A Section 5 Voting Rights Analysis of the Proposed Texas Congressional Plan

Prepared by Dr. Lisa Handley
Principal, Frontier International Electoral Consulting

1.0 Introduction

My comparison of the current Texas congressional plan (Benchmark Plan) to the congressional plan proposed by the State of Texas (Proposed Plan) leads me to the conclusion that the Proposed Plan violates Section 5 of the Voting Rights Act. Although the State of Texas gained four seats in the 2010 reapportionment (increasing the Texas congressional delegation from 32 to 36 members), an increase due primarily to the increase in the Hispanic population,[1] the Proposed Plan includes no additional districts that provide minority voters with the ability to elect candidates of their choice. Minority voters have the ability to elect minority-preferred candidates in 31.3% of the districts (10 districts out of a total of 32 districts) in the Benchmark Plan, but only 27.8% of the districts in the Proposed Plan (10 districts out of a total of 36 districts) provide minority voters with the ability to elect candidates of choice to office. Perhaps even more striking, under the Benchmark Plan, 6,001,286 minorities reside in districts that provide them with the ability to elect their preferred candidates. However, under the Proposed Plan this number falls to 5,605,011; 396,275 fewer blacks and Hispanics reside in effective minority districts in the Proposed Plan than in the Benchmark Plan.

Scope of Project I was asked by the US Department of Justice to conduct a voting rights analysis of the proposed Texas congressional plan to ascertain whether the Proposed Plan satisfies the requirements of Section 5 of the Voting Rights Act of 1965.

Professional Background and Experience I have advised numerous jurisdictions and other clients on voting rights-related issues and have served as an expert in dozens of voting rights and redistricting cases. My clients have included scores of state and local jurisdictions, a number of national civil rights organizations, the U.S. Department of Justice, and such international organizations as the United Nations.

I have been actively involved in researching, writing and teaching on subjects relating to voting rights, including minority representation, electoral system design and redistricting. I co-authored a book, *Minority Representation and the Quest for Voting Equality* (Cambridge University Press, 1992), and numerous articles, as well as co-edited a volume (*Redistricting in Comparative Perspective*, Oxford University Press, 2008) on these subjects. I have taught several political science courses, both at the undergraduate and graduate level, related to

[1]The US Census reports that the population of the State of Texas increased by 4,293,741 (from 20,851,820 to 25,145,561) between 2000 and 2010. The Hispanic population increased by 2,791,255 (from 6,669,666 in 2000 to 9,460,921); the non-Hispanic white population, on the other hand, increased by 464,032 (from 10,933,313 to 11,397,345). The Hispanic population growth therefore accounts for 65% of the population growth in the State of Texas between 2000 and 2010.

representation and redistricting. I hold a Ph.D. in political science from George Washington University.

I have been a principal of Frontier International Electoral Consulting since co-founding the company in 1998. Frontier IEC specializes in providing electoral assistance in transitional democracies and post-conflict countries.

2.0 The Benchmark Plan

The congressional plan from which retrogression is to be measured is the current Texas congressional plan considered in conjunction with the 2010 census data (the Benchmark Plan). In the Benchmark Plan there are ten congressional districts with significant minority populations: Districts 9, 15, 16, 18, 20, 23, 27, 28, 29, and 30. As will be demonstrated below, all of these districts provide minority voters with the ability to elect candidates of their choice to office.

Table 1: Congressional Districts in the Benchmark Plan with Significant Minority Populations

District	%HVAP	%HCVAP	%SSVR 2010	%BVAP	Hispanic Population	Black Population	Hispanic + Black Population[2]
9	38.9	19.1	15.8	36.3	310931	269443	571691
15	78.7	71.9	70.7	1.9	649297	13748	659953
16	79.1	74.5	67.6	3.5	617465	29102	640184
18	39.0	22.3	18.1	37.9	313533	271104	577869
20	68.0	63.8	58.1	7.7	509144	58233	559532
23	62.8	58.4	52.0	4.0	562913	34566	591878
27	69.2	63.8	59.4	2.6	543306	20112	559593
28	75.7	68.3	65.6	1.8	672129	15455	684459
29	72.3	56.0	51.3	10.7	514861	72061	581464
30	34.7	19.8	14.0	42.5	280508	299520	574663
TOTAL					4974087	1083344	6001286

State of Texas Population Percentage Approach In their complaint, the State of Texas indicated that their determination of whether a district offered minority voters an ability to elect candidates of choice was based on the demographic composition of the districts alone.[3] The set of population percentage cutoffs listed in the brief, chosen without any

[2]The black and Hispanic population columns cannot be added to produce "Hispanic + Black" population or black Hispanics would be double-counted. The information on which this table relies is found primarily in a set of reports produced by the Texas Legislative Council labeled "Red-100 and Red-202."

[3] Although the State notes in their complaint that they created an additional congressional district with a BVAP of 37.6% and a new congressional district was drawn with a HVAP "over 50%," their count of

analysis to determine if these served as a valid indication of minority opportunity,[4] listed in the brief are as follows:

- Hispanic Voting Age Population (HVAP) greater than 60%
- Hispanic Citizen Voting Age population (HCVAP) greater than 50%
- Spanish Surname Voter Registration (SSVR) greater than 50%
- Black Voting Age Population (BVAP) greater than 40%

While the demographic composition of a district is certainly the valid starting point for a determination of whether a district provides minority voters with an ability to elect candidates of their choice to office, this approach fails to take into account the actual voting performance of the districts – that is, whether the minority districts succeeded in electing minority-preferred candidates over the course of the decade.[5]

As a consequence of the decision to rely solely on a set of minority population percentage cutoffs, the State contends that the Benchmark Plan contains only eight Benchmark districts that offer minorities the ability to elect candidates of choice: seven districts that offer Hispanic voters the ability to elect candidates of choice and one district that provides black voters an ability to elect candidates of choice.

By adopting a population percentage approach to identifying Benchmark minority districts, the State fails to include in the Benchmark number of minority districts two minority districts that have consistently elected minority-preferred candidates to Congress: Districts 9 and 18. When the actual election performance of congressional districts is taken into account, all ten districts with significant minority populations in the Benchmark Plan provide minority voters with the ability to elect candidates of their choice to office.

Election-Focused Approach I have developed two election-based indices for determining if a district provides minority voters with an ability to elect candidates of choice over the past decade. Using the demographic composition of the Benchmark districts as my starting point

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effective minority districts in the Benchmark and Proposed Plans indicate that they adhered to the cutoff percentages as listed.

[4]Although the State (both the Texas Legislative Council and the Office of the Attorney General) produced scores of reports to inform the redistricting process, the State did not include much of this data in their brief. I, however, have relied extensively on the State's reports to prepare this report.

[5]The US Department of Justice guidelines state: "In determining whether the ability to elect exists in the benchmark plan and whether it continues in the proposed plan, the Attorney General does not rely on any predetermined or fixed demographic percentages at any point in the assessment. Rather, in the Department's view, this determination requires a functional analysis of the electoral behavior within the particular jurisdiction or election district. As noted above, census data alone may not provide sufficient indicia of electoral behavior to make the requisite determination." *Federal Register* /Vol. 76, No. 27 /Wednesday, February 9, 2011.

– I considered only districts with minority voting age population percentages greater than 50% – I calculated values for each congressional district on these two indices.

The first, and most probative, index is a measure of the district's ability to elect a minority-preferred candidate to Congress. I refer to this as the *Endogenous Effectiveness Index*. This index simply measures the percentage of contests since the districts were redrawn in 2004 (some districts were redrawn again prior to the 2006 election hence there are only three contests to consider with regard to these districts) that the minority-preferred candidate won.

It is important to consider the ability of minorities to elect their preferred candidate over time, rather than focus on a single election. For example, turnout (both white and minority) varies depending on whether the election is held in a presidential election year and this can impact the ability of minorities to elect a candidate of choice.[6]

The second index is the *Exogenous Effectiveness Index*. It measures the ability of a set of statewide minority-preferred candidates to carry the congressional district at issue. The elections indexed were five general election contests (in each instance the highest contest on the ticket to include a Hispanic candidate that was preferred by Hispanic and black voters), one from each election cycle over the course of the decade:[7] the 2002 race for Governor (Tony Sanchez ran as the Democratic nominee); the 2004 race for Court of Criminal Appeals, Place 6 (which included J.R. Molina, a Hispanic Democrat); the 2006 race for Lieutenant Governor (Maria Alvarado ran as the Democratic nominee in this contest); the 2008 race for US Senate (Richard Noriega was the Democratic candidate); and the 2010 race for Lieutenant Governor (which included Linda Chavez-Thomas, a Hispanic Democrat). All of the information used to create this index was compiled by the State of Texas and appear in a report labeled "RpvaMulti_AllCandStandard_PLANC100". This included the results of a district-by-district racial bloc voting analysis used to ensure that the Hispanic candidate was in fact the minority-preferred candidate in every district considered. (Appendix B lists the raw information used to tabulate district scores for this index.)

Applying the Election-Focused Approach Table 2, below, includes the Hispanic voting age population (HVAP), Hispanic citizen voting age population (HCVAP), Spanish surname voter registration (SSVR), and black voting age population figures for all majority Hispanic congressional districts (based on voting age population). In addition, the table indicates the scores of each district on both the Endogenous and Exogenous Effectiveness Indices. The

[6]This is just one example of a factor that may impact the ability of minorities to elect their preferred candidates. Other factors may include demographic shifts within the district and the degree of racial polarization, particularly the amount of white crossover vote.

[7]It is important to consider the voting patterns and the results of a series of elections over the course of the decade rather than simply rely on a single election to determine if the district offers minorities an ability to elect candidates of choice.

same information is reported for all congressional districts over 36% black in voting age population in Table 3, below.

Table 2: Benchmark Congressional Districts Greater than 50% Hispanic in Voting Age Population and their Scores on the Effectiveness Indices

District	% HVAP	% HCVAP	% SSVR 2010	% BVAP	State House Representation	Endogenous Minority Effectiveness Index	Exogenous Minority Effectiveness Index
16	79.1	74.5	67.6	3.5	HD 2004-2010	100	100
15	78.7	71.9	70.7	1.9	HD 2006-2010*	100	100
28	75.7	68.3	65.6	1.8	HD 2006-2010*	100	100
29	72.3	56.0	51.3	10.7	H-P WD 2004-2010	100	100
27	69.2	63.8	59.4	2.6	WR 2010;2HD 2004-2008	75	60
20	68.0	63.8	58.1	7.7	HD 2004-2010	100	100
23	62.8	58.4	52.0	4.0	HR 2010; HD 2006-2008*	67	40

*****Districts redrawn by court order prior to the 2006 election include 15, 23 and 28. (All districts were redrawn prior to the 2004 election.) Abbreviations: HD = Hispanic Democrat; WD = White Democrat; HR = Hispanic Republican; WR = White Republican; H-P WD = Hispanic-Preferred White Democrat*

Table 3: Benchmark Congressional Districts Greater than 36% Black in Voting Age Population and their Scores on the Effectiveness Indices

District	% BVAP	% HVAP	% HCVAP	% SSVR 2010	State House Representation	Endogenous Minority Effectiveness Index	Exogenous Minority Effectiveness Index
30	42.5	34.7	19.8	14.0	BD 2004-2010	100	100
18	37.9	39.0	22.3	18.1	BD 2006-2010	100	100
9	36.3	38.9	19.1	15.8	BD 2006-2010	100	100

*****Abbreviations: BD = Black Democrat*

Hispanic voters in all of the districts in Table 2 demonstrated an ability to elect their preferred candidates at least a majority of the time over the course of the decade.[8] Each of these districts scored higher than 50 on the Endogenous Index and averaged at least 50 on both of the scores. Because the Endogenous Index is more probative than the Exogenous Index, I have given it more weight by considering it separately (a district is deemed

[8] Although the Hispanic-preferred candidate is usually a Hispanic Democrat, in District 29 the candidate of choice of Hispanic voters is clearly the white Democratic incumbent, Rep. Gene Green. An analysis of voting patterns by race/ethnicity indicates that he is the choice of Hispanic voters even when, as in 2010, his opponent is Hispanic. (See Appendix D.)

ineffective if it scores less than 50 on this index) and then averaging this score with the Exogenous Index when making my determination of minority effectiveness.[9]

Applying the same Election-Focused Approach to minority districts that have significant black populations,[10] Table 3 demonstrates that there are three minority districts that provide black voters with the ability to elect candidates of choice in the Benchmark Plan. All three of these districts have consistently elected minority-preferred candidates to office, and all three of them also scored 100 on the Exogenous Effectiveness Index.

The State of Texas, however, argues that there is only one district in the Benchmark Plan that offers black voters the ability to elect candidates of choice to office. The State does this by adopting the arbitrary cutoff of 40% black voting age population – a cutoff that leads the State to exclude Districts 9 and 18 from the count, despite the fact that both of these districts have consistently elected a black-preferred African American Democrat to office since the districts were redrawn in 2004.

Conclusion When the ability to elect minority-preferred candidates to office is taken as the bellwether rather than simple population percentages, the Benchmark Plan includes ten minority districts that offer minority voters the ability to elect minority-preferred candidates, rather than the eight effective minority districts the State contends exist in the Benchmark Plan.

3.0 Proposed Plan

Because the State of Texas was awarded an additional four congressional seats in the 2010 reapportionment, a comparison of the relative strength of minority voters in the Benchmark and the Proposed Plan is not a simple tally of the number of districts that offer minority voters the ability to elect candidates of choice – it is a comparison of the percentage of districts that provide this opportunity.

Relying on the same set of minority cutoff percentages as those used to identify a Benchmark district that provides minority voters with an ability to elect candidates of choice, the State contends there are nine effective minority districts (a gain of one) in the Proposed Plan: seven districts that provide Hispanic voters with the ability to elect their

[9]Although the Endogenous Index is more probative when determining if a district offers minority voters the ability to elect candidates of choice to the State House, the Exogenous Index has been included to provide a relative measure of effectiveness when comparing the Benchmark to Proposed districts. (There have obviously been no state house elections under the Proposed Plan.)

[10]Because all districts greater than 36% black in voting age population consistently elect minority-preferred candidates to office this table lists all of these districts in descending order of black population. (These districts are all majority minority in composition, with the plurality group being black.)

candidates of choice and two that offer black voters the ability to elect black-preferred candidates.

Although the Endogenous Effectiveness Index cannot be employed when examining proposed districts, the Exogenous Effectiveness Index provides a good indication of the relative effectiveness of these newly configured districts in providing minorities with the ability to elect candidates of choice. This index is based on a recompilation of the election results from the same five statewide elections incorporated in the Exogenous Index for the Benchmark Plan. In this case, however, the election returns must be recompiled to conform to the proposed district boundaries. This recompilation was prepared by the State and can be found in a report labeled "RpvaMulti_AllCandStandard_PLANC185".[11] The results of tallying up the percentage of contests that the minority-preferred candidates would win in each districts is found in Tables 4 and 5 in the column labeled Exogenous Effectiveness Index. (The raw information can be found in Appendix C.)

Table 4: Proposed Congressional Districts Greater than 50% Hispanic in Voting Age Population and their Scores on the Exogenous Effectiveness Index

District	% HVAP	% HCVAP	% SSVR 2010	% BVAP	Incumbent Residing in District	Exogenous Minority Effectiveness Index
34	79.0	71.7	71.1	1.7	None	100
16	77.6	72.7	65.7	3.8	HD (Reyes)	100
15	77.2	71.0	66.5	2.1	HD (Hinojosa)	80
28	73.6	65.9	62.8	5.6	HD (Cuellar)	100
29	71.7	56.3	51.6	12.4	H-P WD (Green)	100
20	66.0	62.9	55.6	5.7	HD (Gonzalez)	100
23	63.8	58.5	54.1	2.7	HR (Conseco)	0
35	58.3	51.9	43.8	10.4	None	100

**The shaded district is a majority Hispanic district that does not offer Hispanic voters the ability to elect candidates of choice based on its score on the Exogenous Index.*

Table 5: Proposed Congressional Districts Greater than 36% Black in Voting Age Population and their Scores on the Exogenous Index

District	% BVAP	% HVAP	% HCVAP	% SSVR 2010	Incumbent Residing in District	Exogenous Minority Effectiveness Index
30	46.5	35.6	20.6	14.8	BD (Johnson)	100
18	40.5	31.9	17.4	13.6	BD (Jackson Lee)	100
9	37.6	35.8	18.3	14.6	BD (Green)	100

[11]Although the State had this information – and much more – at their disposal, none of this information was included in their complaint.

Hispanic Districts Using the Population Percentage Approach, the State contends that the Proposed Plan offers seven districts that provide Hispanics the ability to elect candidates of their choice: Congressional Districts 15, 16, 20, 23, 28, 29 and 34. However, one of these proposed majority Hispanic districts does not, in fact, offer this opportunity. According to the Election-Focused Approach, District 23 will simply not provide Hispanic voters with the ability to elect Hispanic-preferred candidates: [12] the Exogenous Index score is 0 for this district and the incumbent in the district, Rep. Francisco Conseco, is not the Hispanic-preferred candidate.[13]

On the other hand, there is a newly created seat in the Proposed Plan that the State does not include in its tally because it does not meet the Hispanic cutoff percentage of 60% HVAP (though it is mentioned in the complaint) that does, in fact, provide Hispanic voters with the ability to elect minority-preferred candidates: District 35. District 35, although it is less than 60% in HVAP (it is 58.3% in HVAP), has an Exogenous Index score of 100 (and is an open seat). Thus, using the Election-Focused Approach, this brings the number of effective Hispanic districts to seven – the same number of effective Hispanic districts as in the Benchmark Plan. Given the increase in the number of congressional seats in Texas after the reapportionment, however, this represents a decrease in the percentage of seats that provide Hispanic voters with the ability to elect candidates of choice: 21.9% to 19.4%.

Plurality Black Districts The State contends that the Proposed Plan increases the number of districts that provide black voters with the ability to elect candidates of their choice from one in the Benchmark to two. But the State has done this simply by taking District 18, which is already an effective minority district according to the Election-Focused Approach, and adding enough black population to the district to bump it over the cutoff percentage – it is increased from its present 37.9% BVAP to 40.5% BVAP in the Proposed Plan . Because the Election-Focused Approach already included this district in the count of effective districts in

[12] Although plaintiff's expert John Alford employed a much broader index of 48 statewide elections in his report – the vast majority of which do not include minority candidates – he reached a similar conclusion with regard to the decline in minority effectiveness in District 23. He found that Democrats won 46% of the 48 contested statewide elections under the Benchmark district but under Proposed District 23 this percentage dropped to only 29%. However, he ignored the most relevant factor: this district elected a Hispanic-preferred Hispanic Democrat to Congress after the district was redrawn in 2006. Rep. Ciro Rodriquez served for two of the three terms the district was in existence. (Alford expert report, filed 10/14/11.)

[13] A racial bloc voting analysis of the 2010 general election contest in District 23 indicates that the overwhelming majority of Hispanics voted for Ciro Rodriquez, the Hispanic Democratic incumbent, rather than for Francisco Conseco. White voters, however, strongly favored Conseco. (See Appendix D.)

the Benchmark Plan, there is no gain in the number of effective minority districts when plurality black districts alone are considered.[14]

Minorities Provided with the Ability to Elect Minority-Preferred Candidates Table 6, below, replicates the information found in Table 1 (Benchmark Plan) for the Proposed Congressional Plan. The totals in the last three columns denote the number of minorities (Hispanics, blacks and Hispanics and blacks combined, with Hispanic blacks counted only once) residing in districts that would provide them with the ability to elect candidates of their choice to Congress. A comparison of this table to Table 1 indicates that 395,022 fewer blacks and Hispanics would reside in effective minority districts in the Proposed Plan than in the Benchmark Plan.[15] In fact, when the Hispanic population alone is considered, 479,704 fewer Hispanics would reside in such districts.

Table 6: Effective Congressional Districts in the Proposed Plan

District	%HVAP	%HCVAP	%SSVR 2010	%BVAP	Hispanic Population	Black Population	Hispanic + Black Population
9	35.8	18.3	14.6	37.6	271030	267466	530075
15	77.2	71.0	66.5	2.1	562999	14063	574180
16	77.6	72.7	65.7	3.8	559725	28848	582365
18	31.9	17.4	13.6	40.5	253915	284314	531871
20	66.0	62.9	55.6	5.7	483902	42792	519807
28	73.6	65.9	62.8	5.6	538754	39337	573777
29	71.7	56.3	51.6	12.4	525996	85885	605971
30	35.6	20.6	14.8	46.5	281665	318810	594810
34	79.0	71.7	71.1	1.7	577578	11175	586017
35	58.3	51.9	43.8	10.4	438819	75336	506138
TOTAL					4494383	1168026	5605011

4.0 Retrogression Not Unavoidable

One approach to avoiding retrogression would have been for the State to retain District 23 as an effective minority district in the Proposed Plan. In order to determine if this is possible,[16] I drew an illustrative congressional plan with the Proposed Plan as my base map,

[14]The Election-Focused Approach includes District 9 as an effective minority district in both the Benchmark and the Proposed Plan.

[15]This was accomplished by taking the minority population in over-populated minority districts out and, rather than creating more minority districts, submerging these minorities in neighboring majority white districts.

[16]According to the US Department of Justice guidelines, "In considering whether less retrogressive alternative plans are available, the Department of Justice looks to plans that were actually considered or

focusing on modifying the district boundaries only in the general area of Proposed District 23. I was able to redraw District 23 in a manner that would provide minority voters with the ability to elect candidates of their choice to office.

I reassigned VTDs between Districts 11, 16, 20, 21, 23 and 28 (the other 30 congressional districts have exactly the same boundaries in the illustrative plan as in the Proposed Plan) making certain I did not adversely effect the Exogenous Index scores of Districts 16, 20 or 28 – they are still 100 under the illustrative plan.

District 23 in the illustrative plan is 73.9% in HVAP and 67.5% in HCVAP. The Exogenous Index score for District 23 in the illustrative plan is 80.[17] The population data and the map for this plan are attached to this report in Appendix E.

5.0 Conclusion

A summary count of the number of effective minority districts in the Benchmark and Proposed Plan, depending upon whether the Population Percentage or the Election-Focused Approach is employed, can be found in Table 7, below.

Table 7: Comparison of Effective Minority Districts in the Benchmark and Proposed Plan, State of Texas Percentage Approach and Election-Focused Approach

	Benchmark Plan: Effective Districts		Proposed Plan: Effective Districts	
	State of TX Percentage Approach	Election-Focused Approach	State of TX Percentage Approach	Election-Focused Approach
Hispanic Districts	15	15	15	15
	16	16	16	16
	20	20	20	20
	23	23	23	
	27	27		

drawn by the submitting jurisdiction, as well as alternative plans presented or made known to the submitting jurisdiction by interested citizens or others. In addition, the Department may develop illustrative alternative plans for use in its analysis, taking into consideration the jurisdiction's redistricting principles. If it is determined that a reasonable alternative plan exists that is nonretrogressive or less retrogressive than the submitted plan, the Attorney General will interpose an objection." *Federal Register* /Vol. 76, No. 27 /Wednesday, February 9, 2011.

[17] I was unable to run the illustrative plan through the redistricting application used by the State of Texas therefore the recompiled election results reported for this plan are based on whole VTDs. However, in order to equalize the population across congressional districts, I split five VTDs in the plan. This will have a minimal effect on the recompiled election results.

	Benchmark Plan: Effective Districts		Proposed Plan: Effective Districts	
	State of TX Percentage Approach	Election-Focused Approach	State of TX Percentage Approach	Election-Focused Approach
	28	28	28	28
	29	29	29	29
			34	34
				35
TOTAL Hispanic	7/32 21.9%	7/32 21.9%	7/36 19.4%	7/36 19.4%
Black Districts		9		9
		18	18	18
	30	30	30	30
Total Black	1/32 3.1%	3/32 9.4%	2/36 5.6%	3/36 8.3%
TOTAL	**8/32 25%**	**10/32 31.3%**	**9/36 25%**	**10/36 27.7%**

The State of Texas, by relying on the minority population percentages of the congressional districts without any analysis to determine if the percentages chosen are meaningful, argues that the Proposed Plan increases the number of effective minority districts by one and thus maintains the same percentage (25%) of effective minority districts in the Proposed Plan as in the Benchmark Plan.

When the actual election performance of the minority districts is taken into account, however, it is clear that the Proposed Plan is retrogressive. The percentage of districts that offer minority voters the ability to elect candidates of their choice in the Benchmark Plan is 31.3% of the total number of 32 districts. In the Proposed Plan, this percentage decreases to 27.7% because the State maintains the same number of effective minority districts despite the increase in the total number of districts from 32 to 36. In addition, if the Proposed Plan were to be enacted, a substantial number of Hispanics (479,704) would no longer reside in districts that provide them with the ability to elect their preferred candidates. This is particularly egregious given the gain in congressional seats is due in large part to the growth in the Hispanic population.

Appendices

Appendix A Table Comparing Benchmark and Proposed Minority Districts Using the State of Texas Population Percentage Approach and Election-Focused Approach

Appendix B Summary Table of Texas Legislative Council Data Used to Create Exogenous Index for Benchmark Districts

Appendix C Summary Table of Texas Legislative Council Data Used to Create Exogenous Index for Proposed Districts

Appendix D Results of Racial Bloc Voting Analysis for Select Congressional Contests

Appendix E Population Data and Map for Illustrative Congressional Plan District 23

Appendix A:
Comparison of Benchmark and Proposed Minority Districts
Using the State of Texas Population Percentage Approach and Election-Focused Approach

	Benchmark Plan: Effective Districts		**Proposed Plan: Effective Districts**		**Comments on Differences between the Lists**
	State of TX Percentage Approach	**Election-Focused Approach**	**State of TX Percentage Approach**	**Election-Focused Approach**	
Hispanic Districts	15	15	15	15	
	16	16	16	16	
	20	20	20	20	
	23	23	23		The State counts District 23 as effective in the Proposed Plan although it scores a 0 on the Exogenous Index and the incumbent in the seat is not a Hispanic-preferred candidate
	27	27			District 27 is redrawn in the Proposed Plan with a HVAP below 50%
	28	28	28	28	
	29	29	29	29	
			34	34	
				35	Although District 35 is less than 60%HVAP (and less the 50%SSVR), the Exogenous Index score indicates that this new open seat is likely to be an effective minority district under the Election-Focused Approach
TOTAL Hispanic	7/32 21.9%	7/32 21.9%	7/36 19.4%	7/36 19.4%	

	Benchmark Plan: Effective Districts		**Proposed Plan: Effective Districts**		**Comments on Differences between the Lists**
	State of TX Percentage Approach	**Election-Focused Approach**	**State of TX Percentage Approach**	**Election-Focused Approach**	
Black Districts		9		9	Although the State does not count District 9 an effective district in either the Benchmark or the Proposed Plan (it is 36.3% BVAP in the Benchmark Plan and 37.9% BVAP in the Proposed Plan hence falls below the 40% BVAP cutoff in both instances), it scores 100 on both of the Indexes in the Benchmark Plan and a 100 on the Exogenous Index in the Proposed Plan.
		18	18	18	District 18 is 37.9% BVAP in the Benchmark Plan and is not counted by the State as an effective district because it is less than 40%BVAP. However, it has Endogenous and Exogenous Index scores of 100 and therefore is included in the list of effective Benchmark districts using the Election-Focused Approach. In the Proposed Plan, the BVAP is increased to 40.5% so the State includes it as an effective district.
	30	30	30	30	
Total Black	1/32 3.1%	3/32 9.4%	2/36 5.6%	3/36 8.3%	
TOTAL	**8/32** **25%**	**10/32** **31.3%**	**9/36** **25%**	**10/36** **27.7%**	

Appendix B: Summary Table of State of Texas Data Used to Create Exogenous Index for Benchmark Districts

	2002 GE: Governor				2004 GE: Court of Criminal Appeals, Place 6				2006 GE: Lt. Governor			
	Sanchez				Molina				Alvarado			
Plan100 District	Estimates of % Hispanic/ Black and (Anglo) Votes for Hispanic Candidate	Actual # Votes	Actual # Votes for opponent	Percent Votes	Estimates of % Hispanic/ Black and (Anglo) Votes for Hispanic Candidate	Actual # Votes	Actual # Votes for opponent	Percent Votes	Estimates of % Hispanic/ Black and (Anglo) Votes for Hispanic Candidate	Actual # Votes	Actual # Votes for opponent	Percent Votes
9	94.6 (0)	65903	30038	68.7%	97.2 (15.0)	111874	42442	72.5%	93.3 (19.1)	51718	24166	68.2%
15	91.4 (23.7)	62935	40859	60.6%	84.2 (25.9)	82829	59329	58.3%	94.0 (24.3)%	42956	37173	53.6%
16	87.0 (24.3)	62863	34637	64.5%	80.8 (29.7)	96709	56832	63.0%	78.2 (27.9)	47090	36900	56.1%
18	99.8 (33.3)	79287	29572	72.8%	100 (40.3)	125958	42735	74.7%	98.9 (45.3)	59072	24368	70.8%
20	80.6 (17.7)	60599	37295	61.9%	79.5 (30.3)	103079	61724	62.5%	77.4 (33.0)	51351	35003	59.5%
23	88.7 (11.2)	64148	63573	50.2%	84.7 (18.4)	95185	97832	49.3%	83.3 (20.0)	57249	65067	46.8%
27	85.5 (19.7)	63470	52457	54.7%	85.5 (19.6)	90345	76176	54.3%	84.1 (20.8)	51223	54133	48.6%
28	92.9 (10.5)	77160	40590	65.5%	84.1 (20.2)	85409	67981	55.7%	89.1 (21.0)	43301	41855	50.8%
29	90.2 (3.4)	44640	24644	64.4%	80.6 (21.3)	64690	39264	62.2%	87.5 (23.0)	29403	19416	60.2%
30	96.8 (27.3)	90941	27480	76.8%	91.5 (37.0)	134912	39704	77.3%	100 (44.4)	73287	24939	74.6%

	2008 GE: US Senate				2010 GE: Lt. Governor			
	Noriega				Chavez-Thomas			
Plan100 District	Estimates of % Hispanic/ Black and (Anglo) Votes for Hispanic Candidate	Actual # Votes	Actual # Votes for opponent	Percent Votes	Estimates of % Hispanic/ Black and (Anglo) Votes for Hispanic Candidate	Actual # Votes	Actual # Votes for opponent	Percent Votes
9	97.6 (28.4)	134208	37984	77.9%	97.4 (15.0)	78339	26490	74.7%
15	90.2 (21.5)	100691	61020	62.3%	92.8 (13.9)	51413	42211	54.9%
16	83.7 (34.0)	114550	55382	67.4%	81.7 (32.0)	47450	33489	58.6%
18	100 (43.9)	148432	40604	78.5%	100 (36.0)	87555	32135	73.2%
20	80.9 (38.0)	114094	58305	66.2%	78.4 (31.3)	52875	36067	59.4%
23	92.5 (22.5)	120432	111210	52.0%	98.4 (16.1)	62397	81325	43.4%
27	87.7 (22.0)	98036	76908	56.0%	88.8 (17.0)	47801	54717	46.6%
28	89.7 (19.6)	103369	70638	59.4%	90.4 (12.6)	53369	53438	50.0%
29	91.6 (23.3)	72068	32924	68.6%	92.7 (17.5)	40644	24477	62.4%
30	100 (42.0)	162986	38749	80.8%	100 (39.0)	89301	23215	79.4%

Appendix C: Summary Table of State of Texas Data Used to Create Exogenous Index for Proposed Districts

	2002 GE: Governor			004 GE: Court of Criminal Appeals, Place			2006 GE: Lt. Governor			2008 GE: US Senate		
	Sanchez			Molina			Alvarado			Noriega		
Plan 185	Actual # Votes	Actual # Votes for opponent	Percent Votes	Actual # Votes	Actual # Votes for opponent	Percent Votes	Actual # Votes	Actual # Votes for opponent	Percent Votes	Actual # Votes	Actual # Votes for opponent	Percent Votes
9	58923	26396	69.1%	102510	39441	72.2%	48534	22731	68.1%	128425	37263	77.5%
15	45459	32499	58.3%	61062	51860	54.1%	30160	30820	49.5%	79810	52900	60.1%
16	57415	34077	62.8%	89365	55230	61.8%	43850	36232	54.8%	105555	53984	66.2%
18	85231	30975	73.3%	137142	42145	76.5%	67002	25769	72.2%	161999	40482	80.0%
20	54236	40443	57.3%	94991	68367	58.1%	49823	39584	55.7%	112894	71153	61.3%
28	67892	31247	68.5%	96219	52703	64.6%	38812	31668	55.1%	94346	54306	63.5%
29	46515	21486	68.4%	67046	35417	65.4%	30657	17347	63.9%	76939	29933	72.0%
30	91382	30216	75.2%	135139	40947	76.7%	72864	26886	73.0%	164315	36525	81.8%
34	57196	37510	60.4%	77030	51961	59.7%	41901	35051	54.5%	89416	52886	62.8%
35	49099	32704	60.0%	86521	53761	61.7%	43446	31893	57.7%	99605	56381	63.9%
23	54676	57843	48.6%	72583	84551	46.2%	43250	57809	42.8%	87024	93608	48.2%

	2010 GE: Lt. Governor		
	Chavez-Thomas		
Plan 185	Actual # Votes	Actual # Votes for opponent	Percent Votes
9	76264	26268	74.4%
15	39714	38074	51.1%
16	44331	32898	57.4%
18	96195	30724	75.8%
20	52212	45364	53.5%
28	48612	38351	55.9%
29	43550	22304	66.1%
30	91536	22913	80.0%
34	44131	37340	54.2%
35	46760	36272	56.3%
23	45135	71158	38.8%

Appendix D:
Results of Racial Bloc Voting Analysis for Select Congressional Contests

Contest and Candidates	Candidate Information		Estimates of the Percentage of White and Minority Voters Casting a Vote for each of the Candidates					
	Party	Race	White Voters			Hispanic Voters		
			Homogenous Precinct	Bivariate Regression	Ecological inference	Homogeneous Precinct	Bivariate Regression	Ecological inference
2010 General: CD 23								
Rodriquez	D	H	17.4	10.8	12.4	82.5	86.8	84.2
Conseco	R	H	75.5	83.8	81.9	13.2	10.5	11.2
others			7.1	5.4	6.3	4.2	2.7	3.9

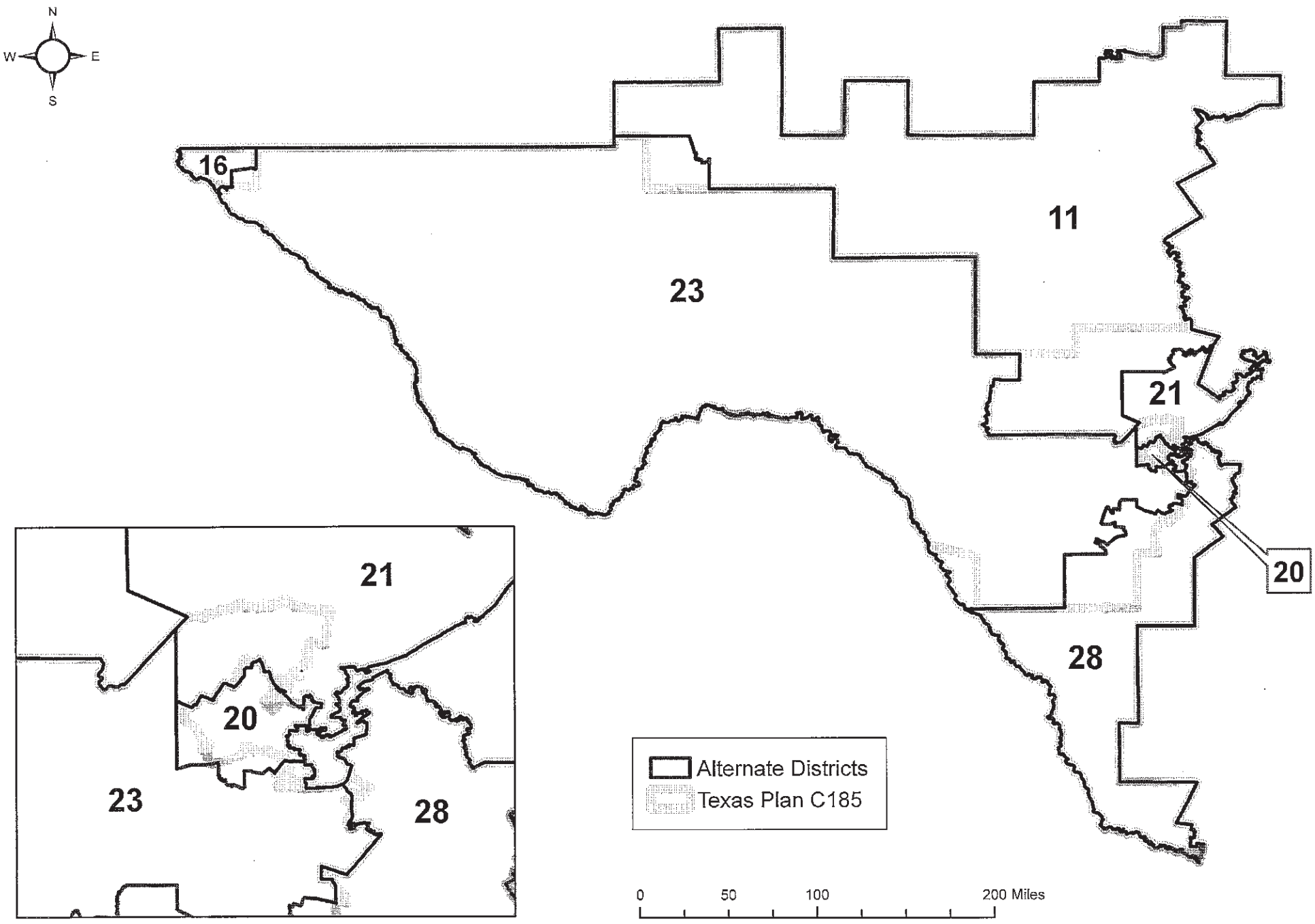
Contest and Candidates	Candidate Information		Estimates of the Percentage of White and Minority Voters Casting a Vote for each of the Candidates					
	Party	Race	White Voters			Hispanic Voters		
			Homogenous Precinct	Bivariate Regression	Ecological inference	Homogeneous Precinct	Bivariate Regression	Ecological inference
2010 General: CD 29								
Green	D	W	52.2	54.2	53.8	77.2	83.0	79.4
Morales	R	H	46.8	44.6	45.5	21.7	15.5	18.7
Walters	L	W	1.0	1.1	1.0	1.1	1.6	1.4

Appendix E:
Population Data and Map for Illustrative Plan

Alternate District	Population	Deviation	VAP	Hispanic VAP	Percent Hispanic VAP	Black(NH) VAP	Percent Black(NH) VAP	White(NH) VAP	Percent White(NH) VAP
11	698,472	-16	533,363	125,181	23.5	16,131	3.0	381,327	71.5
16	698,489	1	494,062	383,821	77.7	15,497	3.1	83,862	17.0
20	698,500	12	508,819	316,185	62.1	28,822	5.7	141,271	27.8
21	698,475	13	543,654	134,421	24.7	18,699	3.4	363,068	66.8
23	698,486	-2	486,270	359,581	73.9	9047	1.9	111,750	23.0
28	698,490	2	472,971	341,717	72.2	23,926	5.1	98,827	20.9

Alternate District	Citizen VAP (est.)	Hispanic Citizen VAP (est.)	Percent Hispanic Citizen VAP
11	482,638	91,067	18.9
16	360,940	263,374	73.0
20	417,099	249,451	59.8
21	462,118	95,676	20.7
23	372,339	251,162	67.5
28	330,140	211,606	64.1

Texas Congressional: Alternate Redistricting Plan



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

Executed this 19 day of October 2011.

Lisa Handley, PhD.