EXHIBIT A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL BANERIAN; *et al.*,

Plaintiffs,

v.

Case No. 1:22-CV-00054-PLM-SJB

JOCELYN BENSON, in her official capacity as the Secretary of State of Michigan; *et al.,*

Defendants.

and

JOAN SWARTZ MCKAY; GRACE HUIZINGA; SAMANTHA NEUHAUS; JORDAN NEUHAUS; CAYLEY WINTERS; GLENNA DEJONG; MARSHA CASPAR; HEDWIG KAUFMAN; COLLIN CHRISTNER; MELANY MACK; ASHLEY PREW; SYBIL BADE; SUSAN DILIBERTI; LISA WIGNET; MATTHEW WIGNET; PAMELAS TESSIER; and SUSANNAH GOODMAN,

Intervenor-Defendants.

DECLARATION OF DR. PAUL GRONKE

I, Paul Gronke, do hereby declare as follows:

1. I am over the age of 18 and I make this declaration based upon my personal knowledge and experience.

2. I have been retained to bring my scientific expertise to bear on the matter of *Banerian v. Benson,* specifically to opine on the meaning of the term "community of interest" and whether political subdivisions, specifically county, city, and township boundaries, are generally understood to be the same thing as or coterminous with "communities of interest."

3. In order to complete my report, I relied on the following materials:

a) Plaintiffs' Motion for Preliminary Injunction, filed 1/27/22 (ECF No. 9), and Plaintiffs' First Amended Complaint, filed 1/27/22 (ECF No. 7).

b) United States Census information on commuting patterns in counties and cities in Michigan, based on the 2019 Longitudinal Employer-Household Dynamics (LEHD) program https://lehd.ces.census.gov.

4. I conclude based on this analysis that the term "communities of interest" in Michigan is both more expansive than and distinctive from "counties, cities, and townships," and that a redistricting plan that fails at "keeping counties and townships whole" (Plaintiffs' Amended Complaint, ¶ ¶ 117, 121) does not *ipso facto* violate a requirement that communities of interest be maintained, and in fact, dividing some counties or townships may be necessary to maintain communities of interest that do not conform to county, city, or municipality boundaries. I further conclude that the expert report filed by Mr. Thomas M. Bryan is inaccurate and incomplete, because it misstates the redistricting criteria in the Michigan Constitution and performs a narrow and misleading analysis based solely on splits of existing political units.

I. Qualifications and Expertise

5. I am a Professor of Political Science at Reed College and Director of the Elections and Voting Information Center. I received a BA in Political Science from the University of Chicago, a Master's Degree in Western European Politics from the University of Essex, Colchester UK, and a PhD in Political Science from the University of Michigan. I have written scientific research publications on elections, voting behavior, election administration, congressional representation, and voting turnout that have appeared in peer-reviewed journals, university press edited volumes, and policy reports.

6. I created the Elections and Voting Information Center (EVIC) in 2006 as a non-partisan center for the study of election administration, election conduct, and voting behavior in the United States. EVIC has attracted more than $1,000,000 in funding from public charities, non-

profits, state governments, and federal agencies. As the Director of EVIC, I regularly consult with election officials and other stakeholders in the elections community to help ensure free, fair, accessible, and trustworthy systems of election administration.

7. I have published a number of articles that contain statistical analyses of congressional redistricting, congressional representation, and voting in congressional elections. These publications include a book published with an academic press (2000), and peer-reviewed articles in American Politics Quarterly (1999), Legislative Studies Quarterly (2000 and 1996), and Public Opinion Quarterly (1985). These writings are contained in my curriculum vitae (attached to this report). I am conversant with research in public opinion, social and group identities, and how these identities shape political preferences and the quality of congressional representation. A complete list of all my publications and working papers authored in the previous ten years, is included in my curriculum vitae, attached to this document. In the past four years, I testified by deposition in October 2021 in *Beverly Clarno et al. v. Shemia Fagan,* Case No. 21-cv-40180 and in July 2020 in *Democracy North Carolina v. North Carolina State Board of Elections,* Civil Action No. 20-cv-457 (M.D.N.C.).

8. My opinions on these questions are based on the technical and scientific knowledge that I have gained from my education, training, and experience, and are based on widely accepted understandings of the historical and current use of the term "community of interest" and how this term is used by scholars of sociology and political science, and by redistricting experts.

9. I am being compensated for my work at a rate of $350/hour, which is consistent with the normal schedule that I use when employed as a contractor, subcontractor, or consultant. My compensation is in no way dependent on the nature of my findings or the outcome of this case.

I reserve the right to revise, modify, or supplement my report, including based upon documents produced during discovery.

II. Community of Interest: *Gemeinschaft and Gesellschaft*

10. Article IV, Section 6 of Michigan's Constitution empowers the Michigan Independent Redistricting Commission (Commission) to adopt congressional and state legislative boundaries. Article IV, Section 6(13) lists seven criteria that the Commission "shall abide by" in adopting plans. Mich. Const. art. IV, § 6 (13).

11. The term "community of interest" appears in the Michigan Constitution, as amended in 2018. The third most important criteria that the Commission "shall abide by" is that: "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." *Id.* § 6 (13)(c). The sixth most important priority is that "Districts shall reflect consideration of county, city, and township boundaries." *Id.* § 6 (13)(f).

12. The term "community of interest" is not precise and is a product of centuries of philosophical and sociological commentary. The classic formulation of *gemeinschaft and gesellschaft* ("community and society") was first identified by sociologist Ferdinand Tonnies in 1887. At the time, societies in Europe were breaking away from much older concepts of community, which were bound to villages and cities. Tonnies first developed the concept of a

community based on communal and associative relationships, common beliefs, and frequent interactions, and not solely on a specific geographic location.[1]

13. Sociologist Emile Durkheim, following Tonnies, made it much more explicit that "community" is not a physical entity, but is defined by a) dense social ties, b) attachment to shared institutions such as churches, schools, and voluntary associations, and c) shared rituals (social events, celebrations). As with Tonnies, Durkheim noted that community *may* be coterminous with political boundaries, such as towns and villages, but does not *necessarily* adhere to these boundaries.[2]

14. There is an extensive research tradition in understanding the meaning of community of interest since that time. Famous studies by sociologist Robert Wuthnow (1994) and political scientists Sidney Verba, Kay Schlozman, and Henry Brady (1995) demonstrate the existence of social, economic, and political communities of interest that are not necessarily coterminous with traditional political boundaries.[3] "Communities of interest," according to current social and political theory, are created by modern communication systems, transportation, employment patterns, and social network relationships, not just physical place.[4]

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[1] Ferdinand Tonnies, *Community and Society* (Charles P. Loomis trans., Harper 1957) (1887)

[2] Emile Durkheim, *The Elementary Forms of Religious Life* (Free Press ed. 1965) (1911).

[3] Sidney Verba, Kaye Lehman Schlozman, & Henry E. Brady, *Voice and Equality: Civic Voluntarism in American Politics* (Harvard University Press ed. 1995); Robert Wuthnow, *Sharing the Journey: Support Groups and America's New Quest for Community* (Free Press ed. 1994).

[4] Steven Brint, Gemeinschaft *Revisited: A Critique and Reconstruction of the Community Concept,* 19 *Sociological Theory* 1, 1-23 (2001).

III. Community of Interest: The Current Meaning

15. The definition of "community of interest" (COI) is available in legal and elections-related sources and in many state constitutions and redistricting statutes. These sources contain similar definitions and all but one – the state law in Alabama – distinguish the COI from political boundaries. *ACE: Electoral Knowledge Network* was launched in 1998 by the International Foundation for Electoral Systems (IFES) and the United Nations Department of Economic and Social Affairs, and is described as the "world's largest online community and repository of electoral knowledge." ACE defines a COI as "a group of individuals united by shared interests or values. These shared interests may be the result of a common history or culture, a common ethnic background, or a variety of other ties that create a community of voters with distinct interests."[5] The criteria listed that are related to common interests are shared racial or ethnic background, common history and/or culture, common religion or language. The patterns of interaction that help to identify communities of interest are transportation patterns, economic ties, and communication networks (such as media markets).[6]

16. *Ballotpedia* is a "digital encyclopedia of American politics and elections" which employs professional researchers and writers to provide accurate, objective, and non-partisan information about politics at all levels of government. Ballotpedia defines a community of interest as "a group of people with a common set of concerns that may be affected by legislation. Examples of communities of interest include ethnic, racial, and economic groups."[7]

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[5] *Defining Communities of Interest*, ACE Encyclopedia 2.0 (2012), https://aceproject.org/ace-en/topics/bd/bdb/bdb05/bdb05c (accessed Feb. 16, 2022).

[6] ACE Encyclopedia, *op cit.*

[7] *Community of interest,* Ballotpedia, https://ballotpedia.org/Community_of_interest (accessed Feb. 16, 2022).

17. Justin Levitt is a law professor and nationally recognized expert on redistricting. Levitt's 2008 review of references to communities of interest in state redistricting laws shows that most state constitutions and laws describe COI as distinct and separate from political boundaries. Of the seventeen documented mentions, only in Alabama does the definition include "county, municipal, or voting precinct boundaries."[8] Levitt's "All About Redistricting" guide, now maintained by Dr. Doug Spencer, defines COI and notes that "people with common interests don't generally look to geometric shapes — or even strict political lines — when they consider where they want to live."[9]

18. The scholarly literature on redistricting also confirms that a "community of interest" is distinct from geographic boundaries such as township, city, or county lines. Dr. Theodore Arrington, in a 2010 review of the current state of redistricting scholarship, identifies a community of interest as "perhaps the most important, but clearly the most elusive, of the conflicting redistricting criteria." Arrington writes further that communities of interest may be defined by "transportation patterns, trade concentrations, or media markets" but are distinct from "political boundaries."[10] Drs. Karin MacDonald and Bruce Cain, in a 2013 review of the

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[8] Justin Levitt, "*Communities of Interest" in State Redistricting Law* (Apr. 25, 2008), available at https://www.brennancenter.org/sites/default/files/legacy/commentary/Communities%20of%20Interest.pdf

[9] Doug Spencer, *Where are the lines drawn?,* All About Redistricting https://redistricting.lls.edu/redistricting-101/where-are-the-lines-drawn/ (accessed Feb. 16, 2022).

[10] Theodore S. Arrington, *Redistricting in the U.S.: A Review of Scholarship and a Plan for Future Research.* 8 The Forum 2 (2010), available at: https://doi.org/10.2202/1540-8884.1351 (accessed Feb. 18, 2022)

redistricting cycle in California, also distinguished between the term "community of interest" and "other formal criteria such as compactness and respect for city and county lines."[11]

19. The National Conference of State Legislatures, a source of information and guidance for state legislators and their staff, provides extensive materials to inform their membership about redistricting. In the NCSL redistricting guide, communities of interest are defined as "geographical areas, such as neighborhoods of a city or regions of a state, where the residents have common political interests that do not necessarily coincide with the boundaries of a political subdivision, such as a city or county."[12]

20. Finally, Dr. Gerald Webster's comprehensive review of current criteria used in redistricting specifically notes that the "communities of interest" criterion is separate from the "preservation of political subdivisions criterion" and that the latter criterion is the "most commonly violated due to higher order and often contradictory goals." Potential factors that may define a community of interest include "social interests, cultural interests, racial/ethnic interests, economic/trade issues, geographic interests, communication and transportation networks, media markets, rural and urban interests, and occupation and lifestyles."[13]

21. In conclusion, the current usage of the term "community of interest" by academic and legal experts defines COI as separate and distinct from political boundaries. The current usage

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[11] Karin Mac Donald & Bruce E. Cain, *Community of Interest Methodology and Public Testimony*, 3 UC Irvine L. Rev. 609 (2013), available at: https://scholarship.law.uci.edu/ucilr/vol3/iss3/8 (accessed Feb. 18, 2022).

[12] *The Redistricting Glossary,* Nat'l Conf. of State Legs. (Aug. 23, 2018), https://www.ncsl.org/research/redistricting/the-redistricting-lexicon-glossary.aspx (accessed Feb. 16, 2022).

[13] Gerald R. Webster, *Reflections on current criteria to evaluate redistricting plans,* 32 Political Geography 3, 3-14 (Jan. 2013), available online at: https://doi.org/10.1016/j.polgeo.2012.10.004 (accessed Feb. 18, 2022).

does not support a claim that existing political boundaries, such as county or city boundaries, are coterminous with or that counties or cities necessarily constitute a community of interest. They may coincide and overlap, but to the extent to which they do so in any given state is an empirical question. I turn to that question in the specific context of Michigan.

IV. Community of Interest to Michiganders

22. The same meaning of "community of interest" discussed above is used by a group of scholars at the University of Michigan in an August 2020 report, "The Role of Communities of Interest in Michigan's New Approach to Redistricting: Recommendations to the Michigan Independent Citizens Redistricting Commission."[14] A community of interest, according to this report, is "subjective," but generally has these characteristics: a) populations that share cultural historical characteristics or economic interests, b) populations that reside in a contiguous area on a map, and c) populations that are linked by a set of public policy issues that would be affected by legislation. The report lists seventeen types of communities of interest (pg. 5), and only three of the seventeen *may be* tied to existing political boundaries ("geographic communities," "neighborhoods," and "school districts").

23. The report authors explicitly state that "(a) Community of Interest is <u>not</u> a political jurisdiction (in Michigan, a county, city, village, or township) since they are considered in a separate section of the Amendment."[15]

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[14] John Chamberlin et al., *CLOSUP Michigan Redistricting Report,* Ctr. for Local, State, and Urb. Policy, Gerald Ford Sch. of Pub. Policy, Univ. of Mich. (Aug. 2020), https://closup.umich.edu/sites/closup/files/uploads/policy-reports/CLOSUP%20Communities%20of%20Interest%20Redistricting%20Report.pdf.
[15] *Id.* at 5.

24. The plaintiffs claim that the Commissioners, in passing the congressional plan and dividing counties and municipalities in the way they did, "appear to have used a wholly novel and arbitrary definition of the phrase 'communities of interest'" which are "arbitrarily drawn under any conceivable definition of the word." Pls.' Mot. for Prelim. Inj. at 23.

25. A brief examination of Oakland County, Macomb County, Wayne County, Kent County, Genesee County, and Kalamazoo County illustrates how county lines do not fully reflect "communities of interest." For each county, I have analyzed commuting patterns using the United States Census Bureau's "On the Map" tool. This tool draws on 2019 data from the Longitudinal Employer-Household Dynamics (LEHD) program of the U.S. Census. This program uses information to provide detailed information about local economies, including employment patterns, job flows, and commuting. All of the definitions of COI provided in this report mention shared economic interests and transportation links as a feature of a COI.

26. For each county, I provide a *flow analysis* and a *radial analysis*. The *flow analysis* examines a) number of individuals who live outside of a county and are employed in a county (inflow), b) the number of individuals who live in a county and are employed in the same county (stable), and c) the number of individuals who are employed in a county and are employed outside the county (outflow). The *radial analysis* reports *where and how far* residents travel to their place of employment, broken down into four categories: less than 10 miles, 10 to 24 miles, 25 to 50 miles, and more than 50 miles. I use these maps to reach conclusions about whether the geographic border of the county contains a single community of interest, or whether there is evidence of a COI that crosses county boundaries.[16]

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[16] In order to produce the maps, I used the website https://onthemap.ces.census.gov. On this website, I entered each county name, specifying that I was searching for counties. When the

27. Following the county analyses, I provide a flow analysis for three municipalities, Detroit City, Dearborn City, and Dearborn Heights City.

28. I begin and provide the most detailed analysis of *Oakland County*. Oakland County is featured prominently in the plaintiff's complaint because the county was divided up into six separate districts. Because of its population size, 1,274,395 in the 2020 Census, Oakland County must be divided. However, Oakland County's geographic proximity to Detroit and to other population centers in southeastern Michigan illustrates how county boundaries alone fail to encompass the multiple communities of interest that connect Oakland County to other areas and may be a reasonable basis for dividing the county.

29. In the map below, I report commuting patterns into and out of Oakland County. 55.9% of individuals employed in Oakland County resided outside of the county, while only 44.1% of individuals employed in Oakland County also lived in the county. In comparison,

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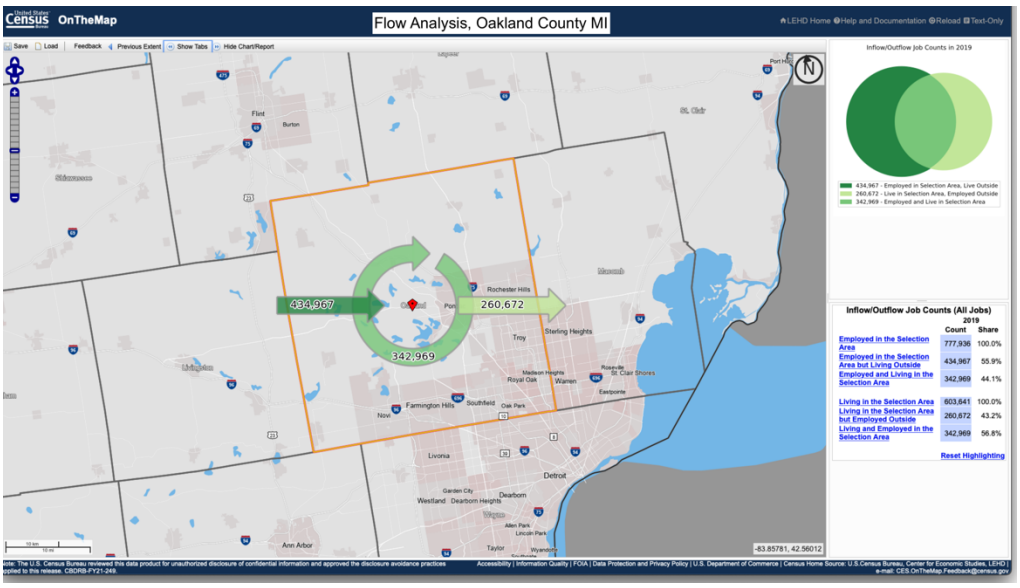
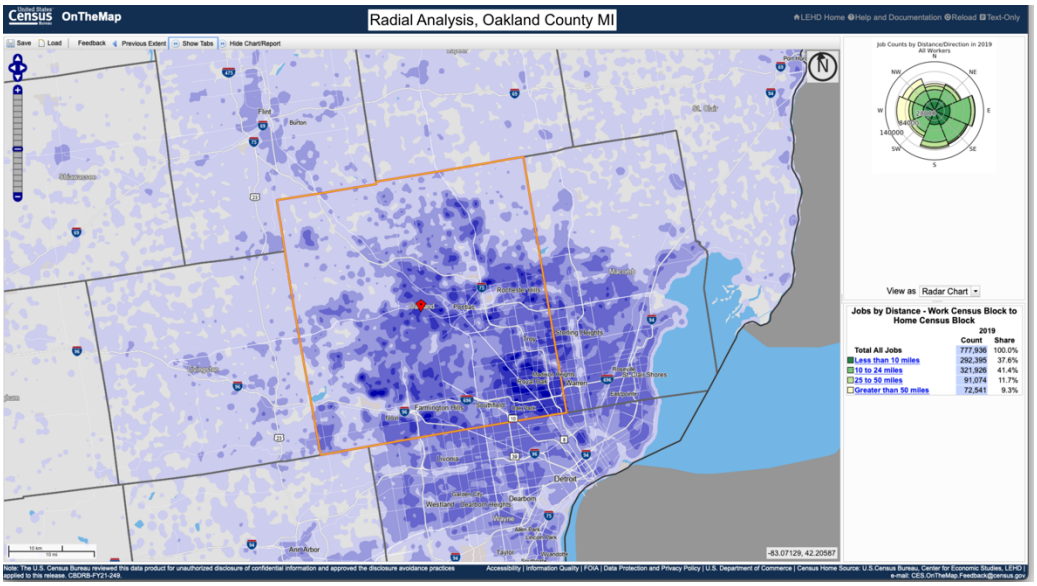
correct county was identified, I chose the option "perform analysis on selection area." I selected "work" as the Home/Work area; "Inflow/Outflow" (analysis one) and "Distance/Direction" (radial map); "2019" as Year; and "All Jobs". Maps were captured from the screen.

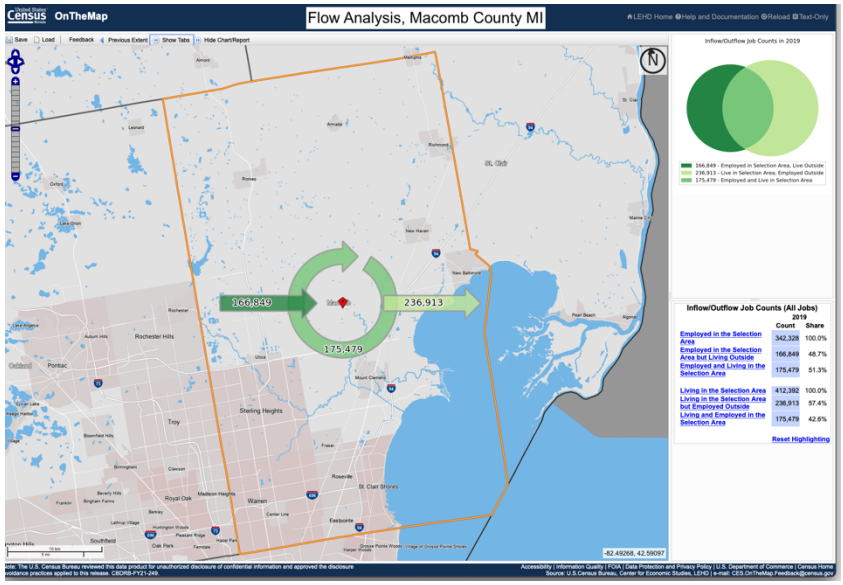
43.2% of Oakland County residents left the county every day to commute to a job.

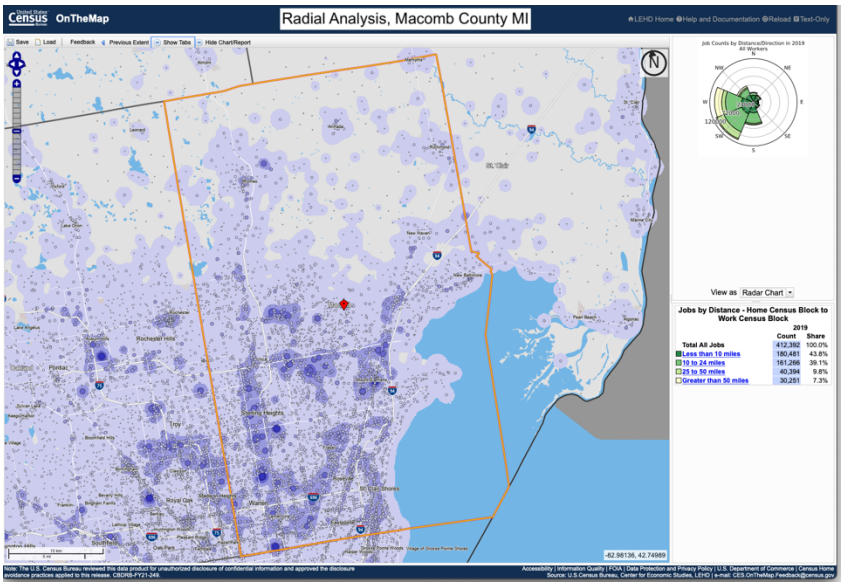


30. The second figure shows where Oakland County residents traveled. 62.4% traveled more than 10 miles every day, and 21% percent traveled 25 or miles daily. As the radial chart shows, residents commuted mostly to the east (Macomb County) and southeast (Wayne County), but a substantial number traveled east and northeast toward areas with concentrations of auto and other heavy industry.



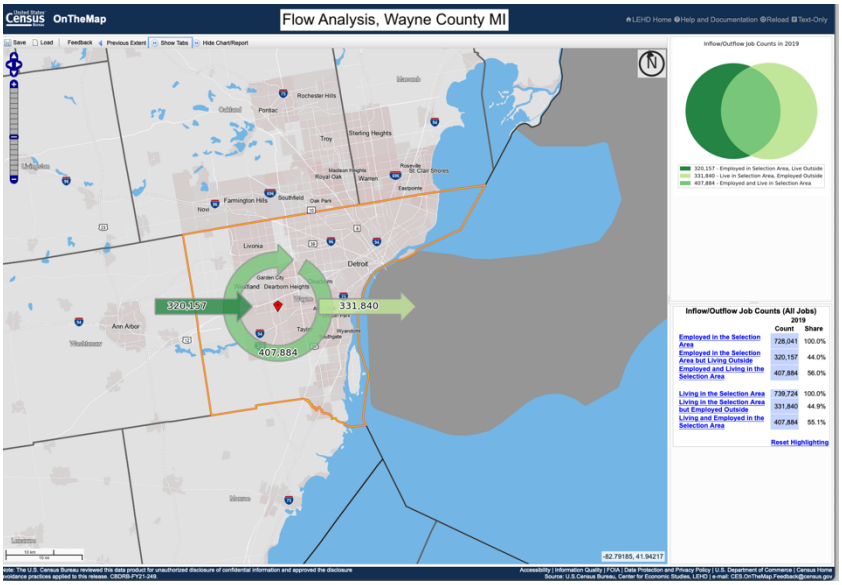
31. *Macomb County* is located immediately to the east of Oakland County. The flow analysis shows that, similar to Oakland County, about half of Macomb County employees live in the county and half commute into Macomb from other counties. Of Macomb County residents, 57.4% do not work in the county. The radial analysis shows that most of the Macomb County residents travel east and southeast, into Oakland and Wayne Counties.

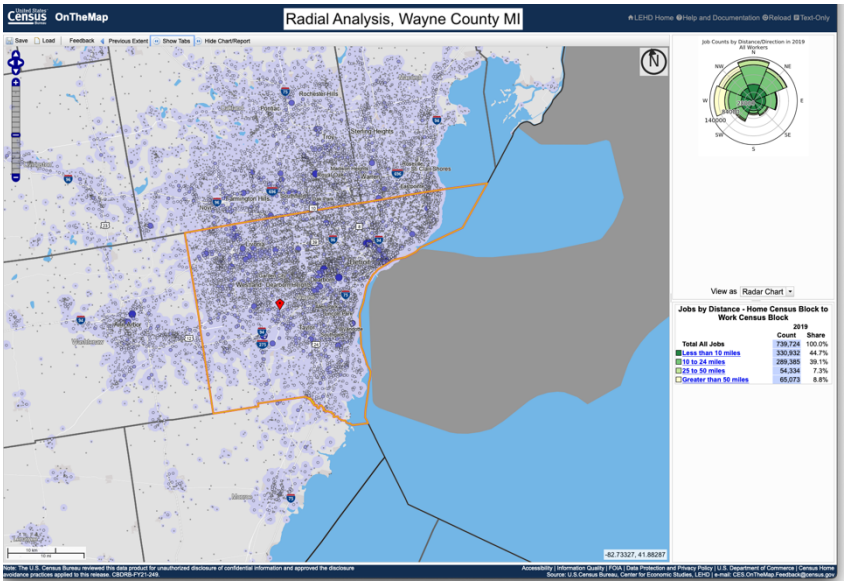




32. *Wayne County* is located in the southeast corner of the state and contains the City of Detroit. Wayne is the most populous county in the state, with a population of 1,793,561

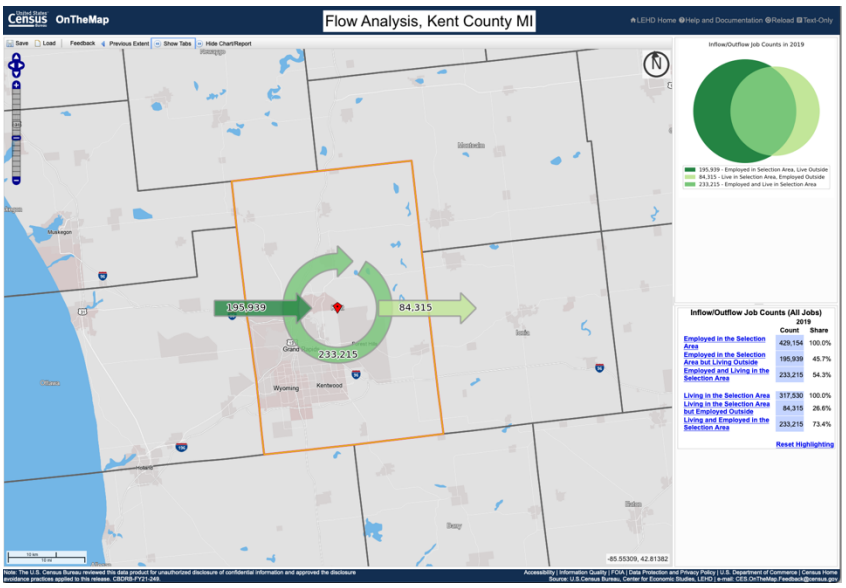
according to the 2020 Census, so it will have to be divided into at least three districts. Wayne County contains the largest concentration of African-Americans in Michigan. 44.0% of individuals who are employed in Wayne County are residents of other counties – many traveling in from Oakland and Macomb counties. A higher proportion of county residents both live and work in the county, 55%, when compared to Oakland and Macomb, not surprising given that Detroit, even though it has experienced significant population loss in the past fifty years, remains the economic and cultural center of the metropolitan area. The radial analysis shows that Wayne County residents who commute travel in all possible directions. This map shows a closely integrated and linked metropolitan region, with many connections and potential communities of interest that extend into surrounding areas.

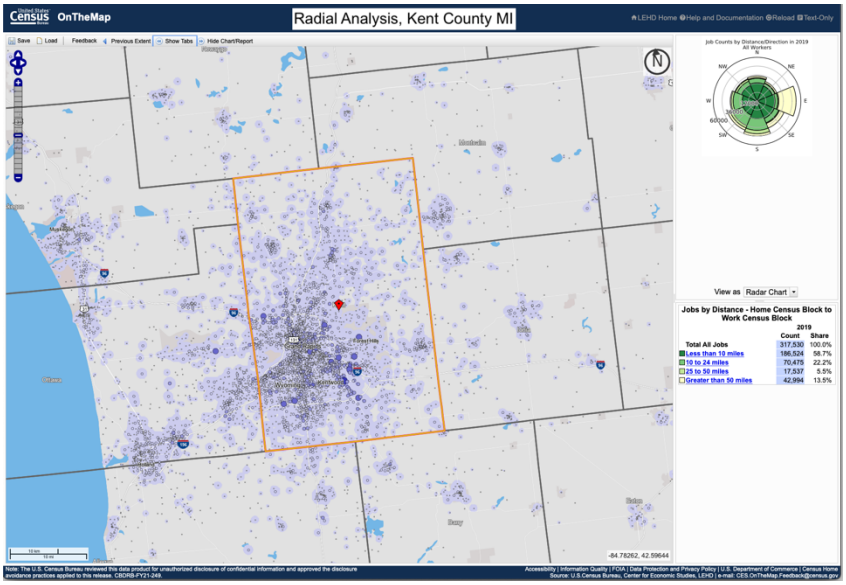




33. *Kent County* is located in the southwestern portion of the state and is dominated by the City of Grand Rapids. As would be expected in a county with a single metropolitan area surrounded by rural areas, a large proportion (73.4%) of Kent County residents live and are employed in the county. However, nearly half (45.7%) of Kent County jobs are filled by employees who travel in from surrounding counties. The radial analysis shows that Kent County residents do not travel in one particular direction and 58.7% have a relatively short commute (10 miles or less), when compared to Oakland and Macomb, but almost 20% of Kent County

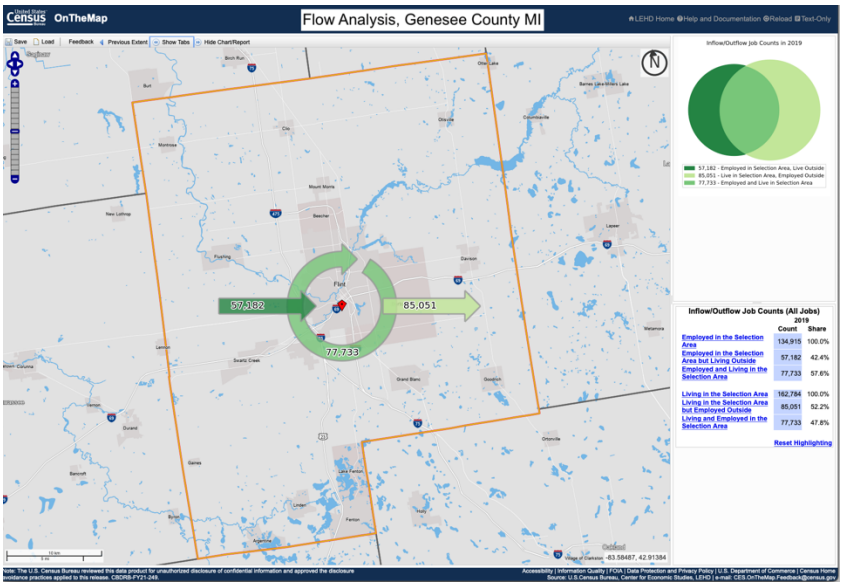
residents travel 25 or more miles to work.

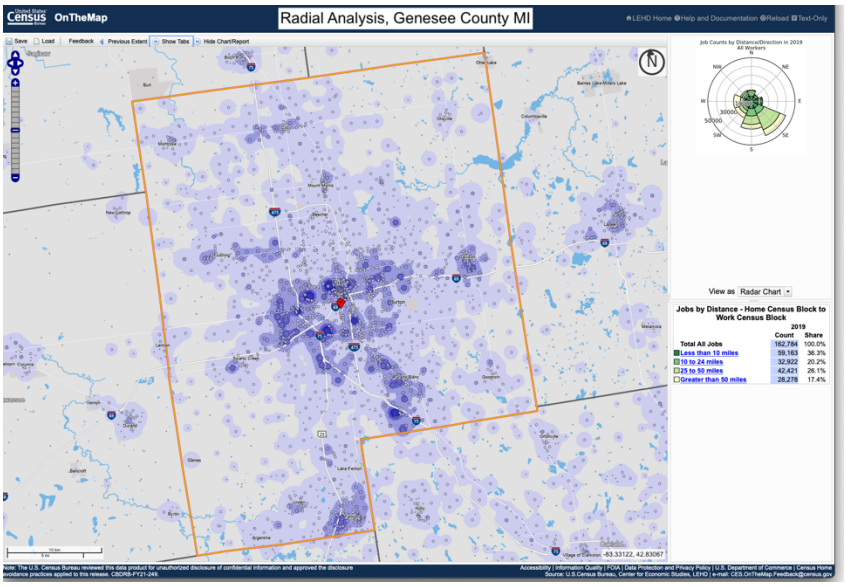




34. *Genesee County* is located in the midcentral portion of the state, north of Oakland County and the Detroit metropolitan area. The City of Flint dominates the county. Flint has a historical legacy as the home of one of the largest auto manufacturing plants in the world, but has experienced severe economic distress since General Motors began downsizing the workforce in the 1980s. The profile of Genesee is similar to Oakland and Macomb Counties – about half of the county workforce is made up of county residents, and the other half is made up of residents

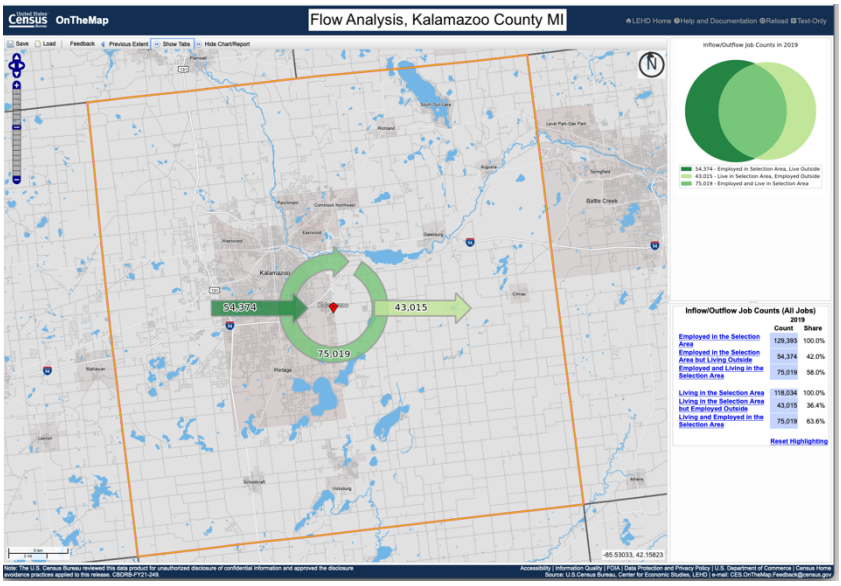
of other counties. The radial analysis shows that the 52.2% of Genesee residents who commute to jobs outside the county travel to locations to the south and southeast, toward the more economically vital Detroit metropolitan area.

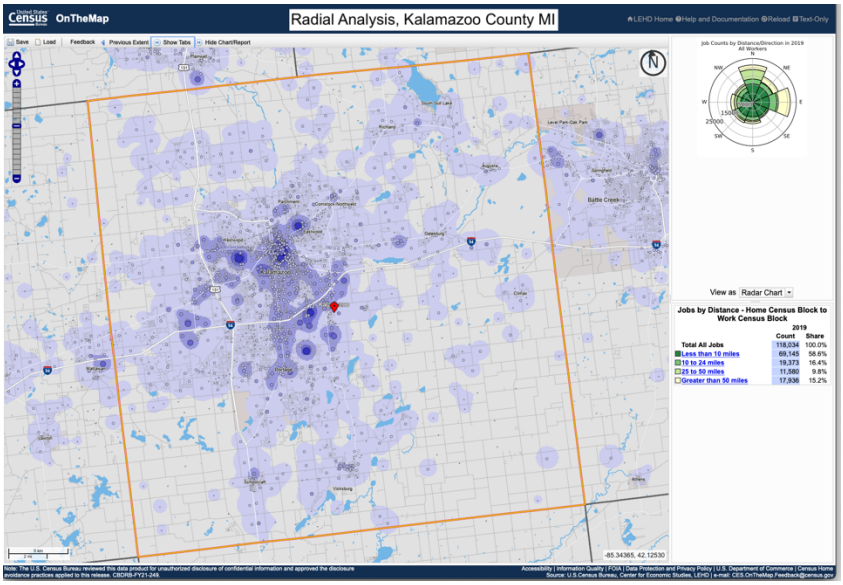




35. *Kalamazoo County* is also located in the southwestern portion of the state and is dominated by the city of Kalamazoo. 63.5% of Kalamazoo County residents are employed in jobs in the county, a lower portion than in Kent County. 42% of the jobs in Kalamazoo County are held by residents who commute in from surrounding counties. 58.6% of Kalamazoo County

residents have comparatively short commutes of less than 10 miles, but over 25% travel 25 or more miles to work.

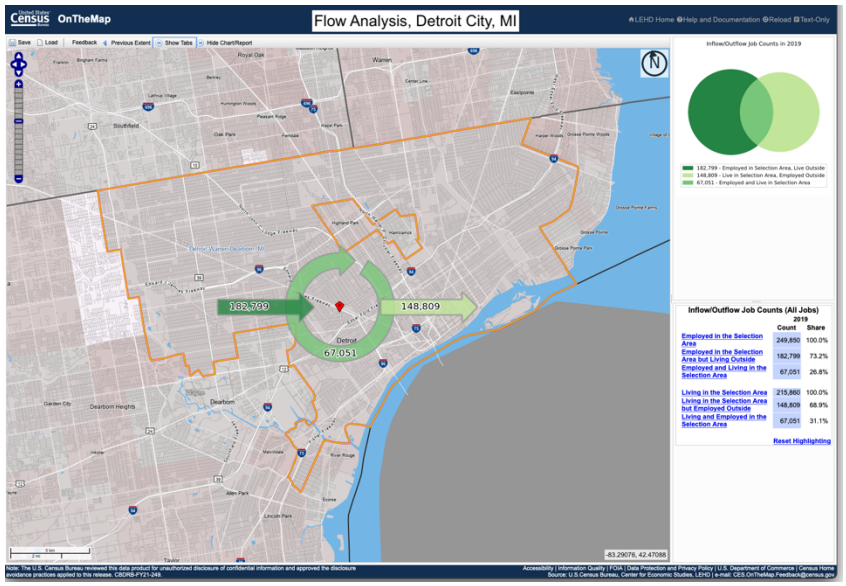




36. Finally, I turn to brief flow analyses of Detroit City. This flow map shows much the same thing as the county map – there are potential communities of interest, at least as defined by transportation and economic linkages, that extend well beyond the city boundaries.

37. A flow analysis of Detroit City shows the unsurprising result that almost three-quarters (73.2%) of individuals employed in Detroit are not residents of Detroit. There are many

residents who do not live in Detroit yet have strong economic connections to the city. At the same time, 68.9% of Detroit residents do not work in Detroit, and so too, share a community of interest with areas and citizens outside the city boundary.



38. Employment and commuting patterns is one way to look at a "community of interest" and demonstrates that drawing conclusions about a redistricting map by looking solely at county or municipal boundaries, and assuming that county or municipal boundaries encompass communities of interest, fails to consider important economic and transportation ties that connect citizens' political interests across existing political boundaries. It is common for residents of the counties and city examined in this report to cross county boundaries to work and to travel along transportation corridors that connect them to other counties. It does not seem unreasonable that a map that prioritizes communities of interest may divide up some counties and cities.

39. Plaintiffs' expert Thomas M. Bryan criticizes the current plan, in part because he claims it does not minimize the number of splits to administrative geography. Bryan Decl. (ECF No. 9-3) at ¶¶ 18 – 21. In my expert judgment, Bryan's evaluation is inaccurate and based on an incomplete analysis. Most tellingly, Bryan fails to consider all of the criteria mandated by the

Michigan Constitution in the order required the Constitution. It is impossible to tell anything about whether an alternative map, such as the one Plaintiffs propose, performs better on the criteria mandated by the Michigan Constitution unless one considers all of the criteria in order. This is because, in redistricting, a change to one criterion creates a cascading effect.

40. Mr. Bryan also fails to consider how a community of interest criterion conflicts with adherence to administrative geography. On page 9 of his report, Bryan states that "(t)raditional redistricting principles (as provided by NCSL) mandate that splitting administrative geography should be minimized in a successful redistricting plan" *Id.* at 9 (emphasis added). There is no "mandate" in the Michigan Constitution; the Commission needs to "reflect consideration of" these boundaries. The NCSL page referenced by Bryan also does not describe a "mandate" or "minimizing" splits. The page is an overview guide to "traditional redistricting principles (or criteria) [that] have been adopted by many states" and as is noted on the page, "may be found in state constitutions" (emphasis added).[17] The NCSL's Guide to Redistricting in fact acknowledges that criteria may be in conflict: "(t)hese principles can and often do conflict with one another. When that happens, legislators are likely to determine which are valued most highly, and informally or formally prioritize one over another."[18] Failing to consider the community of interest criterion, which is a higher priority in the Michigan Constitution, and using a minimization mandate that does not exist, leads Bryan to inaccurate conclusions about the Commission plan.

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[17] *Redistricting Criteria,* Nat'l Conf. of State Legs. (July 16, 2021), https://www.ncsl.org/research/redistricting/redistricting-criteria.aspx (accessed Feb. 17, 2022).

[18] *Into the Thicket: A Redistricting Starter Kit for Legislative Staff,* Nat'l Conf. of State Legs. (Nov. 24, 2021), https://www.ncsl.org/research/redistricting/into-the-thicket-a-redistricting-starter-kit-for-legislative-staff.aspx (accessed Feb. 17, 2022).

41. I make the foregoing statements with knowledge that they will be used as evidence in court and do declare under penalty of perjury under the laws of the State of Michigan that they are true and correct to the best of my knowledge and belief.

Executed this 18th day of February, 2022.

Paul Gronke