181, 7183, 7186, 7187-88, 7189, 7192-93, 7198, 7199, 7201, 7223-24, 7225-26, 7272, 7277, 7279, 7280, 7281, 7282, 7283-84, 7284, 7285, 7286, 7287, 7289, 7345, 7346, 7347, 7481, 7482, 7484-85, 7487, 7489, 7493, 7494, 7495, 7497, 7499, 7500, 7504, 7509, 7515, 7539, 7559, 7560, 7580, 7641, 7644, 7646, 7649, 7651, 7652, 7656, 7660, 7662, 7666, 7688, 7690, 7692-93, 7693-94, 7731, 7768, 7781, 7784, 7785, 7835, 7883, 7904, 8046, 9103, 9959.

The Commission's general counsel, Julianne Pastula, likewise repeatedly advised the Commission to reduce the BVAPs in Detroit-area districts to the target ranges. *See, e.g., id.* at 7226 (“What I would recommend is that the Commissioner consider doing is for the active matrix to scroll starting with 1 and glance at the districts, anything that is higher than 40% for the Black voting age population and the population difference I mean just to glance at and just go down the list and then when we get to I anticipate number 6, number 18, and others that those quote unquote fixes can be dealt with and then this map can be ready for the partisan fairness analysis”); *id.* at 7227 (“start with the data chart and look at the list starting with one and I would recommend anything with a higher than 40% Black voting age population be looked at”); *id.* at 7229 (“start again with the list at District 1 and look at that the Black VAP, if it's above that 40% particularly in the Metro Detroit area how can that minimized . . . look at the Black voting age population and proceed from there”); *id.* at 7436 (“So I believe Mr. Adelson did say if the effort was to be made to get those Metro Detroit districts closer to the 30 to 40% range that would be an excellent use of time”); *id.* at 7438 (“I think those districts that were up around and over 50% Mr. Adelson's direction was to try to get those lower, to make the effort to get those lower. Particularly in the Metro Detroit Area”); Pl.'s Ex. 5 at 45 (email to Szetela: “Bruce and I are very concerned about

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the drafting of the packed districts that is occurring during today’s mapping session”); *see also id.* at 5734, 5921, 6672, 6767, 6768, 7230, 7243, 7440, 7441.

The commissioners fully internalized these BVAP targets, and not only complied with them but exhorted each other to do so. *See, e.g., id.* at 6434 (Clark: “what I’m trying to do is reduce the Black population”); *id.* at 6640 (Rothhorn: “And I do think that the margins with you know 36% was the threshold that was established by Lisa [Handley] so I think we are not too far over that [at] 38%. I think Bruce has said right 40% . . . At this point what we have done is a nice job of unpacking the old districts and getting a better . . . racially mixed balance.”); *id.* at 7439 (Rothhorn: “But I think we can interpret from their advice is if we don’t try to get to 35%, we have not done our due diligence and therefore we may be exposing ourselves to a legal risk we might be able to defend ourselves but can’t guarant[ee] that.”); *id.* at 7283 (Eid: “I know our analysis has said that it only takes about 35-40% of Black voting age population to elect candidates of choice for [the black] community. But I think my most basic question is: What is the highest percentage it can be to fend off legal challenges in the future?”); *id.* at 7435 (Szetela: “So that is what Bruce was saying to us last week and said it repeatedly we should aim between 35-40% African/American because those numbers [are] VRA compliant.”); *see also id.* at 5733, 5747, 5748, 5757, 5766, 5829, 5834, 5843, 5847, 5871, 5872, 5875, 5898, 5899, 5903, 5904, 5912, 5914, 5915, 5917, 5918, 5919, 5924, 5926, 5937, 5967, 6204, 6205, 6215, 6220, 6221, 6410, 6411, 6412, 6414, 6427, 6429, 6434, 6436, 6438, 6458, 6482, 6511, 6512, 6515, 6518, 6523, 6558, 6559, 6560, 6563, 6565, 6571, 6572, 6573, 6589, 6590, 6596, 6602, 6613, 6614, 6617, 6622, 6637, 6640, 6661, 6662, 6663, 6664, 6668, 6669, 6670, 6671, 6673, 6674, 6675, 6680, 6682, 6683, 6685-86, 6716, 6717, 6718, 6720, 6723, 6764, 6765, 6766, 6768, 6769, 6773-74, 6774, 6782, 6783, 6785, 6786, 6787, 6788, 6804, 6805, 6806-07, 6821, 6852, 6853, 6860, 6900, 6937, 6937-38, 6939, 6940,

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6946, 6947, 7068, 7070, 7074-75, 7075, 7168, 7169, 7173, 7182, 7185, 7188-89, 7190, 7191, 7194, 7197, 7198, 7200, 7201, 7219, 7219-20, 7220, 7221, 7222, 7223, 7225, 7227, 7229, 7229-30, 7230, 7231, 7231-32, 7232, 7233, 7234, 7235, 7235-36, 7236, 7237, 7238, 7240, 7241, 7242, 7242-43, 7243, 7244, 7270-71, 7273, 7275, 7276, 7277, 7278, 7283, 7285, 7287, 7289, 7343, 7343-44, 7344, 7346, 7348, 7349, 7433-34, 7434, 7435, 7436, 7436-37, 7438, 7439, 7440, 7441, 7442, 7443, 7444, 7445, 7446, 7447, 7448, 7449, 7450, 7451, 7464, 7468-69, 7469, 7472, 7473, 7474, 7475, 7476, 7478, 7479, 7480, 7481, 7483, 7484, 7492, 7509-10, 7510, 7513, 7514, 7515, 7516, 7517, 7558-59, 7560, 7576, 7578, 7580, 7581, 7582, 7622-23, 7627, 7639, 7648, 7649, 7651, 7652, 7653, 7654, 7655, 7656, 7657, 7658, 7659, 7660, 7662, 7663, 7664, 7665, 7667, 7668, 7669, 7672, 7675, 7676, 7677, 7679, 7685-86, 7687, 7688, 7689, 7691, 7695, 7696, 7697, 7698, 7699, 7726, 7727, 7728, 7729, 7730, 7733, 7735, 7781, 7785, 7802, 7822-23, 7883, 7891, 7896, 7896-97, 7901, 7903-04, 7904, 7905, 7926, 7931, 7949, 7960, 8099, 8100, 8840, 8859, 8883, 8898, 9011, 9321, 9357-58, 9942.

Relatedly, the commissioners equated hitting their BVAP targets with VRA compliance. Indeed, the commissioners used the terms “VRA” or “VRA compliance” as synonyms for hitting their BVAP targets. Those references are too numerous to collect here—they appear *passim* throughout the transcripts of the Commission’s work on Detroit-area districts (which the commissioners called “VRA districts”). But we offer some examples along those lines. *See, e.g., id.* at 7201 (Rothhorn: “[T]hat is changed because of [sic] to better comply with VRA bringing down the Black voting age population to a range that is closer to 40% actually reducing it.”); *id.* at 7229 (Orton: “So we are going to go through and we are going to look at anything above 40% because we want to be [sic] make sure that the whole plan is VRA compliant.”); *id.* at 7343-44 (Szetela: “District 2 was originally 60.73%. Voting age population African/American it’s now

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down to 46. 3 was 28 and I brought it up to 40 so it's a little more balanced. 6 was 64%. It's now down to 48%. 8 was 52% it's now down to 35%. 14 was at 59% it's now down to 49%. 15 was at 49% it's now down to 42%. And then 18 which was one of our big problem districts was at 76% and it's now down to 38%. So I have on that list three districts that are above 50, a 53.24 which is 4, 51.9, 50.89 but everything else is below 50%. So like I said it's just a thought. I mean I think we can accomplish what Mr. Adelson is suggesting we do. It's just going to require a little creativity and like I said I certainly don't think this is a final map. We could definitely move some of these lines make things a little fatter or skinnier to make them not look so long and skinny but the point is I think it's a little closer to a VRA compliant plan than what we had."); *id.* at 7445 (Szetela: "Yeah, I think you accomplished VRA with 6. You are just a hair over 40% and we are supposed to be between 35-40 so you are good there."); *id.* at 7474 (Rothhorn: "District 9 is lower so it's even more compliant with 38.6% so I think it's a positive with the numbers."); *see also id.* at 5733, 5747, 5748, 5757, 5765, 5767, 5829, 5834, 5843, 5847, 5871, 5872, 5875, 5898, 5899, 5903, 5904, 5912, 5914, 5915, 5917, 5918, 5919, 5924, 5925, 5926, 5937, 5967, 6204, 6205, 6215, 6216, 6220, 6221, 6223, 6410, 6411, 6412, 6414, 6427, 6428, 6429, 6434, 6436, 6438, 6458-59, 6482, 6511, 6512, 6515, 6516, 6523, 6559, 6560, 6563, 6563-64, 6564-65, 6566, 6571, 6572, 6573, 6589, 6590, 6596, 6602, 6613, 6614, 6617, 6622, 6638, 6640, 6661, 6662, 6663, 6664, 6668, 6669, 6670, 6671, 6673, 6674, 6675, 6680, 6682, 6683, 6685-86, 6716, 6717, 6718, 6720, 6724, 6764, 6765, 6766, 6768, 6769, 6773-74, 6674, 6782, 6783, 6785, 6786, 6787, 6788, 6804, 6805, 6806, 6821, 6822, 6852, 6853, 6860, 6900, 6913, 6937, 6938, 6939, 6940, 6946, 6947, 7068, 7070, 7074, 7075, 7168, 7169, 7173, 7182, 7185, 7188-89, 7190, 7191, 7194, 7197, 7198, 7200, 7201, 7219, 7220, 7221, 7222, 7225, 7227, 7228, 7229, 7229-30, 7231, 7231-32, 7232, 7233, 7234, 7235, 7236, 7237, 7238, 7240, 7241, 7242, 7242-43, 7243, 7244, 7270-71, 7273, 7275, 7277,

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7278, 7285, 7287, 7343, 7343-44, 7344, 7346, 7348, 7433, 7433-34, 7435, 7436, 7436-37, 7438, 7439, 7440, 7441, 7442, 7443, 7444, 7445, 7446, 7447, 7748, 7449, 7450, 7451, 7452, 7464, 7469, 7472, 7474, 7476, 7478, 7480, 7483, 7493, 7509-10, 7510, 7513, 7515, 7516, 7517, 7520, 7558-59, 7576, 7578, 7580, 7581, 7582, 7622-23, 7626, 7639, 7642, 7647, 7667, 7675, 7679, 7685, 7696, 7698, 7699, 7726, 7727, 7729, 7781, 7785, 7802, 7822, 7883, 7891, 7896, 7896-97, 7901, 7903, 7904, 7905, 7926, 7931, 7960, 8053, 8095, 8159, 8942, 9102.

Next—crossing the line from direct to circumstantial evidence, albeit barely—the commissioners continually monitored the BVAPs of Detroit-area districts as they drafted them, using the racial-percentages tool that Kim Brace had told them about on September 2. *See, e.g., id.* at 7277 (Orton: “Okay, so before you did this . . . the voting age Black population in District 4 was 41.2% which is quite a bit closer to the target that we are going for. Now it’s a lot higher . . . . I thought we were going 35-40% so [it is] way out from what I’m thinking.”); *id.* at 7446 (Szetela: “Brought your African/American below 40%. So now you are perfectly in the sweet spot of 35-40. All right.”); *id.* at 7453 (Rothhorn: “Started 57.32 now we are 44.13 nice work.”); *id.* at 7449 (Lett: “What’s the target for Macomb? Oakland.” Rothhorn: “Oakland County the target is 42 to 43ish.” Lett: “We are kind of splitting the difference right now.”); *id.* at 7464 (Rothhorn: “Correct so [this district] went from 50 to 40.7% so that is excellent.”); *id.* at 7657 (Clark: “So eight is another this is going to be in Wayne County and Macomb County I believe yeah so what are we focusing towards here? Wayne, we said 35 to 40% Macomb had nothing [and] we are currently at 35.71 so if we raised it to 40, I think we will okay.”); *see also id.* at 5733, 5748, 5757, 5829, 5838, 5843, 5875, 5898, 5902, 5917, 5924, 6213-14, 6219, 6221, 6414, 6422, 6425, 6426, 6428, 6432, 6433, 6436, 6471, 6483, 6484, 6511, 6518, 6525, 6562, 6565, 6572, 6581, 6615, 6617, 6617, 6618, 6633, 6640, 6670, 6671, 6676, 6678, 6683, 6684, 6686, 6724, 6726, 6765, 6774, 6785, 6804,

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6937, 7194, 7198, 7229, 7231-32, 7232, 7235, 7236, 7236, 7240, 7241, 7270-71, 7275, 7276, 7277, 7278, 7280, 7282, 7283, 7288, 7343, 7344, 7435, 7438, 7439, 7442, 7443, 7444, 7445, 7446, 7447, 7448, 7449, 7452, 7453, 7454, 7455, 7456, 7457, 7460, 7464, 7473, 7474, 7475, 7476, 7479, 7480, 7481, 7484, 7487, 7488, 7493, 7494, 7495, 7496, 7497, 7499, 7500, 7501, 7502, 7503, 7512, 7513, 7514, 7515, 7539, 7558, 7560, 7561, 7576, 7580, 7639, 7642, 7643, 7646, 7647, 7649, 7651, 7652, 7653, 7654, 7655, 7656, 7657, 7658, 7659, 7660, 7662, 7663, 7664, 7665, 7669, 7671, 7672, 7676, 7677, 7687, 7731, 7749, 8046, 8102, 8103, 8104, 8159, 8856-57, 8859, 8862, 8898, 8924, 8942, 9007, 9008, 9011, 9102, 9103, 9133, 9204, 9217, 9218, 9219, 9237, 9330, 9357.

Further circumstantial evidence of the Commission’s BVAP targets is that—with one exception—the BVAPs for all the districts challenged here fell within them. Admittedly, the Commission’s BVAP target ranges were not always perfectly clear as the commissioners and their counsel referred to them throughout the Commission’s work on these districts. Those targets did not take the form of positive law. But those references always fell within a BVAP range of 35-45%, which tracks Handley’s original numbers plus Adelson’s “cushion.” And though Detroit’s population is almost 80% African-American, 12 of the 13 districts at issue here ended up with BVAPs between 35.03% and 44.29%. The only exception is Senate District 11, which has a BVAP of 19.19%. And most of the African-American voters in that district were put there in order to lower the BVAP of an adjacent district. *See infra* at II.A.3.a.vi.

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b.

*Subordination of other criteria.* We also find that the Commission subordinated all other redistricting criteria to their target BVAPs in Detroit-area districts. Indeed, commissioners did so expressly.

First, the commissioners subordinated the criterion of “partisan fairness” to hitting their BVAP targets in Detroit-area districts. Partisan fairness ranks fourth in the hierarchy of the Michigan redistricting criteria, well after compliance with federal law (and specifically the VRA), which comes first. Mich. Const. art. IV, § 6(13). And (as noted above) the Commission equated hitting their BVAP targets with VRA compliance. Meanwhile, the Commission could not measure partisan fairness without a completed draft map (house or senate) for the entire State. Dr. Handley herself told the Commission as much when she presented to the Commission on October 1. MICRC Tr. at 7380 (“And you have to have a complete plan. This can only be done off a complete plan.”). Thus, partisan fairness is barely mentioned in the Commission’s meetings until October 6, when the Commission began its first partisan-fairness assessment (of its first completed drafts of house and senate maps).

When the Commission did turn to this criterion, they expressly avoided making any substantial partisan-fairness revisions to the Detroit-area districts, for fear of upsetting their “VRA compliance” (for which, again, hitting the BVAP targets was a proxy). On October 6, as the Commission began its “partisan fairness” assessment, Adelson advised the Commission not to make changes to Detroit-area districts on account of partisan fairness:

[M]y suggestion is we avoid districts that have VRA implications. We have a list of several other districts and some other possibilities. So in the interest of facilitating the partisan fairness adjustments our recommendation would be to move to districts that are not in the Metro Detroit area. And address other districts as we can.



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...

Our recommendation is we avoid those [Detroit-area districts]. Because adjusting in those areas will just make things unnecessarily complicated. I think that there are a lot of areas that potentially we can look at that just don't implicate these considerations, thank you.

*Id.* at 7781-82; *see also id.* at 6189 (“[I]f you can achieve other goals that are lower down on the list of criteria [than VRA], that’s a policy choice for you all. If they conflict, the Voting Rights Act, the 14th amendment win.”); *id.* at 7167 (“[Y]our legal team agrees that Friday is significant in that Dr. Handley will hopefully be able to present partisan fairness. But it is important and I’m sorry I’m going to speak for you. I will speak in one voice that the legal team strongly believes there are issues in addition of course to the partisan fairness. There are many voting rights issues and just in talking about the packed districts in Wayne County . . . . So there are other considerations. Certainly we agree with the partisan fairness and that is significant. But there are other issues.”); *id.* at 7784, 7785-86, 7904.

Dr. Handley likewise reminded the Commission that, whereas “it’s going to be a balancing act between voting rights and partisan fairness,” it is “not an equal *balance because the Voting Rights Act trumps partisan fairness.*” *Id.* at 7409 (emphasis added); *see also id.* at 7386 (stating with regard to partisan fairness: “But especially, again, you have the Voting Rights Act and other things you have to consider.”); *id.* at 7387 (“Again this is probably a legal question more, but it seems to me the [Michigan] Constitution does prioritize for you. And you know what comes first and what comes next.”); *see also id.* at 7382.

The Commissioners followed this guidance. *See, e.g., id.* at 7782 (Eid: “But we do not want to mess with 17, 14, because those are the VRA districts. Probably five as well just because of how it looks drawn.”); *id.* at 7785 (Eid: “The reason I didn’t [change these districts is] because they are two VRA districts.”); *id.* at 7785 (Orton: “We spent so many hours getting those balanced

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I think we should ignore or leave those alone . . . . We are trying to get partisan fairness. But that is a VRA issue, right?"); *id.* at 7816 (Commissioner Clark: "I agree Steve and I don't want to go back into Detroit. I think it's a spider's web to try to sort out again. I think we got it as I recall the way we want it. And so we should deal with everything outside that at this point."); *id.* at 7960 (Eid: "14 was drawn that way with Pontiac for VRA reasons so we might not want to change that one too much."); *id.* at 8053 (Eid: "For example lopsided margins test that one especially we are not going to be able to get it to 0 because of how we have drawn some of the VRA districts to be compliant."); *id.* at 7520, 7521, 7544, 7737, 7781-82, 7884, 7891, 7897, 7905, 7940.

The Commission likewise subordinated preservation of communities of interest to their "VRA compliance" (for which, again, hitting the BVAP targets was a proxy). Indeed, the commissioners frequently expressed their unhappiness about it. *See, e.g., id.* at 5747 (Szetela: "I appreciate and I did give it some thought but I'm trying to balance the Voting Rights Act against preferences because Voting Rights Act is our number one so I'm trying to make sure we don't get concentrated populations like we have in District nine . . . we received public commentary saying they did not want to be with Grosse Pointe and it's kind of mixed but doing it this way will us a more balanced from a voting rights and secondary is communities of interest."); *id.* at 6429 (Orton: "Looking at this overall, I have a comment which I think will be very unpopular. But I think it's maybe worth having a discussion about. The only way I see to make these districts make more of these Districts more balanced racially is to break up communities of interest. Because the only places I see are Hamtramck, Dearborn, Dearborn [H]eights, and the Grosse Points that you know show as not African/American. We know that there are certain populations in certain communities of interest in those and other areas. But I think we need to discuss what trumps. And we know that is VRA."); *id.* at 7242 (Eid: "And I hate to split them up but I think for this house map I don't

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see another way to do it because that is where the white population is around Detroit. We've already covered you know the other areas like Livonia for example. And Dearborn as well, which was split up the other day. So, I mean, I'd be welcome to any advice from anybody to figure out a way to not split it up but I think right now what we've heard is this map is currently not compliant and we need to get it to be compliant."); *id.* at 7444 (Witjes: "Don't worry if Harper Woods wants to be there or community of interest where Harper Woods should be. That should be not [sic] something we're looking at. We should be going into looking at just complying with the Voting Rights Act. And if we have to go in there don't let that be a reason as to why because you're thinking about public comment, go straight off the numbers to get where we need to be on with [VRA] stuff. And then go look at communities of interest."); *id.* at 7510 (Eid: "I mean I understand why we did it to become VRA compliant . . . . But it does have a significant change on communities of interest. . . . I think while it . . . might be better for VRA reasons it's really much worse for community of interest reasons."); *id.* (Rothorn, responding to Eid: "I think you are speaking to many of us who are challenged by it and if we refer back to criteria number one as VRA and we are trying to achieve compliance and we've drawn communities of interest, drawn with communities of interest in mind and trying to get voting rights compliance which is number one not number three so I think unfortunately that is the shortest and quickest answer to your question. I know it hurts believe me."); *see also id.* at 5671, 5899-90, 5912, 5914, 5915, 5917-18, 6202, 6411, 6412, 6436, 6573, 6617, 6618, 6619, 6621, 6622, 6685-86, 6774, 6804, 7242, 7348, 7450-51, 7468, 7469, 7822.

We therefore find, as to the Commission's mapping process for Detroit-area districts generally, that the Commission adopted "an announced racial target" to which it "subordinated other districting criteria[.]" *Cooper*, 581 U.S. at 300.

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2.

The Commission (in this litigation) disputes that finding on various grounds. The evidentiary bases, for most of the Commission’s arguments as to racial predominance generally, are a modest number of citations to the trial transcripts. The Commission has little to say about the 10,000-page contemporary record of its actions, or about the voluminous evidence of predominance catalogued above. But we address its handful of arguments in turn.

a.

The Commission first argues—citing trial testimony that in total runs just over two pages—that “[f]our commissioners attested [at trial] that race did not predominate.” R.115 at PageID 4015. But as an initial matter, the Commission’s chair, Rebecca Szetela, testified before those four commissioners did; and since their testimony refers to hers, we briefly recite some of hers first.

Szetela’s testimony echoed in large part the Commission’s hearing transcripts themselves. At trial, Szetela testified that—after Dr. Handley provided the Commission with the results of her racially polarized voting analysis on September 2—Adelson repeatedly told the commissioners that the “requirement of the law is to avoid packing minorities into districts above and beyond the percentage at which analysis is determined they need to elect candidates of choice.” R.112 at PageID 3640; *compare, e.g.,* MICRC Tr. at 5810 (Adelson: “Packing means adding or including additional minority voters typically the ones needed to elect what we call candidates of choice.”).

Szetela also testified that, “[o]nce we had received that analysis from Lisa Handley it became all about race . . . . At the direction of Mr. Adelson.” R.112 at PageID 3652; *compare, e.g.,* MICRC Tr. at 7439 (Rothhorn: “I think what we can interpret from [our legal counsel’s] advice is if we don’t try to get to 35%, we have not done our due diligence and therefore we may

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be exposing ourselves to a legal risk [for a VRA violation] we might be able to defend ourselves against but can't guarant[ee] that."). Relatedly, Szetela testified that—with Adelson's encouragement—the Commission drew districts that stretched into areas where it knew “that white voters” lived. R.112 at PageID 3646. She also testified, as to the line-drawing process, “we're just focused on bringing down the black population in Detroit, stretching those districts out into the suburbs surrounding Detroit to add white voters, making the districts thinner and skinnier within Detroit to reduce black voters and trying to hit those targets of 35 to 40 percent and 45 to 50 percent.” *Id.* at PageID 3651. That districting strategy was necessary, Szetela testified, “[b]ecause the population is just so concentrated that if you pull black people out of one neighborhood and move them into another neighborhood in Detroit, it's just not going to fix the problem because that's where people live.” *Id.* at 3684. The results of the line-drawing process itself support all those assertions.

Szetela also testified that, “[a]ny time there was a conflict between a community of interest and Voting Rights, the Voting Rights Act prevailed.” *Id.* at 3663-64; *compare, e.g.*, MICRC Tr. at 6619-20 (Adelson: “I think that the issues about communities of interest and keeping sort of communities together as I've read a lot of public comments in general . . . . But I think it is very important from a compliance standpoint to look at the ranked criteria and the number one criteria is the U.S. Constitution and Federal law.”); *id.* at 7242 (Eid: “So, I mean, I'd be welcome to any advice from anybody to figure out a way to not split it up but I think right now what we've heard is this map is currently not compliant and we need to get it to be compliant.”). For example, Szetela testified that, when the Commission drafted Senate District 8, it “grab[bed] Birmingham, which is an extraordinarily wealthy [and] white area,” and “pulled [it] into Detroit.” R.112 at PageID 3734; *compare, e.g.*, MICRC Tr. at 7451 (Clark: “When you go into Birmingham, we are

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stretching this all the way from mid-Detroit all the way up there.” Szetela: “What other way is it to get VRA [compliance]?”). She likewise testified that, as to Senate District 3, the Commission drew the lines from inner Wayne County to “out farther into Macomb and Oakland counties” to add white voters. R.112 at PageID 3741-42; *compare e.g.*, MICRC Tr. at 7449 (Szetela: “I think it’s good. I think you brought [the BVAP] down . . . you are right in the sweet spot at this point.”).

Yet Anthony Eid—the first of the four commissioners whose testimony the Commission now cites—disagreed with Szetela’s testimony. Eid was the Commission’s principal fact witness at trial. In testimony that the Commission now cites, Eid said that “there was no BVAP target and we could not use a target” in the Commission’s map-drawing in Detroit-area districts. R.104 at PageID 2852. But that assertion is belied not only by hundreds of citations to the contemporary record cited above, but by Eid’s own statements during the mapping process. For example, on September 30, 2021, alone, Eid said all of the following:

What is the Black VAP on [draft house district] 21 currently? Still 64 so it’s still high, higher than I think we would like it to be.

I hate to split them [*i.e.*, a Grosse Pointe COI] up but I think for this house map I don’t see another way to do it because that is where the white population is around Detroit.

MICRC Tr. at 7241-42.

I think the purpose [of some changes Eid had just made to the map] was to shift the Black voting age percentage from District 4 I’m sorry District 6 which was at 67% lower. So now instead of having one District way over on the percent we [ne]ed to hit we have two that are close to being around the 45-55% range which I think is more in line with what we need to get than the 68% range it was at before.

*Id.* at 7277.

what is the actual target we need to hit. As you said earlier, we are not going to be able to get to 35-40 percent for every one of these Detroit districts I mean I don’t see a way to do it.

*Id.* at 7283. Similarly, on October 4, Eid said:

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Mr. Adelson, I appreciate all of the advice that you give us but I got to be honest I'm becoming increasingly uncomfortable with this direction we're going under. . . . But it's just making me a little uncomfortable having to hit these percentages that are low I would be more comfortable with 45% but 35% thank you Commissioner Curry. (Who then says: "Absolutely I'm in full agreement with you.").

*Id.* at 7483. The Commission also cites the following testimony from Eid with regard to predominance:

This was a multi-factorial and multi-variable process that included many different variables, as we've talked about today and will talk about over the next few days, and it created a situation where we took a holistic view at all of the variables and not just one. There was not one issue that predominated over this process.

R.104 at PageID 2845. Eid's testimony as to racial predominance, however, was palpably rote and rehearsed. He repeated over a dozen times, for example, that the Commission had "many reasons" for its line-drawing decisions in the districts at issue here. *See id.* at PageID 2867, 2869, 2872, 2874, 2876, 2877, 2879, 2882, 2885, 2892, 2895, 2900, 2905, 2912. All that testimony was more scripted than probative.

Finally, though we take no pleasure in mentioning it, cross-examination revealed that—the year before Eid joined the Commission—another public entity had formally sanctioned Eid for dishonesty. *Id.* at PageID 2943, 2945-47. And Eid's testimony before us was by turns implausible and evasive. In demeanor and substance alike, Eid was not a credible witness.

The other three commissioners whom the Commission cites now were on the whole credible witnesses. Commissioner MC Rothhorn, for example, was an open, direct, and engaging witness. In testimony the Commission cites here—and in response to a question whether "the Commission let issues of race dominate this criteria"—Rothhorn answered, "[m]y personal memory is no, and it sure seemed like it when [Szetela's] testimony was being given, but my memory is no." R.112 at PageID 3771. A few minutes before, however, Rothhorn testified that

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his memory on this issue was “foggy” and that “[Szetela’s] memory was really great.” *Id.* at PageID 3766. And in nearly the same breath Rothhorn testified that, “I think with the first criteria being population and the Voting Rights Act, it was very important to get that one right first.” *Id.* Rothhorn also agreed that many of the Commission’s revisions to its maps involved “lowering the black voting age population,” and that the purpose of those revision was “I think to comply with the Voting Rights Act.” *Id.* at PageID 3765. Relatedly, Rothhorn testified that the Commission had used the “spoke” concept in mapping, and that its purpose was to “[m]ove out of the Detroit area where the black population is into the suburbs where the white population is.” *Id.* at PageID 3776. And when asked “[w]ere you ever yelled at for drawing districts in Detroit that had BVAP levels that were too high[,]” Rothhorn answered:

So, I certainly appreciate the sentiment. I don’t—I honestly don’t remember, but I remember extreme tension and feelings of—yeah, that feeling of being yelled at or—yeah.

*Id.* at PageID 3772.

In the contemporary record, too, Rothhorn regularly discussed the Commission’s BVAP target. For example, on one occasion he told a commissioner, “[w]e are currently at 43.25 so you want to try to get it to 35-40” percent BVAP and reminded him that “we are not focusing on” communities of interest. MICRC Tr. at 7446-47. Later, he told another commissioner that in “Oakland County the target is 42 to 43ish.” *Id.* at 7449. He also said, “I think what we can interpret from [our legal counsel’s] advice is if we don’t try to get to 35%, we have not done our due diligence and therefore we may be exposing ourselves to a legal risk we might be able to defend ourselves against but can’t guarant[ee] that.” *Id.* at 7439.

The Commission also cites the testimony of Juanita Curry. Specifically—in response to the question whether “the Commission let issues of race dominate in its application of this



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criteria”—Curry testified that, “[t]o my knowledge, I was not even thinking on that level at all throughout my whole process. It never dawned on me that we would even do anything like that so, no.” R.112 at PageID 3789. But Curry’s memory of the Commission’s proceedings was perceptibly shaky at trial. *See, e.g., id.* at PageID 3784-85. And during the Commission’s meetings themselves, for example, her revisions to one district “took out a lot of African/American population.” MICRC Tr. at 7235. Yet the BVAP for that district remained high, and she said the “only way to go is up north” to reduce it. *Id.* at 7239.

Finally, the Commission cites the testimony of Erin Wagner. Specifically—in response to a question whether “the Commission allowed partisan fairness to take priority over other considerations”—she testified:

I think, yes, we did—we did do that, but I also think that we just—we were 13 citizens that didn’t know what we were doing, and we were looking to people that were, you know, told—we were told were experts, so of course you’re going to lean on expert’s opinion.

R.112 at PageID 3807.

But Wagner also testified that she had felt like mapping Detroit-area districts was like playing “Blackjack,” explaining:

we were listening to all the people in Detroit and all the African American people state what their communities of interest were, and I was under the assumption, like [Rothhorn], that communities of interest was the main thing, but when we were given the percentages that we had to get down by, we were constantly having to drop those BVAP percentages down.

*Id.* at PageID 3803-04.

The testimony of none of these witnesses remotely displaces any of our findings based on the voluminous record evidence catalogued above.

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b.

The Commission also asserts that “[p]olitics better explains the lines” of the districts at issue here. R.115 at PageID 4016. As support, the Commission invokes not a word from the contemporary record of its work. And the Commission concedes that—unlike the racial-percentages tool, which the Commission employed on its mapping software from day one—its partisan-fairness tool was not activated until early October 2021. *Id.* at PageID 4018. Yet the Commission asserts that “the Commission” evaluated “every single” one of its completed maps for partisan fairness as they worked in September. *Id.* (alteration omitted). As support, the Commission cites the following testimony from Eid, which reads in full:

Every single time we completed a map, before we got our own internal partisan fairness tool, I would upload our completed maps into [third-party online] software to figure out if we were on the right track or not.

R.104 at PageID 2829.

We have no reason to doubt that Eid did as he said—on that point his testimony was credible—but to say on the basis of this testimony that “the Commission” did these evaluations is an overstatement. And meanwhile the commissioners said hardly a word about partisan fairness during their September mapping.

The Commission otherwise cites the testimony of one of its expert witnesses, Jonathan Rodden. Specifically, quoting Dr. Rodden, the Commission says that, “[b]ecause ‘Democrats in Michigan’ are ‘concentrated’ in Detroit, ‘a plan that’s drawn without regards for partisanship will generate extremely Democratic districts,’ which in turn ‘makes for an inefficient distribution of support across districts.’” R.115 at PageID 4017 (citing R.106 at PageID 3120-21). But the evidence afforded by Rodden’s testimony was purely circumstantial: his point, simply stated, was

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that the district lines at issue here improved the partisan fairness of the Commission’s maps, and thus one might infer that partisan fairness was the object of the Commission’s map-drawing.

So far as the direct evidence of the Commission’s intent was concerned, however, Rodden had nothing to say. He admitted on cross-examination that he had not “read the transcripts of the Commission meetings” or done anything else to learn about the direct evidence available in this case. R.106 at PageID 3175-76, 3186. He also admitted that the statements of “the map drawers themselves, can provide critical evidence” of what predominated in their decision-making. *Id.* at PageID 3188. More to the point, Rodden said he had testified in another redistricting case—the *Bethune-Hill* case that the Supreme Court eventually decided in 2017. *Id.* at PageID 3176. And Rodden admitted that, in *Bethune-Hill*, he *did* review the contemporary record of the map drawers’ work “in painstaking[] detail,” and indeed made that record the basis of his testimony there. *Id.* at PageID 3180. But Rodden did none of that work here. (In fairness to Rodden, he explained that the Commission’s counsel had not asked him to review the contemporary record, which itself yields an inference.) Rodden’s testimony was therefore an abstraction, without any connection to the Commission’s record. His testimony does nothing to rebut the direct evidence that partisan fairness was subordinated to racial line-drawing for the districts at issue here.

All that said, the Commission did strive to improve partisan fairness in districts outside the Detroit area. But when the Commission drew Detroit-area (or “VRA”) districts, as shown above, it pointedly did not allow considerations of partisan fairness to intrude. The boundaries of the districts at issue here—stretching far into Oakland County and even beyond M-59 in Macomb—did improve the 2021 maps’ partisan-fairness scores. But that was merely a byproduct of the Commission’s racial line-drawing. What improved those scores was the Commission’s decision intentionally to distribute African-American voters across a greater number of districts around

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Detroit. That racial line-drawing reduced Democratic majorities in general elections, leading to higher partisan-fairness scores—to the detriment, plaintiffs say, of their ability to elect their preferred candidates in Democratic primaries. Partisan fairness had little to do with the boundaries of the districts at issue here.

c.

The Commission’s next argument as to predominance is that it “gave overriding consideration to communities defined by actual shared interests.” R.115 at PageID 4019-21 (internal quotation marks omitted). As support, the Commission does rely on 18 citations—most of them to only a page or two—to the Commission’s meeting transcripts. *Id.* at PageID 4020. Seven of those citations are to discussions about communities of interests in areas well outside Detroit, including Muskegon County (near Lake Michigan, north of Grand Rapids), Lansing, Ann Arbor (some 45 miles away from Detroit), and Monroe County (ditto). *See* MICRC Tr. at 5514-17, 5526, 5559, 5562, 5576-77, 5596-97, 5603. Those discussions are irrelevant here.

The remaining 11 citations are to discussions among commissioners on a single day—namely September 9, 2021, which was the Commission’s first day of drafting its Detroit-area senate maps. *See id.* at 5661-65, 5667-70, 5680, 5683-85, 9986-96, 9999, 10001-02, 10004, 10008, 10011-13, 10019. Two of those 11 citations are to discussions about communities of interests that the Commission eventually split up—such as the Downriver community of interest whose fragmentation, four days later, distressed Commissioner Witjes. *Compare id.* at 5680 with 5912; *see also id.* at 10004. Those discussions likewise do not support the Commission’s point.

That leaves nine citations to different parts of the September 9 transcript. The Commission offers no explanation as to why these discussions (or any of the discussions it cites) support its assertion that communities of interest were an “overriding consideration” or even on par with the

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Commission’s BVAP targets as it drafted Detroit-area districts. Instead we just get the bare cites. Nor do we see these discussions as supportive of the Commission’s point. In two of them, rather, Adelson or a commissioner warns the group to be mindful of the districts’ BVAPs. *See id.* at 10008, 10013. And the remaining seven citations are simply to pages where a commissioner talks about a community of interest. None of these seven discussions involve talk of any tradeoff between COIs and the BVAP targets, or between COIs and any other criteria at all. Moreover, at the end of the mapping process, not a single one of the Commission’s Detroit-area Senate districts had a BVAP exceeding the 35-45% target range. None of these 18 citations to the meeting transcripts, therefore, undermine our conclusion—based on all the evidence cited above—that the Commission subordinated communities of interest to hitting its BVAP targets.

Two other points bear mention regarding the Commission’s assertion about “communities defined by actual shared interests.” At trial, two former state legislators from Detroit—Virgil Smith and Lamar Lemmons III—provided a ground-level perspective on what some of these Detroit-area districts were like. In 2022, Smith was the campaign manager for an incumbent state senator, Marshall Bullock of Detroit, who ran in the Democratic primary in the newly drawn Senate District 8. R.102 at PageID 2748. That district reaches north to include all of Birmingham. And in that election white voters rejected Bullock by a margin of 96% to 4%—which allowed their preferred candidate, from a Detroit suburb, to win the primary and then the general election. R.71-1 at PageID 1076. Smith testified about the difficulty that black candidates have campaigning in predominantly white suburbs—where, he explained, “the issues [that voters care about] are completely different.” R.102 at PageID 2750. Smith testified that “the more affluent the territory got” as Bullock’s supporters were canvassing, the less likely it was that voters would answer the door. *Id.* at PageID 2754. He testified: “We have a hard time getting them to answer the door for

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us, and if we can't get them to answer the door for us, how can we sell ourselves as a candidate to the new voters?" *Id.* at PageID 2750. And the attitude of some voters, he testified, was that "we have no business being out there." *Id.* Lemmons testified similarly, saying that he would hire white canvassers to cover those areas. *Id.* at PageID 2773.

Second, as a circumstantial matter, that the Commission put cities like Gross Pointe, Bloomfield Hills, and Birmingham—some of the wealthiest cities in Michigan, where Porsches and Range Rovers are commonplace, and Cadillacs more numerous than Chevrolets—in the same districts as some of the poorest neighborhoods in Detroit, itself belies the idea that "communities of interest" were paramount in drawing these districts. We reject the Commission's argument on this point also.

d.

More briefly, we likewise reject the Commission's argument—to which it devotes a single paragraph in its brief—that the reason the Commission extended its Detroit-area districts into Oakland and Macomb County was that the population in Detroit had declined since the 2010 census. *See* R.115 at PageID 4019. Nowhere in the contemporary record do we see any of the commissioners saying anything to that effect. Instead, they uniformly said they drew those "spokes"—as far north as Bloomfield Hills in Oakland County, and all the way to M-59 in Macomb—to reduce the percentages of black voters in those districts. *See, e.g.,* MICRC Tr. at 5902, 6157, 6482. The Commission's characterizations of its actions in this regard are *post hoc*.

In sum, therefore, we reject the Commission's contention that it did not adopt racial targets that predominated over other criteria in drawing Detroit-area districts.

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e.

Finally, in the interest of completeness, we do address one argument that the Commission has not made: namely, that inclusion of six black-majority districts in its final House Plan (called “Hickory”) tends to show that the Commission did not have a 35-45% BVAP target in drawing Detroit-area districts. By way of background (and to reiterate somewhat), the Commission released its proposed House and Senate plans for public comment on October 11. *See id.* at 8164, 8169. In both those plans the number of majority-black districts in Detroit stood at zero. Nine days later, on October 20, the Commission held its public hearing at the TCF Center. And there—not to put too fine a point on it—the Commission endured a nine-hour pounding from Detroit residents who were distressed, above all, about the proposed absence of any majority-black districts for their city.

A week later, before resuming any of its mapping work, the Commission (at the urging of its lawyers) took the extraordinary step of going into a closed session, where everything they said, Pastula announced, must remain confidential. During that session, Adelson said that “one of the things we have to stress, emphasize, insist on, plead, beg and say please, please don’t use phrases about adding black people, subtracting black people, adding white people, subtracting white people.” R.126-1 at PageID 4579. He then said that “a path forward” for the Commission—toward what, he did not expressly say, but the context, before and after, makes clear enough that he was alluding to raising the BVAPs in some districts—would be to invoke “communities of interest.” *Id.* at PageID 4572. Kellom and Orton understood his point, with Orton saying, “when we’re talking about this, if we choose to put anything together that we currently have separated, we go back to communities of interest. It’s a community of interest thing, not a VRA thing.” *Id.* at PageID 4588. Lett then spoke more directly, saying that the Commission could define

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communities of interest however it likes, and so COIs could give the Commission “cover.” *Id.* at PageID 4603.

Szetela testified that, before the Commission’s meeting the next day, Rothhorn and Kellom spoke to her and said that “they wanted to fix Detroit and they wanted to increase the black voting age population and that they had had a discussion with Bruce Adelson that they could do that as long as they used neighborhoods as the basis.” R.112 at PageID 3718. (Adelson had many sidebar discussions with commissioners. *See, e.g., id.* at PageID 3767 (Rothhorn); *id.* at PageID 3611 (Szetela)). Based in part on what followed, we find that testimony credible. During the Commission’s meeting on November 2—the first day it worked on its house maps after the TCF hearing—Adelson told the commissioners the following:

[G]oing higher with the BVAP as you’re reuniting the neighborhoods, as we were doing earlier, that is fine under the Michigan Constitution with the criteria number three. The diverse communities and the communities of interest. I just wanted to make that clarification.

MICRC Tr. at 9188.

Rothhorn then said that he and Kellom had been working on some “major changes” to the house maps. *Id.* at 9199-9201. Kellom explained that “we are offering this as a way to move forward in the Detroit area” and “reunite some of the neighborhoods.” *Id.* at 9206-07. Szetela objected, saying “I don’t remember Commissioner or individual commenters saying that they wanted neighborhoods put back together. I remember a lot of comments about wanting minority majority districts with more than 50% African/American and I don’t remember much of anything about neighborhoods honestly.” *Id.* at 9207. Pastula interjected: “I think what I hear Commissioner Kellom discuss is, again, the third criteria of diversity and communities of interest . . . [and] the focus of uniting neighborhoods[.]” *Id.*



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The Commission then moved forward with revisions according to Rothhorn and Kellom's proposal. Then they checked the BVAPs for the house districts. That showed two things. First, that in five House Districts—namely, House Districts 4, 5, 6, 9, 16, and 18 (districts not challenged here), the BVAP rose up above 50%. Second, that in House Districts 1, 7, 8, 10, 11, 12, and 14 (which are challenged here), the BVAPs remained relatively stable—and indeed in House Districts 1, 10, 11, 12, and 14, the BVAPs dropped even further (though still within the 35-45% range). When they were done, Adelson said: “So the numbers to me I think I'm good with them. The I think the numbers are an improvement in the sense of responding to concerns about that I took to be community based. So those are my thoughts.” *Id.* at 9256.

From this sequence of events—beginning with the criticism the commissioners had endured at the TCF hearing—one could easily conclude that they invoked “neighborhoods” (mentioned 125 times in that day's meeting) and “communities of interest” (mentioned 99 times) as pretexts, or “cover” (as Lett had said), for simply wanting to raise the BVAPs in some house districts. (Six of them, as it turned out in the final house plan.) And thus one could easily conclude that raising those BVAPs amounted to just so much more racial-line drawing.

But we need not make that determination here. For even if one accepts the “neighborhoods” rationale for those changes, that would mean only that the Commission carved out an exception—in those six house districts—to the BVAP targets that predominated in the Commission's mapping process for Detroit-area districts generally. None of the BVAPs in the Commission's Detroit-area senate districts changed materially after the TCF hearing. Those districts lines were thus still based on the BVAP targets that predominated before. The same is true for the seven house districts at issue here. **It remains true, therefore, that the Commission**

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drew its Detroit-area district lines—including the lines for every house and senate district at issue here—based predominantly on its racial targets.

3.

Racial gerrymandering claims apply “to the boundaries of individual districts.” *Ala. Legis. Black Caucus*, 575 U.S. at 262. Yet what we have already said, in the preceding 81 pages, should be enough to decide this case: the Commission generally drew its Detroit-area districts based predominantly on race, and the districts here were no exception. But again, in the interest of completeness (and with apologies for some repetition) we will examine the evidence specific to each district at issue here. That evidence only confirms that race predominated in drawing each of these districts.

a.

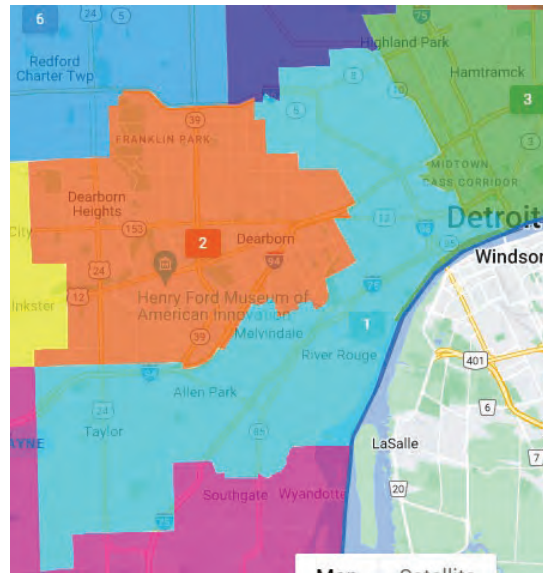
We begin with Senate Districts 1, 3, 6, 8, 10, and 11. The Commission drafted those districts (and others in Detroit) principally on September 9, 13, 14, and 15, 2021, on October 4, 11, 28, and 29, 2021, and on November 5, 2021. The Commission adopted the final version of the plan—renamed the Linden plan—on December 28, 2021. As enacted, each district’s black-voter percentage (apart from SD11) fell within the range prescribed by Bruce Adelson.

<b>District No.</b>		<b>1</b>	<b>3</b>	<b>6</b>	<b>8</b>	<b>10</b>	<b>11</b>
	Date	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP
<b>Linden Plan</b>	12/28/2021	35.03	42.09	39.15	40.25	40.43	19.19

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(i)

*Senate District 1.* This district (which began as Senate District 17) is located entirely in Wayne County, and has a black-voting age percentage of 35.03.



As initially drafted (on September 13), this district ran from Melvindale and River Rouge (at its north end) down along the Detroit River through Trenton and Gibraltar (at its south end). So drafted, its black-voter percentage was 10.98. But the Commission thereafter looked for other districts—with lower BVAPs—where it could put black voters to “balance out the population in Detroit.” MICRC Tr. at 5912. This district was one of them.

Specifically, the Commission removed from this district mostly white neighborhoods further south (“Downriver”) and added mostly black neighborhoods in central Wayne County (including part of Davison-Schoolcraft and Dexter Linwood). *See id.* at. 5911-12. But when it first did so (on September 15), Commissioner Witjes objected:

Szetela: Go down . . . and try to fix that quickly. By taking off some of the Down River community. So we are going to work from the bottom. Go to the Township level. Commissioner Witjes?

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Witjes: Why exactly are we messing with the down river community on the south border based on all the praise that we receive that that's basically a perfect District from everyone that lives there.

Szetela: Because we are going to have to, to balance out the population in Detroit.

Witjes: I disagree completely.

Szetela: Okay.

Witjes: I mean where are you drawing this conclusion from out of curiosity? Because I don't see it.

Szetela: From what our voting rights expert indicated our populations were too packed.

*Id.* at 5912. Those changes and similar ones increased the district's BVAP from 10.98% to 34.86%. Yet on October 4, once the district had taken form, Commissioner Curry complained about its "crazy" and "terrible" shape. This exchange followed:

Rothhorn: I think the reason it's drawn if my understanding is correct Commissioner Curry it's related to the VRA. Right where the white and Black populations are balanced so yeah.

Curry: It may be balanced but it looks too crazy.

*Id.* at 7469. The Commission's Secretary, Sarah Reinhardt, then reminded Curry that "compactness" was the Commission's "lowest ranked criteria." *Id.* at 7470. But Curry again objected, this time speaking more generally about how the Commission had "chopped up Detroit."

*Id.* at 7479. Rothhorn again tried to explain why the Commission had "split Detroit":

The reason I think we are trying to split it is we are trying to get the numbers that we were given from Dr. Handley at 35% with the Black voting age population that is 35% so we did our best to try to draw that with that kind of understanding that the Black voting age population can elect a candidate of choice. I don't think there are any districts even though they may not look like it. And it looks like it's splintered. But there is no District in here with a Black community cannot elect its candidate of choice.

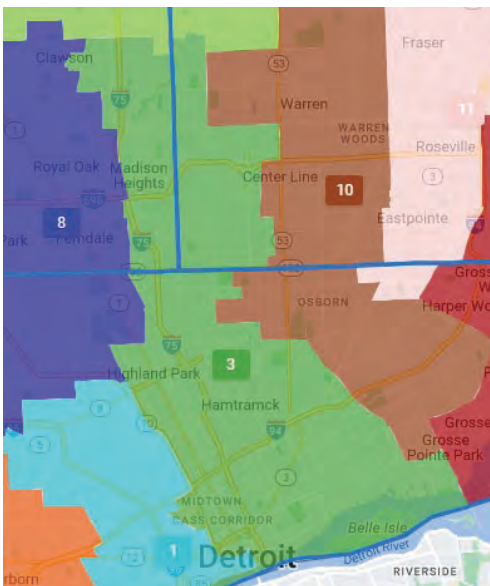
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*Id.* at 7480. When the Commission completed Senate Plan 199 (on October 4), the district that became Senate District 1 had a black-voter percentage of 36.73. The Commission thereafter made only minor adjustments to the senate maps; and the enacted version of this district—Senate District 1—has a black-voter percentage of 35.03.

(ii)

*Senate District 3.* This district has a black-voter percentage of 42.09 and encompasses parts of Wayne, Oakland, and Macomb County.



The district runs from the Detroit River (including Belle Isle) through Hamtramck, all the way up to 14 Mile Road—where it combines at its north end parts of Clawson (in Oakland County) and parts of Warren (in Macomb County).

Here, too, the contemporary record shows that race predominated when the Commission drew this district. In its initial form, Senate District 3 (which began as Senate District 8) was majority-black, with a BVAP of 50.82%. But the Commission thereafter deliberately reduced that number to comport with Adelson’s directive. On October 4, for instance, while Commissioner Weiss was leading the mapping session, he asked:

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Weiss: All right, I guess I'm looking here and are we going to try to do something with [this district]?

Rothhorn: Yes. We are currently at 43.25 [BVAP] so you want to try to get it down to 35-40.

Weiss: Yes, I don't think my eraser is big enough.

....

Szetela: Just for the public listening, MC Rothhorn was discussing with Commissioner Weiss the populations we are looking at . . . [including what became Senate District 3] . . . And just directing him those are the districts we are trying to remedy and bring into compliance.

Weiss: All right my suggestions from anybody? I guess I need some help on this one.

....

Rothhorn: I can help too. One of the things I believe that District [] is where again we are not focusing on [communities of interest] so I want to offer this as a way to . . . decrease non-Hispanic Black . . . And increasing our VRA compliance.

*Id.* at 7446-47. Rothhorn thereafter suggested moving the district slightly north (into what was then Senate District 16). Commissioner Weiss did so, namely, by “add[ing] a little more of Clawson”—an Oakland County suburb with a white population over 91%. *Id.* at 7448; *see* Clawson city, Michigan, U.S. Census Bureau, <https://www.census.gov/quickfacts/clawsoncitymichigan> (last visited Dec. 21, 2023). After Weiss did so, Commissioner Lett asked:

Lett: What's the target for Macomb? Oakland.

Rothhorn: Oakland County the target is 42 to 43ish.

Lett: We are kind of splitting the difference right now.

Szetela: Yep.

MICRC Tr. at 7449. The black-voter percentage dropped accordingly, and Szetela remarked: “I think it's good. I think you brought it down so as [Lett] said you are right in the sweet spot at this point.” *Id.*

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That same afternoon, Rothhorn asked Adelson to “help” the Commission determine whether this district, with its African-American population, still provided black voters with the opportunity to elect their candidates of choice. He explained:

[W]e deliberately tried to unpack [several districts, including what became Senate District 3] because those are the highest percentages. And we brought them down significantly. And if you would like those numbers, I can give those to you.

*Id.* at 7487. Adelson agreed, remarking:

We talked about a systematic approach to compliance and that is very important for the record and record keeping in general so I would like to . . . work our way down the list.

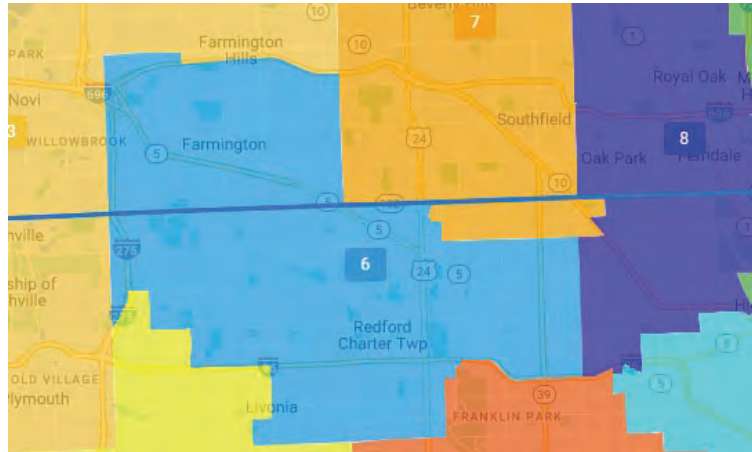
*Id.* When the Commission got to what became Senate District 3—which at that point had a black-voting percentage of 43.35—Adelson confirmed that “all reveals candidates of choice being elected . . . [a]cross the board so I think for now let’s put an okay and go to our next District.” *Id.* at 7493.

The Commission thereafter made only minor adjustments to this district—and the black voting age percentage stayed virtually frozen; as adopted by the Commission, Senate District 3 has a black-voter percentage of 42.09.

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(iii)

*Senate District 6.* This district has a black-voting age population of 39.15% and encompasses parts of both Wayne and Oakland County.



The Commission reached that BVAP in Senate District 6 (which began as Senate District 9) by moving Southfield (a predominantly black city) into what became Senate District 7 (which in an earlier map was Senate District 14). Simultaneously, it brought Farmington (a predominately white city) into Senate District 6.

When the Commission began mapping on October 4, the black-voter percentage in this district was 51.99:

Szetela: I think you need to take Black population at this point. What you can do by bringing [this district] down.

...

Orton: Well from what I think [what became Senate District 6] is overpopulated . . . So . . . we want to reduce the African/American population in [this district] so what if we took all of Southfield and put it up into [another district] wouldn't that possibility take care of all those problems?

Rothhorn: I think that is what Commissioner Lett was suggesting too.

Szetela: Right. So you will bring [another district] down [into Southfield] and probably when you do that might have to take [what became Senate District 6] into Farmington a little bit. It's like you are working at a puzzle here. Shifting things around.

...



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Szetela: Yes, balance [it] out and then you're going to bring it into Farmington and that will reduce your African/American population.

...

Eid: And I'll point out too because [what became Senate District 6] is mostly in Oakland County we can probably get away with that 43% [BVAP] instead of going down to the 40% number.

Szetela: That's true.

*Id.* at 7452-59. By removing Southfield (mostly black) and adding Farmington (mostly white), the black-voter percentage fell by over 10%—down to 40.03%. Later on October 4, Rothhorn confirmed that these adjustments had the desired effect: “Correct so [this District] went from 50 to 40.7[%] so that is excellent.” *Id.* at 7464. Commissioner Witjes replied:

Yep, perfect. So I think I'm done at this particular point then for rationale these adjustments [are] taking into account the Voting Rights Act and looking at the voting age population and the Black voting age population to make them so that . . . the districts are able to elect candidates of choice and by definition . . . we are taking into account diverse population of the State of Michigan. Erasers down.

*Id.* At trial, Szetela testified specifically about this district, confirming what the contemporary record shows:

We reconfigured [this District] to bring it farther over into kind of the Livonia area, bring in white voters there, because Southfield has a significant black population so we needed to go west on that one to reduce the BVAP. And so, again, we're just stretching things out into areas where we know that white voters are making these districts in Detroit skinner, narrower to cut down the black population.

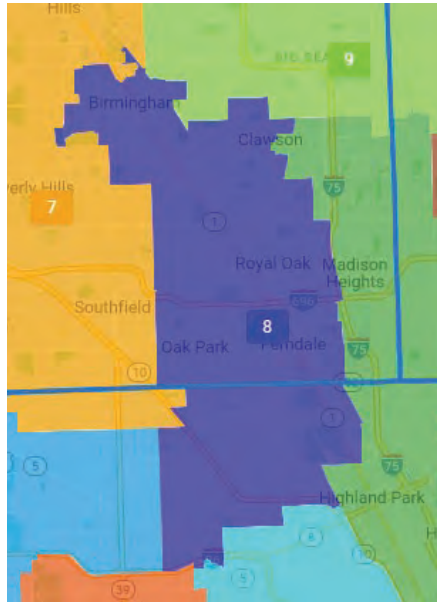
R.112 at PageID 3645-46.

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(iv)

*Senate District 8.* This district has a black-voting age population of 40.25% and crosses the county line between Wayne and Oakland County.



When the Commission first drafted this district (which began as Senate District 13), its shape was wide—stretching mostly east to west—and it encompassed large portions of predominantly black neighborhoods in Southfield and Lathrup Village (both in Oakland County). So drafted, its black-voter percentage was 63.77. But on September 15—two days after Pastula told Szetela that she and Adelson were “alarmed” by that number—the Commission reduced the black-voter percentage by narrowing the district and stretching it north to south. *See* Pl.’s Ex. 5 at 45. That day, Rothorn explained their “rationale,” saying, “the reason I’m doing this . . . is to decrease the minority percentage, right, to have a more balanced Black-white ratio and not just Black and white but nonwhite and white balance.” *Id.* at 5898. He further explained:

I’m comparing it and we reduced it and it’s relatively high and it’s important – what I’m thinking about is flagging this in terms of VRA right in terms of the notes that we will follow-up with Bruce on it but this is in terms of, yeah and it’s too high, the percentage is too high and want to chip away at it. What I found is trying to improve

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the percentage of 13. . . . So moving west. I wasn't able to improve the minority percentage.

We have high minority populations in Lathrup Village and Southfield and definitely in the Detroit area so [another district] we have to go further north. And so what I'm going to do is suggest in [what became Senate District 8] any way we, yeah, I guess I'm going to suggest that we have to keep it but I want to get closer to the population. So I want to take off the northern so I think the southern end we have to keep unless other people have ideas. This is where you know again to decrease the minority percentage and increase the white or you know the people of color are too high at this point.

*Id.* at 5899. A few minutes later, however, Lett told Rothhorn, "looking at the percentages on voting whites and Blacks . . . it appears to me there is a lot of work that's got to be done to get the percentages down under 50." *Id.* at 5903. Rothhorn responded:

Yeah, so maybe so what I'm hearing you say [Lett] which acknowledges [this District] is not good. . . . let's keep playing because we know this one has to change. . . . [this District] is not okay.

*Id.* at 5904.

Yet at the end of that day's mapping session, the Commission had reduced the black-voter percentage to 59.06—just four points lower than it had been two days before. Thus, on October 4, the Commission again sought to reduce that percentage. They did so by further narrowing its shape and driving north into predominantly white suburbs—indeed as far as Birmingham, which is 87% white, and whose residents have a median household income of \$151,556:

Witjes: Let's go – let's keep going north . . . . Go as far into Birmingham. Anyone have a thought?

Szetela: I'm sorry could you repeat that.

Witjes: [This District] extending north into Birmingham.

Szetela: Why not. We got to get the VRA right and that is number one so.

Mr. Morgan: Birmingham not Troy?

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Clark: When you go into Birmingham, we are stretching this thing all the way from mid-Detroit all the way up there.

Szetela: What other way is it to get VRA.

Curry: That is okay. You can do that.

Clark: I know we can do it.

*Id.* at 7450-51; *see also* Birmingham city, Michigan, U.S. Census Bureau, <https://www.census.gov/quickfacts/fact/table/birminghamcitymichigan/PST045222> (last visited Dec. 21, 2023).

That change reduced the black-voter percentage significantly, from almost 60% down to 48%. *See* MICRC Tr. at 7452 (Witjes: “So . . . 48% Black voting age population so it’s going down.”). But it also increased the district’s overall voting-age population, making it overpopulated (for purposes of achieving “equal population” in all districts) by roughly 36,000 people. *Id.* Commissioner Witjes therefore suggested a solution—namely, to remove “piece[s]” of Detroit, so that both the total voter-percentage and the black-voter percentage decreased simultaneously. *See* MICRC Tr. at 7452-53. Those changes had the desired effect:

Witjes: And what was the percentage that [this District] should go down.

Rothhorn: Started 57.32 now we are 44.13 nice work.

Witjes: What does it need to go down to?

Szetela: Wayne is 40 ideally. 35-40%.

*Id.* at 7453. By the end of the day on October 4, the Commission had reduced the black-voter percentage slightly more, to 42.45%. And after October 4, the Commission made only minor changes to the district; as enacted, Senate District 8 has black-voter percentage of 40.25. Commissioner Szetela explained at trial what the contemporary record shows:

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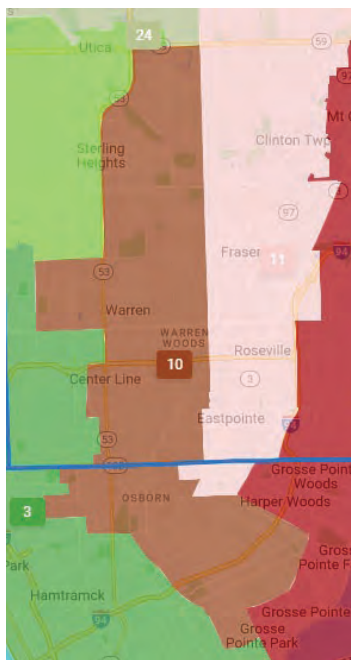
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[This District] was originally entirely up in Oakland County with just a very small amount in Detroit. We've now brought it down, almost half of it into Detroit. . . . And so, again, we're just stretching things out into areas where we know white voters are making these districts in Detroit skinnier, narrower to cut down the black population.

R.112 at PageID 3645-46.

(v)

*Senate District 10.* This district encompasses parts of Wayne and Macomb County and has a black-voter percentage of 40.43. Its shape is irregular, running north to south—from roughly 19 Mile Road down to 8 Mile Road—where its southernmost portion hooks east into Wayne County.



On October 4, this district (which began as Senate District 6) had a black-voter percentage of 49.38. As a result, Szetela identified this district as one where “we [] still have some VRA work to do[.]” MICRC Tr. at 7438. Rothhorn agreed, reminding the group to keep Dr. Handley’s racially polarized voting analysis in mind:

It might help Commissioners if you are looking at Lisa Handley’s presentation Page 20 the map that shows the State House districts and the State Senate districts for

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the 2010 maps what she shows on that Page 20 is the areas that are packed and what she describes as the most packed is 50% to 70% meaning if we are in 50%, we are not unpacked [] and if we are 40%, we have not unpacked it.

The map shows where we should target. All those districts [including what became Senate District 10] are all in the area if we are 50% range it's just as packed as it was in 2010. That's kind of the map I'm reading here.

*Id.*

Commissioner Vallette then led the mapping session during which the Commission modified this district's boundaries. To reduce the black-voting age percentage, Vallette narrowed the district and extended its northern edge further into Macomb County—all the way up into Sterling Heights and past 19 Mile Road. *Id.* at 7443. Those changes reduced the BVAP to a “hair over 40%”; but (as with Senate District 8) they also caused an increase in the district's overall voting age population, making it overpopulated by roughly 7,000 people. *Id.* at 7445. Szetela noted, however, that the district as amended had “accomplished” VRA compliance and that—though still slightly overpopulated—it fell “within” an appropriate “deviation.” *Id.* But then Orton suggested a simple solution:

Orton: [I]f you took some . . . more of the higher Black population [in this District] . . . and put it [another district] that's going to decrease the population over all and it will make [the BVAP] under 40% probably.

*Id.* Vallette thereafter moved a predominantly black precinct “south of 8 mile” into the district adjacent (which became Senate District 11). As a result, both the total voter-percentage and the black-voter percentage decreased:

Vallette: I think I'm good.

Rothhorn: Yes you are.

. . . .

Szetela: Brought your African/American below 40%. So now you are perfectly in the sweet spot of 35-40. All right.

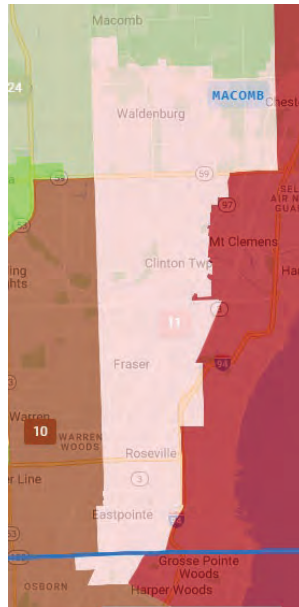
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*Id.* at 7446. Senate District 10 thereafter changed only slightly; in the map completed on October 4, its black-voter percentage was 41.2. As enacted in the Linden plan, that number is 40.43.

(vi)

*Senate District 11.* This district (which began as Senate District 5) has a black-voter percentage of 19.19 and is located almost entirely in Macomb County.



Its shape is long and narrow, stretching from just south of 8 Mile Road (in Wayne County) all the way past 24 Mile Road in Macomb Township. As the Commission did with Senate District 1, it looked for other districts to add black voters to “balance out” Detroit. MICRC Tr. at 5912. This district was one of them. As Szetela testified at trial: “So, again, we’re trying to reduce black population [in other districts] and that requires us to grab more white population, and that also shifts some of the black population into a district where there’s very little black population. So we [took] Eastpoint[e] . . . which is predominantly black, [out of Senate District 10], and we put it into a mostly white district [Senate District 11].” R.112 at PageID 3737. And when asked, “So if you’re black and you live in Eastpoint[e], why did the Commission put you in an 80 percent

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white district[.]” Szetela answered: “[b]ecause we had to reduce the black voting population in the district adjacent to it.” *Id.* at PageID 3739.

The contemporary record confirms the accuracy of Szetela’s testimony. For example, on October 4, Commissioner Vallette “[took] the top tier from Eastpointe” out of what became Senate District 10 and put it into what became Senate District 11—which, Rothhorn observed, “reduced” the BVAP in Senate District 10 “from 47.3 to 45.8 so you are definitely heading in the right direction.” MICRC Tr. at 7442; *see also id.* (“Okay so at this point you have most of Eastpointe [in what became Senate District 11].”); *id.* at 7443 (“Again Janice for context you started 47.83 non-Hispanic Black age population [in what became Senate District 10] so you are definitely working in the right direction.”).

Thus, the Commission moved a substantial number of voters into this district based on their race. And as enacted in the Linden plan, the black-voter percentage in Senate District 11 is 19.19.

b.

We next consider House Districts 1, 7, 8, 10, 11, 12 and 14. The Commission drafted those districts (and others in Detroit) principally on September 20, 21, 22, 29, and 30, 2021, on October 5, and 8, 2021, and on November 2, 3, 4, and 5, 2021. The Commission adopted the final version of its house plan—the Hickory plan—on December 28, 2021. As enacted, each district’s black-voter percentage fell within the range prescribed by Bruce Adelson.

<b>District No.</b>		<b>1</b>	<b>7</b>	<b>8</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>14</b>
	Date	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP	BVAP
<b>Hickory Plan</b>	12/28/2021	38.03	44.29	43.70	38.79	42.82	40.99	41.11

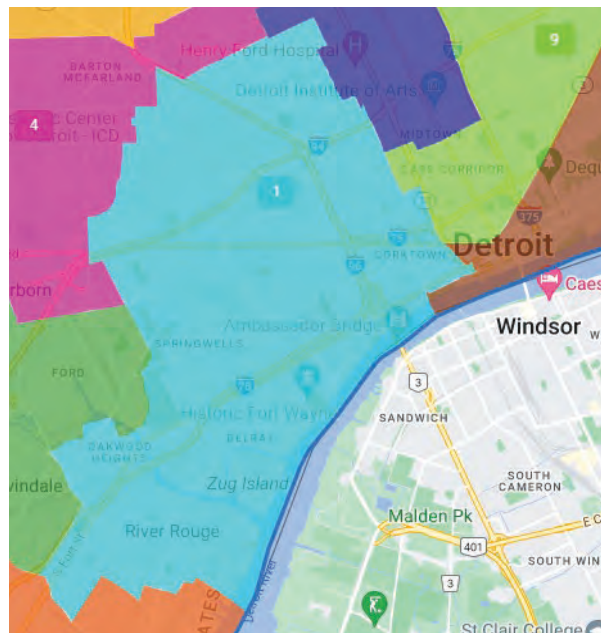


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(i)

*House District 1.* This district has a black-voter percentage of 38.03.



On September 30—the day that Pastula advised the Commission to review its draft districts one-by-one to ensure that their BVAPs fell in the range specified by Dr. Handley’s report—the Commission skipped over House District 1 because, at that point, its black-voter percentage was only 36.58. *See id.* at 7226-39.

When the Commission sought to revise the house districts for “VRA compliance” (on October 5), Weiss said that House District 1 “looks good.” *Id.* at 7639. But he also noticed that an adjacent district—which became House District 2—was “a little high”, so suggested the Commission “maybe . . . swap some stuff out here[.]” *Id.* Szetela soon asked, “Just to be clear you’re trying to increase the African/American population in one and reduce it in two is that what I’m understanding you’re trying to do?” *Id.* at 7641. Weiss replied: “Yes at least that’s what I’m thinking. Any suggestions Chairperson?” *Id.* Szetela then suggested that, based on her “familiar[ity]” with Detroit, “if you take population from two up at the top and put it into one,

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you're adding more African/American into one . . . . [s]o that might enable you to balance it[.]”

*Id.* at 7641. Weiss thereafter did so, and the black-voter percentage rose to nearly 40. *Id.* at 7642

(“now we are 39.9”).

The Commission thereafter used the bellwether-election tool to confirm that black candidates could still elect their candidate of choice (in general elections, given its limitations); and unsurprisingly, it showed that black candidates of choice (Democrats) won in landslides. *See id.* at 7649 (“District 1 is for the election results as configured now 87 for Biden, 13 for Trump, 91 for Clinton, 9 for Trump, Obama 94, Romney 6 . . . .”). Adelson utilized this as a teaching moment, to again remind the Commissioners about the dangers of “packing”:

Election results are all uniform and play out and indicate this is a [district] that performs where minority candidates of choice can be elected but going back a little bit to my discussion [from earlier] . . . . Here this is a district where the margins are very strong. So rhetorically if you were going to add additional minority population here, wouldn't that be packing? That's not necessary to elect candidates of choice. That's the key metric.

So the margins were close like 50.1 to 49.9, yeah, I think that that would make sense. But when you have margins like this, the difficulty is in justifying it why did you do that? What would be constitutional rationale? If you will so that is part of seeing in real time since the election results all play out strongly, that's the Voting Rights Act metric, ability to elect.

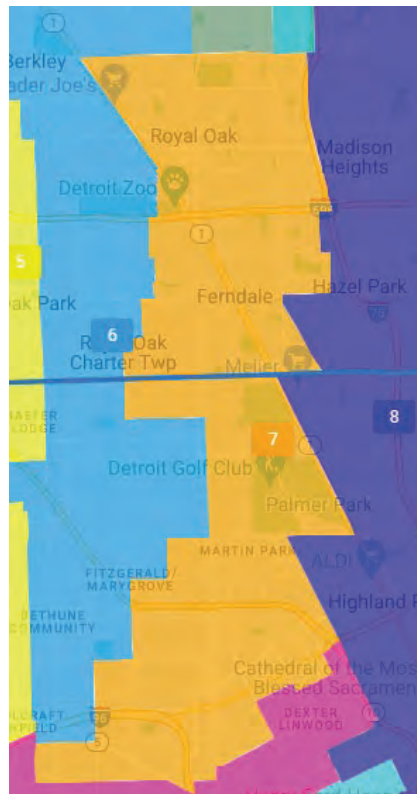
*Id.* at 7649-50.

The black-voter percentage thereafter stayed remarkably stable; as enacted in the Hickory Plan, House District 1 has black-voter percentage of 38.03.

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(ii)

*House District 7.* This district has a black-voter percentage of 44.29. It is long and narrow, stretching from Davison-Schoolcraft (in Wayne County) through Royal Oak (in Oakland County) up to 12 Mile Road.



When the Commission began mapping on September 30, the district that became House District 7 had a black-voter percentage of over 75—and Adelson therefore identified it as a “serious district[]” that “has[s] significantly more [black] population than Dr. Handley recommended in her analysis.” *Id.* at 7223. Rothhorn confirmed as much a few minutes later, saying, “I think I heard [what became House District 7] for example is one that needs to be fixed.” *Id.* at 7224. So did Curry: “I think . . . Bruce said that it was [the district that became House District 7] . . . [that was] over packed and maybe we could look [at it].” *Id.* at 7231. Pastula suggested that the Commission “scroll” down the list and identify “anything that is higher than

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40% for the Black voting age population”; she also noted that House District 7 was one she “anticipate[d]” the Commission would fix. *Id.* at 7226. A few minutes later, Pastula again told the Commission to look at the district that became House District 7 (among others) to see how the black-voter percentage “can be minimized.” *Id.* at 7229; *see also id.* at 7243 (Pastula) (“The data for [what became House District 7] is . . . 76.72 Black VAP [which] would be considered a packed District so what we were trying to do is utilizing the racial bloc voting, which the Commission with the percentage by which the minority voting population would have the opportunity to elect candidates of choice . . . so I hope that was helpful in what the goal is.”).

Szetela thereafter suggested that the Commission start there: “So [this district] is definitely the highest,” it “has 76% African/American. . . . We can certainly start with [what became House District 7].” *Id.* at 7232. As Curry began to lead the mapping session, Rothhorn gave her a reminder:

Rothhorn: I think our goal Commissioner Curry is to reduce [the BVAP].

Curry: 40, 45.

Rothhorn: Correct, yep.

*Id.* at 7234. Curry thereafter made several adjustments, one of which was to “put[] some of the African/American population from Detroit” into an adjacent district. *Id.* at 7234. Curry then asked “so we need to get rid of about how many more, unpack how many more?” *Id.* at 7325. Rothhorn explained that, consistent with the “spoke concept,” the Commission would need to draw the district further north: “[S]o we have taken away the Black population now add a white population in order to significantly reduce [the BVAP] and it looks like based on” the black-voter “theme” “it needs to be north to Berk[ley] and I don’t know what you think about as far as Berk[ley] being able to fit with this District and I think that is part of what we are struggling with.” *Id.* at 7236.

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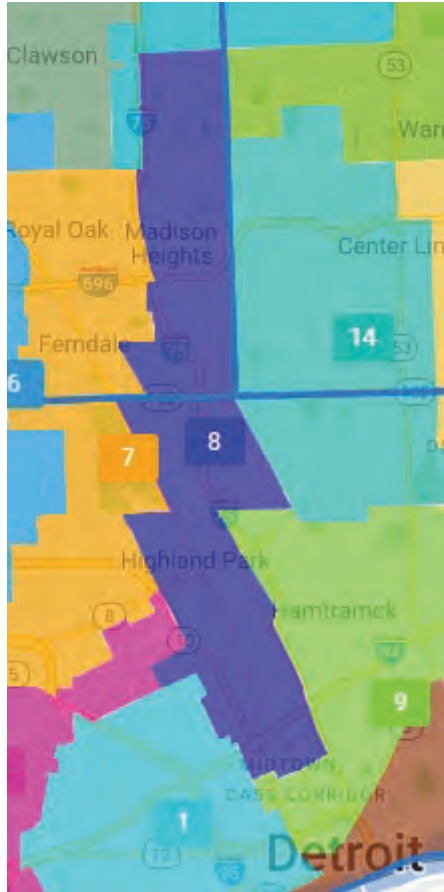
Curry then made some additional adjustments whose specifics are unclear from the record, but in any event the BVAP went down as result. Rothhorn confirmed: “Going to watch the numbers for the . . . Black voting age population so we reduced it by 13% .” *Id.* at 7239. Rothhorn then added, in apparent frustration how the district was drawn, “Mr. Adelson is asking us to experiment and don’t want to sacrifice people’s lives in the way they want their districts drawn but we do need to try it.” *Id.* By the end of the day on September 30, the district that became House District 7 had a black-voter percentage of 66.54.

On October 5, the Commission shifted what became House District 7 further east, thereby reducing the black-voter percentage substantially, to 39.85. In November, however, the BVAP for this district increased slightly. Clark said that a higher BVAP for this district “would further support what I heard at the TCF center of having more higher percentage African/American population that they have today so I think that would help what I heard at TCF.” *Id.* at 9416. As approved in the Hickory Plan, House District 7 has a black-voter percentage of 44.29.

(iii)

*House District 8.* This district has a black-voter percentage of 43.7. It is long and narrow, running from Midtown Detroit (in Wayne County) through Madison Heights (in Oakland County) and up to 14 Mile Road.

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On September 30, Adelson advised specifically that House District 8, which at that time had a black-voter percentage of 53.85 and was far more compact, was “still a little on the high side,” so he suggested “go[ing] back and see if we can make some further refinements.” *Id.* at 7282. But Eid was apparently confused, so he asked Kellom (who was leading the mapping session) for clarification, saying, “We are saying eight is still on the high side being at 53.85%?” *Id.* That led to the following exchange:

Kellom: So Commissioner Eid I was getting mixed messages I heard what Bruce said about that. And because I thought that 53 was high. But he said it’s not that high considering so I was going to stop my turn. But then we got more hands so I’m going to stop talking and I want a specific direction in terms of what to do.

Adelson: Commissioner Kellom, I don’t want you to use the term direction but I will say I wish you and I continued our collaboration with District eight to further our compliance refinement. And that the population that we will need to adjust from 8, that will you know obviously affect the connected districts. But I think that

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– my recommendation is you and I continue with eight to see how we can further improve the population[.]

....

Rothhorn: I think through the actions of Mr. Adelson and Kellom they will try to experiment to see if they can get it lower.

....

Adelson: But 53.85% yes, it's an improvement. Yes, it is moving in the right direction. But my feeling is that there is more to be done here. Because I am just [loth] to say creating 54, 55, 56% majority minority districts in an area that analysis is determined, Black voters can elect at percentages lower. I'm not prepared to do that. So the axiom that Commissioner Rothhorn with all due respect kind of said in my head is try. There is still more trying to do. We are not at the end of the line yet.

*Id.* at 7283-84. Kellom thereafter continued to reduce the black-voter population, during which Adelson suggested “there may be places to adjust to the north . . . Which I think . . . does not have a significant BVAP population so that is just the suggestion [as] another place to look for adjustments.” *Id.* at 7284. Kellom did so, drawing the district further north in Oakland County (namely, into Royal Oak and Madison Heights); that “adjustment” reduced the black-voter percentage from 54 to 50, which Adelson said was “a big improvement.” *Id.* at 7285, 7287.

On October 5, while the Commission worked on other house districts south and west of House District 8 to ensure compliance, it “[a]ccidentally” “balanced” the black-voter percentage in House District 8—namely, by reducing it further, to 35.71. *Id.* at 7648 (Rothhorn: “I think you may have balanced 8 it was 53.9[.]”). The Commission thereafter reviewed this district with Adelson, and Clark asked: “So eight is another this is going to be in Wayne County and Macomb County I believe yeah so [what] are [we] focusing towards here? Wayne, we said 35 to 40% Macomb had nothing [and] we are currently at 35.71 . . . so if we raised it to 40, I think we will be okay.” *Id.* at 7657. Adelson replied: “Commissioner Clark and particularly if you are moving population from Wayne County areas, I think that is the zone to look for[.]” *Id.* He added, however, that “this District is underpopulated [as a whole] so there is some room to grow here.”

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*Id.* Commissioner Clark thereafter “put the Black population on the screen” and suggested “add[ing]” from what became House District 14 “into” House District 8. That change slightly increased the black-voter percentage in House District 8, to 37.98. *Id.* Szetela then asked Adelson:

Szetela: 8 with 37.98 and we have ten with 42.53 so I mean we could try to balance them more but they are still both going to be about 40 is that acceptable?

Adelson: Is that mainly in Wayne County?

. . . .

Szetela: Eight I would say is more in Oakland County.

Clark: Eight goes a little further north than Oakland . . . .

Szetela: Eight does come all the way down so yeah, I would say they are 50/50. . . .

Adelson: [W]e can see if there are some additional judgments to make with the aim of hitting Dr. Handley’s marks and then we can look at the elections.

*Id.* at 7658. Commissioner Clark then “move[d] some” non-black population into what became House District 10 to “increase” the black voter-percentage in House District 8. *Id.*

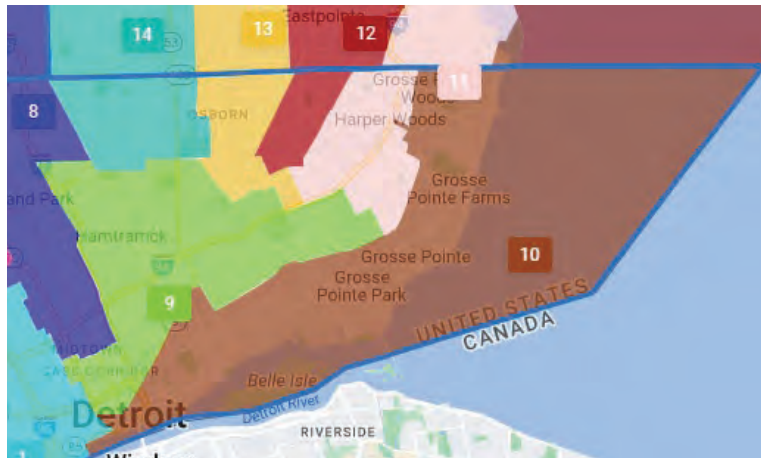
In November, however, the Commission noticed that House District 8 was overpopulated. *See id.* at 9406 (Rothhorn: “The District that has the most to give is House District 8.”). But Szetela reminded the group that House District 8 is an “Oakland County VRA district where we are trying to keep it above 40.” *Id.* Accordingly, the Commission increased House District 8’s black-voter population slightly by removing white portions of Madison Heights in Oakland County. *See id.* at 9410 (Kellom: “sorry I was just double checking the African/American population in Madison Heights and it’s 8.51% so yes that is fine”); *id.* (Rothhorn: “Black voting population increased with that change. And may reflect what our fellow Detroiters were asking for. . . . And yeah, I think we are going to go with that.”). As finally approved, the black-voter percentage in House District 8 is 43.70.



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(iv)

*House District 10.* This district has a black-voter percentage of 38.79.



The Commission began drafting House District 10 (which began as House District 4) on September 21. Clark immediately noted that, since “[w]e’ve got a large portion of Detroit left . . . . We are going to end up with an African/American population that is going to be pretty significant.” *Id.* at 6410. Szetela recommended that they draw a “spoke” which (she said) would create more “balance[.]” *Id.* But Clark responded that it made little sense to group together “that eastern part of Detroit” with Grosse Pointe, which has the “majority of the money.” *Id.* at 6411. Szetela reminded Clark that “that VRA is first on our list. And so we have to look at accommodating VRA first. And if that requires [uniting those neighborhoods] to do it, I think that is where we need to look first.” *Id.* The Commission thereafter modified several other districts, and by September 28 the black-voter percentage for this district was 42.74. Yet on September 30, the Commission adjusted several districts south and west of House District 10, and in doing so increased the black-voter percentage to 58—which was “substantially more out of the range than we wanted.” *Id.* at 7277 (Orton: “Okay, so before you did this . . . the voting age Black population in District 4 was 41.2% which is quite a bit closer to the target that we are going for. Now it’s a lot higher . . . . I thought we were going 35-40% so [it is] way out from what I’m thinking.”).

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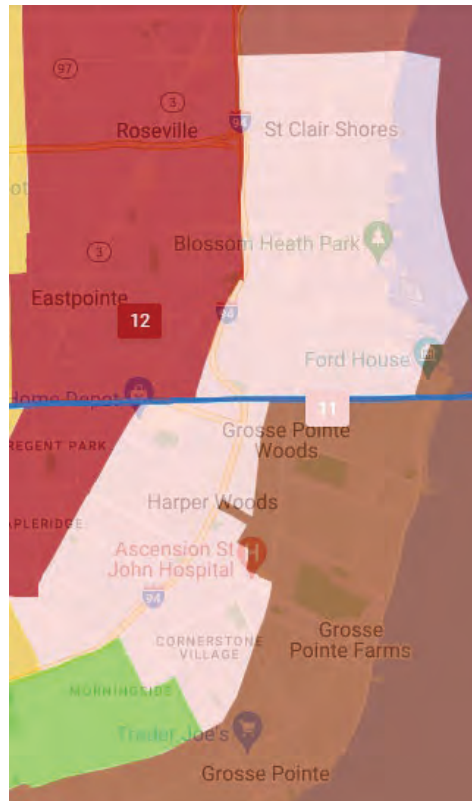
Thus, on October 5, the Commission stretched this District farther north to reduce its black-voter percentage. As Witjes explained, “I would imagine we would have to go north, correct? We got to take away some too.” *Id.* at 7642. The Commission thereafter narrowed the lower half of this district, and then extended its reach up to the Wayne-Macomb County border, which reduced the black-voter percentage substantially—all the way to 40%. *See id.* at 7643 (Szetela: “Brought it down quite a bit.”). Witjes then asked Adelson: “as District Four is below 40%. And 40% sweet spot still apply?” Adelson replied: “As we talked about yesterday, I think providing some leeway, a little cushion here I think that is important.” *Id.* at 7644. The Commission then made a few more adjustments, which (by the end of that day’s mapping session) increased this District’s BVAP to 42.68%.

The Commission thereafter made only minor adjustments in November, which decreased the black-voter percentage further, to 38.79.

(v)

*House District 11.* This district has a black-voter percentage of 42.82.

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When the Commission began mapping on September 30, House District 11 (which began as House District 6) had a black-voter percentage of over 65.66. Adelson therefore identified it as a “serious district” that “ha[s] significantly” more black “population than Dr. Handley recommended in her analysis.” *Id.* at 7223. Pastula thereafter advised the Commission to “start again with the list at District 1 and look at [] the Black VAP, if it’s above that 40% particularly in the Metro Detroit area how that can be minimized and I know from the chart . . . it’s also [what became House District 11].” *Id.* at 7229. Szetela then noted that what became House District 11 “definitely” had one of the “highest” black-voter populations. *Id.* at 7232. The Commission thereafter began adjusting other districts, but Eid suggested “go[ing] to” what became House District 11, since it was “64%” BVAP. *Id.* at 7241. Accordingly, the Commission added to this District a significant portion of Grosse Pointe Woods (to the north), and removed a portion of Harper Woods (to the south), which brought this district’s BVAP “significantly lower.” *Id.* at

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7241, 7277. By the end of the day on September 30, the Commission had adjusted the black-voter percentage down to 49.23.

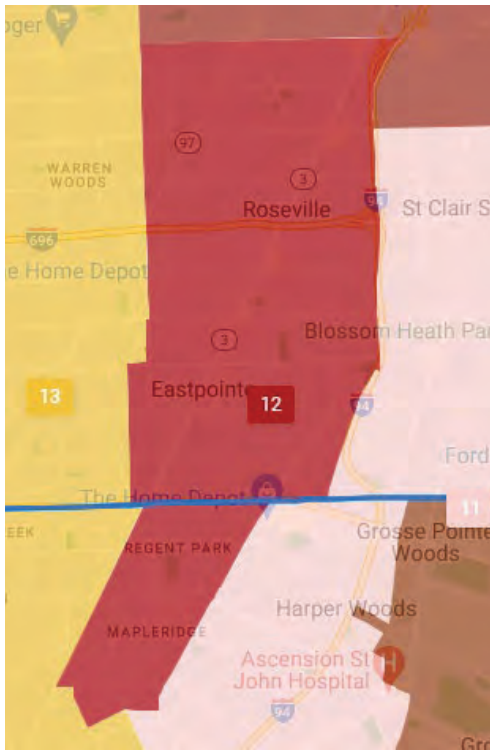
On October 5, the Commission again identified each house district with black-voter percentages higher than 40-45, and thereafter sought to reduce those percentages. *See, e.g., id.* at 7639. In what became House District 11, the Commission accomplished that goal by again “expand[ing] [the district] north” further into Macomb County, as far as St. Clair Shores. *Id.* at 7644; *id.* at 7643 (Szetela: “With . . . [what became House District 11] we have room to go north” because it “kind of lead[s] out of Detroit.”); *id.* at 7644 (Witjes: “now [what became House District 11] needs to expand north”). Those changes and others reduced this district’s BVAP a little more, to 47.37. *See id.* at 7665 (Szetela: “What about taking a little bit of St. Clair shoes that western edge . . . isn’t that primarily white along there. Add a little more white to bring down your African/American?”).

In November, the Commission modified the district again by adding more white population in Macomb County, thereby reducing the black-voter population to 42.82—where it remained when the Commission adopted the Hickory Plan in December.

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(vi)

*House District 12.* This district has a black-voter percentage of 40.99.



Throughout the mapping process, the black-voter percentage in House District 12 (which began as House District 11) remained right around 43. On October 5, however, the Commission modified several adjacent districts, and the BVAP in what became House District 12 exceeded 50%. *See id.* at 7663 (Rothhorn: “the Black voting age population [in what became House District 12 was] 51.58 and went up to 61 so we are back down again”). Thus, the Commission sought to reduce it—specifically, by extending the district farther north to include more white population. *Id.* at 7664 (Lett: “The only thing I’m trying to do right now is get the percentage down on [what became House District 12].”); *id.* (Orton: “Well I’m thinking if you just add a little bit more into” the district adjacent “since it is [] a little bit under populated, that’s taking African/American population out [so] that will help the number [what became House District 12], I think.”); *id.* at 7665 (Clark: “That is the concept move more white into [this District].”). Those adjustments and

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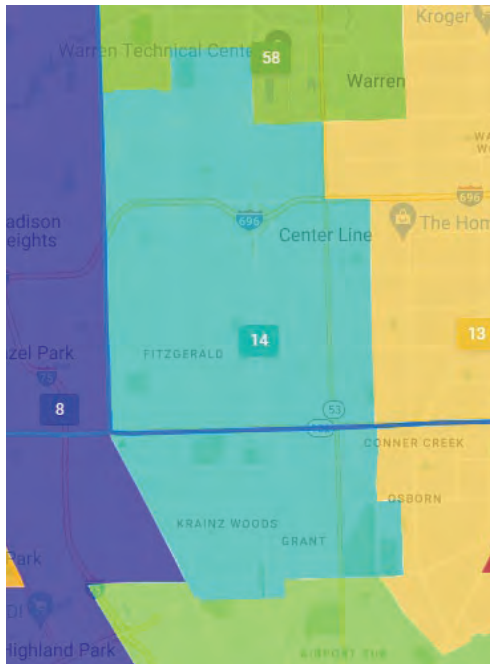
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others, which Adelson remarked moved “the numbers . . . in a positive direction” reduced the black voter percentage to 49.89, which Szetela noted was still “a hair high.” *Id.* at 7666.

In November—after Adelson’s admonition at the closed session meeting—the Commission modified what became House District 12 by extending it even farther north, through Roseville and up to 13 Mile Road in Macomb County. The Commission ostensibly aimed in part to keep the “Roseville community together,” in its effort to “mend some of these neighborhoods.” *Id.* at 8773. The Commission also excised portions of House District 12’s southern end in Wayne County. Those changes together reduced the black voter percentage down to 40.99.

(vii)

*House District 14.* This district has a black-voter percentage of 41.11 and encompasses parts of Wayne and Macomb County.



Throughout September and October, House District 14 (which began as House District 10) extended from the western half of Warren (in Macomb County) all the way down to just north of Eastern Market in Detroit (in Wayne County). For much of that time, this district’s BVAP

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remained just below 40. But on October 5, that number increased slightly because the Commission reduced the black-voter population in districts to the east and south. *See, e.g., id.* at 7643 (Orton: “It seems like [what became House District 14 is] now really high.”); *id.* (Witjes: “That [increase] happened because of how we are adjusting.”). The Commission thereafter sought to bring the BVAP for this district back down. *See id.* at 7657 (Clark: “Okay so [what became House District 14] is overpopulated so let’s take a look at the border of 8 and [what became House District 14] and let’s see if we can move some Black population. We may impact [what became House District 14] by doing that percentage wise.”); *id.* at 7658 (Clark: “Go to the top and Madison Heights and move some from eight into [what became House District 14] . . . . And that will bring non-Black population into [what became House District 14] which should reduce it a little.”). After the Commission made a few more changes that reduced this District’s BVAP further, Adelson approved: “I think the percentages there has been some positive movement . . . with the percentages but that is my only offhand thought.” *Id.* at 7660. By the end of the day on October 5, the black-voter percentage in what became House District 14 was 42.8.

In November, however, the Commission modified the district when it incorporated the “draft overlay” map proposed by Rothhorn and Kellom. Rothhorn nevertheless reminded the Commission that what became House District 14 was “one of those VRA districts.” *Id.* at 9410. As enacted in the Hickory Plan, House District 14 has a black-voter percentage of 41.11.

c.

Based on all the evidence cited above—including both the Commission’s race-based targets in drafting the Detroit area, and the district-specific evidence just described—we conclude

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that the boundaries of all the districts at issue here were drawn predominantly on the basis of race.

Indeed the record before us permits no other conclusion.

B.

We make shorter work of the Commission’s backup argument that its race-based line-drawing can survive strict scrutiny. Plaintiffs have shown that the lines for their districts were drawn predominantly on the basis of race, which means those districts “cannot be upheld unless they are narrowly tailored to achieving a compelling state interest.” *Wis. Legis.*, 595 U.S. at 401 (quoting *Miller*, 515 U.S. at 904). The Supreme Court has assumed, without deciding, that compliance with the VRA can be a compelling interest that supports drawing districts along racial lines. *Id.* To that end, the Commission first asserts that, in the 2011 plan, Detroit-area districts had been “packed” in potential violation of the VRA. (Notably, no Detroit voters themselves ever chose to challenge the districts.) And the Commission argues that it had “good reasons to think” that Section 2 of the VRA itself required the Commission to reduce the BVAPs of plaintiffs’ districts to between 35-45%. *See Cooper*, 581 U.S. at 293.

That argument is meritless. The Commission repeats to us what Adelson so often told the commissioners: that BVAPs above 35-45% in these districts would amount to “packing” African-American voters in violation of the VRA. The Supreme Court recognized the possibility of packing claims in *Thornburg v. Gingles*, when it said that a state could violate § 2 by concentrating black voters “into districts where they constitute an excessive majority.” 478 U.S. 30, 46 n.11 (1986). In the 37 years since, however, the Court has yet to hold that any district violated § 2 on grounds of packing.

The Commission had little reason to think these districts could be the first. Begin with what the Supreme Court actually said in *Thornburg*: that an “excessive majority” of black voters



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could amount to packing in violation of the VRA. *Id.* (emphasis added). Yet here the racial targets limited these plaintiffs to a political *minority* in their districts. True, in one case—30 years ago—the plaintiffs argued that the VRA required the state to change a majority-minority district to a minority-minority one. But the Supreme Court did not recognize that as a valid theory under § 2 then—it decided the case on other grounds—and it has not done so since. *Voinovich v. Quilter*, 507 U.S. 146, 154 (1993). Moreover, in every case where the Supreme Court has found vote dilution in violation of § 2, it ordered the creation of a *majority*-minority (*e.g.*, majority-black) district—rather than a minority-minority one, which is what (per Adelson’s advice) the Commission confined itself to here. And the Commission’s theory would make the BVAP floor necessary for “opportunity” districts under the VRA also a BVAP ceiling in those same districts. *See* MICRC Tr. at 5810-12. The Supreme Court has never said anything like that.

Thus, the Commission’s theory of potential liability, at best, is highly speculative. And speculative reasons are not “good reasons for thinking that the [VRA] *demande*d” the racial line-drawing employed here. *Wis. Legis.*, 595 U.S. at 404 (emphasis in original; internal quotation marks omitted).

Nor did the Commission have anywhere near an adequate basis for the factual premise of its theory: namely, that black voters could in fact elect their preferred candidates at the BVAP levels prescribed for the districts here. Everyone agrees that the elections in these districts are decided in the Democratic primaries, not the general election. Yet Handley’s analysis lacked any primary-election data that was relevant to whether black voters could elect their preferred candidates at these BVAP levels. Even Adelson admitted as much. And Handley herself admitted to Szetela, at the eleventh hour, that “we simply do not know” how black-preferred candidates would fare in Democratic primaries. Yet these experts told the commissioners again and again—

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based on general-election data alone—that black-preferred candidates would “perform well” in these districts. That was a grave disservice to everyone involved with this case, above all the voters themselves.

All the districts in this case were drawn in violation of the Equal Protection Clause of the U.S. Constitution. Finally, given that holding, we need not reach plaintiffs’ § 2 claim under the VRA.

\* \* \*

We enjoin the Secretary of State from holding further elections in these districts as they are currently drawn. And we will direct that the parties appear before this court in early January to discuss how to proceed with redrawing them.

**IT IS SO ORDERED.**

Date: December 21, 2023

/s/ Raymond M. Kethledge  
Raymond M. Kethledge  
United States Circuit Judge

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge

/s/ Janet T. Neff  
Janet T. Neff  
United States District Judge

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NEFF, District Judge, concurring in the result.

Although the majority reaches the correct result, I write separately because I believe the opinion is unnecessarily harsh to the Commission, Bruce Adelson, and Lisa Handley.

“Redistricting is never easy,” *Abbott v. Perez*, 138 S. Ct. 2305, 2314 (2018), and is generally accomplished behind closed doors, either by legislators or the courts so there is no way to watch it being done. In 2018, the people of Michigan overwhelmingly voted to open the doors and take the politicians out of the redistricting process with the ultimate goal of creating more fair maps. To that end, the Michigan Independent Redistricting Commission—comprised of thirteen randomly selected lay citizens—is now entrusted with making the reapportionment decisions in Michigan. The process is conducted in full view of the public, the media, and any interested group or individual. The majority opinion makes that point throughout, quoting extensively from the 10,000+ page transcript of the Commission’s work and uses the commissioners’ own words to establish that the process was fatally flawed.

The thirteen civic-minded commissioners had a difficult job with scant preparation and nearly no experience in the reapportionment process. A difficult task became nearly impossible for the Commission when the pandemic hit in 2020. The Michigan Constitution required the Commission to publish proposed redistricting plans no later than September 17, 2021, and to adopt final plans by November 1, 2021. Mich. Const. art. IV, §§ 6(7) and 6(14)(b). The pandemic caused a six-month delay in the census data, and the Commission did not start map-drawing until mid-August 2021.

Commissioner Erin Wagner succinctly described the difficulty facing the commissioners, “we were 13 citizens that didn’t know what we were doing, and so we were looking to people that . . . we were told were experts, so of course you’re going to lean on an expert’s opinion.” (ECF No. 112 at PageID.3807.) The Commission’s experts—Mr. Adelson and Dr. Handley—are highly

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respected in the redistricting field. Dr. Handley is one of the leading experts and has testified about redistricting and voting rights in numerous courts across the nation. Here, she provided her racial bloc analysis but readily admitted that she did not have the most probative primary elections results until very late in the process. (ECF No. 106 at PageID.3219.) Mr. Adelson also has an extensive resume, including acting as the Voting Rights Act counsel for the Arizona Independent Redistricting Commission in 2011.

In the face of such a daunting task, the extensive quotes of the Commission's work reflected all the best that could be expected: they took the work seriously, they worked hard to learn the job, they cooperated and collaborated, and they wanted to do the job well and right. Any suggestion otherwise does a disservice to the men and women who undertook a very difficult and unprecedented task. There was no history to follow or learn from and no role model to lead the way and to set a standard.

I do not believe that there was any ill intention by any individual in this case. In many respects, the adopted maps may have accomplished the ultimate goal of being more "fair." Previous maps commonly divided districts based on lines of historical segregation. (*See* ECF No. 102 at PageID.2653.) Were these old districts drawn predominately based on race or for another legitimate reason? We will never know because everything happened behind closed doors. Everything is public now. And the unique circumstances of this reapportionment process led to an extensive record of race predominating in the line drawing of certain districts. This finding, however, should not take away from the fact that the Commission worked extensively hard throughout this extremely difficult process to do what it thought was right.



## **DISSENTING REPORT: 2021 CHESTNUT CONGRESSIONAL REDISTRICTING MAP**

**Authored by: Commissioner Rebecca Szetela**

*Chair: September 2021-March 2022*

*Vice-Chair: March 2021-September 2021*

### **Summary**

The Michigan Independent Citizens Redistricting Commission adopted its final United States Congressional, Michigan State House, and Michigan State Senate maps on December 28, 2021. This approval was the culmination of over a year of challenging, and often intense, work, which was complicated both by the global COVID-19 pandemic and a four-month delay in release of data from the United States Census Bureau. For the first time in the State of Michigan, a group of randomly selected voters, in lieu of politicians, drew the U.S. Congressional, Michigan State House, and Michigan State Senate maps. These maps were drawn openly and with the ongoing participation, input, and observation of the public. Individual Commissioners, who were strangers to each other at the start of this process, bridged their partisan leanings and worked collaboratively, as a team, to compile maps. The Commission performed admirably under very challenging circumstances. There is much for the Commission to celebrate.

While celebrations are in order, all business processes, no matter how successful, should be subject to a frank evaluation process. There is always room for improvement. There are always insights to be gleaned and carried forward. Retrospective evaluations, where we look backward at what went right, what went wrong, and what can be improved, are (and should be) standard and expected. The redistricting process should be subject to no less scrutiny.

The intent of this Dissenting Report is to provide an honest and transparent account of areas where, due to a variety of intersecting factors, the Commission could have performed more faithfully to its Constitutional mandate in the creation, revision, and adoption of its U.S. Congressional, State House, and State Senate maps. This Report highlights deficiencies in adhering to several Constitutional criteria (Voting Rights Act Compliance, Respecting Communities of Interest, and Partisan Fairness) as well as an error in elevating a criterion that was not in the Constitution. This Report also notes that the Commission did not appropriately account for and consider the full body of public comment. As a

result, the Commission’s process was not as data-driven, objective, or participatory as it should have been.

Because this Report is written with the intention toward improvements in the process, I have included many recommendations for future Commissions. For the reasons set forth below, I dissent to the adoption of Chestnut Congressional map by the Commission.

## Rationale

### OBJECTION 1 | CRITERIA #1 COMPLIANCE WITH FEDERAL LAW, INCLUDING THE VOTING RIGHTS ACT

*“Unfortunately we do not have sufficient information to anticipate what might happen in future Democratic primaries in the proposed districts. The reason is that we have only one statewide Democratic primary for which we can recompile results and minority voters were not cohesive in this primary. **We simply do not know what would happen in a primary in which minority voters are cohesive.**”*

*Ex. 1, Dr. Lisa Handley, December 27, 2021<sup>1</sup>*

In my opinion, the Commission cannot say with any degree of confidence whether any of the Commission’s approved maps (the US Congressional (“Chestnut”), State Senate (“Linden”), and State House (“Hickory”)) will provide minorities, particularly Black voters in the metropolitan Detroit area, with an opportunity to elect their candidates of choice in **both** primary and general elections. This is a serious flaw in the Chestnut map. Thus, I dissent to its adoption.

#### The Commission’s Quantitative and Legal Analysis

In furtherance of its compliance with the Voting Rights Act (“VRA”), the Commission exclusively relied on quantitative analysis from Dr. Lisa Handley, legal analysis from its Voting Rights Expert (Bruce Adelson), and legal advice from its general counsel. The first step in this compliance process was a determination as to whether voting in Michigan was racially polarized. To determine this, Dr. Handley analyzed ten years’ worth of general and primary election data from the State of Michigan. Ex. 2, Final Handley Report.<sup>2</sup> In conducting her analysis, Dr. Handley calculated that the majority of Michigan counties (95%, or 79 out of 83 counties) lacked sufficient Black voter populations to estimate voting behavior. Ex. 3, Sept. 2 Transcript, pp. 21-24. Thus, a racially polarized voting (“RPV”) analysis could not

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<sup>1</sup> I would like to acknowledge the excellent analysis Dr. Lisa Handley performed for the Commission.

<sup>2</sup> For brevity, I have only attached portions of Exhibit 2 to this Dissent. The full report is available at: <https://www.michigan.gov/micrc/meeting-notices-and-materials> under the link titled “Racially Polarized Voting Analysis.”

be performed in those counties. *Id.* However, Dr. Handley determined that four Michigan counties (Wayne, Oakland, Saginaw, and Genesee) contained sufficient Black voting-age populations to allow an RPV analysis to be conducted. *Id.* In each of those four counties where the RPV analysis was conducted, voting was racially polarized. Ex. 2, pg. 7; Ex. 3, pp. 21-24. Because voting was racially polarized, the Commission was required to structure districts that complied with the VRA in those counties. *Id.* Mr. Adelson correspondingly advised that the VRA did not require minority-majority districts (e.g., districts with greater than 50% Black voting age population); however, the Commission did need to create “opportunity to elect” districts. The Commission was advised by Mr. Adelson that an “opportunity to elect” district is one where the district contains the requisite number of minority voters needed to enable those voters an opportunity to elect their candidates of choice. Dr. Handley’s analysis was intended to determine the minimum percentage of Black voting-age population (“BVAP”) necessary to create opportunity to elect districts in the four racially polarized counties (Wayne, Oakland, Saginaw, and Genesee).

To estimate these percentages, Dr. Handley evaluated the degree to which white voters supported Black-preferred candidates (the “White Crossover Vote”) in the four counties. As noted by Dr. Handley, “if a relatively consistent percentage of white voters support Black-preferred candidates, candidates preferred by Black voters can be elected in districts that are less than majority Black.” Ex. 2, p. 19. The White Crossover Vote can also compensate for depressed Black voter turnout. Ex. 2, p. 19. Alternately, “if voting is starkly polarized, with few or no whites crossing over to vote for the candidates supported by Black voters,” a district “that is more than 50% Black VAP” may be needed to elect Black-preferred candidates. *Id.* Thus, Dr. Handley’s analysis included the voting patterns of Black and white voters as well as data regarding variations in turnout rates.

After completing her analysis, Dr. Handley provided the Commission with a report stating that, for **general elections**, Black voters could elect candidates of choice in Wayne County with a BVAP as low as 35%. Ex. 2; Ex. 4, pp 13-18. In Oakland County, once again for **general elections**, Black voters could elect candidates of choice with a BVAP as low as 40%. Ex. 2; Ex. 4. Dr. Handley also stated that no county required districts with a BVAP of 50% or more in the general election. *Id.*

However, general election results were not the only relevant inquiry. As noted in Dr. Handley’s writings on this topic, **both primary and general elections must be considered**. Ex. 5, *Drawing Effective Minority Districts: A Conceptual Framework and Some Empirical Evidence*, B. Grofman, L. Handley, and D. Lublin, North Carolina Law Review, Volume 79, Number 5, Article 12 (6-1-2001) p. 1410-1411. Moreover, map drawers need to be **most** focused on the **highest** percentages required because that is

the percentage needed to win both elections (primary and general). *Id.* Accordingly, if 52% is the proper number to allow minority voters an opportunity to elect in a primary, but 43% is needed in a general election, the map drawer's work should be governed by the higher primary percentage (52%). *Id.*

Accordingly, Dr. Handley also analyzed primary data. Ex. 2, p. 24-26. There was a single Statewide Michigan Democratic<sup>3</sup> primary with results that could be recompiled and applied to any district reconfiguration that the Commission desired to test. *Id.* That election was the 2018 Gubernatorial primary, in which three candidates were running: Gretchen Whitmer, Abdul El-Sayed, and Shri Thanedar. In analyzing this election, Dr. Handley determined that Black voters were not "cohesive" – meaning they did not support a single, identifiable candidate. *Id.* This lack of cohesiveness made it impossible to extrapolate the data from that election in a manner that could predict the election results for future districts. *Id.* at 24. Disappointingly, the 2018 Gubernatorial primary could not be used to determine the proper BVAP levels needed for Black voters to elect their candidates of choice in the primary elections in the recompiled districts.

In the absence of Statewide primary data for analysis and recompilation, Dr. Handley analyzed other primary election data. Dr. Handley produced two charts entitled "Threshold of Representation" for both the State Senate and State House (the "Threshold Tables"). Ex. 2, p. 24-26. Dr. Handley described these Threshold Tables as being a "useful check on the percent needed to win estimates" found in the general election tables. Ex. 2, p. 24. The Threshold Tables were "designed to identify the lowest minority percentage above which minority candidates are consistently elected." Ex. 2, p. 24. **For the State Senate, that threshold was 48%.**<sup>4</sup> For the State House, **the threshold identified was 36%** (*as described more fully in the footnote, it should have been between 47% and 52%*).<sup>5</sup> A Threshold Table

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<sup>3</sup> Because Michigan's BVAP population tends to vote overwhelmingly Democratic, Democratic primaries were Dr. Handley's area of focus.

<sup>4</sup> Dr. Handley's analysis showed there were no State Senate districts with BVAP levels between 36% and 44% (the very "target range" the Commission later confined itself to in drawing its maps). Ex. 2; Ex. 3, pp. 18-19. Of the single district with 45% BVAP (District 1), the Black candidate of choice (Alberta Tinsley Talabi) did not survive the primary, even though she received approximately 48% (and the majority) of the Black vote. Ex. 2, p. 26, 65. In comparison, Stephanie Chang, an Asian woman, won the primary with 49.8% of the vote, having received over 75% of the votes cast by white voters. *Id.* ***Thus, in a district with 45% BVAP, Black voters did not have the opportunity for their candidate of choice (Alberta Tinsley Talabi) to advance to the general election.*** As expected, as the Democratic candidate in the general election, Ms. Chang easily won the general election for Senate District 1, obtaining 72% of the vote and an estimated 95%+ of the BVAP vote. Ex. 2, p. 54.

<sup>5</sup> Using the same methodology Dr. Handley used in the Senate table, the Threshold for the House also should have been 47% BVAP or more. Similar to the State Senate, there were no State House districts with BVAP levels between 37% and 46%. Ex. 2, p. 25-26; Ex. 3, pp. 18-19. Dr. Handley's State House Threshold Table identifies 36% as the number needed to elect minority candidates of choice. Ex. 2. However, her analysis overlooked the fact that



was not provided for Congressional elections.

To summarize Dr. Handley's analysis, for Wayne and Oakland Counties, the election analysis showed that Black voters had the opportunity to elect candidates of choice in the **general election** with BVAP numbers ranging between 35% and 40%. Ex. 4, pp. 13-16. However, the Threshold Tables, which reflected **primary results**, suggested higher amounts were likely necessary (48% in the State Senate and between 47% and 52% in the State House) for Black voters to have an opportunity to elect their candidates of choice in primaries.<sup>6</sup> Ex. 4, p. 18-19. Because VRA compliance requires the ability to elect candidates of choice **in both elections**, the Commission should have taken a conservative approach by using higher BVAP numbers (approximately 48%) when constructing districts in all maps. Ex. 5, pp. 1410-1411. This approach would have been the most protective of the voting rights of Black voters.<sup>7</sup>

### **The Commission's Directions From Counsel**

Armed with Dr. Handley's report and data, the Commission began drawing maps following this approach and drew districts in the Metropolitan Detroit area with BVAP percentages around 50%. After completing districts in most of the Metropolitan Detroit area, the Commission's counsel intervened and began aggressively pushing the Commission to reduce the BVAP numbers to as close to the general election percentages (35% to 40%) as possible. Ex. 6, Sept. 13 Email. This pressure was most evident at

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the minority candidate elected at the 36% threshold was not the candidate of choice for Black voters. Although all districts above 36% elected **minority** candidates, and in State House District 29 (BVAP 36.04%) a Black candidate was elected, this candidate **was not** the candidate of choice for Black voters. Ex. 2, p. 25, 67. The Black voters' candidate of choice (Kermit Williams) did not survive the primary, even though he received approximately 50% of the Black vote. *Id.* In comparison, Brenda Carter, a Black woman, won the primary with 30.7% of the vote, having received over 59% of the votes cast by white voters. *Id.* **Thus, in a district with 36% BVAP, Black voters were not able to have their candidate of choice (Kermit Williams) survive the primary to be considered at the general election.** Once again, as expected, the winner of the Democratic primary, Brenda Carter, easily won the general election for House District 29, obtaining 72.9% of the vote and an estimated 95%+ of the BVAP vote. Ex. 2, p. 58. By comparison, in the 6<sup>th</sup> House District (53% BVAP), the candidate of choice favored by Black voters (Tyrone Carter – with approximately 70% of BVAP vote) was able to prevail in the primary, even though white voters did not prefer that candidate. Ex. 2, p. 25, 68. Dr. Handley did not provide estimates for Black voters for District 4, where Abraham Aiyash was elected, because so many candidates ran for election in that primary that Dr. Handley could not ascertain the minority-preferred candidate. Thus, the Threshold of Representation for State House districts should have been somewhere between the BVAP of Mr. Aiyash's district (47% BVAP in the 4<sup>th</sup> district) and the 53% BVAP in Mr. Carter's district (the 6<sup>th</sup> district).

<sup>6</sup> The variation in the target BVAP percentages was attributable to primary and general election disparities in both the White Crossover Vote and voter turnout.

<sup>7</sup> If the Commission had exercised its discretion to use BVAP percentages higher than the general election values, and those numbers proved to be too high, Black voters' candidates of choice would still have a reasonable chance of election and a future Commission would have the ability, based on a decade of data, to adjust the numbers further downward. On the other hand, if the general election BVAP thresholds adhered to by the Commission are too low, Black voters may spend a decade being injured by not having an opportunity to elect candidates of choice. The Commission should have had a careful discussion balancing the risks and benefits of both approaches. In lieu of having that discussion, the Commission yielded that decision-making to its counsel.

the September 30, 2021, Commission meeting in Rochester Hills, where the Commission was expressly directed to identify “anything that is higher than 40% for the black voting age population” and “those quote unquote fixes can be dealt with.” Ex. 7, Sept. 30, 2021, AM Meeting Transcript, pg. 21; See Ex. 7, p. 22. Despite Dr. Handley’s analysis showing that the required BVAP for primary elections was likely higher than the required BVAP for general elections, the Commission acquiesced to its counsel and redrew each of its existing maps in the Metropolitan Detroit area based on the general election BVAP “targets” of 35% to 40%.

### **The Public Response**

Having witnessed the low percentages of BVAP that the Commission was being directed to achieve, Metropolitan Detroiters appeared in force to question whether the Commission’s maps would provide Black voters in Metropolitan Detroit with an opportunity to elect their candidates of choice in the primaries. See Ex. 8<sup>8</sup>, Detroit Hearing Transcript, Oct. 20, 2021. The Commission received hundreds of comments objecting to the low BVAP percentages in its draft maps. Ex. 8. Additionally, Jerome Reide, a legislative liaison from the Michigan Department of Civil Rights, and John E. Johnson, Jr., the Executive Director of the Michigan Department of Civil Rights, also both presented letters to the Commission indicting their belief that the Commission was violating the Voting Rights Act.

As voters testified, the Metropolitan Detroit area is solidly Democratic, with elections in Wayne County generally favoring Democrats by 20 percentage points or more. Ex. 8. Reliably, whoever wins the Democratic primary in Wayne County will win the general election. *Id.*, see Ex. 2. Thus, for Black voters to be able to elect their candidate of choice, that candidate of choice **must be able to succeed in the Democratic primary**. Ex. 8. The public asserted that general election results were neither reliable nor valid indicators of whether Black voters would be able to elect candidates of choice. *Id.* By ignoring the outsized role of the Democratic primaries in the Metropolitan Detroit area and focusing on the 35% and 40% range derived from general election data, the public stated that the Commission was poised to disenfranchise Black voters by denying them the opportunity to elect their candidates of choice. *Id.*

### **The Commission Declines to Correct Its Course**

Following several hearings and meetings, including the October 20 Detroit Public Hearing, some Commissioners began questioning the validity of its attorneys’ directives to draw districts using the

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<sup>8</sup> Due to its length, I have attached only a portion of the transcript from the October 20, 2021, public hearing in Detroit. The full transcript is available at: [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MICRC\\_Meeting\\_Transcript\\_10\\_20\\_2021.pdf?rev=a378536e31c446a494555afb9672b019&hash=0E0BEC4295A48C46AEB4689E2C0299D4](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MICRC_Meeting_Transcript_10_20_2021.pdf?rev=a378536e31c446a494555afb9672b019&hash=0E0BEC4295A48C46AEB4689E2C0299D4)

general election BVAP percentages supplied by Dr. Handley’s report. The Commission’s response to those concerns should have been to return to the expert who prepared the RPV analysis (Dr. Handley) to seek her opinion with respect to the concerns of the public. Instead, once again at the direction of counsel, the Commission held a closed session with its counsel (rather than Dr. Handley) to discuss the concerns of voters. Ex. 9, Oct. 20, 2021, Email. This meeting was merely a reiteration of the same legal advice that had resulted in the objections from Metropolitan Detroiters in the first instance. Closed Session Hearing, Oct. 27, 2021.<sup>9</sup> At this meeting, the concerns of Metropolitan Detroiters were cast as advocating “not to follow the law.” *Id.* at 1:03:46. This messaging was repeated in email messages to Commissioners in advance of the meeting as well, where Commissioners were directed to disregard the comments as being “advanced by lobbyists and politicians driving emotion.” Ex. 10, Oct. 18, 2021, Email. Commissioner comments during the closed-door meeting exemplify the adoption by some Commissioners of these recharacterizations of the concerns of voters. Closed Session Hearing, Oct. 27, 2021 (Commissioner at 1:01:50: “*I also reflected on the Detroit hearing...they were just wrong...their comments were not backed by anything other than their feelings*”; Commissioner at 39:13: “*I think...I hope we all recognize, at least I think, many of the many, many, many of the comments that we heard, while they were saying that it was a VRA issue, it's a partisan issue. They have an agenda. And we need to be able to spot that and weed that out and not fall for that.*”; Commissioner at 1:20:12: “*I just want to remind us all that...it was set up so that we hear from citizens, but, I think, at this point, we need to, kind of, shut out all the criticisms that are coming and all the pressure because these are all motivated.*”). In this echo chamber created by its counsel, Commissioners were dissuaded from making further adjustments to the maps. Acceding to these pressures, the Commission abandoned further inquiry into whether higher BVAP percentages were needed and, instead, deferred to the advice of counsel.

Although the Commission itself did not directly seek clarification from Dr. Handley, Dr. Handley attempted to alert the Commission of its impending error. Specifically, Dr. Handley warned Commission staff<sup>10</sup> on December 10, 2021, that the Commission’s maps had BVAP levels too low to allow Black

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<sup>9</sup> The audio from this meeting is available at: <https://www.michigan.gov/micrc/additional-pages/MSC-163823-Materials> under the heading, “Closed Session Audio Recording, Oct. 27.” A transcript of this hearing was not available at the time of the preparation of this Report.

<sup>10</sup> This information was not conveyed to the Commission by its general counsel and other staff members were directed by the general counsel not to share Dr. Handley’s concerns with Commissioners. Uncomfortable with the general counsel’s direction, staff members informed me of Dr. Handley’s concerns and I relayed those concerns to several Commissioners on December 15, 2021. Ex. 11, December 15, 2021, Email. For clarification, I incorrectly stated in my December 15 email, based on my misunderstanding at the time, that Dr. Handley’s analysis was flawed. The Commission’s understanding of Dr. Handley’s analysis was flawed, not the analysis itself.

voters the opportunity to elect their candidates of choice. Ex. 11, Email. Dr. Handley reaffirmed these concerns on December 27, 2021, noting that the Commission does not know if its maps will provide minority voters with an opportunity to elect candidates of choice in the Democratic primary:

*Unfortunately we do not have sufficient information to anticipate what might happen in future Democratic primaries in the proposed districts. The reason is that we have only one statewide Democratic primary for which we can recompile results and minority voters were not cohesive in this primary. **We simply do not know what would happen in a primary in which minority voters are cohesive.***

*Ex. 1, Dr. Lisa Handley, December 27, 2021*

Despite vigorous public comment, evidence from its own expert indicating that higher BVAP percentages were needed, and plenty of time to act to change the maps, the Commission instead voted on December 28, 2021 to not allow adjustments to the maps.<sup>11</sup> Ex. 16, p. 85. The Commission had no data or evidence to suggest that Black voters will have an opportunity to elect candidates of choice in the Democratic primary with BVAP percentages of 35%, 40%, or even 45%. Ex. 2, Ex. 3. Undeterred, the Commission approved the Chestnut map, with BVAP populations of 43.81% (District 12) and 44.70% (District 13).

## **Conclusion**

In conclusion, given the concerning data derived from primary elections and warnings from both the public and the Commission's RPV expert, the Commission's approach to compliance with the VRA was anything but data-driven, evidence-based, or participatory. The Commission's approach was to follow a will-o'-the-wisp and rely on the hope that general election thresholds will magically translate into Black voters' candidates of choice advancing past the Democratic primaries. Because the Commission did not have evidence or data to establish that these BVAP levels are sufficient to allow Black voters to have an opportunity to elect their candidates of choice in both the primary and general elections for either its Congressional, State Senate, or State House maps, I dissent to the adoption of the Chestnut Congressional Map.

## **Recommendation for Future Commissions:**

1. In determining the requisite minority voting populations necessary for minority voters to have an opportunity to elect their candidates of choice, future Commissions should utilize the higher of the general election or primary election results to establish "target" BVAP ranges.

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<sup>11</sup> Commissioners Kellom, Curry, Lange, Wagner, and I voted against precluding changes to the maps (i.e., those Commissioners were in favor of changing the maps).

2. To ensure full and complete understanding of expert reports, all discussions of data and analysis regarding the requisite level of minority populations necessary to permit minority voters an opportunity to elect candidates of choice should require the attendance of the data scientist who conducted the analysis (in this case, Dr. Lisa Handley). Staff and other consultants should not be permitted to interpret the recommendations or conclusions of data scientists for the Commission.
3. Expert analysis of draft map compliance with the Voting Rights Act (and other metrics) should be received before maps may advance to the 45-day public comment period.
4. To the extent there is ambiguity or uncertainty regarding what BVAP levels are appropriate, Commissioners should openly and publicly discuss any concerns fully and vote on recommendations. The Commission should not rely on non-analyst determinations of the appropriate percentage levels.
5. The Commission, not staff or consultants, should evaluate the validity and import of public comments.

## **OBJECTION 2 | CRITERIA #3 COMMUNITIES OF INTEREST**

I dissent to the Chestnut map to the extent it fails to take into consideration and accommodate the following seven communities of interest that were identified as significant by the Commission and incorporated into other Congressional, State Senate, and State House Maps.

### **Community of Interest 1: Bengali Community of Interest**

The Bengali community identified Hamtramck and portions of Warren and Macomb County as being a community of interest that should be kept together. This community of interest was divided into two in the Chestnut Congressional map. The Chestnut map is the only final proposed Congressional map published by the Commission that divides this community of interest.

See comments p1511 (Mariam Akaan), p4107 (Nada Alhanooti, Hamtramck), f1514 (Tufayel Reza, Warren), f1516 (Iqbal Hossain, Hamtramck City), f1460 (Nurun Nesa, Warren), f1459 (Nazmin Begum, Warren); w1456 (Sumon Kobir, Warren Township), w1398 (Muzadded Abdullan, Warren City), p1037 (Rebeka Islam, Hamtramck), Map submitted via Portal Comment by Hayg Oshagan, 9/8/2021

### **Community of Interest 2: Jewish Community of Interest**

Eighty percent of the Metropolitan Detroit-area Jewish community resides in the “core” Oakland County communities of Berkley, Commerce Township, West Bloomfield, Bloomfield Hills, Birmingham, Franklin, Farmington, Farmington Hills, Royal Oak, Oak Park, Huntington Woods, Walled Lake, and

Southfield. Seven percent of Jewish households live in the Southfield area and 12% of the population of Southfield is Jewish. Franklin also contains a significant Jewish population. Despite requests to keep Southfield and Franklin with the remainder of the Jewish community in the “core” area, the Chestnut map isolates and separates Southfield and Franklin from the remainder of the Jewish community of interest. The Chestnut map is the only final proposed Congressional map published by the Commission that divides this community of interest.

See comments w746 (Todd Schafer, Beverly Hills); c1803 (Menachem Hojda, Oak Park); c5247 (Judah Karesh, West Bloomfield Township); w1000 (Charlotte Massey, Royal Oak)

### **Community of Interest 3: Indigenous Population Community of Interest**

The Commission received many comments from members of Indigenous populations, who specifically identified their populations as communities of interest throughout the State. The Indigenous populations specifically identified the service areas for the Indian Health Services clinic run by the Nottawaseppi Huron Band of the Potawatomi and the American Indian Health & Family Services clinic in the Detroit area as communities of interest. In addition, Meredith Kennedy, the author of these comments and a representative for and member of the Indigenous populations, specifically identified the Birch map as being the map that best preserved these communities of interest. The Chestnut map does not preserve the community of interest of the Indigenous populations.

See comments p5531, p5527, and p5525

### **Community of Interest 4: LGBTQ+ Community of Interest**

The Commission also received many comments from members and allies of the LGBTQ+ community, who identified their community of interest as encompassing the communities of Southfield, Oak Park, Pleasant Ridge, Huntington Woods, Ferndale, Hazel Park, and the Detroit neighborhood of Palmer Park. The Chestnut map divides this community of interest into three separate districts.

See comments w1924 (Oscar Renautt, Oak Park), w5790 (Ivy Nicole), w5669 (Sarah, Ishpeming Township), w5473 (Troy, Detroit), w5471 (Kathy Randolph), f3493 (Michael Rowady), c777 (LGBT Detroit, Detroit), c819 (LGBT Detroit, Detroit), w1287 (Midge Cone, Ann Arbor), and w1306 (Sue Hadden, Ann Arbor).

### **Community of Interest 5: Sikh Community of Interest**

The Sikh community of Troy and Rochester Hills also identified their community as a community

of interest and requested that the Troy and Rochester Hills Sikh community of interest stay together. The Chestnut map divides this community.

Ex. 8, p. 16; Ex. 16, p. 19.

**Community of Interest 6: Asian Pacific Islander and Chaldean Populations in Oakland/Macomb Counties Community of Interest**

Members of the Asian Pacific Islander and Chaldean communities in eastern Oakland County and western Macomb counties also identified themselves as a community of interest. The Chestnut map divides these populations in two by following the township boundary between the 10<sup>th</sup> and 11<sup>th</sup> districts for Oakland and Macomb County. Thus, the Chestnut map divides the Asian Pacific Islander and Chaldean community of interest.

See comments w8699 (Daniel G, Troy) and p7262 (Yousif, Troy).

**Community of Interest 7: Arab & Middle Eastern/North African Community of Interest**

Members of the Arab or Middle Eastern/North African (MENA) community in Wayne County also identified themselves as a community of interest. The Chestnut map divides these populations in two. Thus, the Chestnut map divides the Arab or Middle Eastern/North African (MENA) community of interest.

See comment c1510 (Mariam Akanan, Dearborn), with supporting comments from Jamie Kim (Dearborn) and Mariam Bazzi (Dearborn).

Although the Commission had the discretion to determine which communities of interest it would incorporate into its maps, it is striking that these seven communities of interest were specifically identified for inclusion in all other “collaborative” Commission maps yet excluded, without explanation, from the Chestnut map. The Commission did not assess whether these communities of interest could have been accommodated within the Chestnut map and did not explain why these communities of interest were abandoned by the Commission in the Chestnut map. Due to the unexplained failure to accommodate the seven above-referenced communities of interest, I dissent to the adoption of the Chestnut Congressional map.

**Recommendation for Future Commissions:**

1. Future Commissions should maintain records of communities of interest incorporated into various draft maps along with specific details as to why communities of interest were included in some maps but not others.
2. To the extent maps exclude communities of interest included in other maps, a full

accounting as to the rationale for that exclusion must be documented, along with a detailed explanation as to why the excluded community of interest could not be reasonably accommodated in the excluding map.

### **OBJECTION 3 | CRITERIA #4 PARTISAN FAIRNESS**

I dissent because each of the Commission’s Congressional, State Senate, and State House maps, including the Chestnut, could have achieved improved (i.e., closer to zero) partisan fairness metrics. Although the redistricting software licensed by the Commission, AutoBound Edge, contained a full complement of political and partisan data and tools, the Commission was directed by its general counsel that the Commission was precluded from considering election data and partisan fairness metrics when drawing its initial Statewide maps. Specifically, the Commission was advised by its general counsel that the Constitution “actually prohibits the Commission from considering the election results while they are mapping” and that the Commission was “legally prohibited from” considering election data in drawing maps. Ex. 7, Sept. 30, 2021, AM Transcript, pp. 66-67. As noted by members of the public, the Constitution contains no such restrictions. Ex. 12, Sept. 30, 2021, PM Transcript, p. 9.

To prevent Commissioners from viewing election data and partisan metrics during mapping, the Commission’s general counsel further directed the Commission’s mapping vendor, EDS, to disable and keep “hidden” the partisan fairness metrics, election data, and other political data and reporting features in AutoBound Edge. Ex. 13, Oct. 6 2021, Email. The Commission was unaware of this direction and did not consent to it. Handicapped by this lack of access, the Commission began drawing maps in August of 2021 without access to key functionality in the mapping software that it had paid for. These features were not re-enabled until after the completion of draft maps in October and required a software update. Ex. 14, October 3, 2021, Email from Kimball Brace (*“One of the things that staff and I need to discuss on Monday is how much of some of the additional reports do you want to unveil. Like this political fairness report there are a bunch of other data, tables and reports that are possible in EDGE, but we should talk about what do we want to release.”*)

The Commission’s lack of access to partisan fairness metrics until after maps were drawn resulted in rushed attempts to fix woefully non-compliant maps. Further, even after Commissioners were granted access to partisan fairness tools, Commissioners were repeatedly directed by the general counsel to “stop chasing zero” – meaning to cease trying to improve the partisan fairness metrics of the draft maps, even though improvements in such metrics were unquestionably achievable (and had been achieved by several Commissioners) without altering adherence to higher-ranked Constitutional



criteria.

Moreover, maps with improved partisan fairness metrics were hampered from public release by the Commission's counsel. For example, around September 30, 2021, a Commissioner produced what had been described by the general counsel as a "perfect" Congressional map. The general counsel described the map as having a "0%" efficiency gap and a "0%" mean-median measurement. The general counsel and other consultants decided that this Commissioner's map could not have been produced without improper outside influence. Thus, the general counsel accused the Commissioner of violating the Constitution and pressured the Commissioner to withhold the map from the public and his fellow Commissioners ("*Bruce and I remain steadfast in our recommendation to [REDACTED] that he not advance his map we discussed with him last week...*"). Ex. 15, October 4, 2021, Email. Because of this interference, the Commissioner did not present the map to the Commission or the public and, further, altered the map to **increase** the partisan fairness metrics, tilting the "perfect" map in favor of Republicans.<sup>12</sup> Ex. 15. This map – which deliberately inflated the partisan fairness metrics in favor of Republicans – was the predecessor to the Chestnut map. As a result of these pressures, the Chestnut map is a less-partisan-fair version of another map.

As evidenced by a Commissioner's supposedly "perfect" map and other maps,<sup>13</sup> the Commission could have produced Congressional, State Senate, and State House maps with better (meaning closer to zero) partisan fairness metrics, without compromising other Constitutional criteria. Because maps with better partisan fairness metrics were actually achieved yet hindered from public production, I dissent to the adoption of the Chestnut map.

#### **Recommendation for Future Commissions:**

1. Future Commissions should have access to all partisan fairness and political data and reporting functionality while drafting maps.
2. Commissioners, not staff or consultants, should make decisions regarding access to data, tools, and maps.

#### **OBJECTION 4 | INEQUITABLE ACCOUNTING AND TREATMENT OF PUBLIC COMMENTS AND INAPPROPRIATE ATTEMPTS TO INFLUENCE PUBLIC COMMENTS**

I dissent to the adoption of the Chestnut Congressional map because it was not the map

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<sup>12</sup> Ironically, the general counsel's failure to be forthright with the full Commission with respect to her concerns about this Commissioner's map may have enabled the adoption of a revised version of the very map that she objected to.

<sup>13</sup> Similarly, the Szetela House map was a more-partisan-fair version of the Hickory, without deleterious impacts on higher-ranked Constitutional criteria.

preferred by the public. The Birch map, not the Chestnut map, was the Congressional map that the majority of the public supported. Due to the Commission's lack of an organized accounting system to track public comments and failure to equally weigh all comments, some Commissioners erroneously concluded that the Chestnut map had the greatest public support. Since the Birch map actually had the greatest public support, this was in error.

The Commission was tasked with soliciting "wide" and "meaningful public participation" as part of its Constitutional obligations. Const. 1963, Art. IV., §6(10). Accordingly, the Commission diligently solicited public feedback, resulting in the Commission receiving nearly thirty thousand public comments throughout the redistricting process.<sup>14</sup> After the approval and advancement of final proposed maps to the 45-day public comment period on November 1, the Commission received comments via public meetings ("In-Person Comments"), via the online public comment portal ("Portal Comments"), and via comments placed directly on the maps themselves on the Mapping Page ("Mapping Comments").<sup>15</sup> Unfortunately, the Commission lacked a systematic method of tallying, recording, and reporting public comments.

Recognizing this deficiency on the part of the Commission, members of the public attempted to fill the gap. For example, a woman named Nicole Bedi tallied Mapping and Portal Comments and reported the tallies. Ex. 16, December 28, 2021, Transcript, p. 19. Specifically, Ms. Bedi reported that the Birch map received the greatest number of positive comments (with 67% of comments positive). Ex. 16, p. 19. As further noted by Ms. Bedi, only 55% of the Chestnut map's comments were positive. *Id.* With 67% of its 819 comments positive, the Birch map received 548 positive comments. In contrast, the Chestnut map (with only 55% of its 828 comments being positive) received only 455 positive comments. Ex. 16, p. 19. Thus, the Birch map had over 20% more favorable comments than the Chestnut map. Other members of the public conducted similar examinations of the public record and provided their reports to the Commission. Each of those reports indicated that the Birch map was the most preferred.

Rather than relying on these or other mathematical tabulations, the Commission's evaluation of public comments was haphazard and inconsistent. Some Commissioners did not routinely read Portal or Mapping Comments. Other Commissioners did not read a single Portal or Mapping Comment. Some

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<sup>14</sup> The Commission's 2022 Communication and Outreach Report is available at: <https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/MISC5/MICRC-CO-031022.pdf?rev=e1e5911a7d264fa997475f9270d6380a&hash=D6FB5458F97A8339A47E7FAAFE75AEAE>

<sup>15</sup> Portal Comments and Mapping Comments are available on the [www.michigan.gov/micrc](https://www.michigan.gov/micrc) website.

Commissioners weren't attentive to In-Person Comments. In contrast, at least one Commissioner seemed to value In-Person Comments more than Mapping or Portal Comments.<sup>16</sup> Ex. 16, p. 82-83, ¶15. Additionally, despite the fact that In-Person Comments in favor of the Birch were ubiquitous, some Commissioners appeared to inexplicably disregard those In-Person Comments. Ex. 16, p. 80-81, ¶1 and ¶3. Had the Commission created a recording and tracking system for public comments, many of these inconsistencies and discrepancies could have been avoided.

Lastly, at least one Commissioner attempted to sway public votes in favor of his preferred maps. Specifically, on December 20, 2021, prior to the Commission's final vote on the maps, a Commissioner individually met with two groups that had been particularly engaged during the redistricting process, ACCESS and APIAVote Michigan. It was the practice of the Commission that all public interactions be coordinated and publicly noticed through the Commission's staff and that Commissioners appear in groups. The rationale behind those practices was to prevent Commissioners from interactions with the public that could undermine the Commission's goals of transparency and openness. Disregarding those practices, the Commissioner individually arranged and attended this meeting. At the meeting, the Commissioner repeatedly suggested that the Chestnut map was the public's preferred map, informing both groups "you liked the Chestnut Congressional Map," and specifically advocating for both groups to submit "more comments like that."<sup>17</sup> To her credit, the representative from ACCESS corrected the Commissioner and stated that the Birch map was actually the map preferred by her group for the State of Michigan. Despite this Commissioner's efforts, the Chestnut map still received fewer favorable votes than the Birch map.

Using objective measures, in addition to receiving a greater number of favorable comments, the Birch, not the Chestnut, map had the greatest number of votes in favor of adopting the map between the dates the maps were published and the date the map was ultimately adopted. Between November 1, 2021, and December 28, 2021, **the Birch map received approximately 15% more votes in its favor of its adoption than the Chestnut map.**<sup>18</sup> Additionally, when considering votes in favor of the Birch prior to

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<sup>16</sup> One Commissioner mistakenly believed there were comments in favor of the Chestnut map at the "next five" public hearings, which were held between October 20 and October 26. Ex. 16, p. 82-83, ¶15. The Chestnut map was not created or named until November 1. Therefore, the Commission could not have received In-Person Comments in favor of the Chestnut map at October hearings/meetings because the Chestnut map did not exist at that time. This confusion illustrates the precise problem with relying upon memory rather than objective measures.

<sup>17</sup> This meeting was recorded and posted on APIAVote Michigan's Facebook page on December 27, 2021, but I was unaware of the existence of the video or its contents until after the Commission voted on the maps on December 28, 2021. As of the date of this Report, the video is available at: <https://www.facebook.com/apiavotemi/>.

<sup>18</sup> Although the Birch map received a great many comments urging its adoption before November 1, 2021, and

November 1, 2021, the Birch map was irrefutably the public’s preferred map, with substantially greater public support than the Chestnut.

Source	Support Birch	Support Chestnut
Mapping Comments	294	204
Portal Comments	98	81
In-Person Comments <sup>19</sup>	50	101
Total <sup>20</sup>	<b>442</b>	386

The Chestnut map **was not** the public’s preferred map by any measure.

The Commission was not obligated to adopt a particular map based solely on the weight of public opinion. However, because the Commission was required to solicit (and did solicit) public participation, the Commission should have accurately documented, analyzed, and given meaningful consideration the comments received from the public. It failed to do so. In part due to the failure to appropriately tally, measure, and account for public comments, the Commission failed to adopt the map preferred by the public and, instead, voted to approve a map the public did not prefer. For these reasons, I dissent to the adoption of the Chestnut map by the Commission.

**Recommendation for Future Commissions:**

1. Future Commissions should maintain a public, running tally of unique “votes” in favor of any maps published for the public’s consideration. This tally should include all unique votes received for a particular map during the duration of its publication to the public.
2. Multiple votes by the same individual should be counted as a single vote. The Commission should establish processes to prevent the same individuals from casting multiple votes.
3. In-person, written, and online comments should be weighted equally.
4. Vote tallies should quantify the percentage of positive and negative comments with respect

those votes in favor are still relevant and important, I focused solely on the time period where both maps had been published for consideration. Considering votes before November 1, 2021, would have resulted in an even greater number of votes in favor of the Birch.

<sup>19</sup> In the November 1 through December 28 time frame, the Chestnut map received more support than the Birch map via In-Person Comments; however, the Birch map received significantly more support in writing via Portal and Mapping Comments. Commissioners who never or rarely read Portal and Mapping Comments incorrectly believed the Chestnut map had greater support, when, in fact, the Birch map was the public’s preferred Congressional Plan.

<sup>20</sup> I personally tallied the number of Portal, Mapping, and In-Person for the Birch and Chestnut maps to reach these results. In making these tallies, I only treated a comment as “in favor of adopting” of a map when the commentor specifically described one map as being superior to others using superlatives or other clear indicators of preference (e.g., “best map,” “fairest map,” “adopt this one,” etc.). I disregarded comments generally describing a map as “fair” or “balanced” as well as comments ranking two maps as equal (e.g., “either the Chestnut or Birch”). I also disregarded unfavorable comments. In addition, I only considered votes after the date the Chestnut was created (November 1, 2021).

- to a particular map.
5. Commissioners should not meet individually with groups or individuals to discuss redistricting matters.
  6. Commissioners should not be permitted to “steer” or direct public opinion toward particular maps. In interactions with the public and press, Commissioners should remain neutral with respect to their preferred maps until the date of deliberations.
  7. To enable the seamless incorporation of public mapping proposals, the Commission should verify that mapping tools used by the public to submit maps are compatible with mapping software used by the Commission.
  8. To the extent a future Commission elects to adopt a map in spite of the weight of public comment with respect to that map, the Commission should provide, at a minimum, a rationale for its decision.

#### **OBJECTION 5 | IMPROPER CONSIDERATION OF COMPETITIVENESS**

In addition to receiving fewer positive public comments and fewer favorable public votes than other maps, a significant percentage of positive comments favoring the Chestnut map did so due to the supposed “competitiveness” of the map. Competitiveness is not among the Commission’s seven ranked Constitutional criteria. Further, the Commission was repeatedly advised that it could not consider competitiveness as a factor (*“I have consistently stated that competitiveness is not a constitutional criteria in Michigan. Attempting to add this consideration as a criteria [sic] creates a significant legal problem and leaves the MICRC wide open to a court challenge. First, there is no legal basis for including competitiveness in the criteria that the MICRC is constitutionally mandated to follow. This would likely be viewed as arbitrary and capricious by a court, particularly after receiving legal advice against inserting competitiveness.”*) Ex. 17, Sept. 20, 2021, Email.

Although the Constitution does not list competitiveness as a factor, the Constitution does not prevent the Commission from considering other factors *after* verifying compliance with the seven ranked Constitutional criteria. However, several Commissioners stated during deliberations that they primarily favored the Chestnut due to its “competitiveness,” above consideration with respect to how the Congressional maps compared with respect to the seven ranked Constitutional criteria. Ex. 16, p. 77, p. 80 (¶1-2), and p. 81 (¶13). In so doing, the Commission elevated a non-Constitutional criterion above the seven ranked Constitutional criteria. Thus, I dissent to the adoption of the Chestnut map to the extent the Commission improperly considered “competitiveness” as a primary factor in adopting

the map.

**Recommendation for Future Commissions:**

1. Future Commissions should not consider non-ranked criteria above Constitutionally ranked criteria.
2. Future Commissions should evaluate how to treat comments promoting criteria not specified by the Constitution.
3. If future Commissions desire to consider non-Constitutional criteria, such consideration should only occur after an evaluation and ranking of potential plans compliance with non-Constitutional criteria.

**OBJECTION 6 | FAILURE TO ENGAGE IN OPEN AND TRANSPARENT DELIBERATIONS**

Lastly, I dissent to the adoption of the Chestnut map because the Commission failed to deliberate on the maps comprehensively, openly, transparently, and objectively. The Commission deliberated for a mere 20 to 25 minutes before commencing voting on the Chestnut map. Deliberations on the Linden and Hickory maps were similarly brief. The Commission did not evaluate, compare, or contrast plans for their compliance with each of the Constitutional criteria in any systematic or comprehensive manner. Additionally, no attempts were made to rank plans based on objective measures. This lack of meaningful analysis and discussion of which maps best conformed to the Constitutional and other criteria did not fulfill the Commission’s mission of an open, transparent, objective, and data-driven process. Thus, I dissent to the adoption of the Chestnut Congressional map.

**Recommendation for Future Commissions:**

1. Future Commissions should schedule several open meetings to deliberate over proposed plans.
2. Evaluations of compliance with each Constitutional criteria should be conducted well in advance of final deliberations and voting.
3. Proposed maps should be compared, contrasted, scored, and ranked in accordance with their compliance with the Constitutional criteria.

**Conclusion**

In summary, I dissent to the adoption of the Chestnut map with respect to its compliance with Constitutional Criteria 1 (Voting Rights Act Compliance), 3 (Communities of Interest), and 4 (Partisan Fairness). I also dissent to the adoption of the Chestnut map because the Commission improperly weighed considerations of competitiveness in adopting the map. Additionally, I dissent to the adoption of the Chestnut map because the Commission neglected to consider and equally weigh all public

comment received in a support of the various Congressional maps and, as a consequence, adopted a map not preferred by the public. Finally, I dissent due to the lack of open, transparent, and data-driven deliberations regarding the maps.

Respectfully submitted,

A handwritten signature in black ink that reads "Rebecca Szetela". The signature is written in a cursive style with a large, prominent 'S'.

Rebecca Szetela

Dated: June 24, 2022

# Exhibit 1

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**From:** Irhandley@aol.com  
**Sent:** Monday, December 27, 2021 9:25 PM  
**To:** Szetela, Rebecca (MICRC)  
**Cc:** Rothhorn, MC (MICRC); Pastula, Julianne (MICRC); badelson1@comcast.net  
**Subject:** Re: MICRC Questions

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**CAUTION: This is an External email. Please send suspicious emails to [abuse@michigan.gov](mailto:abuse@michigan.gov)**

Dear Rebecca,

Both the threshold tables on 26 and 27 and the recompiled election results for Dillard are important tools for estimating whether minority candidates of choice can win in the proposed districts. The two approaches, at least in this instance, do not contradict one another with regard to the general election – the minority preferred candidate wins all of the general election above 35% in the state senate threshold table as well as the state house threshold table. It is the Democratic primary that is the stumbling block in the senate threshold table (I am referring to State Senate District 1 and the fact that the winner was not the candidate of choice of Black voters in the primary – she was, however, the minority candidate of choice in the general).

Unfortunately we do not have sufficient information to anticipate what might happen in future Democratic primaries in the proposed districts. The reason is that we have only one statewide Democratic primary for which we can recompile results and minority voters were not cohesive in this primary. We simply do not know what would happen in a primary in which minority voters are cohesive.

(The reason that recompiled election results are especially important is that they take into account the voting patterns of the actual voters that will reside in the newly proposed district.)

Best wishes,  
Lisa

Dr. Lisa Handley

—Original Message—

**From:** Szetela, Rebecca (MICRC) <SzetelaR@michigan.gov>  
**To:** SA HANDLEY <Irhandley@aol.com>  
**Cc:** Rothhorn, MC (MICRC) <RothhornM@michigan.gov>  
**Sent:** Mon, Dec 27, 2021 2:24 pm  
**Subject:** MICRC Questions

Good afternoon, Dr. Handley! I have some follow up question on your report to the MICRC. I understand you will be unavailable tomorrow, so Sue suggested I email a list of questions to you.

I am trying to reconcile the information contained on pages 26 and 27. My understanding is that the table on page 26 was intended to test the "breakpoint" between districts that are electing candidates of choice versus those that are not. Table 10 on page 26 indicates that for the Michigan State Senate, districts with BVAP of 47% or lower are not able to elect



candidates of choice. This is concerning since none of our currently proposed Senate maps (Palm, Cherry, Linden) exceed 45% BVAP. Based on this table alone, I read your report to suggest that our Senate maps need to be above 48% to create opportunity to elect districts and that revisions may be necessary.

However, when I read the text on the next page (re: bellweather elections, particularly the 2014 SOS race with Godfrey Dillard), I draw a different conclusion.

I wondered how our districts are performing looking at that election. To test the maps, I ran the Linden and Cherry election results for the Dillard election. I also edited the Linden to increase the BVAP to 45% and Linden/Cherry maps to increase the BVAP to 48% for comparison purposes. Comparing the election results for the 2014 SOS election, Dillard would have won handily in all five districts, regardless of whether the BVAP was as low as 35% or as high as 50%.

**Senate Maps - BVAP Percentages**

District No.	Linden Plan		Revised Linden 45%		Revised Linden/Cherry 48%	
	BVAP	Dillard Election	BVAP	Dillard Election	BVAP	Dillard Election
1	35.03%	71.74%	45.23%	79.97%	50.95%	84.53%
3	42.09%	76.23%	45.39%	78.54%	48.24%	80.45%
7	44.78%	63.19%	46.59%	64.89%	50.70%	66.74%
8	40.25%	65.15%	45.20%	68.40%	49.65%	70.81%
10	40.43%	62.57%	45.98%	66.49%	48.15%	68.25%

This reassures me that maybe our Senate maps are OK with their percentages as they stand? Or am I misunderstanding your analysis? If you could clarify I would appreciate it.

On a related note, I do think that part of the variation in results in current District 1 on Table 10 relates to the combination of communities. In the current district 1, you have very little of Detroit plus Harper Woods combined with Grosse Pointe Woods and Grosse Pointe Shores, which are both wealthy and white with high voter turnout. I suspect part of the variation in District 1 may relate to variations in voter turnout between the wealthier Grosse Pointes vs. the considerably less well-heeled Detroit and Harper Wood. I would expect the Grosse Pointes preferred candidate to be elected given the makeup of that district (which is part of the reason why we drew that district differently in our Senate maps).

Thank you so much for any clarification.

Rebecca Szetela

Commissioner

Michigan Independent Citizens Redistricting Commission

[szetelar@michigan.gov](mailto:szetelar@michigan.gov)

(517) 898-9366



## Exhibit 2

### Report to the Michigan Independent Citizens Redistricting Commission

Dr. Lisa Handley

#### Preface

This report outlines the analyses I conducted on behalf of the Michigan Independent Citizens Redistricting Commission (MICRC) and relays my findings. I also briefly explain the partisan fairness measures I advised the MICRC to adopt as a component of the redistricting software and why I made these recommendations. The legal implications of my findings and the assessment of any proposed plans have been left to the MICRC legal team.

#### I. The Voting Rights Act and Racially Polarized Voting

The Voting Rights Act of 1965 prohibits any voting standard, practice or procedure – including redistricting plans – that result in the denial or dilution of minority voting strength. Section 2 of the Voting Rights Act was amended in 1982 to establish that intentional discrimination need not be proven (as the Supreme Court determined was required under the 15<sup>th</sup> Amendment to the Constitution). The U.S. Supreme Court first interpreted the amended Act in *Thornburg v. Gingles*,<sup>1</sup> a challenge to the 1982 North Carolina state legislative plans. In this case the U.S. Supreme Court held that plaintiffs must satisfy three preconditions to qualify for relief:

- The minority group must be sufficiently large and geographically compact to form a majority in a single-member district
- The minority group must be politically cohesive
- Whites must vote as a bloc to usually defeat the minority-preferred candidates

What do we mean when we say minority voters must be politically cohesive? And how do we know if white voters usually vote as a bloc to defeat the candidates preferred by minority voters? According to the Court, racially polarized voting is the “evidentiary linchpin” of a vote dilution claim. Voting is racially polarized if minorities and whites consistently vote for different candidates. More specifically, if minorities consistently support the same candidates, they are said to be politically cohesive. If whites are consistently *not* supporting these candidates, they are said to be bloc voting against the minority-preferred candidates.

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<sup>1</sup> 478 U.S. 30 (1986).

**Table 1: Number of Statewide Elections Analyzed that were Polarized**

	General Elections with Minority Candidates	All Statewide General Election Contests	Statewide Democratic Primary
Statewide	6/6	12/13	1/1
Genesee	5/6	9/13	1/1
Saginaw	6/6	11/13	1/1
Oakland	6/6	13/13	0/1
Wayne	3/6	7/13	1/1

Every statewide general election contest analyzed was polarized in Oakland County – only in the Democratic primary for Governor in 2018 did Black and white voters support the same candidate (Gretchen Whitmer). Voting in Saginaw County was nearly as polarized: two U.S. Senate contests (2012 and 2014) were not polarized, but the gubernatorial primary was polarized. Black and white voters agreed on the same candidates slightly more often in Genesee County – in addition to supporting U.S. senate candidates Debbie Stabenow in 2012 and Gary Peters in 2014, they both supported Barack Obama in 2012 and Democrat Mark Schauer for Governor in 2014.

Voting in Wayne County was considerably less racially polarized than statewide or in the other three counties studied. However, slightly more than half of the general election contests and the one statewide Democratic primary analyzed were polarized, with Black and white voters supporting the same candidates in 2012, disagreeing on the three statewide offices, but supporting the same U.S. Senate candidate in 2014, supporting different candidates for U.S. President in 2016 and 2020, and voting for most of the same candidates in 2018.

### **C. Congressional and State Legislative Election Results**

This section provides a summary of my racial bloc voting analysis of recent congressional and state legislative districts in the four-county area of Wayne, Oakland, Genesee and Saginaw. I analyzed 2018 and 2020 general elections, and the 2018 and 2020 Democratic primaries if at least one African American candidate competed in the election contest. However, for a number of state

only the first step in the process – it does not take into account the voting patterns of Black and white voters. If voting is racially polarized but a significant number of white voters typically “crossover” to vote for Black voters’ preferred candidate, it may be the case that crossover voting can more than compensate for depressed Black turnout.

***Incorporating Minority Cohesion and White Crossover Voting*** Even if Black citizens are turning out at lower rates than whites, and voting is racially polarized, if a relatively consistent percentage of white voters support Black-preferred candidates, the candidates preferred by Black voters can be elected in districts that are less than majority Black. On the other hand, if voting is starkly polarized, with few or no whites crossing over to vote for the candidates supported by Black voters, it may be the case that a district that is more than 50% Black VAP is needed to elect Black-preferred candidates. A district-specific, functional analysis should take into account not only differences in turnout rates, but also the voting patterns of Black and white voters.<sup>21</sup>

To illustrate this mathematically, consider a district that has 1000 persons of voting age, 50% of who are Black and 50% of who are white. Let us begin by assuming that Black turnout is lower than white turnout in a two-candidate general election. In our hypothetical election example, 42% of the Black VAP turn out to vote and 60% of the white VAP vote. This means that, for our illustrative election, there are 210 Black voters and 300 white voters. Further suppose that 96% of the Black voters supported their candidate of choice and 25% of the white voters cast their votes for this candidate (with the other 75% supporting her opponent in the election contest). Thus, in our example, Black voters cast 200 of their 210 votes for the Black-preferred candidate and their other 8 votes for her opponent; white voters cast 75 of their 300 votes for the Black-preferred candidate and 225 votes for their preferred candidate:

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Thus, for example, if 39.3% of the Black population turned out and 48.3% of the white population turned out,  $B = .483$  and  $A = .393$ , and  $M = .483 / (.393 + .483) = .483 / .876 = .5513$ , therefore a Black VAP of 55.1% would produce an equal number of Black and white voters. (For a more in-depth discussion of equalizing turnout see Kimball Brace, Bernard Grofman, Lisa Handley and Richard Niemi, “Minority Voting Equality: The 65 Percent Rule in Theory and Practice,” *Law and Policy*, 10 (1), January 1988.)

<sup>21</sup> For an in-depth discussion of this approach to creating effective minority districts, see Bernard Grofman, Lisa Handley and David Lublin, “Drawing Effective Minority Districts: A Conceptual Framework and Some Empirical Evidence,” *North Carolina Law Review*, volume 79 (5), June 2001.

It is important to remember that winning office in the United States usually requires winning two elections: a primary and a general election. The tables above consider only general election contests. Producing a comparable set of tables for Democratic primaries is not possible. First, there was only one statewide Democratic primary – the 2018 primary contest for Governor. There were three candidates competing in this election and because 50% of the vote was not required to win the election, a mathematical equation setting the percentage needed to win 50% of the vote does not work. Second, Black voters were not cohesive in support of any one of these three candidates. In fact, the candidate preferred by even the plurality of Black voters was not the same in the four counties examined. Drawing a district that Black-preferred candidate could win this primary is not possible when there is no Black-preferred candidate.

In areas where most of the white voters are likely to vote in Republican primaries, the inability to calculate the percent needed to win in Democratic primaries is not particularly important. Black voters will dominate the Democratic primary unless they make up only a very small portion of the voters in the district. However, in the counties examined in Michigan, many white voters elect to participate in the Democratic primary, especially in Wayne County. As the percentage Black VAP of proposed districts decreases, it may become more challenging for Black-preferred candidates to win not only the general election but the Democratic primary – but only if voting in Democratic primaries is racially polarized. Unfortunately, it is not possible to ascertain exactly how much more difficult it would be – or even if it would be more difficult – given the lack of Democratic primary election data.

## **B. Threshold of Representation in the Current State House and Senate Districts**

A useful check on the percent needed to win estimates found in Tables 5-8 that can be done prior to drawing any districts is to produce what have been referred to by some political scientists as “threshold of representation” tables. These tables are designed to identify the lowest minority percentage above which minority candidates are consistently elected. Tables 9 and 10, below, report the BVAP of the current Michigan state house and senate districts with over 20% BVAP, and indicate the race and party of the candidate elected to represent the district.<sup>23</sup> Sorted

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<sup>23</sup> There are no African American state senators or representatives elected from districts that are less than 20% Black in VAP. However, there are other minority candidates (Hispanic, Asian, and Middle Eastern) elected to state house districts with considerably less than 20% BVAP.

by the percent BVAP, the tables can sometimes provide evidence of a clear breakpoint between those districts that are probably electing candidates of choice and those that are not.<sup>24</sup>

An examination Table 9 indicates that every Michigan state house district with a BVAP of at least 35% elects a minority representative to the state house. In fact, every district with a BVAP of more than 26.53% elects a minority to office with the exception of District 49 in Genesee County. And the racial bloc voting analysis of House District 49 indicates that the white incumbent, John Cherry, is the candidate of choice of Black voters, even in the 2018 Democratic primary when he faced several African American candidates.

**Table 9: Threshold of Representation for State House Districts, 2021**

State House District	Total VAP	Black VAP	Percent Black VAP	Name	Party	Race	Percent of Vote 2020
7	60347	57256	94.27%	Helena Scott	D	Black	93.00%
8	62448	58042	92.42%	Stephanie A. Young	D	Black	96.70%
3	54130	49536	90.93%	Shri Thanedar	D	Asian	93.30%
9	62529	46806	74.22%	Karen Whitsett	D	Black	94.20%
10	69209	46977	67.41%	Mary Cavanagh	D	Hispanic	84.80%
1	59788	38993	64.76%	Tenisha R. Yancey	D	Black	75.80%
35	78306	49325	62.50%	Kyra Harris Bolden	D	Black	82.90%
34	49491	30419	60.96%	Cynthia R. Neeley	D	Black	86.70%
2	57031	33142	57.70%	Joe Tate	D	Black	74.10%
5	49290	27190	54.12%	Cynthia A. Johnson	D	Black	93.40%
6	67505	36182	52.86%	Tyrone Carter	D	Black	100.00%
4	68749	32761	47.27%	Abraham Aiyash	D	ME	89.80%
29	72319	26621	36.04%	Brenda Carter	D	Black	72.90%
95	58640	21320	35.50%	Amos O'Neal	D	Black	70.10%
49	64844	19308	29.47%	John D. Cherry	D	White	68.90%
54	72426	21212	28.79%	Ronnie Peterson	D	Black	77.70%
12	73883	20207	26.97%	Alex Garza	D	Hispanic	62.40%
11	73586	19760	26.53%	Jewell Jones	D	Black	65.20%
92	66135	16957	25.34%	Terry J. Sabo	D	White	65.30%
27	73337	18051	24.35%	Regina Weiss	D	White	74.40%
16	74617	17556	23.25%	Kevin Coleman	D	White	62.50%
75	76956	18127	22.56%	David LaGrand	D	White	74.60%
68	71672	16808	22.44%	Sarah Anthony	D	Black	75.90%
18	75251	16519	21.76%	Kevin Hertel	D	White	60.30%
22	68758	14588	21.00%	Richard Steenland	D	White	59.90%
60	74176	15887	20.97%	Julie M. Rogers	D	White	71.40%

<sup>24</sup> Without the confirmation provided by a racial bloc voting analysis, it could conceivably be the case that the minority legislator is not the candidate of choice of minority voters.

Interpreting Table 10, for the Michigan state senate, is less straightforward. The four districts with BVAP percentages over 47% elect African Americans to office. However, Stephanie Chang, the state senator in District 1, which is 44.68% BVAP, was not the candidate of choice of Black voters in the 2018 Democratic primary, though she is the candidate of choice in the general election.

**Table 10: Threshold of Representation for State Senate Districts, 2021**

State Senate District	Total VAP	Black VAP	Percent Black VAP	Name	party	race	Percent of vote 2018
5	203828	111418	54.25%	Betty Alexander	D	Black	77.4%
2	169357	86961	50.82%	Adam Hollier	D	Black	75.7%
3	186758	90737	48.14%	Sylvia Santana	D	Black	81.8%
4	180199	85691	47.00%	Marshall Bullock	D	Black	78.3%
1	193087	87075	44.68%	Stephanie Chang	D	Asian	72.0%
11	229870	82336	35.48%	Jeremy Moss	D	White	76.7%
27	175918	54071	30.42%	Jim Ananich	D	White	71.2%
9	219325	50800	22.95%	Paul Wojno	D	White	65.9%
6	217734	46997	21.29%	Erika Geiss	D	Black	61.4%

### C. Recompiled Election Results

As noted above, once draft districts have been drawn, there is a second approach available for ascertaining whether a proposed district is likely to provide minority voters with an opportunity to elect their candidates of choice to legislative or congressional office. This approach relies on recompiling election results from previous elections to see if the candidates preferred by minority voters would win in the draft district. This process entails (1) identifying “bellwether” elections, (2) disaggregating the precinct level results for these elections down to the census block level and then (3) re-aggregating the results up to conform to proposed district boundaries to determine if the minority-preferred candidate would win. This recompilation can only be done



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MICRC

09/02/21-1300 Meeting

Captioned by Q&A Reporting, Inc., [www.qacaptions.com](http://www.qacaptions.com)

Exhibit 3

>> VICE CHAIR SZETELA: We will bring the Michigan Independent Citizens Redistricting Commission to order at 1:06 p.m.

Greetings to Ann Arbor. We are happy to be here today. There are several groups that are making this meeting possible. I would like to thank Tom Ivako, Bonnie Roberts and Logan Woods of the center for local, state and urban policy here at the University of Michigan. Ellen Weisman and Nate Hall, campus election management project. Landon Meyers, campus vote project. It's gratifying that so many groups are here to assist the MICRC in engaging people in redistricting here in Michigan.

This Zoom webinar is being live streamed at YouTube at [www.YouTube.com/MICHSO office/videos](http://www.YouTube.com/MICHSO_office/videos).

For anyone in the public watching who would prefer to watch via a different platform than they are currently using, please visit our social media at Redistricting MI to find the link for viewing on YouTube.

Our live stream today includes closed captioning. Closed captioning, ASL interpretation, and Spanish and Bengali and Arabic translation services will be provided for effective participation in this meeting. Please E-mail us at [Redistricting@Michigan.Gov](mailto:Redistricting@Michigan.Gov) for additional viewing options or details on accessing language translation services for this meeting.

People with disabilities or needing other specific accommodations should also contact Redistricting at [Michigan.gov](http://Michigan.gov).

This meeting is also being recorded and will be available at [www.Michigan.gov/MICRC](http://www.Michigan.gov/MICRC) for viewing at a later date and this meeting is being transcribed and closed-captioned transcriptions will be made available and posted on [Michigan.gov/MICRC](http://Michigan.gov/MICRC) along with the written public comment submissions.

There is also a public comment portal that may be accessed by visiting [Michigan.gov/MICRC](http://Michigan.gov/MICRC), this portal can be utilized to post maps and comments which can be viewed by both the Commission and the public.

Members of the media who may have questions before, during or after the meeting should direct those questions to Edward Woods III, our Communications and Outreach Director for the Commission at [WoodsE3@Michigan.gov](mailto:WoodsE3@Michigan.gov) or 517-331-6309.

For the purposes of the public watching and for the public record I will now turn to the Department of State staff to take note of the Commissioners

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The first and Foremost criteria are the U.S. Constitution and Federal law and the Voting Rights Act is Federal law.

And it applies everywhere in the country including Michigan.

It prohibits any voting standard practice or procedure including a redistricting plan that results in the denial or dilution of minority voting strength.

A redistricting plan that dilutes minority voting strength is one that either cracks or packs a geographically concentrated minority group.

A top example to the left is or to the right is an example of a District, a set of districts that cracks the minority community by dividing it among four districts, five districts so that they cannot elect a minority preferred candidate in any of those districts.

The lower example on the right is an example of a District or District center that packs minority voters so that they have an impact on only one District and no impact on any of the other districts despite the fact that you could probably have drawn two districts in which they had the ability to elect communities, to elect candidates of choice.

When the Voting Rights Act was amended in 1982 to make it clear that you did not have to show that the redistrictors intended to discriminate only that the plan that they drew actually resulted in discrimination.

The Supreme Court first considered this case in 1986 in a case called Thornburg versus Jingles and had to prove three conditions in order to satisfy Section Two and get a District drawn in which they could have the ability to elect a candidate of choice.

First is that the group must be sufficiently large and geographically compact to form a majority in a single member District.

This is in essence so there was actually a remedy available.

There is a solution to the problem of how do we elect candidates of choice.

The second is that the minority group must be politically cohesive.

That is, they must vote for the same candidates.

And, third, whites must vote as a bloc to usually defeat the minority-preferred candidates.

If they were not voting as a bloc to defeat these candidates, these candidates would win, and you wouldn't need to draw a minority District.

So how do we know how the minority group is voting? How do we know how whites are voting? What you do is conduct a racial bloc voting analysis.

And my job in this particular situation is to actually carry out what's called a racial bloc voting analysis that is analyze voting patterns by race to determine if voting is polarized. If whites are voting against a cohesive minority community.

I mentioned that first of all we have, of course, a secret ballot.

We don't know the race of the voters when they cast the ballot.

So, we have to use estimation techniques.

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And the two most standard estimation techniques are ecological regression analysis and ecological inference analysis. Ecological simply means you are using aggregate data.

What we are going to do is we are going to look at precincts rather than individuals. And we are going to look to see if there are patterns across the precincts in which the demographic composition of the precinct is related to the voting patterns of those precincts.

So, on the left we see ecological regression each precinct in the jurisdiction has been placed on the scatter plot on the basis of the percent Black turnout this is the jurisdiction in the south where we actually know turn out by race.

And the vertical axis is vote for Warnock this is an election that occurred in January of 2021 it's the race for U.S. Senate in Georgia.

This is real data in a specific County.

You can see a pattern here and the pattern is the higher the percent Black across the precincts the more votes you see for Warnock that is the estimation technique we used to determine how whites and Blacks are voting in this particular jurisdiction.

This practice, this particular technique had one disadvantage associated with it and that voting was very polarized, you would get estimates that were outside the logical bounds and would find something like 105 Blacks vote 105% of Black voters voted for Warnock. And negative 5 white voters voted for Warnock.

So, in the 1990s Professor King developed ecological inference, that you see on the right side. And this process, each precinct is actually represented by a line rather than a point using more information about the precinct to get this line. And that is all the possible combinations of Black and white votes that could have produced the result for that particular precinct as represented by a line as opposed to a point.

And then the computer generates a best guesstimate of what the actual composition of the votes for the Black candidate were, was.

So, this is the analysis that I performed in Michigan.

Now you need a few pieces of information in order to perform this.

And that is that you need to have an area that has a sufficient number of minority voters to actually estimate voting behavior by race.

I looked at eight counties.

There were several counties in the west of Michigan that had growing minority population around Grand Rapids, Muskegon County and Kent County and it turns out there was not a sufficient number of minority votes to estimate behavior voting behavior on the basis of race in those two counties.

The same is true of I looked at six counties in the east.

I was able to produce estimates for Wayne, Oakland, Genesee and Saginaw Counties, I was not able to do so for Washtenaw and Macomb Counties there was not a sufficient amount of Black turn out to estimate Black and white behavior in those two counties so

what I'm going to give you is the results of analysis for statewide for the entire State of Michigan and for these four counties.

Because actually what you want to do you want to do an area specific analysis because it turns out that voting patterns are different depending where you are in the state.

For example, it may be the case using the example I gave you before of the Georgia election.

Turns out that in the rural areas of Georgia the election was very polarized while in the urban area around Fulton it was much less polarized.

In fact, it wasn't polarized at all in certain areas.

So, it matters where you are in the state as to how much polarization there is and when you're drawing districts it matters what it looks like in that specific area.

The Court is quite adamant about doing a District-specific and an analysis and this is why I looked at these counties.

I looked at 13 elections there have been 13 statewide and Federal elections over the decade.

These include U.S. Senate, U.S. president, U.S. Senate, and three statewide contests, the gubernatorial contests the Attorney General and Secretary of State and the treasurer.

Four statewide contests.

Now the courts have indicated that the most probative contest to look at are contests include minority candidates.

So, you've had four contests statewide contests over the last decade that included minority candidates.

These are the most probative.

You have also listed them here.

You had the 2012 race for U.S. president.

You had a 2014 Secretary of State contest.

You had the 2018 and 2020 U.S. Senate contests.

Then you had two contests that included minority candidates as running mates.

This is the 2018 gubernatorial contest and the 2020 Presidential contest.

So, these I looked at all 13 statewide contests, but these are the most probative according to the courts.

Ordinarily I would look at statewide democratic primaries as well.

I could not look at republican primaries there is not enough minority participation in republican primaries to actually analyze voting patterns by race.

So, I look at democratic primaries.

And in this case, you've only had one statewide democratic primary.

This entire decade and that was in 2018 for Governor.

So, I looked at that contest as well.

This is what the results look like.

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And I'm going to explain how to read this table.

Every election that I looked at for every area has a table that looks like this.

So, this is statewide.

This is the election listed here, 2018 Governor.

And here are the candidates.

Here are the parties of the candidates.

Here are the races of the candidates.

Here is the votes that they received statewide.

Now, there are actually four estimates for Black voters and there are four estimates for white voters.

I talked to you about ecological regression and mentioned the problem you have with ecological regression and there sit 104 of Black voters supporting Whitmer.

I didn't mention homogenous precinct.

This is actual these are the actual results of precincts across the state that are overwhelmingly one race.

So these are precincts across the state that are 90% or more voting age population Black in composition.

So that's how I derived the homogenous and this is actual data so looking at 90% plus precincts 90 per cent plus Black age population precincts 95.6% of those voters supported Whitmer.

There are actually two different forms of ecological inference analysis.

One is called two by two.

And that is the one that was developed in the 1990s.

It's since been refined so that I can account for differential turn out and that's what is in the last column 95.3%.

Now all of these are derived from different techniques.

You wouldn't expect them to be exactly the same, but they are all telling a very similar story and that is overwhelming Black support for Whitmer.

On the other side of this table, we will get our estimates.

I report the estimates for the white voters.

So let me see if I can get this to work.

But it's not doing this.

Okay, so we've got 41.1% in the overwhelmingly white precincts, 41.1% of the voters supported Whitmer.

The AR estimate is 38.9.

The two by two is 40.6.

And let me see and the C is 44.8% so these are estimates.

Now I forgot to mention down here the votes for office this is the percentage of voting age population that actually turned out and cast a ballot for that particular office.

So, you can see there is a difference in turn out rates.

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And that is around 35% of Black voting age population turned out and cast a ballot for the Governor in 2018.

While the number was higher almost double for white voters.

This contest is racially polarized.

If Blacks voting alone had voted alone Whitmer would have been elected.

She was.

And then of course if whites voted alone, it would have been the republican candidate who was elected.

Below I have the primary for this election.

I have the gubernatorial primary of 2018.

We have the three candidates listed here:

We have they are all democrats.

We have their race.

We have the percentage of votes they received.

And you will see that this contest is also polarized.

This contest you have a plurality of the Black voters supporting Thanedar and majority of the white voters supported Whitmer.

So, this contest is also polarized.

Okay, now I did this, and you will see tables in the report that I eventually produce for every election but I'm going to show you summaries of this in a little bit.

So, over all statewide in the 13 elections that I looked at, 12 were polarized.

And those elections that are most probative to the courts, that is those that included minority candidates, 6 out of the 6 were polarized in the democratic primary which there was only one it was polarized.

And I mean -- mentioned I looked at four counties and these are the results of the analysis in four counties in Genesee County we have nine of the 13 contests polarized with five of the six with minority candidates.

The democratic primary was polarized.

And Saginaw it's 11 out of 13 of the contests, six out of six of those contests with minority candidates.

And the democratic primary was polarized.

In Oakland all 13 of the general elections were polarized including the six with minority candidates but the democratic primary was not.

And finally in Wayne County where voting is less polarized you will see that 7 of the 13 contests were polarized, three of those were minority candidates and the democratic primary was polarized.

What this tells me is that voting is polarized in Michigan.

And what that means is the Voting Rights Act comes into play in districts that provide minority voters with the opportunity to elect their candidates must be drawn.

Okay, so voting is polarized.

## DETERMINING IF A REDISTRICTING PLAN COMPLIES WITH THE VOTING RIGHTS ACT

Dr. Lisa Handley

1

### Redistricting Criteria Priority Pyramid: Voting Rights Act of 1965

- Section 2 prohibits any voting standard, practice or procedure, including a redistricting plan, that results in the denial or dilution of minority voting strength.
- All state and local jurisdictions are covered by Section 2 of the Voting Rights Act.

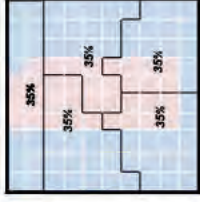


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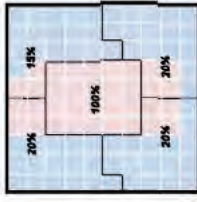
### Redistricting Plans that Violate the Voting Rights Act

Redistricting plans cannot:

- crack, or
- pack a geographically concentrated minority community across districts or within a district in a manner that dilutes their voting strength.



Plan that cracks minority community across 5 districts



Plan that packs minority community into single district

3

### Thornburg v. Gingles: Three-Pronged Test

U.S. Supreme Court held that plaintiffs must satisfy three preconditions to qualify for relief under Section 2 of the Voting Rights Act:

- The minority group must be sufficiently large and geographically compact to form a majority in a single-member district
- The minority group must be politically cohesive
- Whites must vote as a bloc to usually defeat the minority-preferred candidates

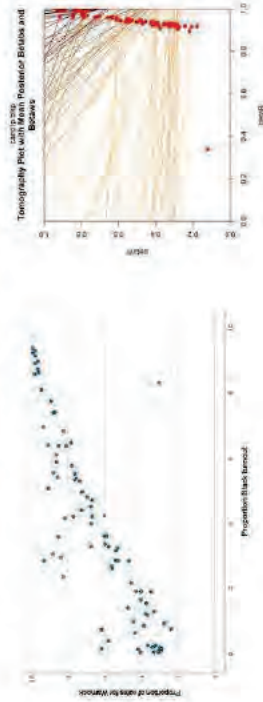
A racial bloc voting analysis is used to ascertain whether minority voters are politically cohesive and if white voters bloc vote to usually defeat minority-preferred candidates.

4

## Analyzing Voting Behavior by Race

Two standard statistical techniques for estimating voting patterns of minority and white voters:

- Ecological regression analysis (ER)
- Ecological inference analysis (EI)

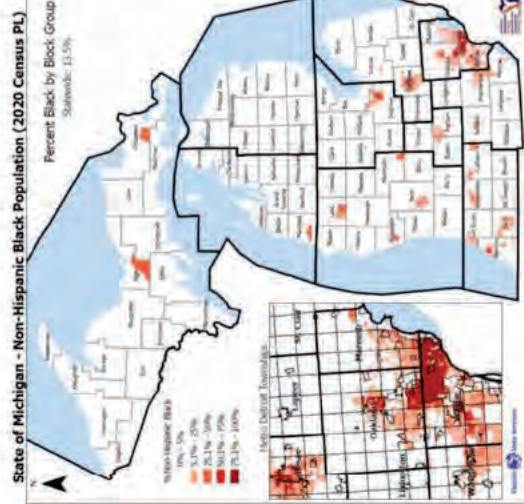


## Elections Analyzed to Date

- All federal and statewide general election contests, 2012-2020.
  - Four election contests included minority candidates:
    - 2012 U.S. President (Barack Obama)
    - 2014 Secretary of State (Godfrey Dillard)
    - 2018 U.S. Senate (John James)
    - 2020 U.S. Senate (John James)
  - Two contests included minority candidates as running mates
    - 2018 Governor (Gretchen Whitmer/Garlin Gilchrist)
    - 2020 U.S. President (Joseph Biden/Kamala Harris)
- Only Democratic primary for statewide office this past decade: 2018 race for governor

## Area-Specific Analyses

- Wayne
- Oakland
- Genesee
- Saginaw



## Example of RBV Results: 2018 General and Democratic Primary for Governor

Statewide	Party	Race	Vote	Estimates for Black Voters			Estimates for White Voters						
				HP	ER	EI 242	EI RVC	HP	ER	EI 242	EI RVC		
2018 General													
Governor	D	W/AA	53.3%	95.6	104.3	98.6	95.3	41.1	38.9	40.6	44.8		
Whitmer/Gilchrist	R	W	43.9%	2.5	-6.4	-0.8	1.8	56.0	57.9	56.2	57.8		
Schutte/Byers				1.9	-2.1	-2.8	-2.9	3.1	-2.9	-2.9	-2.5		
votes for office				36.6	31.6	35.2	35.2	67.9	67.7	67.7	63.3		

2018 Democratic Primary for Governor	Party	Race	Vote	Estimates for Black Voters			Estimates for White Voters						
				HP	ER	EI 242	EI RVC	HP	ER	EI 242	EI RVC		
STATEWIDE	D	ME	30.3%	21.0	24.2	23.5	26.0	25.7	27.1	30.2	28.5		
Abdul El-Sayed	D	A	17.7%	42.5	44.2	42.2	39.0	15.8	12.9	10.8	9.4		
Gretchen Whitmer	D	W	52.0%	36.5	31.6	33.5	35.0	58.6	60.0	59.4	62.0		
votes for office				23.0	22.5	24.5	24.5	13.9	12.0	14.0	14.0		

- votes for office = percentage of voting age population who turned out and cast a vote for the office
- HP = vote percentages from homogeneous precincts
- ER = estimates derived from ecological regression analysis
- EI 242 = estimates derived from standard EI (as developed by Prof. Gary King)
- EI RVC = estimates derived from EI technique that takes into account differences in participation by race



## Number of Racially Polarized Elections

	General Elections with Minority Candidates	All Statewide General Election Contests	Statewide Democratic Primary
Statewide	6/6	12/13	1/1
Genesee	5/6	9/13	1/1
Saginaw	6/6	11/13	1/1
Oakland	6/6	13/13	0/1
Wayne	3/6	7/13	1/1

Number of polarized contests / total number of contests

9

## Drawing Minority Opportunity Districts

- Line drawers cannot simply set an arbitrary demographic target (e.g., 50% black voting age population) for all minority districts across the jurisdiction (*Alabama Legislative Black Caucus v. Alabama*, 2015).
- A district-specific, functional analysis is required to determine if a proposed district will provide minority voters with the ability to elect minority-preferred candidates to office.

11

## Complying with the Voting Rights Act

- If, based on the racial bloc voting (RBV) analysis, it is determined voting is racially polarized, and candidates preferred by a politically cohesive minority group are usually defeated by white voters not supporting these candidates, a district(s) that offers minority voters an opportunity to elect their candidates of choice must be drawn.
- If such districts already exist, and minority-preferred candidates are winning only because these districts exist, then these minority districts must be maintained in a manner that continues to provide minority voters with an opportunity to elect their preferred candidates.

10

## District-specific, Function Approaches

- Estimates of participation rates, minority cohesion and white crossover voting for minority-preferred candidates derived from the RBV analysis can be used to calculate the percent minority population needed in a specific area for minority-preferred candidates to win a district in that area.
- Election results from previous contests that included minority-preferred candidates (“bellwether elections” as identified by the RBV analysis) can be recomputed to reflect the boundaries of the proposed district to determine if minority-preferred candidates would consistently carry this proposed district.

12

Michigan STATEWIDE Percent Black VAP needed to win	race of P candidate	turnout rate for office and percent vote for black-preferred candidates								Estimates for Black Voters								Estimates for White Voters							
		Black votes				White votes				HP	ER	B:Black	HP	ER	B:Black	HP	ER	B:Black	HP	ER	B:Black				
votes cast for office	B:P all others	BP	all others	votes cast for office	White all others	received if district was 55% black	received if district was 45% black	received if district was 40% black	received if district was 35% black													percent of vote BP candidate would have received if district was 55% black	percent of vote BP candidate would have received if district was 45% black	percent of vote BP candidate would have received if district was 40% black	percent of vote BP candidate would have received if district was 35% black
<b>GENERAL ELECTIONS</b>																									
2020 President	W	55.2	96.2	3.8	79.0	40.0	60.0	65.9	63.1	60.4	57.9	56.4	66.3	63.7	61.1	59.7	58.2								
2020 US Senate	W	55.2	93.9	6.1	78.1	38.4	60.6	64.6	61.9	59.3	56.8	54.4	65.8	63.2	60.6	58.1	56.6								
2018 Governor	W	35.1	95.6	4.4	62.2	43.9	56.1	65.0	62.8	60.2	58.0	56.4	66.4	63.8	61.2	59.0	57.4								
2018 Secretary of State	W	34.6	94.1	5.6	61.7	39.4	60.6	61.8	59.2	56.7	54.4	52.8	65.8	63.2	60.6	58.0	56.4								
2018 Attorney General	W	35.0	94.3	5.7	63.1	43.7	56.3	64.4	61.8	59.2	57.4	55.8	66.0	63.4	60.8	58.2	56.6								
2018 US Senate	W	34.1	97.4	2.7	67.2	34.2	65.8	65.3	62.4	59.3	56.3	53.3	65.4	62.8	60.2	57.6	55.0								
2016 Governor	W	35.1	95.7	4.3	69.1	38.5	61.5	65.2	62.3	59.3	56.3	53.3	65.4	62.8	60.2	57.6	55.0								
2014 Secretary of State	AA	34.8	95.8	4.2	47.8	33.5	66.5	62.8	59.1	56.8	53.9	51.0	65.6	63.0	60.4	57.8	55.2								
2014 Attorney General	W	34.6	95.2	4.9	47.8	35.0	65.0	63.3	60.3	57.4	54.8	51.9	65.6	63.0	60.4	57.8	55.2								
2014 US Senate	W	35.0	96.5	3.5	48.5	47.3	52.7	70.4	67.8	65.6	63.4	61.4	65.6	63.0	60.4	57.8	55.2								
2012 President	AA	59.1	97.8	2.2	69.1	64.5	55.6	71.6	69.3	66.6	64.0	61.4	65.6	63.0	60.4	57.8	55.2								
2012 US Senate	W	59.8	96.8	3.2	68.9	64.6	49.4	74.5	72.2	69.5	67.7	65.4	65.6	63.0	60.4	57.8	55.2								

GENESEE COUNTY Percent Black VAP needed to win	race of P candidate	turnout rate for office and percent vote for black-preferred candidates								Estimates for Black Voters								Estimates for White Voters							
		Black votes				White votes				HP	ER	B:Black	HP	ER	B:Black	HP	ER	B:Black							
votes cast for office	B:P all others	BP	all others	votes cast for office	White all others	received if district was 55% black	received if district was 45% black	received if district was 40% black	received if district was 35% black										percent of vote BP candidate would have received if district was 55% black	percent of vote BP candidate would have received if district was 45% black	percent of vote BP candidate would have received if district was 40% black	percent of vote BP candidate would have received if district was 35% black			
<b>GENERAL ELECTIONS</b>																									
2020 President	W	53.0	96.1	3.9	79.6	42.1	57.9	66.3	63.7	61.1	59.7	58.4	66.3	63.7	61.1	59.7	58.4								
2020 US Senate	W	56.6	95.0	5.0	78.7	43.5	56.5	67.6	65.0	62.6	60.2	57.9	67.6	65.0	62.6	60.2	57.9								
2018 Governor	W	45.1	95.3	4.7	59.9	46.2	53.8	69.8	67.2	64.9	62.6	60.4	67.2	64.9	62.6	60.4	58.1								
2018 Secretary of State	W	44.9	95.2	4.8	58.6	48.0	52.0	70.8	68.5	66.0	64.0	61.8	68.5	66.0	64.0	61.8	59.6								
2018 Attorney General	W	44.6	94.1	5.9	58.4	41.1	58.9	66.7	64.0	61.5	59.0	56.5	66.7	64.0	61.5	59.0	56.5								
2018 US Senate	W	45.1	95.2	4.8	56.6	45.8	54.2	69.5	67.1	64.7	62.4	60.1	69.5	67.1	64.7	62.4	60.1								
2014 Governor	W	35.6	95.8	4.2	47.5	51.8	48.2	72.9	70.7	68.6	66.5	64.5	72.9	70.7	68.6	66.5	64.5								
2014 Secretary of State	AA	35.9	95.6	4.4	46.1	46.2	53.8	70.3	67.8	65.3	63.1	60.8	70.3	67.8	65.3	63.1	60.8								
2014 Attorney General	W	35.9	95.6	4.4	46.1	46.2	54.8	69.9	67.4	64.9	62.6	60.2	69.9	67.4	64.9	62.6	60.2								
2014 US Senate	W	36.1	95.8	4.4	47.1	58.8	41.4	78.3	74.9	72.8	71.1	69.4	78.3	74.9	72.8	71.1	69.4								
2012 President	AA	61.0	97.8	2.4	69.4	53.0	48.3	76.8	74.4	72.2	70.1	67.8	76.8	74.4	72.2	70.1	67.8								
2012 US Senate	W	60.7	96.7	3.9	67.5	60.2	39.8	79.3	77.5	75.7	73.8	71.9	79.3	77.5	75.7	73.8	71.9								

SACRAMENTO COUNTY Percent Black VAP needed to win	race of P candidate	turnout rate for office and percent vote for black-preferred candidates								Estimates for Black Voters								Estimates for White Voters							
		Black votes				White votes				HP	ER	B:Black	HP	ER	B:Black	HP	ER	B:Black							
votes cast for office	B:P all others	BP	all others	votes cast for office	White all others	received if district was 55% black	received if district was 45% black	received if district was 40% black	received if district was 35% black										percent of vote BP candidate would have received if district was 55% black	percent of vote BP candidate would have received if district was 45% black	percent of vote BP candidate would have received if district was 40% black	percent of vote BP candidate would have received if district was 35% black			
<b>GENERAL ELECTIONS</b>																									
2020 President	W	48.6	95.3	4.7	79.6	38.3	63.7	61.5	58.7	56.0	53.4	50.8	61.5	58.7	56.0	53.4	50.8								
2020 US Senate	W	49.4	93.8	6.2	78.7	37.5	62.5	61.7	59.0	56.3	53.9	51.5	61.7	59.0	56.3	53.9	51.5								
2018 Governor	W	37.7	93.6	6.4	63.0	40.9	59.1	63.2	60.6	58.0	55.7	53.2	63.2	60.6	58.0	55.7	53.2								
2018 Secretary of State	W	38.0	93.7	6.1	61.4	38.2	60.8	62.2	60.0	57.5	55.1	52.6	63.2	60.6	58.0	55.7	53.2								
2018 Attorney General	W	37.8	93.4	6.8	61.0	39.3	66.1	66.1	66.2	63.4	60.8	58.3	66.1	63.4	60.8	58.3	55.8								
2018 US Senate	W	37.8	93.6	5.5	59.8	38.8	65.1	69.3	66.4	63.6	61.0	58.5	69.3	66.4	63.6	61.0	58.5								
2014 Governor	W	32.7	94.1	5.9	50.8	42.2	57.8	65.1	62.5	60.1	57.8	55.3	65.1	62.5	60.1	57.8	55.3								
2014 Secretary of State	AA	32.8	94.4	5.8	49.2	36.3	63.7	62.3	59.5	56.7	54.1	51.6	62.3	59.5	56.7	54.1	51.6								
2014 Attorney General	W	32.4	94.1	5.9	50.1	37.8	67.4	66.6	64.8	62.6	60.4	57.8	66.6	64.8	62.6	60.4	57.8								
2014 US Senate	W	32.4	94.1	5.9	50.1	50.6	49.4	69.0	67.2	65.4	63.6	61.8	69.0	67.2	65.4	63.6	61.8								
2012 President	AA	56.2	95.7	4.3	70.3	42.9	57.1	69.0	66.4	63.8	61.4	58.8	69.0	66.4	63.8	61.4	58.8								
2012 US Senate	W	55.7	95.4	4.5	68.7	57.3	47.7	73.8	71.6	69.5	67.4	65.4	73.8	71.6	69.5	67.4	65.4								

# Threshold of Representation: State House

- All districts over 36% Black elect minority candidates
- 89% of districts over 25% Black elect minority candidates
- No state house districts between 37 and 47% Black

State House District	Total VAP	Black VAP	Percent Black VAP	Candidate Name	Party Race	Percent Black VAP 2020
1	60947	52106	85.6%	Harisa Staff	D Black	93.0
2	62448	58502	93.7%	Southern A. Young	D Black	96.7
3	54330	31515	58.0%	Neil Thorsland	D Black	93.3
4	60516	45856	75.8%	Baron Whitsett	D Black	96.3
5	61018	39043	64.0%	Paul L. Johnson	D Black	74.9
6	62564	48525	77.6%	Debra L. Carter	D Black	87.9
7	62564	48525	77.6%	Debra L. Carter	D Black	87.9
8	62564	48525	77.6%	Debra L. Carter	D Black	87.9
9	62564	48525	77.6%	Debra L. Carter	D Black	87.9
10	62564	48525	77.6%	Debra L. Carter	D Black	87.9
11	62564	48525	77.6%	Debra L. Carter	D Black	87.9
12	62564	48525	77.6%	Debra L. Carter	D Black	87.9
13	62564	48525	77.6%	Debra L. Carter	D Black	87.9
14	62564	48525	77.6%	Debra L. Carter	D Black	87.9
15	62564	48525	77.6%	Debra L. Carter	D Black	87.9
16	62564	48525	77.6%	Debra L. Carter	D Black	87.9
17	62564	48525	77.6%	Debra L. Carter	D Black	87.9
18	62564	48525	77.6%	Debra L. Carter	D Black	87.9
19	62564	48525	77.6%	Debra L. Carter	D Black	87.9
20	62564	48525	77.6%	Debra L. Carter	D Black	87.9
21	62564	48525	77.6%	Debra L. Carter	D Black	87.9
22	62564	48525	77.6%	Debra L. Carter	D Black	87.9
23	62564	48525	77.6%	Debra L. Carter	D Black	87.9
24	62564	48525	77.6%	Debra L. Carter	D Black	87.9
25	62564	48525	77.6%	Debra L. Carter	D Black	87.9
26	62564	48525	77.6%	Debra L. Carter	D Black	87.9
27	62564	48525	77.6%	Debra L. Carter	D Black	87.9
28	62564	48525	77.6%	Debra L. Carter	D Black	87.9
29	62564	48525	77.6%	Debra L. Carter	D Black	87.9
30	62564	48525	77.6%	Debra L. Carter	D Black	87.9
31	62564	48525	77.6%	Debra L. Carter	D Black	87.9
32	62564	48525	77.6%	Debra L. Carter	D Black	87.9
33	62564	48525	77.6%	Debra L. Carter	D Black	87.9
34	62564	48525	77.6%	Debra L. Carter	D Black	87.9
35	62564	48525	77.6%	Debra L. Carter	D Black	87.9

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Wayne County Percent Black VAP needed to win	Tumout rate for office and percent vote for Black-preference candidates				White votes		Black votes	
	percent of total votes in district	received if district was 50% Black VAP	received if district was 45% Black VAP	received if district was 40% Black VAP	percent of votes cast for office	percent of votes cast for office		
2020 President	62.0	71.5	69.0	66.6	64.3	62.0		
2020 US Senate	62.0	71.5	69.0	66.6	64.3	62.0		
2018 Governor	62.0	71.5	69.0	66.6	64.3	62.0		
2018 Secretary of State	62.0	71.5	69.0	66.6	64.3	62.0		
2018 Attorney General	62.0	71.5	69.0	66.6	64.3	62.0		
2018 US Senator	62.0	71.5	69.0	66.6	64.3	62.0		
2016 Governor	62.0	71.5	69.0	66.6	64.3	62.0		
2014 Secretary of State	62.0	71.5	69.0	66.6	64.3	62.0		
2014 Attorney General	62.0	71.5	69.0	66.6	64.3	62.0		
2012 US Senator	62.0	71.5	69.0	66.6	64.3	62.0		

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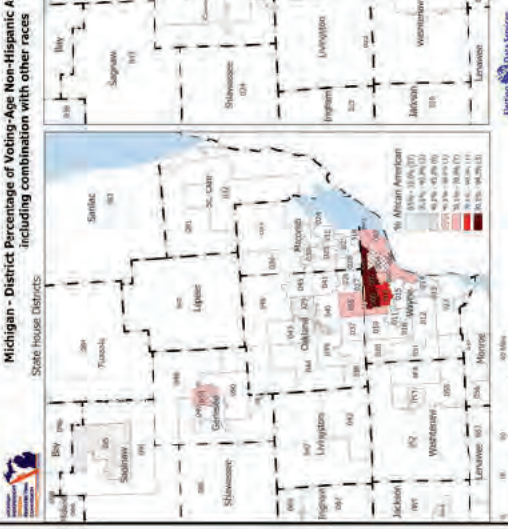
# Threshold of Representation: State Senate

- All districts over 48% Black elect minority candidates
- 67% of districts over 35% Black elect minority candidates
- No state senate districts between 36 and 45% Black

State Senate District	Total VAP	Black VAP	Percent Black VAP	Candidate Name	Party Race	Percent of vote 2018
1	20382	11418	56.0%	Scott Barr	D Black	77.2
2	18824	10571	56.2%	Scott Barr	D Black	77.2
3	18824	10571	56.2%	Scott Barr	D Black	77.2
4	18824	10571	56.2%	Scott Barr	D Black	77.2
5	18824	10571	56.2%	Scott Barr	D Black	77.2
6	18824	10571	56.2%	Scott Barr	D Black	77.2
7	18824	10571	56.2%	Scott Barr	D Black	77.2
8	18824	10571	56.2%	Scott Barr	D Black	77.2
9	18824	10571	56.2%	Scott Barr	D Black	77.2
10	18824	10571	56.2%	Scott Barr	D Black	77.2
11	18824	10571	56.2%	Scott Barr	D Black	77.2
12	18824	10571	56.2%	Scott Barr	D Black	77.2
13	18824	10571	56.2%	Scott Barr	D Black	77.2
14	18824	10571	56.2%	Scott Barr	D Black	77.2
15	18824	10571	56.2%	Scott Barr	D Black	77.2
16	18824	10571	56.2%	Scott Barr	D Black	77.2
17	18824	10571	56.2%	Scott Barr	D Black	77.2
18	18824	10571	56.2%	Scott Barr	D Black	77.2
19	18824	10571	56.2%	Scott Barr	D Black	77.2
20	18824	10571	56.2%	Scott Barr	D Black	77.2
21	18824	10571	56.2%	Scott Barr	D Black	77.2
22	18824	10571	56.2%	Scott Barr	D Black	77.2
23	18824	10571	56.2%	Scott Barr	D Black	77.2
24	18824	10571	56.2%	Scott Barr	D Black	77.2
25	18824	10571	56.2%	Scott Barr	D Black	77.2
26	18824	10571	56.2%	Scott Barr	D Black	77.2
27	18824	10571	56.2%	Scott Barr	D Black	77.2
28	18824	10571	56.2%	Scott Barr	D Black	77.2
29	18824	10571	56.2%	Scott Barr	D Black	77.2
30	18824	10571	56.2%	Scott Barr	D Black	77.2
31	18824	10571	56.2%	Scott Barr	D Black	77.2
32	18824	10571	56.2%	Scott Barr	D Black	77.2
33	18824	10571	56.2%	Scott Barr	D Black	77.2
34	18824	10571	56.2%	Scott Barr	D Black	77.2
35	18824	10571	56.2%	Scott Barr	D Black	77.2
36	18824	10571	56.2%	Scott Barr	D Black	77.2
37	18824	10571	56.2%	Scott Barr	D Black	77.2
38	18824	10571	56.2%	Scott Barr	D Black	77.2
39	18824	10571	56.2%	Scott Barr	D Black	77.2
40	18824	10571	56.2%	Scott Barr	D Black	77.2
41	18824	10571	56.2%	Scott Barr	D Black	77.2
42	18824	10571	56.2%	Scott Barr	D Black	77.2
43	18824	10571	56.2%	Scott Barr	D Black	77.2
44	18824	10571	56.2%	Scott Barr	D Black	77.2
45	18824	10571	56.2%	Scott Barr	D Black	77.2
46	18824	10571	56.2%	Scott Barr	D Black	77.2
47	18824	10571	56.2%	Scott Barr	D Black	77.2
48	18824	10571	56.2%	Scott Barr	D Black	77.2
49	18824	10571	56.2%	Scott Barr	D Black	77.2
50	18824	10571	56.2%	Scott Barr	D Black	77.2

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### Michigan - District Percentage of Voting-Age Non-Hispanic African Americans Including combination with other races



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6-1-2001

## Drawing Effective Miority Districts: A Conceptual Framework and Some Empirical Evidence

Bernard Grofman

Lisa Handley

David Lublin

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# DRAWING EFFECTIVE MINORITY DISTRICTS: A CONCEPTUAL FRAMEWORK AND SOME EMPIRICAL EVIDENCE

BERNARD GROFMAN, LISA HANDLEY, AND DAVID LUBLIN\*

*When applying the Voting Rights Act, courts and commentators alike have too often fixated on the distinction between "majority-minority" districts and "majority-white" districts, while paying relatively little attention to the likely electoral outcomes that any given districting plan will actually generate. In this Article, three political scientists provide a conceptual framework for predicting minority electoral success, taking into account the participation rates and voting patterns of minority and white voters, as well as incorporating the multi-stage election process (primaries plus general elections, and sometimes runoff elections). The Authors also analyze empirical election data to demonstrate how the model can be applied to address voting rights disputes.*

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\* The listing of co-authors is alphabetical: Bernard Grofman, School of Social Sciences, University of California, Irvine, C.A.; Lisa Handley, Frontier International Electoral Consulting, Washington, D.C.; David Lublin, Department of Government, American University, Washington, D.C. This research was partially funded by grant 99-6109, Program in Political Science, National Science Foundation (to Lublin) and grant SBR 97-30578 (to Grofman and Anthony Marley), Program in Methodology, Measurement and Statistics, National Science Foundation. Basic research for this Article was begun under an earlier grant to Grofman from the Ford Foundation. We are indebted to Clover Behrend and Annabel Azim for library assistance. Many of the ideas discussed in this Article, including the graphic representation of the formal model, originated in discussions between the co-authors and Sam Hirsch, an attorney with the Washington, D.C. office of Jenner & Block.

general election<sup>74</sup>—and sometimes the highest percentage is in the runoff, sometimes in the general election. Both Bishop and McKinney, for example, needed a higher percentage black to win the Democratic runoff than to win the general election in their districts in 1992.

**Table 6: Percent Black Needed for Black Candidate to Win, Incorporating Cohesion & Crossover: Selected Southern Congressional Primary, Runoff & General Elections with Black Candidates**

Congressional District	Year	% Black Participation	% White Participation	% Black Needed To Equalize Turnout	% Black Votes for Black Candidate* (Cohesion)	% White Votes For Black Candidate* (Crossover)	% Black Needed Given Both Cohesion & Crossover
<b>DEMOCRATIC PRIMARY</b>							
FL 3 (Brown)	1992 Primary	28.7	21.6	42.9	93.5	34.4	31.9
GA 2 (Bishop)	1992 Primary	39.8	44.4	52.7	84.4	31.2	43.7
GA 11 (McKinney)	1992 Primary	27.3	38.2	58.3	89.7	60.4	27.4
GA 4 (McKinney)	1996 Primary	30.5	12.8	29.6	93.3	24.6	27.0
<b>DEMOCRATIC RUNOFF</b>							
FL 3 (Brown)	1992 Runoff	24.0	14.5	37.7	92.0	15.8	36.7
GA 2 (Bishop)	1992 Runoff	35.3	30.3	46.2	79.0	25.5	45.7
GA 11 (McKinney)	1992 Runoff	20.9	34.6	62.3	90.8	26.5	49.3
<b>GENERAL ELECTION</b>							
FL 3 (Brown)	1992 General	57.8	68.6	54.3	97.1	25.6	41.7
GA 2 (Bishop)	1992 General	55.9	62.6	52.8	98.3	32.4	36.5
GA 11 (McKinney)	1992 General	60.3	57.8	48.9	96.7	36.0	33.0
GA 4 (McKinney)	1996 General	58.3	66.4	53.2	98.1	31.2	37.5

\* The estimates of % white & black votes for black candidates is the % of whites & blacks voting for any of the black candidates, not simply the sinning black candidate.

The highest of the three percentages necessarily interests us most because it is the percentage needed for the black-preferred candidate to win all three elections—the Democratic primary, the Democratic runoff and the general election—and attain a seat in the legislature. The fact that the highest percentage black needed to win is not always found in the general election illustrates the importance of examining

74. The percent black needed to win the Democratic primary is somewhat misleading if more than one black candidate ran in the primary—the estimates for the percentage of whites crossing over and the percentage of blacks voting cohesively are a reflection of the percentage of whites and blacks voting for any of the black candidates, not simply the winning black candidate. For example, in the 1992 Democratic primary in the Georgia 11th, 60.4% of the whites voted for one of the four black candidates running, but not necessarily the black candidate (McKinney) who won.

all stages of the election process, and not simply relying on an analysis of the general election.

Before we conclude that black Democratic candidates can win in congressional districts that are not majority black, several cautionary notes must be added. First, black candidates may not have been persuaded to compete for congressional office in the South if majority black districts had not been created—and black candidates cannot win if they cannot be convinced to run. Second, black voters may not have turned out to vote in such high numbers if they did not think black-preferred candidates had a chance to win. Third, a district that was less than majority black may have attracted more experienced and well-funded white candidates, and that in turn could lower the level of white crossover voting and result in the defeat of black candidates. Fourth, white incumbents can play a major role in retarding the prospects for black electoral success. Only one of the congressional contests examined included a white incumbent; if white incumbents had run in more of these districts, the black electoral success rate almost certainly would have been much lower. For example, in the Georgia 10th, which is 38% black, a black Democratic candidate was easily defeated by the white Republican incumbent in the 1998 general election. Finally, and perhaps most importantly, we must not over-generalize from the congressional data to other offices. As the data from state legislative districts in South Carolina demonstrate, sometimes legislative districts well in excess of 50% black are necessary to provide black voters with an equal opportunity to elect black candidates to office—a district-specific analysis is essential to make this determination.

*C. Factors that Affect the Opportunity to Elect Minority-Preferred Candidates: Data from South Carolina State Legislative Elections*

Our examination of the outcome of elections in black majority districts for the South Carolina House of Representatives during the 1990s reinforces the importance of a jurisdiction-specific analysis of the factors that affect the opportunity to elect minority-preferred candidates to office. Table 7 lists the election results for all majority black state house districts in South Carolina for the 1992, 1994, 1996 and 1998 elections.<sup>75</sup>

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75. Table 7 does not include results from special elections, including the round of special elections held in 1997 due to court-ordered redistricting.

## Exhibit 6

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**From:** Pastula, Julianne (MICRC)  
**Sent:** Monday, September 13, 2021 5:19 PM  
**To:** Szetela, Rebecca (MICRC); Rothhorn, MC (MICRC)  
**Cc:** Badelson1  
**Subject:** Privileged & Confidential: Significant Concerns from General Counsel and VRA Counsel

THIS EMAIL IS A PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION THAT CONSTITUTES ATTORNEY WORK PRODUCT AND CONTAINS LEGAL ADVICE.

**PLEASE DO NOT COPY, DISTRIBUTE, SHARE OR DISCLOSE THE PRIVILEGED & CONFIDENTIAL INFORMATION IN THIS EMAIL.**

Dear Chair Szetela and Vice Chair Rothhorn,

Bruce and I are very concerned and alarmed about the drafting of packed districts that is occurring during today's mapping session. While the work is preliminary and future steps can be taken to remediate - this will become much more difficult the more packed districts that are drawn. In addition to not being able to justify the numbers coming out of today to a court, these drafts also create expectations on behalf of the public that will also be difficult to address moving forward.

The disaggregated election data was not available last Thursday when the Commission first moved into areas where the VRA is implicated. This was the data Lisa highlighted during her presentation on Sept 2<sup>nd</sup> which is critical for the Commission (and Bruce) to move forward. Today, the data appears to be loaded but there was no coordination of a presentation by Kim (which he offered over the weekend) to introduce the data and orient the Commission to it in advance of your mapping work. It has been 2 weeks and the Commission still does not have the critical updates it needs to the software even scheduled. This cannot be accepted by Commission any longer.

This complete breakdown of communication and the lack of information the Commission needs to perform its work is unacceptable and will continue to negatively impact its work unless it is addressed. The Commission desires to create best practices which will be measured by a successful defense of its maps after all legal challenges are done not by any other metric. The complete opposite is being done by the lack of information and coordination. The Commission is running out of time and have an enormous amount of work to do. The current course of action is against the advice of counsel and your RPV expert.

Everyone is making personal sacrifices but there needs to be uniform emergency among a majority of the Commission and unanimous understanding of the law. The current environment is not allowing either to take center stage.

The Commission should consider extending its meeting time for Mon-Wed, consolidating locations (instead of driving 6 hours round trip for a 6 hour meeting) and consider adding Friday meetings in order for the work to get done.

I recommend we have a call to discuss this email as soon as possible and would be happy to coordinate it to accommodate everyone's busy schedules.

Sincerely,

**Julianne Pastula**  
*General Counsel*  
State of Michigan



Independent Citizens Redistricting Commission  
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DISCLAIMER: This is NOT a certified or verbatim transcript, but rather represents only the context of the class or meeting, subject to the inherent limitations of realtime captioning. The primary focus of realtime captioning is general communication access and as such this document is not suitable, acceptable, nor is it intended for use in any type of legal proceeding.

MICRC

09/30/21 10:00 am Meeting

Captioned by Q&A Reporting, Inc., [www.qacaptions.com](http://www.qacaptions.com)

**Exhibit 7**

>> VICE CHAIR ROTHORN: As Vice Chair of the Commission, we will bring the Michigan Independent Citizens Redistricting Commission to order at 10:02 a.m.

This Zoom webinar is being live streamed on YouTube at redistricting MI.

For anyone in the public watching who would prefer to watch via a different platform than they are currently using, please visit our social media at Redistricting MI to find the link for viewing on YouTube.

Our live stream today includes closed captioning. Closed captioning, ASL interpretation, and Spanish and Arabic and Bengali translation services will be provided for effective participation in this meeting. Please E-mail us at [Redistricting@Michigan.Gov](mailto:Redistricting@Michigan.Gov) for additional viewing options or details on accessing language translation services for this meeting.

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For the purposes of the public watching and for the public record I will now turn to the Department of State staff to take note of the Commissioners present.

>> MS. SARAH REINHARDT: Good morning, Commissioners. Please say present when I call your name. If you are attending the meeting remotely, please Announce during roll call you are attending remotely and disclose your physical location. I will call on Commissioners in alphabetical order starting with Doug Clark.

>> COMMISSIONER CLARK: Present.

>> MS. SARAH REINHARDT: Juanita Curry.

I understand that that may cause some level of uneasy and disappointment in people who are watching these hearings and are voters of Michigan.

But that's part of redistricting.

The Voting Rights Act and the U.S. Constitution say what they do.

And that has been my ongoing advice to the Commission.

Thank you.

>> VICE CHAIR ROTHORN: Commissioner Witjes? Then Commissioner Orton.

>> COMMISSIONER WITJES: Based on advice of General Counsel this needs to be finalized and be reviewed so we can quote unquote start fixing it I move that we stop working on the house map and let it go in for analysis over the next two days so we can fix it next week.

>> VICE CHAIR ROTHORN: Okay that was a motion and I just want to make sure that because I think the fixing there was a District 18 that I think needed to be quote unquote fixed.

>> MS. JULIANNE PASTULA: And 16.

>> VICE CHAIR ROTHORN: And 16.

>> MS. JULIANNE PASTULA: Pardon me 6 and 18 specifically.

>> VICE CHAIR ROTHORN: Yeah 6 and 18.

And then in District – and I do think that Commissioner Eid pointed out there is a community of interest in Hamtramck in District 10 we might sort of try to pull into 2 just to comply and I don't think it's going to be a voting rights thing but that's meaning I think it's going to be okay but I just want to acknowledge that, that I think is where the spirit of fixing, it's in this map and it's District 18, District 16, and District 1.

No.

General Counsel please help.

>> MS. JULIANNE PASTULA: What I would recommend is that the Commissioner consider doing is for the active matrix to scroll starting with 1 and glance at the districts, anything that is higher than 40% for the Black voting age population and the population difference I mean just to glance at and just go down the list and then when we get to I anticipate number 6, number 18, and others that those quote unquote fixes can be dealt with and then this map can be ready for the partisan fairness analysis.

That would be my recommendation.

And if the Commission was desiring of having an alternate house map, then the map that is the product of this analysis could be used to start the clone for the new one.

But this would that changed.

Did you scroll John?

>> MR. MORGAN: Sorry I moved the two yesterday where we were comparing Commissioners Szetela's plan with the previously done plan and I was making this matrix show the combined so we could do what you described which is look at each individual District I can also bring it up in the active matrix.

>> VICE CHAIR ROTHORN: Thank you for that helpful direction General Counsel? It's Commissioner Curry's turn and so I want to acknowledge Commissioner Orton first and turn it back to you Commissioner Curry and direct of fixing 6 and 18 so yeah it will be your turn after Commissioner Orton Commissioner Curry.

>> COMMISSIONER ORTON: So General Counsel I guess, I can't see you guys over there but I think we have been asking for specifics and the specific that I heard is that 6 and 18 need to be further unpacked? And you gave a number and 1 through all of them and if it's over a certain percent we need to look at that. So can you tell me again what that number was.

>> MS. JULIANNE PASTULA: My suggestion was and Mr. Morgan was very helpful with it, however the data is best displayed but that the Commission start with the data chart and look at the list starting with one and I would recommend anything with a higher than 40% Black voting age population be looked at.

This will also give the Commission an opportunity to look at their population numbers at this time and that way by the time we get to District 110 we will know this map is okay for -- to have Dr. Handley run the partisan fairness measures.

So that would be my recommendation is just scrolling down the data and if there is anything, again, that looks percentages that look kind of high, the Commission can take a closer look.

But again with the modifications that the Commission has made, again, looking at the current data percentages would be what I would recommend and then when we see those districts, we can address them and make sure that all of them are addressed is my goal.

By going through the chart in this fashion.

>> VICE CHAIR ROTHORN: Okay so our Chair has returned.

So I'm going to turn it over to Chair Szetela and.

>> CHAIR SZETELA: Yep so, I will take over from here.

First, I'd like to remind everyone, take it off? Commissioner Woods were you going to ask me to remind everybody?

>> MR. EDWARD WOODS: Yes.

>> CHAIR SZETELA: That is what I was about to do remind everybody we are required to wear masks in the building so if everybody could get their masks on, I would appreciate that.

This map we have open right now just so I'm oriented this is a full map we have of the full state with the changes I had suggested yesterday.

Is that.

>> MR. MORGAN: Yes, that's correct.

I made the changes as directed.

We stipulated I would do that.

But it does bring our percentages down in most districts below 40% and we have a few like 53, 52, I think the highest is 53.

So I did send that over to John if you guys want to look at it.

I think it might be easier than having us do it individually.

Again I'm not vouching for these districts.

I just I tried.

I did what Mr. Adelson asked and tried to lower the numbers.

And we've got some crazy show string districts but if everybody wants to look at that, I think it might and have Mr. Adelson look at it and see if this is what you are thinking we might do to be compliant that might be helpful.

>> MS. SARAH REINHARDT: Is this draft distinct from the version submitted the day before yesterday?

>> CHAIR SZETELA: Yes.

>> MS. SARAH REINHARDT: Okay, per our process they must be submitted to the Secretary of State one day before so they can be publicly posted.

>> CHAIR SZETELA: Okay

>> VICE CHAIR ROTHORN: Commissioner Clark I saw your hand and want to make sure General Counsel gets in while we are waiting for mapping for Commissioner Eid because I think partisan fairness was something we wanted to address Commissioner Clark do you have something quick?

>> COMMISSIONER CLARK: Rebecca.

>> CHAIR SZETELA: Yes.

>> COMMISSIONER CLARK: Changes you made you just referred to are they just in the Detroit area?

>> CHAIR SZETELA: Yes.

>> COMMISSIONER CLARK: Okay thank you.

>> VICE CHAIR ROTHORN: Okay while we are waiting for our mapping software to boot up Commissioner or General Counsel would you like to address partisan fairness?

>> MS. JULIANNE PASTULA: I would thank you so much Vice Chair Rothorn. So very briefly I wanted to highlight again for the benefit of the public that partisan fairness according to subsection 13 of the Constitution, which sets forth the ranked criteria that the Commission is legally required to follow, the language regarding partisan fairness is districts shall not provide a disproportionate advantage to any political party.

A disproportionate advantage to a political party shall be determined using accepted measures of partisan fairness.

That language does not require and actually prohibits the Commission from considering the election results while they are mapping.

Accepted measures of partisan fairness and measures are run on statewide plan. Which the Commission run on statewide plans.

They cannot map in the manner in which the public is advocating.

They are legally prohibited from doing so.

The partisan fairness measures when run again the Commission's expert Dr. Lisa Handley will be here tomorrow to run those partisan fairness measures on the statewide plans.

And then the Commission will be able to make amendments, if necessary, based on those measures.

And again the language is shall not provide a disproportionate advantage.

This language is key.

This language is what must be followed and the Commission cannot vary this language or modify the Constitution or not follow the Constitution or else the entire map will be put in jeopardy.

In legal jeopardy.

So it really is critical I think for the public to understand and appreciate the position that the Commission is in.

And that they are required to follow the Constitution as adopted.

By the voters in Michigan.

Again, to the goal was to end partisan gerrymandering and not draw maps based on political considerations which is what this Commission has done to date and will continue to do, get the partisan fairness results and then their legal team can advise on appropriate next steps.

Thank you Mr. Vice Chair se Szetela thank you General Counsel so Anthony I think we will hand it over to you to direct the line drawers.

Looks like Mr. Morgan over there.

>> MR. BRUCE ADELSON: Madam Chair can I interject.

>> CHAIR SZETELA: Yes.

>> MR. BRUCE ADELSON: Thank you for your ongoing efforts and there is something that occurred to me that I wanted to make clear.

One of the things that this Commission is doing, which is quite different than the typical approach to redistricting, you are essentially unpacking districts.

You are essentially leveling the playing field as the Voting Rights Act was intended when it was passed in 1965.

And the Supreme Court has said that is a more challenging process than just packing people of color together willy-nilly.

Frankly that is not difficult to do.

But you are doing the opposite.

And I think it's really important that everybody realize that.

And that, that is why the process is challenging and the process does involve many steps here and there, so I just wanted to make that clarification because I think it is a very salient one.

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MICRC

10/20/21 1:00 pm Public Hearing

Captioned by Q&A Reporting, Inc., [www.qacaptions.com](http://www.qacaptions.com)

**Exhibit 8**

>> CHAIR SZETELA:

Thank you, good afternoon I apologize in the delay, on getting started. As Chair of the Commission, we will bring the Michigan Independent Citizens Redistricting Commission to order at 1:25 p.m.

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For the purposes of the public watching and for the public record I will now turn to the Department of State staff to take note of the Commissioners present.

>> MS. SARAH REINHARDT: Good afternoon, Commissioners.

Please say present when I call your name. If you are attending the meeting remotely, please announce you are attending remotely and disclose your physical location where you are attending from.

I will call on Commissioners in alphabetical order starting with Doug Clark.

>> COMMISSIONER CLARK: Present.

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Dispensing them in less compact districts that radiate out for the City of Detroit to suburban parts of Macomb and Oakland County.

As a result the maps feature 0 Black majority districts.

I'm asking Detroiters to stay and if we cannot consist have a consistent on the map I would recommend that we should look.

>> CHAIR SZETELA: Your allotted 90 seconds has ended could you please conclude your statement.

Ma'am, out of respect for the fellow ma'am you are being disruptive we have a lot of people here who want to speak today so please honor the time limits.

Thank you.

Five, six, seven and eight.

>> Number five you can go ahead when you reach the podium.

>> Good afternoon, Commission and staff my name is Sharon Wilson.

I was born, raised and educated in the City of Detroit.

I now serve on the board of Delta manor which is a senior apartment complex located on the west side of the City.

I am vested.

Please note issues important to the African/American community have not been given sufficient attention.

Commissioners, now is the time to address these injustices via a correction of the proposed maps.

VRA districts must be created to allow Black voters to elect representatives of their choice.

Thus consideration of voting participation and election results must be taken into consideration.

Currently you have cracked multiple districts and have weakened our voice.

I support the promote the vote maps for Congress, map ID0615.

And the Michigan State University institute for social policy and public research recommendation that the MICRC reevaluate its approach towards compliance with the V RA.

No excuses.

We are demanding fair and equitable maps.

Thank you for listening.

>> CHAIR SZETELA: Thank you for addressing the Commission. Number six.

>> Good afternoon my name is Christine Peck and I'm a resident of Birmingham I was also an active volunteer in the 2018 prop two ballot initiative.

I participated in the process and continue to be invested because I believe a basic requirement of a true democracy is the right for citizens to choose their elected officials by vote.



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However, if the proposed map this Commission has published stands it's as if the democratic party and independents on this Commission had their voices completely silenced.

Primarily in the City of Detroit.

This proposed map spreads the African/American block into multiple districts where their voting influence is greatly diminished and probably violates what is left of the Federal Voting Rights Act.

By the Trump support Court it was supposed to protect a voting groups ability to elect candidates but this Commission proposed map will rob the African/American community of the biggest City the edge in the population of Detroit allowing carpet baggers from suburbs and Lansing to dictate policy where and how state and Federal funds are spent for so many necessary endeavors in our City.

For shame.

This is not what we sent you here to do.

>> CHAIR SZETELA: Thank you for addressing the Commission. Number 12.

>> My name is Marianne and live in hunting ton Woods Michigan.

I appreciate what you're doing Commissioners and as I delved into the maps, I cannot imagine the complexity of the work however today I want to focus on my State House District 21 on all of the maps.

The efficiency gap is between 5.7 and 7.4% this is definitely completely wrong.

If you keep in mind that many elections in our state are decided by less percentages than that, that needs to be reconsidered so first of all District 21 you drew part of 7 cities Detroit, Huntington Woods, Berkeley, Royal Oak, Oak Park, and Clawson, parts of all of these cities which amounts to an African/American population between 48-50% depending on the particular map. You have not drawn a majority minority District even though I believe that some of your work has been to do vertical as opposed to horizontal districts.

But this did not accomplish the goal of having any kind of minority majority districts so what I believe that you need to do is you need to create horizontal districts in the area between Woodward and green field north of 8 mile and the same thing, the same area south of 8 mile.

So this could give you a majority Black District.

Otherwise you will be totally disenfranchising the votes of Black Americans thank you.

>> CHAIR SZETELA: Thank you for addressing the Commission. Commenters 13, 14, 15 and 16 may approach the microphone and number 13 when you reach the podium you are free to speak.

>> Good afternoon, Commission my name is Norman from Detroit.

I'm here today to ask you guys to make sure you are listening to the people out here in the community.

I understand that you guys have a tough job to do.

This is not my first time speaking to you guys.

And how you have done the districts using 35 percentage of how you are drawing is inaccurate based on the primary of what happened last year and Michigan has low primaries so I'm asking you to go back and redraw the maps not as fast as you can but as accurate as you can and increase it up to 50% and you get the accurate message you need out here.

Also think about the people you represent.

Hear what we are saying and not go by idly and hear what I say.

That is all I ask.

Thank you.

>> CHAIR SZETELA: Thank you for addressing the Commission. Number 14.

>> Hi can you hear? You got my thing on the screen.

Can you throw yours up Congressional up on the screen next to it before you start the clock.

>> MS. SARAH REINHARDT: We are only able to share one map at a time.

>> Yeah, so this is the Congressional you know map I came up with.

It's not really the best option but at least it's something different this is Anthony in southwest Detroit and care about southwest and Down River.

Your Congressional maps have the same configuration throughout Apple, Birch, Cedar, Maple and V1RAS240 all use the same configuration for Congressional one and it's not the UP Commissioner Lange and Kellom when you were on the thing yesterday Congressional District one is right here in Detroit and they use the same for six out of your 7, 8 maps.

There was nothing methodical about it Commissioner Rothorn and you said it was methodically drawn and we lean on the data and it drove us here.

I watched every meeting the data did not drive you to what you draw for Congressional District one for Detroit.

If I want to ride a bus from the bottom to the top, I have to make a transfer.

If I ride a bus from the bottom of mine where Down River is to the top, I can pick 3, 4, 5, 6 buses to take me all the way.

That is one basis by which I just came up with that.

And so you copied and pasted it.

Then Commissioner Eid you just switched out Warren for Romulus and that is different not really.

Commissioner Lange I appreciate you for at least trying to draw something different so please make wholesale change.

>> CHAIR SZETELA: Thank you for addressing the Commission. Number 15.

>> Nina from south Oakland.

In the State House and Senate maps two different communities of interest are being treated unfairly.

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Specifically in District 110.

Every one of these maps divides.

>> CHAIR SZETELA: Your 90 seconds is up.

Thank you for addressing the Commission. Number 17, 18, 19 and 20 and number 17 when you reach the microphone you may begin speaking.

>> Hello Commissioners and thank you for your work.

I appreciate the effort to remove politics from the political process.

However, I also want to express my concerns of elimination of a District and possible of decreased representation of a minority community that needs it the most in Detroit.

My name is and my family and I live in the City of Rochester. I'm a member of the Sikh faith.

I'm here today to speak on behalf of my religious community in Oakland and Macomb Counties because we have not yet advocated for ourselves in this progress. As a smaller community we used to be together to amplify our voice and have our Congress person notice us as a constituency group.

Our concerns are not only for our own religious community, but the communities at large which we live in. That is why I'm supporting the Birch version of the draft map, which keeps the Sikh places of worship in Oakland, Macomb Counties together by keeping Troy, Rochester, Rochester Hills and Sterling Heights in one District.

We will see many comments from my community on the Birch map. I ask you to consider Michigan six of community of interest on the final Congressional map. Thank you for the opportunity to comment today.

>> CHAIR SZETELA: Thank you for addressing the Commission. Number 18.

>> This Commission was set up to prevent partisan fairness gerrymandering.

The members on this committee should be ashamed of the stacking cracking and packing these so called maps put forward and show.

People see through this.

How much influence has Alec had on Commissioners and the map, ALEC, how much influence have they had on you guys? Start over.

Those maps are garbage.

Go with the maps with the AFLCIO, promote the vote and the Showers, Schwartz maps. Start with those and start over.

>> CHAIR SZETELA: Thank you for addressing the Commission. Number 19.

>> Good afternoon, Commission my name is Yvette Anderson.

We need you to draw maps that are 51% Black.

We know that you can draw better maps for Black Michiganders.

Honor the Voting Rights Act to ensure Black people are able to elect leaders that look like themselves.

Let's not return to the Jim crow politics of old.

Going from 17 majority Black districts to 0 is unacceptable.

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It's important to me that Detroit be able to elect its own representatives and I'm not sure your maps will guaranty that.

Look at the AFLCIO fair maps project for ideas on how to get to partisan fairness while respecting real communities of interest.

Thank you.

>> CHAIR SZETELA: Thank you for addressing the Commission. Number 23.

>> I am Susan.

I live in northwest Detroit in north Rosedale Park and I'm a proud member of Congressional District 13.

I've lived in Detroit since 1975.

I know you have a very difficult job and I know you're doing it to the best of your ability. However, the currently drawn map cracks my neighborhood and puts my neighborhood in a Congressional District combined with suburban Livonia which I think is 95 percentage white.

I and my neighbors in Detroit in this northwest Detroit are truly a community of interest and have different concerns and needs than suburban Livonia.

I know the intent of this map is not racist.

But it is functionally racist because it dilutes the Black vote.

And will decrease Black representation.

There are examples of maps that are fairer.

Check out the AFLCIO and one fair vote as possible guides.

I think it is incumbent upon you to draw maps that are fair for my neighbors or me and for all Detroiters.

>> CHAIR SZETELA: Thank you for addressing the Commission. Number 24.

>> My name is Rick blocker.

And excuse me.

I come today to ask again that you draw majority-minority maps and districts.

We have Black people in the State of Michigan representing 14% of the population.

We currently represent 12% of the people in the State Senate and the State House.

We represent six percent of people in the Congress of the United States.

Under your current proposal that number could be eliminated to no representatives in the Congressional and very few, if any, in the State House and State Senate.

You must do better.

We deserve fair representation.

The people in this area have fought hard.

We cannot go backwards.

We are sick and tired of being sick and tired.

We need fair maps now.

We need for you to stop, no excuses, draw fair maps.

Make sure we have Black representation.

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If that current Congressional maps you have, neither one of them and I looked at all the maps on the portal goes to 50%.

If you have to go to other communities where Black people are to get 50%, you need to do so.

It is not acceptable for us to have the maps that does not reflect our community and does not protect Black people in this area.

Thank you.

>> CHAIR SZETELA: Thank you for addressing the Commission. Numbers 25, 26, 27, and 28 please approach the microphone and number 25 you can begin speaking. And just to orient people online watching proceedings, we are at 25 and at it for about 35 minutes.

We currently have 116 people signed up for in person public comment.

So it is likely that we will not get to online remote public comments before the 3:30 close and I think we are probably going to push a little past 3:30 to give people more time to speak so orient the people online we are 25 and have 116 in person.

Go ahead number 25.

>> Thank you, good afternoon, everyone my name is Michael and I'm here with my vice president Tonya Ray and Michelle Thomas and Pam Smith and other members of labor unions.

Michigan independent Redistricting Commission you are failing us.

Congress will not end the filibuster so John Lewis Voting Rights Act and freedom to vote act are laying in the waste land.

States right has been the excuse for not passing that legislation and it has been historically been the reason for the disenfranchise of Black Brown Jews and others and needs to focus on Michigan rights and do the right thing for the state and citizens.

Fair should be the benchmark your plan negates what fairness and voting democracy in the communities.

Your plan for the next ten years denies Black Brown in Michigan the opportunity to select representatives from their neighborhoods to send to Lansing, Washington or the school boards.

You can incorporate the AFLCIO maps project or the Michigan Black caucus or even come to the UAW or CBT and we will improve your product to present to the people that will provide racial justice and ensure nonpartisan fairness.

Do the right thing.

Do not put barriers on our boundaries and chains on our voting machines.

Please do not sell the citizens of Michigan by offering a youth that divides us and greatness and power of our democracy.

We all know the big lie.

We ask you today why.

We are asked to have maps on behalf of the politicians or the people in power.

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**We must protect the voice of people.**

**Do the right thing.**

**Listen, think and act.**

**Thank you.**

>> CHAIR SZETELA: Thank you for addressing the Commission. Number 26.

>> Good afternoon my name is Carla Meijer and I'm from Troy and Oakland County. New House District 32 which is all of Troy is perfect.

Thank you.

New Congressional District 6 not so much.

Troy and Oakland County share new districts with Macomb County.

I lived in Troy since the early 70s but I have always been employed in Oakland I'm sorry always been employed in Macomb County and I know we are not communities of common interest nor do we share common characteristics.

The new Congressional District 6 needs work.

It needs work.

As proposed currently proposed it weighs heavily republican.

Troy should be with Oakland County as proposed on the Juniper maps all other maps it's with Macomb and affiliates with Oakland County and school and library affiliations bus teams Commerce and our Oakland County water resource efforts and goes to Lake St. Clair and the City of St. Clair shores a Lake voting community with nothing similar to Troy.

My ask is that Troy and other Oakland cities that have been placed in CD6 be moved to neighboring CD3 it just makes sense.

Over all maps must be completely nonpartisan and must, must comply with the Voting Rights Act rules.

Thank you.

>> CHAIR SZETELA: Thank you for addressing the Commission. Number 27.

>> Good afternoon, Commissioners.

My name is Betty Edwards, I'm a lifelong Detroitter who has voted in every election since I was 18.

I'm a concerned citizen.

And also a member of Delta Sigma Theta sorority. It was created for Black people to elect representatives that look like them and of their choosing.

Your current maps crack Detroit and make this impossible by radically changing districts.

Today that means congresswoman Tali, Senator Stephanie Chang and Guise and rep Sarah Anthony's community should not be carved up into districts that do not keep their communities' interests together.

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>> Good afternoon my name is Danielle Steven I'm a retired public servant, native Detroit and member of multiple civic including Delta significant that and Detroit alumni chapter and Detroit Branch NAACP.

I thank you for this opportunity to provide comment again.

But after review of the maps you submitted, I do not believe they best represent the interests of African/American voters and they're about to select other African/Americans to represent them.

A report recently issued by the Michigan State University's institute for public policy and social research concludes that the methodology used by the Commission, quote, breaks apart the geographical compact Black majority in the City of Detroit dispensing them with less compact districts.

That radiate outward from the City of Detroit towards suburban parts Macomb County and Oakland County.

As a result this engineered partial dilution of concentrated Black vote the maps future 0 Black majority districts.

The purpose of the Voting Rights Act was to ensure equity and the ability for African/Americans to fully participate and a state with African/American population of 13.79 percentage there should be some consideration of our community.

We also point out the majority of this percentage resides in Southeast Michigan and in Detroit furthering our argument.

We strongly recommend that the Commission look to the promote the vote maps.

I have my full statement in the portal.

Thank you.

>> CHAIR SZETELA: Thank you for doing that.

And to clarify we welcome people to also submit their statements into the portal particularly if you feel you don't have time to complete it or just in general because it gives us a written record and you can access that outside the room here there are people there who can assist you or go to the website at [www.Michigan.gov/MICRC](http://www.Michigan.gov/MICRC). And you can submit your comments there as well.

Thank you, number 48.

>> Good afternoon Honorable Commissioner I'm Eddie McDonough and I think I'm your last speaker before we break.

I would just like to say I've been around for a little while.

70 years old.

I've had the opportunity of growing up in Pontiac.

But I have lived in Wayne County, I've lived in other parts of Oakland County and lived in Canton, I've lived in Farmington Hills, I've got a relatives all over Southeast Michigan.

The one thing that I know plain and simple is in all of my living whoever we chose to represent us were part of us from those various communities.

That needs to stay the same.

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Speaking as respectfully and as candidly as possible we know the lawsuits are coming so why are we compromising on the integrity of this constitutional amendment.

I urge you not to compromise our chance at representation for the sake of numbers.

As you know because of the lack of census representation there is no Federal protections, no Federal Voting Rights Act, no grant funding or research no recognition for Arab Americans and the battle for basic equity will be even harder because all the current maps will restrict the only opportunity to gain legislative representation.

The only avenue we have left for a voice.

I'm frustrated because we are making history at the local level with record numbers of Arabs voting and running for office and done what we are told to do on the table instead we are put at the menus.

>> CHAIR SZETELA: Your allotted 90 seconds is up please conclude your statement.

>> P6764 and P6762 which have been collectively drafted by our community thank you.

>> CHAIR SZETELA: Thank you for addressing the Commission. . Number 56.

>> Okay looks like we don't have 56 so 57 if you want to go ahead.

>> Hello, my name is Anthony Watkins.

And I'd like to thank you for the opportunity to share my important comments on the public hearing.

I would like to comment on how the Commission has gone from 17 majority Black districts primarily based in Detroit to 0.

That's a problem.

That is a serious problem.

The Detroit neighborhoods and communities should be drawn together.

Majority Black districts are important.

And we can draw them.

NAACP has drawn them.

Several community groups have drawn them.

Fellow Detroit citizens have drawn them.

But these maps need to be seriously looked at and seriously considered and not just request to be submitted.

So we are aware we can beat this and we are aware that we need to have this done.

Because districts do not have a majority of Blacks.

In large part having elected Black individuals.

Black issues are important.

And led by Black people.

And it's Black people continuously able to lead on these issues.

I thank you.



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>> CHAIR SZETELA: Thank you for addressing the Commission. Numbers 58, 59, 60 and 61.

>> What number are you sir?

>> 59.

>> CHAIR SZETELA: I don't see 58 so go ahead number 59.

>> I'm Percy Johnson, UAW cap chairman, Local 22.

I'm also a member of liberty temple Baptist church.

We were involved with getting the petitions for you guys to be able to have the position that you have today.

And I need you to get me out of the hot seat because right now the encouragement that I gave our voters in Detroit and people who signed the petition and were willing to participate and be in one of your you know we took names of people to also be a Commission in our church and union halls.

And they were encouraged this will give them a chance to have a fair vote to represent their communities.

And we, seriously I got over 8, 900 signatures on our petitions for this to be on the ballot.

And 90% of them were Detroiters.

So please I'm asking you to please give Detroiters a 50% or plus better to represent their vote when they vote.

So to weaken them and give them a weak vote would hurt them.

I'm from Troy but yet I know if I see -- when I see something that is not justly done or unfair, I'm going to speak up for them and represent them.

My heart and soul is in Detroit and Detroit deserves to have fair, good representation and they can't get it if you take away their strength of their vote.

Give them a 51 plus vote.

Thank you.

>> CHAIR SZETELA: Thank you for addressing the Commission. Number 60.

>> All right we will move on to 61, 62, 63, 64 and just in case there is in I confusion it's my understanding when people were first arriving that people who were higher than 50 were told we might not get to them.

So I'm keeping track of everyone who is not here so if those people happen to show up at 5:00 you will be given a chance to speak.

So I don't want people to think because they are not here, we won't give you a chance to speed because I know some people were given that guidance what number are you ma'am.

>> 64.

>> CHAIR SZETELA: 54.

>> No 64.

>> CHAIR SZETELA: 61, 62 or 63.

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It has the second largest Asian community of any City and Township behind Troy which you basically kept whole in the State House and it's 28 percentage Asian and the number has risen significantly over the decade and projected to grow.

African/American voters which I agree with the folks in the room we need more of and better off there are few communities in Michigan that have large populations of color from different racial backgrounds like Hispanic and Asian community.

I want the Commissioner to consider Novi and Troy has significant Asian population and this community should be kept whole to keep it intact and elect districts that we can select a candidate of choice.

I think the map that has gone the most right direction is the one that is proposed by Commissioner Szetela for the State House.

But it's missing several Novi and precincts out to Livingston County and for Ann Arbor for partisan fairness and do not include it with Livingston County and I would take Commissioner Szetela and swap precincts in Livingston Township for remaining in Novi it does not deserve to be split three ways and have much with Livingston County border and increases the Asian share of population and fits within the population deviation I did double check.

Thank you for your time and being here to take comments.

>> CHAIR SZETELA: Thank you for addressing the Commission. At this time I'll call up 66, 67, 68 and 69 and 66 as soon as you reach the microphone you can start speaking.

>> Good afternoon my name is Reno, 892 out of Saline Michigan and asking the Commission to withdraw the maps so it's fair for democrats and republicans the entire purpose of the independent redistrict Commission is making things fair. And their work is not complete until they have maps that are fair across the board. I'm also asking for the Ypsilanti centric districts Ypsilanti voters should not have their voices silenced by getting packed into the shadow of Ann Arbor. It's okay if they have Ypsilanti and only a portion of Ann Arbor share districts. But they should not have Ypsilanti and all of Ann Arbor packed together.

This is because Ypsilanti is a major population centered with different demographics than Ann Arbor.

Some newer maps made the split and hope they will follow through. Thank you.

>> CHAIR SZETELA: Thank you for addressing the Commission. Number 67.

>> Hello, my name is Yancey and representing 892 and concerned how you sliced Detroit into thin strips and put with heavy white areas in the suburban.

The democratic Commissioners and in particular need to stay strong and veto any unfair maps until we get fairness.

And under 13 Commissioners should approve any maps that has a boundless advantage to a particular party.

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All of the maps so far have been approved by democrats of the Commission and all of them favor the republic party.

Where is the fairness in that? The fairness is a priority above all local boundaries and compactness.

Do not be afraid to unpack the City.

And by doing so it may make a weird shape in the map but that is okay.

What is not okay if the map does not represent Michigan, it's important Detroit be able to elect its own representative and I'm not sure your maps warrant that.

I believe Detroiters should be represented by Detroiters who understand their concerns.

Thank you.

>> CHAIR SZETELA: Thank you for addressing the Commission. Number 68 or 69. Do we have number 70, 71, 72 or 73? If you could just let me know your number, ma'am.

73 thank you.

>> Hi, I'm Sherri from Livingston County and while as I listen to the people speaking here today, I realize I don't have as much on the line as many of them.

So I'm hoping that you all take it to heart and listen to what these people are saying.

As a member of the League of Women Voters, I was very strong support of the independent redistricting committee.

And my -- I do live in a currently horribly gerrymandered District that has taken away my voice and my community.

And although the maps are significantly better than they were, they are still skewed in the U.S. Congress and the Senate to favor the GOP by 5-8%.

That's not good enough.

We want fair maps.

The partisan fairness is one of the criteria in the Michigan Constitution.

And I hope you all take that to heart.

Basic principle is that the party that receives the most votes statewide should receive the most seats in the Michigan legislature.

I would urge you to look again at the AFLCIO and the one fair vote maps.

And I'm requesting that you please make partisan fairness a priority in your map.

Thank you.

>> CHAIR SZETELA: Thank you for addressing the Commission. A call for 70, 71 and 72 what number are you ma'am?

>> 74.

>> CHAIR SZETELA: Go ahead.

>> My name is Ethyl.

I'm a resident of White Lake Michigan in northern Oakland County.

I want to mention that I appreciate the work you're doing.

>> I'm number 95 and I'm a republican and did not vote for proposal two but people of the state did and it's the law of the land and a process that has to go forward and so I commend you for doing work but your work needs work and the one thing you failed to do or at least not at the start but as you got going and sort of listened to your experts first of all Voting Rights Act expert I think I would fire your first order of business after these hearings should be to fire the voting rights expert because he has it dead wrong that is why this community here is dissected as bad as. It has been smashed like a toothpaste tube all over southeast Michigan and I think that is wrong. But you stopped looking at people and stopped looking at communities and started looked at numbers on a spreadsheet. And all you wanted to do is come up with numbers on the spreadsheet. From the partisan fairness you are. And you couldn't have over 40% African/American in any District, so on and so forth. And then you started dividing things up. And I just want to point out District 15 on the State House map, which begins Schoolcraft and Greenfield in Detroit, an area I grew up very close to. And goes through Oak Park, Berkley, Southfield Township, Bloomfield Township and Birmingham and ends at Long Pine and Loser. Schoolcraft and Greenfield have very little, if nothing in common with Long Pine and Loser, so get back to work and understand politics. I know you were not supposed to be involved, and it's clear you weren't. So get back to work and draw fair districts and draw African/American districts. It needs to be done.

>> CHAIR SZETELA: Thank you for addressing the Commission. Sir. If you would like to go ahead and speak and let me know what number you are as well, that will be helpful.

>> Hi. Excuse me. My name is Bruce. My number is 101.

>> CHAIR SZETELA: We can't hear you it's okay to take your mask off while speaking in the microphone.

>> With the mask.

How you doing my name is Bruce I want to thank the Commission for letting me speak today and I'm blind and I see clearly what is going on with redistrict.

And y'all can see but y'all are blind.

My parents came here from Georgia and Tennessee.

I represent Detroit and northwest area.

And I'm going to speak for the kids that don't have a vote that we are supposed to represent they are our future and for y'all to have districts where I'm not represented by my color and my community, I hope y'all do the right thing and represent the minorities and people of Detroit and the people of my District to represent me and the kids who can't speak for themselves.

I am grateful to see everybody coming out to let you all know how we feel about Districting stuff here.

**Szetela, Rebecca (MICRC)**

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**From:** Pastula, Julianne (MICRC)  
**Sent:** Wednesday, October 20, 2021 10:12 PM  
**To:** Pastula, Julianne (MICRC)  
**Subject:** Privileged & Confidential: VRA/Partisan Fairness

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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Dear Commissioners and Staff,

Congratulations on a very successful first public hearing! As expected, many of the comments centered around the VRA and partisan fairness. Many speakers advocated for strong consideration of the MDP backed AFL-CIO and Promote the Vote maps which are based on criteria and methodologies that are simply not in the MI Constitution (resulting in partisan fairness numbers so different from the MICRC maps which adhered to the MI Constitution and still score very well).

I circulated a privileged and confidential summary prepared by Bruce Adelson in regard to the Voting Rights Act on October 14<sup>th</sup>. Under MI law, this memorandum (which is an attorney-client communication) can serve as a basis to convene a closed session. This would enable the MICRC to have a frank and direct discussion with their legal counsel in regard to the memo and address the issues surrounding VRA compliance in more detail. This would benefit the MICRC by having one conversation where all members present hear the same information at the same time, benefit from hearing questions of your colleagues and, more importantly, receiving the answers and legal advice from your team. This is a far more effective communication option than one-on-one conversations which lack the depth or breadth of a collective conversation.

If the Commission would like to pursue this option, coordination of this conversation would be needed to facilitate participation of remote members and preparation of the appropriate script to satisfy the legal requirements of holding closed session in MI. This could be arranged in very short order.

Please do not hesitate to reach out with any questions or concerns.

Sincerely,

**Julianne Pastula**  
*General Counsel*  
State of Michigan  
Independent Citizens Redistricting Commission  
517.331.6318  
[PastulaJ1@Michigan.gov](mailto:PastulaJ1@Michigan.gov)

**Szetela, Rebecca (MICRC)**

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**From:** Pastula, Julianne (MICRC)  
**Sent:** Monday, October 18, 2021 10:07 AM  
**To:** Pastula, Julianne (MICRC)  
**Subject:** Privileged & Confidential Information and Update

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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Good morning Commissioners and Staff!

Congratulations on all of your hard work to date. As we move into the second round of public hearings and the final deliberation/adjustment period I wanted to provide the following information and reminders:

- Please do not respond to comments in the portal. Similar to the presentations, this creates a record that will give your opponents the ammunition for your sworn deposition and trial testimony on your intent and rationale for your mapping selections and on whom you chose to engage.
- Some individual Commissioner maps were submitted after 10 am deadline on Thursday due to ongoing software and data issues. Given each of your individual constitutional rights to submit maps and the difficulty in resolving technical issues for some Commissioners, I strongly recommend any maps received after the deadline be welcomed by the Commission. In addition, the Constitution does not empower the Commission to reject these individual commissioner maps. All published collaborative and individual maps will receive feedback from the public and vetting by the Commission itself.
- Another language reminder:
  - The rationale provided during the deliberations and adjustment period must be very specific and provide the legal justifications your mapping decisions. The privileged and confidential document titled *Legal Considerations and Discussion of Justifications Re: Criteria* circulated on October 7<sup>th</sup> provides appropriate legal guidance. The compliance tracking form can also assist in capturing rationale and must be completed for each final map. This rationale is the basis for your decisions that will be highlighted in court (used to challenge or support your work), as has happened with other state commissions, such as in Arizona. Remember, Arizona's transparent, thorough compliance justifications enabled the Arizona Commission to successfully defend all its maps, achieve DOJ preclearance for the first time in state history, and win 9-0 before the US Supreme Court. Let's follow their lead and match their track record.
  - During the post public hearing deliberation and adjustment period (only 8 days) it is appropriate to highlight that you are responding to public comments, looking to unite/reunite communities of interest and/or increasing diversity. Statements about eliminating blacks or adding whites cannot be made at the table or placed on the public record. There is already too much on the record that can be used against the Commission's work taken out of context and without full appreciation of the MICRC's process.

- It is critical for compliance with the 5<sup>th</sup> criteria (districts shall not favor/disfavor incumbents or candidates) that Commissioners not consider, know, discuss, analyze, look at, listen to or otherwise allow incumbent information to infiltrate your process, deliberations or work product.
- I would urge the Commission to avoid hyperbole and personal attacks during deliberation and adjustment period. As expected, criticism and attempts to split the Commission into factions will be increasing, particularly during the public hearings.
- If you choose to speak to the media, please remember Friday's great PR training sessions by Edward and Mike (which also reinforced the Subsection 11 messaging that started in January). In addition to "I don't know" or "playing it by ear" and giving an answer that could potentially damage the ongoing work of the MICRC, an appropriate answer can reference legal advice given or redirect to your lawyers (Edward always reaches out to me and I anticipate Mike would not hesitate to as well). By design, the Commission is comprised of 13 regular citizens that should not be expected to have a command of a body of law dating back to the 1960s.
- If you would like to discuss the contents of the Privileged & Confidential VRA memo circulated on October 14<sup>th</sup> Bruce and I are available to you. We are concerned that the misinformed media narrative will result in additional complications in the Commission's compliance with the VRA. Remember the MICRC has been consistent in its data driven process. The draft proposed maps are based on RBV analysis and the law. Creating districts with overwhelmingly minority or "safe" districts is not supported by either the data or the law. This media narrative is being advanced by lobbyists and politicians driving emotion in a very sensitive and critical area.

**PLEASE consult with your lawyers if you have any questions, concerns, or uncertainties. Our job and ethical obligation is to advise and guide you through this final, more difficult mapping phase.**

Sincerely,

**Julianne Pastula**  
*General Counsel*  
 State of Michigan  
 Independent Citizens Redistricting Commission  
 517.331.6318  
 PastulaJ1@Michigan.gov

# Exhibit 11

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**From:** Szetela, Rebecca (MICRC)  
**Sent:** Wednesday, December 15, 2021 10:10 PM  
**To:** Pastula, Julianne (MICRC); Lett, Steven (MICRC); Rothhorn, MC (MICRC); Woods, Edward (MICRC); Hammersmith, Suann (MICRC); Clark, Douglas (MICRC); Kellom, Brittni (MICRC); Orton, Cynthia (MICRC)  
**Subject:** Re: P&C: Update on Proposed Legislation

Julianne:

I do not appreciate you attempting to put words in my mouth. I did not say I no longer have concerns. In fact, I have grave concerns regarding your conduct.

Specifically, I am deeply concerned to have learned that you personally became aware of critical issues with Dr. Handley's VRA analysis earlier this week and, in addition to not notifying the Commission about this alarming development, have also directed staff members, vendors, and the SOS not to alert Commissioners as to the issue until the week of December 28th - almost two weeks away. It's my understanding that Dr. Handley has informed you, staff, vendors, and members of the SOS that her analysis was deeply flawed and that, as a result of her flawed analysis, not a single one of our Senate maps are VRA compliant. Accordingly, the Commission will likely need to redraw and republish, at a minimum, our Senate maps with BVAP numbers closer to 45-48%, which will require significant map revisions. The alternative is for us to approve non-VRA compliant maps and let our lawyers attempt to defend them, which would be an affront to this entire process.

This information should have immediately been communicated to the Commission and certainly should have been placed on the agenda for tomorrow. The fact that you have instructed other staff members and the SOS to not disclose this information to the Commission for a further two weeks is outrageous and is a perfect example of you exceeding the scope of your duties and making decisions that should be made by the Commission. As an attorney, you have an ethical obligation to keep your client informed. Squirreling away critical information for weeks and hiding it from the client does not satisfy this obligation.

In addition, it's my understanding that you were hoping to conceal this information from the public by having yet another closed session the week of the 28th, which contradicts our mission, vision, and values.

I was planning on discussing this situation with you in person in the morning to encourage you to share this information immediately with Commissioners. Unfortunately, your email made me reconsider that path.

See you in the morning.

Rebecca

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**From:** Pastula, Julianne (MICRC) <PastulaJ1@michigan.gov>  
**Sent:** Wednesday, December 15, 2021 8:59 PM  
**To:** Szetela, Rebecca (MICRC); Lett, Steven (MICRC); Rothhorn, MC (MICRC); Woods, Edward (MICRC); Hammersmith, Suann (MICRC)  
**Cc:** Clark, Douglas (MICRC)  
**Subject:** RE: P&C: Update on Proposed Legislation

Dear Rebecca,



My offer to connect was in response to your statement during the Dec 2<sup>nd</sup> meeting that I had stepped outside of my role as General Counsel. I was confused by those allegations. I'm glad to hear it's no longer a concern and I look forward to seeing you in the morning.

Sincerely,

**Julianne Pastula**

*General Counsel*

State of Michigan

Independent Citizens Redistricting Commission

517.331.6318

PastulaJ1@Michigan.gov

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**From:** Szetela, Rebecca (MICRC) <SzetelaR@michigan.gov>

**Sent:** Monday, December 13, 2021 11:57 AM

**To:** Pastula, Julianne (MICRC) <PastulaJ1@michigan.gov>; Lett, Steven (MICRC) <LettS@michigan.gov>; Rothhorn, MC (MICRC) <RothhornM@michigan.gov>; Woods, Edward (MICRC) <WoodsE3@michigan.gov>; Hammersmith, Suann (MICRC) <HammersmithS@michigan.gov>

**Cc:** Clark, Douglas (MICRC) <ClarkD32@michigan.gov>

**Subject:** RE: P&C: Update on Proposed Legislation

Julianne:

Thank you for your note. While I appreciate your offer to connect, I don't believe there are any issues we need to discuss at this time? If there is something in particular you are concerned about that I am unaware of, you are certainly free to reach out to me at my number below. Keep in mind I am back to working full time and may be tied up in meetings, so please leave a message if you call and I don't answer.

Rebecca Szetela

Commissioner

Michigan Independent Citizens Redistricting Commission

[szetelar@michigan.gov](mailto:szetelar@michigan.gov)

(517) 898-9366



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MICRC

Exhibit 12

09/30/21 5:00 pm Meeting

Captioned by Q&A Reporting, Inc., [www.qacaptions.com](http://www.qacaptions.com)

>> CHAIR SZETELA: As Chair of the Commission, we will bring the Michigan Independent Citizens Redistricting Commission to order at 5:00 p.m.

This Zoom webinar is being live streamed on YouTube at the Michigan Independent Citizens Redistricting Commission on the YouTube channel.

For anyone in the public watching who would prefer to watch via a different platform than they are currently using, please visit our social media at Redistricting MI to find the link for viewing on YouTube.

Our live stream today includes closed captioning. Closed captioning, ASL interpretation, and Spanish and Arabic and Bengali translation services will be provided for effective participation in this meeting. Please E-mail us at [Redistricting@Michigan.Gov](mailto:Redistricting@Michigan.Gov) for additional viewing options or details on accessing language translation services for this meeting.

People with disabilities or needing other specific accommodations should also contact Redistricting at [Michigan.gov](http://Michigan.gov).

This meeting is also being recorded and will be available at [www.Michigan.gov/MICRC](http://www.Michigan.gov/MICRC) for viewing at a later date and this meeting also is being transcribed and those closed captioned transcriptions will be made available and posted on [Michigan.gov/MICRC](http://Michigan.gov/MICRC) along with the written public comment submissions.

There is also a public comment portal that may be accessed by visiting [Michigan.gov/MICRC](http://Michigan.gov/MICRC), this portal can be utilized to post maps and comments which can be viewed by both the Commission and the public.

Members of the media who may have questions before, during or after the meeting should direct those questions to Edward Woods III, our Communications and Outreach Director for the Commission at [WoodsE3@Michigan.gov](mailto:WoodsE3@Michigan.gov) or 517-331-6309.

For the purposes of the public watching and for the public record I will now turn to the Department of State staff to take note of the Commissioners present.

>> MS. SARAH REINHARDT: Good Evening, Commissioners.

Please say present when I call your name. If you are attending the meeting remotely, please disclose you are present and you are attending remotely.

I will call on Commissioners in alphabetical order starting with Doug Clark.

>> COMMISSIONER CLARK: Present.

>> MS. SARAH REINHARDT: Juanita Curry.

>> COMMISSIONER CURRY: Attending from Detroit Michigan.

>> MS. SARAH REINHARDT: Anthony Eid?

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People are represented in our legislatures, not geography.

My second concern is about partisan fairness.

As was discussed before too.

We need you to reconsider the maps that are currently drawn to ensure that this principle is applied.

I understand that the current drafts are pretty much all leaning towards one party.

And that's the republicans.

This is contrary to the criteria established for the Commission and cannot stand.

Those elected from such districts whether they are one party or the other dominant will not feel as compelled to take into consideration conflicting sets of opinions and to be willing to compromise on legislation.

And that's what we have going on now.

Now, this is a major reason why many of us voted for the proposition, so we are asking you to please work harder on this point. Thank you.

>> CHAIR SZETELA: Thank you for addressing the Commission.

Number five.

>> Hi, can you hear me all right? Is this good? Hey, everyone, my name is Max and live in Wayne County and thank you to the Commission I know this task is complicated and difficult and thank you for your time and dedication on it.

I was here this afternoon and compelled to respond to something.

The Commission was told they cannot use partisan data while making the maps.

But I just want to say that is nowhere in our state Constitution.

That prohibits saying that you cannot use partisan data while making your maps.

I do understand there are some partisan fairness measures such as the efficiency gap that you need a full complete statewide map of districts to use.

But let's not kid ourselves.

The current draft maps as they stand are heavily favored towards one party over the other and tomorrow's analysis is going to show that.

So the question I have for the Commission is: How are we supposed to un-gerrymander the current draft maps if we are not able to use partisan data while you are actually making the maps themselves? I know there was a lot of fun metaphors earlier this afternoon I want to try one for myself.

This is like saying that the Constitution is requiring you to bake a cake and yet you are also being told the Constitution prohibits you from measuring ingredients or taste testing the batter that you simply are supposed to put it in the oven and hope it turns out great. Which it begs the question then what? Like what are you supposed to do for the next cake do you want to guess and check and do trial and error? To me it sound like a waste of cake baking and map drawing time.

Just like everyone else I want a delicious slice of fair constitutional cake.

## Exhibit 13

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**From:** Pastula, Julianne (MICRC)  
**Sent:** Wednesday, October 6, 2021 7:12 PM  
**To:** kbrace@aol.com  
**Cc:** Hammersmith, Suann (MICRC); Szetela, Rebecca (MICRC); Rothhorn, MC (MICRC); Reinhardt, Sarah (MDOS); Badelson1  
**Subject:** Partisan Data/Partisan Fairness Measures  
**Importance:** High

Dear Kim,

We urgently need to have a telephone conference this evening to address this issue. The manner in which the partisan data is being presented does not assist the Commission in determining how and where to make focused adjustments to districts. The “trial and error” approach being employed today is far too time consuming and does not have any cognizable methodology. Even worse the time spent is not resulting in productive improvements. Given that the Commission only has 3 days left to finalize its draft proposed maps this must be addressed immediately.

On or about August 6<sup>th</sup>, I expressed concern with the display of partisan data as the Commissioners were focusing on the displayed political data and because we don't have competitiveness as a criteria, drawing with partisan data was inappropriate. At the time, you indicated it could be “hidden” leading me to believe it is in the active matrix. We need to discuss a more productive way forward so the Commission can interact with partisan data in a more meaningful and time efficient way.

I have taken the liberty of sending an invite for 8:30 pm. I acknowledge you are traveling to the East coast, please advise an alternate time this evening is needed.

Sincerely,

**Julianne Pastula**  
*General Counsel*  
State of Michigan  
Independent Citizens Redistricting Commission  
517.331.6318  
PastulaJ1@Michigan.gov

## Exhibit 14

---

**From:** Pastula, Julianne (MICRC)  
**Sent:** Sunday, October 3, 2021 9:49 PM  
**To:** Kim Brace  
**Cc:** Hammersmith, Suann (MICRC); Szetela, Rebecca (MICRC); jmorgan4@cox.net; wkstigall@gmail.com  
**Subject:** RE: Plan to Score

Dear Kim,

I am available to discuss tomorrow. I will be remote in the morning/early afternoon so it may be best to connect when I arrive in person or after the meeting - depending on Sue's availability of course!

Also, can you please confirm Polsby-Popper in in the software. If so, does the report display individual district scores as well as the plan min/max/median/standard deviation?

Thanks,

**Julianne Pastula**  
*General Counsel*  
State of Michigan  
Independent Citizens Redistricting Commission  
517.331.6318  
PastulaJ1@Michigan.gov

---

**From:** Kim Brace <kbrace@aol.com>  
**Sent:** Sunday, October 3, 2021 9:22 PM  
**To:** Szetela, Rebecca (MICRC) <SzetelaR@michigan.gov>; jmorgan4@cox.net; wkstigall@gmail.com  
**Cc:** Kim Brace <kbrace@aol.com>; Hammersmith, Suann (MICRC) <HammersmithS@michigan.gov>; Pastula, Julianne (MICRC) <PastulaJ1@michigan.gov>  
**Subject:** Re: Plan to Score

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Rebecca – OK, your plan is uploaded and viewable by the public on the MyDistricting site..

Attached is also the report on political fairness that I ran on your plan.

Sue & Julianne – One of the things that staff and I need to discuss on Monday is how much of some of the additional reports do you want to unveil. Like this political fairness report there are a bunch of other data, tables and reports that are possible in EDGE, but we should talk about what do we want to release.

Thanks

Kimball Brace  
Election Data Services, Inc.  
6171 Emerywood Ct  
Manassas, VA 20112-3078  
(202) 789-2004 or (703) 580-7267 <-- landline  
Fax: 703-580-6258  
Cell: 202-607-5857  
[KBrace@aol.com](mailto:KBrace@aol.com) or [KBrace@electiondataservices.com](mailto:KBrace@electiondataservices.com)  
[www.electiondataservices.com](http://www.electiondataservices.com)

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-----Original Message-----

From: Szetela, Rebecca (MICRC) <[SzetelaR@michigan.gov](mailto:SzetelaR@michigan.gov)>  
To: Kim Brace <[kbrace@aol.com](mailto:kbrace@aol.com)>; [jmorgan4@cox.net](mailto:jmorgan4@cox.net) <[jmorgan4@cox.net](mailto:jmorgan4@cox.net)>; [wkstigall@gmail.com](mailto:wkstigall@gmail.com) <[wkstigall@gmail.com](mailto:wkstigall@gmail.com)>  
Cc: Kim Brace <[kbrace@aol.com](mailto:kbrace@aol.com)>  
Sent: Sun, Oct 3, 2021 7:20 pm  
Subject: Re: Plan to Score

Yes, unveil it

---

**From:** Kim Brace <[kbrace@aol.com](mailto:kbrace@aol.com)>  
**Sent:** Sunday, October 3, 2021 7:13:01 PM  
**To:** Szetela, Rebecca (MICRC) <[SzetelaR@michigan.gov](mailto:SzetelaR@michigan.gov)>; [jmorgan4@cox.net](mailto:jmorgan4@cox.net) <[jmorgan4@cox.net](mailto:jmorgan4@cox.net)>; [wkstigall@gmail.com](mailto:wkstigall@gmail.com) <[wkstigall@gmail.com](mailto:wkstigall@gmail.com)>  
**Cc:** Kim Brace <[kbrace@aol.com](mailto:kbrace@aol.com)>  
**Subject:** Re: Plan to Score

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Hey Rebecca --

Will do, now that I'm in our Lansing hotel.

Dustin sent me a CD plan he worked on yesterday, and Sue wanted me to upload it to our MyDistricting site for the public. Are you ok with unveiling your plan?

Let me know.

Thanks

Kimball Brace  
Election Data Services, Inc.  
6171 Emerywood Ct  
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Fax: 703-580-6258  
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[www.electiondataservices.com](http://www.electiondataservices.com)

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-----Original Message-----

From: Szetela, Rebecca (MICRC) <[SzetelaR@michigan.gov](mailto:SzetelaR@michigan.gov)>

To: Kim Brace <[kbrace@aol.com](mailto:kbrace@aol.com)>; John Morgan <[jmorgan4@cox.net](mailto:jmorgan4@cox.net)>; Kent Stigall <[wkstigall@gmail.com](mailto:wkstigall@gmail.com)>

Sent: Sun, Oct 3, 2021 6:38 pm

Subject: Plan to Score

Can you run this through the software and send back the spreadsheet reflecting the Partisan Balance scores? Thanks!

Rebecca Szetela

Commissioner

Michigan Independent Citizens Redistricting Commission

[szetelar@michigan.gov](mailto:szetelar@michigan.gov)

(517) 898-9366



## Exhibit 15

---

**From:** Pastula, Julianne (MICRC)  
**Sent:** Monday, October 4, 2021 7:23 PM  
**To:** Rothhorn, MC (MICRC); Szetela, Rebecca (MICRC)  
**Cc:** Badelson1  
**Subject:** P&C: Congressional Map Considerations

**Importance:** High

Dear Rebecca and MC,

Bruce and I have reached back out to ██████ in an effort to get context on his map submissions. Given that his initial map analyzed by Dr. Handley received near perfect scores, why should he try to better what is arguably incomparable, particularly if subsequent maps do not score as well as the initial analyzed map. Our concern is that the map was influenced by partisan data or considerations that are not allowed under MI criteria. While it is clear the AFL/CIO maps were drawn focused on partisan data (both competitiveness and proportionality by districts) to better their overall partisan fairness scores (also near perfect) – this cannot taint the Commission’s collaborative work. A map that does not follow the criteria can never be “better” than those that do.

Bruce and I remain steadfast in our recommendation to ██████ that he not advance his map we discussed with him last week and strongly encouraged him to submit any desired drafts as an individual Commissioner map, not insert it into the collaborative pool.

Please do not hesitate to reach out with any questions or concerns.

Sincerely,

**Julianne Pastula**  
*General Counsel*  
State of Michigan  
Independent Citizens Redistricting Commission  
517.331.6318  
PastulaJ1@Michigan.gov



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MICRC

12/28/21 10:00 am Meeting

Captioned by Q&A Reporting, Inc., [www.qacaptions.com](http://www.qacaptions.com)

**Exhibit 16**

>> CHAIR SZETELA: As Chair of the Commission, I call the meeting of the Michigan Independent Citizens Redistricting Commission to order at 10:06 a.m.

This Zoom webinar is being live streamed on YouTube at Michigan Independent Citizens Redistricting Commission YouTube channel.

For anyone in the public watching who would prefer to watch via a different platform than they are currently using, please visit our social media at Redistricting MI.

Our live stream today includes closed captioning. Closed captioning, ASL interpretation, and Spanish and Arabic and Bengali translation services will be provided for effective participation in this meeting. Please E-mail us at [Redistricting.gov](mailto:Redistricting.gov) or details for language translation services for this meeting.

People with disabilities or needing other specific accommodations should also contact Redistricting at [Michigan.gov](http://Michigan.gov).

This meeting is also being recorded and will be available at [www.Michigan.gov/MICRC](http://www.Michigan.gov/MICRC) for viewing at a later date and this meeting also is being transcribed and those closed captioned transcriptions will be made available and posted on [Michigan.gov/MICRC](http://Michigan.gov/MICRC) along with the written public comment submissions.

There is also a public comment portal that may be accessed by visiting [Michigan.gov/MICRC](http://Michigan.gov/MICRC), this portal can be utilized to post maps and comments which can be viewed by both the Commission and the public.

Members of the media who may have questions before, during or after the meeting should direct those questions to Edward Woods III, our Communications and Outreach Director for the Commission at [WoodsE3@Michigan.gov](mailto:WoodsE3@Michigan.gov) or 517-331-6309.

For the purposes of the public watching and for the public record I will now turn to the Department of State staff to take note of the Commissioners present.

>> MS. SARAH REINHARDT: Good morning, Commissioners. please say present when I call your name. If you are attending the meeting remotely, please disclose you are attending remotely and as well as your physical location you are attending from. I will call on Commissioners in alphabetical order starting with Doug Clark.

>> COMMISSIONER CLARK: Present.

>> MS. SARAH REINHARDT: Juanita Curry.

>> COMMISSIONER CURRY: I'm present, attending remotely from Detroit Michigan.

>> MS. SARAH REINHARDT: Anthony Eid?

Brittini Kellom?

>> COMMISSIONER KELLOM: Present, attending remotely from Detroit, Michigan.

>> MS. SARAH REINHARDT: Rhonda Lange?

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My name is mark Payne a resident of Detroit, I ask that the vote process you have established be adhered to on the actual vote so the public can witness a transparent conclusion to your work.

In addition these lines will last ten years and have a lasting impact.

You can still do better especially on the State House maps Hickory is least bad but you can do better for Michigan taking a little bit more time drafting.

Please take more time to additionally address our ability to elect candidates of choice and assure compliance with the voter rights act z, as a voting rights expert Handley says in 2C we compile election results where all draft districts can be used whether your proposed will provide minority voters with the opportunity to elect.

No mention of this however no mention of this being done is made.

>> CHAIR SZETELA: Thank you for addressing the Commission. Next in line is number 28, Nicole Bedi.

>> Hi everyone.

My name is Nicole Bedi from Birmingham I'm in support of the Birch Congressional map.

We are part of the congregation of a Sikh technical of Rochester Hills.

You heard a lot from my community earlier in the process we support the Birch map because it keeps together the neighborhoods of Sterling Heights Troy and Rochester Hills so that our religious community as well as the south Asian cultural community can be a constituency with member of Congress.

I've been following this process really closely and I've actually taken the time to tally the pins on the portal.

And I want you to pay attention to the fact that there are actually 1500 comments between the Birch and Chestnut maps where 67% of comments are positive on the Birch map where only 55% are positive on or green on the Chestnut map.

There has been a lot of T attention on these verbal comments like mine organized by groups but a ton of individuals do not have the luxury to take time away.

>> CHAIR SZETELA: Thank you for addressing the Commission. Next in line is number 29, Claudia Warren.

>> Good morning.

Good morning, Commissioners and thank you for your service in this extremely important process.

I am one of the many Voters Not Politicians volunteers residing in Midland County.

We collected 21,000 signatures to get proposal two on the ballot.

50-60% of Midland County voters approved proposal two.

50-60% of Midland County voters understood that Michigan's redistricting process was rigging the election in favor of one party.

In Midland County and in the rest of the state we all witnessed what happens when one party dominates with a closed mindset.

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Comments, thoughts? Views? Cheerleading for your plan? Commissioner Eid?

>> COMMISSIONER EID: Well, in my opinion I think the Chestnut plan is the one we should adopt.

I see it as kind of a compromise between all of the plans that we have.

For example, you know we have Ottawa County and Apple it's not split at all.

And Birch it's split twice.

Chestnut there is a compromise and only split once with part of it going in the lower District and the other half going in the Grand Rapids-Muskegon District.

Likewise I see a compromise in Midland County.

And this map almost all of Midland is kept whole except for a few sparsely populated Townships that only have about 9500 people in them total.

Which is less than some single precincts in the more populated areas of the state.

And I see that as a compromise because most of that County is kept whole.

And finally I think the next biggest difference is the BVAP is a little bit higher on districts 12 and 13 in Metro Detroit.

They are at about I believe they are, I will find it out now, they are about 45 and 43.8%.

Which are just a couple of percentage points higher on Birch and Apple configuration.

And finally I think while it wasn't made to be this way, I would end up shaking out is it also has more competitive districts than Apple or Birch.

So I think it's the best one.

I think that is what we should adopt.

And I also like Commissioner Szetela's individual map.

And I also like Birch.

>> CHAIR SZETELA: Any additional discussion? Rhonda, I can't see you Commissioner Wagner I can't see you, miss Reinhardt?

>> MS. SARAH REINHARDT: Thank you.

Per the Commission's adopted final vote procedure, if you're entering into step two for U.S. Congressional, the first step or step 2A states a motion will be made that each Commission shall state the top plans under consideration and then proceed into discussion after disclosure of your top two favorite plans.

Did you hear me okay? Do you want to repeat it.

>> CHAIR SZETELA: Thank you for the reminder I would entertain a motion for Commissioners to state their top two favorites among the Congressional plans.

Motion made by Commissioner Eid and seconded by Commissioner Witjes is there any discussion or debate on the motion? Hearing none let's vote we have a motion by Eid and seconded by Commissioner Witjes to request that Commissioners identify their top two favorite Congressional plans all in favor please raise your hands and say aye.

Opposed raise your hands and say nay.

>> COMMISSIONER LANGE: Nay.

>> CHAIR SZETELA: Commissioner Lange.

>> CHAIR SZETELA: No, we are not voting at this point, identifying the top two favorite maps and move into a discussion.

And per our planned document we are supposed to do it in alphabetical order so starting with collaboratives that would be in Apple.

Is there any discussion or debate on the Apple?

>> MS. SARAH REINHARDT: Commissioner Wagner for your reference, in the voting procedure document, the final vote procedure we are moving into 2B which the Commission will discuss each published plan for the District type under consideration in alphabetical order.

>> COMMISSIONER WAGNER: Thank you.

>> CHAIR SZETELA: I'm not seeing any hands on the Apple.

Okay, do you want to talk about the Birch, any comments about the Birch? Commissioner Rothhorn?

>> VICE CHAIR ROTHORN: So I think the reason I'm choosing Birch is because there has been in the southeast Michigan area it's the most populated area. And I guess concerned about the way that and recognizing that Grand Rapids is our second most populated City.

But with I believe Detroit and then I think Warren and Sterling Heights it has the top four cities are the most populated area and I think Birch treats that area that the communities of interest that are preserved or the community of interest that we heard from during our process are most reflected in that Birch map.

I recognize that it's not perfect as many have said.

But that is why because it's the most populated area that has the most communities of interest, the most diverse communities of interest preserved that is why I'm leaning towards Birch.

>> CHAIR SZETELA: Commissioner Witjes then Commissioner Clark then Commissioner Lett.

>> COMMISSIONER WITJES: I'm basing my decision I know we are talking about Birch here for a good second but going to hit two birds with one stone.

1 I'm taking my own personal beliefs here out of almost everything we are doing when coming to voting. There has been an overwhelmingly positive response to Chestnut. More so than Birch.

So that would be the reason why I put Chestnut above Birch however both maps are decent.

>> CHAIR SZETELA: Commissioner Clark?

>> COMMISSIONER CLARK: Yeah, and I'd like to talk about Birch and Chestnut together.

2 The reason I selected Chestnut was I felt it had more swing districts that depending who the candidates are I could go republican or democrat and that is one of the things we

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heard from the public a lot, they used the word competitiveness and I just associated that word with the way Anthony configured this.

So I think that's a very positive thing and something the public talked about quite a bit.

>> CHAIR SZETELA: Commissioner Lett?

>> COMMISSIONER LETT: Yeah, I agree with Commissioner Clark and Commissioner Witjes.

3 Clearly the sentiment from the public was for Chestnut.

Really without many reservations at all as I recall.

And it seems I recall that people would say you know Birch looks good but Chestnut looks better.

And number two I think our deliberations as we develop Birch and develop Chestnut, I think we made the corrections to the Birch that provided us with Chestnut and therefore I believe that is the one that should be voted in.

>> CHAIR SZETELA: Okay, so I have some comments on this.

I think in terms of the public comment it's been frankly equal and actually favors the Birch and that was something I believe Chris Andrews mentioned today that when you tally that 67% of the comments related to the Birch are positive 55% of the comments related to Chestnut are so I think the Birch actually has more favorable comments.

I think the Chestnut in particular it wasn't something that we drew as a collaborative map.

It was something this Commissioner Eid did on his own and adopting it and making it a collaborative map.

Unlike the Birch where we did draw it in live meetings and discussed at length what we were doing and why we were doing it we never had that sort of background with the Chestnut and I think you see that reflected the in the communities of interest on the two maps because for the Birch we have particular configurations particularly Detroit and Oakland County where we have you know little jut outs here and there and done with a deliberate purple and we went through the communities of interest.

We were specifically discussing the Bengali and Asian and Chaldean, the Hispanic communities, the Arab and Muslim in Dearborn in particular and really trying to preserve those communities of interest and we ended up with the lines we drew.

Where I feel the Chestnut disease not preserve those communities of interest in the same way and I think from a defensibility perspective that makes it difficult to go in and say Yeah, we considered the Bengali in Birch we carved out its own District for it yet we completely threw that in the dumpster when it came to Chestnut.

If it was important for us to incorporate in the Birch it should have been incorporated in the Chestnut as well and a big weakness with the plan.

I feel that is a big weakness that a lot of people have identified with the Chestnut in particular including outside entities that have looked at both maps.

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Have consistently rated the Chestnut as being the lowest on communities of interest in terms of taking those into account.

And I think that is concerning because we have the Birch which does well with communities of interest.

We have the Apple which does well with the communities of interest then we have the third ranked which is the Chestnut.

So I think if you are looking at all things being equal which they mostly are because the public impression of it is equal if slightly favoring Birch and we have different metrics we are looking at.

Whether it be population, whether it be efficiency gap, whether it be mean median. They are pretty equal.

And so the big differentiating factor for me is the COIs and we have one map that I think does a really good job of respecting the COIs and in addition to that was well documented as to why we were doing that.

And very open to the public then we have another map that frankly I think compromises COIs.

In favor of competitiveness which is not even one of our constitutional criteria.

4 Nowhere in our constitutional criteria is competitiveness and I'm sure our General Counsel will jump in on that point so that is not something we should be considering as a factor.

And when people are asking us to consider that they are asking us to deviate from the 7 ranked criteria we are supposed to be following.

So I think they are both good maps.

It's not going to kill me either way if we adopt one or the other but I definitely think in terms of complying with our constitutional mandate I think the Birch is superior.

And I would encourage everybody to think about that and consider whether we want to make sure that we are going with the map with better COIs versus the map that is more competitive.

Commissioner Witjes I think you had your hand up first then Commissioner Eid.

I'm sorry can we let Commissioner Curry go first thank you.

>> COMMISSIONER CURRY: I just want to reply that I agree with Madam Chair in her response to the Birch map.

I agree wholeheartedly with that.

>> CHAIR SZETELA: Thank you Commissioner Curry.

Commissioner Witjes then Commissioner Eid.

>> COMMISSIONER WITJES: Between the two I think communities of interest are represented both quite well in the Birch and the Chestnut map.

5 That being said when it came to percentages that were brought up today in public comment by the individual from Haslett I'm wondering if he went on to the actual public

comment not the portal but the website with the proposed maps where you can place the pins.

I'm taking it in account when we actually had our first maps to that we published and all of our public comments hearings we went on the next five plus everything that we've heard in our public meetings that we had every two weeks Chestnut is indeed superior out of the two in regards to what the public has said.

>> CHAIR SZETELA: Commissioner Eid?

>> COMMISSIONER EID: A couple things.

One I just want to point out that the Detroit configuration that is in Chestnut was also in map Juniper that went on the second round of public comments which was a collaborative map and we came back and selected this map and made it a collaborative map on Chestnut based on what Commissioners said was the preferred Detroit configuration.

So that is the first thing.

Second, just looking at how people said their preferences, there were 7 preferences, 7 first place preferences for Chestnut.

And four for Birch.

And out of those for Chestnut there were more than -- there were two independents two republicans and one democrat and just wanted to point that out.

Finally I think the independent analysis actually shows the opposite.

I think independent analysis are good tools we should use but most of the ones I read specifically IPPSR report from MSU preferred the Chestnut map.

I looked at other things, the Princeton gerrymander project, which has the maps as A's, which are good.

And 538 also has them all being the same.

So I think from an independent analysis standpoint they are all pretty good all three of them.

As far as community of interest goes, I think the Chestnut map is better in supporting communities of interest because the biggest community of interest here is the you know the minority community in Detroit.

And the BVAP being higher I think it does a better job of having that community of interest being represented.

While we have the Bengali community of interest represented very well in other versions of maps.

You know we said all along that not everybody is going to get every single thing they want in every map but I think it's a good compromise.

There are other pluses to as far as Oakland and Troy is included with the Oakland County District which is something that at Oakland University the community made very clear to us, they want to be in with most of Oakland County.

There are negatives though, you know.

It's not a perfect map.

I don't like how Chestnut has upper Oakland County.

I think the Birch map is superior to Chestnut in that regard.

But overall looking at all things in totality, I prefer Chestnut and going by what most people said 7 people said Chestnut was their preference.

So I'm wondering if we can get any wiggle room, maybe have somebody change their mind so we can come to consensus something like that.

>> CHAIR SZETELA: Commissioner Lange?

>> COMMISSIONER LANGE: This is why I have a problem of listing the top two it's like a round Robin and I don't think that this is how we should do it.

I don't think we should be forced to say which ones we are.

And put somebody on the spot saying oh, well, 7 Commissioners think this one is the way to go so we just need to swing the last one.

That is round Robin in my opinion and I don't like it.

I just want to put that out there.

>> CHAIR SZETELA: Thank you for your comment, Commissioner Lange.

So I do want to address the MSU report because I did read that in full like I read everything.

And the primary reason why MSU tipped in favor of Chestnut is because number one they are of the opinion that we are required to have 50% BVAP in order to have voting rights compliance and they favored Chestnut because it has a slightly higher BVAP in District 12 and 13 so to me I disregard that entirely because I trust the expert opinion of Mr. Adelson and he what's said we do not have to have 50% so the fact they are favoring one map over another because it has a slightly higher BVAP when that is not what we are supposed to be -- that is not a goal we are trying to achieve, I disregarded that analysis entirely.

Otherwise their analysis was there was no difference between the Birch and Chestnut they were functionally the same in terms of every factor they looked at.

All right, I feel like we talked about Birch and Chestnut so do we want to talk about I think Lange would be next on the list.

Any discussion, comments about Lange? And anything about Szetela? Did you have a comment Commissioner Eid?

>> COMMISSIONER EID: I was going to say I like the Szetela version.

It would rank after Chestnut and Birch because I think the collaborative maps should be ranked first but just generally speaking, I think I saw what you are trying to do.

I saw you did a good job of trying to put together the best parts of both maps.

>> CHAIR SZETELA: All right so let's go back to our.

>> MS. JULIANNE PASTULA: Madam Chair.

>> CHAIR SZETELA: Let's go to Clark.



>> COMMISSIONER CLARK: I liked the Lange map and represented some of the areas that I think needed more representation than they have had.

I think she did a decent job on that.

>> CHAIR SZETELA: Commissioner Witjes?

>> COMMISSIONER WITJES: Okay this is okay so we just discussed the Congressional maps now we are going to move on to Senate then the house basically do the same thing.

Does that make sense? Now we actually discussed the Congressional map, wouldn't it make more sense to go through the voting process now?

>> CHAIR SZETELA: I think Ms. Reinhardt wants to chime in and General Counsel probably wanted to chime in too.

>> MS. SARAH REINHARDT: Yes, Commissioner Witjes that is how what the voting plan contemplates is that we will go through all of the steps for each plan sequentially and then move on to the next District type.

So first we would go through all the steps for U.S. Congressional and then move on to the next set, which I believe is State Senate.

>> CHAIR SZETELA: Just to clarify going through all the steps you are saying voting at this point.

Okay that is what I understood.

Commissioner Lange?

>> COMMISSIONER LANGE: There was the topic of potentially making changes to the maps.

At the beginning that said we would be coming back to after discussion.

So when do we come back to that?

>> CHAIR SZETELA: Commissioner Witjes?

>> COMMISSIONER WITJES: I'm going to make a motion right now that we do not make any changes to the maps.

>> CHAIR SZETELA: Is that all maps or just these Congressional maps?

>> COMMISSIONER WITJES: All maps.

>> CHAIR SZETELA: Okay so we have a motion by Commissioner Witjes seconded by Commissioner Vallette to oh, gosh, how do I want to say this not make any changes to the map I guess, any maps, just any District type maps any discussion or debate on the motion?

>> COMMISSIONER WAGNER: My hand has been up a while this is Commissioner Wagner.

>> CHAIR SZETELA: I can't see you.

Please go ahead.

>> COMMISSIONER WAGNER: Thank you I also wanted to get back to actually amending the maps because as everyone on the Commission is aware I've got a letter of demand out there.

# Exhibit 17

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**From:** Pastula, Julianne (MICRC)  
**Sent:** Monday, September 20, 2021 12:25 AM  
**To:** Pastula, Julianne (MICRC)  
**Subject:** Privileged & Confidential: Update

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

THIS EMAIL IS A PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION THAT CONTAINS LEGAL ADVICE.

OPEN MEETINGS ACT REMINDER: DO NOT "REPLY ALL" OR CREATE "CONSTRUCTIVE QUORUMS" AMONG A QUORUM OF THE PUBLIC BODY THROUGH CONVERSATIONS WITH OTHER COMMISSIONERS OR THROUGH SHARED ELECTRONIC COMMUNICATIONS. DELIBERATIONS BETWEEN A QUORUM OF COMMISSIONERS OR MEMBERS OF A COMMITTEE CAN ONLY OCCUR AT AN OPEN MEETING. PLEASE CONTACT JULIANNE AT 517.331.6318 WITH QUESTIONS.

Dear Commissioners and Staff,

I wanted to provide updates on the following issues:

**Competitiveness.** I have consistently stated that competitiveness is not a constitutional criteria in Michigan. Attempting to add this consideration as a criteria creates a significant legal problem and leaves the MICRC wide open to a court challenge. First, there is no legal basis for including competitiveness in the criteria that the MICRC is constitutionally mandated to follow. This would likely be viewed as arbitrary and capricious by a court, particularly after receiving legal advice against inserting competitiveness. To date, it has been included in the not only the drawing of districts but establishing it as part of the MICRC record as well as the rationale by which districts were evaluated. Second, as I indicated again during the second meeting last Thursday, the data in the active matrix is disaggregated election results utilized for VRA compliance analysis and is not an approved method to evaluate political advantage (competitiveness). The full election dataset is not currently included in the data cube. I acknowledge that the MICRC has received public comment advocating for competitiveness to be considered. Again, there is no legal basis for this and inserting it as a consideration undermines our legal risk management strategy. Political considerations are expressly excluded from diverse population/COI criteria so that argument would also fail and put the MICRC's work at risk. Political boundaries (county, city, townships) are a discrete criterion so attempting to align under diverse population/COI criteria absent demonstration of shared characteristics is also highly inadvisable as the MICRC will have to defend its' decision to identify entire counties or other political units as a COI when it is defending its maps. Other examples of redistricting principles that are not included in Michigan's criteria and therefore cannot be considered are nesting, establishing multi-member districts, and maintaining cores of districts.

In his prior work, Mr. Adelson evaluated political competitiveness in a state that has competitiveness as a specific constitutional redistricting criterion, He well understands the difference between complying with that state's requirements and Michigan's and will share those distinctions with the MICRC. Again, competitiveness is NOT in Michigan's constitution and cannot be included now by the MICRC in its drafting. Looking at VRA selected election results is NOT an approved method for evaluating "disproportionate advantage" and "fairness" and must be avoided.

**Partisan Fairness.** This is one of the constitutional criteria in Michigan but it cannot and should not be intertwined with competitiveness. The mathematical models accepted by the courts are employed on statewide plans to determine symmetry and measure partisan fairness by establishing whether a statewide seats to vote comparison and relevant statistical analysis demonstrate disproportionate advantage. As I indicated during the second meeting on Thursday, the

data in the active matrix is disaggregated election results utilized for VRA compliance analysis. Courts have held that election results cannot be used to demonstrate disproportionate advantage or competitiveness. The partisan fairness measures will require another update by EDS.

**Additional Analysis by Dr. Handley.** Dr. Handley is available to perform the partisan fairness analysis as well as additional evaluation of voting patterns by race and ethnicity to identify whether homogeneous populations that are too small for RBV analysis or are not a separate racial category in the census (i.e., concentration of Hispanic voters or MENA population being categorized as White in the census form). A draft Appendix to amend the EDS contract is being finalized for the Commission to discuss and consider.

**Incumbents.** The language of the 5<sup>th</sup> constitutional criteria “[d]istricts shall not favor or disfavor an incumbent elected official or a candidate” also demonstrates the intent of the constitutional amendment to remove partisan considerations from the MICRC’s work. The most effective way to accomplish this and shield the MICRC from individual requests of individuals stating where they intend to run is to not take into consideration any incumbent data and rely upon the partisan fairness measures in the 4<sup>th</sup> criteria. Any intentional actions taken by the MICRC relative to incumbents will need to be explained and rationale provided for the record. This will be almost impossible in heavily gerrymandered areas of Michigan allowing for a challenge of favoring out state candidates. Additionally, there is no meaningful way to gauge compliance with this criteria once that information is taken into consideration intentionally. Your legal team advises against incumbent considerations and has asked the Communications and Outreach Director to stop including articles outlining the impact of the MICRC’s work on current or prospective elected officials.

**Compactness.** The Polsby-Popper test is currently in the EDS software. This test is essential to evaluate legal compliance with the final constitutional criteria. Mr. Adelson has indicated it is a best practice method used across the country and compactness cannot be legally evaluated without it.

**Reconciliation of Legacy Data.** EDS has indicated that the reconciliation between the legacy data released August 12<sup>th</sup> and the PL 94-171 data released September 16<sup>th</sup> is complete and the data sets have been verified. As you recall, this was an important part of mitigating legal risk and demonstrating that the data set is accurate, particularly earlier this year when there was uncertainty about the releases.

**Another Michigan Supreme Court Order.** On Saturday, I received an Administrative Order from the MSC stating that until emergency rules are adopted, the MSC will be issuing case management orders for any lawsuits brought by or against the MICRC. A copy of the Order is attached for your convenience. These case management orders will set forth dates/deadlines and procedural requirements and will be extremely helpful. However, it does note the likelihood of shorter timeframes and “nonuniform” periods which underscores the need to secure local counsel as soon as practicable. The Baker Hostetler contract has been signed but the engagement letter has not been finalized. The proposed engagement letter was not consistent with the contract terms or the terms set forth in the RFP. I forwarded recommended edits so that process is ongoing and I am hopeful it will be concluded this week.

**Analysis of VRA Compliance.** Barring any travel delays, Mr. Adelson will arrive at tomorrow’s meeting about 1 pm which coincides with the end of the recess period for lunch. He has reviewed the Senate and Congressional plans drafted last week, is happy to address questions the Commissioners may have and he also has questions for the Commission. He will share his thoughts in regard to the draft districts drawn last week and discuss overall VRA compliance at the beginning of the afternoon session.

Lastly, another reminder to be thoughtful in your terminology to ensure it is not freighted as each of you are creating a record that you will need to defend not only collectively as a public body but also as individual Commissioners. Again, I urge that public engagement consist of active listening as opposed to talking. The MICRC has shifted into the mapping phase of its work, advocacy efforts have significantly increased, and the increased risk of creating a record that will undermine the MICRC’s work is too great.

As always, I remain committed to the work of the MICRC and each of you individually. Please do not hesitate to reach out to me.

Sincerely,

**Julianne Pastula**

*General Counsel*

State of Michigan

Independent Citizens Redistricting Commission

517.331.6318

PastulaJ1@Michigan.gov

## Exhibit 3

### **Szetela, Rebecca (MICRC)**

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**From:** Szetela, Rebecca (MICRC)  
**Sent:** Sunday, January 16, 2022 5:51 PM  
**To:** Rothhorn, MC (MICRC); Clark, Douglas (MICRC); Orton, Cynthia (MICRC); Lett, Steven (MICRC); Eid, Anthony (MICRC); Witjes, Dustin (MICRC); Lange, Rhonda (MICRC); Wagner, Erin (MICRC); Curry, Juanita (MICRC); Kellom, Brittini (MICRC); Weiss, Richard (MICRC); Vallette, Janice (MICRC)  
**Cc:** Hammersmith, Suann (MICRC); Martinez, Sara (MICRC); Woods, Edward (MICRC)  
**Subject:** Employee Performance  
**Attachments:** Dr Handley MICRC Questions re VRA.pdf; Email to Pastula re Handley Analysis.pdf; Pastula Complaint.pdf; Pastula Email re Woods and Hammersmith Sept 14.pdf; Pastula re Nov 4 45 day vote.pdf; Pastula re NPR Interview.pdf; Pastula re Woods response re VRA lawsuit.pdf; Szetela chain of command.pdf; Szetela re Pastula tone to commissioners.pdf; Szetela re second opinion.pdf

Dear fellow Commissioners:

I wanted to take a moment to outline for all Commissioners my concerns about our General Counsel's performance. It is my understanding that many other Commissioners are unaware of the extent of the issues myself, MC, and prior Chairs and Vice-Chairs have experienced with Julianne's work performance. While Julianne is attempting to cast this as a personality conflict, the actual issue is we have an underperforming employee. While I apologize for the length of this email, I have tried to keep these concerns to the "highlights". This email would be much longer if I had to list every incident and concern.

To start, I want to explain why some prior messages have not been sent to all Commissioners. As you know, we are required to conduct all "business" of the Commission (e.g., drafting and adopting maps) in open meetings. Email messages with more than 9 Commissioners discussing redistricting matters constitute a quorum and potentially violate our open meetings requirements. Thus, in the past, when responding to Julianne's emails that relate to redistricting, I have always included 7 or less other Commissioners. This was not an attempt to keep some Commissioners out of the loop – it was merely an attempt to comply with the law. I apologize if anyone felt slighted by this. Because this email does not involve the "business" of the Commission, I am sending it to all Commissioners. I am also cc'ing Sue and Edward.

I have attached handful of email messages in support of this email. Given the recent Supreme Court ruling, each of these messages are public, non-privileged documents and some of them have already been subject to FOIA requests. Any or all of these documents could also be produced in litigation.

Some of my concerns about Julianne's performance include:

- 1) An inability to engage professionally with co-workers, vendors, and Commissioners as well as constant interference with other worker's duties;
- 2) Her continued attempts to exceed the scope of her authority by making decisions that properly are the responsibility of the Commission or her co-workers;
- 3) Her failure to complete her work in a timely manner; and
- 4) Her repeated instances of dishonesty in performing her work.

#### **Unprofessional Behavior Towards Staff and Vendors**

The day MC and I were elected vice-chair and chair, Julianne frantically approached us and told us we had urgent matters to attend to. She emailed us a very lengthy email, attacking virtually everyone the Commission was working

with. She wanted ██████████ replaced for supposedly failing to properly manage the ██████ contract. She accused ██████ of illegal expenditures and other issues. She claimed that ██████ was in breach of its agreements. Basically, everyone is a problem except for her. A copy of this email is attached.

MC and I investigated Julianne's complaints and determined them to be not as severe or urgent as claimed. MC and I both felt that the issues raised could be easily resolved with more support for ██████ (with respect to ██████) and some pressure by MC and I on ██████. We did not consider any issues with ██████ to have merit. The other issues were resolved with minimal intervention on our part.

Despite these interventions, Julianne continued to send inflammatory and accusatory emails towards her colleagues and vendors. Julianne also continued to be disrespectful and dismissive of other staff members during in person conversations. Due to Julianne's continued allegations towards staff, for a short time, MC and I attended staff meetings to maintain some level of decorum. Both MC and I have repeatedly counseled Julianne about watching the tone of her messages to staff, vendors, and Commissioners. However, there has been no change in this behavior in the last four months and, if anything, it's worsened since the Kelly Services investigation.

### **Interference With Relationships with Experts and Vendors**

Although all vendors are contracted with the Commission, on multiple occasions, Julianne has directed the Commission's hired experts not to speak to me and other Commissioners about their work. Specifically, following the Commission's decision to allow individual Commissioners to submit individual maps for publication in advance of the second round of public hearings, and with Julianne's knowledge, I reached out to Baker Hostetler with respect to the "second opinion" Julianne had sought. When I spoke to Baker, I was told, "Julianne told me you would be calling and she told me not to speak to you without her on the line." I protested, but Kate agreed to schedule a call with Julianne. However, Julianne failed to attend the scheduled meeting and Kate would not speak to me directly.

Julianne also directed Dr. Lisa Handley and EDS not to speak with me about Lisa Handley's analysis. This situation resulted in my December 15, 2021 email to Julianne on this same topic, which is attached. In response, Julianne retaliated against me by lodging a false claim of hostile work environment. Despite Julianne's interference, Dr. Handley did respond to my questions about her analysis on December 27, 2021.

### **Exceeding Her Authority/Interference with Coworker's Authority**

1. At the Oakland University meeting, Julianne blocked Commissioner Eid from submitting his individual Congressional Map. Julianne accused Commissioner Eid of violating the Constitution and collaborating with outside forces in the creation of his map, without a shred of evidence supporting that allegation. To my knowledge, the Commission never received or view Anthony's initial Congressional Map as result.
2. Julianne repeatedly tried to block individual Commissioners from submitting maps for public hearings and claimed the Commission "violated the Constitution" when we overruled her opinion on this point. Julianne specifically told me that "some of your fellow Commissioners are operating under the delusion that their individual maps are going to be plucked up and voted on and that's going to happen."
3. Julianne instructed Edward to stop circulating media clips to Commissioners. When I challenged her regarding this issue, she replied in email that the topic was "nonnegotiable." I reminded her, yet again, that the clips were approved by the Commission as part of our overall media plan and that only the Commission could approve terminating the clips.
4. Julianne instructed Edward to stop scheduling media interviews, town halls, and other public presentations on the ground to that they "interfere with the true function of the MICRC." Again, I directed her that this was a Commission and Communications Director decision, not her decision.
5. Julianne instructed Commissioners not to respond to comments on the portal, after I acknowledged to an individual that Commissioners were reading the comments.
6. Julianne accused a Commissioner of violating the Constitution for requesting (in writing) that an outside agency (MSU) review individual maps submitted by Commissioners. She also improperly directed Commissioners that they cannot engage in contact with the public in writing when the Constitution expressly allows such contact.

7. Julianne purported to agree to a Joint Defense Agreement without notifying the Commission of the agreement or obtaining Commission approval. JDAs may be created when there are multiple defendants with separate attorneys representing each defendant and aren't truly applicable to our situation. However, all Joint Defense Agreements require **the client (MICRC here)** to consent to the agreement. There are no exceptions to this requirement.

### **Dishonest Conduct Towards Commission**

- 1) During a meeting in Lansing, Doug, Brittni, Edward, and I left the meeting for a pre-scheduled media interview with a national media outlet. In the middle of the interview, Julianne interrupted, claiming that one of the Commissioners was angry about our interview, had stormed out of the room, and broke quorum. Julianne insisted we terminate the interview and return to the room immediately. Upon returning to the room and speaking to Sarah, Mustafa, Yvonne, and MC, I learned that Julianne had lied and that no one had left the room – the meeting simply continued without us.
- 2) Julianne met with counsel for the news organizations, including the Free Press, Detroit News, and Bridge Magazine, on the eve of the filing of the Detroit News lawsuit. This meeting was held without the knowledge of our Communications and Outreach Director. This meeting was widely reported in the press. Despite this, Julianne claimed – repeatedly – that she had not met with representatives of the news organizations.
- 3) Julianne falsely claimed that my concerns regarding her job performance were creating a hostile work environment. After Kelly Services opened an investigation, I readily agreed to submit myself to an investigation of my conduct. Julianne, on the other hand, ignored repeated calls and emails from Kelly Services and ultimately admitted that she had no claims of hostile work environment. As a result of Julianne's refusal to participate, the file was closed. However, Julianne agreed that she would no longer send argumentative emails to me. She has not honored her commitment.
- 4) After incorrectly asserting that the Commission had violated the Constitution by voting to allow the individual submission of maps 45 days before final voting, Baker Hostetler confirmed that the Commission had not violated the Constitution and had, in fact, taken the most "conservative and defensible" approach in interpreting the Constitution. Despite this, Julianne reported to the media that she "wasn't going to say she was wrong" in her analysis (despite the fact she was).

### **Lack of Fiscal Responsibility**

Julianne is overstaffing "legal team" meetings – ending up with meetings costing more than \$3,000 per hour. There is simply no reason why we need to have Bruce and multiple representatives of Baker and Fink at all meetings. And as Commissioner Wagner has previously pointed out that, there is no need to have our VRA expert or outside counsel weighing in on internal emails to attempt to bolster Julianne's opinions. Every contact with outside counsel is billed to the MICRC and we are already well over budget for legal costs.

### **Lack of Attentiveness To Her Work**

The Commission has repeatedly received complaints from the press indicating late responses to FOIA requests (which have been confirmed by Julianne). Late FOIA responses are given a discounted rate, which costs the MICRC money. The inexcusable delay in responding to a FOIA request in the Detroit News case was factored against us before the Supreme Court, because the senseless delay of two weeks in responding to a FOIA request to the memos was argued as proof that we were deliberately and improperly withholding documents to delay filing of the suit.

Additionally, in May of 2021, Brittni and I specifically requested that our procedural rules allow the Chair to attend and participate, but not chair, the meeting. Despite this, the change in the rules was not initiated until September, after Commissioner Orton initiated a similar request.

### **Conclusion**

I believe we have long since past the point where we, as a Commission, need to address Julianne's performance. Thus, I would suggest we discuss the situation in our next meeting. Because the situation does not involve redistricting itself, it would be appropriate to have a closed meeting.

To be clear, I have deliberately not included Julianne on this message. There are two reasons for that: 1) because I am not interested in engaging in a debate with her about these events; and 2) I agreed as part of the Kelly Services Investigation to not continue to engage her over email. I am honoring that arrangement even if she does not. The purpose of this email is informational – to inform Commissioners of issues and concerns that many are unaware have occurred so that all Commissioners are fully informed.

Feel free to reach out if you have any questions or concerns.

Rebecca Szetela  
Commissioner  
Michigan Independent Citizens Redistricting Commission  
[szetelar@michigan.gov](mailto:szetelar@michigan.gov)  
(517) 898-9366





## Exhibit 4

From: [Eid, Anthony \(MICRC\)](#)  
To: [Szetela, Rebecca \(MICRC\)](#)  
Subject: RE: Concept for Senate Plan  
Date: Thursday, December 16, 2021 3:28:35 PM  
Attachments: [image001.png](#)

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Looks fair. Dearborn/Melvindale/DH + Taylor is ok. District 13 still intact. 2020 = D wins (20/18), 2018 = D wins (by higher margin), 2016 = R wins (20R/18D), 2014 = R wins (by higher margin).

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**From:** Szetela, Rebecca (MICRC) <SzetelaR@michigan.gov>  
**Sent:** Thursday, December 16, 2021 2:58 PM  
**To:** Eid, Anthony (MICRC) <EidA@michigan.gov>; Orton, Cynthia (MICRC) <OrtonC@michigan.gov>; Kellom, Brittini (MICRC) <KellomB@michigan.gov>; Kellom, Brittini (MICRC) <KellomB@michigan.gov>  
**Subject:** Concept for Senate Plan

Everyone:

I've played around with our Senate maps today to address concerns re: representation. I worked on the Detroit area to increase the BVAP to above 45%. I have 5 districts in this map above 45%, which is our revised target. Let me know what you think. It still needs some tweaking to make sure I haven't disrupted communities of interest, but it's a concept to fix the Senate maps.

I built this off of the Linden, but I believe all Senate maps have the same Detroit configuration, so this could apply to any of them.

The metrics are:

Lopsided Margin: 4.7%  
Mean/Median: 2.8%  
Efficiency Gap: 3.5%  
Seats/Votes: 20 D/18 R 0.3% D/-0.3 R

Rebecca Szetela  
Commissioner  
Michigan Independent Citizens Redistricting Commission  
[szetelar@michigan.gov](mailto:szetelar@michigan.gov)  
(517) 898-9366



Exhibit 5

	District	VAP Initial %	VAP New %	Δ
4	1	34.34	37.01	↑ 3%
9	2	60.73	46.09	↓ 14%
17	3	28.79	40.72	↑ 12%
	4	41.28	53.24	↑ 12%
	5 New		44.99	
	6	64.81	48.28	↓ 16%
	7		10.91	
	8	52.38	35.71	↓ 17%
	9		51.70	
	10		41.52	
3	11		42.13	
7	12		45.27	
15	13			
	14	59.09	49.34	↓ 10%
	15	49.57	42.63	↓ 8%
	16 New	<del>54.28</del>	39.50	
	17	54.28	50.89	↓ 4%
	18	76.72	38.35	↓ 38%
	19			
	20			
	21	54.08	46.33	↓ 8%
	22			
	29		35.82	

5 - Senate  
2 - Congress

LS 3.2 Rep

M-M 3.7 Rep

House As Revised VRA

LP 9.2 Rep

Mean-Median 4.8 Rep

Efficiency 11.8 Rep <sup>D</sup> 30.8% Wash  
19.12% R

Seats Ratio D 52.3 - 44.5 U 7 49  
R 47.7 - 55.5 7.8 61

SD 183 (original, pre-VRA)

LP 9.6 Rep

M-M 4.7 Rep

Efficiency 12.7 Rep

Seats 52.3 ~~48~~ 48 - 8.7  
47.7 62 8.7

**Exhibit 6**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

DONALD AGEE, JR. et al.,

Plaintiffs,

v.

JOCELYN BENSON, et al.,

Defendants.

**Case No. 1:22-CV-00272-RMK-JTN-PLM**

**DECLARATION OF ANTHONY EID**

I, Anthony Eid, declare and state pursuant to 28 U.S.C. § 1746 as follows:

1. I am a Commissioner on the Michigan Independent Citizens Redistricting Commission.

2. I serve as a Commissioner unaffiliated with any major political party.

3. I have resided in Metro Detroit for 10+ years.

4. This declaration is given based on my personal knowledge concerning facts with which I am intimately familiar. I reviewed Exhibit A (the “MICRC State House Hickory Plan - with City of Detroit Neighborhoods”), a map showing the Detroit neighborhood boundaries overlaid on top of the enacted House plan, Exhibit B (the “Trende State House Plan - with City of Detroit Neighborhoods), a map showing the Detroit neighborhood boundaries overlaid on top of Plaintiffs’ expert Sean Trende’s House demonstrative map, Exhibit C (the “Linden State Senate Plan - with City of Detroit Neighborhoods”), a map showing the Detroit neighborhood boundaries overlaid on top of the enacted Senate plan, Exhibit D (the “Trende State Senate #1 Plan - with City of Detroit Neighborhoods”), a map showing the Detroit neighborhood boundaries overlaid on top

of Plaintiffs’ expert Sean Trende’s first Senate demonstrative map, and Exhibit E (the “Trende State Senate #2 - with City of Detroit Neighborhoods”), a map showing the Detroit neighborhood boundaries overlaid on top of Plaintiffs’ expert Sean Trende’s second Senate demonstrative map, as part of preparing this declaration. I also reviewed Exhibit F (“Excerpts of Hickory House Districts”), maps showing select districts in the enacted House plan, and Exhibit G (“Excerpts of Linden Senate Districts”), maps showing select districts in the enacted Senate plan, which are publicly available on the Commission’s website: <https://www.michigan.gov/micrc/mapping-process/final-maps>, as well as Exhibit H (“Excerpts from Trende Report – Appendix C (Demonstration Plan Details”).

#### **Role in Map-Drawing Process**

5. I, along with the other commissioners, prepared the drafts and final version of the enacted plans—the Hickory and Linden maps—using several sources of data and information relating to communities of interest across Michigan, including data provided to the Commission by Election Data Services showing the neighborhood boundaries of 200+ neighborhoods in and around the city of Detroit, communities of interest that many members of the public asked the Commission to preserve. These boundaries appeared as an overlay and could be turned on and off as maps were drawn in the Detroit area.

6. In addition, the Commission considered the knowledge and input of Commissioners who resided in Detroit and were familiar with Detroit’s many communities of interest, as well as the thousands of public comments and testimony made throughout the redistricting process.

7. I supported and voted for both the Hickory and Linden maps through the collaborative map-drawing process. The Commission drafted multiple versions of both the house and senate maps. The people of Michigan had the opportunity to, and did, give feedback on the

Hickory and Linden maps. Commissioners collaboratively edited the plans after the Commission's public hearings. I was present during Commission meetings when map-drawing decisions were made related to the Hickory and Linden maps. I supported the Hickory and Linden maps because the public response to the maps indicated that the public preferred these maps over others, and I believed they would be supported by the necessary votes among the Commissioners. Among other things, I believed the Hickory and Linden maps honored communities of interest including Detroit neighborhoods while also adhering to the other constitutional map-drawing criteria. This Declaration sets forth my understanding of some of the goals and considerations that went into the drawing of the Hickory and Linden maps and the communities of interests and neighborhoods preserved therein as compared to Plaintiffs' expert Sean Trende's demonstrative maps.

#### **House District 1**

8. Hickory District 1 of Exhibit A maintains the neighborhoods of Boynton, Oakwood Heights, Carbon Works, Delray, Springwells, Michigan Martin, Central Southwest, Hubbard Farms, West Side Industrial, Mexicantown, Hubbard Richard, Corktown, North Corktown, Claytown, Chadsey Condon, Core City, NW Goldberg, LaSalle Gardens, Wildemere Park, Jamison, and Petoskey-Otsego.

9. Hickory District 1 preserves the core area of downtown Detroit, east of Woodward and going down the Detroit River to keep neighborhoods in Detroit intact as much as possible.

10. In reviewing Exhibit B, I notice that this map splits the neighborhoods of Springwells, Central Southwest, and West Side Industrial between Trende Districts 5 and 11 and splits Claytown and Midwest between Trende Districts 5 and 6.

11. Trende's District 5 of Exhibit B stretches east and west of Woodward Avenue, merging areas of downtown and midtown Detroit with the neighborhoods of Airport Sub, LaSalle, and Gratiot, communities that do not have much in common with the core areas of Detroit.

**House District 3**

12. Hickory District 3 of Exhibit A maintains the neighborhoods of Far West Detroit, Warrendale, Garden View, and Warren Ave.

13. Hickory District 3 preserves the Arab-American community in and around Dearborn and Detroit, which I understand to be a cohesive community of interest.

14. Additionally, Hickory District 3 includes the city of Melvindale with Dearborn, a request made by members of the public through public comment. In reviewing Exhibit B, I notice that this map separates Melvindale and Dearborn into Trende Districts 11 and 15.

**House District 4**

15. Hickory District 4 of Exhibit A maintains the neighborhoods of Grand River-St Marys, Grandmont, Greenfield-Grand River, Southfield Plymouth, Plymouth-I96, Plymouth-Hubbell, We Care, Barton-McFarland, Fiskhorn, Joy-Schaefer, and Aviation Sub.

16. In reviewing Exhibit B, I notice that this map splits the neighborhoods of Schoolcraft Southfield, Barton-Mcfarland, and Aviation Sub.

**House District 5**

17. Hickory District 5 of Exhibit A maintains the neighborhoods of Greenfield, San Bernardo, Seven Mile Lodge, Schaefer 7/8 Lodge, College Park, Crary/St Marys, Hubbell-Puritan, Belmont, Hubbell-Lyndon, and Cadillac.

18. Hickory District 5 preserves the community of interest between Greenfield, San Bernardo, Seven Mile Lodge, and Schaefer 7/8 Lodge. The drawing of District 18 affected District 5, because District 18 preserves a community of interest between Southfield and Lathrup Village in response to public comment.

19. In reviewing Exhibit B, I notice that this map splits the neighborhoods of Greenfield, San Bernardo, and Schaefer 7/8 Lodge between Trende Districts 8 and 10.

**House District 6**

20. Hickory District 6 of Exhibit A maintains the neighborhoods of Blackstone Park, Pembroke, Greenwich, McDowell, Oak Grove District 2, Schulze, Bagley, Harmony Village, and Happy Homes.

21. In reviewing Exhibit B, I notice that this map splits the neighborhoods of Greenwich and McDowell between Trende Districts 8 and 10 and splits Bagley between Trende Districts 6 and 8.

**House District 7**

22. Hickory District 7 of Exhibit A maintains the neighborhoods of Garden Homes, Green Acres, Sherwood Forest, Palmer Woods, University District, Detroit Golf, Palmer Park, Martin Park, Pilgrim Village, Chalfonte, Dexter-Fenkell, Northwest, Davison-Schoolcraft, Paveway, Littlefield, and Russell Woods.

23. Hickory District 7 preserves the large LGBTQ+ community of interest between Royal Oak, Ferndale, Palmer Park, and Palmer Woods.

24. In reviewing Exhibit B, I notice that this map splits the neighborhood of Garden Homes between Trende Districts 8 and 10. I also notice that Exhibit B splits the LGBTQ+ community of interest, putting Palmer Park in Trende District 4 and Palmer Woods in Trende District 8.

**House District 8**

25. Hickory District 8 of Exhibit A maintains the neighborhoods of State Fair, Nolan, Penrose, Grixdale Farms, Greenfield Park, Hawthorne Park, Northeast Central, Cadillac Heights, Gateway, Boston Edison, Arden Park, Piety Hill, North End, Virginia Park, New Center Commons, New Center, Tech Town, Medbury Park, Wayne State, and Cultural Center.



26. Hickory District 8 preserves the core areas of midtown Detroit, the educational hub of the city, keeping together the community of interest between Wayne State, Tech Town, New Center, and New Center Commons.

27. In reviewing Exhibit B, I notice that this map splits the neighborhoods of Nolan, Hawthorne Park, and Cadillac Heights between Trende Districts 3 and 4 and splits Midtown between Trende Districts 4 and 5.

### **House District 9**

28. Hickory District 9 of Exhibit A maintains the neighborhoods of North Campau, Campau/Banglatown, Buffalo Charles, Airport Sub, Russell Industrial, Poletown East, Gratiot Town/Kettering, Pingree Park, Gratiot Woods, West End, East Canfield, Ravendale, Chandler Park, Chandler Park-Chalmers, Fox Creek, Forest Park, Jeffries, Brush Park, Brewster Homes, Douglass, and Eastern Market.

29. Hickory District 9 preserves the majority of Midtown, Medical Center, and all of Eastern Market within the district, key communities of interest that share similar characteristics as core downtown Detroit communities. I notice that Exhibit B separates the community of interest between Eastern Market, Medical Center, and Midtown between Trende Districts 4 and 5.

30. Hickory District 9 also maintains Airport Sub and West End together, a community of interest that submitted public comment asking to remain together. I notice that Exhibit B splits this community of interest by placing Airport Sub in Trende District 4 and West End in Trende District 5, in addition to splitting the individual neighborhood of Airport Sub between Trende Districts 4 and 5, and splitting West End between Trende Districts 2 and 4.

31. Members of the Bengali community submitted public comment to the Commission outlining the community's neighborhood boundaries and asking that these neighborhoods be

maintained together. Hickory District 9 preserves the Bengali community around Hamtramck and North Campau, Campau/Banglatown, Buffalo Charles, and Airport Sub.

32. In reviewing Exhibit B, I notice that this map splits the neighborhoods of Buffalo Charles between Trende Districts 3 and 4, splits Airport Sub between Trende Districts 4 and 5, and separates Airport Sub from Hamtramck, North Campau, Campau/Banglatown, and Buffalo Charles in Trende District 3, fracturing the Bengali community into separate districts.

33. I also notice that Exhibit B splits the neighborhoods of Gratiot Town/Kettering and McDougall-Hunt between Trende Districts 4 and 5, splits East Canfield between Trende Districts 2 and 5, and splits Ravendale and Wade between Trende Districts 2 and 4.

#### **House District 10**

34. Hickory District 10 of Exhibit A maintains the neighborhoods of Greektown, Lafayette Park, Elmwood Park, Rivertown, Islandview, West Village, Indian Village, East Village, Gold Coast, Joseph Berry Sub, Waterworks Park, Marina District, Riverbend, and Jefferson Chalmers.

35. Hickory District 10 in Exhibit F maintains the lakeshore community of interest along the Detroit River. Additionally, the Commission received public comment from the Gross Pointe communities, asking that Gross Pointe Woods, Gross Pointe Park, Gross Pointe Farms, and Gross Pointe Shores be kept together.

36. In reviewing Exhibit B, I notice that this map splits the neighborhoods of East Village and Conner Creek Industrial between Trende Districts 2 and 5 and splits the lakeshore community of interest between Trende Districts 2 and 5 as shown by Exhibit H. I also notice that the Trende map splits the Gross Pointe community of interest, placing Gross Pointe Woods with Harper Woods, which was a configuration that was not requested from the public.

**House District 11**

37. Hickory District 11 of Exhibit A maintains the neighborhoods of Moross-Morang, Denby, Yorkshire Woods, and Cornerstone Village.

38. In reviewing Exhibit B, I notice that this map splits the neighborhoods of Moross-Morang, Denby, and Yorkshire Woods between Trende Districts 1 and 2.

**House District 12**

39. Hickory District 12 of Exhibit A maintains the neighborhoods of Regent Park and Mapleridge.

40. Hickory District 12 combines Eastpointe with the neighborhoods of Regent Park and Mapleridge. The Commission received public comment in favor of combining Eastpointe with portions of Detroit, as residents of Eastpointe share many common experiences with residents of Detroit. Hickory District 12, as shown in Exhibit F, also places Eastpointe and Roseville in the same district based on public comment.

41. In reviewing Exhibit B, I notice that this map splits the neighborhood of Mapleridge between Trende Districts 1 and 4.

**House District 13**

42. Hickory District 13 of Exhibit A maintains the neighborhoods of Mohican Regent, Pulaski, Franklin, Von Steuben, LaSalle College Park, and Gratiot-Findlay.

43. The drawing of Hickory Districts 57 and 58, which maintain the Chaldean community of interest around Troy and Sterling Heights as shown in Exhibit F, a community of interest that identified separately from other Arab-Americans in and around Detroit, affected the drawing of Hickory District 13.

44. In reviewing Exhibit B, I notice that this map splits the neighborhood of Eden Gardens between Trende Districts 2 and 4.

**House District 14**

45. Hickory District 14 of Exhibit A maintains the neighborhoods of Butler, Pershing, Farwell, Sherwood, Nortown, Conant Gardens, Krainz Woods, Grant, Mount Olivet, and Davison.

46. In reviewing Exhibit B, I notice that this map places northern Detroit neighborhoods with the Bengali community around Hamtramack, North Campau, Campau/Banglatown, and Buffalo Charles. These communities do not share much in common.

**House District 16**

47. Hickory District 16 of Exhibit A maintains the neighborhoods of Evergreen-Outer Drive, Miller Grove, McNichols Evergreen, North Rosedale Park, Minock Park, Rosedale Park, Westwood Park, Grandmont #1, Eliza Howell, Castle Rouge, and West Outer Drive.

48. Hickory District 15 preserves the city of Dearborn Heights, which impacted the drawing of Hickory Districts 3 and 16. The Commission received public comment asking that Dearborn Heights be maintained whole.

49. In reviewing Exhibit H, I notice that this map places Dearborn Heights with Inkster, communities which are separate and distinct from one another and do not share many common characteristics.

**House District 17**

50. Hickory District 17 of Exhibit A maintains the neighborhoods of Five Points, Seven Mile-Rouge, Berg-Lahser, Evergreen Lahser 7/8, O'Hair Park, The Eye, Oak Grove District 1, Melvern Hill, Old Redford, South of Six, and Riverdale.

51. In reviewing Exhibit B, I notice that this map splits the neighborhoods of Evergreen Lahser 7/8 and Holcomb between Trende Districts 7 and 8.

### **Senate District 1**

52. Linden District 1 of Exhibit C maintains the neighborhoods of Northwest, Davison-Schoolcraft, Dexter-Fenkell, Paveway, Pride Area, Littlefield, Oakman Blvd, Russell Woods, Dexter-Linwood, Nardin Park, Barton-McFarland, Petoskey-Ostego, Jamison, Virginia Park, Wildemere Park, LaSalle Gardens, NW Goldberg, Elijah McCoy, Chadsey Condon, Core City, Michigan-Martin, Central Southwest, Hubbard Farms, Mexicantown, North Corktown, Corktown, Hubbard Richard, West Side Industrial, Delray, Carbon Works, Oakwood Heights, and Boynton.

53. Linden District 1 preserves the Downriver community of interest, a community of interest separate and distinct from the educational hub of Detroit around Wayne State, Tech Town, New Center, and New Center Commons. The Linden plan also provides Downtown Detroit with greater representation in the Senate by drawing two Downtown districts with Linden District 1 and District 3.

54. In contrast, Trende Exhibit D and Exhibit E combine Downriver communities, which are more industrial in nature and run along major highways such as I-75 and I-94, with the educational hub around Wayne State, Tech Town, New Center, and New Center Commons, and core downtown Detroit areas into just one district in Trende District 2, providing Downtown Detroit with just one senator.

55. In reviewing Exhibit D and Exhibit E, I notice that these maps split the neighborhoods of Dexter-Linwood between Trende Districts 2 and 3 and split Midwest between Trende Districts 2 and 4, and Exhibit D splits Nardin Park between Trende Districts 2 and 3.

### **Senate District 2**

56. Linden District 2 of Exhibit C maintains the neighborhoods of West Outer Drive, Rouge Park, Far West Detroit, Weatherby, Southfield Plymouth, Plymouth-I96, Franklin Park, Joy, We Care, Warrendale, Garden View, Warren Ave, Fiskhorn, Joy-Schaefer, and Aviation Sub.

57. Linden District 2 maintains Dearborn and Dearborn Heights together, which are made up of Arab-American communities that identify together.

58. In reviewing Exhibit H, I notice that this map places Dearborn Heights with Inkster in Trende District 4, communities which are separate and distinct from one another and do not share many common characteristics. As a result, Exhibit H separate Dearborn Heights from Dearborn and divide the Arab-American community of interest.

### **Senate District 3**

59. Linden District 3 of Exhibit C maintains the neighborhoods of Nolan, Butler, Pershing, Greenfield Park, Hawthorne Park, Northeast Central, Conant Gardens, Cadillac Heights, Davison, North Campau, Campau/Banglatown, Buffalo Charles, Gateway, Arden Park, Piety Hill, Virginia Park, New Center Commons, New Center, North End, Russell Industrial, Airport Sub, Milwaukee Junction, Poletown East, Medbury Park, Tech Town, Wayne State, Cultural Center, Gratiot Town/Kettering, Jeffries, Midtown, Medical Center, Forest Park, McDougall-Hunt, Gratiot-Grand, Pingree Park, Gratiot Woods, West End, East Canfield, Brush Park, Brewster Homes, Douglass, Eastern Market, Greektown, Lafayette Park, Elmwood Park, Islandview, West Village, Indian Village, East Village, Conner Creek Industrial, Rivertown, Gold Coast, Joseph Berry Sub, Waterworks Park, Marina District, and Jefferson Chalmers.

60. In response to public comment, Linden District 3 preserves the Bengali community around Hamtramck and North Campau, Campau/Banglatown, Buffalo Charles, and Airport Sub.

61. In reviewing Exhibit D, I notice that this map splits the neighborhoods of Davison, and splits Campau/Banglatown between Trende Districts 1 and 3 and Airport Sub between Trende Districts 1 and 2. Exhibit D also fractures the Bengali community into separate districts by placing Hamtramck and portions of Airport Sub in Trende District 2, North Campau and

Campau/Banglatown in Trende District 3, and Buffalo Charles and portions of Airport Sub in Trende District 1.

62. In reviewing Exhibit E, I notice that this map splits the neighborhood of Davison between Trende Districts 2 and 3. Exhibit E also fractures the Bengali community into separate districts by placing North Campau and Campau/Banglatown in Trende District 3 and Hamtramck, Buffalo Charles, and Airport Sub in Trende District 3.

#### **Senate District 6**

63. Linden District 6 of Exhibit C maintains the neighborhoods of Five Points, Seven Mile-Rouge, Melvern Hill, Old Redford, Holcomb, Evergreen-Outer Drive, College Park, The Eye, Oak Grove District 1, South of Six, Riverdale, Miller Grove, McNichols Evergreen, North Rosedale Park, Crary/St Marys, Eliza Howell, Castle Rouge, Minock Park, Rosedale Park, Westwood Park, Grandmont #1, Grand River-St Marys, Grandmont, Greenfield-Grand River.

64. The drawing of Linden District 2, which maintains the Arab-American community of interest in Dearborn and Dearborn Heights, affected the drawing of Linden District 6.

65. In reviewing Exhibit D and Exhibit E, I notice that these maps split the neighborhoods of Grandmont and Greenfield-Grand River between Trende Districts 4 and 5. Members of the public asked that Grandmont and Greenfield-Grand River remain together as a community of interest.

#### **Senate District 7**

66. Linden District 7 of Exhibit C maintains the neighborhoods of Berg-Lahser, Evergreen 7/8, O'Hair Park, Greenfield, San Bernardo, and Seven Mile Lodge.

67. In reviewing Exhibit D and Exhibit E, I notice that these maps split the neighborhoods of San Bernardo and Schaefer 7/8 Lodge between Trende Districts 3 and 5.

### **Senate District 8**

68. Linden Senate District 8 of Exhibit C maintains the neighborhoods of Blackstone Park, Pembroke, Garden Homes, Green Acres, State Fair, Greenwich, McDowell, Oak Grove District 2, Sherwood Forest, Palmer Woods, Penrose, Winship, Tri-Point, Schulze, Bagley, University District, Detroit Golf, Palmer Park, Grixdale Farms, Hubbell-Puritan, Harmony Village, Fitzgerald/Marygrove, Martin Park, Belmont, Bethune, Chalfonte, Hubbell-Lyndon, Cadillac, and Happy Homes.

69. Linden District 8 preserves the large LGBTQ+ community of interest between Royal Oak, Ferndale, Palmer Park, and Palmer Woods.

70. In reviewing Exhibit D and Exhibit E, I notice that these maps split the neighborhoods of Winship and Bethune between Trende Districts 3 and 5 and split Hubbell-Lyndon between Trende Districts 4 and 5.

### **Senate District 10**

71. Linden District 10 of Exhibit C maintains the neighborhoods of Sherwood, Nortown, Conner Creek, Pulaski, Krainz Woods, Grant, Mount Olivet, Von Steuben, Franklin, LaSalle College Park, Gratiot-Findlay, Eden Gardens, Mapleridge, Wade, Ravendale, Outer Drive-Hayes, Denby, Moross-Morang, Yorkshire Woods, Chandler Park, Chandler Park-Chalmers, Morningside, East English Village, Cornerstone Village, Fox Creek, and Riverbend.

72. The drawing of Linden District 12, which maintains the lakeshore community of interest and the community of interest in Gross Pointe as shown in Exhibit G, affected the drawing of Linden District 10 and Linden District 11. Linden District 10 and Linden District 11 preserve inland, industrial communities of interest.

73. In reviewing Exhibit D and Exhibit E, I notice that these maps split the neighborhoods of Grant between Trende District 1 and 3 and split Morningside and Wade between



Trende Districts 1 and 2. Exhibit E also splits Chandler Park-Chalmers between Trende Districts 1 and 2.

### **Senate District 11**

74. Linden District 11 of Exhibit C maintains the neighborhoods of Mohican Regent and Regent Park. As shown in Exhibit G, Linden District 7 also places Eastpointe and Roseville in the same district based on public comment.

\* \* \* \*

75. In general, I notice that many of the House districts in Exhibit B do not cross the county boundaries between Wayne and Oakland, or Wayne and Macomb counties. I would suspect that this choice would result in an overall district plan that would not meet the constitutional requirements of the commission to create district plans that do not create a disproportionate advantage to either political party, a requirement that was the 4th ranked criteria in the rank list the Commission was bound to follow. It is my understanding that one of the goals in drawing districts that extend outside of Wayne County, including but not limited to House District 8, House District 11, House District 12, House District 13, House District 14, Senate District 3, Senate District 7, Senate District 8, Senate District 10, and Senate District 11, were to create districts that complied with the constitutional criteria for partisan fairness. The Commission received information from our experts that the Democratic vote in Detroit was highly concentrated. We used this information to create more balanced districts that accounted for heavily Republican areas in other areas of the State due to Michigan's unique geographical layout.

76. The Commission had Voting Rights Act-compliance goals based on a thorough expert report of Dr. Handley. I reviewed Dr. Handley's work and found no flaws in it, and I was not informed of any flaws in her report by others. While VRA compliance was an important goal of the Commission, it was not the only goal, and configuring districts based on criteria like those

I have described at length above was as important in my mind as VRA compliance. Criteria like compactness, communities of interest, partisan-fairness, and other things had a direct and significant impact on district lines, and VRA-compliance goals were only part of that larger matrix of highly important factors.

77. I never saw a plan that achieved the communities-of-interest or partisan fairness goals of the Hickory and Linden plans, and that includes the plans proposed by Mr. Trende.

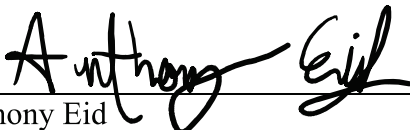
78. Plaintiffs' demonstrative plans do not convince me that the Commission could have achieved all the communities-of-interest and partisan fairness goals while complying with the ranked constitutional criteria.

79. Plaintiffs' demonstrative district configurations do not appear to try to achieve the Commission's goals concerning communities of interest or partisan fairness.

80. I would not have supported Plaintiffs' demonstrative maps of the Detroit-area districts.

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

Dated this 6th day of June, 2023.

By:   
Anthony Eid

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

MICHAEL BANERIAN, et al.,

Plaintiffs,

v.

JOCELYN BENSON, et al.,

Defendants.

**Case No. 1:22-CV-00054-RMK-JTN-PLM**

**DECLARATION OF ANTHONY EID**

I, Anthony Eid, declare and state pursuant to 28 U.S.C. § 1746 as follows:

1. I am a Commissioner on the Michigan Independent Citizens Redistricting Commission.
2. I serve as a Commissioner unaffiliated with any major political party.
3. This declaration is given based on my personal knowledge concerning facts with which I am intimately familiar. I reviewed Exhibit D to the Brace Declaration (the “Map Comparison”), a map comparing the enacted congressional plan to Plaintiffs’ proposed remedial plan, as part of preparing this declaration.

**Role in Map-Drawing Process**

4. I prepared the initial draft of the enacted congressional plan – called the Chestnut map – using community of interest heat maps facilitated through the work of Dr. Moon Duchin and the Metric Geometry and Gerrymandering Group (“MGGG”) Redistricting Lab. These heat maps aggregate comments made by the public on corresponding portions of the map to provide information about concentrated communities of interest within the map, and are available to the public. I sponsored the Chestnut map through the collaborative map-drawing process. The people

of Michigan had the opportunity to, and did, give feedback on the chestnut map. Commissioners collaboratively edited the plan after the Commission's second round of public hearings. I was present during all Commission meetings when map-drawing decisions were made related to the Chestnut map. I supported the Chestnut map because the public response to the map indicated that the public preferred the Chestnut map because it most closely corresponded with Michigan's ranked redistricting criteria, it valued Michigan's communities of interest and diverse populations, and I believed it would be a map supported by the necessary votes among the Commissioners.

### **Congressional District 1**

5. The goals in drawing Congressional District 1 were to preserve the northern regions of the State, including the Upper Peninsula and contiguous regions on the other side of Lake Huron which have similar features. They are sparsely populated counties that are more rural and agricultural in nature. The district also includes many Native American communities.

### **Congressional District 2**

6. The goals in drawing Congressional District 2 were to create a mid-Michigan district that included Barry County with other rural communities in response to public comments from residents of Barry County. Individuals expressed that Barry County was a rural farming community that wanted to be included with other rural counties such as Ionia, Montcalm, Gratiot, and Isabella. I understood that the Republican Commissioners agreed with this formation and wanted to see it in the final map.

7. In reviewing the Map Comparison, I notice that Plaintiffs' proposed Congressional District 2 does not include Barry County with other rural counties and support rural communities of interest. I also notice in Plaintiffs' proposed Congressional District 2 that Muskegon is annexed

from Grand Rapids. The Commission heard many comments from the Muskegon and Grand Rapids community of interest, asking to be kept together because of shared cultural and economic values. Plaintiffs' Congressional District 2 divides this community of interest.

### **Congressional District 3**

8. The goals in drawing Congressional District 3 were to preserve the communities of interest in Grand Rapids, Muskegon, Grand Haven, and Rockford. Residents of these communities indicated, through public comment, that they wanted to remain together.

9. In reviewing the Map Comparison, I notice that Plaintiffs' proposed Congressional District 2 includes rural Barry County, whose residents asked to remain with other rural communities, with the more urban Grand Rapids community. Plaintiffs' proposed Congressional District 3 does not include Muskegon with Grand Rapids. The Commission was asked to keep these two more urban communities together because of their shared values and cultural commonalities.

### **Congressional District 4**

10. The goals in drawing Congressional District 4 were to create a western Michigan district while preserving the communities of interest in the Battle Creek and Kalamazoo area. Many individuals at public comment spoke about living in Battle Creek and working or shopping in Kalamazoo; individuals also spoke about a shared common highway between the two communities. Commission Orton, who is familiar with the Battle Creek area, helped identify the portions of Battle Creek that felt more closely aligned with Kalamazoo.

11. In reviewing the Map Comparison, I notice that Plaintiffs' proposed Congressional District 4 splits Battle Creek and Kalamazoo and includes Kalamazoo with counties bordering Michigan and Indiana. This configuration divides the community of interest identified along the

southern border of Michigan which were kept whole in the enacted plan's Congressional District 5.

#### **Congressional District 5**

12. The goals in drawing Congressional District 5 were to preserve the communities of interest along the southern border of Michigan. Residents of the southern counties that border Indiana and Ohio spoke to the Commission about the unique circumstances that align them. For example, many individuals spoke about living in Michigan but working, shopping, and praying across the border or dealing with interstate transportation. Additionally, we heard public comment about the community feeling connected by a shared television market.

13. In reviewing the Map Comparison, I notice that Plaintiffs' proposed Congressional 5 does not comport with our goals because it divides the southern border community of interest.

#### **Congressional District 6**

14. The goals in drawing Congressional District 6 were create a district around Ann Arbor, Washtenaw County, and the University of Michigan. Individuals made it clear through public comment that Jackson and Livingston Counties should not be included in a Congressional district with Washtenaw County, as they share different values. Since Washtenaw County does not contain enough population to make a congressional district by itself, the commission decided to add communities to this district that were similar in nature to Washtenaw County. The commission therefore decided to preserve the communities of interest between Novi and Ann Arbor. Individuals at public comment asked the Commission to include Novi with Ann Arbor based on shared commonalities, such as residents of Novi receiving services from the University of Michigan and Ann Arbor area. Additionally, Novi residents identified with Ann Arbor's white-collar workforce.

15. In reviewing the Map Comparison, I notice that Plaintiffs' proposed Congressional District 6 includes Livonia with Ann Arbor and splits the community of interest between Novi and Ann Arbor. The Commission heard during public comment that Livonia has more of a blue-collar workforce that is much more closely aligned with the communities in Detroit, Dearborn, and Southfield. The Commission decided to include Livonia with those communities as a result.

#### **Congressional District 7**

16. The goals in drawing Congressional District 7 were to create a tri-county district consisting of Clinton, Eaton, and Igham Counties while keeping Shiawassee County whole. The commission wanted to support the communities of interest within the tri-county area of Clinton, Eaton, and Ingham County in response to public comment. This community was split in the previous 2011 congressional map, and the citizens of the area made it clear that they wanted to be made whole as they are in the Chestnut map.

17. In reviewing the Map Comparison, I notice that Plaintiff's proposed Congressional District 7 splits Shiawassee County and includes portions of Barry County with the tri-counties. Plaintiffs' District 7 splits the rural community of interest in Barry County against the expressed interests described above in the formation of Congressional District 2.

#### **Congressional District 8**

18. The goals in drawing Congressional District 8 were to accommodate various communities of interest and draw a district that compromised on competing interests in and around Midland County. The Commission heard many comments asking the Commission to keep Midland County as whole as possible. Some individuals asked that Midland be included with Gladwin County, while others asked for Midland to be included with the cities of Flint, Bay City, and Saginaw. In an effort to compromise and create a map that would receive bipartisan support, the

Commission opted to keep Midland County as whole as possible by only excluding five sparsely populated portions of Midland County.

19. In reviewing the Map Comparison, I notice that Plaintiff's proposed Congressional District 8 split the City of Midland from the County of Midland. The Commission considered this kind of split in the proposed Birch map configuration. Ultimately, the Commission did not opt for this configuration, and I did not believe that this alternative configuration would receive the support of two Republican Commissioners (a requirement for selecting a map).

### **Congressional District 9**

20. The goal in drawing Congressional District 9 was to create a district centered around the "thumb" of Michigan. This area identified as a community of interest due to its rural, agricultural nature. In doing so, the commission decided not to include the cities of Wixom, Walled Lake, and Commerce Township within this "thumb"-centered district. These cities identified as a community of interest with the southern portion of Oakland County. The Commission heard public comment that these communities identified much more closely with the suburban metro-Detroit portions of Oakland County than with the rural communities in Michigan's thumb area. I understood from Commissioner Vallette, a Commissioner from that area, that these communities were much more aligned with Oakland County than the rural, agricultural community in the thumb.

21. In reviewing the Map Comparison, I notice that Plaintiffs' proposed Congressional District 9 includes Wixom and Walled Lake with Michigan's upper thumb portion. This does not comport with our goals because these communities are very different and includes the suburban, metro-Detroit communities with rural, agricultural communities.



### **Congressional District 10**

22. The goals in drawing Congressional District 10 were to preserve communities of interest between Rochester Hills and the Macomb County communities of Sterling Heights, Warren, and St. Clair Shores because of shared cultural communities. The areas share a large Chaldean population that the Commission worked to keep together. Additionally, Commissioner Clark, who resides in Rochester Hills, believed that Rochester Hills was more closely associated with the communities in Sterling Heights and St. Clair Shores in Macomb County.

23. In reviewing the Map Comparison, I notice that Plaintiffs' proposed Congressional District 10 excludes Rochester Hills from the closely aligned Macomb County communities and splits up that cultural community of interest. Plaintiffs' decision to include Rochester Hills in District 11, instead of Congressional District 10, resulted in the exclusion of Walled Lake, White Lake, Wixom, and Commerce from Plaintiffs' Congressional District 11. These communities indicated, through public comment, a desire to be included with Oakland County and felt more closely aligned with other communities in Oakland County.

### **Congressional District 11**

24. The goals in drawing Congressional District 11 were to preserve communities in and around Oakland County such as the cities of Wixom, Walled Lake, Wixom, Commerce, West Bloomfield, Troy, and Farmington Hills. Many of these townships identified as a community of interest representing the core townships of Oakland County, and share economic, cultural, and historic similarities. The Commission also worked to preserve the LGBTQ communities in the cities of Royal Oak, Ferndale, and Oak Park. The Commission decided to exclude Southfield from Congressional District 11 because individuals expressed that Southfield felt more closely aligned with the communities of Detroit than Oakland County.

25. In reviewing the Map Comparison, I notice that Plaintiffs' proposed District 11 divides communities of interest by including the Rochester Hills area that asked to be included with portions of Macomb County and including the Novi area that expressed a desire to be included with Ann Arbor.

### **Congressional District 12**

26. The goals in drawing Congressional District 12 were to create a district featuring the east side of Detroit with Dearborn and other similar communities, and to preserve the historical neighborhoods in and around Detroit. Commissioners Kellom and Curry, who were familiar with this area, made meaningful changes to the Detroit area to keep these neighborhoods together. The Commission also decided to include Livonia in Congressional District 12 because of Livonia's blue-collar workforce that aligned more with the communities in Detroit, Dearborn, and Southfield. The Commission worked to preserve township lines and followed the borders of Southfield and Livonia when drawing this District.

27. In reviewing the Comparison Map, I notice that Plaintiffs' proposed Congressional District 12 excludes Livonia from Congressional District 12 and includes it in Congressional District 6 with the Ann Arbor area. This decision splits up the community of interest between the Novi and the Ann Arbor area and includes the blue-collar workforce of Livonia with the white-collar workforce of Ann Arbor when these communities share little in common.

### **Congressional District 13**

28. The goals in drawing Congressional District 13 were to create a Detroit centered district and to preserve the townships of Wayne and the southern portion of Dearborn Heights in order to keep minority communities whole.

\* \* \* \*

29. I never saw a plan that achieved the communities-of-interest goals of the Chestnut plan at a lower population deviation than the Chestnut plan.

30. I do not know how the Commission would have achieved all the communities-of-interest goals of the Chestnut plan at a lower population deviation.

31. Plaintiffs' alternative does not convince me that the Commission could have achieved all the communities-of-interest goals at a lower population deviation.

32. Plaintiffs' district configurations do not appear to try to achieve the Commission's goals concerning communities of interest.

33. I would not have proposed or voted for Plaintiffs' alternative plan.

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

Executed this 18 day of February, 2022.

  
\_\_\_\_\_  
Anthony Eid



**First Notice Under Subsection 6(3)(e) of Article 4 of the Michigan Constitution to Declare Vacant the Seat of Commissioner Anthony Eid**

**Authored by: Commissioner Rebecca Szetela**

**Co-Sponsor: Commissioner Rhonda Lange**

This First Notice Under Subsection 6(3)(e) is presented under Article 4 of Michigan’s 1963 Constitution. In 2018, Michigan voters approved Proposal 2 and created the Michigan Independent Citizens Redistricting Commission (“MICRC”). The avowed, and often proudly proclaimed, purpose for the MICRC was so that individuals – *not politicians* – draw Michigan’s redistricting maps for the Michigan House, Michigan Senate, and US Congressional districts.

Unfortunately, there is evidence that one commissioner on this commission, Anthony Eid, has abused his position to draw districts to benefit at least two of his friends who were candidates running for office<sup>1</sup>. When a member of the MICRC prioritizes personal relationships with friends who are politicians or candidates for office in making map-drawing decisions, it results in political power being taken from the people and placed into the hands of a select few – who can manipulate the maps to their benefit. These types of back-room dealings were the very type of transactions that Michigan voters had sought to prevent by implementing Proposal 2.

For the reasons set forth herein, pursuant to Article 4, Sec. 6(3)(e) of the Michigan Constitution, the MICRC should declare Commissioner Anthony Eid’s position as a Commissioner vacant due to Mr. Eid’s substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office.

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<sup>1</sup> In addition to the districts discussed in this Notice, there have been multiple public comments stating that Mr. Eid drew districts for other Democratic candidates. However, this Notice focuses on two districts only. Commissioner Szetela encourages members of the public who may have evidence or information about such other districts to contact her at: [szetelar@michigan.gov](mailto:szetelar@michigan.gov).

I. Mr. Eid’s Drafting of State House District 20 To Favor House Candidate Noah Arbit

In June of 2021, Noah Arbit appeared at an MICRC public meeting. Mr. Arbit<sup>2</sup> presented a map illustrating the divisions in the Orchard Lake/West Bloomfield area under prior redistricting maps. Both Commissioner Eid and Mr. Arbit live in the Orchard Lake/West Bloomfield area and Mr. Eid has described himself as a “friend” of Mr. Arbit. Mr. Eid spent a significant amount of time speaking with Mr. Arbit during a break in the Commission’s meeting. On July 18, 2021, Mr. Arbit submitted a comment with an attached proposed State House district map<sup>3</sup> via the MICRC’s public comment portal. On August 27, 2021, Mr. Arbit announced that he was running for the yet-to-be-drawn State House district encompassing his hometown, West Bloomfield.<sup>4</sup>

On September 15, 2021, Mr. Arbit was interviewed by the Jewish Insider. In the article, Mr. Arbit emphasized that redistricting was the primary factor that would result in his victory. Specifically, Mr. Arbit was quoted as saying, *“redistricting is really the end-all-be-all for my path to victory.”*<sup>5</sup>

Shortly after Mr. Arbit’s announcement and press interviews, Mr. Eid became intently focused on redrawing the House and Senate districts that included West Bloomfield and Orchard Lake. Mr. Eid began advocating for changes to the already-drawn House and Senate districts that contained West Bloomfield and Orchard Lake – the very areas identified by Mr. Arbit in his draft map. During a MICRC meeting on September 22, 2021, while other commissioners were mapping, Mr. Eid interjected that the next commissioner to have a turn at mapping should redraw the draft districts as follows:

*COMMISSIONER EID: The next person, that is I think Commissioner Witjes, do Orchard Lake with West Bloomfield and Sylvan Lake and Keego with just the eastern most*

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<sup>2</sup> Mr. Arbit, a self-described “avowed Democrat,” has a history of working on partisan political campaigns for candidates and was ineligible to serve on the commission. <https://www.pbs.org/newshour/show/in-michigan-an-effort-to-take-politics-out-of-redistricting>. “After graduating from Wayne State University..., Rep. Arbit joined several political campaigns, worked for the Michigan House, and served on Gov. Whitmer’s team, advocating for pragmatic, common-sense policies to help build a stronger, more resilient Michigan.”

<sup>3</sup> <https://www.michigan-mapping.org/submission/f1523>; See map at: <https://davesredistricting.org/join/547a28a7-0c58-41d4-a9a8-8347122163b1>

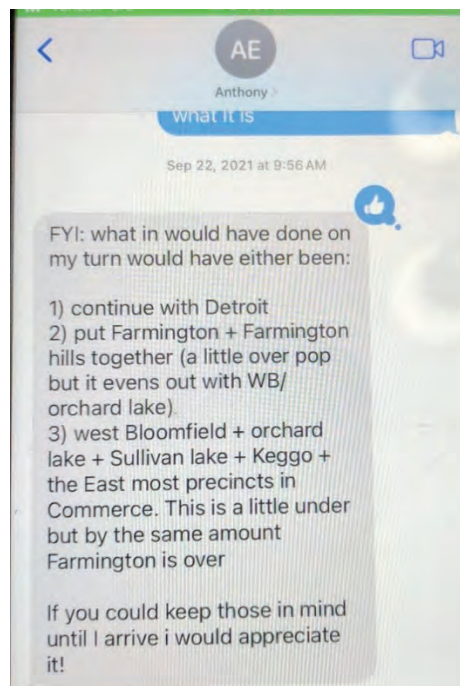
<sup>4</sup> <https://noahformi.com/pr082621-noah-arbit-announces-campaign/>

<sup>5</sup> <https://jewishinsider.com/2021/09/noah-arbit-wants-to-bring-jewish-values-to-the-michigan-statehouse/>

*districts of Commerce, you can end up about the same number below so it would even out.*<sup>6</sup>

Mr. Eid's directions precisely copy the map submitted by Mr. Arbit. Despite Mr. Eid clearly, in hindsight, using the Arbit map as a reference, Mr. Eid did not inform his fellow Commissioners that Mr. Arbit was the source of the map. It was the MICRC's practice to identify sources of data used in the map-drawing process for the purposes of the public record. However, if Mr. Eid had properly informed his fellow Commissioners of the source of the map, it would have immediately triggered additional scrutiny into the proposed district.

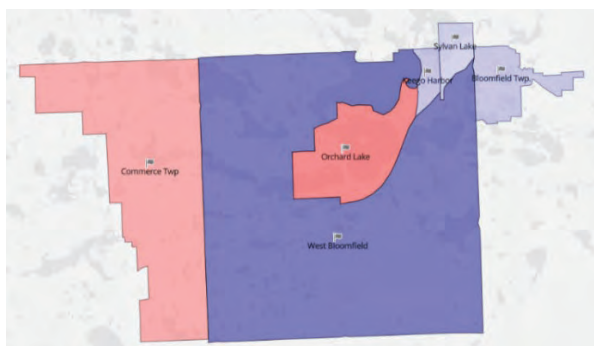
On or about September 22, 2021, Mr. Eid also began privately contacting commissioners and consultants of the MICRC **outside** of public meetings, suggesting individuals revise the boundaries of draft House and Senate districts to create a district that combines the eastern-most precincts in Commerce (which he had already drawn) with West Bloomfield, Orchard Lake, Sylvan Lake, and Keego Harbor. Again, these instructions directly copied Mr. Arbit's map. By way of example and not exclusion, Mr. Eid texted the following to Commissioner Szetela on September 22, 2021:



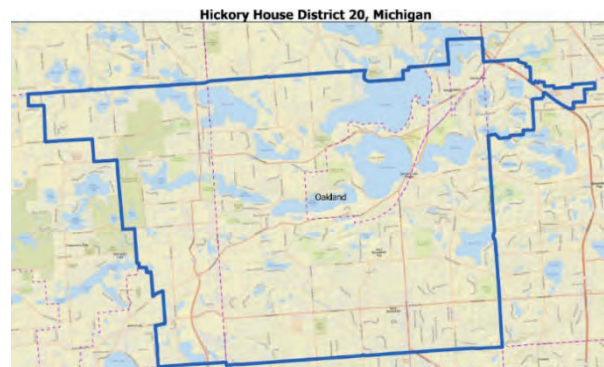
<sup>6</sup> September 22, 2021 Transcript, p. 107. [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MICRC\\_Meeting\\_Transcript\\_9\\_22\\_21.pdf?rev=eb42935347754231a3334edce9d20217&hash=10A64661371F92C7E40F0AC56C0C3BEC](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MICRC_Meeting_Transcript_9_22_21.pdf?rev=eb42935347754231a3334edce9d20217&hash=10A64661371F92C7E40F0AC56C0C3BEC)

On September 25, 2021, Mr. Arbit was interviewed by PBS News in an article discussing the MICRC. In the article, Mr. Arbit acknowledged that he had spoken to the MICRC and was confident that the MICRC would be drawing his district to be more Democratically leaning. The article stated that Mr. Arbit “recently announced that he was running for the Michigan state House of Representatives next year in a yet-to-be finalized district, **believing it will likely be more Democratically leaning than it is now.**”<sup>7</sup> Considering the ongoing revisions the MICRC was making on a daily basis, Mr. Arbit’s level of confidence in the future composition of this district suggests that he had access to inside information.

In addition to his text messages, on October 29, 2021, Mr. Eid again pushed for the MICRC to re-structure the Orchard Lake-area district to include Keego Harbor, Sylvan Lake, and portions of West Bloomfield together.<sup>8</sup> Mr. Eid’s comments were in opposition to public comments received on this topic.<sup>9</sup> The insertion of these changes into the MICRC’s draft and final House maps resulted in a final district 20 that would **exactly** duplicate the proposed map submitted by Mr. Arbit in July. Thus, as of November 5, 2021, the MICRC’s Magnolia and Hickory House maps included districts perfectly duplicating Mr. Arbit’s proposed House map. On December 28, 2021, the Hickory Map was adopted by the Commission. Images of the district map proposed by Mr. Arbit and the district map as drawn by Mr. Eid follow:



*House District Map Submitted by Mr. Arbit*



*Hickory House District Drawn by Mr. Eid*

<sup>7</sup> <https://www.pbs.org/newshour/show/in-michigan-an-effort-to-take-politics-out-of-redistricting>.

<sup>8</sup> [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MICRC\\_Meeting\\_Transcript\\_10\\_29\\_2021.pdf?rev=938d1acb1f0e4908916f9343e936f8e7&hash=70498638E0C4CAC241825628DDE35A42](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MICRC_Meeting_Transcript_10_29_2021.pdf?rev=938d1acb1f0e4908916f9343e936f8e7&hash=70498638E0C4CAC241825628DDE35A42)

<sup>9</sup> See public comments at <https://michigan.mydistricting.com/legdistricting/comments/plan/256/23> and <https://www.michigan-mapping.org/submission/w8053>

On January 13, 2022, Mr. Eid boasted of the drawing of House District 20 as one of the “Top 5 favorite Districts I had a hand in drawing.” Thus, Mr. Eid’s “hand in drawing” District 20 is indisputable.



In a remarkable display of chutzpah, in April of 2022, Mr. Eid attended and was photographed<sup>10</sup> at Mr. Arbit’s first fundraiser.<sup>11</sup> On April 12, 2022, Mr. Arbit posted the attached social media post, with Mr. Eid and Mr. Arbit pictured with gleaming smiles, with the caption:

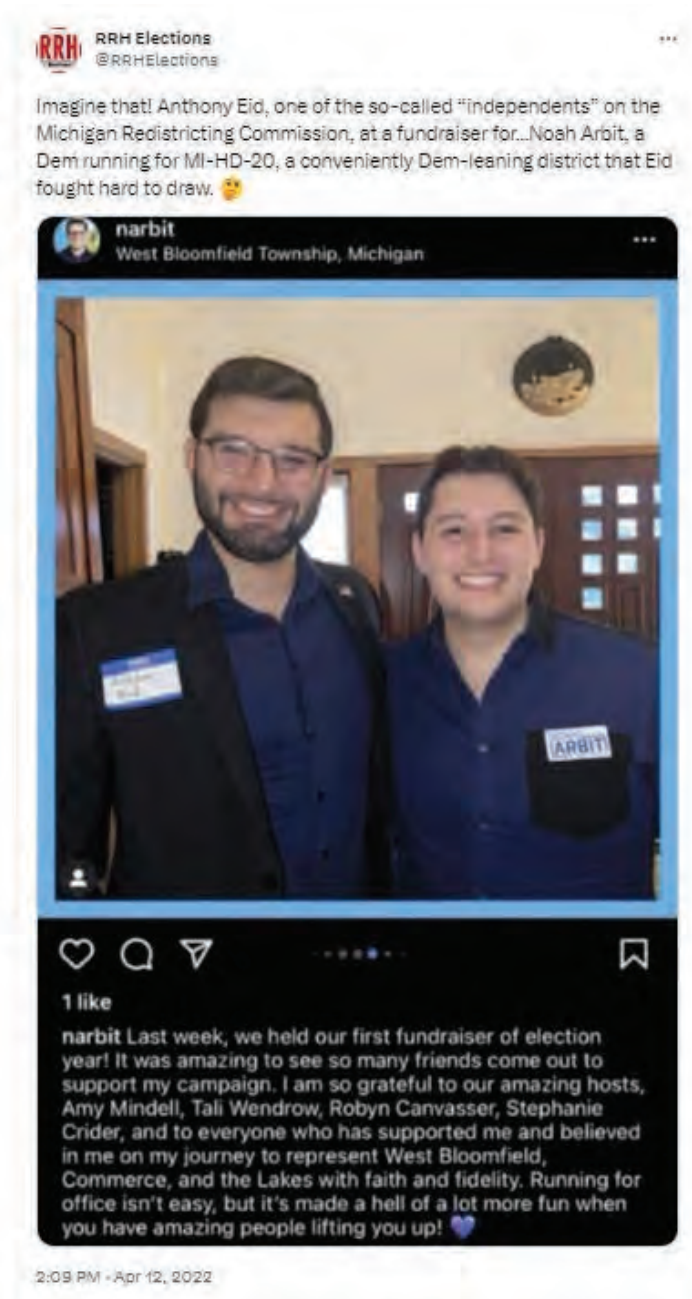
*“Last week, we held our **first fundraiser** of election year! **It was amazing to see so many friends come out to support my campaign.** I am so grateful...to everyone who has supported me and believed in me on my journey to represent West Bloomfield,*

<sup>10</sup> In an apparent attempt to downplay this event, at the MICRC’s September 2023 public meeting, at minute 34:29, Mr. Eid stated that, “[b]efore the last election, I attended Town Halls to listen to both the Republican and Democrat that were running in my district speak...I also didn’t donate any money or do any fundraising...” [https://www.youtube.com/watch?v=eY3\\_8ZID\\_MM](https://www.youtube.com/watch?v=eY3_8ZID_MM). This statement appears calculated to respond to statements being made in the YouTube Chat (which Mr. Eid follows religiously during MICRC meetings), where a listener named “Lakeland” remarked, “Eid drew a district for a state rep candidate, boasted about his drawing of the district, and then attended a fundraiser for that state rep candidate,” and “eid did draw the district for the guy he campaigned for,” and “eid drew noah arbit’s district and then campaigned for him while bragging about drawing his district.” [https://www.youtube.com/watch?v=eY3\\_8ZID\\_MM](https://www.youtube.com/watch?v=eY3_8ZID_MM). As noted by commentators in the Youtube Chat, there is a difference between attending an event specially designated as a “fundraiser” vs. a “town hall.”

<sup>11</sup> Fundraisers are not free. There is typically a charge for entry and such payments are required under Michigan Election Law to be recorded as campaign contributions. Despite that, the Arbit campaign did not disclose any contributions by Mr. Eid associated with his attendance at this fundraiser. If Mr. Eid was granted free entry into the fundraiser, the entry would have been treated as a gratuity under Article IV, Section 11 of the Michigan Constitution.



*Commerce, and the Lakes with faith and fidelity. Running for office isn't easy, but it's made a hell of a lot more fun when you have amazing people lifting you up!"*



The irrefutable implication of Mr. Arbit's message, particularly when combined with Mr. Eid being photographed arm-in-arm with Mr. Arbit, is that Mr. Eid had "lifted up" Mr. Arbit's campaign by drawing a district to fit Mr. Arbit's specifications.

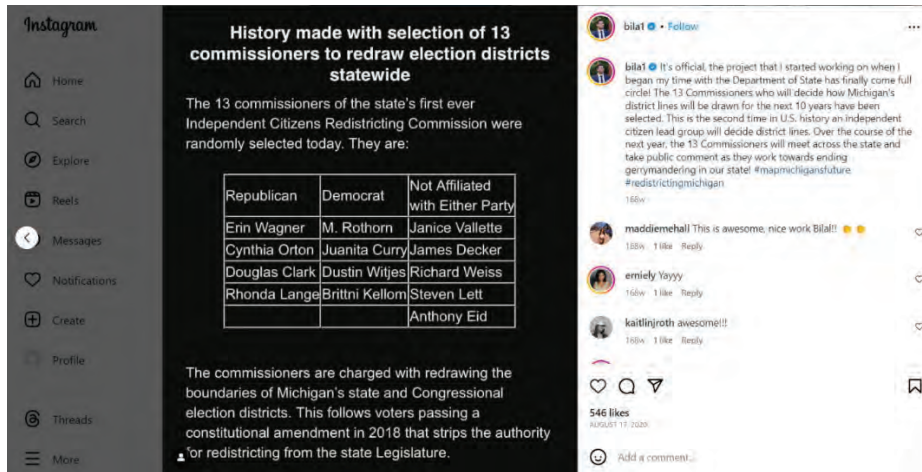
The evidence shows that Mr. Eid either intentionally, with neglect, or with gross negligence drafted, and directed others to draft, House District 20 to specifically benefit his friend and political candidate Noah Arbit, in violation of his Constitutional obligations.

## II. Mr. Eid’s Drafting of House District 15 To Favor House Candidate Bilal Hammoud

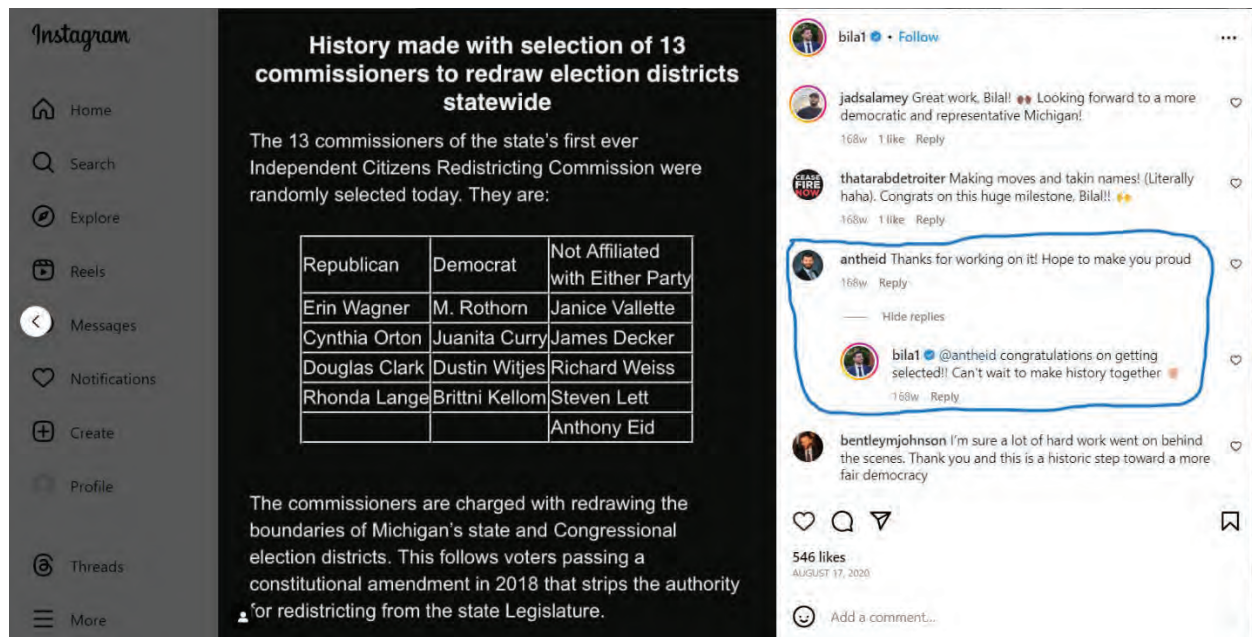
Like Mr. Arbit, Bilal Hammoud is an acquaintance of Mr. Eid’s and was candidate for office who interacted with the MICRC during its drafting process. Mr. Eid and Mr. Hammoud were both students in the Psychology department at Wayne State University and were both members of the Student Senate. As with Mr. Arbit, Mr. Eid described Mr. Hammoud as his “friend” in discussions with MICRC commissioners, staff, and consultants. Mr. Eid was also witnessed speaking to Mr. Hammoud at length at MICRC events. In what can be charitably described as a curious twist of fate, Mr. Hammoud also happened to work on the implementation of Proposal 2 as an employee of the Michigan Department of State, as is evident from the banner picture on his LinkedIn page (displaying him at a Department of State event discussing the MICRC).



On his Instagram page, in late summer of 2020, Mr. Hammoud posted a picture of the names of 13 individuals selected to serve as commissioners with the inaugural MICRC, with the caption, “It’s official, the project that I started working on when I began my time with the Department of State has finally come full circle.”



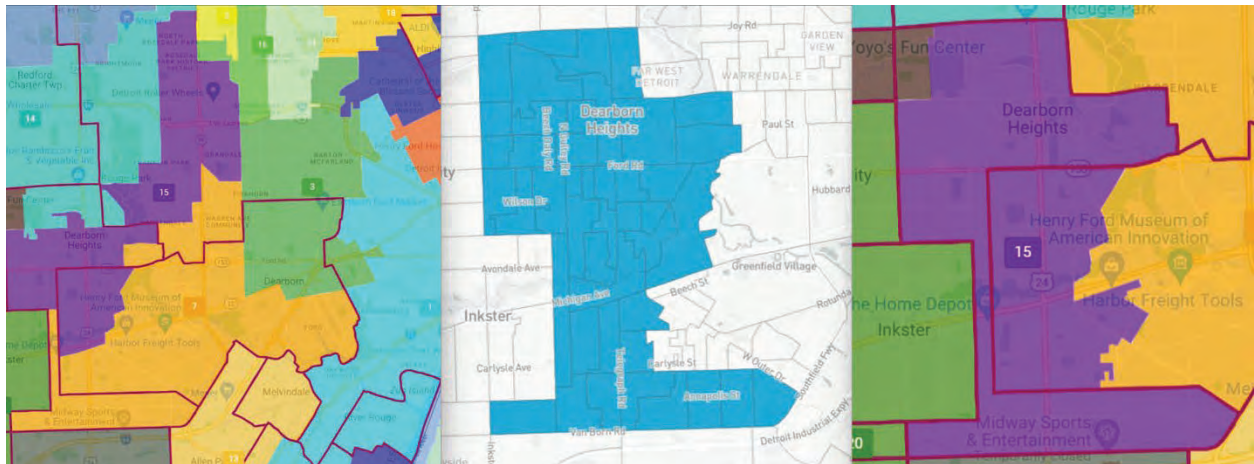
Of particular note, Mr. Eid responded to Mr. Hammoud's Instagram post, remarking, "Thanks for working on it! Hope to make you proud!" to which Mr. Hammoud responded, "congratulations on getting selected! Can't wait to make history together!"



Similar to Mr. Arbit, Mr. Hammoud submitted a draft district for the area that he resided in (the Dearborn Heights area) on October 19, 2021.<sup>12</sup> Prior to November 3, 2021, the MICRC had drafted a VRA district including parts of Detroit with portions of Dearborn and Dearborn Heights. However, on November 3<sup>rd</sup>, Mr. Eid made radical changes to the Dearborn Heights

<sup>12</sup> <https://www.michigan-mapping.org/submission/p6764>

District (District 15) to align with the maps submitted by Mr. Hammoud.<sup>13</sup> Similar to Mr. Arbit's proposed map, Mr. Eid did not identify Mr. Hammoud as the source of the map, which was inconsistent with MICRC practices. A progression of maps from the initial MICRC collaborative District 15, to the District 15 proposed by Mr. Hammoud, and to the final District 15 drawn by Mr. Eid that was incorporated into the Pine 5, Hickory, and Magnolia maps follows:

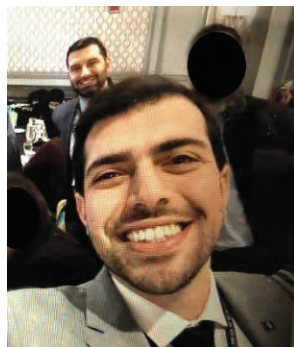


Original MICRC District 15  
VRA District (in purple)<sup>15</sup>

District Proposed by  
Bilal Hammoud<sup>16</sup>

District 15 Drawn By Mr. Eid<sup>14</sup>

After the adoption of the Hickory map, Mr. Hammoud ran for office in the District 15 conveniently customized for him by Mr. Eid. As with Mr. Arbit, after the approval of maps by the MICRC, Mr. Eid was captured socializing with Mr. Hammoud.<sup>17</sup>



<sup>13</sup>[https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/MISC4/MICRC\\_11\\_03\\_21\\_Mtg\\_Transcript.pdf?rev=6da127e6bc8340479545952159f0f096&hash=3CAE1AFD88CDFE11FF8D2126CF3FD7B0](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/MISC4/MICRC_11_03_21_Mtg_Transcript.pdf?rev=6da127e6bc8340479545952159f0f096&hash=3CAE1AFD88CDFE11FF8D2126CF3FD7B0), page 30.

<sup>14</sup> <https://michigan.mydistricting.com/legdistricting/comments/plan/259/23>

<sup>15</sup> <https://michigan.mydistricting.com/legdistricting/comments/plan/258/23>

<sup>16</sup> <https://www.michigan-mapping.org/submission/p6764>

<sup>17</sup> This event was not an election-related event. However, it does display the level of friendly familiarity between the two men.

The evidence also shows that Mr. Eid either intentionally, with neglect, or with gross negligence drafted House District 15 to benefit his friend and political candidate Bilal Hammoud, in violation of his Constitutional obligations.

### **III. Mr. Eid's Position with APIA Votes MI in Violation of the Conflict of Interest Policy**

During the map-drawing process, APIAVote MI ("APIA") was a participant in the MICRC's weekly outreach meetings and actively lobbied the MICRC throughout its map-drawing process. However, after the approval of the maps by the MICRC, APIA joined the League of Women Voters in a lawsuit against the MICRC. As of February of 2022, APIA was a plaintiff in litigation against the MICRC.

Also in February of 2022, Mr. Eid accepted a position with APIA. Because of APIA's contacts with the MICRC during drafting process and their current status as a plaintiff in a lawsuit against the MICRC, the MICRC Conflict of Interest Policy required Mr. Eid to notify the Executive Director of the MICRC, then Sueann Hammersmith, of his position with APIA before beginning work with APIA.<sup>18</sup> Mr. Eid failed to do so. Rather, Mr. Eid accepted this position without notifying the Executive Director as required by the Conflict of Interest Policy. Instead, the MICRC learned of Mr. Eid's employment through word-of-mouth after Mr. Eid commenced his employment with APIA. After learning of Mr. Eid's position, the Executive Director followed the process specified in the Conflict of Interest Policy, resulting in Mr. Eid being notified that the position was a conflict of interest according to the MICRC's counsel. Having been advised that counsel would be advising the MICRC that there was a conflict of interest, Mr. Eid subsequently resigned from his position with APIA:

*"As some of you may have heard, I accepted a part-time policy research position with APIA-Vote MI less than three weeks ago. This morning I was informed by [Executive Director] Sue [Hammersmith] that the work may be viewed as a conflict and a distraction, of which I want neither... After talking with Sue, Edward, and a few other commissioners; I have decided to resign from the position effective immediately."*<sup>19</sup>

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<sup>18</sup> <https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Conflict/Conflict-of-Interest-052121.pdf?rev=ff0c68ca80be4cb5adc2a10ae9af9c68&hash=5ED09F847C7670DEA42B9A360D8ABE19>

<sup>19</sup> Mr. Eid claimed in this email that then-General Counsel Julianne Pastula approved his position with APIA in advance; however, Ms. Pastula disputed this claim.

Anthony Eid, March 16, 2022 Email to Sueann Hammersmith and Edward Woods (attached as Exhibit A).

Despite having resigned after specifically being informed of there **was** a conflict of interest, Mr. Eid later falsely told the Detroit News and other members of the press that:

*"I didn't see it as a conflict of interest and no one told me it was a conflict of interest,' Eid said of the APIA Vote job."<sup>20</sup>*

Independent from any violations of the Conflict of Interest Policy related to Mr. Eid's position with APIA, Mr. Hammoud, the individual who suggested and benefited from Mr. Eid's changes to House District 15, is affiliated with APIA. Thus, the acceptance of this position by Mr. Eid also creates the appearance that Mr. Eid received the position with APIA as a quid pro quo reward for favorably drawing both House District 15 and other the districts impacting communities of interest advanced by APIA.



*Image of Mr. Hammoud at an APIA event*

### **Analysis**

Commissioners with the MICRC are required to perform his or her duties in a manner that is impartial and reinforces public confidence in the integrity of the redistricting process. Michigan Constitution, Article 4, § 10. Commissioners are also required to demonstrate honesty, integrity, and professionalism in their duties, to conduct themselves in a manner which reflects positively on the Commission, and to put the responsibilities and integrity of the

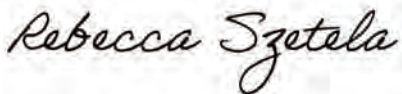
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<sup>20</sup> <https://www.detroitnews.com/story/news/politics/michigan/2023/07/20/michigan-redistricting-commissioner-quits-a-second-job-with-group-that-lobbied-him-anthony-eid/70437012007/>

Commission above personal or political gain.<sup>21</sup> Additionally, because districts drawn by the commission shall not favor or disfavor an incumbent elected official or a candidate, commissioners are prohibited from drawing districts that favor or disfavor an incumbent elected official or a candidate. Const. Art. IV, §13(e).

Mr. Eid has fallen well short of these standards. Mr. Eid appears to have intentionally, or at a minimum, with neglect or gross negligence, drawn districts that favored candidates for office with whom he had a personal relationship. Mr. Eid has not performed his work for the MICRC in an open or transparent manner or in a manner that reinforces public confidence in the redistricting process. Further, Mr. Eid appears to have personally benefited from the drawing of the districts to favor candidates and continues to benefit to this day. Because Mr. Eid's conduct reflects a substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, the MICRC should declare Mr. Eid's office vacant.

Respectfully Submitted,



Commissioner Rebecca Szetela



Commissioner Rhonda Lange

Dated: December 14, 2023

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<sup>21</sup> Code of Conduct, [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Procedure/MICRC\\_Code\\_of\\_Conduct.pdf?rev=659ce6b127d24dc685485c0d6212bae1&hash=DE3A7344354CDB336B2E47331840F45B](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Procedure/MICRC_Code_of_Conduct.pdf?rev=659ce6b127d24dc685485c0d6212bae1&hash=DE3A7344354CDB336B2E47331840F45B)

**From:** Eid, Anthony (MICRC) <EidA@michigan.gov>  
**Sent:** Wednesday, March 16, 2022 9:33 PM  
**To:** Woods, Edward (MICRC) <WoodsE3@michigan.gov>; Hammersmith, Suann (MICRC) <HammersmithS@michigan.gov>  
**Subject:** APIA Vote-MI Resignation

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Hello Sue and Edward; Can you two take a look at the below email for messaging, and if it is acceptable, send it to the other commissioners? If you think I should change it, please let me know.

Hello fellow commissioners,

As some of you may have heard, I accepted a part-time policy research position with APIA-Vote MI less than three weeks ago.

---

This morning I was informed by Sue that the work may be viewed as a conflict and a distraction, of which I want neither. Before accepting this position, I conferred with our general counsel on if it would be viewed as a conflict of interest. I left that conversation with the impression that it would not, as the maps have already been completed, as long as the work did not involve redistricting.

After talking with Sue, Edward, and a few other commissioners; I have decided to resign from the position effective immediately. The last thing I want is for a conflict on interest, even a perceived one, to distract from our work. I should have put more thought into how you as my colleagues would feel about this before accepting the position, and own up to the mistake.

In full disclosure, my work with them over the past 2.5 weeks was centered around reserach on K-12 Curriculum & Refugee policy. This research was conducted on my own, and at no point was redistricting ever brought up or mentioned. I have attached my resignation to this email for the rest of y'all to see.

Best Wishes,

Warmest Regards,

Anthony Eid, M.S.



Commissioner - Michigan Independent Citizens Redistricting Commission

517-898-9034

**MICHIGAN  
INDEPENDENT  
CITIZENS  
REDISTRICTING  
COMMISSION**



**Exhibit 8**

NOT RECOMMENDED FOR PUBLICATION

File Name: 23a0132n.06

No. 22-1458

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

**FILED**  
Mar 15, 2023  
DEBORAH S. HUNT, Clerk

ANTHONY EID, )  
 )  
Plaintiff-Appellant, )  
 )  
v. )  
 )  
WAYNE STATE UNIVERSITY; WAYNE )  
STATE UNIVERSITY SCHOOL OF )  
MEDICINE; NIKOLINA CAMAJ; MARGIT )  
CHADWELL; MATT JACKSON; RICHARD )  
S. BAKER; R. DARREN ELLIS, )  
 )  
Defendants-Appellees. )

ON APPEAL FROM THE  
UNITED STATES DISTRICT  
COURT FOR THE EASTERN  
DISTRICT OF MICHIGAN  
  
OPINION

Before: MOORE, CLAY, and STRANCH, Circuit Judges.

**JANE B. STRANCH, Circuit Judge.** Anthony Eid sued Wayne State University (WSU), WSU’s School of Medicine, and various administrators (collectively, Defendants or WSU), following his dismissal from the medical program for lack of professionalism. Eid was dismissed after admitting that he had sent deceptive messages to a former undergraduate student, referred to as Jane Roe throughout the proceedings. In these messages, Eid sought passwords to Roe’s online accounts; falsely claimed that he was in contact with and had received information from Apple Support; threatened to report Roe to the University if she did not comply with his demands; and threatened to have his attorney file a lawsuit against her.<sup>1</sup> The district court granted Defendants’

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<sup>1</sup> For a more detailed description of the factual background to this appeal, see *Eid v. Wayne State Univ.*, 599 F. Supp. 3d 513, 518-29 (E.D. Mich. 2022).

motion for summary judgment in full. Eid’s appeal is limited to the dismissal of his Fourteenth Amendment procedural due process claim against the individual administrator Defendants.

Upon review of the record and the parties’ briefs, we are not persuaded that the district court erred. Given the district court’s thorough analysis of the facts and law, issuing a detailed opinion by this court would be duplicative and serve no useful purpose. Accordingly, we **AFFIRM** the district court’s judgment. We address only one specific matter.

Eid argues that the district court overlooked our decision in *Endres v. Northeast Ohio Medical University*, 938 F.3d 281 (6th Cir. 2019), in concluding that he was dismissed from the medical school for academic rather than disciplinary reasons. Eid acknowledges that designating his dismissal as academic is outcome-determinative for his lawsuit. If his dismissal was for academic reasons, he concedes that his due process claim fails because students facing academic dismissals are afforded only minimal protections—they are not entitled to a hearing—whereas Eid received a hearing and two levels of appellate review from WSU. *See Bd. of Curators of Univ. of Mo. v. Horowitz*, 435 U.S. 78, 87-92 (1978).

Although Eid did not cite *Endres* below, he argued in opposition to summary judgment that he received insufficient due process protections, citing other cases involving disciplinary (rather than academic) decisions. The district court recognized this as an implicit argument that “the dismissal was disciplinary in nature.” Eid did not forfeit the argument that his dismissal was disciplinary. *See United States v. Huntington Nat’l Bank*, 574 F.3d 329, 332 (6th Cir. 2009) (to preserve an argument, a litigant need only identify the issue and “provide some minimal level of argumentation in support”).

We have previously held, however, that dismissing a medical student for lack of professionalism “amounts to an academic judgment to which courts owe considerable

No. 22-1458, *Eid v. Wayne State University, et al.*

deference[.]” *Al-Dabagh v. Case W. Rsrv. Univ.*, 777 F.3d 355, 357, 359 (6th Cir. 2015). And *Endres* affirmed this rule, explaining that a university’s decision is academic when it is deciding, based on undisputed facts, “whether the student possessed the necessary traits to succeed in the medical profession.” 938 F.3d at 300-01. A university’s decision is disciplinary, by contrast, when it “requires a factual determination as to whether the conduct took place or not.” *Id.* at 301 (quoting *Horowitz*, 435 U.S. at 95 n.5 (Powell, J. concurring)).

Because Eid took “full responsibility” for sending the deceptive messages to Roe—acknowledging that he “stretched the truth” and “lied to [her] about many things”—WSU was never called upon to make a factual determination in this matter. Indeed, WSU specifically declined to resolve the sole factual dispute Eid raised in the proceedings. Eid denied that he sent Roe an email impersonating an attorney, and that he texted Roe the next day about the email. But WSU never “engage[d] in first-level factfinding” to resolve this dispute. *Endres*, 938 F.3d at 300. It explained that while “the committee does not know whether Mr. Eid sent the email . . . the other evidence is enough to base [the] decision on.” Relying on Eid’s admissions, WSU ultimately decided to dismiss him “from medical school based on his professionalism actions and lack of integrity.” In other words, WSU drew “subjective conclusions from established facts,” rendering its decision academic. *Endres*, 938 F.3d at 300. *Endres* does not alter the district court’s conclusion that Eid’s dismissal for lack of professionalism was for academic reasons.

For the foregoing reasons, we **AFFIRM** the judgment of the district court.

# If not for those, what for?

## Basic Info

Submitter: Will  
Location:  
Submitted: 1/7/2022  
Type: written  
ID: w9705

## Tags

## Comments & Feedback

1/7/2022 - **Will** : As an addendum, the critique is harsh, because the injury inflicted was even more harsh. You can not actually have lived through the voter suppression of the last decade, draw Detroit like this, and think that you're helping black voters without being a resident of the highest rung of social privilege, and without awesomely high levels of layered hubris. You can not actually look at those Detroit districts and think you're doing anything beyond or anything other than crafting a wild social experiment through redistricting that you HOPE (and that's me being charitable, because quite frankly, some of you made clear that you don't care) works itself out.

## Written Testimony

Hello,

- District 5: Jeffries Freeway to Quarton-Big Beaver: 12 MILES
- District 6: Fullerton to 14 Mile: 10.75 MILES
- District 7: Plymouth to 12 Mile: 9 MILES
- District 8: Canfield to 14 Mile: 12.5 MILES

Constitutional Criteria:

- (a) Districts shall be of equal population as mandated by the United States constitution, and shall comply with the voting rights act and other federal laws.

- (b) Districts shall be geographically contiguous. Island areas are considered to be contiguous by land to the county of which they are a part.
- (c) Districts shall reflect the state's diverse population and communities of interest. Communities of interest may include, but shall not be limited to, populations that share cultural or historical characteristics or economic interests. Communities of interest do not include relationships with political parties, incumbents, or political candidates.
- (d) Districts shall not provide a disproportionate advantage to any political party. A disproportionate advantage to a political party shall be determined using accepted measures of partisan fairness.
- (e) Districts shall not favor or disfavor an incumbent elected official or a candidate.
- (f) Districts shall reflect consideration of county, city, and township boundaries.
- (g) Districts shall be reasonably compact.

•

These (and other) districts 1. deviate from the population by over 1,000 people, 2. are certainly not communities of interest by literally any definition of the word, 3. apparently weren't drawn to significantly increase partisan fairness measured over the whole map, 4. do not in any way reflect consideration of county, city and township boundaries, and 5. are by no definition "compact." But, most important, they do not even attempt to faithfully respect the spirit and conventional interpretations of the Voting Rights Act of 1965 - passed in the year that Martin Luther King, Jr. and other civil rights leaders were brutally dispersed during one of the Selma-to-Montgomery Marches - and its subsequent amendments. So, then, what will be the legal narrative and justification for these districts? All of the justifications thus far have left many of us wanting.

•

Surely, a fair map can not have 90%+ black districts in Detroit as in the current map, of which there are three. And literally no one has argued for that kind of packing or that the districts should not go beyond city borders (which would be impossible given pop. loss). But SURELY there is a reasonable discussion to be had between three 90%+ black districts in Detroit in the current maps, and literally only three majority-black districts in Detroit in the Hickory map. And the thing is, that there was a reasonable debate from our end about that, and examples of how to do this on the portal. And not only did the commission largely ignore these reasonable requests, but as was shown in the closed-session tape, they were called emotional and in the words of Cmmr Eid - whose 10 years in Detroit apparently made him an expert on black electoral history, more so than Cmmr Kellom - "based on feelings" and emotions. They were mocked, Cmmr Szetela glibly & sarcastically asking who the Michigan Department of Civil Rights Director John E. Johnson, Jr. was, who liked others came simply to represent the voices their various groups and interests in the process. And then Cmmr Lett in a round-about way arguing that the VRA is a racist law.

•

I think the scariest thing is just the general lack of concern and blithe disregard for a group - and a particularly large group here in Michigan - of people whose votes are ACTIVELY

being challenged at a level we haven't seen SINCE the 1960's. It takes a lot of privilege to see what is going on and...just not care, or somehow think YOU have a better grasp on how to remedy it than the victims of this electoral disenfranchisement. It is scary that you looked at the process from the angle of how low you could get the numbers - how much you could get away with - instead of how high you could keep them and still get a overall fair map.

•

You bent over backwards for the Bengla community, who grossly overrepresented its size and geographical contiguity and whose concerns took up whole days of discussion. You were accomodating beyond belief to the Chaldean community, the Midland, to Ottawa County, etc...but when the metro Detroit black community came - larger than any one of these groups - asking for simple things (keeping Grandmont Rosedale together, majority black districts where possible) you couldn't even accomodate those. And the galling thing is that you "blame" the shapes of the Detroit districts on the VRA, itself! No one asked for 90%+ black districts, but to be very clear, those were not challenged because those were legal; the VRA only speaks explicitly to vote dilution not "packing." No, these districts look like this because you wanted them to. With the prodding of your VRA 'expert' you've decided against the wishes of the community that you are willing to experiment on black voters instead of taking the conventional route. You want these districts? You've got them and then some. Congrats.

•

But the thing is that you could remedy this situation without further execerbating things and leaving the festering wound open. You could settle with the plaintiffs and voluntarily ask the court to allow you to fix this. You could let these take effect and then ask for a consent decree from the Feds to fix them. But, none of that is going to happen. So what you're left with is dumping this one on BakerHostetler to try and gussy up with legal perfume and other legalistic adornments.

•

Playing the "good cop," this week, Cmmr Szetela disingenuously lamented that the maps would have been better "with more time." No, time was not the problem. The problem was the commission's self-conceit, its supercilious patronization, its self-importance and its vaingloriousness. The problem was its need for face-saving because of its pridefulness. The problem was the obvious racial biases of all but maybe one or two of the commissioners and the lack of care to check those biases at the door.

• Congrats. Enjoy that full-time salary for the next 9 years for bad part-time work!

## Exhibit 10

**From:** [Badelson1](#)  
**To:** [Weiss, Richard \(MICRC\)](#)  
**Cc:** [Lett, Steven \(MICRC\)](#)  
**Subject:** Re: Wisdom update  
**Date:** Friday, October 22, 2021 5:08:07 PM

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**CAUTION: This is an External email. Please send suspicious emails to [abuse@michigan.gov](mailto:abuse@michigan.gov)**

Perfect

Bruce Adelson, Esq.  
CEO, Federal Compliance Consulting LLC  
Adjunct Professor of Law, University of Pittsburgh School of Law  
Instructor of Family Medicine, Georgetown University School of Medicine

On Oct 22, 2021, at 4:40 PM, Weiss, Richard (MICRC)  
<[WeissR1@michigan.gov](mailto:WeissR1@michigan.gov)> wrote:

I'll informed, uninformed, ignorant, dumb, whinny idiot, stupid or just a moron.

---

**From:** Weiss, Richard (MICRC)  
**Sent:** Friday, October 1, 2021 8:58:25 AM  
**To:** Badelson1 <[badelson1@comcast.net](mailto:badelson1@comcast.net)>  
**Subject:** Wisdom

Ill informed, uninformed, ignorant, dumb, stupid or just a moron



# Exhibit 11

From: [Eid, Anthony \(MICRC\)](#)  
To: [Witjes, Dustin \(MICRC\)](#)  
Date: Thursday, October 21, 2021 6:47:54 PM

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uhhh. What? Dude started off saying some are good then changed his mind

From: [Witjes, Dustin \(MICRC\)](#)  
To: [Eid, Anthony \(MICRC\)](#)  
Date: Thursday, October 21, 2021 6:48:11 PM

---

as Richard says.

From: [Witjes, Dustin \(MICRC\)](#)  
To: [Eid, Anthony \(MICRC\)](#)  
Date: Thursday, October 21, 2021 6:48:14 PM

---

Ill informed

From: [Witjes, Dustin \(MICRC\)](#)  
To: [Eid, Anthony \(MICRC\)](#)  
Date: Thursday, October 21, 2021 6:48:16 PM

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uninformed

From: [Witjes, Dustin \(MICRC\)](#)  
To: [Eid, Anthony \(MICRC\)](#)  
Date: Thursday, October 21, 2021 6:48:17 PM

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.....

From: [Witjes, Dustin \(MICRC\)](#)  
To: [Eid, Anthony \(MICRC\)](#)  
Date: Thursday, October 21, 2021 6:48:18 PM

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...

## Exhibit 12

Transcription of the Closed Session of the  
Michigan Independent Citizens  
Redistricting Commission

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Held on Wednesday, October 27, 2021

Commencing at 4:05 p.m.

Transcribed by Carolyn Grittini, CSR-3381

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1 COMMISSIONER LETT: So when we have a problem,  
2 M.C., look at your notes and tell us what the community of  
3 interest is.

4 But I mean, that's how we're going to do it.  
5 Population, they got to be contiguous, and then do what's  
6 best for the state. I agree with the people that out  
7 there said, do what's best for the state. And here's what  
8 we have to do in order to do that. And here's how we have  
9 to provide ourselves with cover. We can do it. Tomorrow.

10 FEMALE SPEAKER: Tomorrow.

11 FEMALE SPEAKER: So I have one follow-up  
12 question and this is a yes or no question/answer, please.  
13 Does the Michigan Department of Civil Rights typically  
14 enforce the Federal Voting Rights Act?

15 MR. ADELSON: No.

16 FEMALE SPEAKER: No, okay. And that was my --  
17 no disrespect to Mr. Johnson, but I'm like, why is the  
18 Michigan Department of Civil Rights weighing in on the  
19 Voting Rights Act? That's not their jurisdiction. That's  
20 the Department of Justice. Okay.

21 FEMALE SPEAKER: Political, yeah.  
22 Commissioner Eid and then Commissioner Lange and then  
23 Commissioner Kellom.

24 COMMISSIONER EID: Well, I agree with  
25 everything Steve just said. I mean, you can't really



1 argue with facts like that. I also reflected on the  
2 Detroit hearing and being someone who lives there, has  
3 lived in the city for ten years, yeah, they were just  
4 wrong. Like I hate to say it, but I mean, we have  
5 analysis. Fact-based analysis that shows that, you know,  
6 their comments were not backed by anything other than  
7 their feelings, which are very warranted as they have had  
8 a long history of oppression. But as far as the maps that  
9 we drew, you know, I was very uncomfortable with them at  
10 first. I said it in a public hearing that oh, you know, I  
11 don't know about this. But, I went back to the analysis  
12 and tried to poke holes in the analysis, I really did.  
13 But, I mean, I couldn't. It was a well-done analysis. I  
14 wanted to ask our lawyers, do you think there's anything  
15 in that analysis that could be called into question?

16 MS. PASTULA You mean Dr. Handley's  
17 analysis?

18 COMMISSIONER EID: Yeah.

19 MS. PASTULA: I think we've always been  
20 consistent. Even before the commission had Dr. Handley  
21 and Mr. Adelson, the commission has consistently said that  
22 the data's going to drive the number of majority-minority  
23 districts. Remember, we were getting a lot of pressure  
24 very early on. How many are there? Is there going to be  
25 two? Is there going to be more? Is there going to be

1 the Voting Rights Act.

2 FEMALE SPEAKER: Commissioner Orton.

3 COMMISSIONER ORTON: So I just have a comment.

4 I just wanted to remind us all that -- so we need to do  
5 this work. It was set up so that we hear from citizens,  
6 but I think at this point, we need to kind of shut out all  
7 of the criticisms that are coming and all the pressure,  
8 because these are all motivated, and we need to do our  
9 work using the VRA and communities of interest.

10 FEMALE SPEAKER: And I would just like to  
11 remind everybody that we are running out of daylight.

12 FEMALE SPEAKER: Go ahead, Commissioner Clark.

13 COMMISSIONER CLARK: Yeah. And to add on to  
14 what Cynthia just mentioned --

15 FEMALE SPEAKER: Is it directly related to the  
16 VRA?

17 COMMISSIONER CLARK: No. Anything discussed  
18 in this room today should stay in this room. Period.

19 MS. PASTULA: This is a confidential  
20 discussion.

21 COMMISSIONER CLARK: Not discussed with  
22 anybody.

23 MS. PASTULA: This is a confidential  
24 discussion. Again, as we started, if you have your  
25 Confidentiality Agreements, you can return them to Sue Ann

## Exhibit 13 - October 5, 2021 Transcript

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>> COMMISSIONER WITJES: For clarification are we doing the same methodology we just did with bringing an overlay and changing keeping VRA districts as we just did or taking a look at Anthony's plan?

>> VICE CHAIR ROTHORN: Go ahead.

>> COMMISSIONER CLARK: Stay consistent.

>> VICE CHAIR ROTHORN: What does that mean Commissioner Clark?

>> COMMISSIONER CLARK: Overlay exactly what Dustin said.

>> VICE CHAIR ROTHORN: Commissioner Orton?

>> COMMISSIONER ORTON: It depends on how much Anthony how different his is from this.

And what his goal is.

>> VICE CHAIR ROTHORN: Right if I remember correctly Commissioner Eid you were saying you were not quite sure you wanted to do that because you are remote today am I correct or did I miss it?

>> COMMISSIONER EID: I can do it.

I think if we set it as an overlay for this first collaborative plan it's actually pretty close. So I think we could do it.

There are some changes in Metro Detroit.

But it achieves about the same levels of BVAP we were looking at.

So I think let's set it as an overlay and I will talk us through it.

Let's make sure there is a copy of this because I don't want to you know and I believe there is so.

>> VICE CHAIR ROTHORN: So if there are substantial -- what I'm hearing you say Commissioner Witjes there may be substantial changes not just an overlay is that -- do we want to --

>> COMMISSIONER EID: I don't think the changes are substantial.

>> VICE CHAIR ROTHORN: So maybe what we need to do is put it as an overlay and the Commission can understand if it is substantial or not, we can talk about that, does that sound reasonable?

>> COMMISSIONER EID: Sure, yeah, there is a the one that I submitted yesterday to get more VRA fairness.

And that was posted on our website.

So if we could use that, that would be great.

>> VICE CHAIR ROTHORN: Okay Commissioner excuse me Mr. Morgan?

>> MR. MORGAN: So this might be a good question for Commissioner Eid.

Would it be better to use the Witjes' version with the Kalamazoo and Grand Rapids together? Or to go back to the previous one that didn't have that configuration?

>> COMMISSIONER EID: No, I think the first one that we were looking at today would be a good base and put the overlay over it.

Just like same methodology as the first one.

## Exhibit 14 - May 20, 2024 Transcript

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>> Thank you Mr. Fink and it's nice to see you all again. I'm going to talk about legal criteria that are going to go into judging the plan that is eventually adopted by this body, both before the three-Judge Court and potentially litigation beyond that. I believe a lot of this you will have heard before. And I'm going to try to keep it quick and clean. But I would encourage questions because I'm not sure how helpful it is just to say things that you probably heard before. But I'm going to dig into what a plan needs to accomplish legally to take effect as law to govern elections. And I'm going to go in order of priority starting with the single most important criteria that a map needs to satisfy as to remedy the violation that the District Court found in its December order. I'll refer to that as the violation.

What does it mean for a plan to remedy the violation? The violation in this case is the violation of racial gerrymandering. And what the Court found, the legal meaning of the finding is that race was the predominant purpose for the design of specific districts, six Senate districts. And that consideration of race was not justified by a compelling Government interest to satisfy the equal protection clause.

So what do you do to get rid of that? In a word, what you want are districts that are different. Quite different from the ones that were struck down. The whole concept of this theory, it's not about vote dilution, it's not about the weight of any one's votes, it's about the racial considerations infecting District lines. And so the idea is the particular shape of a given District that is struck down was predominantly due to race. To get rid of that racial intent, you need a District that is substantively different from the one that was struck down. And you can see if you go and read our briefing on Motown Sound, which was very good at this, this worked very well in this department. You can see some of the considerations, the advocacy points that we made on Motown Sound. One point we made on Motown Sound was a large number of districts over all had changed. When you have six districts in the Senate, seven in the House that gets struck down, to draw new districts you have to change more districts than just the ones that were struck down. And so we made a big point to the Court that 15 districts in Motown Sound were different as compared to Hickory. And that is a good thing. You want many districts changed because that's saying you're not just moving people from one invalidated District to another. You are making substantive changes to the map. The criteria is different. Those old criteria are getting washed away. So that is a good thing. In the case of a plan with six districts struck down as a rule of them, this is not a legal requirement, but I like to sort of think of easy rules, I like there to be twice as many districts changed. If you have 12 that is probably a good thing. If you have even more than that I think that is generally a good thing. Last time around we talked about this question of what is too much? Is there too much change? And the point that I made then and I will make that again now at some point if you went very, very, very far there may be risk of state Court action down the road trying to make some argument in the Michigan Constitution that there is a bar on the mid-decade redistricting. I think that risk

is comparatively low. I'm not going to say it's zero, but I think it's comparatively low because there would have to be some argument about an implicit bar on mid-decade redistricting. State constitutions know how to bar mid-decade redistricting. North Carolina does, Colorado does, and Michigan does not. I'm not saying they would not argue that it's implicit, but we would have defenses there. I'm not sure what the incentive would be to bring a case like that. But you want to keep that in mind that maybe at some point the change would be too much. But I would be more worried about changing too little because if you change too little this Court in this case will potentially find that you haven't remedied the violation.

Another thing you can look at, there is a measure in redistricting called core retention. Kim Brace's team knows how to do it. We presented those numbers regarding Motown Sound. You had districts where they overlap with prior districts was relatively low. We had some districts more than half of the districts had changed. Some of them 25% had changed. Those are meaningful changes. There was one District in Motown Sound, I believe it was HD1 where the difference was only 13 or 14%, something like that. So a little bit lower. We were able to defend that, the special master agreed with us and said there was a substantive change with a meaningfully different District although the number is a little bit lower. The core retention is not the all end but all but it's nice and the numbers will run as you are considering maps and looking how different are these districts. And the final point I will make is the substantive change what Dr. Gofman mentioned you can look at a District, you can try to understand its shape, what it covers, and you can compare it to a prior District and try to see is this really the same thing that is being perpetuated or is it fundamentally different? My guess is, just based on the limited information that I've seen is that you are probably doing quite well in terms of change. I'm looking at District BVAP and I'm seeing there is little reason to believe that targets of 35 to 45% are being perpetuated. You have some majority minority districts and super majority districts. To my mind that is saying that you have made quite different redistricting choices, and you are probably not carrying them forward. But you want to be cognizant of that going forward. It's probably the most important piece of the remedial puzzle. I will move down to the second goal of course is you don't want to introduce new Federal violations. It doesn't do a lot of good to cure the prior violation if new violations have been introduced. And of course the two most prominent violations we could be talking about here you almost have to consider together it's new racial gerrymandering, different racial intent that is brought in that is unjustified. And you could also have a violation of the Voting Rights Act. And of course the problem that you have as a redistricting authority is you have to choose. These compete against each other. If you don't draw based on race there is a fear of what happens if there is a voting rights violation found. If you do draw based on race, there is a risk of a racial gerrymandering claim. That is very, very difficult. My preliminary thought in this case, and it's preliminary, but based on the analysis of Mr. Braden who I would note for the

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To get less of the Black population to go west and that could give wiggle room Royal Oak Madison heights taking some of the Black population to try to replicate what we have done with Commissioner Orton, myself and Commissioner Lett that is my train of thought.

>> COMMISSIONER WEISS: I should put it back and go a little bit west.

>> COMMISSIONER KELLOM: Yes.

>> COMMISSIONER WEISS: Could you do that.

>> MR. KENT STIGALL: I will leave 15 alone for the moment.

>> COMMISSIONER KELLOM: Another person can create another shoot using Detroit population.

>> MR. KENT STIGALL: Left this would be 45.

>> COMMISSIONER WEISS: Whatever we need to.

And then we might even shave some off of the right side of 14 to go further west.

>> MR. KENT STIGALL: Doing its thing 14 needs a couple thousand people so we want to take some off and then add in some of this.

>> COMMISSIONER WEISS: What do you think Brittni?

>> COMMISSIONER KELLOM: Yeah, but you might want to go kind of northwest on the diagonal like Commissioner Rothhorn was thinking because Redford has a high African/American population.

I don't know if that helped you Commissioner Weiss.

>> COMMISSIONER WEISS: We need 2000 more.

>> COMMISSIONER KELLOM: You have that 2717 right there.

>> COMMISSIONER WEISS: Yes.

If I was to take 29 off, if I take 2951 off.

No that is not going to work never mind.

Yeah, put in 2717.

>> MR. KENT STIGALL: Puts you .64 high.

>> COMMISSIONER WEISS: Bruce could you give me a hand here?

>> MR. BRUCE ADELSON: Sure.

In this District the voting age population the Black voting age population is almost 84%. So that's pretty high.

And I know that Commissioner Orton had talked about earlier that there may be certain points, it may be not entirely possible to bring the majority Black population down as in some of the other districts 47%, 45% and retain the strong ability to elect District.

So I think that that is a trial and error process.

I know you are pretty close now to the ideal population but there is the issue with the Black voting age population.

>> COMMISSIONER WEISS: All right I got one other shot.

Kent would you please get rid of 15? .

>> MR. KENT STIGALL: Non-Hispanic Black VAP is 68.

>> VICE CHAIR ROTHORN: 68% I was looking at 15, 68%, okay.

Commissioner Eid and Commissioner Orton thank you.

>> COMMISSIONER EID: Instead of just trying to think how best to communicate my thoughts instead of taking the top part of Livonia why not take the more middle part that way you can have more of a horizontal District.

I mean the shape of the District I think is just not ideal.

But if we take that middle part of Livonia, it might give you the population that you need while bringing the Black population down.

Do you see what I'm saying? You could extent that purple one 15 also in Livonia and maybe have a third one on top of it.

>> VICE CHAIR ROTHORN: I do see what you mean, Secretary of State. I saw Orton. Secretary of State, do you have something relative to this?

>> MS. SARAH REINHARDT: Commissioner Kellom, I think we're getting just a bit of feedback from you on occasion.

So if you don't mind, I'd like to place you on mute until you would want to contribute. Perfect.

Thank you.

>> VICE CHAIR ROTHORN: So Commissioner Eid you were trying to say the middle part.

So you're saying south of whatever I've drawn that northern top line not select the northern tier but maybe the two like a tier like the next southernmost not southernmost but the next tier south of the northern line is that what you are thinking? When you say middle, I want to be as clear as possible.

Okay and then okay and then that would allow us to stay out of the Farmington Hills area with a northern like that spoke.

Okay so I'm open to that.

So what and do you know what Commissioner Orton did you want to say something before?

>> COMMISSIONER ORTON: So to me I realize this is not all filled in but looks like a reach to me looks like we are reaching like Mr. Adelson talked about which we are. So and the populations are still not anywhere close to the balance we are looking for. So I just want to ask Mr. Adelson where do we know how to make that choice?

>> MR. BRUCE ADELSON: Fortunately for today we don't have to make the choice. You are not making final choices today and there is still room to play and experiment. And if I can suggest would looking at the population currently in 14 or the population in areas in Livonia, Redford Township and Stark, what -- how the District would look better and likely won't work is if you brought that southern line down to Livonia and then go straight east.

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Okay.

>> VICE CHAIR ROTHORN: Yes, it does look like that.

>> MR. MORGAN: Good morning, Commissioner Curry, Kim has something to say, I think.

>> KIM BRACE: Yes Commissioners, I wanted to point out a couple things this morning that we've been working on overnight.

For your benefit we have been uploading plans to the my Districting site and it is functioning.

And this morning I downloaded the shape file from yesterday.

And brought that into my version of Autbound edge.

I wanted to point out the new data set that we worked on last night now includes the democratic primary from 2018 to include the Governor's race from that.

John doesn't have that yet on his system but it is there, available and I can end up showing people the votes for the districts that we created yesterday in that contest also.

>> CHAIR SZETELA: Thank you.

>> VICE CHAIR ROTHORN: Just occurred to me are we still waiting for the partisan fairness tab or is that what you are referring to?

>> KIM BRACE: Partisan fairness is being worked on but it's not quite there yet but yes this is one more data item that can be there.

Ultimately whether or not that goes in the partisan fairness is partly Lisa's call on that side.

>> VICE CHAIR ROTHORN: Okay thank you for that.

>> CHAIR SZETELA: Can you give us an estimate when the partisan fairness will be completed?

>> KIM BRACE: What we were looking at yesterday afternoon was we are hoping within the next day to have at least elements of the partisan fairness, that they are working on to generate the spreadsheets that Lisa was looking at for analysis purposes.

>> CHAIR SZETELA: Thank you.

Any other questions for Kim? All right Commissioner Curry take it away.

>> MR. MORGAN: Okay, so just to orient the areas that are not shaded in are available for drawing and of course you can always go back and change a District if you like.

And Commissioner Curry you're muted.

We can't hear you.

>> COMMISSIONER CURRY: Thank you.

Good morning, Commissioners.

Of course I welcome any help on this.

>> VICE CHAIR ROTHORN: If you would like to Juanita because one of the ways we were trying to balance the white and Black population you will see 14 and 15 those districts 14 and 15.



>> COMMISSIONER CURRY: Yeah.

>> VICE CHAIR ROTHORN: There was a comment during today that talked about Redford and keeping Redford whole and I think because you know this area.

I think you can see we are starting in Detroit and moving west towards into Livonia. Sort of taking thin strips and because you know the area that may be a useful place to help us make sure that we don't interrupt or break apart small cities like Redford.

>> COMMISSIONER CURRY: Okay thank you.

All right, well, let's go to Redford.

>> VICE CHAIR ROTHORN: Doug has a comment.

>> COMMISSIONER CLARK: Yeah, when we took this approach, can you hear me, Juanita?

>> COMMISSIONER CURRY: Yes, I can.

>> COMMISSIONER CLARK: Initially we chose a different approach.

And what we ended up doing was not getting a balanced District.

So we decided to move west where there is less Black population and balance the districts and that is why you see the configuration that you do now in 14 and 15.

The big problem we were faced with was if we move north Southfield is predominately or a large percentage Black and end up with the same problem that is why we decided to move west.

>> COMMISSIONER CURRY: Okay, I know that we moved south there is a lot of Blacks in Redford.

So let's see, let's go -- let's go west and see what we can do on that.

>> MR. MORGAN: So I'm tracing the boundary of Redford Township there is a blue line that shows the boundary.

District 14 start in Detroit.

Goes all the way to the edge of telegraph road and then through Redford into Livonia.

District 15 does something similar to the south.

So and we are looking in this area again this is telegraph road.

This is Redford.

And then this is 10 I guess that is lodge.

And then this is Southfield.

And Grand River is the diagonal Cross Street just to define the area of Detroit that you see on the screen.

>> COMMISSIONER CURRY: Okay, shall we finish Redford all?

>> VICE CHAIR ROTHORN: I think the answer is yes.

>> CHAIR SZETELA: I think so.

>> COMMISSIONER CURRY: Okay let's go up here and finish Redford.

>> MR. MORGAN: This is the Township so do you want to take a portion of Detroit or a portion of Redford? Do you want to start at the eastern edge of over here of District 8 or do you want to start somewhere else?

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>> MR. MORGAN: If you take for example population from 9 and put it in 14 and I think that Southfield is predominately African/American.

>> CHAIR SZETELA: It is.

>> MR. MORGAN: So I think that would be in favor of what you're trying to do.

>> CHAIR SZETELA: Yes.

>> COMMISSIONER WITJES: I still want to grab those four precincts that are on the edge of 13 right there sandwiched by 9 or on the north side of 9 right there.

You got it.

And let's grab the other three that are right next to it.

>> CHAIR SZETELA: That pop up is Bloomfield Hills and may give you a hard time, that right there.

>> MR. MORGAN: Do you want to split that one instead of taking it all in?

>> COMMISSIONER WITJES: I can't see the population at 13 and deviation.

>> CHAIR SZETELA: I was going to say it says R.

Commissioner Orton?

>> COMMISSIONER ORTON: That little thing made 13 go back above 41 it was below 40.

>> COMMISSIONER WITJES: It was then let's take that piece out that was added in. Right there.

You got it.

Let's grab the other ones we added be Beverly Hills and see where we are at.

The four you are at we are fine.

Those two there take those out so 14 goes back to being 41.77 any other thoughts.

>> CHAIR SZETELA: I think you are going the right way going into Beverly Hills Franklin Bingham farms which is where you are going the top of Southfield but might be helpful in addition to adding that taking off a little African/American population down near nine because that will sort of balance what you are trying to do.

Commissioner Orton?

>> COMMISSIONER ORTON: Well from what I think 9 is overpopulated by a lot and 14 is under populated by a lot.

So and we are and nine is we want to reduce the African/American population in 9 so what if we took all of Southfield and put it up into 14, wouldn't that possibly take care of all those problems?

>> VICE CHAIR ROTHORN: I think that is what Commissioner Lett was suggesting too.

>> CHAIR SZETELA: Right.

So you will bring 14 down and probably when you do that might have to take 9 into Farmington a little bit.

It's like you are working at a puzzle here.

Shifting things around.

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>> COMMISSIONER CURRY: I would like to see that the edge of Detroit see the names of the Townships or streets or something so I can get some a better understanding of what Detroit looks like.

Because so far.

>> MR. MORGAN: One moment I will put up some streets.

>> VICE CHAIR ROTHORN: Commissioner Curry are you taking us to 17?

>> COMMISSIONER CURRY: I want to see Detroit and the Townships there, the voting districts or whatever that they makeup.

>> VICE CHAIR ROTHORN: Okay before we go too far, I want to make sure we stay on track here.

May I suggest that Commissioner Eid then Commissioner because Commissioner Clark wanted to sort of evaluate what was just done.

So before we go to something new is that okay if we come back to you Commissioner Curry and what you want to do is that okay?

>> COMMISSIONER CURRY: Okay.

>> VICE CHAIR ROTHORN: Commissioner Eid then Commissioner Clark.

>> COMMISSIONER EID: The only thing I would potentially change I quite like this configuration but the only thing I would potentially change is that area that's on the south end of District 14 and that it borders with district 9 the areas of Detroit below Southfield.

Or maybe try to include just a couple more precincts with District 9.

It's at 38.64%.

I say let's get it let's just add precincts until we are right on 40% which is where we need to be 40 or below and that way that 14 District doesn't stretch quite as far south as it you know as it is right now.

>> VICE CHAIR ROTHORN: Commissioner Clark?

>> COMMISSIONER CLARK: Yeah, I think that both Commissioner Witjes and Rebecca and myself did a good job Rebecca more than me.

To be honest with you.

Did a good job and they are both acceptable.

I think the one we are looking at right now is more advantageous to us meaning the Voting Rights Act and it keeps Canton in place.

It keeps the Asian group in place together.

It reduces our numbers.

To where we want.

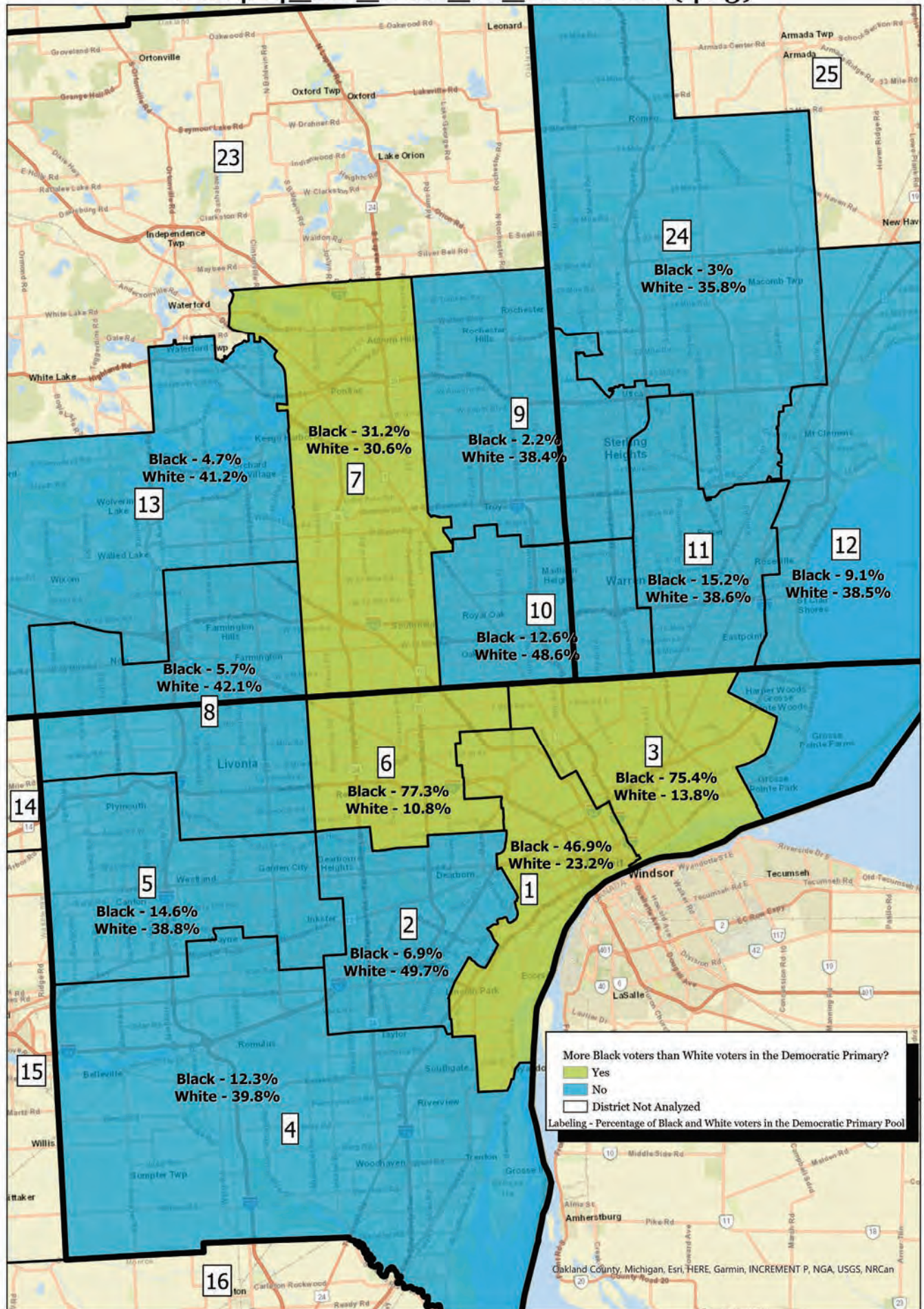
So I would tend to go with that as good of job as Dustin did, I tend to go with this.

>> VICE CHAIR ROTHORN: Thank you Commissioner Clark.

>> COMMISSIONER CLARK: And for Juanita's benefit as soon as I'm finished you are next up so.

# Metro Wayne State Senate Voting Rights Act Effectiveness - Exhibit 16

## 062424\_SD\_COL\_v1\_Crane A1 (405)

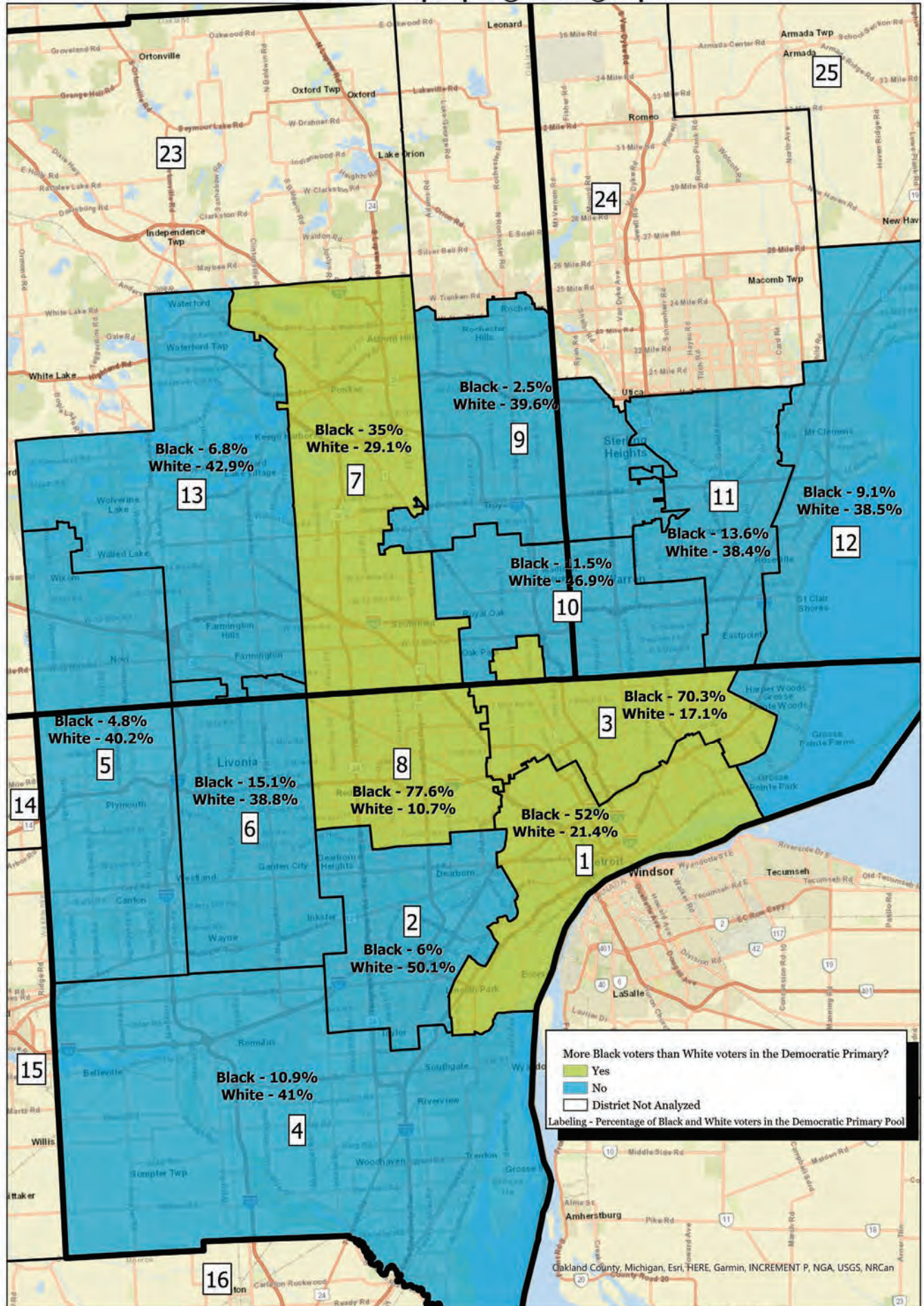


More Black voters than White voters in the Democratic Primary?

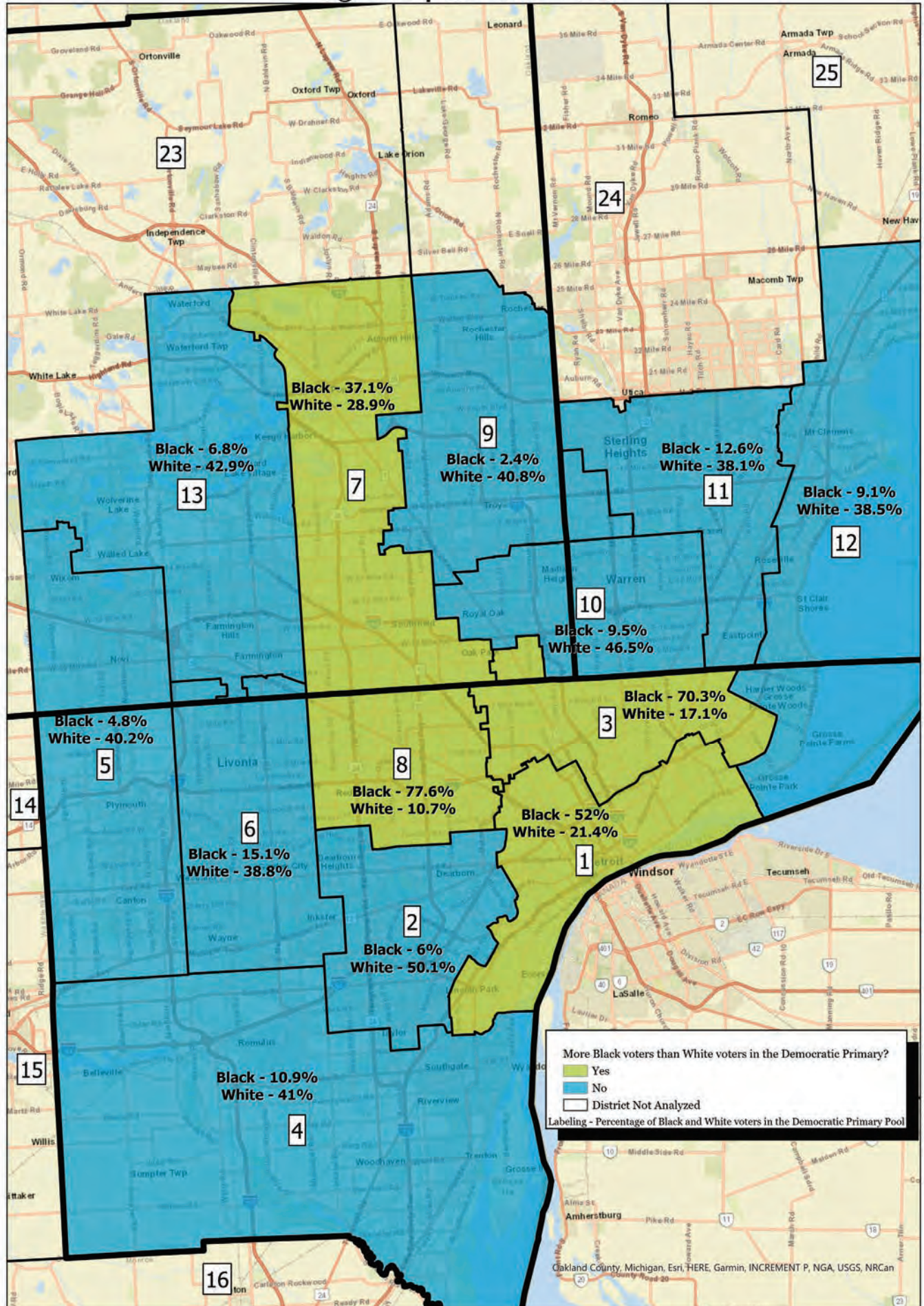
- Yes
- No
- District Not Analyzed

Labeling - Percentage of Black and White voters in the Democratic Primary Pool

# Metro Wayne State Senate Voting Rights Act Effectiveness - Szetela 404 V3 062524



# Metro Wayne State Senate Voting Rights Act Effectiveness - 052024 SD RAS V1



## Exhibit 17

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DONALD AGEE, JR. et al.,  
  
Plaintiffs,  
  
v.

JOCELYN BENSON, et al.,  
  
Defendants.

Case No. 1:22-CV-00272-PLM-RMK-DML

**RESPONSE OF THE MICHIGAN  
INDEPENDENT CITIZENS  
REDISTRICTING COMMISSION TO  
REPORT OF THE REVIEWING  
SPECIAL MASTER REGARDING  
MICHIGAN STATE SENATE MAP**

The reviewing special master, Dr. Grofman, agrees with the parties that the remedial senate plan (the Crane plan) of the Michigan Independent Citizens Redistricting Commission (the Commission) “adequately addresses the constitutional concerns of the Court by offering a plan in which race is not a preponderant motive and in which the criteria specified by the Michigan Constitution are satisfied.” ECF No. 188 at 14, PageID.5922. There is no basis for this Court to enjoin the Crane plan. *See North Carolina v. Covington*, 585 U.S. 969, 979 (2018) (per curiam); *Abrams v. Johnson*, 521 U.S. 74, 85 (1997) (“In the absence of a finding that the legislature’s reapportionment plan offended either the Constitution or the Voting Rights Act,” a federal court is “not free . . . to disregard the political program’ of the state legislature.” (citation omitted)).

Most importantly, Dr. Grofman agrees with the parties that the Crane plan “has made substantial demographic shifts in all six of the districts that were invalidated in the previous litigation.” ECF No. 188 at 8, PageID.5916. Because it does not carry forward past racial motivation this Court found in the prior plan (the Linden plan), the Crane plan remedies the violation. *See Covington*, 585 U.S. at 978. Dr. Grofman also finds no basis to believe new racial considerations entered the line-drawing. *See* ECF No. 188 at 14, PageID.5922 (concluding

Dr. Grofman, however, questions the Commission’s view that SD7 is also an opportunity district (for a total of four), calling that assertion “somewhat problematic, though not obviously wrong.” ECF No. 188 at 13, PageID.5921. But the assertion is not problematic. Dr. Grofman independently confirms “that African-American potential voters in the Democratic primary in District 7 are likely to outnumber potential non-African-American voters in that primary.” *Id.* Thus, SD7 provides at least equal electoral opportunity to Black voters in the Democratic primary. Dr. Grofman balks at that conclusion only because this advantage is “not by a large margin.” *Id.* That is unduly hesitant in both factual and legal respects.

On the facts, Dr. Grofman places too much weight on the estimated voter *pool* and ignores estimated *turnout*. The Commission’s VRA expert, Dr. Maxwell Palmer, estimates that Black voters in SD& hold a 31.2% to 30.6% edge over white voters in the Democratic primary pool, but a much more robust superiority in actual primary turnout—54% to 41% in 2018 and 50% to 45% in 2022. Ex. A, Expert Report of Dr. Palmer ¶ 7. Black voters, if they are cohesive, can decisively prevail over white voters, even if they are cohesive, in SD7. Because elections are decided by voters who turn out, not merely by those registered, turnout estimates provide probative information that cannot be ignored.<sup>2</sup> *Cf. Wright v. Sumter Cnty. Bd. of Elections & Registration*, 301 F. Supp. 3d 1297, 1318 (M.D. Ga. 2018), *aff’d*, 979 F.3d 1282 (11th Cir. 2020) (“While African Americans do outnumber whites on the voter rolls, the

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<sup>2</sup> Evidence of high Black participation also signals that key totality-of-circumstances factors, requiring proof that “the level of black participation is depressed,” *United States v. Marengo Cnty. Comm’n*, 731 F.2d 1546, 1568 (11th Cir. 1984) (citation omitted), cut against Section 2 liability. *See Salas v. Sw. Texas Jr. Coll. Dist.*, 964 F.2d 1542, 1556 (5th Cir. 1992) (“[T]he high incidence of Hispanic registration in the District is persuasive evidence that Hispanic voters are not deterred from participation in the political process because of the effects of prior discrimination, including unemployment, illiteracy, and low income.”).



voting booth is another story.”); *Uno v. City of Holyoke*, 72 F.3d 973, 986–87 (1st Cir. 1995) (discussing the significance of low turnout).

On the law, Dr. Grofman misses that Section 2 guarantees only equal “opportunity,” 52 U.S.C. § 10301(b), not success, let alone “by a large margin,” ECF No. 188 at 13, PageID.5921.<sup>3</sup> “Properly conceived, the results test protects racial minorities against a stacked deck but does not guarantee that they will be dealt a winning hand.” *Uno*, 72 F.3d at 982. The point of Section 2 “is to provide a level playing field on which minority candidates—like all candidates—will be exposed only to the routine vicissitudes of the electoral process, not to special impediments arising out of the intersection of race and the electoral system.” *Id.* at 986; see also *Smith v. Brunswick Cnty., Va., Bd. of Sup’rs*, 984 F.2d 1393, 1400–01 (4th Cir. 1993). Here, where the Democratic primary pool in SD7 consists of more Black than white registered voters, and where Black primary turnout is likely to exceed white turnout by a **comfortable margin**, the district provides the even playing field Section 2 requires. Just as “minority voters are not immune from the obligation to pull, haul, and trade to find common political ground,” *Johnson*, 512 U.S. at 1020, Section 2 does not relieve them of the duty to vote, see *Salas*, 964 F.2d at 1556 (“Obviously, a protected class is not entitled to § 2 relief merely because it turns out in a lower percentage than whites to vote.”). Viewed under the correct legal standard, SD7 affords the requisite equality of opportunity. Whether or not—and how—Black voters exercise that opportunity is up to them.

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<sup>3</sup> Dr. Grofman, of course, speaks only “from a social science point of view,” ECF No. 188 at 14, PageID.5922, and rightly does not weigh in on the governing law.

88–96, PageID.4793-99 (discussing former senate districts 8 and 11). Indeed, Dr. Grofman’s proposed configuration would appear to replicate aspects of Linden plan district 8, which extended from Birmingham down into the Schoolcraft neighborhood of Detroit, despite demographic and cultural differences between these places. ECF No. 131 at 91, PageID.4794; *see also* 3.Tr. 105:16–23, ECF No. 104, PageID.2896. SD7 contains Birmingham, but heeding this Court’s ruling, the Commission ended its southern border at Eight Mile Road.

Dr. Grofman’s proposal that SD7 cross into Detroit would compel the Commission back into the redistricting approach this Court rejected, and the proposal cannot be reasonably configured under the first *Gingles* precondition. *See, e.g., Milligan*, 599 U.S. at 30 (2023) (holding that “§ 2 never requires adoption of districts that violate traditional redistricting principles” (quotation and alteration marks omitted); *id.* at 43 (Kavanaugh, J., concurring) (rejecting reading of Section 2 that would force states “to group together geographically dispersed minority voters into unusually shaped districts, without concern for traditional districting criteria such as county, city, and town lines”); *Abrams*, 521 U.S. at 88 (rejecting advocacy for additional majority-minority district in remedial plan where (“[n]o other plan demonstrated a second majority-black district could be drawn while satisfying the constitutional requirement that race not predominate over traditional districting principles”). At a more basic level, it would be entirely unfair for the Court to strike down Linden district 8 as a racial gerrymander and then strike down SD7 because it is insufficiently like Linden district 8.<sup>4</sup> *See Alexander v. S.C. State Conf. of the NAACP*, 144 S. Ct. 1221, 1267 (2024) (Thomas,

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<sup>4</sup> The proposal may also in certain respects replicate Linden district 7, which also crossed Eight Mile Road. Although the Court did not adjudicate a claim against that district, the Commission had overriding reasons to view the Court’s opinion as discouraging a configuration of SD7 that crosses into Detroit.

J., concurring) (explaining how racial-gerrymandering and Section 2 jurisprudence can place “States in a lose-lose situation”).

Perhaps recognizing that his majority-minority proposal is unworkable, Dr. Grofman offers the following enigmatic alternative:

African American population can also be added to District 7 by slightly reconfiguring the district and its neighbors even without drawing on population from Detroit in such a fashion that an argument for District 7 being a “realistic opportunity to elect” district (though not actually a majority African-American district) can be substantially strengthened.

ECF No. 188 at 13, PageID.5921. Several defects plague this assertion. Most importantly, it does not support Dr. Grofman’s thesis that four reasonably configured *majority-minority* districts are possible. *See id.* Dr. Grofman admits that SD7 would “not actually [be] a majority African-American district” without crossing Eight Mile Road. *Id.* The first *Gingles* precondition, however, is not satisfied without proof of an additional, reasonably configured majority-minority district. *Bartlett*, 556 U.S. at 18. There is no Section 2 obligation to bolster “an argument” that SD7 is an opportunity district without predicate proof of a reasonably configured majority-minority district.<sup>5</sup> The use of race in this context, without a threshold showing under the first precondition, would not be narrowly tailored. *See Shaw v. Hunt*, 517 U.S. 899, 916 (1996).

Besides, it is difficult to see how reworking SD7 with “its neighbors” would be effective in terms of minority opportunity or reasonably configured in terms of neutral criteria. As to

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<sup>5</sup> As noted, it is important to distinguish the Section 2 hypothetical baseline standard (which contains a 50% minority voting-age population threshold) from an enacted plan to be judged against that standard (which need not be 50% minority voting-age population district to pass the test). Here, because Dr. Grofman is proposing a hypothetical legal measuring stick, the 50% rule applies.

minority opportunity, SD7 already contains (for race-neutral reasons) Pontiac and Southfield, which are the predominantly Black regions of Oakland County. Districts to the east and west are predominantly white. It is a mystery how east-west alterations would bolster SD7's claim to opportunity status. As to neutral criteria, it is unclear at best how SD7 could be revised without sacrificing (and, hence, subordinating) non-racial criteria. See *Bethune-Hill v. Virginia State Bd. of Elections*, 580 U.S. 178, 190 (2017); *Milligan*, 599 U.S. at 30–33 (plurality opinion). SD7 and its neighbors (SD9, SD10 and SD13) are all highly compact, regular, and rectangular districts. To reformulate these to bring more Black residents (from an unknown location) into SD7 would almost certainly inject jagged edges and political-subdivision splits into these districts, snatching irregularity from the jaws of regularity—because of race.

In sum, nothing supports the assertion that Section 2 requires four Detroit-area opportunity districts, and everything Dr. Grofman enigmatically states on the topic signals that it almost certainly does not. Because the VRA and the Constitution are both satisfied, this Court cannot enjoin the Crane plan.

### CONCLUSION

As the parties and the special master all agree, the Court should not enjoin the Crane plan. It should declare that the Secretary of State may administer that plan in future elections.

## Exhibit 18 - Excerpts from October 28, 2021 Transcript

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To Commissioner Lange's point, her plan might be very different but some of the other plans are very similar.

If Commissioner Szetela drew a map it's based on another map and 80% of the Districts are the same and she can say these are the ones that are different and we can look at the map and see what they are and that's one thing.

Second thing just a tip, if the Districts are slightly different but the concepts are the same.

You can say we have a north Grand Rapids seat and a south Grand Rapids seat and the concept is the same, you can move forward without committing to an exact different in that area.

If you understand the differences then you understand the plan.

>> CHAIR SZETELA: Okay.

So it seems like there is interest in starting with a debrief because we never had a debrief.

So do we want to go session by session? Just in general? We don't want to do Detroit and what stood out from Detroit? Okay.

So I think it's clear we've had sort of discussions generally around Detroit, Flint, and Ottawa County and those are the big three.

Do we want to start with Detroit and talk about observations and move on?

>> That's fine.

>> MS. SARAH REINHARDT: Madame Chair would it be helpful for me to quickly scribe the debriefing considerations to have in your mind while you're talking about this?

>> CHAIR SZETELA: Sure.

>> MS. SARAH REINHARDT: For debriefing commissions will discuss feedback and themes from Public Hearings, considerations and suggested changes for COIs, additional COIs, suggested changes and input from RPV and VRA line drawing consultants.

If you like while you're making changes, I can document the changes and then we will have a nice list for you all to examine.

>> CHAIR SZETELA: Okay.

Thank you.

Ms. Reinhardt.

So how we want to proceed on Detroit? I think there are two easy ones that came up. Banglatown.

Adding in the two precincts and we all received maps.

Palmer Park, wanting to include that in Ferndale and Oak Park and Huntington Woods because of the LGBTQ community there.

Two simple small changes.

Any thoughts or comments on those? Commissioner Clark?

>> COMMISSIONER CLARK: I think there's a third.

One individual talked about a street being split and that was an easy one.

I think that we could handle relatively easy.

It was in Detroit.

There was a street.

>> CHAIR KELLOM: It was the Dexter Davis and I think it was Laughlin Worth Lynwood, does that sound right?

>> CHAIR KELLOM: I'm describing the area.

Lynwood is over there.

Yep.

Hold on one second.

>> COMMISSIONER CLARK: I don't see any reason why we shouldn't take those into account.

Those are neighborhood types of things that I think are appropriate at this point.

I think there's the bigger issue that we have to talk about.

>> VICE CHAIR ROTHORN: The other piece that was maybe easy was the idea that there was a Latino District moving the line west.

I wrote down something like into 17 from 19.

I wasn't able to understand all of it, but the comment was mostly about increasing the effectiveness of the Latino representation in 17 by moving the line west from central, I wrote down, from District 19.

I think these are all house maps, related to house maps and there was something else about Melvindale has a large Yemen that should be included in Arab Districts we've drawn.

If we're talking about moving a line -- the other one that I recognize is that the Cherry map complete the Boston Edison neighborhood.

In general we might want to do a review of all the neighborhoods and I believe people know which neighborhoods are okay to split and which are not okay to split.

Recognizing we want to walk through those neighborhoods.

>> CHAIR SZETELA: Yeah, and I think that also gets into the broader sort of topic of discussions about how we've divvy up Detroit and relooked at the maps to keep neighborhoods together because they're easy to keep together that way.

Commissioner Eid and then Commissioner Kellom.

>> COMMISSIONER EID: I agree with everything that's been said.

I heard a few different things.

Some of which have been mentioned.

Bringing the neighborhoods back together.

The house map, we have specific comments that mentioned the South field area for that.

We've also heard that was already stated on the house maps, the difference in those precincts between District two and District ten.

I also have some notes here from people in Troy wanting to be with Oakland County. I have some notes about the Arab community wanting Dearborn Heights to remain whole and to be a second District along with Dearborn.

And just generally speaking by my account it seemed like the most preferred maps were maple, pine, and cherry.

And, you know, actually, I heard some good comments from the Spanish and Latino, Latina community about our maps.

That community seemed to have liked what we did by enlarge.

>> CHAIR SZETELA: Commissioner Kellom.

>> CHAIR KELLOM: Anthony highlighted what I was going to say and Commissioner -- if you want to take notes of what we were talking about just for clarity -- specifically the gentlemen from the Dexter area.

>> CHAIR SZETELA: I looked at my maps because I drew a map of what he was saying, Laughton street move from number one to number two and I drew the map. Dexter Lynwood area.

Windemere Park.

>> CHAIR KELLOM: And keeping the Roseville community together and when we go back and mend some of these neighborhoods and that's all I wanted to say and Commissioner Lange I think has her hand up.

I don't know if you saw that.

>> CHAIR SZETELA: Yes.

And in the neighborhood discussion there was a lot about is East English Village, Morningside? Something.

>> CHAIR KELLOM: Morningside and Cornerstone.

>> CHAIR SZETELA: Cornerstone, yep.

Morningside east English Village.

>> CHAIR KELLOM: This is a little bit more specific.

Someone made a reference to District 21 and wanting horizontal Districts in the wood ward 8-mile area and that's just a configuration suggestion.

>> CHAIR SZETELA: Yep.

Okay.

And the last one I would raise up is there were requests for Congressional maps to switch Southfield and Northville.

We're getting a little out of Detroit.

Sorry.

South Lyon and Southfield.

Right now Northville is pushed up and south Lyon is pushed into Wayne County.

You're keeping the communities in their Counties and the other would be the API community in Novi.

There was a precinct or two left out and they want pulled back in.

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Commissioner Eid and Commissioner Roth owner Commissioner Lange.

>> COMMISSIONER LANGE: It's not particularly in Detroit but I want to make sure special consideration is given to the (inaudible) community.

I want to make sure we give consideration to them.

Thank you.

>> CHAIR SZETELA: Thank you.

Commissioner Eid and then Commissioner Rothhorn.

>> COMMISSIONER EID: I was going to say it's loud and kind of hard to hear.

Let's try to be clear so that welcome all hear each other.

>> CHAIR SZETELA: Because the room is small, when people is having side conversations, it's picking up on the microphones.

>> I'm sorry.

>> CHAIR SZETELA: All right.

Commissioner Rothhorn.

>> VICE CHAIR ROTHORN: The seat community that was an African immigrant community that was a smaller -- it's not clear that it's a small change because when I was able to try and draw my map, I lost it so I can't actually speak to it at this point but I have a note about this.

Between south feed and north park there was a Jewish community.

>> CHAIR KELLOM: Orthodox Jewish.

>> CHAIR SZETELA: Oak park.

>> VICE CHAIR ROTHORN: There were maps given and I have not been able to look into it but Commissioner Lange was lifting up these smaller communities that we may have included, somehow recognizes that we can include them and all of these changes that I think I'm addressing I think are house map changes, I think.

Commissioner Szetela lifted up we have Congressional maps.

I would like to offer I would like to look at with Anthony Skinnell drew it and recognize the shift and he's been really clear to us and he has an interest in -- looking at that if we're going to look at Congressional maps and looking at how many Communities of Interest, he has included in that.

>> CHAIR SZETELA: All right.

Anything else about the general metro Detroit area? Commissioner Clark? We've discussed all the things that keep communities together.

COI types of things and I also heard a major theme in Detroit and that thing was that the citizens of Detroit want to be kept together as a whole.

I think it's something we need to look at and discuss as we go forward.

>> CHAIR SZETELA: Commissioner Witjes.

>> COMMISSIONER WITJES: I heard that as well but the way I'm analyzing that is saying that they want to be both together and packed together is still illegal.

The fact they say we want to be packed together is a violation of the VRA.



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>> VICE CHAIR ROTHORN: We wanted to -- until yeah but we have a coalition potentially.

>> CHAIR SZETELA: Yeah, I think we are good.

And deviation is still below 5 so we are good.

Okay, so there was some comment about the Latino community in some area that we had split.

Does anyone know specifically what those comments were addressing in Detroit?

>> VICE CHAIR ROTHORN: Latino community I believe was 17.

That is mostly where and I think Brittini you and I talked about this maybe Tireman Road was a reference.

And if we move it, yeah, I say it because I'm not sure which District.

I will see if I can find it north to Tireman Road was the small change that was requested at the hearing.

I'm asking you Commissioner Kellom because I'm not familiar enough.

>> COMMISSIONER KELLOM: Yes, I do believe that was the suggestion that was made.

>> CHAIR SZETELA: Miss Reinhardt?

>> MS. SARAH REINHARDT: Sorry go ahead Commissioner Kellom.

>> COMMISSIONER KELLOM: I don't know if we are going to move to other areas because I had some thoughts regarding Oak Park Ferndale referencing the comment in that area to go horizontal rather than shoots.

But I don't know how we would like as a Commission to navigate.

It seems like we are shouting out very pointed areas.

So there was some other things I just noticed on our map by looking at it.

>> CHAIR SZETELA: I'm actually following a list of what we talked about earlier.

So that is why I'm.

>> COMMISSIONER KELLOM: Thank you for the clarity.

Just making sure those things are on the list.

>> CHAIR SZETELA: I'm just going down the list.

>> COMMISSIONER KELLOM: Okay cool.

>> CHAIR SZETELA:

>> MS. SARAH REINHARDT: This is Sarah with the Department of State.

I guess I'm the process person today.

So as usual the Commission can conduct its business as you all want.

And edit your process in any way that you see fit. But just pointing to your current process as it is outlined for map adjustments during deliberations it operates in the collaborative way, that previous map adjustments have been performed.

Which is in rotating alphabetical order.

So Commissioner Szetela after your turn concludes it would be Commissioner Vallette's turn.

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>> CHAIR SZETELA: Do we want to do that guys?

>> COMMISSIONER KELLUM: I don't.

>> CHAIR SZETELA: I heard comments we did not want to do that.

So we did not want to take turns.

>> COMMISSIONER KELLUM: I do not think we should take turns.

>> COMMISSIONER CURRY: Take too long.

>> VICE CHAIR ROTHORN: We need to have it more than just one person.

I think I'm not disagreeing I just want to make sure that we somehow mix it up.

That's all.

>> CHAIR SZETELA: That is fine I'm literally working off the list that we discussed earlier because I wrote a list.

>> COMMISSIONER CURRY: As long as you stick to the list that's good.

>> CHAIR SZETELA: Doug is sitting next to me I'm literally checking things off as we go down the list.

>> COMMISSIONER KELLUM: People will naturally participate because some Commissioners will be more quiet or you know more vocal depending on the area. So I don't think we should force turns.

>> CHAIR SZETELA: Commissioner Lett?

>> COMMISSIONER LETT: I think that in our process where we have gone around from person to person previously those were appropriate.

But as we got further into the weeds it became less appropriate.

And I think as long as everybody is satisfied with one or two or three people there is no reason that any of us can't speak up.

And I don't think any of us are shy, quiet and unassuming.

And therefore I think the way we are doing it right now is working pretty well.

And I would suggest we continue making progress.

>> CHAIR SZETELA: Yes, I agree.

>> VICE CHAIR ROTHORN: So with that we do have -- it's from I was wrong about Tireman Street I apologize.

This moved the Latino with relation to the Latino community, into 17 so we are moving from out of 19 into 17, into District 17 and we are moving the line from Central.

>> CHAIR SZETELA: From Central.

>> VICE CHAIR ROTHORN: If we can see Central.

>> CHAIR SZETELA: Is that Central right there.

If you Zoom in it looks like that is Central, yep.

So right under St. Stevens Central, no further down underneath right there, that little block is that what they're talking about and they mentioned Lonyo too.

So definitely is a known Hispanic community.

Can we put do we have theme dots we can put on there to make sure we are grabbing the right thing for Hispanic community? Commissioner Orton?

request 10/28/01 Public Comment

06677 Chris Andrews → restructure Lansing area

Detroit

- ✓ ① Banglatown H ✓
- ~~② Palmer to Wood/Port~~
- ✓ ③ Dexter - Linwood HV

~~10~~  
~~11~~  
~~12~~  
~~13~~

House Wildpoore Park

move #1 to #2

Laughter Street

6 - API 3.95  
 16 - 15.87

Banglatown  
 Precinct 95 → House  
 from 10 to 2

4576

- ④ Latino community ✓
- ⑤ Neighborhoods → Grandman/ Rosedale  
 Cornerstone / morningside / east-english village
- ~~⑥ South Lyon / Northville (Congressional)~~
- ⑦ API → Novi House Map
- ⑧ Sikh trail / Rochester hills Pro
- ⑨ Split AA → Huron River north; Mad
- ⑩ Oak park → par
- ⑪ West Bloomfield

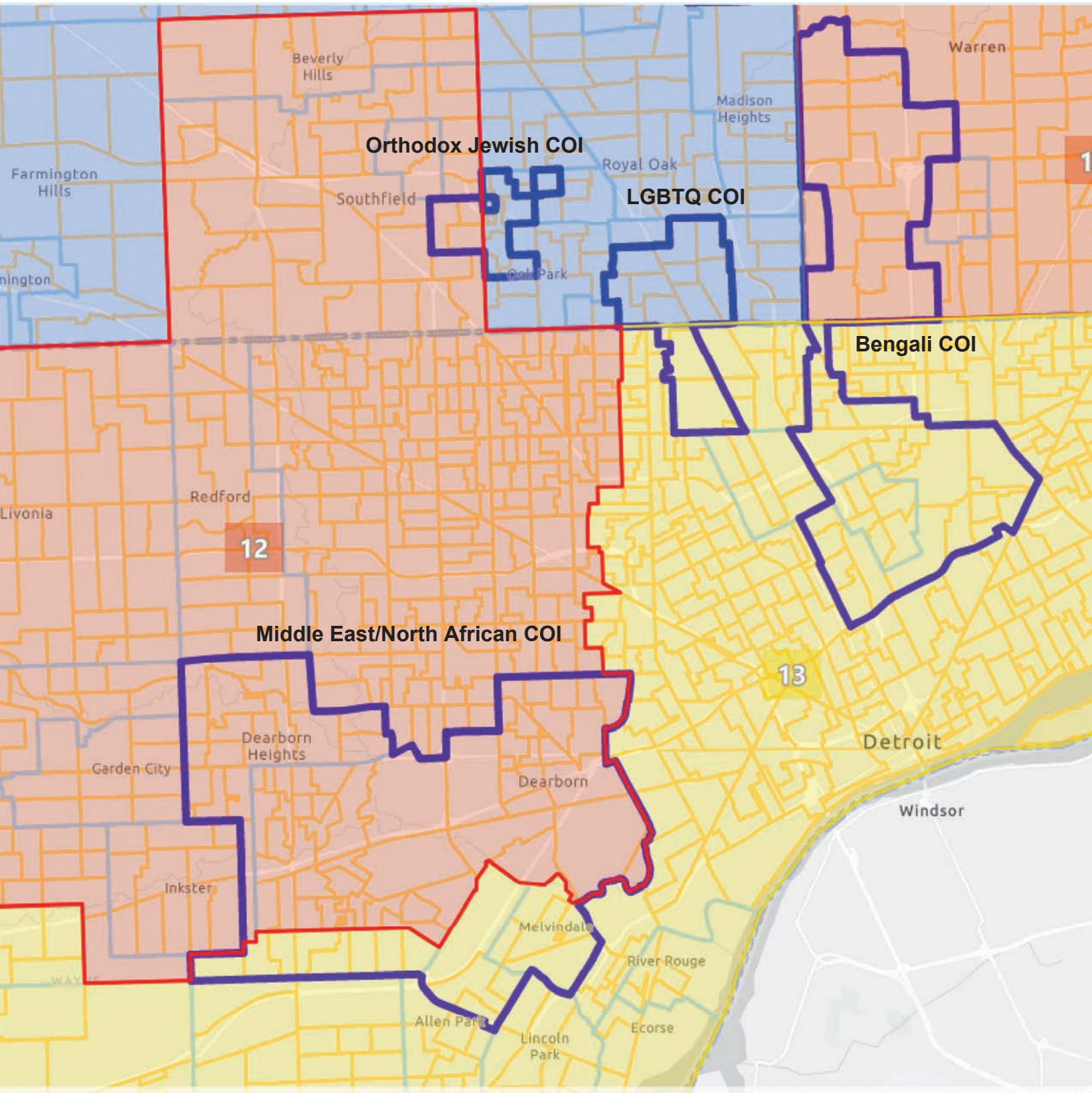
- ① Katoomba/Battle Creek Parchment to Katoomba House
- ② Happy w/ Congressional
- ③ split House into 5 7357

5 10.95  
 110 23.15

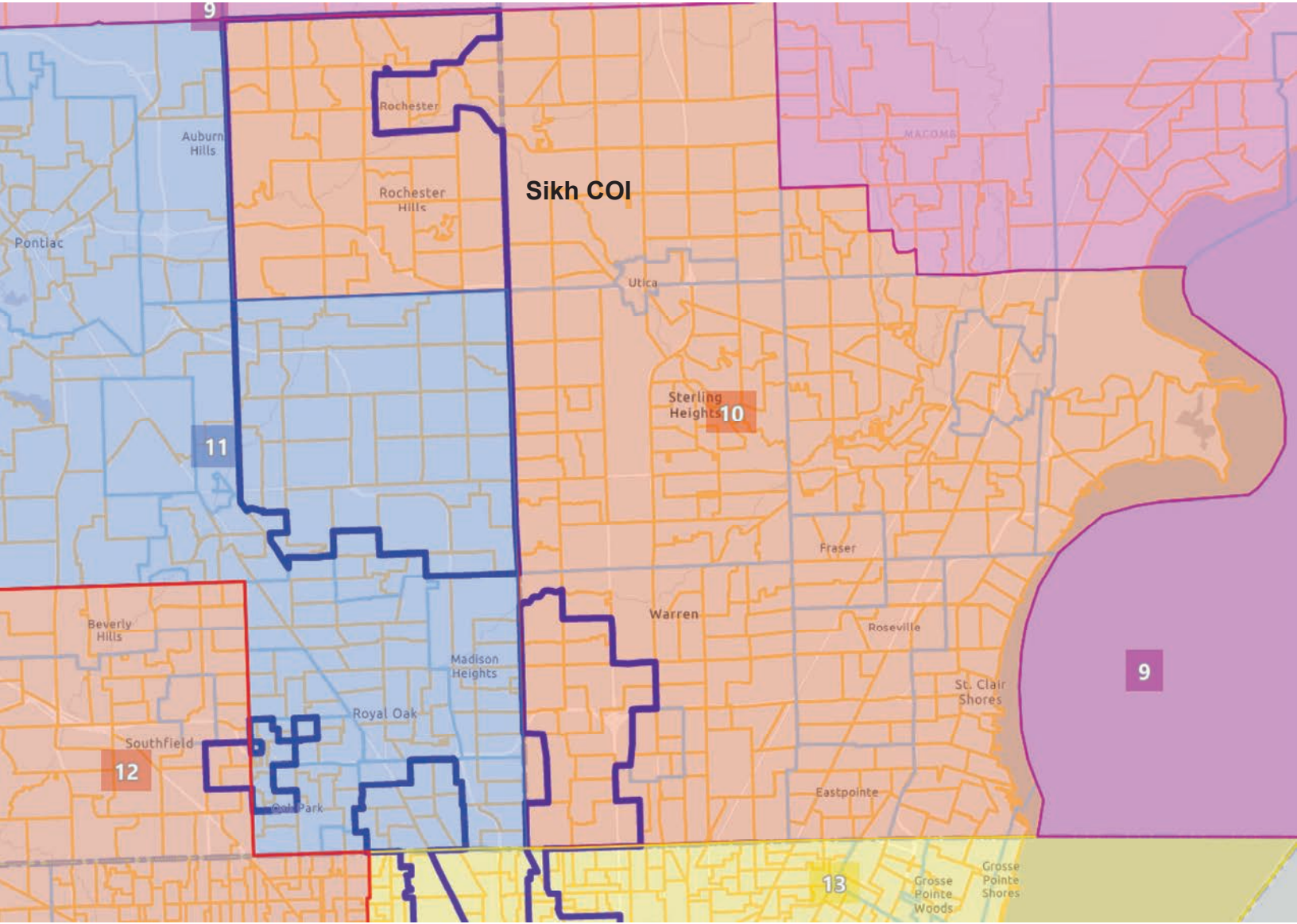
42.33

# Exhibit 20

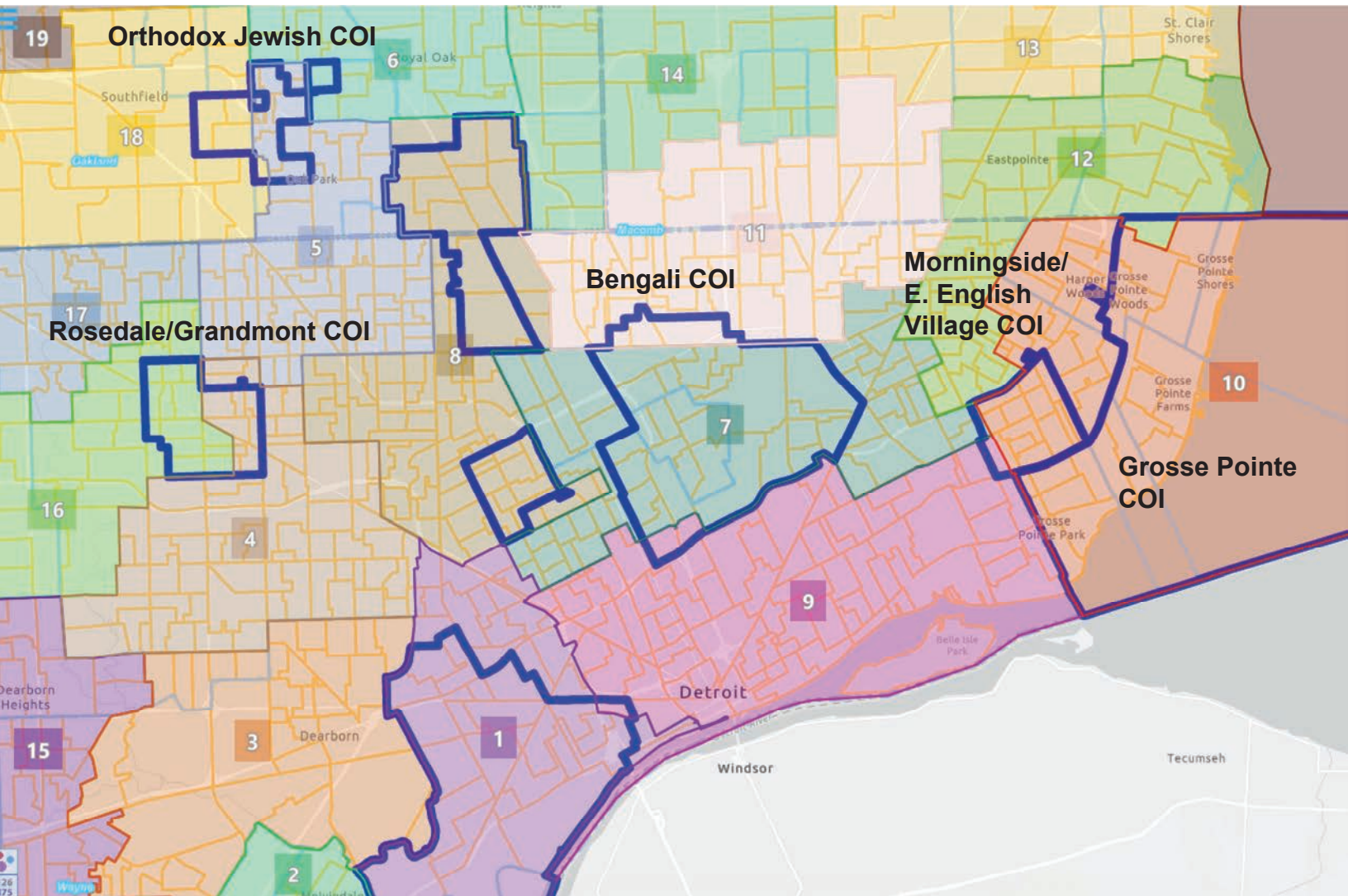
## Chestnut Congressional Community of Interest Splits



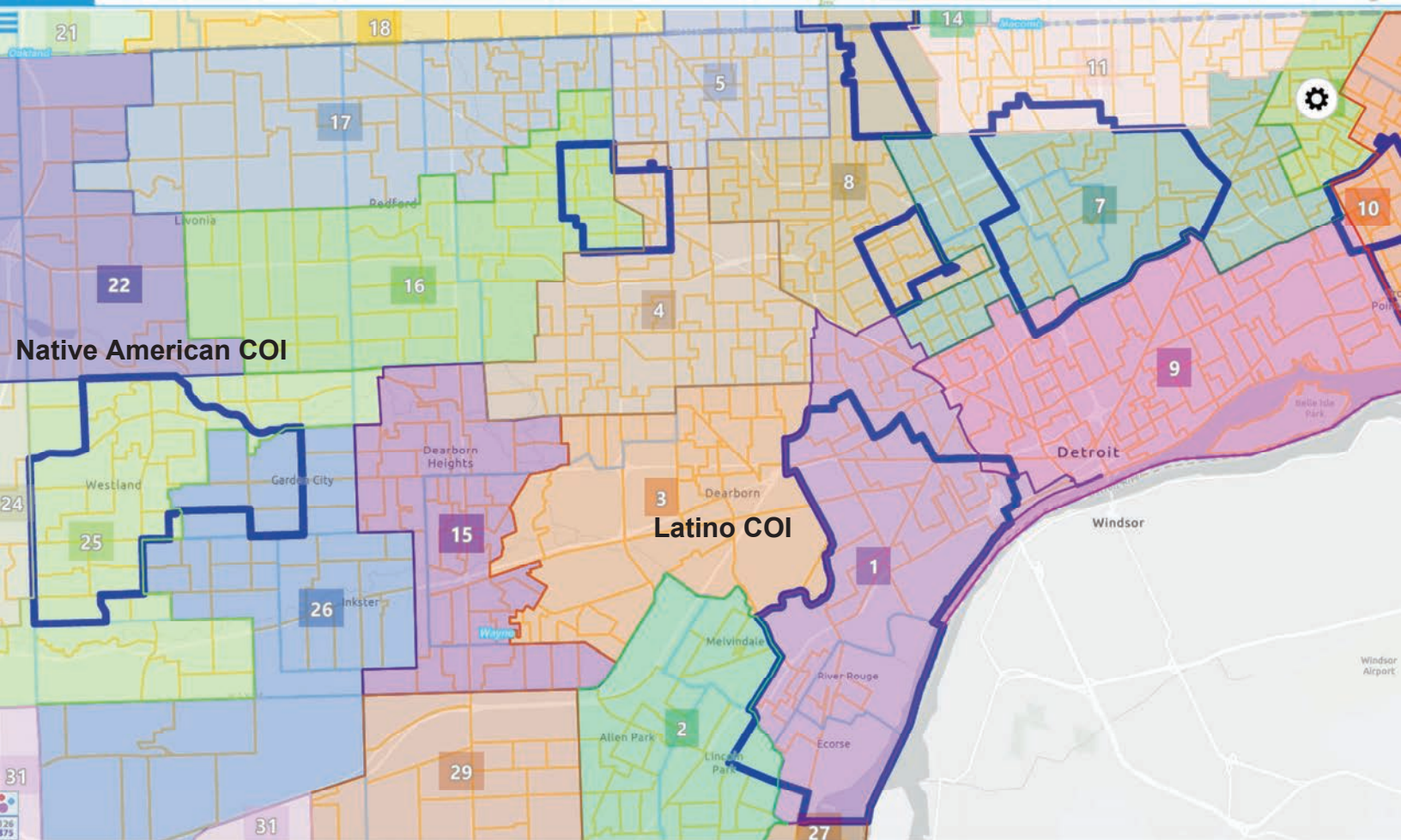
# Chestnut Congressional Community of Interest Splits



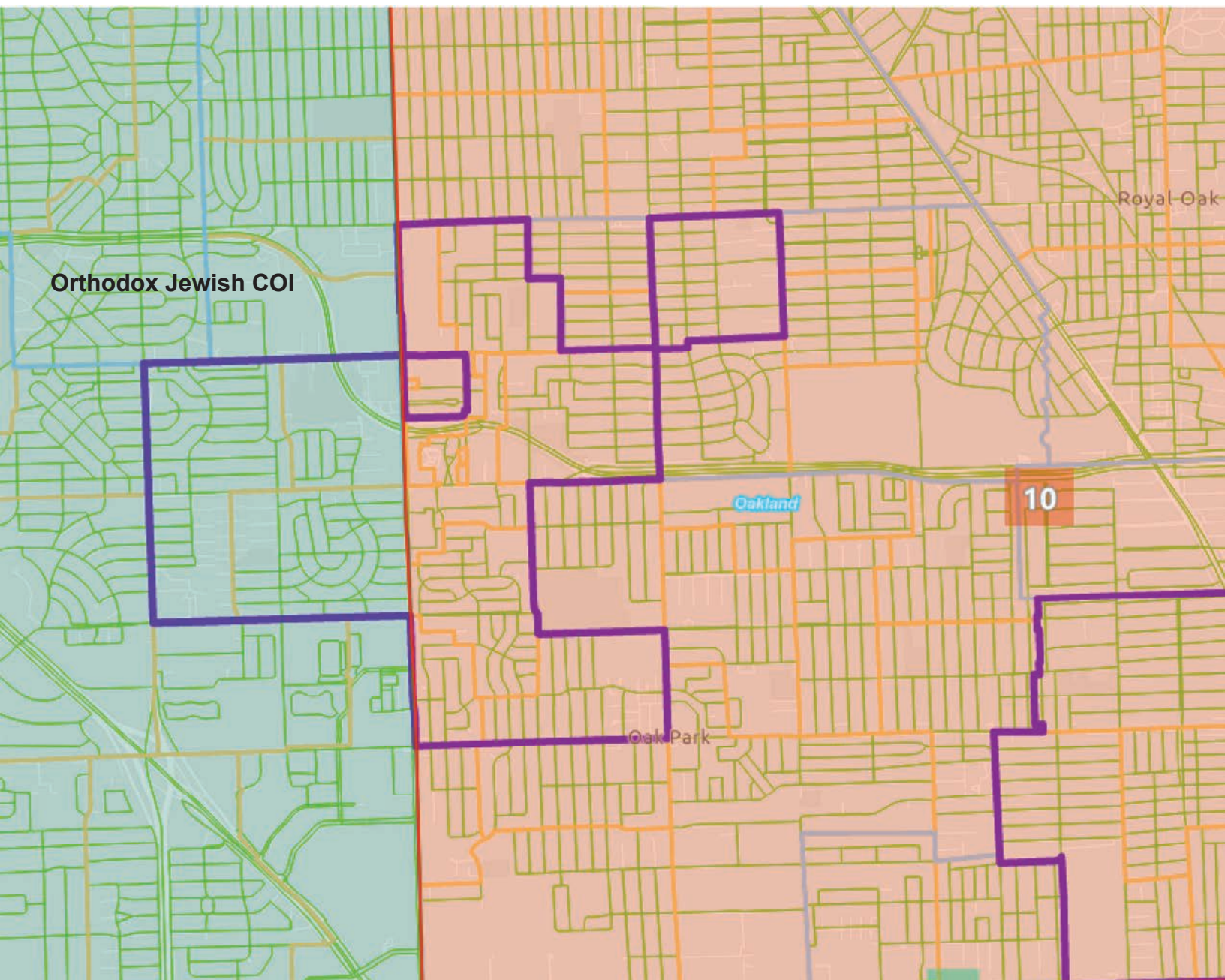
## Motown Sound State House Community of Interest Splits



# Motown Sound State House Community of Interest Splits



## Crane State Senate Community of Interest Split





# VOTERS NOT POLITICIANS

## Exhibit 21

**Date:** June 7, 2024

**To:** Michigan Independent Citizens Redistricting Commission

**From:** Jamie Lyons-Eddy, Executive Director of Voters Not Politicians

**Subject:** Recommendation to examine finalist map performance in close races

Voters Not Politicians was founded to end partisan gerrymandering in Michigan. At the heart of our mission is a fundamental belief in democracy and fair elections: The people of Michigan should get the government they voted for, and district maps should not provide a disproportionate advantage to any political party.

Dr. Lisa Handley provided you with a composite index, which is an average of elections across time. That's a helpful way to compare maps at a glance. However, like all averages, the composite index can be distorted by outliers and can obscure individual data points. Now that you've narrowed the maps to a smaller set of options, you can give yourselves more information.

We encourage you to "look under the hood" to see how your maps perform in close elections. **If a map is not fair in close elections, it's not a fair map.**

It's appropriate to look at close elections because in the last twelve years, neither major party has won the statewide Michigan Senate vote by more than 2.67%<sup>1</sup>. But of the 16 elections in your dataset, only 4 out of the 16 have been within 3% (2020 President, 2020 Senate, 2018 Attorney General, and 2016 President). Data from these elections provide the best prediction of how the finalist maps will perform in real state senate elections.

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<sup>1</sup> In [2014](#), the winning party won 50.74% of the statewide two-party vote for contested state senate seats. In [2018](#), the winning party won 51.34%. In [2022](#), the winning party won 50.13%, or 50.84% if uncontested seats are included. These numbers are from the Michigan Secretary of State's official results, and (following the process Dr. Handley uses) we exclude third-party and write-in votes.

# VOTERS NOT POLITICIANS

We have assembled your own data (directly from your website) to show how each of your 12 maps would perform in each of these close elections, and using a “Within 3%” composite, which is an average of those four elections. Below is a table summarizing our findings under that “Within 3%” composite.

Map	Mean-median	Efficiency gap	Seats-votes ratio	Lopsided margins
Cardinal (373)	2.65%	5.93%	3.42%	4.36%
Crane (385)	1.98%	3.38%	0.78%	3.44%
Curry (366)	3.14%	6.11%	3.42%	4.71%
Dove (364)	2.65%	8.76%	6.05%	6.12%
Finch v2 (399)	2.69%	5.93%	3.42%	4.46%
Heron (376)	0.82%	0.81%	-1.85%	2.03%
Kellom (403)	1.29%	3.54%	0.78%	3.29%
Lange (400)	3.13%	6.11%	3.42%	4.70%
Orton (393)	2.66%	6.34%	3.42%	4.73%
Starling v3 (395)	2.00%	3.52%	0.78%	3.39%
Szetela (404)	0.40%	0.74%	-1.85%	2.30%
Wagner (401)	2.68%	6.20%	3.42%	4.94%

**Note:** In every table in this document, red indicates partisan bias in favor of the Republican Party, and blue indicates bias in favor of the Democratic Party. Darker colors indicate more bias.

# VOTERS NOT POLITICIANS

## Summary of findings

### **Overall, there are two clear findings:**

1. Our analysis of your data on close races shows very clear differences among the maps.
2. Maps 376 (“Heron”) and 404 (“Szetela”) are consistently the fairest two maps across all four of your metrics.

On May 16, Dr. Handley urged you to look at mean-median and the efficiency gap as the best metrics to evaluate partisan fairness. Our analysis of your data using the **mean-median** test shows that only maps 376 (“Heron”) and 404 (“Szetela”) have a mean-median bias of less than 1% in close races.

Our analysis of your data using the **efficiency gap** shows that maps 376 (“Heron”) and 404 (“Szetela”) have an efficiency gap of less than 1%, and all other maps have an average efficiency gap greater than 3%.

On May 21, Dr. Handley told you that when looking at the **seats-votes ratio**, the most important test is whether the seats-votes ratio favors the party that won the popular vote, or whether it favors the party that lost the popular vote. A fair map has a seats-votes ratio that favors the party that won a majority of the vote - or more simply, a fair map is one where the party that gets a majority of the vote gets a majority of the seats. Our analysis of your data shows that only maps 376 (“Heron”) and 404 (“Szetela”) are fair by this test.

The **lopsided margins** test similarly shows that maps 376 (“Heron”) and 404 (“Szetela”) have the lowest bias. However, the gap between these two maps and the others is less dramatic on this metric than on the other three metrics.

# VOTERS NOT POLITICIANS

## Mean-median

Below is a chart of each map's performance on the mean-median test, with results for each of the four close elections, the MICRC composite produced by Dr. Handley, and the "Within 3%" composite (an average of the four close races). The maps are sorted from **most fair to most unfair** by their "Within 3%" score.

Map	<b><i>Within 3%</i></b>	MICRC composite	<b>MICRC 2020 Pres</b>	<b>MICRC 2020 Sen</b>	<b>MICRC 2018 AG</b>	<b>MICRC 2016 Pres</b>
Szetela (404)	<b>0.40%</b>	1.02%	<b>0.58%</b>	-0.13%	1.39%	0.97%
Heron (376)	<b>0.82%</b>	-0.26%	<b>1.17%</b>	0.47%	0.07%	1.94%
Kellom (403)	<b>1.29%</b>	1.48%	<b>0.70%</b>	0.85%	1.77%	1.89%
Crane (385)	<b>1.98%</b>	2.86%	<b>0.76%</b>	1.98%	2.33%	2.60%
Starling v3 (395)	<b>2.00%</b>	1.32%	<b>1.35%</b>	2.00%	1.78%	2.34%
Cardinal (373)	<b>2.65%</b>	2.61%	<b>1.95%</b>	2.60%	1.81%	3.09%
Dove (364)	<b>2.65%</b>	2.45%	<b>2.22%</b>	2.39%	2.78%	3.40%
Orton (393)	<b>2.66%</b>	3.36%	<b>1.03%</b>	2.68%	2.40%	3.05%
Wagner (401)	<b>2.68%</b>	3.40%	<b>1.52%</b>	2.67%	2.99%	3.06%
Finch v2 (399)	<b>2.69%</b>	2.66%	<b>1.96%</b>	2.65%	1.86%	3.14%
Lange (400)	<b>3.13%</b>	3.31%	<b>1.71%</b>	3.13%	3.05%	3.48%
Curry (366)	<b>3.14%</b>	3.31%	<b>1.32%</b>	3.14%	3.05%	3.47%

# VOTERS NOT POLITICIANS

## Efficiency gap

Below is a chart of each map's performance on the efficiency gap test, with results for each of the four close elections, the MICRC composite produced by Dr. Handley, and the "Within 3%" composite (an average of the four close races). The maps are sorted from **most fair to most unfair** by their "Within 3%" score.

The results here show a major discrepancy between the MICRC composite and the close elections. While the close-election bias in all twelve maps shifts toward the Republican Party, the shift is most remarkable for maps 403 ("Kellom"), 373 ("Cardinal"), and 399 ("Finch v2").

Map	<b><i>Within 3%</i></b>	MICRC composite	<b>MICRC 2020 Pres</b>	<b>MICRC 2020 Sen</b>	<b>MICRC 2018 AG</b>	<b>MICRC 2016 Pres</b>
Szetela (404)	<b>0.74%</b>	-0.83%	<b>-0.59%</b>	1.22%	1.15%	0.77%
Heron (376)	<b>0.81%</b>	-0.76%	<b>-0.54%</b>	1.28%	1.23%	3.35%
Crane (385)	<b>3.38%</b>	1.82%	<b>-0.56%</b>	3.86%	3.79%	3.50%
Starling v3 (395)	<b>3.52%</b>	1.88%	<b>2.21%</b>	4.01%	0.87%	3.49%
Kellom (403)	<b>3.54%</b>	-0.79%	<b>-0.51%</b>	4.03%	3.94%	3.45%
Cardinal (373)	<b>5.93%</b>	-0.82%	<b>4.66%</b>	6.44%	3.77%	5.91%
Finch v2 (399)	<b>5.93%</b>	-0.82%	<b>4.66%</b>	6.44%	3.77%	5.93%
Curry (366)	<b>6.11%</b>	1.89%	<b>2.14%</b>	6.62%	6.49%	3.41%
Lange (400)	<b>6.11%</b>	1.89%	<b>2.14%</b>	6.62%	6.49%	6.37%
Wagner (401)	<b>6.20%</b>	1.92%	<b>2.20%</b>	4.00%	6.59%	6.23%
Orton (393)	<b>6.34%</b>	1.87%	<b>-0.61%</b>	6.86%	3.84%	3.59%
Dove (364)	<b>8.76%</b>	4.58%	<b>4.84%</b>	6.41%	3.61%	6.04%

# VOTERS NOT POLITICIANS

## Seats-votes ratio

Below is a chart of each map's performance on the seats-votes ratio, with results for each of the four close elections, the MICRC composite produced by Dr. Handley, and the "Within 3%" composite (an average of the four close races). The maps are sorted from **most fair\* to most unfair** by their "Within 3%" score.

Map	<b><i>Within 3%</i></b>	MICRC composite	<b>MICRC 2020 Pres</b>	<b>MICRC 2020 Sen</b>	<b>MICRC 2018 AG</b>	<b>MICRC 2016 Pres</b>
Szetela (404)	<b>-1.85%</b>	-5.02%	<b>-3.89%</b>	-1.78%	-1.71%	-0.11%
Heron (376)	<b>-1.85%</b>	-5.02%	<b>-3.89%</b>	-1.78%	-1.71%	2.52%
Kellom (403)	<b>0.78%</b>	-5.02%	<b>-3.89%</b>	0.85%	0.92%	2.52%
Crane (385)	<b>0.78%</b>	-2.39%	<b>-3.89%</b>	0.85%	0.92%	2.52%
Starling v3 (395)	<b>0.78%</b>	-2.39%	<b>-1.26%</b>	0.85%	-1.71%	2.52%
Cardinal (373)	<b>3.42%</b>	-5.02%	<b>1.37%</b>	3.48%	0.92%	5.15%
Finch v2 (399)	<b>3.42%</b>	-5.02%	<b>1.37%</b>	3.48%	0.92%	5.15%
Curry (366)	<b>3.42%</b>	-2.39%	<b>-1.26%</b>	3.48%	3.56%	2.52%
Lange (400)	<b>3.42%</b>	-2.39%	<b>-1.26%</b>	3.48%	3.56%	5.15%
Orton (393)	<b>3.42%</b>	-2.39%	<b>-3.89%</b>	3.48%	0.92%	2.52%
Wagner (401)	<b>3.42%</b>	-2.39%	<b>-1.26%</b>	0.85%	3.56%	5.15%
Dove (364)	<b>6.05%</b>	0.24%	<b>1.37%</b>	3.48%	0.92%	5.15%

\*As we pointed out on Page 2 of this document, according to Dr. Handley, the direction of the seats-votes ratio is more important than the number. If maps are fair, the party that won the most votes should be the party that wins the most seats.

# VOTERS NOT POLITICIANS

## Lopsided margins

Below is a chart of each map's performance on the lopsided margins test, with results for each of the four close elections, the MICRC composite produced by Dr. Handley, and the "Within 3%" composite (an average of the four close races). The maps are sorted from **most fair to most unfair** by their "Within 3%" score.

Map	<b><i>Within 3%</i></b>	MICRC composite	<b>MICRC 2020 Pres</b>	<b>MICRC 2020 Sen</b>	<b>MICRC 2018 AG</b>	<b>MICRC 2016 Pres</b>
Heron (376)	<b>2.03%</b>	3.80%	<b>1.99%</b>	2.35%	2.88%	2.08%
Szetela (404)	<b>2.30%</b>	4.01%	<b>2.17%</b>	2.54%	3.34%	1.04%
Kellom (403)	<b>3.29%</b>	3.76%	<b>2.00%</b>	3.61%	4.14%	2.06%
Starling v3 (395)	<b>3.39%</b>	5.02%	<b>3.28%</b>	3.63%	3.10%	2.26%
Crane (385)	<b>3.44%</b>	5.09%	<b>2.04%</b>	3.65%	4.49%	2.27%
Cardinal (373)	<b>4.36%</b>	3.65%	<b>4.29%</b>	4.61%	3.93%	3.32%
Finch v2 (399)	<b>4.46%</b>	3.73%	<b>4.37%</b>	4.71%	4.02%	3.42%
Lange (400)	<b>4.70%</b>	5.05%	<b>3.28%</b>	4.91%	5.70%	3.61%
Curry (366)	<b>4.71%</b>	5.05%	<b>3.29%</b>	4.95%	5.70%	2.20%
Orton (393)	<b>4.73%</b>	5.10%	<b>2.06%</b>	4.92%	4.49%	2.27%
Wagner (401)	<b>4.94%</b>	5.23%	<b>3.49%</b>	3.87%	5.85%	3.90%
Dove (364)	<b>6.12%</b>	6.18%	<b>4.63%</b>	5.00%	4.43%	3.70%



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## The results are in: Michigan Republicans break historic democratic trifecta

**Advocacy News – Nov. 6, 2024**

The 2024 election results are in and here's what we know (as of 10:30 a.m. Nov. 6):

- Despite state Democrats spending at least \$37 million this election cycle, which has been reported as a three to one spending advantage to state Republicans, Michigan Republicans took control of the State House, breaking the current Democratic trifecta. Come January, Republicans will hold 58 of Michigan's 110 House seats.



- Republicans now hold seven congressional seats and Democrats hold six. Republicans picked up a seat in the 7th Congressional District with Tom Barrett prevailing over Curtis Hertel, Jr. and Democrats maintained a competitive seat in the 8th with current State Sen. Kristen McDonald Rivet garnering the win after the retirement of longtime rep. Dan Kildee.
- At the time of publishing, the open U.S. seat is still too close to call with Congresswoman Elissa Slotkin and former Congressman Mike Rogers at 48.5% to 48.4% of the vote respectively.

**What we're saying:** "We look forward to putting the divisive and polarizing November elections behind us and focusing on the work important to our state's shared future – starting with the impending Lame Duck legislative session." View the Michigan Chamber's [full statement](#) on the election results.

**Go deeper and be in the know:** Join us to unpack the election outcomes at our [State of Michigan Business \(SOMB\)](#) this Thursday, Nov. 7. This in-demand, virtual event will take a deep dive into how these 2024 race results, along with the latest data and trends, are expected to shape the economy in 2025 and how businesses can prepare. We hope to see you there. Just \$10 for members and \$25 for future members, or [join today](#) to save and take advantage of numerous other member benefits.

**For more information:** Please reach out to [Wendy Block](#) with questions or to share priorities and concerns going into the lame duck session or the incoming 2025-26 legislative session.

**The Full Results** (\* indicates MI Chamber endorsement):

**U.S. Senate:**

- *Elissa Slotkin or Mike Rogers TBD*

**U.S. House:**

- District 1: Representative Jack Bergman\*
- District 2: Representative John Moolenaar\*
- District 3: Representative Hillary Scholten
- District 4: Representative Bill Huizenga\*
- District 5: Representative Tim Walberg\*
- District 6: Representative Debbie Dingell
- District 7: Tom Barrett\*
- District 8: Kristen McDonald Rivet
- District 9: Representative Lisa McClain\*
- District 10: Representative John James\*
- District 11: Representative Haley Stevens
- District 12: Representative Rashida Tlaib
- District 13: Representative Shri Thanedar

**Michigan State House: (Representative indicates an incumbent)**

## Exhibit 23

To: The Michigan Independent Citizens Redistricting Commission  
From: Elizabeth Gelman, Danielle Hamer, Edward Plaut, and Tom Ivacko  
Date: June 25, 2024  
Re: CLOSUP Public Comment Analysis—Comments on Draft Maps

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### June 25, 2024 Update

This version of the memo updates CLOSUP's June 24th memo with:

1. All Mapping Portal comments through close-of-business on Friday, June 21, 2024
2. The 76 comments made at the June 13, 2024 Public Hearing

So far, the only comments not included are from the 6/20 meeting transcript, which is not yet available.

The team has updated the quantitative counts in each section. However, none of the qualitative analysis has been updated, in the interest of time. For the most part, the newly added comments appear consistent with the previously described broad trends, but the new comments have so far only been coded for overall map likes/dislikes by unique commenters, including their location, not yet more fully coded and analyzed for comments on COIs, jurisdictions, or other detailed issues.

### Key Takeaways

- **Data:** 1,437 public comments, 407 unique commenters, 4,031 specific points addressed
- **Most Common Concerns:** 1. Partisan Fairness, 2. Keep Jurisdictions and COIs Whole
- **Most Preferred Maps: 1. Szetela (Plan #404), 2. Heron (Plan #376)**
  - **Szetela (#404):** Most popular and commented on map. Commenters liked strong partisan fairness metrics and protection of Detroit and Oakland County COIs.
  - **Heron (#376):** Second most popular. Commenters liked strong partisan fairness metrics with some hesitation on Metro Detroit COIs.
  - **Kellom (#403):** Third highest favorability rating. Commenters liked strong partisan fairness metrics, but not as many comments as other preferred maps.
  - **Cardinal (#373):** Heavily commented on map, but polarizing. Commenters liked the protection of the Chaldean COI, but disliked the partisan fairness numbers.
- **Region-Specific Comments**
  - **Szetela (#404) and Kellom (#403)** received consistently positive comments across all regions.

- **Heron (#376)** received positive feedback from all regions except Macomb County, which gave negative feedback overall.
- **Cardinal (#373)** received the most disagreement across regions with negative feedback overall from all regions except Macomb County, which gave positive feedback overall.

## Executive Summary

The CLOSUP team analyzed 1,437 public comments from 407 individuals submitted between May 21 and June 21, 2024 on the proposed state senate maps for Wayne, Oakland, and Macomb Counties. The most popular of the twelve draft maps were Szetela (Plan #404) and Heron (Plan #376). The Kellom (Plan #403) and Cardinal (Plan #373) maps also received many positive comments. In general, commenters most frequently noted a map’s partisan fairness performance, how the map handled relevant Detroit-area COIs, and how the map protected major jurisdictions within the new state senate districts. The team analyzed the comments by map:

- **Szetela (#404):** Szetela received the most positive comments and the highest overall net favorability rating (the number of “like” commenters minus “dislike” commenters). Commenters consistently praised the Szetela map’s partisan fairness metrics and Voting Rights Act (VRA) compliance. Commenters appreciated the protection of Detroit-area COIs and many Oakland County jurisdictions. Some commenters were apprehensive about the Szetela map’s splitting of the Chaldean COI in Sterling Heights and Troy.
- **Heron (#376):** Heron received the second most positive comments and the second highest overall net favorability rating. Commenters consistently praised Heron’s partisan fairness metrics and VRA compliance. Commenters appreciated the protection of Wayne and Oakland COIs, but there was greater criticism from Macomb County residents of the map’s treatment of the Chaldean COI and Macomb County communities.
- **Kellom (#403):** the Kellom map received the third highest net favorability rating, but did not receive as many total comments as the other positively rated maps. Commenters appreciated the Kellom map’s treatment of Detroit’s COIs, the preservation of many Oakland County jurisdictions, and the map’s strong VRA compliance. Commenters did not like some of the COI districting decisions and thought that the partisan fairness metrics, while good, could have been stronger.
- **Cardinal (#373):** Cardinal received the most comments of any map with many positive comments, particularly from Macomb County commenters. Positive commenters appreciated the protection of the Chaldean COI in Sterling Heights and Troy. However, the map received a negative net favorability rating from all other regions for its poor partisan fairness metrics .
- **Other Maps:** All other maps received negative overall favorability ratings. Crane (#385), Dove (#364), and Finch (#399), while receiving negative overall ratings, did receive

positive favorability ratings overall among Macomb County commenters. Generally, commenters on the remaining eight maps pointed out the poor partisan fairness metrics and lack of protection for COIs and Detroit-area jurisdictions.

## **Methodology**

The CLOSUP team followed a similar “coding” methodology as it did in its [May 20, 2024 memo](#). The team coded publicly submitted comments through close-of-business June 21, 2024, excluding the Commission’s June 20th meeting and any Mapping Portal comments submitted on June 21st.

**Map Preference Coding:** For the purposes of this memo, the team focused on draft map preferences among commenters. First, the team assigned each of the twelve draft maps a new “600” map code within its database.<sup>1</sup> Second, the team then used a system of decimal subcodes to indicate a comment’s level of support for the maps it mentioned: 6XX.1 indicated support, 6XX.2 indicated opposition, and 6XX.3 indicated a suggested modification. For example, a comment that supported the Szetela map but disliked Dove would receive codes 611.1 (support for Szetela map) and 603.2 (opposition to Dove). The team also assigned unique Commenter ID codes to every person who submitted a comment, to track multiple submissions by a single commenter (Note: This database will be available for downloading from the CLOSUP website for any stakeholders to examine in detail.)

Using these map preference codes and the unique commenter IDs, the team evaluated each map’s **net favorability rating**. The team calculated a map’s net favorability by subtracting the number of unique “dislikes” from the number of unique “likes” each map had. Because the calculation used only unique likes and dislikes, each commenter could only affect a specific map’s count once, but the team would still aggregate their “votes” across multiple comments. For example, if a unique commenter expressed support for Heron in twelve separate comments, it would still only count as one positive vote for Heron. If the same commenter then opposed Dove in a different comment, that opposition would be added to that commenter’s unique file as one negative vote for Dove.

After tallying up all positive and negative comments from each unique commenter, the team calculated the net favorability of the maps. One way to think about this calculation is as a voting ballot: each commenter could vote for, against, or make a suggestion on each map, with their single ballot aggregated across their multiple comments. Commenters could spread their thoughts across multiple comments, but could not vote on an individual map multiple times.

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<sup>1</sup> See the Appendix for a breakdown of the new 600 codes.

The team used the University of Michigan GPT AI service, with human review of its findings, in order to synthesize the broad trends across the many comments. For a further explanation of our process, please see the Appendix. All AI results were confirmed by hand to ensure their veracity.

As was discussed at previous Commission hearings, there were likely advocacy campaigns in favor and against certain draft maps. Nonetheless, our goal was to faithfully report each unique commenter's mapping preferences. As such, we did not filter out any comments that expressed an opinion on the draft maps, even if the comment appeared to be copied from a template or mimic other comments. So long as the comment came from a unique commenter, their comment was included in our analysis.

## **Findings**

### *Overview and Quantitative Counts*

From the May 21, 2024 Remote Meeting through close-of-business June 21st, 2024, the team coded 1,437 comments from 407 individual commenters. Across those submissions, the team identified 4,031 specific points addressed using its codebook. The Mapping Portal made up the bulk of the comments, with 1,189 coming from that portal. 160 comments came from the Commission's town halls, public hearings, and remote meetings. By comparison, 84 comments came from the Public Comment Portal, 2 by letter, and 2 by email. Many commenters made repeat appearances across forums, submitting a comment in the Mapping Portal, speaking at a hearing or meeting, and following up their testimony in the Public Comment Portal. Again, their support or opposition to specific maps would only be counted once per map, regardless of how many times they may have expressed that support or opposition across these public input paths.

On one hand, this is an impressive level of resident participation over a short period of time in a process that before 2020 was conducted behind closed doors and which was not accessible to them. On the other hand, the 407 unique people who submitted comments represent just a tiny sliver of Michiganders. In total, 260 people submitted comments from Detroit and the metro Detroit area at issue in the redistricting. 146 commenters submitted their feedback from other parts of the state (or did not state where they were submitting from), including the Ann Arbor, Lansing, and Grand Rapids areas.

A number of speakers represented groups as opposed to speaking solely for themselves.<sup>2</sup> Several comments (5) came from representatives of the Detroit Downriver Chapter of the A. Philip Randolph Institute (APRI) to advocate for Downriver Wayne County COIs. These commenters generally advocated for keeping the Downriver communities in the same district as the City of Detroit, as opposed to surrounding metro Detroit communities. Several comments (10) came

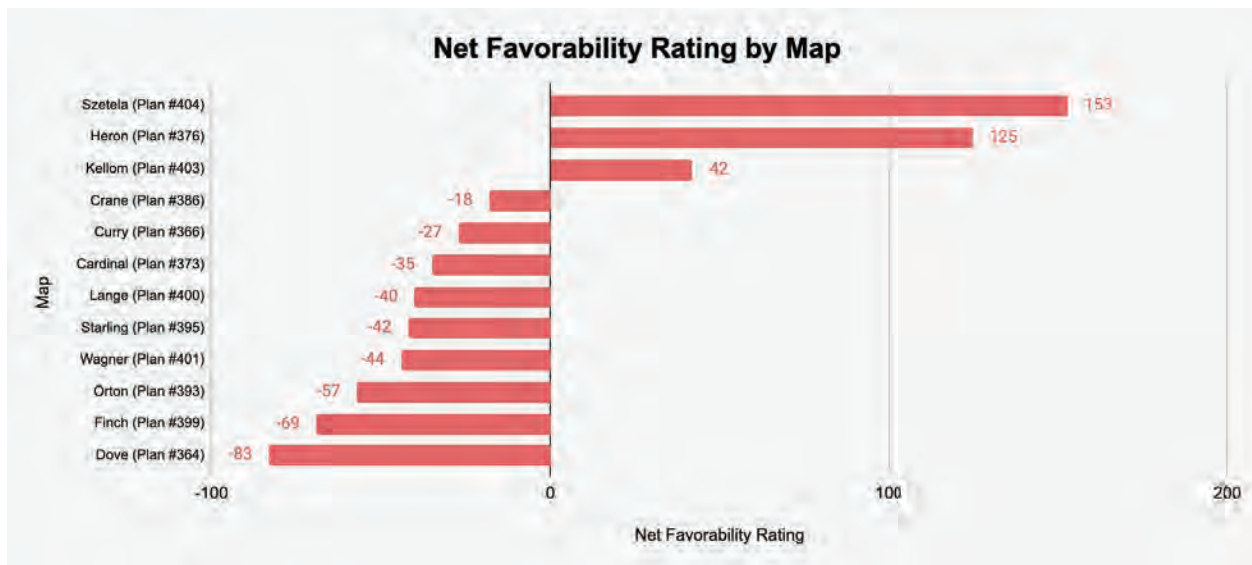
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<sup>2</sup> JUNE 25, 2024 UPDATE: These totals changed with the introduction of new mapping data. These numbers are not updated.

from the Chaldean Community Foundation and Chaldean Voices Matter groups, advocating for the protection of the Chaldean-American COI. Several comments (7) came from representatives of the Arab Community Center for Economic and Social Services (ACCESS) to advocate for protecting MENA COIs in Dearborn and western Wayne County. Others (2) spoke on behalf of Voters Not Politicians (VNP) in support of VNP’s partisan fairness memo or in support of politically equitable redistricting. Some municipal politicians (3) spoke on behalf of their constituents.

*Individual Map Analysis*

Four maps came to the forefront of our analysis: Szetela (#404), Heron (#376), Kellom (#403), and Cardinal (#373). Szetela, Heron, and Kellom maps were the only maps that received a positive net favorability rating overall. While Cardinal has negative net favorability, we included it in our analysis due to the large number of comments in both directions.



*The Overall Net Favorability Rating of Each Draft Map*

Szetela (Plan #404)

229 of the 407 unique commenters commented on the Szetela map, the most of any map. This map was the most popular in terms of total positive comments and net favorability rating, with 191 commenters in support of the map and 38 in opposition. Eighteen commenters noted potential changes to the map.

**Partisan Fairness:** Commenters praised the Szetela map’s strong performance in partisan fairness, with numerous positive comments highlighting balanced representation across political parties. The Szetela map received the highest number (over 100) of favorable mentions for this criterion compared to other maps. While a few comments raised concerns about community

divisions potentially impacting partisan fairness, these were significantly outweighed by positive assessments.

**Geographic Representation:** The map generally received positive feedback for its representation of various counties and cities, particularly in Wayne County and Oakland County. It was praised for effectively maintaining community integrity in Detroit and representing communities in Southwest Detroit. However, some concerns were raised about the division of certain communities, especially the Chaldean community, and the handling of areas like Taylor and Farmington Hills.

**Communities of Interest:** The Szetela map garnered significant praise for its representation of various COIs, including Latinx communities in Southwest Detroit and the MENA COI in Dearborn and Oakland counties. However, a notable criticism emerged regarding the inadequate protection of the Chaldean COI, with multiple comments indicating that this community was split across several districts. Some concerns were also raised about the division of other ethnic groups, such as the Arab community in Macomb County.

#### Heron (Plan #376)

225 of the 407 commenters commented on the Heron map. Heron was the second most popular map in terms of net favorability rating, with 175 commenters in support and 50 in opposition. Eleven commenters had proposed suggestions for the map.

**Partisan Fairness:** Heron is widely praised for its approach to partisan fairness. Although there are some critiques, the critiques are not very specific and the positive comments significantly outnumber the negative ones.

**Geographic Representation:** Heron received mixed feedback regarding its treatment of specific jurisdictions, viewed as representing some communities well, while splitting others. Heron was praised for protecting cities in Wayne and Oakland County like Pontiac. Some comments raised specific concerns about splits in Sterling Heights and Troy and issues with combining it with districts containing Detroit residents.

**Communities of Interest:** Heron is seen as fair and protective of various COIs, including Arab, Black, Latino, and LGBTQ communities, with several mentions praising its enhancement of racial equity. However, the most prominent criticism is related to the treatment of the Chaldean COI, with many comments asserting that the map either disrespects or splits this community across multiple districts, with a particular focus on fracturing Chaldean communities in the 11th district.

### Kellom (Plan #403)

90 of the 407 commenters commented on the Kellom map. This map had the third highest net favorability rating, with 66 commenters in support and 24 in opposition. Four commenters had proposed suggestions for the map. Despite the Kellom map's positive reception from those that did comment, it did not receive even half as many commenters as either Heron or Szetela.

**Partisan Fairness:** The Kellom map received mixed feedback regarding its partisan fairness, with some comments criticizing its partisan fairness metrics. A few comments mention the need for tighter adherence to VRA compliance. While much of the feedback leans negative, some comments suggest that the Kellom map ranks well or second-best after the Szetela map in achieving balanced representation.

**Geographic Representation:** Some commenters acknowledge that the Kellom map protects certain geographic communities, particularly Oakland County interests, while others disapprove of the map's boundary decisions affecting cities like Royal Oak. Some say the map does well in preserving community boundaries surrounding Detroit. Several comments approved of the Kellom map's representation of Detroit, as well as downriver communities and their industrial-related needs, while others noted that the Kellom map was not representative of Detroit areas. Some comments suggested that the Kellom map combines areas that may not share common interests, such as merging Harper Woods and Detroit with the Grosse Pointes, or linking Southern Oakland County with Macomb.

**Communities of Interest:** Several comments note that the map effectively keeps Southwest Detroit together, aligning with the interests of the Hispanic community in that area. Other comments assert that the Kellom map divides COIs like the Chaldean community.

### Cardinal (Plan #373)

211 of the 407 commenters commented on the Cardinal map. Cardinal had the sixth highest net favorability rating (though it's negative overall), with 88 commenters in favor of the map and 123 in opposition. Seven commenters had proposed changes for the map.

**Partisan Fairness:** Negative sentiment on partisan fairness stands out, with a substantial number of comments arguing that Cardinal is bad for partisan fairness.

**Geographic Representation:** Several comments note that Cardinal divides Romulus, noting the importance that the municipality be kept whole because of its unique needs due to Detroit Metro Airport and other transportation infrastructure. Commenters laud the map for keeping certain areas in Macomb County whole. Others mention that the map protects Detroit neighborhoods. Some criticism comes from the mention that while Cardinal keeps specific communities together, it fails to be as representative or inclusive of all community needs, such as the



industrial-related needs of downriver communities, compared to other maps like Heron and the Kellom map.

**Communities of Interest:** Many of the positive commenters on Cardinal noted the map's protection of the Chaldean COI akin to the old Linden map. Other commenters mentioned that Cardinal also protects Arab communities and the Clinton River Watershed. Meanwhile, some comments broadly mention that the map fails to promote racial equity and question whether the map would comply with the VRA.

#### Other Maps

The remaining maps received consistently negative feedback overall. Crane received 70 commenters and had the fourth highest net favorability rating, with 26 positive commenters and 44 negative commenters. Curry received 59 commenters and the fifth highest net favorability rating, with 16 positive commenters and 43 negative commenters. Lange received 62 commenters and the seventh highest net favorability rating, with 11 positive commenters and 51 negative commenters. Starling received 56 comments and the eighth highest favorability rating, with 7 positive commenters and 49 negative. Wagner received 56 comments and the ninth highest favorability rating, with 6 positive commenters and 50 negative commenters. Orton received 71 commenters and the ninth highest favorability rating, with 7 positive commenters and 64 negative commenters. Finch received 97 commenters and the tenth highest rating, with 14 positive commenters and 83 negative commenters. Dove received 121 commenters and the lowest favorability rating, with 19 positive commenters and 102 negative commenters.

**Partisan Fairness:** The public commentary on the proposed Crane, Starling, Dove, Finch, Curry, Lange, Orton, and Wagner maps was significantly dissatisfied overall with partisan fairness. This trend is pronounced in remarks about Dove, Orton, Finch, Lange, and Wagner. Many comments also raised potential issues with the Voting Rights Act, where commenters were concerned that the Lange, Wagner, and Curry maps would not provide sufficient minority-majority representation compared to the original Linden map.

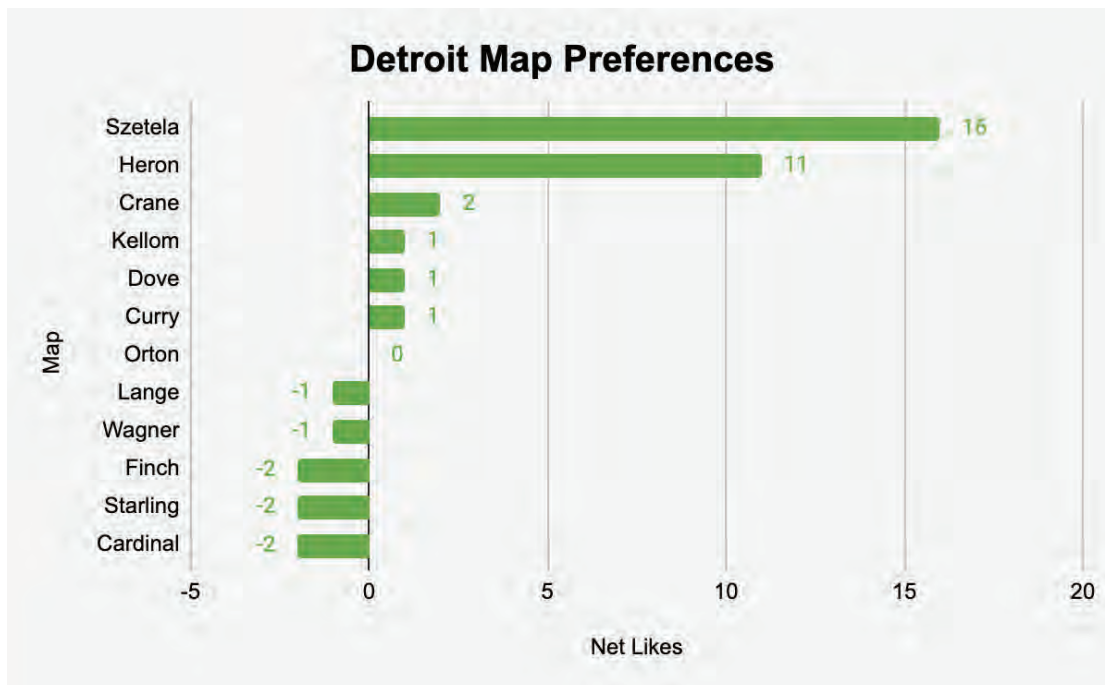
**Communities of Interest:** The handling of communities of interest (COIs), including the representation of minority groups, emerged as another significant concern from the comments. Commenters criticized these specific maps for their handling of diverse ethnic COIs, with the Chaldean community frequently cited as a group that has been unfavorably split, particularly by the Orton and Wagner maps. Moreover, commenters contended that maps like the Lange and Curry maps undermined the African American COI's representation in and near Detroit, noting potential VRA compliance issues. Downriver communities also argued that Crane failed to represent the unique economic and environmental interests of more industrial Wayne County communities.

**Geographic Representation and Community Boundaries:** Comments also address the issue of geographical cohesion and respect for community boundaries in the proposed maps. Commenters criticized the combination of distinct communities—linking urban to rural communities or grouping districts that do not share common interests—in the Starling and Wagner maps. Commenters disliked the connection between disparate communities such as Harper Woods, Detroit, and Grosse Pointes, or Sterling Heights and rural Macomb County.

*Regional Map Preferences*

We analyzed the relationship between a commenter’s location and their mapping preferences. In total, 88 commenters came from Oakland County, 69 from Macomb County, 48 from Detroit, 19 from Dearborn and Dearborn Heights, 36 from other Wayne County areas, 49 from the Lansing area, 40 from Washtenaw County, 4 from the Grand Rapids area, 7 from Southwest Michigan, 2 from East Central Michigan, 2 from Western Michigan, 1 from Northwest Michigan, 1 from the Upper Peninsula and 40 from an unlisted or unreported location.

As a whole within each region, commenters tended to be in agreement with one another about liking or disliking a map. Commenters from Detroit rated the Szetela and Heron maps most favorably. Oakland County commenters were largely in agreement on liking the Szetela, Heron, and Kellom maps, and Macomb County commenters vastly favored Cardinal. Washtenaw County commenters liked the Szetela and Heron maps most, Finch and Cardinal least.<sup>3</sup>

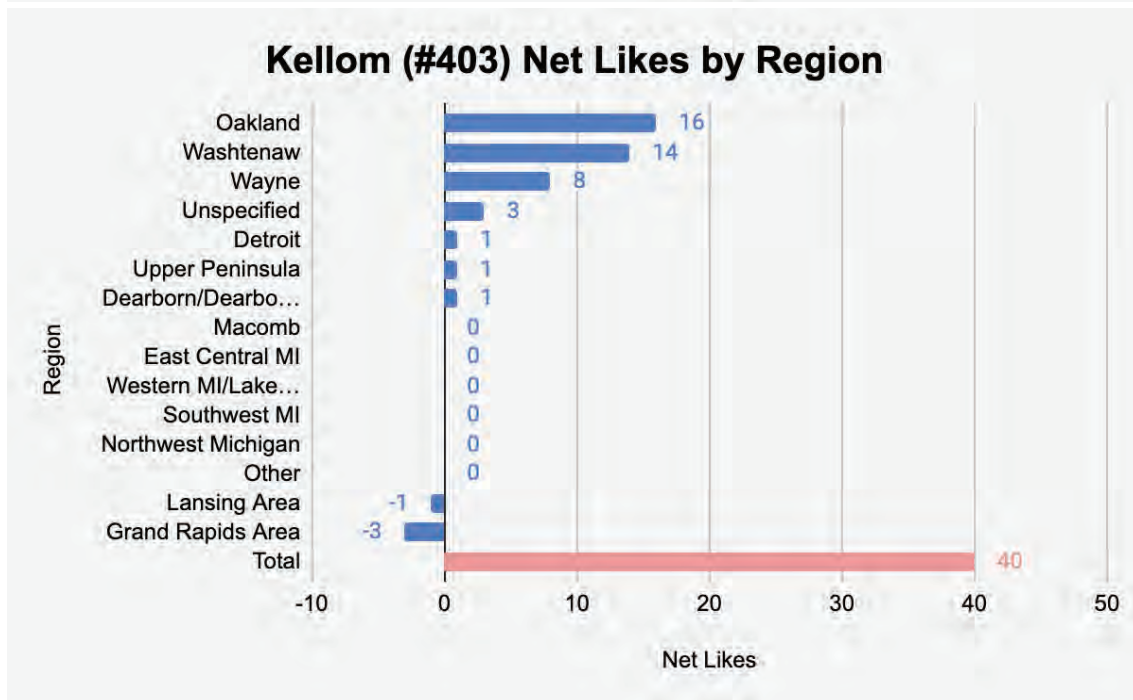
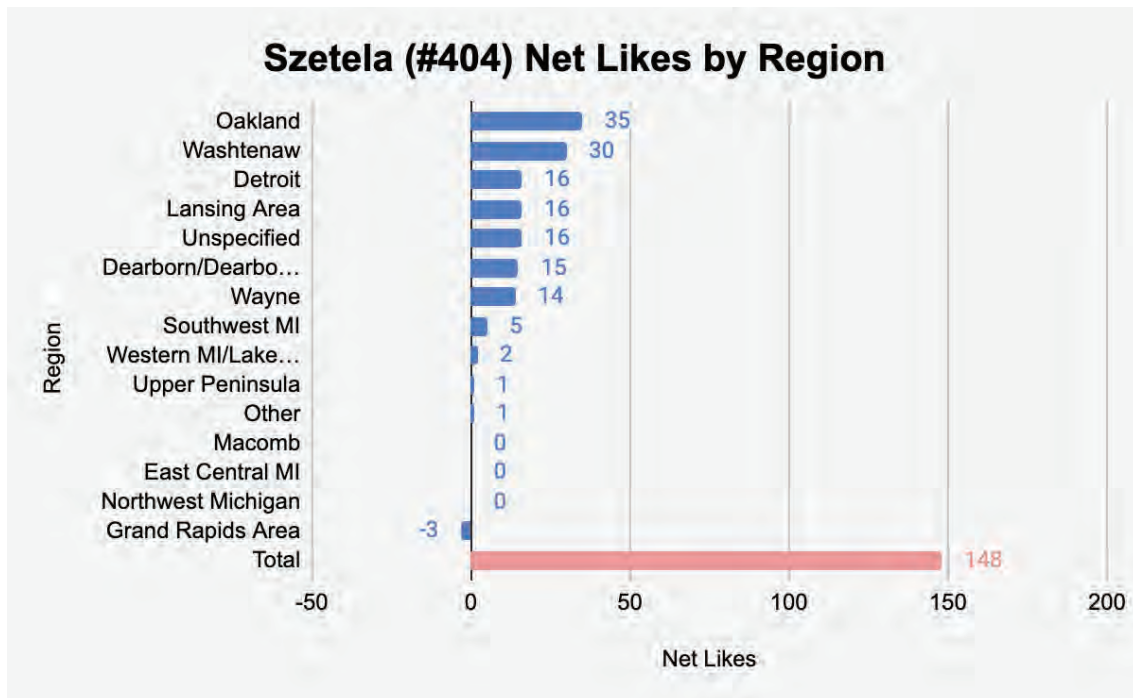


<sup>3</sup> See the Appendix for the map preferences of other, non-Detroit regions.

Next, we examined the regional breakdown in preference for each individual map. While we calculated the aggregate net favorability rating for each map, this additional analysis broke down that number further. Many maps showed agreement across regions. The Wagner, Orton, Lange, and Starling maps all consistently had a negative net favorability rating across almost all regions.<sup>4</sup> Finch, Dove, Curry, and Crane were additionally quite consistently negative apart from Macomb County comments which were net positive. The Szetela and Kellom maps both received mostly consistently positive net favorability ratings across regions.

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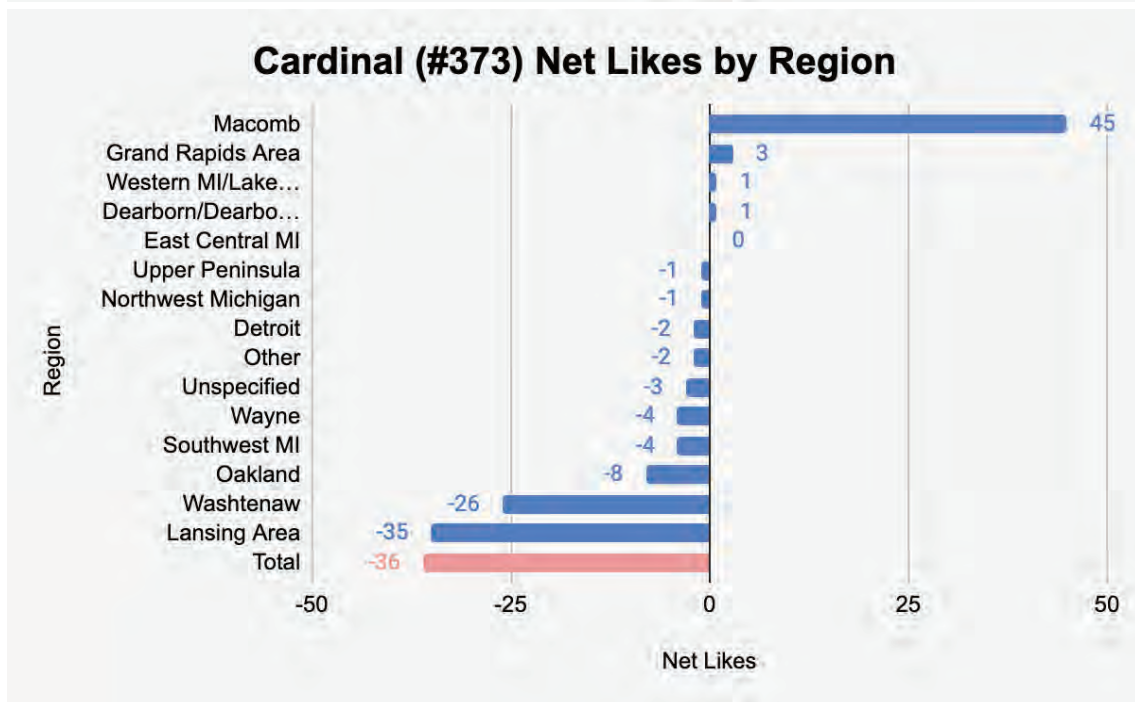
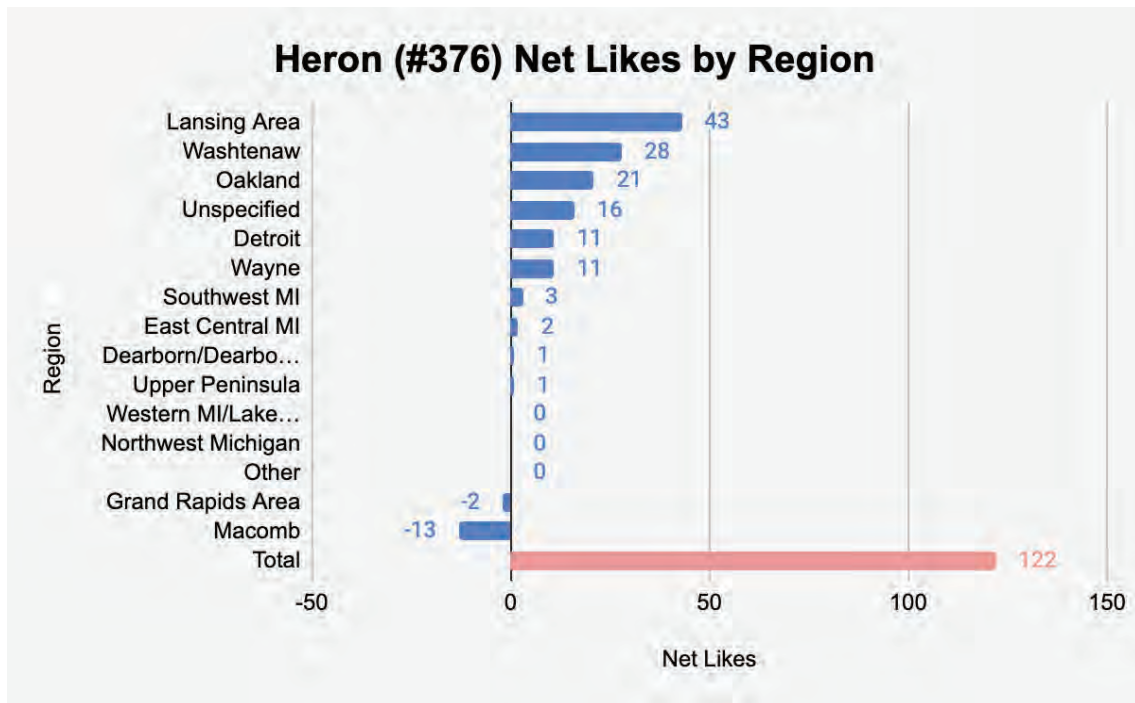
<sup>4</sup> See Appendix for regional breakdowns of Wagner, Orton, Lange, Curry, and Starling.



Heron (#376), Cardinal (#373), and Macomb County

Heron and Cardinal received split feedback across regions. Heron, while receiving an aggregate positive net favorability rating of 122, was overall disliked by Macomb County residents (-13). Commenters from the Lansing area (+43), Washtenaw County (+28), and Oakland County (+21) comprised the majority of positive net commenters. Cardinal, however, received the most

disagreement across regions. While the aggregate net favorability rating shows a net negative of -36 commenters, Macomb County commenters overwhelmingly favored this map with a net positive of 45 commenters. Oakland County (-8), Washtenaw County (-26), and Lansing area (-35) commenters, however, had net negative comments.



## **Conclusion**

In conclusion, the Szetela (#404), Heron (#376), and Kellom (#403) maps received the highest net favorability ratings, with the Szetela map receiving the highest overall rating. The Cardinal (#373) map also received many positive commenters, but still had an overall negative net favorability rating. The remaining eight maps received broadly negative ratings.

In making their comment, commenters emphasized (1) the importance of partisan fairness metrics and (2) the protection of their COI and jurisdiction. There were regional preferences among the different maps, but the Szetela map was still positively rated overall across all regions.

The CLOSUP team will provide suggestions and changes to the public comment solicitation and analysis process for future redistricting cycles in a later memo.

## **Appendix**

### *CLOSUP Annotated Codebook*

The CLOSUP team's annotated codebook and the frequency of codes in the 1155 total comments. **NOTE:** the listed frequencies **do not** account for unique commenters.

- **01 Region (Either commenter residence or focus of comment)**
  - 101 City of Detroit—111 comments
  - 102 Metro Detroit—610 comments (often touched on multiple counties)
    - Oakland County—366 comments
    - Wayne County—78 comments
    - Macomb County—166 comments
    - Taylor
  - 103 Lansing area—198 comments
    - Ingham County
  - 104 Grand Rapids area—21 comments
    - Kent County
  - 105 East Central MI—4 comments
    - Flint
    - Midland
    - Saginaw
    - Tri-Cities
  - 106 Upper Peninsula—8 comments (single commenter)
    - Marquette
  - 107 Western MI/Lakeshore—9 comments
    - Muskegon
    - Berrien County
    - Ottawa County
  - 108 Washtenaw County—185 comments
    - Jackson
    - Ann Arbor
    - Ypsilanti

- 109 Southwest MI—13 comments
  - Kalamazoo
- 110 Northwest Michigan—1 comments
  - Traverse City
- 111 Thumb—0 comments
  - Port Huron
  - Kingston
- 112 Northern Michigan—0 comments
  - South of UP, usually rural
- 113 Dearborn/ Dearborn Heights—30 comments
- 199 City, County, Municipality Other than Listed—7 comments
- **02 COI**
  - 201 MENA (Middle Eastern North African)—143 comments
    - Also Muslim community
    - Mention of ACCESS
  - 202 African American/Black Community—87 comments
  - 203 Native Americans/Indigenous Community—0 comment
  - 204 Bengali—5 comment
  - 205 Hispanic/Latino—14 comments
  - 206 AAPI (Asian American Pacific Islander)—13 comment
  - 207 Unions—0 comment
    - UAW (United Auto Workers)
  - 208 Watershed/Environmental COI—10 comment
  - 209 Farming/agriculture—0 comments
  - 210 Religious Community—4 comment
  - 211 Schools and School Districts—12 comments
    - Includes universities
  - 212 Shared Publicly Funded Resources—19 comments
    - Utilities like Water & Electric
    - Community Centers
    - Fire & Police Departments
    - Hospitals
  - 213 Other economic communities—22 comments
    - Auto companies (not to be confused with unions)
    - Tourism
  - 214 Minority Community- Unspecified—9 comments
  - 215 Neighborhoods—10 comments
  - 216 LBGTQI+ Community—17 comments
  - 217 Rural Community—8 comments
  - 218 Urban Community—11 comments
  - 299 Other COI—109 comments
    - Includes Chaldean COI
- **03 Process**
  - 301 Hiring Staff—0 comments
  - 302 Hearing Conduct—9 comments
  - 303 Technology/Portal—1 comment

- 304 Request for Meetings/Continue Process—0 comments
- 305 Budget/Salaries—0 comments
- 306 Accessibility—4 comments
- 307 Pro-Staff—0 comments
- 308 Con-Staff—4 comments
  - Use also for con staff hiring
- 309 Legality of process—8 comments
  - Concern with constitutionality of law
- 310 Ensure Fair Map Voting procedure—0 comments
  - In reference to when **commissioners** were voting on maps
- 399 Other process comments—30 comments
- **04 Map Themes**
  - 404 Partisan Fairness & Competitive Districts—677 comments
  - 405 Compactness—7 comments
  - 406 Concern that Maps Mishandle Jurisdiction Boundaries—64 comments
    - i.e, respect County, City, and Township Boundaries
  - 407 Concern that Maps Mishandle COIs—38 comments
  - 409 Voting Rights Act issues—44 comments
  - 410 Prioritize keeping COI whole—387 comments
  - 411 Prioritize keeping Jurisdictions whole—119 comments
  - 499 Other comments on maps—3 comments
- **05 Other**
  - 501 Prison Gerrymandering—0 comments
  - 502 Name & Address Requirement for Public Comment—0 comments
  - 503 Secret Memos/Private Meeting Concern—1 comments
  - 504 Commissioner Political Affiliation—0 comments
  - 599 Other unspecified—0 comments
- **06 Draft Maps**
  - 601 Cardinal (Plan #373)
    - 601.1, Pro—158 comments
    - 601.2, Con—133 comments
    - 601.3, Change—7 comments
  - 602 Crane (Plan #385)
    - 602.1, Pro—51 comments
    - 602.2, Con—46 comments
    - 602.3, Change—4 comments
  - 603 Dove (Plan #364)
    - 603.1, Pro—35 comments
    - 603.2, Con—112 comments
    - 603.3, Change—4 comments
  - 604 Finch (Plan #399)
    - 604.1, Pro—26 comments
    - 604.2, Con—87 comments
    - 604.3, Change—3 comments
  - 605 Heron (Plan #376)
    - 605.1, Pro—209 comments



- 605.2, Con—104 comments
  - 605.3, Change—11 comments
- 606 Starling (Plan #395)
  - 606.1, Pro—7 comments
  - 606.2, Con—70 comments
  - 606.3, Change—3 comments
- 607 Curry Map (Plan #366)
  - 607.1, Pro—24 comments
  - 607.2, Con—44 comments
  - 607.3, Change—5 comments
- 608 Kellom (Plan #403)
  - 608.1, Pro—81 comments
  - 608.2, Con—26 comments
  - 608.3, Change—5 comments
- 609 Lange Map (Plan #400)
  - 609.1, Pro—12 comments
  - 609.2, Con—55 comments
  - 609.3, Change—3 comments
- 610 Orton Map (Plan #393)
  - 610.1, Pro—10 comments
  - 610.2, Con—70 comments
  - 610.3, Change—0 comments
- 611 Szetela Map (Plan #404)
  - 611.1, Pro—222 comments
  - 611.2, Con—85 comments
  - 611.3, Change—18 comments
- 612 Wagner Map (Plan #401)
  - 612.1, Pro—7 comments
  - 612.2, Con—54 comments
  - 612.3, Change—3 comments

*University of Michigan GPT Analysis*

The CLOSUP team used the following prompts to track broad trends from the CLOSUP public input database. First, the team created short summary sentences (“Heron protects partisan fairness.”) for each of the public comments to provide the U-M AI clear, consistent data. Such sentences were quite short given the size of the comment database.

Second, the team asked the AI the below prompts in order to summarize those sentences.

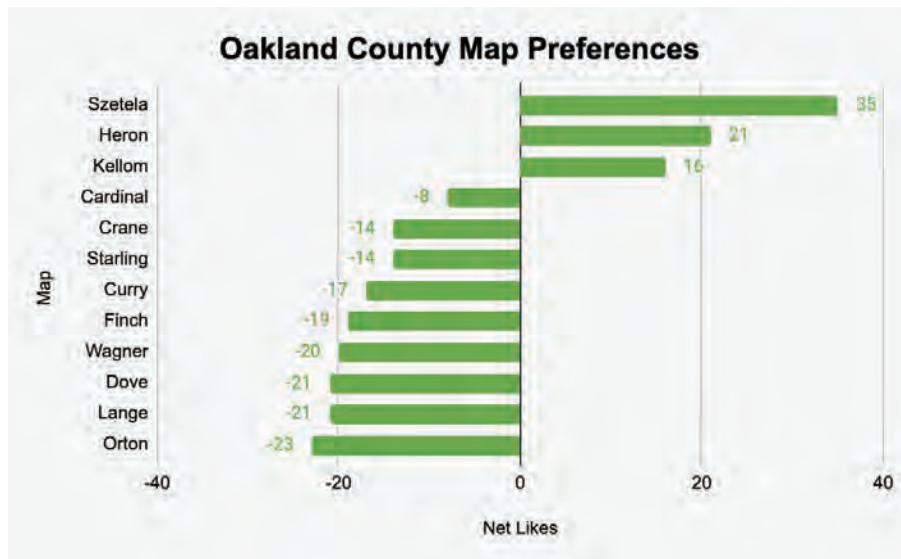
1. Please use the following sentences, each of which is a unique comment, to extract topline trends about the [XX] map. Consider commenters’ suggestions for changes to the map, disadvantages of the map, and advantages. Please explain which share of comments were negative/positive, etc. and be as specific as possible. Please accurately refer to the share of comments when possible to explain trends.

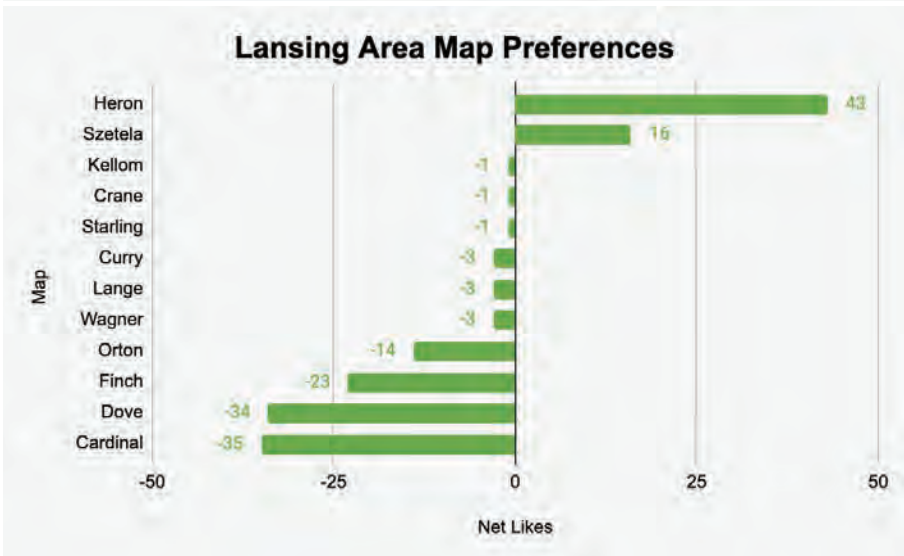
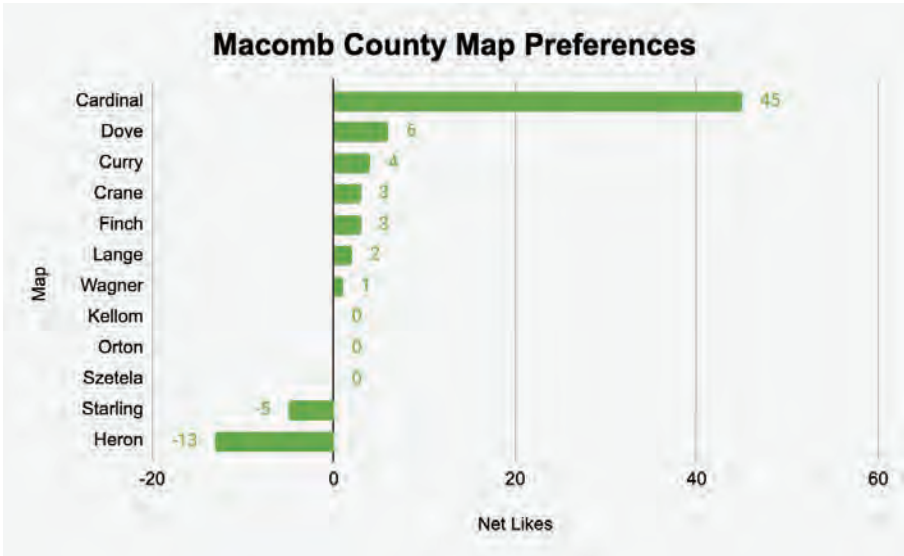
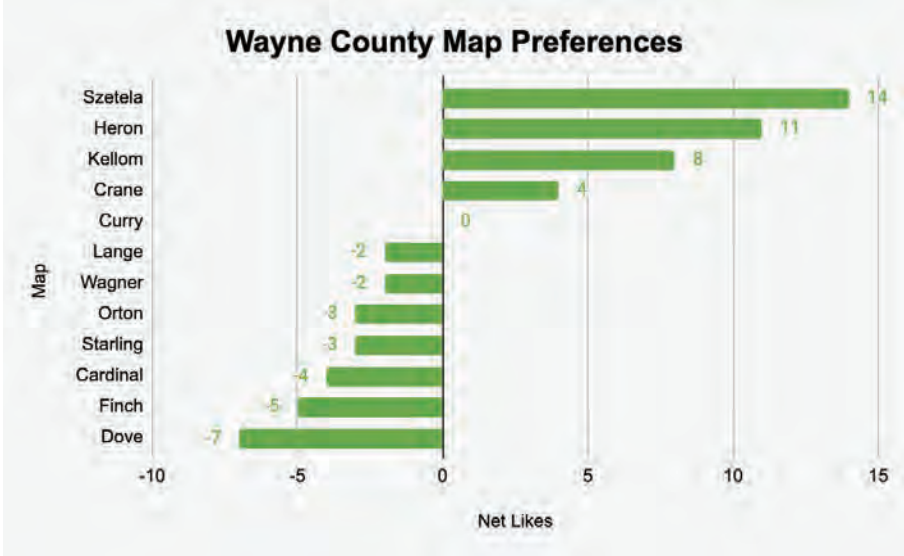
- Using the comments above, please analyze each of the following themes: 1). How many comments believe the map to have partisan fairness? How many criticize partisan fairness? What are the general takeaways about fairness in this map? 2). What do the comments say about how the map draws districts in specific locations, including in Macomb County? Wayne County? Oakland County? The city of Detroit? 3). What do the comments say about the map's treatment and representation of communities of interest (COIs) and minority communities?

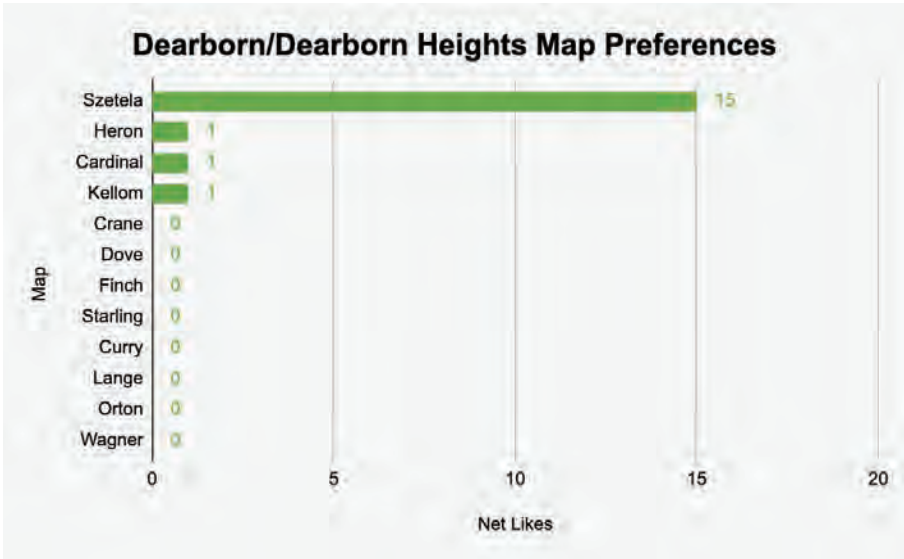
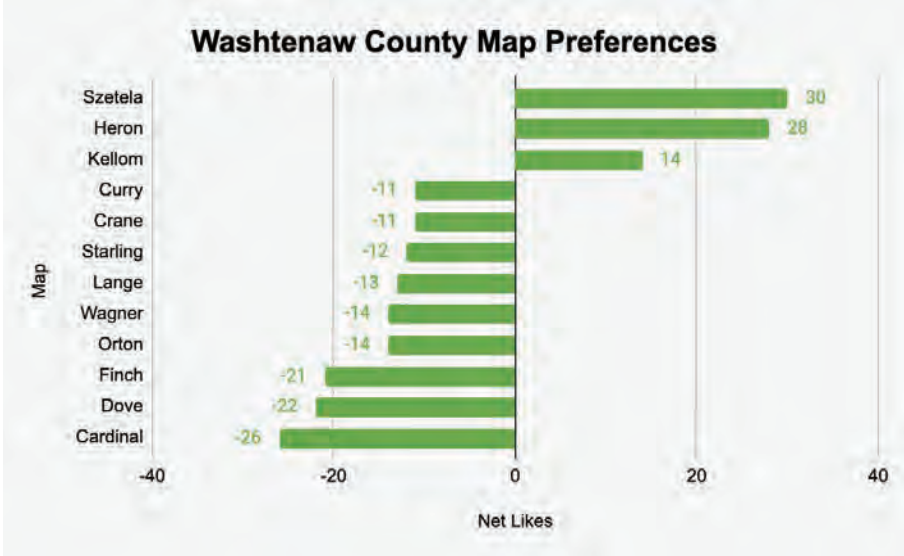
Information extracted from U-M GPT was subsequently cross referenced in the public comment database by members of the CLOSUP team. Although the team members hand-coded every comment in the database, there were simply too many comments to offer an unbiased and complete analysis of the feedback. Nonetheless, the team made necessary corrections to the AI's responses summarizing the map preference trends in the below map-specific findings. The U-M GPT interface can be found [here](#).

*Other Regional Preference Data*

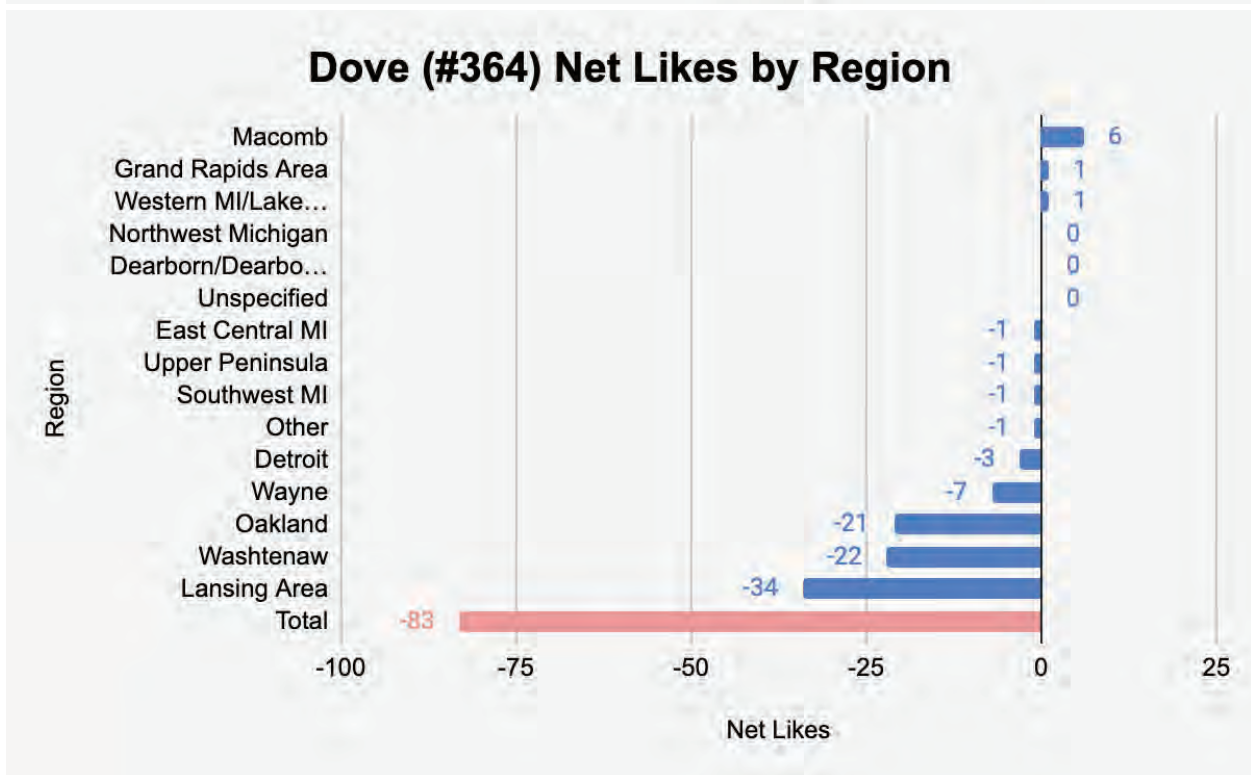
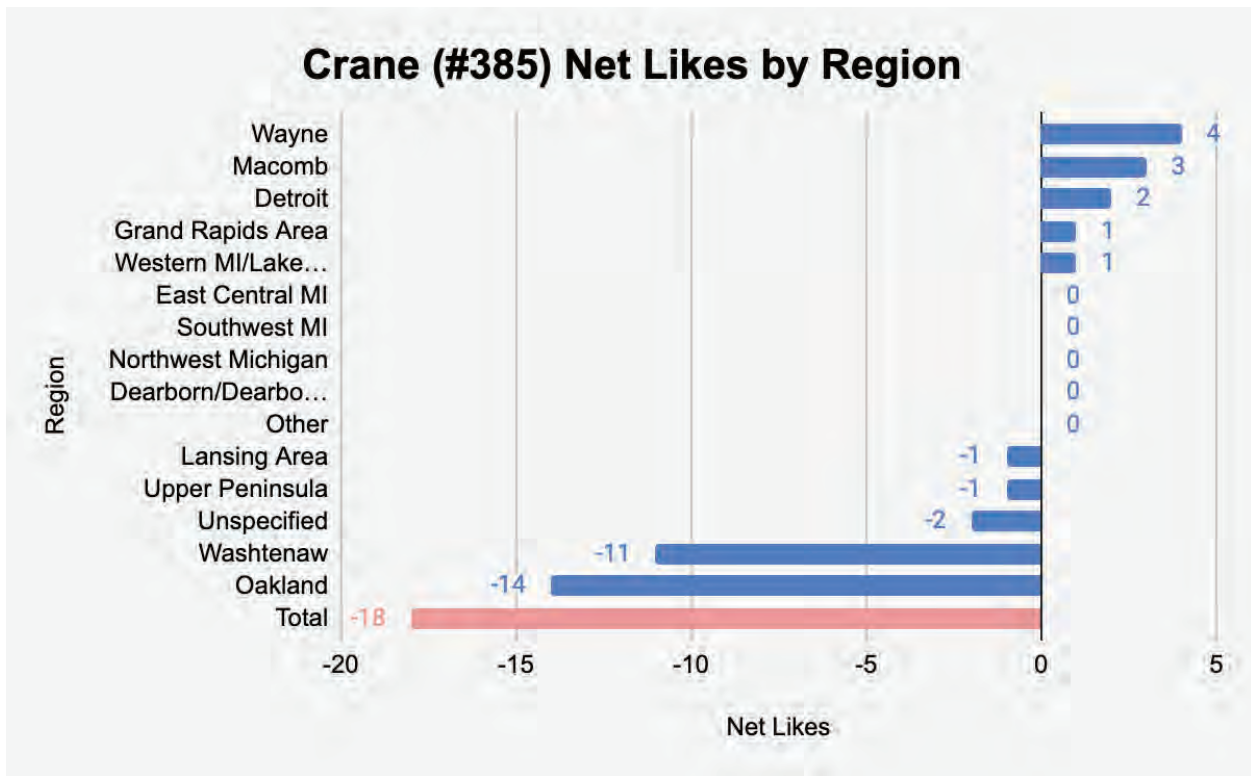
The map preferences of regions with the most commenters.



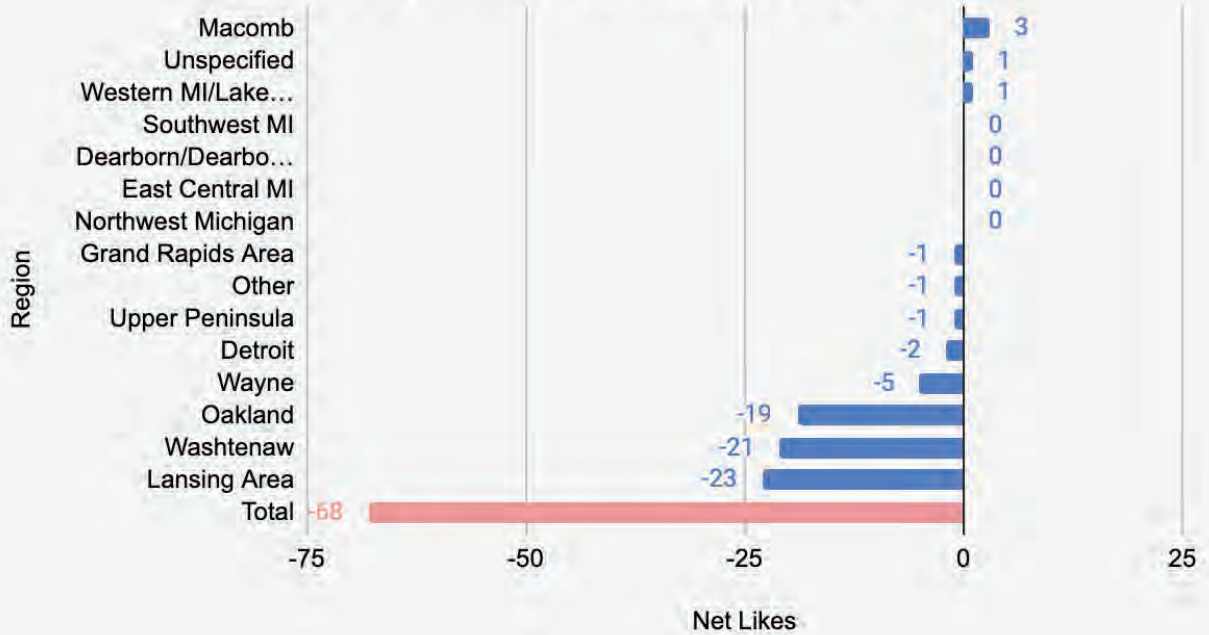




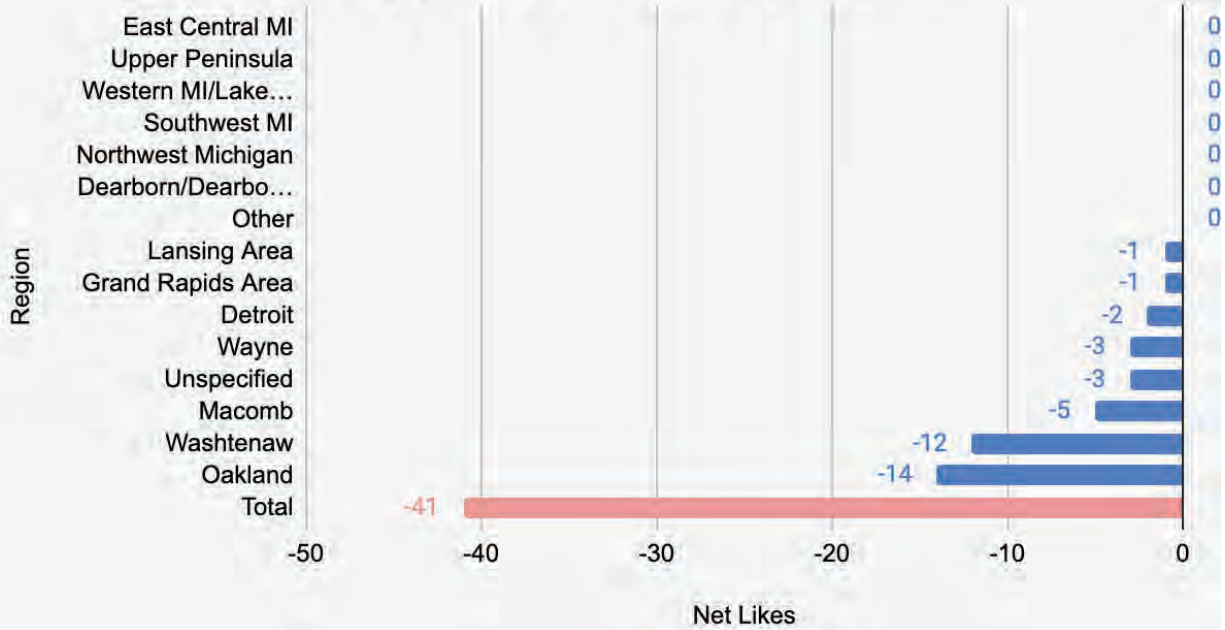
The regional net favorability ratings for the remaining eight maps.



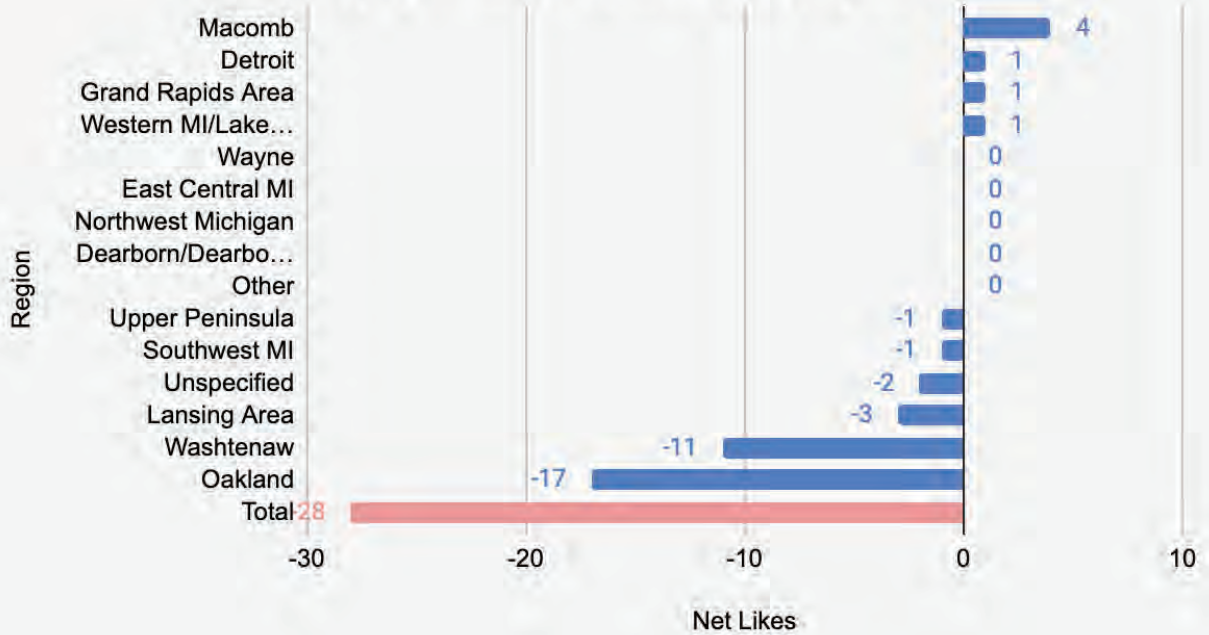
### Finch (#399) Net Likes by Region



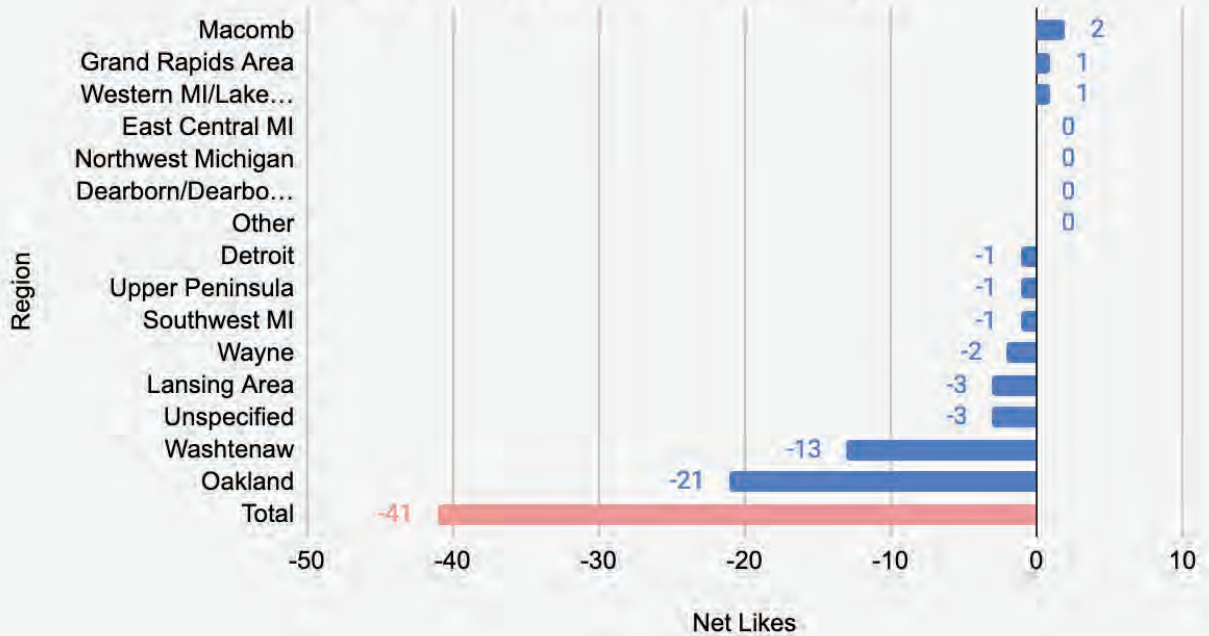
### Starling (#395) Net Likes by Region



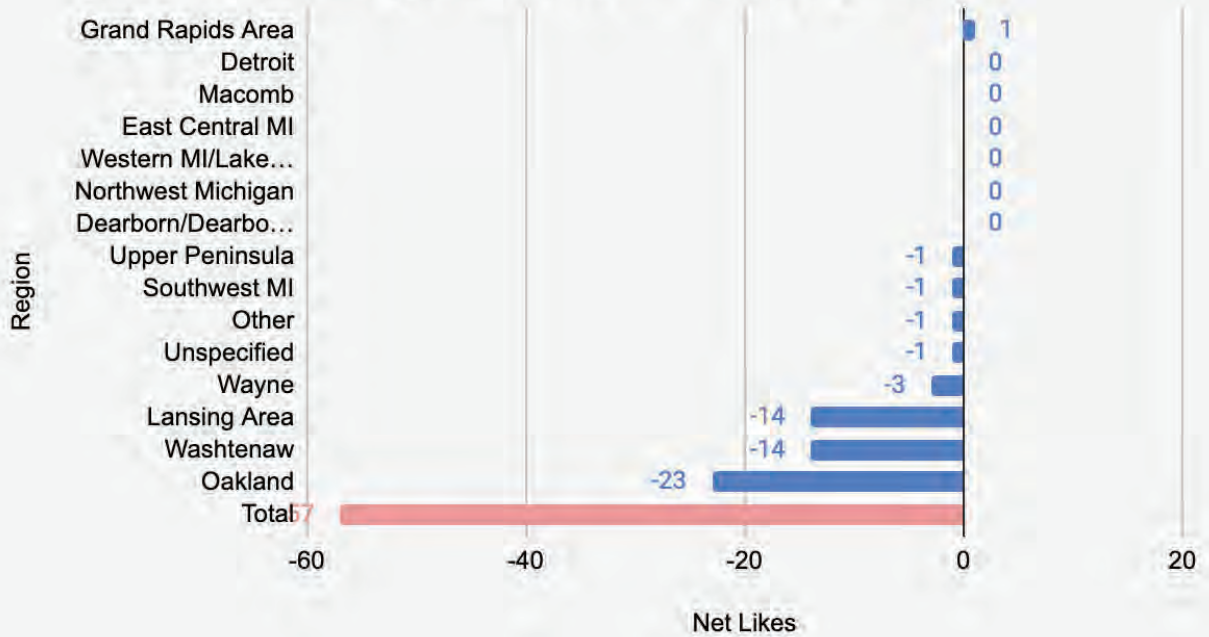
### Curry (#366) Net Likes by Region



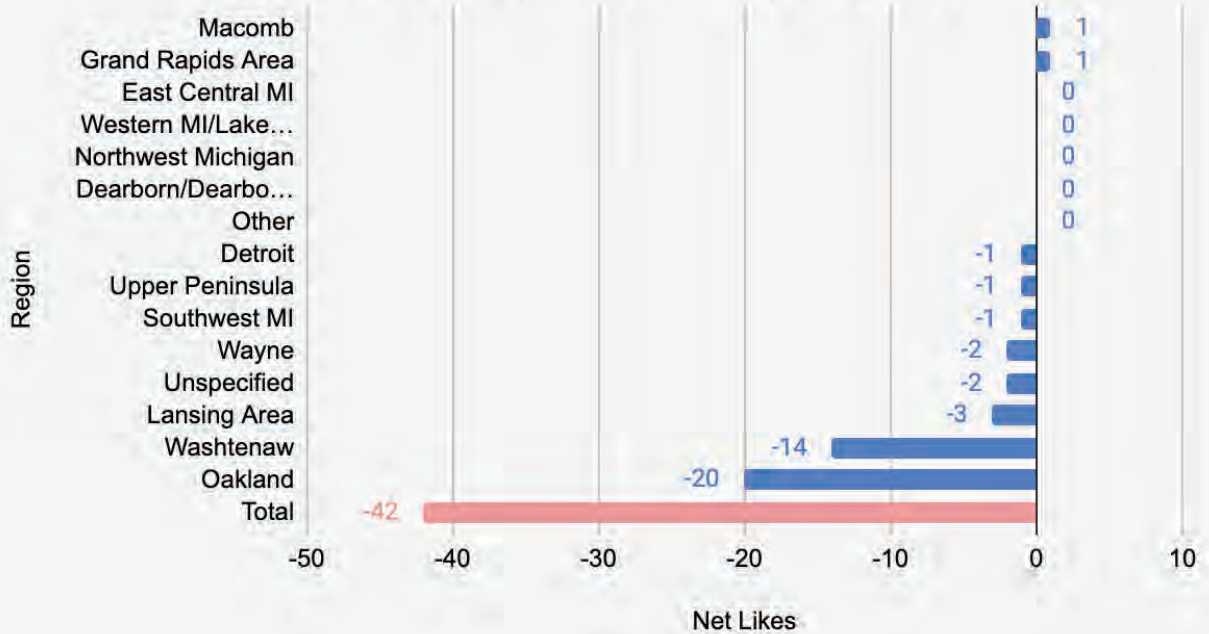
### Lange (#400) Net Likes by Region



### Orton (#393) Net Likes by Region



### Wagner (#401) Net Likes by Region





## Exhibit 24

DISCLAIMER: This is NOT a certified or verbatim transcript, but rather represents only the context of the class or meeting, subject to the inherent limitations of realtime captioning. The primary focus of realtime captioning is general communication access and as such this document is not suitable, acceptable, nor is it intended for use in any type of legal proceeding.

The environments are not safe to be living in. I even fought one time with my landlord, and we ended up in Court in Detroit because the environment wasn't safe. What happened, it wasn't safe for the people who were living there. So this is my address to you guys.

>> CHAIR EID: Thank you for addressing the Commission. We appreciate your comments. We also have Gary Morehead who signed up to speak today.

>> Good morning, Commissioners, thank you for all your work as always. I'm so glad for what happened yesterday, the quality of your deliberations towards the end of the day I thought got better and better and I was really glad to see that and frankly I'm glad you didn't wrap up the process last night. I'm sure it would have been easier for you. But all this public input that was wanting to come is great too. I really do think you're making progress. It may come down to, I don't know, two maps at some point and want to say quickly that I had a conversation with a Commissioner. What if there was one map that was stellar on everything, stellar on this, stellar on that in the usual, would you vote for that map that I'm thinking it's a slam dunk?

And the answer was I would have to see if it was collaboratively drawn or not. Well, that's taking collaboratively drawn and putting it up above the Court requirements and the state Constitution requirements, which isn't what we are supposed to be about here. So I just want to offer that to say that regardless of author it's the features of the map that the public will benefit or not benefit from. And so please with that features ahead of authors, thank you.

>> CHAIR KELLOM: Mr. Morehead, I have a question, hi, Commissioner Kellom here.

>> Yes, ma'am and thank you for all your hard work and for if I can get the Phoenix/Kellom map into the final consideration.

>> CHAIR KELLOM: I know I wish it didn't have my name on it.

>> What is it like 40.

>> CHAIR KELLOM: 403.

>> Call it that.

>> CHAIR KELLOM: What features do you appreciate most in the maps?

I think at this point we know the names of the maps but today the ear that I'm listening with is what people enjoy most. And I think that will naturally direct us towards a map. If you have a preferred map please do mention that if you want to see and share what City or places you have enjoyed and why that is important when we are talking about representation like color of the conversation basically is what I'm asking, yeah.

>> Okay, I like to go in the order of the state requirements. And I guess the Court goes above that, but you have met core retention and all the rest, so you are good there. For me VRA and I don't know if you call the African/American community a community of interest or you call it a VRA thing or you call it Detroit wants this. Whatever you call it, I got an adjunct and live in District 7 and it can be a VRA District.

← **Next**

**Previous** →

## What are objections 2 Szetela from Crane

### Basic Info

Submitter: Judy Maiga

Location:

Submitted: 6/26/2024

Type: written

ID: w10370

### Tags

### Comments & Feedback

No comments have been submitted.

### Written Testimony

Genuinely curious as to the objections to Szetela maps from those who support Crane? Have not heard one supportable objection and curious if anyone has supplied any? Combined with its lack of VRA fairness it's a bad map that can easily be questioned as unconstitutional. There are other maps that treat Detroit fairly AND also treats other COI's and downriver FAIRLY.

← **Next**

**Previous** →

## Why is Szetela Bad? 90 Second comments

### Basic Info

Submitter: judy maiga

Location:

Submitted: 6/26/2024

Type: written

ID: w10372

### Tags

### Comments & Feedback

No comments have been submitted.

### Written Testimony

Let me first say that limiting comments to 90 seconds on an issue that will affect people in their real lives for 10 years is objectively unfair and compromises the right to express an opinion. Yes, one can submit comments online. That method is cumbersome for many and frankly it's never been clearly explained that I've seen how those comments are tallied and reviewed by the commissioner during real time decisions.

## MI Redistricting Public Comment Portal

I support the Szetela map for the reasons stated today during my oral comments. Also, I don't work for any non profit, politician or any group, unless my volunteer work for the League of Women Voters counts and I truly don't know which maps they support.

I am with the commissioners looking for reasons that those who support Crane DON'T support Szetela? It seems to provide fair, Black representation, addresses COI concerns from other groups and keeps Wyandotte and Southgate downriver where they belong. Downriver consists of 18 communities and they can't all be together in one Senate map but Crane separates Wyandotte and joins it with the mostly Detroit district one. This will not behoove Detroit OR downriver and makes it worse for both of them. If more numbers are needed, take it from anywhere else.

Wyandotte is living proof with its current (awful) Congressperson that a small downriver suburb will be ignored by a congressperson who pretends to care until elected then disappears. Maybe that's why Mayor Duggan isn't endorsing Shri Thanedar but I'll leave that for another day. Either way, we were told during the creation of Fed House districts that Wyandotte had to be taken out of downriver then and put with Detroit with the assertion that this wouldn't also happen at the State level - and it happens with Crane! It's unfair and not following the instructions given for redistricting. Please leave Southgate AND Wyandotte in District 4 where they belong. We have complicated issues with the abandoned McLouth Steel Contamination that shouldn't have to be compromised by having a new state senator learn from the beginning the ins

MI Redistricting Public Comment Portal

Thank you for your consideration.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**Exhibit 25**

DONALD AGEE, JR., an individual;  
JEROME BENNETT, an individual;  
DENNIS LEORY BLACK, JR., an individual;  
JAMEE BURBRIDGE, an individual;  
BEVERLY ANN BURRELL, an individual;  
JEMELL COTTON, an individual; TERESA  
DUBOSE, an individual; KAREN  
FERGUSON, an individual; MICHELLE  
KEEBLE, an individual; NORMA  
McDANIEL, an individual; GLENDA  
McDONALD, an individual; JANET MARIE  
OVERALL, an individual; SHIRLEY L.  
RADDEN, an individual; DAVONTE  
SHERARD, an individual; MICHELLE T.  
SMITH, an individual; KENYETTA SNAPP,  
an individual; DONYALE STEPHEN-  
ATARA, an individual; and TANESHA  
WILSON, an individual,

No. 1:22-cv-00272

THREE-JUDGE PANEL  
APPOINTED PURSUANT TO 28  
U.S.C. § 2284(a)

**DEFENDANT MICHIGAN  
SECRETARY OF STATE  
JOCELYN BENSON'S  
SUPPLEMENTAL BRIEF  
REGARDING REMEDY  
TIMELINE**

Plaintiffs,

v

JOCELYN BENSON, in her official capacity  
as Secretary of State of Michigan;  
MICHIGAN INDEPENDENT  
REDISTRICTING COMMISSION;  
DOUGLAS CLARK, JUANITA CURRY,  
ANTHONY EID, RHONDA LANGE,  
STEVEN TERRY LETT, BRITNI  
KELLOM, CYNTHIA ORTON, M.C.  
ROTHORN, REBECCA SZETELA,  
JANICE VALLETTE, ERIN WAGNER,  
RICHARD WEISS and DUSTIN WITJES, in  
their official capacities as Commissioners of  
the Michigan Independent Citizens  
Redistricting Commission,

Defendants.

will essentially import the new districts into QVF. This step will *likely* take **2-3 weeks**.

- (3) Quality Control and Quality Assurance. The Bureau will manually review updated district information in QVF to ensure that voter records reflect the correct updated address data and the update has not caused regression of other data or functions in QVF. This step will *likely* take **2-3 weeks**.

If all goes well, this process should take between 4 to 6 weeks.

## **2. Timeline for implementing new House districts with precinct changes.**

Michigan Election Law provides that a precinct, as far as is practical, must not be split between districts. Mich. Comp. Laws § 168.661(2). There are numerous reasons why split precincts pose problems for both local elections officials and voters. A precinct split occurs where voters in one precinct are divided into 2 or more districts. Precinct splits can create voter confusion and additional work for county and local clerks, along with election inspectors. First, split precincts require more ballot styles to be printed to accommodate the different districts within a precinct. Second, multiple ballot styles per precinct create the risk that voters will be given the wrong ballot style in absentee, early, or in-person voting, which will lead to ballots being cast in the wrong races and will lead to precincts being out of balance.

To comply with Michigan law and avoid these concerns, it may be necessary—or at least desirable—to re-draw precinct boundaries to correspond to new districts if any new districts split precincts, and it is likely that there will be at least some splits. But Michigan law provides that precincts must be drawn not later than 210 days before the primary next preceding the general election (this

year, January 9, 2024). Mich. Comp. Laws § 168.661(1). This date will have passed well before new districts and precincts are drawn. In the second year after the census only, later divisions can be authorized by the Secretary of State under Mich. Comp. Laws § 168.661(2), but this must occur 90 days before the primary, which is May 8, 2024, for this cycle. State and local election jurisdictions could comply with some but may need to set aside other of these provisions to comply with any court ordered remedy.

If precinct changes are included, an additional 4 to 6 weeks will need to be added to the above 4- to 6-week timeline. This additional work will consist of the following:

- (1) Local election commission redrawing of Precincts. Local election commissions must convene and hold a public meeting or meetings, then pass a resolution to update precincts. Mich. Comp. Laws § 168.657. This process will *likely* take **2-3 weeks**. And note that this process is largely beyond the Secretary's and the Bureau's control.
- (2) Inputting new precincts in to QVF. Clerks will need to submit new precinct information to the Bureau to update information into QVF. Some clerks may be able to send precincts in shapefiles that will allow the Bureau to replicate the process used in Step (2) above. If clerks cannot send shape files, clerks will instead send a manual, "marked up" street index showing which ranges of addresses have new precinct assignments. The Bureau would then manually update this information in the QVF. This process will *likely* add **1-2 weeks** to Step (2) above, depending on the volume of precinct changes and the extent to which precinct changes are manual.
- (3) Quality Control and Quality Assurance. Adding precincts to the QC and QA process will *likely* add **1 week** to this process.

If precinct changes are to be made, it will likely extend the 4- to 6-week process to an 8- to 12-week process.



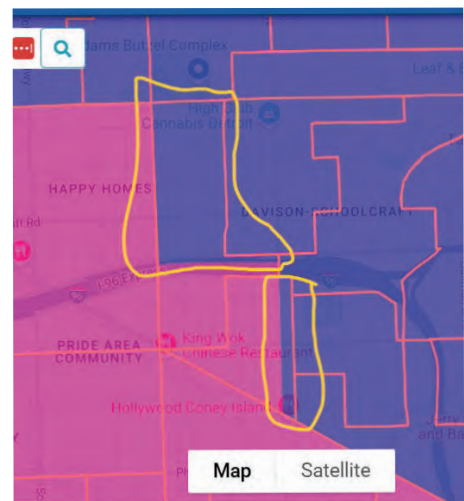
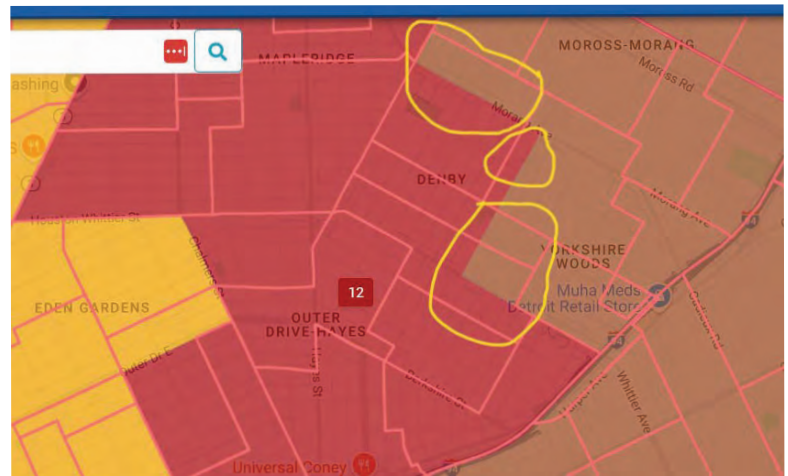
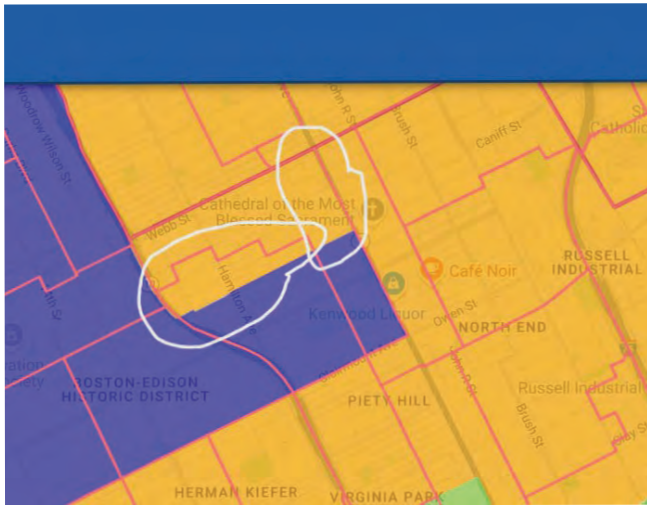
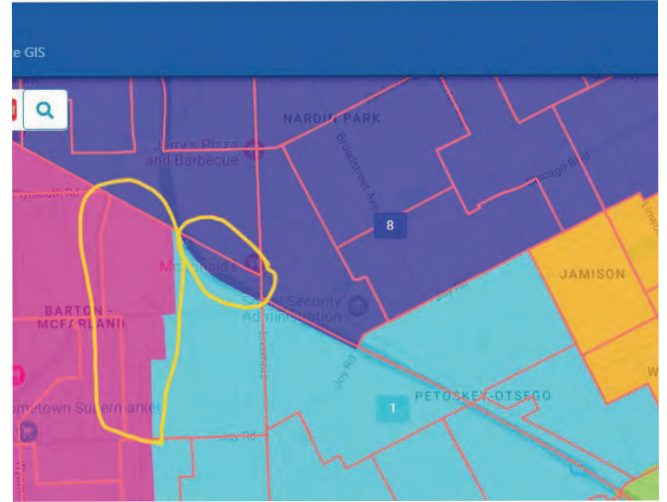
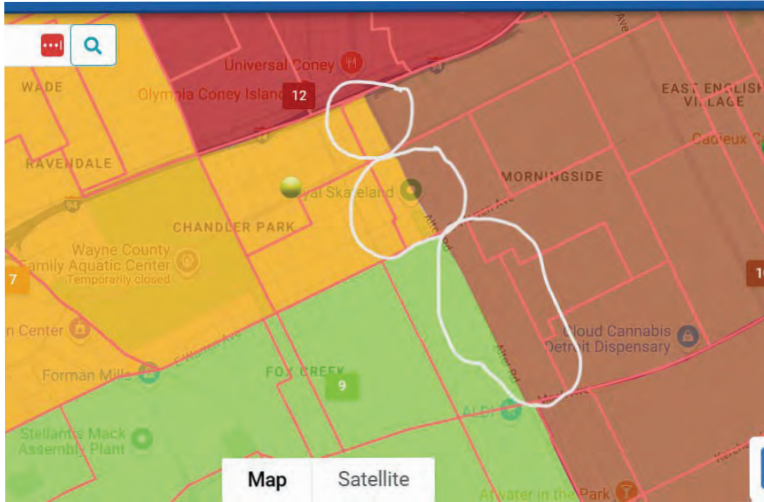
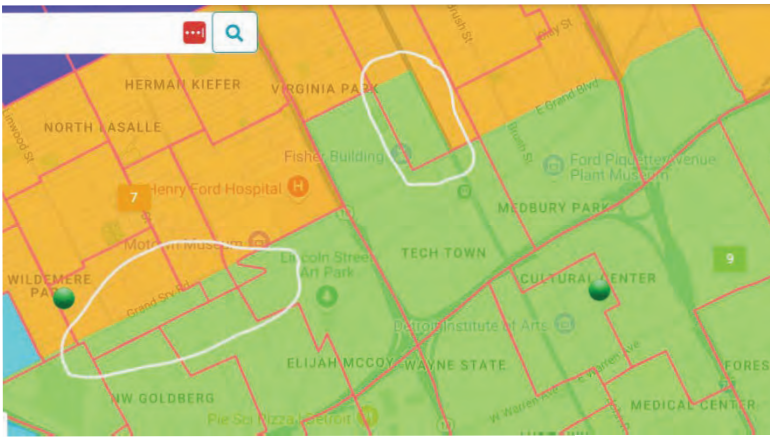
**3. Considerations that apply to either timeline.**

Regardless of which method is used, clerks must send updated voter information cards to affected voters advising them of their new House district information. Mich. Comp. Laws § 168.499(3). As noted above, under the Michigan Election Law precincts may not be adjusted after January 9, Mich. Comp. Laws § 168.661(1), and it is unclear whether the later date provided in subsection 661(2) (90 days before primary or May 8) could apply in a non post-census year.

The Court may need to provide some relief in its order to allow precincts to be changed with the redrawn districts. The Secretary of State would prefer to avoid precinct splits, as they are disfavored under Michigan law and—more importantly—create substantial administrative problems for local clerks and significant potential for error and voter confusion. However, although precinct splits are undesirable, if it is not possible to provide sufficient time to complete precinct changes to the QVF, the Secretary believes that it would be better to avoid changing precincts than to attempt to rush that process.

Lastly, while it is difficult to arrive at a precise date by which QVF changes absolutely must be completed, the Secretary is mindful that the Court and parties likely desire to know the Bureau's best calculation of that time. Ideally, all information would be added to QVF by the candidate filing deadline on April 23, 2024. This would also help ensure there are minimal disruptions to May local

# Exhibit 26 Selected Motown Sound Precinct Splits



[← Next](#)

[Previous →](#)

## COI breakdown in current HD7/HD8

### Basic Info

Submitter: Christopher Gilmer-Hill

Location:

Submitted: 1/18/2024

Type: plan

State House Districts

ID: p9839

### Map

You can pan and zoom in the embedded map with your mouse or the +/- buttons.

### Tags

[#palmer park](#)     [#ferndale](#)

[#royal oak township](#)

[#royal oak](#)     [#berkley city](#)

[#detroit](#)

### More Info

This map, which accompanies my virtual public comment, presents a COI-based breakdown of areas in the struck 7th and 8th house districts that the commission has thus far

## MI Redistricting Public Comment Portal

respects the COIs including and surrounding the Palmer Park area:

1) District 7 (blue, labeled 1) should include the entire Palmer Park area, including Palmer Woods, Greenacres, Sherwood Forest, Palmer Park, and University District. This area should be connected with the cities of Ferndale and Pleasant Ridge across 8 mile; this preserves an inter-county LGBT community of interest that is still present in the palmer park area, and which has been strengthened by more recent patterns of population transfer between palmer park and Ferndale. Crossing 8 mile here to include only these cities does not prevent the creation of a detroit-centric district 7 due to the relatively small population of ferndale, but it does preserve a COI that is distinct from nearby areas of Oakland County like Oak Park and Hazel Park. Within Detroit, this COI should wrap around Highland park to include

[View in Districtr](#)

(To see statistics on this map, or to modify it yourself.)

## MI Redistricting Public Comment Portal

Boston-Edison; these neighborhoods surround Highland Park, but they have far more in common with each other; they should be kept together with Palmer Woods, and separate from the distinct COIs in Highland Park and around Hamtramck. Between 8-Mile and McNichols, this COI should be bounded by Livernois and I-95; south of McNichols, it should extend West to Meyers rd, Southwest to Grand River, and Southeast to include the Boston Edison area (roughly bounded by Joy Rd and I-95, and excluding all of Highland Park)

2) District 5 (yellow, labeled 2) should include all of Oak Park, all of Royal Oak Township, and the bordering portion of Detroit roughly bounded by 8-Mile, McNichols/6 Mile, Livernois, and Greenfield (including neighborhoods such as Bagley and Garden Homes etc). Royal Oak township is a distinct municipality that the

## MI Redistricting Public Comment Portal

between districts 5, 6, and 7. Royal oak township is small, discontinuous, and contains a heavily black community of interest that should be kept with Oak Park and Detroit; fixing this unnecessary split should be part of redrawing district 7, and it means that redrawing districts 5 and 6 will be not only reasonably necessary but absolutely necessary to redraw the struck district 7. This part of Oakland County has far more in common with the northern edge of Detroit than with the much less diverse communities further north in Royal Oak and Berkeley. Connecting Oak Park and Royal Oak Township with Detroit north of McNichols reunites a black middle-class COI with extensive ties due to both population transfers and shared economic activity across 8 mile.

3) District 6 (teal, labeled 3) should include the northern parts of the current districts 5/6/7, namely Royal Oak, Berkley, Huntington Woods,

## MI Redistricting Public Comment Portal

communities have much more in common with each other than with the communities further south (particularly Oak Park and Royal Oak Township), and they were only ever combined with Oak Park and Royal Oak Township in pursuit of misguided and unconstitutional BVAP quotas; this must be remedied in the new maps, again making changes to districts 5 and 6 reasonably necessary. Uniting these upper-middle class Oakland County suburban regions helps to minimize municipal splits, one of the constitutional criteria the commission should consider, in addition to unifying a coherent COI that is already roughly the size of a house district.

4) District 8 (lime green, labeled 4) should include Madison Heights, Hazel Park, Center Line, and most of the adjoining east-central part of Warren. While South Warren contains a black working-class community that should be united with Detroit,

## MI Redistricting Public Comment Portal

Hazel Park and Madison Heights. Hazel Park and Madison Heights form a relatively young and working-class COI that is distinct from the rest of southeast oakland and has much more in common with Warren and Centerline; both also include significant industrial areas not really present in other nearby suburbs such as Ferndale and Royal Oak (except just adjacent to the borders with Madison Heights and Hazel Park). This COI lies fully within struck districts and/or districts that will need to change due to their location, so no districts need to be changed unnecessarily to bring this COI together.

5) District 14 (magenta, labeled 5) should unite Highland Park, the southern edge of warren, the North Campau neighborhood, and the section of Detroit's eastside bounded by I-95 and Gratiot north of McNichols. This is a black working-class COI with ties across warren from economic activity and



## MI Redistricting Public Comment Portal

Highland Park is geographically closer to the regions described above in the proposed District 7, it is culturally and socioeconomically much more similar to these working-class parts of Detroit's eastside. North Campau (i.e. the area just north of Davison) is not really part of Banglatown, and broadly has more in common with both Highland Park and the areas north of McNichols (e.g. Conant Gardens, Krainz Woods, etc.) By following major road boundaries like McNichols and Gratiot within Detroit where possible, these communities can be combined with places that make sense together like South Warren and Highland Park, rather than a disjuncted vertical strip that throws Madison Heights, Highland Park, and Boston Edison all into the same seat.

As described above, these COIs lie fully within the struck districts and those obviously necessary to change in order to

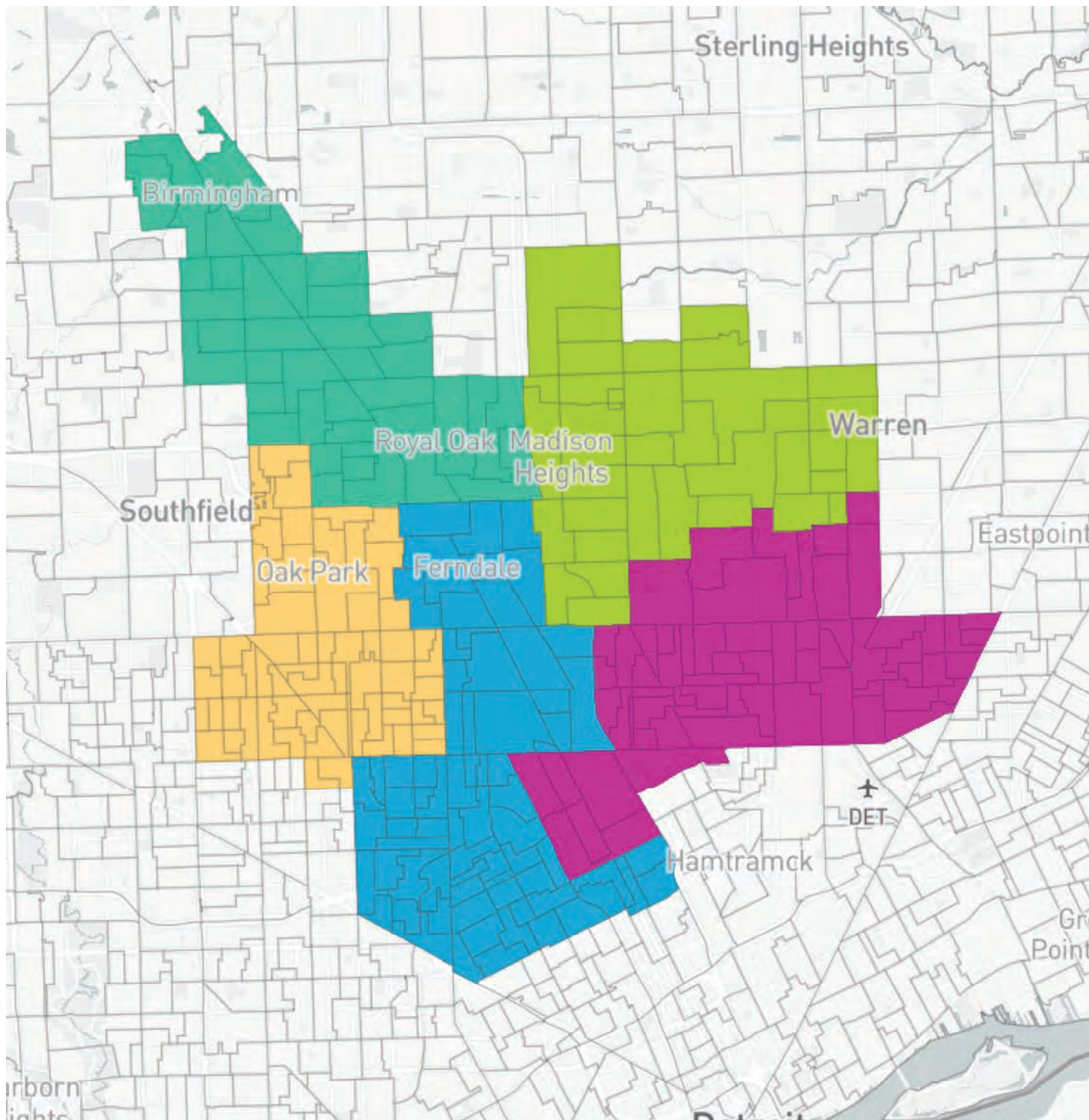
## MI Redistricting Public Comment Portal

should be made into a district without needing extensive further changes to districts further removed from the struck area. These boundaries additionally suggest further possible COI combinations extending outwards - for example, the Hamtramck/banglatown area

### **Comments & Feedback**

No comments have been submitted.

Map Attached to Comment p9839



## MI Redistricting Public Comment Portal

[← Next](#)[Previous →](#)

# "Tiger Lily" map proposal

## Basic Info

Submitter: Christopher Gilmer-Hill

Location:

Submitted: 1/24/2024

Type: plan

State House Districts

ID: p9920

## Tags

#palmer park   #ferndale   #highland park city   #oak park city  
#royal oak township   #berkley city   #huntington woods city  
#madison heights city   #hazel park city   #warren  
#hamtramck city   #detroit city   #detroit east side  
#detroit west side   #taylor city   #brownstown township  
#grand blanc   #burton city   #birmingham city   #royal oak

## More Info

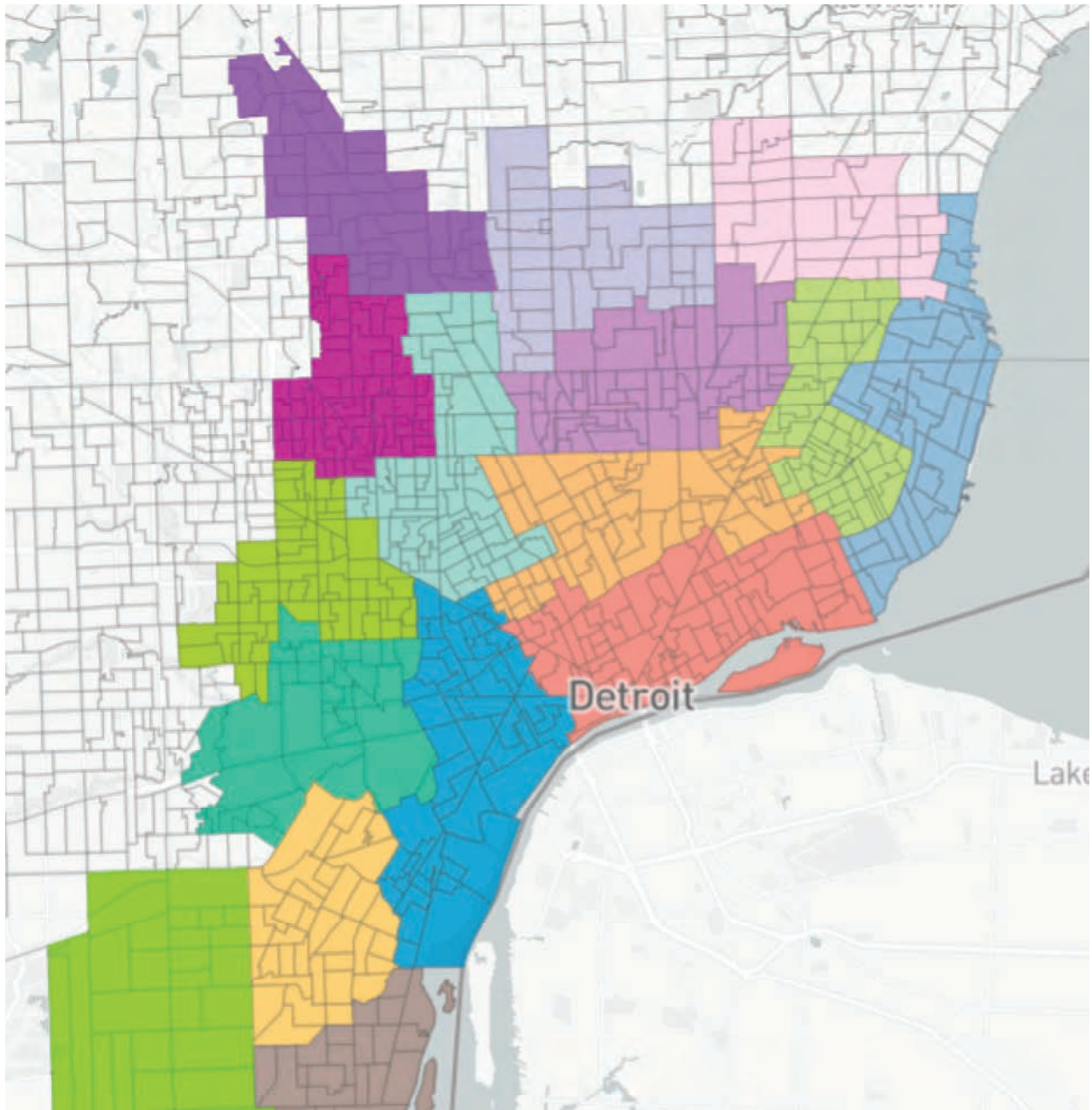
Yesterday's commission session made a lot of good progress in Detroit! In particular, I think the Lily map does the best job so far of reflecting COI nearly everywhere in the region, but I think it still short in reflecting communities of interest around the Palmer Park area in Detroit and the nearby parts of Oakland and Macomb counties.

## MI Redistricting Public Comment Portal

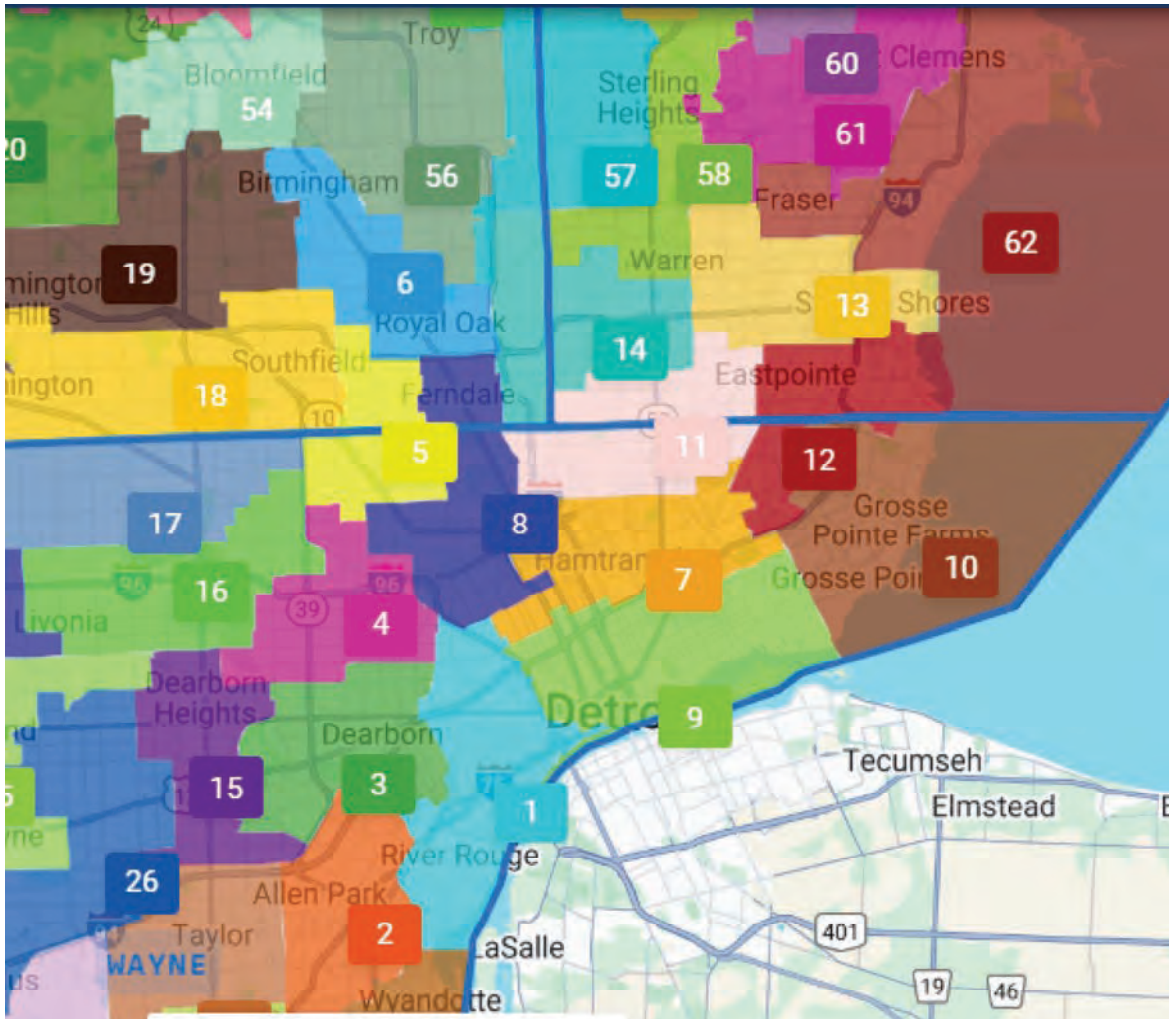
reflect communities of interest in the Palmer Park area and in Southeast Oakland County. Based on COI, shared history, and extensive economic ties, as well as my own experience as a member of the LGBT community and a lifelong resident of the Palmer Woods/Palmer Park area, the ideal configuration for the Palmer Park area includes Ferndale and wraps around Highland Park to include neighborhoods like Oakman Boulevard and Boston-Edison which form a COI with Palmer Woods/Sherwood Forest/University District etc. However, given the commission's reluctance to unite COIs across 8-Mile, I've also included an "Easter Lily" plan that places Ferndale with Hazel Park and Madison Heights, and instead includes Highland Park and more of Central Detroit in District 7. Both maps also include edits elsewhere in the metro detroit area geared specifically towards rebalancing partisan fairness; they do this by creating new districts won by Tudor Dixon and other statewide republicans in HD29 and HD72, and new districts won by Joe Biden in HD68 and HD28. These minimal adjustments also greatly improve COI and adherence to municipal boundaries in these areas (both constitutionally-required criteria), while affecting only the paired districts 68/72 and 28/29, and they should improve fairness overall by shifting proportionality towards republicans and other metrics slightly towards democrats. Aside from these paired modifications, both the Tiger Lily and Easter Lily plans modify only a minimal set of districts from the Tiger Lily plan surrounding the Palmer Park area (namely 4, 5, 6, 7, 8, 11, and 14)

If possible, I'd ask the commission and/or individual commissioners to submit the Tiger Lily and Easter Lily maps as either individually-submitted maps or as the basis for a collaborative map, with edits as deemed necessary. If these maps are submitted by Friday, Jan 26, then according to the commission's proposed timeline they can be subjected to VRA

"Tiger Lily" Map attached to Gilmer-Hill Comment p9920



### Adopted Motion Sound State House Map



## Exhibit 28 - Excerpts from January 24, 2024 Transcript

DISCLAIMER: This is NOT a certified or verbatim transcript, but rather represents only the context of the class or meeting, subject to the inherent limitations of realtime captioning. The primary focus of realtime captioning is general communication access and as such this document is not suitable, acceptable, nor is it intended for use in any type of legal proceeding.

MICRC

20240124-1000 Meeting

Captioned by Q&A Reporting, Inc., [www.qacaptions.com](http://www.qacaptions.com)

>> CHAIR ORTON: As the Chair of this commission, I call this meeting of the Michigan Independent Citizens Redistricting Commission to order at 10:17 a.m. This Zoom webinar is live streamed on YouTube on the Michigan Independent Citizens Redistricting Commission YouTube channel.

For anyone watching who would prefer to watch via a different platform than they are currently using, please visit our social media at redistricting MI.

Our live stream today includes closed captioning. Closed captioning, ASL interpretation and Spanish, Arabic, and Bengali translation services will be provided for effective participation in this meeting.

Email us at [redistricting@michigan.gov](mailto:redistricting@michigan.gov) for additional viewing options or details on accessing language translation services for this meeting.

People with disabilities needing other specific accommodations should contact us at [redistricting @ Michigan.gov](mailto:redistricting@michigan.gov).

This meeting is being recorded and will be available at [www.Michigan.gov/MICRC](http://www.Michigan.gov/MICRC) for viewing at a later date.

This meeting is also being transcribed, and those transcripts will be made available and posted on the [Michigan.gov/MICRC](http://Michigan.gov/MICRC) website along with written public comment submissions.

There's also a public comment portal that may be accessed by visiting [Michigan.gov/MICRC](http://Michigan.gov/MICRC).

Members of the media who may have questions before, during, or after the meeting should direct those questions to Edward Woods, III, at [Woodse3@Michigan.gov](mailto:Woodse3@Michigan.gov) or 517-331-6309.

For the public watching and the public record, I will turn to Department of State to take note of the Commissioners present.

Good morning, Commissioners.

If you are attending today's meeting remotely, please announce during roll where you are attending today's meeting.

I will start with Elaine Andrade.

>> COMMISSIONER ANDRADE: Present.

>> COMMISSIONER VALLETTE: Brittini Kellom.

>> Brittini Kellom: Present.

>> COMMISSIONER VALLETTE: Rhonda Lange.

>> RHONDA LANGE: Present.

>> COMMISSIONER VALLETTE: Marcus Muldoon.

>> COMMISSIONER MULDOON: Present.



>> COMMISSIONER WEISS: Yes, I was going to suggest I would like to start a list if that is acceptable. And obviously then most of them have been named. One was the Rose bud, the Lily the Bergamot and crazy and I believe Trillium three version, if that is acceptable. But I would like to have I guess we can't do that any how, but I was going to have Commissioner Kellom do Lily. She said she had some changes, I'm kind of interested to see what changes she would like to make. Even though it is a finished map, I believe.

>> CHAIR ORTON: It's not finished but yes she is coming on. Commissioner Kellom?

>> COMMISSIONER KELLOM: So if I understand you correctly, Commissioner Weiss, you would like me to make changes during your turn? Or.

>> COMMISSIONER WEISS: Yes, because your changes I thought the map was pretty good and it's been checked out. It's partisan fairness has all been done so I would like to see what you want to do to make it better.

>> COMMISSIONER KELLOM: Yeah and before I get started I can simply explain there have been several comments about the Oak Park Royal Oak Township and the COI that is in Detroit Palmer Park being merged. So that it crosses eight mile, not dramatically so. But in a way that more accurately expresses that community of interest. We had to my recollection we have the same individual three different times. And in our online platform put forth a plan that I would say I also agree with that could work, that makes minor changes. This individual also supplied a map. I think we heard him this morning and he called the map Tiger Lily so what I was proposing is that map be overlaid with the current Lily map. And those tweaks be made as quickly as we can. If we work together it will happen faster rather than go ahead, take it away Commissioner Kellom. If we do it together we will work quickly. Then the changes that Commissioner Orton made to the lakeshore area I think that can also be included in this map. And then we take a look at the numbers at such point I would like to rename the maps spirit of Detroit.

>> COMMISSIONER WEISS: Sounds good to me.

>> COMMISSIONER KELLOM: Okay.

Take it away, John.

>> MR. MORGAN: Okay.

>> COMMISSIONER KELLOM: So I think Commissioner Muldoon through the Chair, if you could give the ID number so that John can maybe pull it, if that's possible. Is that possible?

>> MARCUS MULDOON: The ID was P9920 under the public comment portal.

>> MR. MORGAN: Okay, generally I don't have access to that. But I can get that. Just a second. Okay so that is a different website from the one where we have been uploading plans; is that correct?

>> MARCUS MULDOON: Correct, it's under the Michigan mapping.org.

## Exhibit 29 - Excerpts from January 31, 2024 Transcript

DISCLAIMER: This is NOT a certified or verbatim transcript, but rather represents only the context of the class or meeting, subject to the inherent limitations of realtime captioning. The primary focus of realtime captioning is general communication access and as such this document is not suitable, acceptable, nor is it intended for use in any type of legal proceeding.

MICRC

20240131-900 Meeting

Captioned by Q&A Reporting, Inc., [www.qacaptions.com](http://www.qacaptions.com)

>> CHAIR ORTON: As Chair of the Commission I call this meeting of the Michigan Independent Citizens Redistricting Commission to order at 9:00 a.m.

This Zoom webinar is live streamed on our Michigan Independent Citizens Redistricting Commission YouTube channel.

For anyone in the public watching who would prefer to watch via a different platform than they are currently using, please visit our social media at redistricting MI.

Our live stream today includes closed captioning. Closed captioning, ASL interpretation and Spanish, Arabic and Bengali translation services will be provided for effective participation in this meeting. E-mail us at [Redistriction@michigan.gov](mailto:Redistriction@michigan.gov) for additional viewing options or details on accessing language translation services for this meeting.

People with disabilities needing other specific accommodations should also contact us at [Redistricting@michigan.gov](mailto:Redistricting@michigan.gov).

This meeting is being recorded and will be available at [www.Michigan.gov/MICRC](http://www.Michigan.gov/MICRC) for viewing at a later date.

This meeting is also being transcribed and those closed captions transcripts will be made available and posted on the [Michigan.gov/MICRC](http://Michigan.gov/MICRC) website along with written public comment submissions.

There is also a public comment portal and can be accessed visiting [Michigan.gov/MICRC](http://Michigan.gov/MICRC).

Members of the media who may have questions before, during or after the meeting should direct those questions to Edward Woods, III, Executive Director for the Commission, at [WoodsE3@Michigan.gov](mailto:WoodsE3@Michigan.gov) or 517-331-6309.

For the public watching and the public record I will turn to the Department of State to take note of the Commissioners present.

>> YVONNE YOUNG: Good morning, Commissioners. Please say present when I call your name, if you are attending the meeting remotely please announce during roll call you are attending the meeting remotely and unless your absence is due to military duty announce your physical location stating the City, County Township and the Village and state from which you are attending the meeting remotely. We will begin alphabetically with Commissioner Andrade?

>> ELAINE ANDRADE: Attending from Imlay Township, Michigan.

>> YVONNE YOUNG: Commissioner Callaghan?

>> DONNA CALLAGHAN: Remotely from Mexico.

>> YVONNE YOUNG: Commissioner Curry? Commissioner Eid?

Commission to put partisan fairness top of mind and keep that in mind going forward.

Thank you.

>> COMMISSIONER VALLETTE: Thank you for addressing the Commission. Next in line is Chris Gilmer hill. Please allow our staff a moment to unmute you.

>> Good morning can you hear me.

>> COMMISSIONER VALLETTE: Yes.

>> All right, hi my name is Chris Gilmer hill lifelong palmer Woods resident. I would like to speak briefly about a couple of tweaks the Commission should seriously consider as you work to bring everything into perfect compliance with the V AR and partisan fairness ahead of submitting the maps. You have done a really good job given the circumstances. I know things are running into a hurdle but should be proud of what you are doing because we are getting there. It's possible to fix a lot of the maps that are at 10 creating a new VRA seat where there is not one in the Grosse Pointes area. You can do this without breaking up the COI that includes like five Grosse Pointes and Harper Woods by like in the context of the Spirit of Detroit map, adding morning side, East English Village Cornerstone and Moross and Morang in 10 and moving St. Clair shores into District 12. Those balance out. Echo the previous commenter and you should consider partisan fairness and taking competitiveness in account which is something your analysis from the experts currently has not done. People talked a lot about the lakeshore District in that context, but I would like to specifically point out that District 13 you redrawn is a bigger issue from a safe democratic seat to a toss up in the Roseville area. You can touch the red District in somewhere like Taylor. Urge Taylor whole to fix that, thank you.

>> COMMISSIONER VALLETTE: Thank you for addressing the Commission. Next in line is Anthony Skannell, please allow a moment for our staff to unmute you.

>> Hello Commission. Looking at Mr. Palmer's tables, I was thinking about, you know, primary turn out amongst different groups and thought it was funny myself sometimes I turn out to the primary but then for a certain party but not for their general vote. That is a different story anyway. I'm in a different category that is not really counting voter wise.

That's fine. Third parties. But I'm looking at what you're trying to do, adjust some of the districts and let's say they are from Mr. Braden's perspective they are the ones on dot matrix that have purple dots in any plan, and you want to adjust, unpack those, I guess. And even if you don't, Mr. Fink said you could put out unadjusted ones and the adjusted version both for public comment. So I think it's going great. Keep up the great work.

>> COMMISSIONER VALLETTE: Thank you for addressing the Commission. Next in line is Robert Dindoffer. Please allow our staff a moment to unmute you.

>> Hello folks can you hear me.

>> COMMISSIONER VALLETTE: Yes.

there where if you could, you know, twist these two districts together you may be able to do it right here.

>> CHAIR ORTON: I'm not seeing where you are pointing.

>> MR. KENT STIGALL: You're not seeing it?

>> CHAIR ORTON: I mean, I see your cursor up at 60 and 61. Is that what other people see? I don't know.

>> MR. KENT STIGALL: Well, hold on a second. Because that is the problem here, we are having. So I'll go back over here. I'm trying to show the other screen. Let me back up. The area is 3 and 4 right here. That is 4 is 85%. And 3 is like 15 or 20. I was trying to get to show -- I need to change the share on this. Which is at this top. Just a moment. So now when I show it, y'all see the Spirit of Detroit comparison map now?

>> CHAIR ORTON: Yes.

>> MR. KENT STIGALL: Yeah, so, yeah, what I was talking about, the population that, you know, 4 is 85%. And some might think just by glancing at it that it's packed minority. So you could maybe make I saw a couple plans where these two districts were configured differently, 3 and 4, make those two work together. But you might be able to also do it up here around 10, 12, 13, 9. Just depending on how you want to make it work.

>> CHAIR ORTON: Commissioner Eid, do you have an idea keeping communities of interest in mind, how you would approach either one of those or your own?

>> COMMISSIONER EID: Yeah, I mean there are a lot of interests here, right? I think the least risky way would be to look at areas 10, 12 and 13 on the right side because those are districts that we've already changed. So it doesn't bring in more changes to any other District. It also doesn't trade one VRA protected group for another VRA protected group, which is what you would be doing if you tried to combine districts 4 and 3 in the Dearborn area. So I would rather look over there. We had a suggestion from public comment earlier, I believe from a guy named Chris, he suggested putting Grosse Pointe with Harper Woods, morning side, East English Village, Cornerstone village and Manistee in 10 and putting the St. Clair shores parts of that District with District 12. So you know, that could be a possible avenue to go on. But I would suggest staying in this area of the map if we want to try to make changes. Again, just because I think it's less risky on a variety of levels.

>> KIM BRACE: Commissioner Eid is voicing a point that I was about ready to make. And I would agree with him. Looking at the 3, 4 you have to be careful of the Arab community in that area given what has been created over there.

>> CHAIR ORTON: So if we were going to try to make a change in that area, Mr. Stigall, can you kind of...

>> MR. KENT STIGALL: Let me get some numbers up here. If you know the neighborhoods, you know, without looking at specific race populations, I guess that's always the hard part is when will you look at it and how to look at it. But you could start

by I think previous plans more this was in 10. And 12, I keep going back, 12 is 70% Black at this time. African/American. So I mean, if you are going to move some around.

>> COMMISSIONER EID: I think what you would have to do, and I don't really -- I don't agree with this per se, I like I said I'm comfortable with Spirit of Detroit how it is. But, you know, for our purposes right now, I think if you want to turn 10 to be from blue to green on the other map, the commenter's suggestion was put the Grosse Pointes in 12. .

>> MR. KENT STIGALL: Okay.

>> COMMISSIONER EID: And then work from there.

>> CHAIR ORTON: And this is a copy, right?

>> MR. KENT STIGALL: Yes.

>> CHAIR ORTON: Just wanted to double check.

>> MR. KENT STIGALL: I'm just going to start the process of manipulating and assigning those. So we can see what we got. 12. Let me get the add on here. Something like that? I know this is all water, but we will put that in 12 and just to start hopefully. I'm going to make this so you can see the -- so we can see what we are doing here. Just a second. So can everybody see these numbers now?

>> CHAIR ORTON: Can you make them bigger?

>> MR. KENT STIGALL: I can make them as big as you can stand it. Okay?

>> CHAIR ORTON: On my screen it's still a little hard to see but maybe others can see.

>> MR. KENT STIGALL: It's pretty big.

>> CHAIR ORTON: Okay.

>> MR. KENT STIGALL: All right, so we are at 12000. So.

>> COMMISSIONER EID: Yeah, I think you need -- so it would include there are two more Grosse Pointes there. There is Harper Woods as well. So I think you would.

>> MR. KENT STIGALL: I'm going to go all the way up.

>> COMMISSIONER EID: Yeah.

>> MR. KENT STIGALL: I didn't know. And do you want to get the population numbers? Then are you talking about Pushing, Maple Ridge and East Point in either 13 or 10?

>> COMMISSIONER EID: I think what the commenter, that is what the commenter was trying to say was to put that, loop it around and go down to put it in 10. And that could work on population.

>> MR. KENT STIGALL: East Point is 34,000. And 10 is 60 over. So do we want to shift to East Point into 10 at this point?

>> COMMISSIONER EID: Yes.

>> MR. KENT STIGALL: No, no, no. Talking about leaving, are we -- without the numbers it's hard. We have to figure out what we are doing here. It's not what I want.

That's not what I want. I'm trying to figure it out what to display what we are looking at, which is this. So, yeah, here is the precinct numbers.

>> COMMISSIONER EID: So if you go south and add regent park into 10.

>> MR. KENT STIGALL: Yep.

>> COMMISSIONER EID: Now you are trying to reconfigure I guess the population between 10 and 12. And make it work.

>> MR. KENT STIGALL: Without messing with 13.

>> COMMISSIONER EID: Yeah, without messing with what you just did on 12. So I think you're going to need a couple neighborhoods there. Like you will probably need the outer drive area.

>> MR. KENT STIGALL: Yeah, it's 14,000. And that is not going to do it. I don't think. We are going into 7 just a little bit. But Denby.

>> COMMISSIONER EID: Well, we definitely want to keep together those three of morning side, East English Village and Cornerstone village. So just as long as you are not splitting those up.

>> MR. KENT STIGALL: Let's start with Denby right here. Just as a, you know, as 4,000. That has to be cut out. But assign that and I will take that back out and put it in 12. Does that make sense? And that.

>> COMMISSIONER EID: Yeah, looks good.

>> MR. KENT STIGALL: Yeah. And then these few here that split this neighborhood.

>> COMMISSIONER EID: Right.

>> MR. KENT STIGALL: So at this point, I think there are some residual stuff right here. And those are just little splinter blocks that got left over and formerly had been in 10. So we are just going to Zoom in here and you can kind of see that. So unpopulated but it does make the neighborhood appear to be split. 10, these two little pieces come down. So this point, the numbers between 10 and 12 appear, total population within perimeters.

>> COMMISSIONER EID: Okay so why don't you Zoom out then and let's see what we have done.

>> MR. KENT STIGALL: Okay.

>> COMMISSIONER EID: Well, do you think that change would be sufficient? Do you want to run it to see if that changed anything on the metrics?

>> CHAIR ORTON: I have a question about that. I guess when we do this, we just make these changes and then send them on and wait for the results? Is that how this is happening?

>> KIM BRACE: Yes. That would end up being the way to do it so you would want to save this as a new plan or a plan A or however you want to label it. But the shape and the active matrix needs to go to Dr. Palmer so that he can then run it through his system. Just as we did 2012 one earlier for Commissioner Lange.

>> MR. KENT STIGALL: So we won't know at this if it influenced the numbers until after it has been.

>> KIM BRACE: Until after it goes through Commissioner or Dr. Palmer's system, yes.

>> CHAIR ORTON: So we will revisit this.

>> KIM BRACE: Right.

>> MR. KENT STIGALL: Kind of want to look at these. This information, any of these tables.

>> CHAIR ORTON: So, Mr. Morgan?

>> MR. MORGAN: Yeah, I was going to say if Commissioner Eid and the rest think you're done with this and are ready to send it on I could start another map while Kent is sending that. Or we could do something different. I don't know if you consider this finished or if you just want to send it as is or if you want to make other adjustments.

>> COMMISSIONER EID: Well you know it's hard to say because we don't have the racial data on, right? So like we are kind of guessing, checking based on our knowledge of just where generally, you know, generally people are. Like demographic standpoint.

>> KIM BRACE: John, pull up the other matrix with the race on it I thought.

>> COMMISSIONER EID: Let's hold on to that for a second and talk about it first before you even display it, please.

>> Nate Fink: I was going to say, you know, in light of the fact that you're now making narrowly tailored or trying to make narrowly tailored modifications to these maps to comply with the Voting Rights Act having received the feedback from the VRA consultants, I think it's appropriate for you to look at some of that racial information as you're going through this process. And so I think it would be good if Mr. Brace could or Mr. Brace's team can bring that up. I don't know if Mr. Braden, if you have anything to add.

>> Mark Braden: Total agreement. At this stage where my magic work and trying to tweak the plan to make a District appear to be more likely to provide an equal opportunity by its very nature you have to look at race. And we are at a stage now we want to make the ball roll forward in the right direction so you should absolutely look at race at this stage to make the small, tailored changes to get you to where you want to. There is no other way of doing it except by luck and sort of knowledge. But you got numbers, and you should look at them. And that will make it move quicker, I believe.

>> COMMISSIONER EID: We have, we clearly have Commissioners that are uncomfortable in some regards doing that. So like should we have a discussion about that now? Maybe if we should or shouldn't, I don't know.

>> CHAIR ORTON: Sure, we can have a discussion. I kind of feel like that's what we were talking about earlier. And we got the go ahead from all parties that, you know,

beside Commissioners, the other, the legal parties that is fine now. But we can still discuss it if we want. Commissioner Szetela?

>> COMMISSIONER SZETELA: Yeah, I'm just curious, Anthony, were you using Promote the Vote maps for inspiration for these two districts? Because they are very, very similar to the two districts that are in the Promote the Vote map.

>> COMMISSIONER EID: I've not looked at the Promote the Vote map since whenever we put it forward last week. I was specifically referencing the public comment from earlier today. I would have to double check, but I think the guy's name was Chris. And he suggested putting St. Clair shores in 12. And the Grosse Pointes, the Grosse Pointes with Harper Woods, morning side, East English Village in District 10. I think we did the opposite here. We flipped District 12 and 10 but that is what I was going on. Any other thing that will look similar to is merely coincidence.

>> CHAIR ORTON: Okay, so did we want to -- we are waiting for the matrix, right?

>> MR. KENT STIGALL: Okay, well, let me assign these blocks that got to 9. These are water blocks. And they got assigned by precinct. Let's just go ahead and get those put back into make them contiguous. These belong in 9 and got moved out of 9. And this block I believe was in 1. This was that one. I cannot do this. We will look at which table? I'm just going to open it up here. And, you know, you got -- so looking at the table right now, as percent of racial demographics as a non-Hispanic white, Black and those. So.

>> COMMISSIONER EID: So are we looking at this, or not? Can you just take this off until we actually decide? I don't want to look at it.

>> MR. KENT STIGALL: You told me to bring it up. I'm sorry, okay.

>> COMMISSIONER EID: I'm sorry.

>> MR. KENT STIGALL: I thought chairman said we were getting ready to look at the table.

>> COMMISSIONER EID: Is that what you said?

>> CHAIR ORTON: I thought that is what we were waiting for but if you want a discussion about that totally fine. Commissioner Lange?

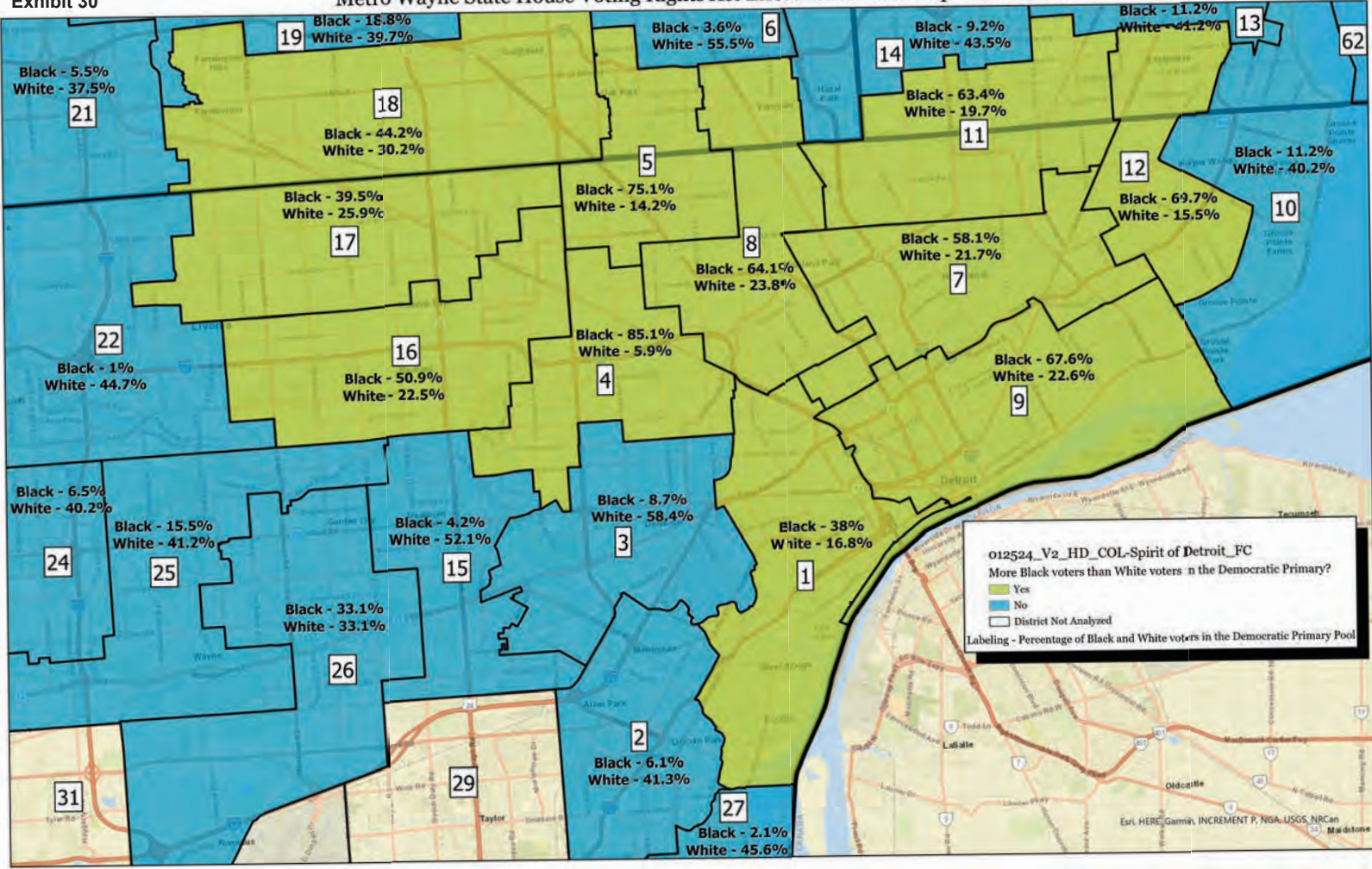
>> COMMISSIONER LANGE: I'm still not comfortable looking at the racial data but it's up to the Commission. If the Commission is going to look at it just so you know I'm going to walk away where I can hear but not actually see it. That is just my preference. Thanks.

>> CHAIR ORTON: Okay so it seems to me that we are -- our options are we can look at data and look at the racial data and make our best guess as to what we're moving around. Or we can just make moves like we just did without any racial data and send it off and wait for the analysis. And then decide to look at it again and, you know, see whether it worked or not. So is there -- we need to come to a consensus on what we want to do. Any comments? Suggestions? Go ahead, Mr. Braden.



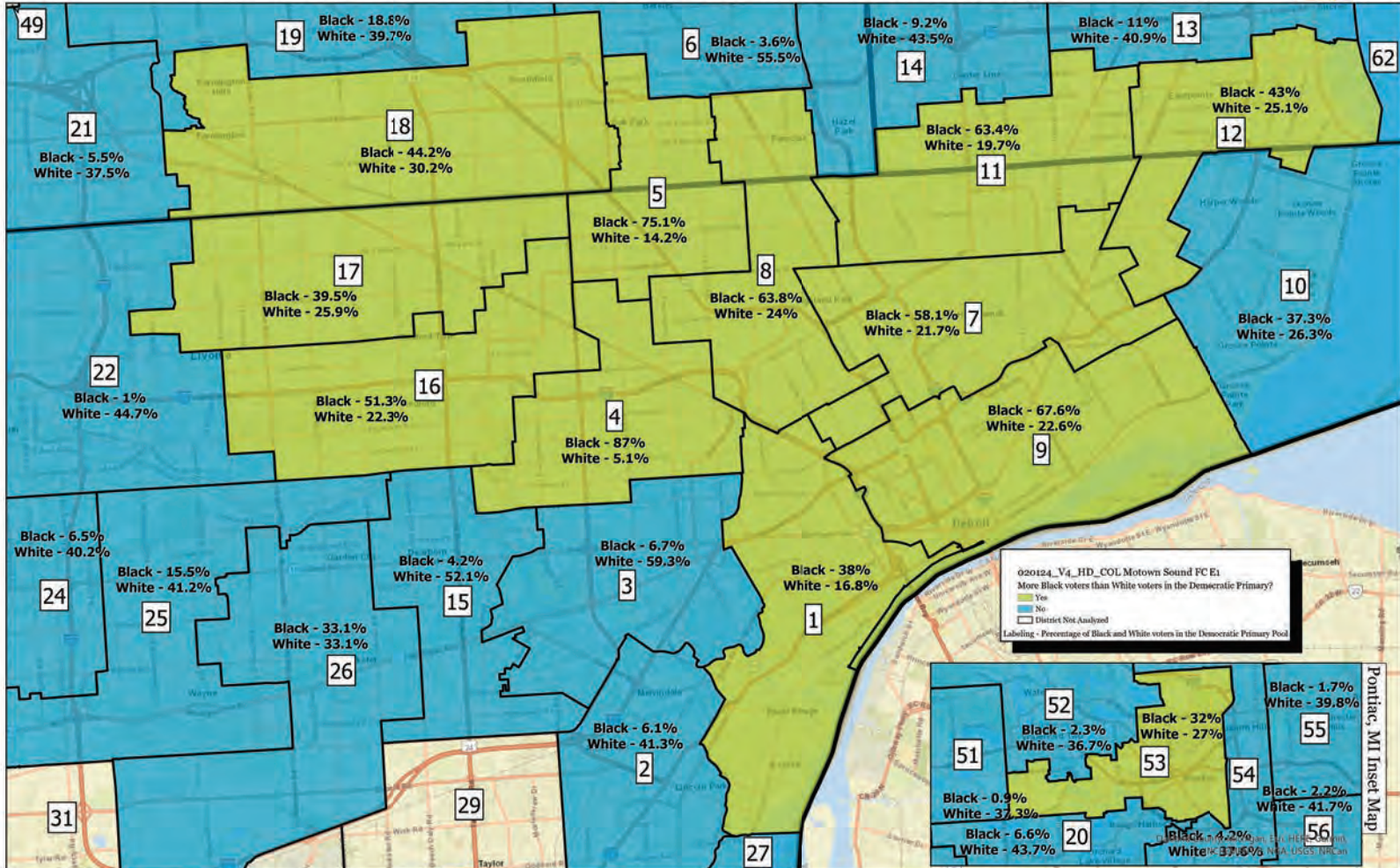
Exhibit 30

### Metro Wayne State House Voting Rights Act Effectiveness Plan - Spirit of Detroit



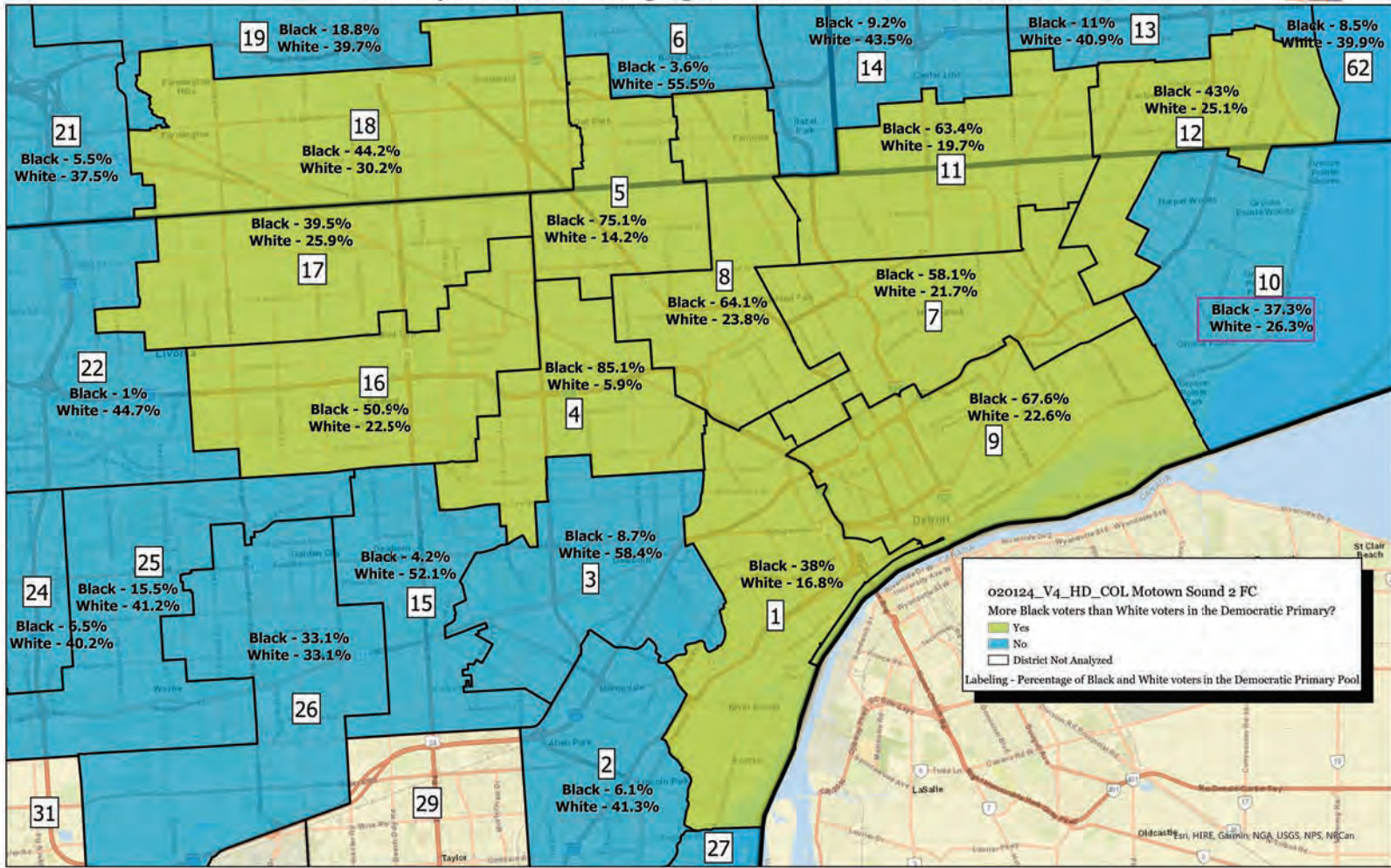
012524\_V2\_HD\_COL-Spirit of Detroit\_FC  
More Black voters than White voters in the Democratic Primary?  
Yes  
No  
District Not Analyzed  
Labeling - Percentage of Black and White voters in the Democratic Primary Pool

# Metro Wayne State House Voting Rights Act Effectiveness Plan - Motown Sound 2 (E1)



Pontiac, MI Inset Map

Metro Wayne State House Voting Rights Act Effectiveness Plan - Motown Sound 2



020124\_V4\_HD\_COL Motown Sound 2 FC  
 More Black voters than White voters in the Democratic Primary?  
 Yes  
 No  
 District Not Analyzed  
 Labeling - Percentage of Black and White voters in the Democratic Primary Pool

# Exhibit 31 - Excerpt of December 12, 2023 Transcript

DISCLAIMER: This is NOT a certified or verbatim transcript, but rather represents only the context of the class or meeting, subject to the inherent limitations of realtime captioning. The primary focus of realtime captioning is general communication access and as such this document is not suitable, acceptable, nor is it intended for use in any type of legal proceeding.

MICRC

20231214 - 1000 Meeting

>> YVONNE YOUNG: Good morning.

>> Good morning.

>> CHAIR ORTON: As Chair of the Commission, I call the meeting of the Michigan Independent Citizens Redistricting Commission to order at 10:00 a.m.

This Zoom webinar is being live streamed on YouTube at The Michigan Independent Citizens Redistricting Commission YouTube channel.

For anyone in the public watching who would prefer to watch via a different platform than they are currently using, please visit our social media at Redistricting MI.

Our live stream today includes closed captioning. Closed captioning, ASL interpretation, and Spanish and Arabic and Bengali translation services will be provided for effective participation in this meeting. Please E-mail us at [Redistricting@michigan.gov](mailto:Redistricting@michigan.gov) For additional viewing options or for additional details for accessing language translation services for this meeting.

People with disabilities or needing other specific accommodations may also contact Redistricting at [Michigan.gov](http://Michigan.gov).

This meeting is also being recorded and will be available at [www.Michigan.gov/MICRC](http://www.Michigan.gov/MICRC) for viewing at a later date.

This meeting also is being transcribed and those closed captioned transcriptions will be made available and posted on the [Michigan.gov/MICRC](http://Michigan.gov/MICRC) website and written public comment submissions.

Members of the media who may have questions before, during or after the meeting should direct those questions to Edward Woods III, Executive Director For the Commission at [WoodsE3@Michigan.gov](mailto:WoodsE3@Michigan.gov) or 517-331-6309.

For the public watching and the public record I will turn to the department of state staff take note of the commissioners present.

>> YVONNE YOUNG: Good morning Commissioners. Please say present when I call your name. If you are attending the meeting remotely, please announce during roll call where you are attending the meeting remotely from. And then unless your absence is due to military announce your physical location by stating the county, City, Township or village and the state from which you are attending the meeting remotely. I will begin roll call. Doug Clark?

>> COMMISSIONER CLARK: Present and I'm attending today's meeting from Huntington Beach, California.

>> YVONNE YOUNG: Juanita Curry?

>> COMMISSIONER CURRY: Present attending the meeting from Detroit Michigan, remotely from Detroit Michigan.

>> YVONNE YOUNG: Anthony Eid?

>> COMMISSIONER EID: Good morning present remotely attending from Detroit, Michigan.

>> YVONNE YOUNG: Brittini Kellom?

>> COMMISSIONER KELLOM:

>> YVONNE YOUNG: Rhonda Lange?

>> COMMISSIONER LANGE: Present attending remotely from sun shiny Osceola County, Michigan.

>> YVONNE YOUNG: Send some sunshine. Steve Lett?

>> COMMISSIONER LETT: Attending remotely from Lee county, Florida.

>> YVONNE YOUNG: Cynthia Orton?

>> VICE CHAIR ORTON: Present attending remotely from Battle Creek, Michigan.

>> YVONNE YOUNG: MC Rothhorn?

>> VICE CHAIR ROTHORN: Present attending remotely from East Lansing, Michigan.

>> YVONNE YOUNG: Rebecca Szetela?

>> COMMISSIONER SZETELA: Sorry about that. Present attending remotely from Wayne County, Michigan.

>> YVONNE YOUNG: You're okay. Janice Vallette?

>> COMMISSIONER VALLETTE: Present attending remotely from Highland Township, Michigan.

>> YVONNE YOUNG: Erin Wagner?

>> COMMISSIONER WAGNER: Present remotely from Eaton Township, Eaton County, Michigan.

>> YVONNE YOUNG: Richard Weiss?

>> COMMISSIONER WEISS: Remotely from Saginaw Township Saginaw Michigan.

>> YVONNE YOUNG: Dustin Witjes?

>> COMMISSIONER ORTON: You just muted yourself, Dustin.

>> COMMISSIONER WITJES: Present remotely from Tuscola, Illinois.

>> YVONNE YOUNG: Say again where you are attending from.

>> COMMISSIONER WITJES: Tuscola, Illinois.

>> YVONNE YOUNG: Tuscola, Illinois, got it. There are 12 Commissioners present and we have a quorum.

>> CHAIR ORTON: You can view the agenda at [www.Michigan.gov/MICRC](http://www.Michigan.gov/MICRC). I would entertain -- oh, Commissioner Eid, you have your hand up?

>> COMMISSIONER EID: Yes. Thank you Madam Chair at this time I would like to motion to adjourn.

>> COMMISSIONER LETT: Second.

>> CHAIR ORTON: There is a motion and a second to adjourn the meeting. Is there any discussion on the motion?

>> COMMISSIONER LANGE: I have discussion.

>> CHAIR ORTON: Okay Commissioner Lange?

>> COMMISSIONER LANGE: Thank you, Chair. This is coming as a surprise to me so I would like to know what the reason for the motion is. And if there was discussion that was had outside of the open meeting about this, our rules state that we must have one meeting a month and we have missed two months. So unless there is extenuating circumstances, I don't think it's proper or right for the public for us to adjourn. So I would just like to know what the reasoning of the adjournment is. Thank you.

>> CHAIR ORTON: Commissioner Eid has his hand up so Commissioner Eid do you want to address that?

>> COMMISSIONER EID: Sure, yes, I'm looking at the agenda. Well first you know we are having a meeting. We have called the meeting. There is a quorum and now there is a motion to adjourn. So I would say this is the meeting. I'm making the motion to adjourn because I don't see anything on the agenda that is time sensitive. I think given the circumstances of the Agee Court case it would make the most sense to adjourn and come back once we hear the verdict of the case and do everything that is on today's agenda and then figure out depending on the verdict what there is to be done later.

>> CHAIR ORTON: Commissioner Wagner?

>> COMMISSIONER WAGNER: I see no reason to adjourn. We haven't had a meeting and the public deserves to know what the hell is going on I want to know what the hell is going on and I'm a little upset we printed out all this material, all got ready for this meeting only to have it adjourn after the adoption of the agenda or whatever. This is ridiculous.

>> CHAIR ORTON: Commissioner Szetela?

>> COMMISSIONER SZETELA: Sorry I keep muting myself. I don't really have any commentary on the motion to adjourn but a point of order I would like to discuss before we move to voting and I can hold that if you have comments I just wanted to make you aware of it.

>> CHAIR ORTON: Any other discussion on the motion? Commissioner Lett?

>> COMMISSIONER LETT: I would be interested since you raised a point of order Commissioner Szetela what your point of order is or are you withdrawing your point of order?

>> COMMISSIONER SZETELA: No, I can make it right now. Under Roberts rules of order the point of order takes precedent over voting on a motion. So this was actually on the agenda today but if we are going to adjourn it has to be brought up now before we vote. I have some concerns around the residency of two of the members who are