

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

LEAGUE OF UNITED LATIN
AMERICAN CITIZENS, *et al.*,

Plaintiffs,

v.

STATE OF TEXAS, *et al.*,

Defendants.

Civil Action No.

3:21-cv-00259-DCG-JES-JVB

[Lead Case]

&

All Consolidated Cases

**BRIEF OF NAACP LEGAL DEFENSE & EDUCATIONAL FUND, INC.,
DELTA SIGMA THETA, INCORPORATED, BLACK VOTERS MATTER
CAPACITY BUILDING INSTITUTE, BARBARA JORDAN LEADERSHIP
INSTITUTE, FRIENDSHIP-WEST BAPTIST CHURCH, AMERICAN CIVIL
LIBERTIES UNION, AMERICAN CIVIL LIBERTIES UNION OF TEXAS,
LEAGUE OF WOMEN VOTERS, LEAGUE OF WOMEN VOTERS OF TEXAS,
AND THE HOUSTON AREA URBAN LEAGUE AS *AMICI CURIAE* IN
SUPPORT OF PLAINTIFFS' MOTIONS FOR PRELIMINARY INJUNCTION**

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CORPORATE DISCLOSURE STATEMENT

Amici Curiae the NAACP Legal Defense & Educational Fund, Inc., Delta Sigma Theta Sorority, Incorporated, Black Voters Matter Capacity Building Institute, Barbara Jordan Leadership Institute, Friendship-West Baptist Church, American Civil Liberties Union (“ACLU”), ACLU of Texas, League of Women Voters, League of Women Voters of Texas, and the Houston Area Urban League state that no party to this brief is a publicly held corporation, issues stock, or has a parent corporation.

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INTEREST OF *AMICI CURIAE*¹

Amici Curiae the NAACP Legal Defense & Educational Fund, Inc., Delta Sigma Theta Sorority, Incorporated, Black Voters Matter Capacity Building Institute, Barbara Jordan Leadership Institute, Friendship-West Baptist Church, American Civil Liberties Union (“ACLU”), ACLU of Texas, League of Women Voters, League of Women Voters of Texas, and the Houston Area Urban League submit this amicus brief in support of the motions for preliminary injunction, filed by the Plaintiffs in the above-captioned case, to enjoin Texas’ recently adopted congressional map.² *Amici* are nonprofit, nonpartisan civil rights and racial justice organizations that work in service of Black Texans and other Texans to enjoy their full and equal rights. Achieving equal representation and ensuring that voters are able to cast equal and effective votes depends, in part, on redistricting maps that are fairly drawn to reflect and respect the communities *Amici* serve. For these reasons, *Amici* have worked to achieve fair representation in electoral maps in Texas and protect against unfair and racially discriminatory redistricting plans. Several *Amici* submitted oral and written testimony in the 2025 special legislative sessions that the Texas Legislature held regarding this mid-decade congressional redistricting, some of which

¹ No person or entity other than *Amici* and their counsel assisted in or made a monetary contribution to the preparation or submission of this brief. *Amici* submit this brief per this Court’s August 28, 2025 Order, ECF 1146, permitting the timely filing of amicus briefs by September 17, 2025 regarding the pending preliminary injunctions. Out of an abundance of caution, *Amici* also contacted counsel of record in the above-captioned case to obtain their position on *Amici*’s filing of their brief. The parties provided their consent.

² For this brief, “Plaintiffs” refer to those who have filed motions for preliminary injunction. See ECF 1142-1143, 1149, 1150.

is included in the Appendix to this brief. *Amici* submit this brief to illuminate for this Court their concerns and the harms arising from this mid-decade congressional redistricting, many of which they raised with Texas officials during these recent legislative sessions.

INTRODUCTION

Texas officials and legislators continue to evade their constitutional and statutory obligations. Rather than address the constitutional and statutory infirmities made plain after trial on the 2021 congressional map, the Texas Legislature doubled down on racial discrimination by again using an impermissibly race-driven process to enact a new congressional map that discriminates against Black and Hispanic voters. Texas' Governor and the Texas Legislature relied on a patently erroneous legal theory advanced by the U.S. Department of Justice (the "Department") that targeted the redrawing of congressional districts where sizeable populations of Black and Hispanic people live based on the racial makeup of those districts. During two special legislative sessions, the Legislature proposed maps that dismantled those same districts, despite Texas having defended them in this litigation as allegedly being drawn "race blind" and otherwise legally compliant. ECF 1116-1 at 2. For the 2025 congressional map, the Legislature packed Black voters at unnecessarily high numbers in certain congressional districts in the Harris County and Dallas-Fort Worth areas without a legitimate — let alone compelling — reason. Texas' decisions in these and other areas of the 2025 map to racially gerrymander and intentionally dilute the votes of people of color harms the people that *Amici* serve.

The legislative records from these 2025 special sessions provide additional evidence that the 2025 map is racially discriminatory. Legislators have offered shifting and pretextual rationales to defend this map. They ignored the warnings by several *Amici* that the 2025 map would further harm Black and other voters, particularly in the Houston and Dallas-Fort Worth areas. They also disregarded warnings that the U.S. Constitution prohibits targeting Black and Hispanic voters as a means to increase partisan advantage, as the 2025 map does.

To conceal its discrimination, the Legislature enacted the 2025 map in a rushed, non-transparent, and non-democratic process. It conducted few public hearings, and most of those were held without a map for the public to assess. When a map was introduced that altered 37 of Texas' 38 congressional districts, the House and Senate each held only *one* hearing that allowed public testimony on that map, with minimal notice to the public. They refused to provide basic information, including: who had their hand on the mouse when district lines were being changed and voters were sorted among them; who else was involved in the mapdrawing in and outside of Texas' Legislature; what criteria explained specific changes to each district; and what data and analyses were conducted to justify the specific configurations of districts. And when the Legislature published an amended map, it continued its sham process by not inviting public testimony or providing basic information about that map. Instead, the House and Senate redistricting committees suspended procedural rules and adopted the 2025 map with minimal notice of hearings. The process is unjustifiable.

Texas’ 2025 map is unconstitutional. While this litigation proceeds, a preliminary injunction is necessary to mitigate the harms to *Amici*, their members, and other Black voters, who comprise the largest raw number of Black registered voters among all 50 states,³ as well as Hispanic voters for the upcoming elections. Absent preliminary relief, those harms cannot be undone.

ARGUMENT

The U.S. Constitution prohibits intentional racial vote dilution and racial gerrymandering. Those racial discrimination theories are analytically distinct and have different standards, burdens of proof, and remedies. *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 38 (2024). Racial gerrymandering claims require a plaintiff to show — by using direct or circumstantial evidence — that a significant number of voters were predominantly sorted based on their race without a compelling justification. *Miller v. Johnson*, 515 U.S. 900, 915-16 (1995). A racial gerrymandering claim is agnostic as to the group voting strength of the sorted voters or the electoral results of the impermissible sorting. *Shaw v. Reno* (“*Shaw I*”), 509 U.S. 630, 645 (1993).

To prove intentional racial vote dilution, plaintiffs must show that officials purposefully “enacted a particular voting scheme . . . ‘to minimize or cancel out the *voting potential* of racial or ethnic minorities.’” *Miller*, 515 at 911 (citation omitted) (emphasis added). Challengers may use direct or circumstantial evidence to

³ Jens Manuel Krogstad & Mohamad Moslimani, *Key Facts about Black Eligible Voters in 2024*, Pew Rsch. Ctr. (Jan. 10, 2024), <https://www.pewresearch.org/short-reads/2024/01/10/key-facts-aboutblack-eligible-voters-in-2024/>.

demonstrate intentional discrimination. *Rogers v. Lodge*, 458 U.S. 613, 618 (1982). Intentional racial discrimination need only be “a motivating factor,” not, as in the racial gerrymandering context, the “sole[]” or even “primary” reason for the government’s decision. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265-66 (1977) (emphasis added). The *Arlington Heights* framework offers several factors that courts use to assess if there is a racially discriminatory purpose, including: the sequence of events leading to a challenged decision; procedural or substantive deviations from the normal legislative decision-making processes; and the contemporaneous viewpoints expressed by legislative decisionmakers to assess whether the justifications for the challenged decision are pretextual or tenuous. *Id.*; *see also Veasey v. Abbott*, 830 F.3d 216, 236 (5th Cir. 2016) (en banc).

Amici assert that the direct and circumstantial evidence leading up to Texas’ enactment of the 2025 map illuminates the racially discriminatory intent of the key decisionmakers and the predominant role that race played in its design.

I. Texas’ Justification for Mid-Decade Congressional Redistricting Is Pretextual, Contrary to Their Defense of the 2021 Map, and Confirms Race Predominated in the Design of Districts in the 2025 Map.

Texas has spent more than four years in federal court defending its 2021 map as being legally compliant. *See, e.g.*, ECF 1116 at 1. While Plaintiffs dispute Texas’ defense, Texas Attorney General Paxton characterized the evidence presented at a recent trial before this Court, which ended in June 2025, as “clear and unequivocal” that the 2021-adopted congressional districts were drawn “blind to race.” ECF 1116-1 at 2. Texas also defended the 2021 map as being legally compliant because,

according to Texas, legislators drew districts to “maximize Republican political advantage balanced against traditional redistricting criteria.” *Id.*

Yet less than four weeks after trial concluded, Governor Abbott cited “constitutional concerns raised by the U.S. Department of Justice” in a July 7, 2025 letter from the Department’s Civil Rights Division about congressional districts (“CDs”) 9, 18, and 29 (in the Harris County area), and 33 (in the Dallas-Fort Worth area) as the basis to conduct mid-decade congressional redistricting. ECF 1114-1 at 3. Key Texas legislative leaders similarly cited “concerns raised by the U.S. Department of Justice” as the reason to conduct mid-decade redistricting.⁴ And the 2025 map overhauls these four districts even though Texas defended these districts just months ago at trial as complying with the Voting Rights Act (“VRA”). ECF 986 at 17. The Department’s letter, in turn, asserted that these districts “constitute unconstitutional coalition districts . . . [which] run afoul the [sic] Voting Rights Act and the Fourteenth Amendment.” ECF 1114-2.

As several *Amici* repeatedly warned in testimony submitted to the Legislature, App. 1-4, 9-12, the Department’s assertion of unconstitutionality rested on both a fundamental misreading and misapplication of *Petteway v. Galveston County*, 111 F.4th 596 (5th Cir. 2024) (en banc). In asserting illegality, the Department claimed that in the 2021 map, Texas mapmakers intentionally drew “TX-09 and TX-18 [to]

⁴ *Texas Senate and Texas House Working in Lockstep on Congressional Redistricting Legislation to Address Concerns*, Off. of Tex. Lieutenant Governor Dan Patrick (July 11, 2025), <https://www.ltgov.texas.gov/2025/07/11/texas-senate-and-texas-house-working-in-lockstep-on-congressional-redistricting-legislation-to-address-concerns/>.

sort Houston voters along strict racial lines to create two coalition seats, while creating TX 29, a majority Hispanic district” and drew “TX-33” to be “another racially-based coalition district.” ECF 1114-2 at 2. These assertions are inconsistent with Texas’ repeated insistence that these districts, like the entire 2021 map, were drawn in a race-blind manner without any consideration of race. *See, e.g.*, ECF 1116.

The root problem with the Department’s claim of illegality — and Texas’ reliance on that contention as the original reason to engage in mid-decade redistricting — is that it fundamentally misreads the Fifth Circuit’s *en banc* decision in *Petteway*. *Petteway* concerns whether litigants challenging district lines in the jurisdictions within the Fifth Circuit can establish the *Thornburg v. Gingles*, 478 U.S. 30 (1986), first precondition of a VRA Section 2 violation by aggregating “separately protected minority groups . . . for purposes of a vote dilution claim.” *Petteway*, 111 F.4th at 603. *Petteway* does not, however, address whether such districts are inherently unconstitutional as an impermissible racial gerrymander, an analytically distinct claim. And the record here reflects that Texas did not propose CDs 9, 18, and 33 as districts to satisfy the first *Gingles* precondition; these districts were each proposed by Texas’ own mapmakers in 2021 of their own volition and defended as complying, in large part, with race-neutral traditional redistricting principles. *See, e.g.*, ECF 1116-1 at 2.⁵

⁵ Even if Texas had previously intended to comply with Section 2 of the VRA by intentionally drawing coalition districts, that would have been proper because legislatures should “apply the body of law in effect at th[e] time.” *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 197 (2017) (Alito, J., concurring). In 2021, the governing law in the Fifth Circuit was *Campos v. City of Baytown, Tex.*, which held

Petteway did not address, suggest, or hold that so-called “coalition” majority-minority districts are inherently unconstitutional. Nor does it hold that mapmakers are prohibited from fashioning such districts out of their own volition when such districts otherwise comport with traditional redistricting principles, including preservation of local jurisdictions or communities of interest, or satisfy political considerations. Nor could it, because no law prohibits states from choosing to establish such a district so long as it complies with other legal requirements. *Cf. Bartlett v. Strickland*, 556 U.S. 1, 23-24 (2009) (plurality) (“Our holding that § 2 does not require crossover districts does not consider the permissibility of such districts as a matter of legislative choice or discretion.”).

Throughout this litigation, Texas has defended the 2021 map, including CDs 9, 18, 29, and 33, as drawn to comply with “traditional redistricting criteria.” *See, e.g.*, ECF 986 at 17. Any deviations, Texas claims, can be explained by “partisanship.” *Id.* at 15. Further, more than a decade ago, Texas argued that CD 33 was not a coalition district, and this Court agreed.⁶ *Perez v. Abbott*, 274 F. Supp. 3d 624, 653 (W.D. Tex. 2017), *rev’d and remanded on other grounds*, *Abbott v. Perez*, 585 U.S. 579 (2018). Indeed, CD 33 was created and sanctioned by this Court as a remedy to address an

that “distinct minority groups may aggregate their populations for purposes of vote dilution claims under Section 2.” *Petteway*, 111 F.4th at 599 (citing *Campos*, 840 F.2d 1240, 1244 (5th Cir. 1988)). Thus, in 2021, Texas had a “a compelling interest at the relevant time” to draw coalition districts. *Bethune-Hill*, 580 U.S. at 193.

⁶ Eleanor Klibanoff, *Texas’ Proposed Congressional Map Dismantles Districts Flagged by DOJ*, Tex. Tribune (Aug. 1, 2025), <https://www.texastribune.org/2025/08/01/texas-congressional-redistricting-doj-coalition-districts/>.

intentionally racially discriminatory map. *Id.* And Texas has defended the 2021 map as complying with the VRA even after the *Petteway* decision. ECF 986 at 17.

Texas has also consistently defended CDs 9, 18, 29, and 33, as well as the entire 2021 map, as drawn on a race-blind basis. Indeed, the record is riddled with Texas' claims that its 2021 redistricting efforts were driven by racially neutral motives. *See, e.g.*, ECF 1125 at 4 (“The record also shows that the chief concerns in each instance were partisanship, incumbency, or some other neutral principle.”); ECF 1124 at 4 (“race played no role in the process”); ECF 1123 at 10 (“[T]he legislative record attests to the race-blind motives behind the Enacted Maps.”); ECF 1116 at 1, 3 (“[T]he Texas Legislature did not racially discriminate in drawing the [prior] congressional electoral districts — full stop.” Texas Attorney General Paxton, in response to the Department, reiterated:

The evidence at trial was clear and unequivocal: **the Texas legislature did not pass race-based electoral districts** for [the Congressional, state Senate, or State House] **maps**. Texas State Senator Joan Huffman, who chaired the Senate Redistricting Committee, testified under oath that she drew Texas districts blind to race The Texas legislature has led the Nation in rejecting race-based decision-making in its redistricting process — it has drawn its current maps in conformance with traditional, non-racial redistricting criteria. . . .

ECF 1116-1 at 2 (emphasis in original). Consistent with these assertions, during the recent legislative sessions, legislators defended their 2021 process as race-blind and otherwise legal.⁷

⁷ Tex. Senate Redistricting Comm. at 33:40, July 29, 2025, <https://senate.texas.gov/videoplayer.php?vid=22414&lang=en>; *see also* Tex. House Redistricting Committee at 1:44:30, Aug. 1, 2025,

Given these repeated claims of race-blindness in developing the 2021 map, Texas’ assertion that it can now engage in a mid-decade redistricting based on the Department’s claim that these districts were unconstitutional is “plainly inconsistent with [its] prior position.” *Reed v. City of Arlington*, 650 F.3d 571, 574 (5th Cir. 2011) (explaining judicial estoppel); *see generally New Hampshire v. Maine*, 532 U.S. 742, 749 (2001) (a party may not “gain an advantage by litigation on one theory, and then seek an inconsistent advantage by pursuing an incompatible theory”) (citation omitted).

Tellingly, Texas never raised concerns about the existence of such purported coalition districts in its 2021 map when it had to brief this Court *about* the effects of *Petteway*. Roughly two months after that decision, Texas filed a letter motion before this Court arguing that *Petteway*’s “holding that coalition claims are impermissible under Section 2 of the Voting Rights Act . . . flatly preclude[es] claims of the type that Plaintiffs raise here.” ECF 815. But Texas never claimed that *Petteway* posed a problem for CDs 9, 18, 29, or 33. The Legislature chose not to conduct any new congressional redistricting during its 2025 regular legislative session, even though legislators discussed it after *Petteway* was decided in 2024 and before that legislative

<https://house.texas.gov/videos/22418> (Representative Hunter stating that he was told by the law firm Butler Snow, with which he worked to develop the 2021 congressional map, that it is legally compliant); Tex. House Redistricting Committee at 33:05, Aug. 18, 2025, <https://house.texas.gov/videos/22492>.

session started in January 2025.⁸ Nor did Governor Abbott ask the Legislature to redistrict because of *Petteway* during the 2025 regular legislative session.

Setting aside the validity of Texas’ argument, Texas was no doubt right that *Petteway* dealt with the availability of coalition claims. But Texas now reverses course. While Texas once relied on *Petteway* before this Court to defend the constitutionality of the very districts at issue in the Department’s letter, it now uses the Department’s misreading of *Petteway* — that is, that *Petteway* renders Texas’ districts unconstitutional — to justify its discriminatory redistricting efforts.⁹ The Department’s patent misreading and misapplication of *Petteway* do not absolve the State from its obligations to comply with the VRA and Constitution. *See, e.g., Cooper v. Harris*, 581 U.S. 285, 306 (2017) (explaining courts should not “approve a racial gerrymander . . . whose *raison d’etre* is a legal mistake”). That means Texas cannot have its cake and eat it too by relying on a misinterpretation of *Petteway* to justify this mid-decade redistricting. Having defended the 2021 map for years, contending that it was developed using a race-blind process, Texas’ reliance on the Department’s contentions of racially gerrymandering to justify its mid-cycle redistricting efforts is a classic example of pretext. And one can “reasonably infer from the falsity of the explanation that the [defendant] is dissembling to cover up a discriminatory purpose.” *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 147 (2000); *see*

⁸ Ailsa Chang, et al., *A Texas Republican State Lawmaker on the Fight for Redistricting*, NPR (Aug. 6, 2025), <https://www.npr.org/2025/08/06/nx-s1-5493480/texas-democrats-quorum-oliverson>.

⁹ *See, e.g., Tex. House Redistricting Committee* at 51:08, Aug. 1, 2025, <https://house.texas.gov/videos/22418>.

also Veasey, 830 F.3d at 236 (recognizing pretext relevant to constitutional intentional discrimination claims).

Texas’ proffering of what would otherwise be “seemingly neutral reason[s]” cannot mask a racially discriminatory purpose. *Veasey*, 830 F.3d at 236. That is because Texas’ shifting rationales “fail to correspond in any meaningful way” to the facts and full record here. *Id.* at 263. The “many rationales” that “shifted as they were challenged or disproven” through public scrutiny and also, in this case, through relevant briefings, are probative of a racially discriminatory purpose. *Id.* at 240-41. Once these shifting justifications are properly disregarded as pretextual and tenuous, only one rationale remains: the Legislature dismantled districts serving racial minority voters *because of* those districts’ racial compositions. That is unlawful and tainted the 2025 special legislative sessions.

II. The 2025 Special Legislative Sessions Were a Sham.

Texas attempted to conceal its illegitimate use of race in developing the 2025 map through an undemocratic rushed and non-transparent legislative process.

Extensive public testimony submitted to the House Select Committee on Congressional Redistricting (“House Redistricting Committee”) and Senate Special Committee on Congressional Redistricting (“Senate Redistricting Committee”), including by *Amici*, opposed mid-decade congressional redistricting for several reasons, including that neither Committee presented any clear justification to conduct mid-decade congressional redistricting. *See, e.g.*, App. 18-20. *Amici* were concerned about a pretextual justification motivating the entire process because the Committee Chairs claimed to disagree with the Department’s theory that CDs 9, 18,

29, and 33 were unconstitutional, while justifying the need to conduct mid-decade congressional redistricting based on Governor Abbott’s call to conduct it to resolve constitutional concerns raised by the Department. *Id.* at 1-2, 9-10.

Equally concerning, *Amici* and the public were deprived of — and thus still lack — basic information about the redistricting criteria that the legislative Committees used to guide any mapdrawing generally or the reconfiguration of specific districts. *See, e.g.*, App. 33-34. If the Committees, for example, were going to redraw certain districts because of their racial composition, *Amici*, consistent with other public testimony, inquired whether analyses would be done to allow and ensure that any changes complied with federal law and the U.S. Constitution. *Id.* at 35. Likewise, several *Amici* inquired what data would be on the screen as voters were sorted into and out of districts, information that would aid their assessments and discussions on how to raise any concerns. *Id.*

The Legislature deprived *Amici* and members of the public of knowledge about how the 2025 map was developed, who took part in developing it, what demographic or electoral information, if any, was used in their development, and other basic guideposts for how new congressional maps and specific district configurations were shaped. *Id.* In response to testimony *Amici* and members of the public submitted, as well as questions directed at legislators, the key sponsor of the 2025 map, Representative Hunter, stated that everything was done through a law firm and that “he doesn’t know who drew” the map. *Id.* at 34; *see also id.* at 21. Nor did he or any

other members of the House or Senate Redistricting Committees know what data or other factors went into the 2025 map's design. *Id.* at 33-34.

The lack of transparency was compounded by an extraordinarily truncated timeline for considering maps that altered most congressional districts and fundamentally targeted districts serving Black and Hispanic voters.¹⁰ No legislatively proposed map was available to the public during most of the public hearings the House and Senate Redistricting Committee held. *Id.* at 5, 29-30. When a map (C2308) was publicly released during the first special legislative session, the House Redistricting Committee gave the public less than 48 hours before holding its only public hearing on the map. *Id.* at 33. Because of the short timeline, limited information, and the hearing being held during working hours on a weekday, *Amici* and their members, and other members of the public, could not conduct or provide meaningful assessments of the proposed plan. *See, e.g., id.* at 20, 33-34. The Senate Redistricting Committee likewise held only one hearing on that proposed map. *Id.* at 18.

Despite the concerns raised about the lack of transparency with the first special legislative session, neither the House nor the Senate Redistricting Committees changed course during the second special legislative session. *Id.* at 33-34. Neither Committee invited public testimony on the 2025 map when it was

¹⁰ Several *Amici* participated in the redistricting process that led to the enactment of the 2021 map. While that process was also rushed and non-transparent, the 2025 special legislative sessions were even more unusual and unnecessarily truncated compared to the 2021 legislative session.

proposed. *Id.* at 30-31. The House Redistricting Committee publicly released the new congressional map less than six hours before the only hearing on it. *Id.* at 34. Similarly, the Senate provided less than 24-hours notice before its only hearing on the map. *Id.*

As a practical matter, this meant that *no* members of the public could provide comment on the 2025 map because the Legislature invites public testimony only during committee hearings. *Id.* In sum, the House and Senate Redistricting Committees permitted public testimony at *only one* public hearing each and on an early version of what would be the new 2025 map. *Id.* at 29-31.

All told, the process was a sham.

III. The Texas Legislature Cannot Harm Black Voters and Other Voters of Color as a Means to Augment Political Power.

In the redistricting context, federal courts review race-conscious decisionmaking differently than such decisions in other state action contexts under its equal protection jurisprudence. *Shaw I*, 509 U.S. at 646. Race-conscious decisionmaking in redistricting is not inherently suspect and thus does not trigger strict scrutiny. *Miller*, 515 U.S. at 915-16; *see also Allen v. Milligan*, 599 U.S. 1, 30-31 (2023) (“[R]edistricting legislatures will almost always be aware of racial demographics, but such race consciousness does not lead inevitably to impermissible race discrimination[.]”) (cleaned up).

This doctrinal distinction reflects the Supreme Court’s recognition that mapdrawers will almost always be aware of racial demographics during the mapdrawing process. *Miller*, 515 U.S. at 915-16. Mapdrawers are frequently familiar

with the racial composition of the communities they district, and they use tools and data that include racial data and considerations. *See, e.g., Bush v. Vera*, 517 U.S. 952, 961 (1996) (plurality); *Miller*, 515 U.S. at 915-16; *Shaw I*, 509 U.S. at 646. One reason mapdrawers need to be race conscious is to comply with federal law and the protection of equal rights. Section 2 of the VRA, for example, “demands considerations of race.” *Milligan*, 599 U.S. at 30 (plurality). “[A] legislature undertaking a redistricting must assess whether the new districts it contemplates (not the old ones it sheds) conform to the VRA’s requirements.” *Cooper*, 581 U.S. at 303-04. In short, “race consciousness does not lead inevitably to impermissible race discrimination.” *Shaw I*, 509 U.S. at 646.

While race consciousness is permissible in the redistricting context, the Constitution imposes important constraints and the Supreme Court has developed a framework for assessing racial considerations in developing electoral maps. *See, e.g., Miller*, 515 U.S. at 915-16. The Equal Protection Clause of the Fourteenth Amendment prohibits racial gerrymandering — that is, the unjustified, predominant use of race in drawing electoral districts. *See, e.g., id.* And the Constitution also prohibits intentional racial vote dilution. In this context, a discriminatory purpose need not be “*the sole*[]” or even “primary” motivation for the legislature, but rather “*a motivating factor.*” *Arlington Heights*, 429 U.S. at 265-66 (emphasis added).

Here, as certain *Amici* warned, Texas' Legislature impermissibly used race as *the* predominant factor in targeting and reconfiguring CDs 9, 18, and 30.¹¹ In Harris County, the Legislature's actions reflect its obsession with race. The Department and Legislature targeted CDs 9 and 18 based on their racial composition. The 2025 map, for example, eliminates a district for Black voters to elect their preferred candidates in CD 9 by packing Black voters in CD 18 at levels that are unnecessary to provide them with electoral opportunity: before these changes, Black voters were able to elect candidates of their choice even though they were not the majority of voters in that district in the 2021 map.¹² In the 2021 map, CDs 9 and 18 had been well-known as historic districts for Black electoral opportunity.¹³ Similarly, while the Department did not mention CD 30 in the Dallas-Fort Worth area in its letter, the district performed for Black voters when they did not comprise the majority under the 2021 map.¹⁴ Yet the 2025 map unnecessarily increases the Black-citizen-voting-age population to just above 50% in CD 30, in part, by pulling Black voters from CD 33, which the Department did target in its letter. *See* ECF 1150-15 at 5.

¹¹ *Amici* understand that the 2025 map also harms electoral opportunities for Hispanic voters in the Harris County and Dallas-Fort Worth areas of the state, among others. *Amici* are adamant that opportunities for Black and Hispanic voters are not zero sum, but, as several of our testimonies reflect, it is possible in a fairly drawn map for each racial and ethnic group of Black and Hispanic voters to have electoral opportunities in these areas. *See, e.g.*, App. 35.

¹² *Compare* ECF 1150-6 at 1 (reflecting that the Black-citizen-voting-age population ("BCVAP") in CD 9 under the 2021 map is 45.0%), *with* ECF 1150-13 at 1 (reflecting that the BCVAP in CD 9 under the 2025 map is 11.5%) and ECF 1150-6 at 1 (reflecting that the BCVAP in CD 18 under the 2021 map is 38.8%), *with* ECF 1150-13 at 1 (reflecting that the BCVAP in CD 18 under the 2025 map is 50.5%).

¹³ ECF 989 at 2, 4-6.

¹⁴ *Id.*

Because race predominates in these districts' construction, Texas must show that its use of race was "narrowly tailored to achieve a compelling interest." *Bethune-Hill*, 580 U.S. at 182. The key architects of the 2025 map never publicly advanced any argument, evidence, or defense that CDs 9, 18, or 30 were narrowly tailored to serve a compelling interest, such as compliance with Section 2 of the VRA. Any attempt for the Legislature to now offer a VRA defense would be a *post hoc* justification that is entitled no evidentiary weight. *Shaw v. Hunt*, 517 U.S. 899, 908 n.4 (1996) ("To be a compelling interest, the State must show that the alleged objective was the legislature's 'actual purpose' for the discriminatory classification.").

But even if contemporaneously made, a VRA defense would not satisfy scrutiny. Because CDs 9, 18, and 30 all historically provided electoral opportunities for Black voters, drawing CDs 18 and 30 as majority-Black under the guise of VRA compliance would not be narrowly tailored to address any identified VRA violation. *Cooper*, 581 U.S. at 302-04; *Bartlett*, 556 U.S. at 23-24. That is because the VRA does not require majority-Black districts. *See Voinovich v. Quilter*, 507 U.S. 146, 155 (1993). Instead, the VRA requires that, under certain circumstances, minority groups have "opportunity districts in which minority groups form effective majorities." *Abbott*, 585 U.S. at 875 (cleaned up). For Black voters, an opportunity district could be a district in which Black voters on their own comprise 50%+1 of the voting-age population (i.e., a majority-Black district), *or* a district in which Black voters on their own are not above 50% (i.e., a non-majority-Black district), *or* some other electoral structure — so long as in that district there is a reasonable basis to believe that Black

voters have an opportunity to elect their preferred candidate. *See Milligan*, 599 U.S. at 18; *see Milligan v. Allen*, Case No. 2:21-cv-01530-AMM, 2025 WL 2451593 (N.D. Ala. Aug. 7, 2025) (finding an opportunity district in which Black voters comprise 48.7% of the population to remedy a VRA violation and compliant with the Constitution). And *Amici* warned (so the Legislature knew) that CDs 9, 18, and 30 had been functioning for Black voters to elect their candidates of choice, who were Black representatives, without those districts being majority-Black districts. App. 35.

Further, as *Amici* warned the Legislature in their testimonies, *id.* at 38, using race as the predominant means to sort voters into districts is also unconstitutional even if done as a means for partisan goals. *See, e.g., Alexander*, 602 U.S. at 7 n.1. Here, the majority party used race in an impermissible way by harming Black voters (and other voters of color) as a means to solidify their political power. To be clear, even if the Legislature had what they consider a legitimate end (i.e., political dominance), it cannot achieve that end through an impermissible means (i.e., racially gerrymandering and intentional racial vote dilution). Yet during the two special legislative sessions, the Legislature never explained what, if any, political data it used to sort voters in the 2025 map. The key architects, for example, claimed to not have the “specifics” relating to what data was used to design the 2025 map.¹⁵ Nor did they know who was actually involved or what criteria went into the 2025 map’s design.¹⁶ Yet, as discussed above, the Department identified only the racial

¹⁵ Tex. House Redistricting Committee at 1:32:30, Aug. 1, 2025, <https://house.texas.gov/videos/22418>.

¹⁶ *Id.* at 1:48:00 and 1:51:45.

composition of certain districts and the Legislature altered those districts. Representative Hunter also trumpeted the racial composition of districts when presenting and discussing the 2025 map. *See, e.g.*, ECF 1150 at 16-23.

Finally, the Legislature's decision to destroy what were otherwise effective crossover districts that provided electoral opportunities to Black voters also raises independent constitutional concerns. The term "crossover district" refers to a legislative district "in which minority voters make up less than a majority of the voting-age population," but "is large enough to elect the candidate of its choice with help from voters who are members of the majority and who cross over to support the minority's preferred candidate." *Bartlett*, 556 U.S. at 13. Drawing such districts is not prohibited by Section 2. *Id.* at 24. But, as some *Amici* warned, App. 38, the Supreme Court has warned that "if there were a showing that a State intentionally drew district lines in order to destroy otherwise effective crossover districts, that would raise serious questions under both the Fourteenth and Fifteenth Amendments" of the Constitution. *Id.* at 24; *Cooper*, 581 U.S. at 302-04; *see also Perez v. Perry*, SA-11-CV-360, 2012 WL 13124278, at *20 (W.D. Tex. March 19, 2012). As discussed above, CDs 9, 18, and 30 have historically served as effective opportunity districts for Black voters and the Legislature intentionally eliminated these districts based on their racial makeup.

CONCLUSION

For the foregoing reasons, *Amici* urge this Court to grant Plaintiffs' motions for preliminary injunction.

Dated: September 15, 2025

Respectfully submitted,

/s/ Leah C. Aden

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with this Court's August 8 Order, ECF 1146 at 3, because it does not exceed 20 pages.

I further certify that the attached amicus brief complies with the typeface and type style requirements of Local Rule CV-10 because it has been prepared in a proportionally spaced typeface using Microsoft Word and 12-point font.

Executed this 15 day of September 2025.

/s/ Leah C. Aden

Leah C. Aden

Counsel for Amici Curiae

CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2025, I electronically filed the original of this brief with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all attorneys of record by operation of the Court's electronic filing system.

Executed this 15 day of September 2025.

/s/ Leah C. Aden

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Counsel for Amici Curiae

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

LEAGUE OF UNITED LATIN
AMERICAN CITIZENS, *et al.*,

Plaintiffs,

v.

STATE OF TEXAS, *et al.*,

Defendants.

Civil Action No.

3:21-cv-00259-DCG-JES-JVB

[Lead Case]

&

All Consolidated Cases

**APPENDIX TO BRIEF OF NAACP LEGAL DEFENSE & EDUCATIONAL
FUND, INC., DELTA SIGMA THETA, INCORPORATED, BLACK VOTERS
MATTER CAPACITY BUILDING INSTITUTE, BARBARA JORDAN
LEADERSHIP INSTITUTE, FRIENDSHIP-WEST BAPTIST CHURCH,
AMERICAN CIVIL LIBERTIES UNION, AMERICAN CIVIL LIBERTIES
UNION OF TEXAS, LEAGUE OF WOMEN VOTERS, LEAGUE OF WOMEN
VOTERS OF TEXAS, AND THE HOUSTON AREA URBAN LEAGUE AS
AMICI CURIAE IN SUPPORT OF PLAINTIFFS' MOTIONS FOR
PRELIMINARY INJUNCTION**

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LEAGUE AS AMICI CURIAE IN SUPPORT OF PLAINTIFFS' MOTIONS
FOR PRELIMINARY INJUNCTION**

Description	Appendix page start
Letter to House Select Committee on Congressional Redistricting Re: Opposition to Mid-Decade Congressional Redistricting That Further Harms Black and Other Voters of Color dated July 24, 2025	App. 001
Letter to Senate Special Committee on Congressional Redistricting Re: Opposition to Mid-Decade Congressional Redistricting That Further Harms Black and Other Voters of Color dated July 24, 2025	App. 009
Letter to Senate Special Committee on Congressional Redistricting Re: Second Supplemental Testimony Strongly Opposing Mid-Decade Congressional Redistricting Under the Current Circumstances dated August 17, 2025	App. 017
Letter to Senate Special Committee on Congressional Redistricting Re: Third Supplemental Testimony Strongly Opposing Mid-Decade Congressional Redistricting Under the Current Circumstances dated August 21, 2025	App. 029



July 24, 2025

Sent via email

House Select Committee on Congressional Redistricting
Texas House of Representatives
1100 Congress Avenue, Room E2.156
Austin, Texas 78701

Re: Opposition to Mid-Decade Congressional Redistricting That Further Harms Black and Other Voters of Color

Dear Chair Vasut and Committee Members:

The Legal Defense Fund, Barbara Jordan Leadership Institute, Houston Area Urban League, and Delta Sigma Theta Sorority, Incorporated write to express opposition to any “legislation that provides a revised congressional redistricting plan” during the special legislative session of the 89th Texas Legislature that further harms opportunities for Black voters and other voters of color to elect their preferred candidates. We oppose the Governor’s call to conduct this mid-decade congressional redistricting for three reasons.

First, access to congressional representation for Black voters and other voters of color should not be further weakened with any new line drawing based on any contradictory positions Texas takes on the role that the race of voters played in the 2021 congressional map’s development. Several plaintiff groups representing Black and Brown Texan voters, currently challenge the 2021 congressional map (C2193) as racially discriminatory under various constitutional and statutory theories of liability, in a consolidated case, *League of United Latin American Citizens v. Abbott*, No. 3:21-cv-00259-DCG-JES-JVB (W.D. Tex.).¹ Texas has repeatedly claimed that the 2021 “Legislature did not racially discriminate in drawing the current congressional electoral districts—full stop.”² While plaintiffs collectively dispute Texas’ defense, the Texas Attorney General characterized the evidence presented at trial, which ended in June 2025, as “clear and unequivocal” that congressional districts were drawn “blind to race.”³ Texas has also defended the districts in the congressional map as legally compliant because Texas legislators drew them to “maximize Republican political advantage balanced against traditional redistricting criteria.”⁴

¹ See Claims Chart, ECF No. 982-3, *League of United Latin Am. Citizens v. Abbott*, Dkt. No. 3:21-cv-00259-DCG-JES-JVB (W.D. Tex.) [hereinafter “*LULAC v. Abbott*” or the “*LULAC* litigation”].

² State Defs.’ Resp. in Opp’n to Pls.’ Emergency Mot. to Reopen R. and Take Additional Test., ECF No. 1116 at 1, *LULAC v. Abbott* [hereinafter State Defs.’ Resp. to Pls.’ Emergency Mot.].

³ Att’y Gen. Ken Paxton’s Resp. to DOJ Letter (July 11, 2025), ECF No. 1116-1 at 2, *LULAC v. Abbott*, [hereinafter Tex.’s Resp. Letter to DOJ].

⁴ *Id.*



Texas now appears to accept that the 2021 congressional mapdrawing process was not race blind for certain districts. Texas is calling a special legislative session after the urging of the U.S. Department of Justice (the “Department”) which asserts that Congressional Districts 9, 18, 29, and 33, are illegal racial gerrymanders.⁵ However, when the Department previously challenged the 2021 congressional map as being racially discriminatory in the *LULAC* litigation, the Department never advanced that legal theory, which could harm the electoral power of Black and Brown voters in the areas of the state it now does, before it withdrew its case in March 2025.⁶ In calling the legislative session to take up mid-decade congressional redistricting beginning on July 21, Texas appears to credit these racial gerrymandering allegations.⁷ The Texas Attorney General, for example, now claims the 2021 “Texas legislature felt compelled under pre-*Petteway* strictures to create coalition districts” in the enacted congressional map.⁸ But that claim is contradicted by the repeated representations—both publicly and through sworn statements by legislators in the *LULAC* litigation—that Texas drew its congressional map blind to the racial makeup of the districts and to comply with race-neutral traditional redistricting criteria and political considerations, including from the Senate Redistricting Committee Chair during the 2021 legislative session.⁹ The claim is further contradicted by the Texas Attorney General’s response to the Department’s recent outreach in which the Texas Attorney General asserts the current congressional map was developed “in conformance with traditional, non-racial redistricting criteria.”¹⁰

Texas cannot, on the one hand, defend its congressional map publicly and in federal court as race blind, while on the other hand rely on unfounded allegations that “outdated and unconstitutional considerations” drove the design of certain districts in the map.¹¹ Those contradictory positions evince a pretextual motivation to engage in mid-decade congressional redistricting that “bear[] the mark of intentional discrimination that could give rise to an equal protection violation.”¹²

Second, the Texas Legislature should also not rely on the Department’s flawed legal theories to conduct mid-decade congressional redistricting. The Department now claims

⁵ *Compare*, Press Release, *Governor Abbott Announces Special Session Agenda*, Tex. Gov. (July 9, 2025) (taking up congressional redistricting in a special session based on “constitutional concerns raised by the U.S. Department of Justice”), <https://gov.texas.gov/news/post/governor-abbott-announces-special-session-agenda>, with letter from Harmeet Dhillon, Assistant Att’y Gen., U.S. DOJ C.R. Div., to Greg Abbott, Governor of Tex. and Ken Paxton, Att’y Gen. of Tex. (July 7, 2025) (notifying Texas officials of “serious concerns regarding the legality of four of Texas’s congressional districts”), available at <https://electionlawblog.org/wp-content/uploads/7-7-2025-DOJ-Letter-re-Unconstitutional-Race-Based-Congressional-District.pdf> [hereinafter DOJ July 7 Letter].

⁶ *United States’ Am. Compl.*, ECF No. 318, *LULAC v. Abbott*.

⁷ Tex.’s Resp. Letter to DOJ, *supra* note 3.

⁸ *Id.* at 2; *See, e.g.*, State Defs.’ Opening Br., ECF No. 986 at 8-12, *LULAC v. Abbott*.

⁹ State Defs.’ Opening Br., ECF No. 986 at 8-12, *LULAC v. Abbott*.

¹⁰ Tex.’s Resp. Letter to DOJ, *supra* note 3, at 2.

¹¹ *Id.* at 3.

¹² *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 440 (2006).



that Congressional Districts 9, 18, 29, and 33 are unconstitutional.¹³ But, as Texas officials acknowledge, the Department has offered no factual evidence from the 2021 congressional mapdrawing process that would support those claims.¹⁴ Nor could it. As Texas recognizes, the Department is a “third party with no personal knowledge” of what occurred during the 2021 redistricting process.¹⁵ Still, even without any fact-specific evidence presented publicly, the Department claims Congressional Districts 9, 18, 29, and 33 are racially gerrymandered, specifically alleging that Congressional Districts 9, 18, and 33 are impermissible race-based coalition districts.¹⁶

But the mere fact that Black and Latino voters together form a majority of voters in a congressional district, such as in Congressional Districts 9, 18, and 33,¹⁷ does not mean that those districts are racially gerrymandered or otherwise constitutionally suspect. Rather, the Supreme Court has acknowledged that districts in which no group of voters of a particular race holds a majority is evidence of a *lack* of racial gerrymandering.¹⁸ Racial gerrymandering occurs only when a state sorts a significant number of voters predominantly based on their race and lacks a compelling reason for doing so.¹⁹ To make such a showing, a plaintiff can offer direct evidence of an impermissible race-based purpose for the design of a district or, more typically in these modern times, demonstrate with circumstantial evidence that a state “‘subordinated’ race-neutral districting criteria such as compactness, contiguity, and core preservation to ‘racial considerations’” in designing the district without a good reason.²⁰ The Department, however, offers no such direct or circumstantial evidence of race impermissibly predominating in the sorting of the relevant districts without a compelling state interest. Instead, the Department offers conclusory remarks that four districts—serving the needs of Black, Latino, and other Texans—were drawn along “racial lines.”²¹ And again, as explained above, Texas has defended its enacted congressional map as having been drawn without any consideration of race and rather for political considerations and with adherence to traditional redistricting principles.²²

Also contrary to the Department’s assertion, the Fifth Circuit’s 2024 decision in *Petteway v. Galveston* did not create any legal change in racial gerrymandering case law.

¹³ DOJ July 7 Letter, *supra* note 5.

¹⁴ State Defs.’ Resp. to Pls.’ Emergency Mot., *supra* note 2, at 2.

¹⁵ *Id.*

¹⁶ DOJ July 7 Letter, *supra* note 5.

¹⁷ Hispanic voters are the majority in Congressional District 29. See *District Population Analysis with County Subtotals - Congressional Districts - PLANC2193, District 29*, Tex. Legis. Council (Oct. 17, 2021) at 11, https://data.capitol.texas.gov/dataset/b806b39a-4bab-4103-a66a-9c99bcaba490/resource/d28bfc49-8987-49ab-a678-eb610f57230c/download/planc2193_map_report_package.pdf.

¹⁸ *Cf. Lawyer. v. Dep’t of Just.*, 521 U.S. 567, 582 (1997).

¹⁹ *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 260, 267, 272 (2015). Unjustified racial predominance is not race consciousness, the latter of which is permissible. See, e.g., *Allen v. Milligan*, 599 U.S. 1, 31 (2023).

²⁰ *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 8 (2024) (citation omitted).

²¹ DOJ July 7 Letter, *supra* note 5, at 2.

²² Texas’ Response Letter to DOJ, *supra* note 3.



The Fifth Circuit sitting en banc did not consider plaintiffs' analytically distinct claims of intentional racial discrimination and racial gerrymandering.²³ Both of those claims were remanded by the en banc Court.²⁴ But for plaintiffs' Section 2 claim under the Voting Rights Act that was at issue in *Petteway*, the Fifth Circuit ruled that coalitions of distinct racial minority voters—there, Hispanic and Black voters—may not aggregate their populations to meet the 50%+1 baseline necessary to show the first prong of proving a discriminatory results vote dilution claim under Section 2 of the Voting Rights Act.²⁵ *Petteway* thus signifies that in states like Texas that make up the Fifth Circuit, Section 2 cannot compel the development of coalition districts where conditions exist for doing so.²⁶

Petteway does not, and could not, signify that the mere existence of a district comprised of a majority of different racial and ethnic groups—because a legislature, of its own volition, developed such a district in a purported race blind redistricting process where appropriate political considerations and race neutral redistricting principles explain the formation of such a district—is an impermissible racial gerrymander. No law prohibits a state from choosing to establish such a district so long as it complies with other legal requirements,²⁷ like the ones Texas publicly and repeatedly has offered (*i.e.*, political considerations and traditional redistricting criteria) to explain its existing congressional map.²⁸ Tellingly, Texas never raised any such concerns about the existence of such coalition districts in its enacted 2021 congressional map when it had to brief a court about the effects of the *Petteway* decision in the ongoing *LULAC* litigation.²⁹

Federal law and the U.S. Constitution do, however, prohibit legislatures from engaging in purposeful or results-based racial vote dilution and any other legally impermissible redistricting schemes during redistricting.³⁰ For example, as the Supreme Court recently reaffirmed, a legislature cannot harm Black voters as a means to achieve any political party's power.³¹ Moreover, “if there were a showing that a State intentionally drew district lines in order to destroy otherwise effective crossover districts, that would raise serious questions under both the Fourteenth and Fifteenth Amendments” to the U.S. Constitution.³²

²³ *Petteway v. Galveston Cnty.*, 111 F.4th 596, 614-15 (5th Cir. 2024) (en banc).

²⁴ *Id.*

²⁵ *Id.* at 599.

²⁶ *Id.*

²⁷ *Cf. Bartlett v. Strickland*, 556 U.S. 1, 23-24 (2009) (“Our holding that § 2 does not require crossover districts does not consider the permissibility of such districts as a matter of legislative choice or discretion.”)

²⁸ Texas’ Response Letter to DOJ, *supra* note 3.

²⁹ Defs.’ Br. Addressing the Effect of *Petteway*, ECF No. 815, *LULAC v. Abbott*; Defs.’ Reply Br. Addressing the Effect of *Petteway*, ECF No. 823, *LULAC v. Abbott*.

³⁰ *See, e.g.*, 52 U.S.C. § 10301; *Allen v. Milligan*, 599 U.S. 1, 11 (2023); *Hunter v. Underwood*, 471 U.S. 222, 233 (1985); *Chisom v. Roemer*, 501 U.S. 380, 394 n.21 (1991); *N.C. State Conf. of NAACP v. McCrory*, 831 F.3d 204, 226-27 (4th Cir. 2016).

³¹ *See, e.g.*, *Alexander*, 602 U.S. at 7 n.1; *see also Bartlett*, 556 U.S. at 24.

³² *See Bartlett*, 556 U.S. at 24 (citing *Reno v. Bossier Par. Sch. Bd.*, 520 U.S. 471, 481-482 (1997) and the amicus curiae brief of the Department in *Bartlett*).



Third, attempting to complete any mid-decade congressional redistricting during the upcoming special legislative session increases the risk of a rushed and non-transparent process and limits meaningful public participation. As discussed above, the Governor only recently added congressional redistricting to the special legislative session agenda, which also includes a plethora of other significant agenda items.³³ The House Select Committee on Congressional Redistricting only recently shared public notice this week for three upcoming hearings, with the first one scheduled for Thursday, July 24. Although these hearings have been scheduled, members of the public lack basic information about what redistricting criteria will guide any mid-decade congressional redistricting. Members of the public also lack knowledge about how maps will be developed, who is involved in developing them, and how proposed maps will be considered. No member of the legislature has publicly introduced proposed congressional maps. These challenges are compounded by the limited 30-day period of the special legislative session, especially as Texans throughout the state continue to recover from devastating natural disasters. The lack of transparency and limited timeline risk creating the same conditions that defined the 2021 special legislative session when the 2021 congressional map was enacted. Of that previous session, the Department previously asserted that it “moved at a rapid pace with little transparency and limited opportunities for witness testimony.”³⁴ Instead, if the Texas Legislature wants to meaningfully address claims of racial discrimination, it should conduct a separate legislative session to address the harms documented with evidence in the *LULAC* litigation.

Our concerns are heightened based on the Department’s call for Texas to focus mid-decade congressional redistricting on further harming Black and other Texan voters, potentially in Congressional Districts 9, 18, 29, 33, and throughout the state. Congressional Districts 9 and 18, for example, are widely known as historic districts, providing electoral opportunities for Black voters and Latino voters, to elect their preferred representatives.³⁵ Texas is fortunate to be home to the largest number of Black registered voters among all the 50 states.³⁶ Any revised congressional map must not further restrict access to electoral opportunity and representation for Black, Brown, and other racial minority voters. At issue is the right to be a part of our shared democratic processes, including the right to urge representatives to act in service of all the rights that flow from political participation like funding for schools, environmental disaster relief, healthcare, and jobs that pay living wages.³⁷

For all these reasons, we urge Texas’ Legislature to refrain from conducting mid-decade congressional redistricting under these circumstances. We further urge the

³³ See *supra* note 5.

³⁴ See, e.g., *United States’ Am. Compl.*, *supra* note 6, ¶¶ 23-24.

³⁵ *Id.* ¶ 91; see also *Congressional Intervenors’ First Am. Pretrial Br.*, ECF No. 989 at 2, 4-6, *LULAC v. Abbott*.

³⁶ Jens Manuel Krogstad and Mohamad Moslimani, *Key Facts about Black Eligible Voters in 2024*, Pew Rsch. Ctr. (Jan. 10, 2024), <https://www.pewresearch.org/short-reads/2024/01/10/key-facts-about-black-eligible-voters-in-2024/>.

³⁷ Cf. *Yick v. Wo*, 118 U.S. 356, 370 (1886).



Legislature to not line draw in any way that further harms Black Texan voters and other voters of color and risks further damage to those communities.

Sincerely,

A handwritten signature in black ink, appearing to read "Leah C. Aden".

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NAACP Legal Defense and Educational Fund, Inc. ("LDF")

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in education, economic justice, political participation, and criminal justice. Throughout its history, LDF has worked to enforce and promote laws and policies that increase access to the electoral process and prohibit voter discrimination, intimidation, and suppression. LDF has been fully separate from the NAACP since 1957, though LDF was originally founded by the NAACP and shared its commitment to equal rights.

Barbara Jordan Leadership Institute

As a nonpartisan organization founded and led by Black women driven by our lived experiences, The Barbara Jordan Leadership Institute (BJLI) provides a comprehensive approach to community based leadership in action through voter education, advocacy, and leadership development. BJLI mission is to increase the diversity of leadership by training, mentoring, supporting, and uplifting Black communities throughout Texas.

Houston Area Urban League

The Houston Area Urban League ("HAUL") is a nonpartisan, nonprofit organization with its principal office in Houston. HAUL's mission is to enable Black people and other marginalized communities to secure economic self-reliance, parity, power, and civil rights.

Delta Sigma Theta Sorority, Incorporated

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July 24, 2025

Sent via email

Senate Special Committee on Congressional Redistricting
Texas Senate
Sam Houston State Office Building, Room 445
201 E. 14th Street
Austin, Texas 79701

Re: Opposition to Mid-Decade Congressional Redistricting That Further Harms Black and Other Voters of Color

Dear Chair King and Committee Members:

The Legal Defense Fund, Barbara Jordan Leadership Institute, Houston Area Urban League, and Delta Sigma Theta Sorority, Incorporated write to express opposition to any “legislation that provides a revised congressional redistricting plan” during the special legislative session of the 89th Texas Legislature that further harms opportunities for Black voters and other voters of color to elect their preferred candidates. We oppose the Governor’s call to conduct this mid-decade congressional redistricting for three reasons.

First, access to congressional representation for Black voters and other voters of color should not be further weakened with any new line drawing based on any contradictory positions Texas takes on the role that the race of voters played in the 2021 congressional map’s development. Several plaintiff groups representing Black and Brown Texan voters, currently challenge the 2021 congressional map (C2193) as racially discriminatory under various constitutional and statutory theories of liability, in a consolidated case, *League of United Latin American Citizens v. Abbott*, No. 3:21-cv-00259-DCG-JES-JVB (W.D. Tex.).¹ Texas has repeatedly claimed that the 2021 “Legislature did not racially discriminate in drawing the current congressional electoral districts—full stop.”² While plaintiffs collectively dispute Texas’ defense, the Texas Attorney General characterized the evidence presented at trial, which ended in June 2025, as “clear and unequivocal” that congressional districts were drawn “blind to race.”³ Texas has also defended the districts in the congressional map as legally compliant because Texas legislators drew them to “maximize Republican political advantage balanced against traditional redistricting criteria.”⁴

¹ See Claims Chart, ECF No. 982-3, *League of United Latin Am. Citizens v. Abbott*, Dkt. No. 3:21-cv-00259-DCG-JES-JVB (W.D. Tex.) [hereinafter “*LULAC v. Abbott*” or the “*LULAC* litigation”].

² State Defs.’ Resp. in Opp’n to Pls.’ Emergency Mot. to Reopen R. and Take Additional Test., ECF No. 1116 at 1, *LULAC v. Abbott* [hereinafter State Defs.’ Resp. to Pls.’ Emergency Mot.].

³ Att’y Gen. Ken Paxton’s Resp. to DOJ Letter (July 11, 2025), ECF No. 1116-1 at 2, *LULAC v. Abbott*, [hereinafter Tex.’s Resp. Letter to DOJ].

⁴ *Id.*



Texas now appears to accept that the 2021 congressional mapdrawing process was not race blind for certain districts. Texas is calling a special legislative session after the urging of the U.S. Department of Justice (the “Department”) which asserts that Congressional Districts 9, 18, 29, and 33, are illegal racial gerrymanders.⁵ However, when the Department previously challenged the 2021 congressional map as being racially discriminatory in the *LULAC* litigation, the Department never advanced that legal theory, which could harm the electoral power of Black and Brown voters in the areas of the state it now does, before it withdrew its case in March 2025.⁶ In calling the legislative session to take up mid-decade congressional redistricting beginning on July 21, Texas appears to credit these racial gerrymandering allegations.⁷ The Texas Attorney General, for example, now claims the 2021 “Texas legislature felt compelled under pre-*Petteway* strictures to create coalition districts” in the enacted congressional map.⁸ But that claim is contradicted by the repeated representations—both publicly and through sworn statements by legislators in the *LULAC* litigation—that Texas drew its congressional map blind to the racial makeup of the districts and to comply with race-neutral traditional redistricting criteria and political considerations, including from the Senate Redistricting Committee Chair during the 2021 legislative session.⁹ The claim is further contradicted by the Texas Attorney General’s response to the Department’s recent outreach in which the Texas Attorney General asserts the current congressional map was developed “in conformance with traditional, non-racial redistricting criteria.”¹⁰

Texas cannot, on the one hand, defend its congressional map publicly and in federal court as race blind, while on the other hand rely on unfounded allegations that “outdated and unconstitutional considerations” drove the design of certain districts in the map.¹¹ Those contradictory positions evince a pretextual motivation to engage in mid-decade congressional redistricting that “bear[] the mark of intentional discrimination that could give rise to an equal protection violation.”¹²

Second, the Texas Legislature should also not rely on the Department’s flawed legal theories to conduct mid-decade congressional redistricting. The Department now claims

⁵ *Compare*, Press Release, *Governor Abbott Announces Special Session Agenda*, Tex. Gov. (July 9, 2025) (taking up congressional redistricting in a special session based on “constitutional concerns raised by the U.S. Department of Justice”), <https://gov.texas.gov/news/post/governor-abbott-announces-special-session-agenda>, with letter from Harmeet Dhillon, Assistant Att’y Gen., U.S. DOJ C.R. Div., to Greg Abbott, Governor of Tex. and Ken Paxton, Att’y Gen. of Tex. (July 7, 2025) (notifying Texas officials of “serious concerns regarding the legality of four of Texas’s congressional districts”), available at <https://electionlawblog.org/wp-content/uploads/7-7-2025-DOJ-Letter-re-Unconstitutional-Race-Based-Congressional-District.pdf> [hereinafter DOJ July 7 Letter].

⁶ *United States’ Am. Compl.*, ECF No. 318, *LULAC v. Abbott*.

⁷ Tex.’s Resp. Letter to DOJ, *supra* note 3.

⁸ *Id.* at 2; *See, e.g.*, State Defs.’ Opening Br., ECF No. 986 at 8-12, *LULAC v. Abbott*.

⁹ State Defs.’ Opening Br., ECF No. 986 at 8-12, *LULAC v. Abbott*.

¹⁰ Tex.’s Resp. Letter to DOJ, *supra* note 3, at 2.

¹¹ *Id.* at 3.

¹² *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 440 (2006).



that Congressional Districts 9, 18, 29, and 33 are unconstitutional.¹³ But, as Texas officials acknowledge, the Department has offered no factual evidence from the 2021 congressional mapdrawing process that would support those claims.¹⁴ Nor could it. As Texas recognizes, the Department is a “third party with no personal knowledge” of what occurred during the 2021 redistricting process.¹⁵ Still, even without any fact-specific evidence presented publicly, the Department claims Congressional Districts 9, 18, 29, and 33 are racially gerrymandered, specifically alleging that Congressional Districts 9, 18, and 33 are impermissible race-based coalition districts.¹⁶

But the mere fact that Black and Latino voters together form a majority of voters in a congressional district, such as in Congressional Districts 9, 18, and 33,¹⁷ does not mean that those districts are racially gerrymandered or otherwise constitutionally suspect. Rather, the Supreme Court has acknowledged that districts in which no group of voters of a particular race holds a majority is evidence of a *lack* of racial gerrymandering.¹⁸ Racial gerrymandering occurs only when a state sorts a significant number of voters predominantly based on their race and lacks a compelling reason for doing so.¹⁹ To make such a showing, a plaintiff can offer direct evidence of an impermissible race-based purpose for the design of a district or, more typically in these modern times, demonstrate with circumstantial evidence that a state “‘subordinated’ race-neutral districting criteria such as compactness, contiguity, and core preservation to ‘racial considerations’” in designing the district without a good reason.²⁰ The Department, however, offers no such direct or circumstantial evidence of race impermissibly predominating in the sorting of the relevant districts without a compelling state interest. Instead, the Department offers conclusory remarks that four districts—serving the needs of Black, Latino, and other Texans—were drawn along “racial lines.”²¹ And again, as explained above, Texas has defended its enacted congressional map as having been drawn without any consideration of race and rather for political considerations and with adherence to traditional redistricting principles.²²

Also contrary to the Department’s assertion, the Fifth Circuit’s 2024 decision in *Petteway v. Galveston* did not create any legal change in racial gerrymandering case law.

¹³ DOJ July 7 Letter, *supra* note 5.

¹⁴ State Defs.’ Resp. to Pls.’ Emergency Mot., *supra* note 2, at 2.

¹⁵ *Id.*

¹⁶ DOJ July 7 Letter, *supra* note 5.

¹⁷ Hispanic voters are the majority in Congressional District 29. See *District Population Analysis with County Subtotals - Congressional Districts - PLANC2193, District 29*, Tex. Legis. Council (Oct. 17, 2021) at 11, https://data.capitol.texas.gov/dataset/b806b39a-4bab-4103-a66a-9c99bcaba490/resource/d28bfc49-8987-49ab-a678-eb610f57230c/download/planc2193_map_report_package.pdf.

¹⁸ *Cf. Lawyer. v. Dep’t of Just.*, 521 U.S. 567, 582 (1997).

¹⁹ *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 260, 267, 272 (2015). Unjustified racial predominance is not race consciousness, the latter of which is permissible. See, e.g., *Allen v. Milligan*, 599 U.S. 1, 31 (2023).

²⁰ *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 8 (2024) (citation omitted).

²¹ DOJ July 7 Letter, *supra* note 5, at 2.

²² Texas’ Response Letter to DOJ, *supra* note 3.



The Fifth Circuit sitting en banc did not consider plaintiffs' analytically distinct claims of intentional racial discrimination and racial gerrymandering.²³ Both of those claims were remanded by the en banc Court.²⁴ But for plaintiffs' Section 2 claim under the Voting Rights Act that was at issue in *Petteway*, the Fifth Circuit ruled that coalitions of distinct racial minority voters—there, Hispanic and Black voters—may not aggregate their populations to meet the 50%+1 baseline necessary to show the first prong of proving a discriminatory results vote dilution claim under Section 2 of the Voting Rights Act.²⁵ *Petteway* thus signifies that in states like Texas that make up the Fifth Circuit, Section 2 cannot compel the development of coalition districts where conditions exist for doing so.²⁶

Petteway does not, and could not, signify that the mere existence of a district comprised of a majority of different racial and ethnic groups—because a legislature, of its own volition, developed such a district in a purported race blind redistricting process where appropriate political considerations and race neutral redistricting principles explain the formation of such a district—is an impermissible racial gerrymander. No law prohibits a state from choosing to establish such a district so long as it complies with other legal requirements,²⁷ like the ones Texas publicly and repeatedly has offered (*i.e.*, political considerations and traditional redistricting criteria) to explain its existing congressional map.²⁸ Tellingly, Texas never raised any such concerns about the existence of such coalition districts in its enacted 2021 congressional map when it had to brief a court about the effects of the *Petteway* decision in the ongoing *LULAC* litigation.²⁹

Federal law and the U.S. Constitution do, however, prohibit legislatures from engaging in purposeful or results-based racial vote dilution and any other legally impermissible redistricting schemes during redistricting.³⁰ For example, as the Supreme Court recently reaffirmed, a legislature cannot harm Black voters as a means to achieve any political party's power.³¹ Moreover, “if there were a showing that a State intentionally drew district lines in order to destroy otherwise effective crossover districts, that would raise serious questions under both the Fourteenth and Fifteenth Amendments” to the U.S. Constitution.³²

²³ *Petteway v. Galveston Cnty.*, 111 F.4th 596, 614-15 (5th Cir. 2024) (en banc).

²⁴ *Id.*

²⁵ *Id.* at 599.

²⁶ *Id.*

²⁷ *Cf. Bartlett v. Strickland*, 556 U.S. 1, 23-24 (2009) (“Our holding that § 2 does not require crossover districts does not consider the permissibility of such districts as a matter of legislative choice or discretion.”)

²⁸ Texas’ Response Letter to DOJ, *supra* note 3.

²⁹ Defs.’ Br. Addressing the Effect of *Petteway*, ECF No. 815, *LULAC v. Abbott*; Defs.’ Reply Br. Addressing the Effect of *Petteway*, ECF No. 823, *LULAC v. Abbott*.

³⁰ *See, e.g.*, 52 U.S.C. § 10301; *Allen v. Milligan*, 599 U.S. 1, 11 (2023); *Hunter v. Underwood*, 471 U.S. 222, 233 (1985); *Chisom v. Roemer*, 501 U.S. 380, 394 n.21 (1991); *N.C. State Conf. of NAACP v. McCrory*, 831 F.3d 204, 226-27 (4th Cir. 2016).

³¹ *See, e.g.*, *Alexander*, 602 U.S. at 7 n.1; *see also Bartlett*, 556 U.S. at 24.

³² *See Bartlett*, 556 U.S. at 24 (citing *Reno v. Bossier Par. Sch. Bd.*, 520 U.S. 471, 481-482 (1997) and the amicus curiae brief of the Department in *Bartlett*).



Third, attempting to complete any mid-decade congressional redistricting during the upcoming special legislative session increases the risk of a rushed and non-transparent process and limits meaningful public participation. As discussed above, the Governor only recently added congressional redistricting to the special legislative session agenda, which also includes a plethora of other significant agenda items.³³ The Senate Special Committee on Congressional Redistricting only recently shared public notice this week for four upcoming hearings, with the first scheduled for Friday, July 25 and the final one scheduled for Tuesday, July 29. Although these hearings have been scheduled, members of the public lack basic information about what redistricting criteria will guide any mid-decade congressional redistricting. Members of the public also lack knowledge about how maps will be developed, who is involved in developing them, and how proposed maps will be considered. No member of the legislature has publicly introduced proposed congressional maps. These challenges are compounded by the limited 30-day period of the special legislative session, especially as Texans throughout the state continue to recover from devastating natural disasters. The lack of transparency and limited timeline risk creating the same conditions that defined the 2021 special legislative session when the 2021 congressional map was enacted. Of that previous session, the Department previously asserted that it “moved at a rapid pace with little transparency and limited opportunities for witness testimony.”³⁴ Instead, if the Texas Legislature wants to meaningfully address claims of racial discrimination, it should conduct a separate legislative session to address the harms documented with evidence in the *LULAC* litigation.

Our concerns are heightened based on the Department’s call for Texas to focus mid-decade congressional redistricting on further harming Black and other Texan voters, potentially in Congressional Districts 9, 18, 29, 33, and throughout the state. Congressional Districts 9 and 18, for example, are widely known as historic districts, providing electoral opportunities for Black voters and Latino voters, to elect their preferred representatives.³⁵ Texas is fortunate to be home to the largest number of Black registered voters among all the 50 states.³⁶ Any revised congressional map must not further restrict access to electoral opportunity and representation for Black, Brown, and other racial minority voters. At issue is the right to be a part of our shared democratic processes, including the right to urge representatives to act in service of all the rights that flow from political participation like funding for schools, environmental disaster relief, healthcare, and jobs that pay living wages.³⁷

For all these reasons, we urge the Texas Legislature to refrain from conducting mid-decade congressional redistricting under these circumstances. We further urge the

³³ See *supra* note 5.

³⁴ See, e.g., *United States’ Am. Compl.*, *supra* note 6, ¶¶ 23-24.

³⁵ *Id.* ¶ 91; see also *Congressional Intervenors’ First Am. Pretrial Br.* ECF No. 989 at 2, 4-6, *LULAC v. Abbott*.

³⁶ Jens Manuel Krogstad and Mohamad Moslimani, *Key Facts about Black Eligible Voters in 2024*, Pew Rsch. Ctr. (Jan. 10, 2024), <https://www.pewresearch.org/short-reads/2024/01/10/key-facts-about-black-eligible-voters-in-2024/>.

³⁷ Cf. *Yick v. Wo*, 118 U.S. 356, 370 (1886).



Legislature to not line draw in any way that further harms Black Texan voters and other voters of color and risks further damage to those communities.

Sincerely,

A handwritten signature in black ink, appearing to read "Leah C. Aden".

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24060927)
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August 17, 2025

Sent via email

Senate Special Committee on Congressional Redistricting
Texas Senate
Sam Houston State Office Building, Room 445
201 E. 14th Street
Austin, Texas 79701

**Re: Second Supplemental Testimony Strongly Opposing Mid-Decade
Congressional Redistricting Under the Current Circumstances**

Dear Chair King, Vice Chair Creighton, and Committee Members:

The Legal Defense Fund (“LDF”), Barbara Jordan Leadership Institute, Houston Area Urban League, Delta Sigma Theta Sorority, Incorporated, and Black Voters Matter write to supplement our July 24 and August 8 testimonies.¹ This additional supplemental testimony reflects some of our current thinking about the severely flawed mid-decade congressional redistricting process that remains underway and related maps that are being considered.² To be sure, the views expressed herein, as with our prior testimonies, are not the sum of our many concerns with redistricting happening under these extraordinary circumstances and iterations of a proposed map that threatens to further harm Black and other voters of color in Texas.

At the August 7 hearing, this Committee considered public testimony on Senate Bill 4 (“S.B. 4”) for the first time.³ S.B. 4 mirrors the map (C2308) that was introduced in the House during the first special legislative session, as House Bill 4 (“H.B. 4”) on July 30,

¹ *Opposition to Mid-Decade Congressional Redistricting That Further Harms Black and Other Voters of Color*, NAACP Legal Def. Fund (July 24, 2025), https://www.naacpldf.org/wp-content/uploads/2025.07.24-TX-Congressional-Redistricting-Letter_Senate-final.pdf [hereinafter LDF, et al. July 24 Testimony]; *LDF Submits Supplemental Testimony Urging Texas Legislators to Halt Mid-Decade Redistricting Plan*, NAACP Legal Def. Fund (Aug. 8, 2025), <https://www.naacpldf.org/news/ldf-submits-supplemental-testimony-urging-texas-legislators-to-halt-mid-decade-redistricting-plan/> [hereinafter LDF, et al. August 8 Testimony].

² For this second special legislative session, Representative Hunter appears to have publicly submitted a congressional map titled C2331. *See District Viewer, Introduced Bills*, 82(2), Tex. Legislative Council (Aug. 2025), <https://dvr.capitol.texas.gov/Congress/82/PLANC2331>. Based on our preliminary review, C2331 appears to be nearly identical to C2308 except for the movement of a single military base from one congressional district to another in C2331 compared to C2308.

³ *Schedule, Minutes, Witness List and Bills Referred to Committee*, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 6, 2025), [https://capitol.texas.gov/Committees/MeetingsByCmte.aspx?Leg=89&Chamber=S&CmteCode=C660](https://capitol.texas.gov/Committees/MeetingsByCmte.aspx?Leg=89&Chamber=S&CmteCode=C660;); *Notice of Public Hearing*, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 2025), <https://capitol.texas.gov/tlodocs/89R/schedules/pdf/C6602025080614001.PDF>.

Houston Area
Urban League


which was voted out of the House Select Committee on Congressional Redistricting (“House Redistricting Committee”) on August 2.⁴ This Committee subsequently voted S.B. 4 out of committee on August 7.⁵ The Texas Legislature, however, failed to pass any new congressional map at the end of the first special legislative session on August 15. Right after that session ended, the Governor called for a second special legislative session, which also commenced on August 15.⁶ This Committee also scheduled a hearing for Sunday, August 17 at 4:00 p.m. to consider public testimony on S.B. 4. That hearing will be only the second time that this Committee has held a hearing to consider a legislatively proposed congressional map, whereas most of this Committee’s previous hearings seeking public testimony proceeded without a map or bill being presented.⁷ This Committee scheduled a second hearing for Monday, August 18 for “pending business.”⁸

Considering the public hearings held during the first special legislative session, and our continuing analyses of the proposed map, C2308, that is reflected in S.B. 4,⁹ we remain strongly opposed to the Governor’s call to conduct mid-decade congressional redistricting and for this Committee to take any action on it under these extraordinary circumstances for at least four reasons.

First, this Committee has still not presented any clear justification to conduct mid-decade congressional redistricting under the current circumstances. On the one hand, during the first special legislative session, Chair King characterized the initial four regional hearings—in which no legislatively proposed map was available for the public’s consideration—as the “information-gathering” stage because “the Governor added the subject of congressional redistricting on the special session called.”¹⁰ As our July 24

⁴ *H.B. 4*, Tex. House of Representatives (Aug. 6, 2025), <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=891&Bill=HB00004>.

⁵ *Minutes of Public Hearing*, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 2025), <https://capitol.texas.gov/tlodocs/89R/minutes/pdf/C6602025080709001.PDF>.

⁶ Unlike the agenda for the first special legislative session, the Governor’s agenda item for this second session omits any reference to the constitutional concerns raised by the U.S. Department of Justice as a basis for this mid-decade congressional redistricting. *Compare, Press Release, Governor Abbott Announces Special Session Agenda*, Tex. Gov. (July 9, 2025) (taking up congressional redistricting in a special session based on “constitutional concerns raised by the U.S. Department of Justice”), <https://gov.texas.gov/news/post/governor-abbottannounces-special-session-agenda>, with *Press Release, Governor Abbott Announces Special Session #2*, Tex. Gov. (Aug. 15, 2025) (taking up congressional redistricting in a special session), <https://gov.texas.gov/news/post/governor-abbott-announces-special-session-2>.

⁷ *Notice of Public Hearing*, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 2025), <https://capitol.texas.gov/tlodocs/89R/schedules/pdf/C6602025081716001.PDF>.

⁸ *Notice of Public Hearing*, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 2025), <https://capitol.texas.gov/tlodocs/89R/schedules/pdf/C6602025081813001.PDF>.

⁹ *District Viewer, Introduced Bills, 82(2)*, Tex. Legislative Council (Aug. 2025), <https://dvr.capitol.texas.gov/Congress/82/PLANC2308>.

¹⁰ *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting, 89th Tex. Leg.*, Senate Special Comm. on Cong. Redistricting (Tex. July 25, 2025) (statement of Chair King, at 8:26), <https://senate.texas.gov/video/player.php?vid=22395&lang=en> [hereinafter July 25 Senate Redistricting Committee Hearing]; *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting, 89th Tex. Leg.*, Tex.



testimony quoted, the Governor's call to take up congressional redistricting was based expressly on "*constitutional concerns raised by the U.S. Department of Justice*."¹¹ On the other hand, Chair King stated that he disagreed with the Department's allegations that the current 2021 congressional map is discriminatory,¹² explaining that he previously voted for a "legal map" and that recent trial testimony, including from Senator Huffman, confirms it as such.¹³ Chair King's statements echo those of Representative Todd Hunter, the sponsor of H.B. 4. When introducing H.B. 4 to the House Redistricting Committee, Representative Hunter disclaimed that H.B. 4 was developed because of the constitutional issues raised by the Department.¹⁴ Now, the Governor's call for this session noticeably omits any reference to the Department's concerns as a prompt for this redistricting.¹⁵

In our July 24 and August 8 testimonies, we explained that the Texas Legislature should not rely on the Department's flawed legal theories to conduct mid-decade congressional redistricting.¹⁶ In particular, the Department flagged four districts, Congressional Districts 9, 18, 29, and 33—all of which are districts comprised of a majority of racial minority voters and represented by Black or Hispanic representatives—as illegal racial gerrymanders. Notably, the same proposed map in S.B. 4 make drastic changes to Congressional Districts 9, 18, 29, and 33, among many other districts.¹⁷ Given the public

Senate Special Comm. on Cong. Redistricting (July 26, 2025) (statement of Chair King, at 5:12), <https://senate.texas.gov/videoplayer.php?vid=22396&lang=>.

¹¹ See LDF, et al. July 24 Testimony, *supra* note 1, at 2, n.5 (emphasis added); see Letter from Harmeet Dhillon, Assistant Att'y Gen., U.S. DOJ C.R. Div., to Greg Abbott, Governor of Tex. and Ken Paxton, Att'y Gen. of Tex. (July 7, 2025) (notifying Texas officials of "serious concerns regarding the legality of four of Texas's congressional districts"), available at <https://electionlawblog.org/wp-content/uploads/7-7-2025-DOJ-Letter-re-Unconstitutional-Race-Based-Congressional-District.pdf> [hereinafter DOJ July 7 Letter].

¹² DOJ July 7 Letter, *supra* note 11.

¹³ *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting*, 89th Tex. Leg., Tex. Senate Special Comm. on Cong. Redistricting (July 29, 2025) (statement of Chair King, at 33:40), <https://senate.texas.gov/videoplayer.php?vid=22414&lang=en> [hereinafter July 29 Senate Redistricting Committee Hearing].

¹⁴ See, e.g., *Hearing on Congressional Redistricting Before the House Select Committee on Congressional Redistricting*, 89th Tex. Leg., Tex. Senate Special Comm. on Cong. Redistricting (Aug. 2, 2025) (statement by Rep. Hunter, at 1:26:00), <https://house.texas.gov/videos/committees/89/1> [hereinafter August 2 House Redistricting Committee Meeting].

Indeed, if the Texas Legislature believed there were any legal defects with the current 2021 congressional plan, they could have addressed those in the current litigation or during previous legislative sessions. See Ailsa Chang, Jason Fuller & John Ketchum, *A Texas Republican State Lawmaker on the Fight for Redistricting*, NPR (Aug. 6, 2025).

¹⁵ See *supra* note 6.

¹⁶ LDF, et al. July 24 Testimony, *supra* note 1; LDF, et al. August 8 Testimony, *supra* note 1. This critique was echoed by other testimony. See, e.g., July 25 Senate Redistricting Committee Hearing, *supra* note 10, at statement of Ellen Katz, at 1:00:00.

¹⁷ *Compare District Viewer, Current Districts(1)*, Tex. Legislative Council (Aug. 6, 2025), <https://dvr.capitol.texas.gov/Congress/2/PLANC2193>, with *id.* <https://dvr.capitol.texas.gov/Congress/73/PLANC2308>.



record as of the date of this letter, the *only*—or at minimum predominant—basis the Department has raised for changing those districts is their racial makeup.¹⁸

Second, we reiterate our concern that the current consideration of whether to conduct mid-decade congressional redistricting lacks transparency and meaningful opportunities for public input. The public has nearly uniformly raised such concerns during the hearings held to date. The public continues to lack basic information about the complete redistricting criteria that is being used by this Committee or the full Senate to guide any mid-decade congressional redistricting and the configuration of specific districts. Nor does the public know how proposed maps, including the more than 100 proposed congressional maps submitted by the public during the first special legislative session, are being considered and assessed, if at all.¹⁹

The public still also lacks knowledge about how legislatively introduced maps are being developed, who takes part in developing them,²⁰ what demographic, electoral, or other information is being considered in their development,²¹ and additional such information that illuminates basic and reasonable guideposts about new congressional maps and specific district formations. As this Committee is aware, H.B. 4 was provided to the public less than 48 hours before the House Redistricting Committee held its only public hearing on it. That one hearing took place from 10:00 a.m. on Friday, August 1, to about 1:00 a.m. on Saturday, August 2. The public had less than two days to consider that map and when it was heard, it was done over 10 hours, overlapping with “normal” workday hours, in a rushed and non-transparent marathon of a hearing running into the early morning on a Saturday.

Just seven hours later, the House Redistricting Committee voted H.B. 4 out of committee shortly after commencing a new meeting at 9:00 a.m. on August 2. In introducing his bill, Representative Hunter invoked various privileges, refusing to publicly

¹⁸ Compare DOJ July 7 Letter, *supra* note 11, with, see generally Tex. Senate Special Comm. on Cong. Redistricting (providing links to the videos of the July 25, July 26, July 28, and July 29 regional hearings and August 6 and 7 additional hearings), <https://senate.texas.gov/cmte.php?c=660>.

¹⁹ See *District Viewer, Plans Submitted by Public*, 89(1), Tex. Legislative Council (Aug. 7, 2025), <https://dvr.capitol.texas.gov/Congress/72>.

²⁰ Representative Hunter disclosed that the law firm of Butler Snow developed C2308 and shared it with Representative Hunter to sponsor it. August 2 House Redistricting Committee Meeting, *supra* note 14, at statement by Rep. Hunter, at 1:29:50. In response to a question about what data and other information went into the development of C2308, as approximately 150 pages of data and other information accompanied H.B. 4, for example, Representative Hunter said that he “do[esn’t] have the specifics.” *Id.* at statement by Rep. Hunter, at 1:32:30. Since then, Chair King has suggested that the “Redistricting Trust,” perhaps a reference to the National Republican Redistricting Trust, has been involved in the development of at least C2308. *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting*, 89th Tex. Leg., Tex. Senate Special Comm. on Cong. Redistricting (Aug. 7, 2025) (statement of Chair King, at 1:42:00), <https://senate.texas.gov/videooplayer.php?vid=22443&lang=en> [hereinafter August 7 Senate Redistricting Committee Hearing].

²¹ Representative Hunter did not know who the law firm Butler Snow may have worked with in developing C2308, either in whole or in part. *Id.* at statement by Rep. Hunter, at 1:48:30; see generally August 7 Senate Redistricting Committee Hearing, *supra* note 20.



disclose what he asked the law firm hired to develop the map to do, what criteria the firm considered, what analyses the firm conducted and why any analyses were conducted, and what data was used to sort voters among specific redrawn districts, among many other basic questions.²² Consequently, neither Representative Hunter, let alone anyone who actually developed any legislatively-proposed map offered to date, has been able to fully explain any map and the specific districts within them, including the many districts undergoing major changes to their configurations. The Legislature has provided the public with nothing more than general responses and unsubstantiated justifications.

In cloning S.B. 4 after H.B. 4 and without introducing any further explanation for S.B. 4's development, including from legislator-bill sponsors or those working with them, this Committee thus far appears to similarly lack basic background information about who developed the map and what considerations went into it and the specific districts within the map.²³ During the August 7 hearing, for example, Chair King acknowledged that he had "no input" in the development of C2308.²⁴

Third, the overwhelming majority of public testimony submitted during the first special legislative session opposed any mid-decade congressional redistricting under the current circumstances.²⁵ Consistent with that public testimony, if the Texas Legislature wants to meaningfully address claims of racial discrimination, as we relayed it should be compelled to do in our July 24 and August 8 testimonies, the Legislature should convene a separate legislative session to address the harms documented with evidence in the consolidated case in the ongoing federal litigation challenging the 2021 congressional plan.²⁶ It should not be doing what occurred in the first special session and what is underway in this second session—forcing a map through the special 30-day legislative session with little to no knowledge about the who, what, when, where, why, and how it and the specific districts within it were developed. It also should not be doing so while people are working, recovering from disasters, and left with little to no time to absorb and understand how a map of such significance will impact their lives. Indeed, as our July 24 and August 8 testimonies warned, any revised congressional map must comply with the

²² *Id.* at statements by Rep. Hunter, 1:48:00 and 1:51:45.

²³ August 7 Senate Redistricting Committee Hearing, *supra* note 20, at statement of Chair King, at 16:20.

²⁴ *Id.* at statement of Chair King, at 1:42:00. Still, consistent with the generic and unsupported justifications for the map offered to date, Chair King provided two objectives for a congressional map—"electing more Republicans" and "more compact districts." *Id.* at statement of Chair King, at 18:30.

²⁵ Tex. Senate Special Comm. on Cong. Redistricting (Aug. 2025) (providing links to the video of the July 25, July 26, July 28, and July 29 regional hearings, the August 6 and August 7 additional hearings, and public comments submitted to the Committee), <https://senate.texas.gov/cmte.php?c=660> [hereinafter Public Comments and Testimony Submitted to this Committee]; see also Committee on Congressional Redistricting, Select (Aug. 2025) (providing tab links to public hearings and public comments).

²⁶ *League of United Latin Am. Citizens v. Abbott*, Dkt. No. 3:21-cv-00259-DCG-JES-JVB (W.D. Tex. 2022).



U.S. Constitution and the Voting Rights Act and avoid further restricting access to electoral opportunity and representation for Black, Hispanic, and other racial minority voters.²⁷

Fourth, despite these concerns and warnings, S.B. 4 further weakens Black and Hispanic Texan voters' electoral opportunities and disrupts the ability of racial minority voters to access congressional representation in Houston, Dallas-Fort Worth, and other areas of the State. Consistent with other members of the public, our July 24 and August 8 testimonies detailed that the Legislature had no factual or legal basis to use mid-decade redistricting to significantly alter districts in any way that denies or dilutes Black and Hispanic voters of their electoral opportunities and influence.²⁸ We and other members of the public, for example, warned this Committee not to change Congressional Districts 9 and 18 in Harris County in any way that disturbs how those districts have each been functioning for Black voters to elect their preferred Black representatives in elections.²⁹ In addition, other public testimony also warned this Committee about the need for Hispanic voters also to have access to representation in Harris County and the Dallas-Fort Worth area, among other areas, based on the current demographics and electoral patterns.³⁰ These concerns and warnings were repeatedly reiterated during oral testimony presented to this Committee during the four regional hearings held during the first special session.³¹ Testimony, for example, reflected a recognition that it is possible to maintain electoral opportunity for both Black and Latino voters in Harris and Dallas-Fort Worth, while also establishing new opportunities for racial minority voters in the Harris and Dallas-Fort Worth areas.

Ours and other public testimony also stressed that the only basis offered, at least initially, to consider altering districts like 9, 18, 29, and 33—all currently serving racial minority Texan voters and electing Black or Hispanic representatives—was the Department's criticism of their racial makeup.³² To date, neither this Committee nor the Department has publicly pointed to any credible legal or factual analysis justifying such significant disruptions to those district configurations.³³ In fact, as noted above, Chair King publicly stated he disagreed with the Department's allegations about specific districts like 9, 18, 29, and 33, maintaining that the current 2021 congressional map is a legal map.³⁴

²⁷ LDF, et al. July 24 Testimony, *supra* note 1; LDF, et al. August 8 Testimony, *supra* note 1.

²⁸ *Id.*; Public Comments and Testimony Submitted to this Committee, *supra* note 25.

²⁹ See, e.g., July 24 LDF et al. Testimony, *supra* note 1; see generally *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting*, 89th Tex. Leg., Tex. Senate Special Comm. on Cong. Redistricting (July 28, 2025) (statement by Judson Robinson on behalf of the Houston Area Urban League, at 1:28:20), <https://senate.texas.gov/video/player.php?vid=22397&lang=en>

³⁰ See, e.g., July 25 Senate Redistricting Committee Hearing, *supra* note 10, at statement of Rep. Sylvia Garcia, at 53:20.

³¹ Public Comments and Testimony Submitted to the Committee, *supra* note 25.

³² LDF et al. July 24 Testimony, *supra* note 1; see also Public Comments and Testimony Submitted to the Committee, *supra* note 25.

³³ DOJ July 7 Letter, *supra* note 11; see also Public Comments and Testimony Submitted to the Committee, *supra* note 25.

³⁴ July 29 Senate Redistricting Committee Hearing, *supra* note 13, (statement of Chair King, at 33:54); see also August 2 House Redistricting Committee Meeting, *supra* note 14 (statement by Rep.

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Yet, those districts, among others, are proposed to undergo significant and harmful changes to Black and Hispanic voters, under *every* iteration of the legislatively proposed maps considered in these special sessions—that is, C2308, which is reflected in H.B. 4 and S.B. 4, and the nearly identical C2331.³⁵

As just one example of our concerns, S.B. 4 packs Black voters in Congressional District 18 at levels that are unnecessary to provide them with electoral opportunity,³⁶ while eliminating another effective opportunity for Black voters in Congressional District 9.³⁷ In so doing, the Committees that have considered and voted H.B. 4 and S.B. 4 out of committees admit that it is possible to develop a reasonably configured, majority Black-citizen-voting-age population (or another such form of an opportunity) district in Harris County in Congressional District 18. Similarly, the proposed map increases the Black-citizen-voting-age population to just above 50% in Congressional District 30³⁸ in the Dallas-Fort Worth area, despite the fact that the district has been performing for Black voters in recent elections when Black voters are below 50% of the district's population.³⁹ But nothing

Hunter, at 1:44:30) (stating he was told by the law firm Butler Snow that he worked with to develop the 2021 congressional map that it is legally compliant). The public has no specific, documented information to discern how so. *See* Public Comments and Testimony Submitted to the Committee, *supra* note 25.

³⁵ *Supra* note 2.

³⁶ *Compare* American Community Survey Special Tabulation Using Census and American Community Survey Data, Congressional Districts – Plan C2193, Tex. Legislative Council (Feb. 19, 2025), https://data.capitol.texas.gov/dataset/b806b39a-4bab-4103-a66a-9c99bcaba490/resource/351077a4-ed22-4c33-bea5-8057e996622e/download/planc2193_r116_acs1923.pdf (reflecting that the Black citizen-voting-age population (“BCVAP”) in Congressional District 18 in the 2021 existing map is 34.4%) [hereinafter 2021 Plan CVAPs by Congressional Districts], *with* American Community Survey Special Tabulation Using Census and American Community Survey Data, Congressional Districts _Plan C2308 (July 30, 2025), <https://data.capitol.texas.gov/dataset/6c8aed8d-c0e7-4520-b917-b10dcee44f67/resource/3c370c70-8d44-445c-9d6d-e0933f2198c5/download/planc2308r116.pdf> (reflecting that the BCVAP in the proposed map is 50.8%) [hereinafter H.B. 4 CVAPs by Congressional Districts].

³⁷ *Compare* 2021 Plan CVAPs by Congressional Districts, *supra* note 36 (reflecting that the BCVAP in Congressional District 9 in the 2021 existing map is 38.6%), *with* H.B. 4 CVAPs by Congressional Districts, *supra* note 36 (reflecting that the BCVAP in Congressional District 9 in the proposed map is 12.1%).

³⁸ *Compare* 2021 Plan CVAPs by Congressional Districts, *supra* note 36 (reflecting that the BCVAP in Congressional District 30 in the 2021 existing map is 46%), *with* C2308 CVAPs by Congressional Districts, *supra* note 36 (reflecting that the BCVAP in Congressional District 30 in the proposed map is 50.2%).

³⁹ *See, e.g., Cooper v. Harris*, 581 U.S. 285, 302-04 (2017); *see also infra* notes 40-41. Texas officials have defended the 2021 enacted congressional map in federal litigation as being drawn blind to the race of voters. *See* LDF et al. July 24 Testimony, *supra* note 1, at 1-2. Chair King also insists that more recently proposed maps like C2308 are drawn “race blind”. August 7 Senate Redistricting Committee Hearing, *supra* note 20 (statement of Chair King, at 24:10). However, Congressional District 18 and Congressional District 30 increase the BCVAP to slightly over 50% at 50.8 and 50.2, respectively. *See supra* notes 36-38. While there is nothing infirm about race conscious decision-making, LDF et al. July 24 Testimony, *supra* note 1, at 3, n.19 (quoting *Allen v. Milligan*, 599 U.S. 1,



in the Voting Rights Act or other federal case law interpreting that statute requires that an illustrative district must meet the 50% plus one requirement for a single-racial group must also be the operative district.⁴⁰

To be clear, while Congressional District 18 in Harris County and Congressional District 30 in the Dallas-Fort Worth area each may be a district in which Black voters can comprise a majority of the voters, recent elections show that neither Congressional Districts 18 nor 30 need be a majority-Black district to provide Black voters with electoral opportunity in each district, as the Voting Rights Act and U.S. Constitution require.⁴¹

As we stated in our July 24 and August 8 testimonies, it is well known and well documented that Texas is home to the largest number of Black registered voters among all 50 states.⁴² Many of those Black voters live in Houston and Dallas-Fort Worth.⁴³ No legislatively-sponsored plan to date, including the plan currently before this Committee, reflects the electoral opportunities for racial minority voters in those areas.

We urge the Legislature to not adopt this map that runs afoul of fair processes, as well as the U.S. Constitution and Voting Rights Act. To reiterate, the public has a right to know the who, what, when, where, why, and how any legislatively proposed map and the specific districts within them have been developed. They have a right to the necessary time to understand the implications of a map on their lives in a meaningful and transparent process. Additionally, as explained above, among other harms, S.B. 4 eliminates effective opportunities for Black voters in areas of Texas like Harris County because of their racial makeup. As our July 24 and August 8 testimonies referenced, the Supreme Court explained

31 (2023)), the use of artificial racial population targets to minimize Black and Hispanic electoral opportunities can raise constitutional concerns, *see infra* notes 40-41.

⁴⁰ *Compare Thornburg v. Gingles*, 478 U.S. 30, 42-43 (1986) (identifying what is required to show Section 2 liability under prong one of a discriminatory results vote dilution analysis), *with Bartlett v. Strickland*, 556 U.S. 1, 24 (2009) (holding that while Section 2 does not *require* the creation of districts that are less than 50 percent minority voting-age population, it observed such districts are not *prohibited* by Section 2); *see also id.* at 24 (“States that wish to draw crossover districts are free to do so where no other prohibition exists.”). Indeed, “[t]he option to draw such [crossover] districts gives legislatures a choice that can lead to less racial isolation, not more.” *Id.* at 23. To be sure, “§ 2 allows States to choose their own method of complying with the Voting Rights Act, and we have said that may include drawing crossover districts.” *Id.*; *see also Cooper*, 581 U.S. at 302-04.

⁴¹ A rigid rule or interpretation of the Voting Rights Act requiring the creation of a majority-minority district whenever a Section 2 violation exists could violate *Shaw*’s directive that Section 2 remedies should be “narrowly tailored.” *Shaw v. Hunt*, 517 U.S. 899, 908 (1996). As the Supreme Court cautioned in *Bartlett*, Section 2 “should not be interpreted to entrench majority-minority districts by statutory command, for that ... could pose constitutional concerns,” 556 U.S. at 23-24, by increasing, rather than reducing, the degree of race-based decision-making involved in redistricting determinations; *see also Cooper*, 581 U.S. at 302-04.

⁴² LDF, et al. July 24 Testimony, *supra* note 1, at 5; LDF, et al. August 8 Testimony, *supra* note 1.

⁴³ *Black History Month: African Americans in Texas*, Tex. Demographic Ctr. (2022), https://demographics.texas.gov/Visualizations/2022/BlackHistoryMonth/2022_BlackHistoryMonthGraphic.pdf; Bethany Blankley, *Census: Texas, Harris County Have Largest Black Population in U.S.*, The Center Square (June 28, 2023), https://www.thecentersquare.com/texas/article_e9a1ce44-15ac-11ee-8ff3-3f10caf1ff51.html.



in *Bartlett v. Strickland*, 556 U.S. 1, 24 (2009), “if there were a showing that a State intentionally drew district lines in order to destroy otherwise effective crossover districts, that would raise serious questions under both the Fourteenth and Fifteenth Amendments” to the U.S. Constitution. S.B. 4 also strains the promises of the Voting Rights Act. It does so, as one example, by needlessly packing Black voters in districts in which they comprise the majority in Harris and Dallas-Fort Worth areas, where it has been shown to be unnecessary for Black voters to participate in elections in each of those areas effectively. *Id.* at 23-24. And, considering recent testimony and the significant changes proposed for congressional districts serving racial minority voters, S.B. 4 appears to harm Black voters as a means to increase political advantage, which is also prohibited by the U.S. Constitution.⁴⁴

As we continue to reiterate, at issue is the right to be a part of our shared democratic processes, including the right to urge representatives to act in service of all the rights that flow from political participation like funding for schools, environmental disaster relief, healthcare, and jobs that pay living wages.⁴⁵

For all these reasons, following the conclusion of this Committee’s public hearings during the second legislative special session, we continue to urge Texas’ Legislature to refrain from conducting mid-decade congressional redistricting under these circumstances. We further reiterate that the Legislature must not draw lines in any way that further harms Black Texan voters and other voters of color and risks greater damage to those communities. This Committee must reject S.B. 4.

⁴⁴ *Alexander v. South Carolina State Conf. of the NAACP*, 602 U.S. 1, 8, n.1 (2024); *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 440 (2006) (stating that taking away a political opportunity just as minority voters were about to exercise it “bears the mark of intentional discrimination”); *Hunter v. Underwood*, 471 U.S. 222, 233 (1985) (finding intentional discrimination where a state enacted a law to harm Black and poor white voters for partisan purposes); *Bartlett*, 556 U.S. at 24.

⁴⁵ *Cf. Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).



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NAACP Legal Defense and Educational Fund, Inc. ("LDF")

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in education, economic justice, political participation, and criminal justice. Throughout its history, LDF has worked to enforce and promote laws and policies that increase access to the electoral process and prohibit voter discrimination, intimidation, and suppression. LDF has been fully separate from the NAACP since 1957, though LDF was originally founded by the NAACP and shared its commitment to equal rights.

Barbara Jordan Leadership Institute

As a nonpartisan organization founded and led by Black women driven by our lived experiences, The Barbara Jordan Leadership Institute (BJLI) provides a comprehensive approach to community based leadership in action through voter education, advocacy, and leadership development. BJLI's mission is to increase the diversity of leadership by training, mentoring, supporting, and uplifting Black communities throughout Texas.

Houston Area Urban League

The Houston Area Urban League ("HAUL") is a nonpartisan, nonprofit organization with its principal office in Houston. HAUL's mission is to enable Black people and other marginalized communities to secure economic self-reliance, parity, power, and civil rights.

Delta Sigma Theta Sorority, Incorporated

Delta Sigma Theta Sorority, Incorporated was founded on January 13, 1913, on the campus of Howard University to promote academic excellence; to provide scholarships; to provide support to the underserved; educate and stimulate participation in the establishment of positive public policy; and to highlight issues and provide solutions for problems in their communities. Since its founding, more than 350,000 women have joined the organization,



making it one of the largest predominantly Black women's organizations in the country. Delta Sigma Theta Sorority, Incorporated has over 1,000 collegiate and alumnae chapters worldwide, continuing to uplift Black communities globally through its unwavering mission and strategic action.

The Sorority's tradition of activism on the frontlines dates back to just weeks after its inception, when its Founders boldly marched in the 1913 Women's Suffrage Parade—the only Black women's organization to do so. In keeping with this tradition, members of Delta Sigma Theta conduct voter registration drives and host voter education programs on many topics, including redistricting. Delta Sigma Theta has 75 chapters, alumnae and collegiate, and approximately 20,445 members in Texas, most of whom are registered voters in Texas.

Black Voters Matter

Black Voters Matter is a fund that supports local organizations and leaders working for social justice and civic engagement in predominantly Black communities. BVM's goal is to increase power in marginalized, predominantly Black communities. BVM achieves this goal through voter registration/get-out-the-vote activities, policy advocacy, development and training, and electoral communications.



Houston Area
Urban League



August 21, 2025

Sent via email

Senate Special Committee on Congressional Redistricting
Texas Senate
Sam Houston State Office Building, Room 445
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Austin, Texas 79701

**Re: Third Supplemental Testimony Strongly Opposing Mid-Decade
Congressional Redistricting Under the Current Circumstances**

Dear Chair King, Vice Chair Creighton, and Committee Members:

The Legal Defense Fund (“LDF”), Barbara Jordan Leadership Institute (“BJLI”), Houston Area Urban League (“HAUL”), Delta Sigma Theta Sorority, Incorporated, (the “Deltas”), Black Voters Matter, and Friendship-West Baptist Church write to supplement our July 24, August 8, and August 17 testimonies.¹ This testimony reflects some of our current thinking about the severely flawed mid-decade congressional redistricting process still underway, as well as the related maps under consideration. To be sure, the views expressed herein, as with our prior testimonies, are not the sum of our many concerns with redistricting happening under these extraordinary circumstances and legislatively proposed maps, which threatens to further harm Black and other voters of color in Texas.

At the August 7 hearing, this Committee considered public testimony on Senate Bill 4 (“S.B. 4”) for the first time.² S.B. 4 mirrors map C2308, which was introduced in the

¹ *Opposition to Mid-Decade Congressional Redistricting That Further Harms Black and Other Voters of Color*, NAACP Legal Def. Fund (July 24, 2025), https://www.naacpldf.org/wp-content/uploads/2025.07.24-TX-Congressional-Redistricting-Letter_Senate-final.pdf [hereinafter LDF, et al. July 24 Senate Testimony]; *LDF Submits Supplemental Testimony Urging Texas Legislators to Halt Mid-Decade Redistricting Plan*, NAACP Legal Def. Fund (Aug. 8, 2025), https://www.naacpldf.org/wp-content/uploads/LDF-et-al-Ltr-to-Senate-Committee-re-TX-Congressional-Redistricting_8.8.2025_final.pdf [hereinafter LDF, et al. August 8 Testimony]; *LDF Submits Supplemental Testimony Urging Texas Legislators to Halt Mid-Decade Redistricting Plan*, NAACP Legal Def. Fund (Aug. 17, 2025), https://www.naacpldf.org/wp-content/uploads/LDF-et-al-Ltr-to-Senate-Committee-re-TX-Congressional-Redistricting_8.17.2025_final.pdf [hereinafter LDF, et al. August 17 Testimony]. On July 24, LDF, BJLI, HAUL, and the Deltas submitted testimony similar in substance to the House Select Committee on Congressional Redistricting. *Opposition to Mid-Decade Congressional Redistricting That Further Harms Black and Other Voters of Color*, NAACP Legal Def. Fund (July 24, 2025), https://www.naacpldf.org/wp-content/uploads/2025.07.24-TX-Congressional-Redistricting-Letter_House-final.pdf.

² *Schedule, Minutes, Witness List and Bills Referred to Committee*, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 6, 2025), [https://capitol.texas.gov/Committees/MeetingsByCmte.aspx?Leg=89&Chamber=S&CmteCode=C660](https://capitol.texas.gov/Committees/MeetingsByCmte.aspx?Leg=89&Chamber=S&CmteCode=C660;);

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House on July 30 as House Bill 4 (“H.B. 4”) during the first special legislative session and voted out of the House Select Committee on Congressional Redistricting (“House Redistricting Committee”) on August 2.³ This Committee subsequently voted S.B. 4 out of committee on August 7.⁴ The Texas Legislature, however, failed to pass any new congressional map at the end of the first special legislative session on August 15. Immediately afterwards, the Governor called for a second special legislative session, which also commenced on August 15.⁵ This Committee scheduled a hearing for Sunday, August 17 at 4:00 p.m. to again consider public testimony on S.B. 4, which contains proposed map C2308. That hearing was only the second time that this Committee considered a legislatively proposed congressional map, while most of this Committee’s previous hearings seeking public testimony proceeded without a map or bill being presented.⁶ At that hearing, this Committee voted S.B. 4 out of committee and cancelled the second scheduled hearing, which had been set for the following day.⁷

At an unknown time on Monday, August 18, the House Redistricting Committee filed a notice of a hearing scheduled for 5:00 p.m. that day.⁸ In that notice, that Committee announced that it would “meet to consider pending, referred, and committee business.”⁹ The notice omitted any invitation or instructions for members of the public to testify.¹⁰ At some point earlier in the day, Representative Hunter’s newly proposed map C2333 was publicly

Notice of Public Hearing, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 6, 2025), <https://capitol.texas.gov/tlodocs/89R/schedules/pdf/C6602025080614001.PDF>.

³ *H.B. 4*, Tex. House of Representatives (Aug. 4, 2025), <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=891&Bill=HB4>.

⁴ *Minutes of Public Hearing*, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 7, 2025), <https://capitol.texas.gov/tlodocs/89R/minutes/pdf/C6602025080709001.PDF>.

⁵ Unlike the agenda for the first special legislative session, the Governor’s agenda item for this second session omits any reference to the constitutional concerns raised by the U.S. Department of Justice as a basis for this mid-decade congressional redistricting. *Compare, Press Release, Governor Abbott Announces Special Session Agenda*, Tex. Gov. (July 9, 2025) (taking up congressional redistricting in a special session based on “constitutional concerns raised by the U.S. Department of Justice”), <https://gov.texas.gov/news/post/governor-abbott-announces-special-session-agenda>, with *Press Release, Governor Abbott Announces Special Session #2*, Tex. Gov. (Aug. 15, 2025) (taking up congressional redistricting in a special session), <https://gov.texas.gov/news/post/governor-abbott-announces-special-session-2>.

⁶ *Notice of Public Hearing*, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 17, 2025), <https://capitol.texas.gov/tlodocs/89R/schedules/pdf/C6602025081716001.PDF>.

⁷ *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting, 89th Tex. Leg.*, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 17, 2025) (statement by Vice Chair Creighton, at 2:37:20), <https://senate.texas.gov/video/player.php?vid=22485&lang=en> [hereinafter August 17 Senate Redistricting Committee Hearing].

⁸ *Notice of Public Hearing*, House Select Comm. on Cong. Redistricting (Aug. 18, 2025), <https://capitol.texas.gov/tlodocs/89R/schedules/html/C0552025081817001.htm> [hereinafter House Redistricting Committee August 18 Meeting Notice].

⁹ *Id.*

¹⁰ *Id.*

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posted, which is reflected in the committee substitute for H.B. 4.¹¹ Without any public testimony, the House Redistricting Committee adopted the committee substitute for H.B. 4 and voted H.B. 4 as substituted out of committee.¹²

The full House passed H.B. 4 as substituted on Wednesday, August 20. At an unknown time on the same day, this Committee filed a notice of a hearing scheduled for August 21 at 9:00 a.m., which means the notice was provided to the public less than 24 hours before the hearing.¹³ In that notice, this Committee announced that it will “meet to consider referred business.”¹⁴ The notice omitted any invitation or instructions for members of the public to testify, stating “[n]o public testimony will be taken.”¹⁵

After considering the public hearings held during the first special legislative session by this Committee, the House Redistricting Committee, and the House floor debate on August 20, as well as the single hearing on S.B. 4 during the second session, and after conducting our ongoing analyses of proposed map C2333 (incorporated into H.B. 4), we remain strongly opposed to the Governor’s call for mid-decade congressional redistricting.¹⁶ We further urge this Committee to refrain from taking any action under these extraordinary circumstances, for at least four reasons.

First, this Committee still has not presented any clear justification to conduct mid-decade congressional redistricting under the current circumstances. On the one hand, during the first special legislative session, Chair King characterized the initial four regional hearings—in which no legislatively proposed map was available for the public’s consideration—as the “information-gathering” stage because “the Governor added the subject of congressional redistricting to the special session called.”¹⁷ As our July 24 testimony quoted, the Governor’s call to take up congressional redistricting was based

¹¹ *H.B. 4*, Tex. House of Representatives (Aug. 2025), <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=891&Bill=HB4>; *District Viewer, Considered by House Committee*, 89th Tex. Legis. Council (Aug. 2025), <https://dvr.capitol.texas.gov/Congress/83/PLANC2333> [hereinafter C2333 Map].

¹² *Hearing on Congressional Redistricting Before the House Select Committee on Congressional Redistricting*, 89th Tex. Leg., House Select Comm. on Cong. Redistricting (Aug. 18, 2025) (statement by Chair Vasut, at 36:35), <https://house.texas.gov/videos/22492> [hereinafter August 18 House Redistricting Committee Hearing].

¹³ *Notice of Public Hearing*, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 20, 2025), <https://capitol.texas.gov/tlodocs/89R/schedules/pdf/C6602025082109001.PDF> [hereinafter August 21 Senate Redistricting Committee Hearing Notice].

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ C2333 Map, *supra* note 11.

¹⁷ *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting*, 89th Tex. Leg., Tex. Senate Special Comm. on Cong. Redistricting (July 25, 2025) (statement by Chair King, at 08:26), <https://senate.texas.gov/videooplayer.php?vid=22395&lang=en> [hereinafter July 25 Senate Redistricting Committee Hearing]; *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting*, 89th Tex. Leg., Tex. Senate Special Comm. on Cong. Redistricting (July 26, 2025) (statement by Chair King, at 05:12), <https://senate.texas.gov/videooplayer.php?vid=22396&lang=en>.

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expressly on “constitutional concerns raised by the U.S. Department of Justice.”¹⁸ On the other hand, Chair King stated that he disagreed with the Department’s allegations that the current 2021 congressional map is discriminatory,¹⁹ asserting that he previously voted for a “legal map” and that recent trial testimony, including from Senator Huffman, confirms its legality.²⁰ Chair King’s statements echo those of Representative Todd Hunter, the sponsor of H.B. 4. When introducing the original version of H.B. 4 to the House Redistricting Committee, Representative Hunter denied that H.B. 4 was developed in response to the Department’s constitutional concerns.²¹ Now, the Governor’s call for this session noticeably omits any reference to the Department’s concerns as the rationale for this redistricting.²²

In our July 24, August 8, and August 17 testimonies, we explained that the Texas Legislature should not rely on the Department’s flawed legal theories to conduct mid-decade congressional redistricting.²³ In particular, the Department flagged four districts, Congressional Districts 9, 18, 29, and 33—all of which are districts comprised of a majority of racial minority voters and represented by Black or Hispanic representatives—as illegal racial gerrymanders. The committee substituted version of H.B. 4 notably makes drastic changes to these four districts, along with many others.²⁴ Given the public record as of the date of this letter, the *only*—or at minimum, predominant—basis the Department has raised for changing those districts is their racial composition.²⁵

¹⁸ See LDF, et al. July 24 Testimony, *supra* note 1, at 2, n.5 (emphasis added); see Letter from Harmeet Dhillon, Assistant Att’y Gen., U.S. DOJ C.R. Div., to Greg Abbott, Governor of Tex. and Ken Paxton, Att’y Gen. of Tex. (July 7, 2025) (notifying Texas officials of “serious concerns regarding the legality of four of Texas’s congressional districts”), available at <https://electionlawblog.org/wp-content/uploads/7-7-2025-DOJ-Letter-re-Unconstitutional-Race-Based-Congressional-District.pdf> [hereinafter DOJ July 7 Letter].

¹⁹ DOJ July 7 Letter, *supra* note 18.

²⁰ Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting, 89th Tex. Leg., Tex. Senate Special Comm. on Cong. Redistricting (July 29, 2025) (statement by Chair King, at 33:40), <https://senate.texas.gov/videoplayer.php?vid=22414&lang=en> [hereinafter July 29 Senate Redistricting Committee Hearing].

²¹ See, e.g., Hearing on Congressional Redistricting Before the House Select Committee on Congressional Redistricting, 89th Tex. Leg., House Select Comm. on Cong. Redistricting (Aug. 1, 2025) (statement by Rep. Hunter, at 1:26:50), <https://house.texas.gov/videos/22418> [hereinafter August 1 House Redistricting Committee Meeting].

Indeed, if the Texas Legislature believed there were any legal defects with the current 2021 congressional plan, they could have addressed those in the current litigation or during previous legislative sessions. See Ailsa Chang et al., *A Texas Republican State Lawmaker on the Fight for Redistricting*, NPR (Aug. 6, 2025), <https://www.kvpr.org/npr-news/2025-08-06/a-texas-republican-state-lawmaker-on-the-fight-for-redistricting>.

²² See Press Release, Governor Abbott Announces Special Session #2, *supra* note 5.

²³ LDF, et al. July 24 Testimony, *supra* note 1; LDF, et al. August 8 Testimony, *supra* note 1; LDF, et al. August 17 Testimony, *supra* note 1. This critique was echoed by other testimony. See, e.g., July 25 Senate Redistricting Committee Hearing, *supra* note 17 (statement by Ellen Katz, at 1:00:00).

²⁴ Compare District Viewer, Current Districts(1), Tex. Legis. Council (Aug. 6, 2025), <https://dvr.capitol.texas.gov/Congress/2/PLANC2193>, with *id.* <https://dvr.capitol.texas.gov/Congress/73/PLANC2308>.

²⁵ Compare DOJ July 7 Letter, *supra* note 18, with, see generally Tex. Senate Special Comm. on Cong. Redistricting (providing links to the videos of the July 25, July 26, July 28, and July 29

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Second, we reiterate our concern that the current consideration of whether to conduct mid-decade congressional redistricting lacks transparency and meaningful opportunities for public input. The public has nearly uniformly raised such concerns during the hearings held to date. The public continues to lack basic information about the complete redistricting criteria that is guiding this Committee or the full Senate, or about how those criteria affect the configuration of specific districts. Nor does the public know how proposed maps, including the more than 100 proposed congressional maps submitted by the public during the first special legislative session, are being considered and assessed, if at all.²⁶

The public also lacks knowledge about how legislatively introduced maps are being developed, who takes part in developing them,²⁷ what demographic or electoral information is being considered in their development,²⁸ and other basic and reasonable guideposts for how new congressional maps and specific district configurations are being shaped. As this Committee is aware, the original version of H.B. 4 was provided to the public less than 48 hours before the House Redistricting Committee held its only public hearing on it. That one hearing took place from 10:00 a.m. on Friday, August 1, to about 1:00 a.m. on Saturday, August 2. The public therefore had less than two days to review the proposed map, and the sole hearing was held in a rushed and non-transparent fashion—lasting over ten hours, overlapping with normal workday hours, and running into the early morning hours of a Saturday.

Just seven hours later, the House Redistricting Committee voted the original version of H.B. 4 out of committee shortly after commencing a new meeting at 9:00 a.m. on August 2. In introducing his bill, Representative Hunter invoked various privileges, refusing to publicly disclose what instructions he gave the law firm hired to draw the map, what criteria the firm applied, what analyses the firm conducted and why, and what data

regional hearings, the August 6 and 7 additional hearings, and the August 17 hearing), <https://senate.texas.gov/cmte.php?c=660>.

²⁶ See *District Viewer, Plans Submitted by Public*, 89(1)-(2), Tex. Legis. Council (Aug. 7, 2025), <https://dvr.capitol.texas.gov/Congress/72>.

²⁷ Representative Hunter disclosed that the law firm of Butler Snow developed C2308 and shared it with Representative Hunter to sponsor it. August 1 House Redistricting Committee Meeting, *supra* note 21 (statement by Rep. Hunter, at 1:29:50). In response to a question about what data and other information went into the development of C2308, as approximately 150 pages of data and other information accompanied H.B. 4, for example, Representative Hunter said that he “do[esn’t] have the specifics.” *Id.* at 1:32:30 (statement by Rep. Hunter). Since then, Chair King has suggested that the “Redistricting Trust,” perhaps a reference to the National Republican Redistricting Trust, has been involved in the development of at least C2308. *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting*, 89th Tex. Leg., Tex. Senate Special Comm. on Cong. Redistricting (Aug. 7, 2025) (statement by Chair King, at 1:42:45), <https://senate.texas.gov/videooplayer.php?vid=22443&lang=en> [hereinafter August 7 Senate Redistricting Committee Hearing].

²⁸ Representative Hunter did not know who at the law firm Butler Snow may have worked with in developing C2308, either in whole or in part. August 1 House Redistricting Committee Meeting, *supra* note 21 (statement by Rep. Hunter at 1:48:30); see generally August 7 Senate Redistricting Committee Hearing, *supra* note 27.

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was used to sort voters among specific redrawn districts, among many other basic questions.²⁹ Consequently, neither Representative Hunter nor anyone who actually developed any legislatively proposed map offered to date has been able to fully explain any map and the proposed changes to specific districts within them. The Legislature has instead provided the public with nothing more than general responses and unsubstantiated justifications.

After failing to pass the original version of H.B. 4 during the first special legislative session, the House Redistricting Committee scheduled a hearing for Monday, August 18. That Committee provided the public with less than six hours of notice before the hearing and the committee substitute for H.B. 4. That Committee did not invite or consider any public testimony.³⁰ Chair Vasut also limited Committee members' questions to only those that related to the committee substitute for H.B. 4.³¹

In explaining C2333, Representative Hunter said that everything relating to the development of the map was done through the law firm of Butler Snow and that he "doesn't know who drew it."³² Without introducing any further explanation for committee substitute for H.B. 4's development, including from legislator-bill sponsors or those working with them—this Committee so far appears to similarly lack basic background information about who developed the map and what considerations guided its design and the reasons for why specific districts were drawn.³³

Third, the overwhelming majority of public testimony submitted during the first and second special legislative sessions opposed any mid-decade congressional redistricting under the current circumstances.³⁴ Consistent with that public testimony, if the Texas Legislature wants to meaningfully address claims of racial discrimination, as we urged in our July 24, August 8, and August 17 testimonies, the Legislature should convene a separate legislative session to address the harms documented with evidence in the consolidated federal litigation challenging the 2021 congressional plan.³⁵ It should not be doing what occurred in the first special session and what is underway in this second

²⁹ August 1 House Redistricting Committee Meeting, *supra* note 21 (statements by Rep. Hunter, at 1:48:00 and 1:51:45).

³⁰ House Redistricting Committee August 18 Meeting Notice, *supra* note 8; *see generally* House Redistricting Committee August 18 hearing, *supra* note 12.

³¹ House Redistricting Committee August 18 hearing, *supra* note 12 (statement by Chair Vasut, at 12:10).

³² *Id.* (statement of Rep. Hunter, at 35:05).

³³ August 21 Senate Redistricting Committee Hearing Notice, *supra* note 13.

³⁴ Tex. Senate Special Comm. on Cong. Redistricting (Aug. 2025) (providing links to the video of the July 25, July 26, July 28, and July 29 regional hearings, the August 6 and August 7 additional hearings, the August 17 hearing, and public comments submitted to the Committee), <https://senate.texas.gov/cmte.php?c=660> [hereinafter Public Comments and Testimony Submitted to this Committee]; *see also* House Select Comm. on Cong. Redistricting (Aug. 2025) (providing tab links to public hearings and public comments submitted to the House Redistricting Committee), <https://www.house.texas.gov/videos/committees/89/1>.

³⁵ *League of United Latin Am. Citizens v. Abbott*, Dkt. No. 3:21-cv-00259-DCG-JES-JVB (W.D. Tex. 2022).

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session—forcing a map through the special 30-day legislative session with little to no knowledge about the who, what, when, where, why, and how it and the specific districts within it were developed. It also should not be doing so while people are working, recovering from disasters, and left with little to no time to absorb and understand how a map of such significance will impact their lives. Indeed, as our July 24, August 8, August 17 testimonies warned, any revised congressional map must comply with the U.S. Constitution and the Voting Rights Act and avoid further restricting access to electoral opportunity and representation for Black, Hispanic, and other voters of color.³⁶

Fourth, despite these concerns and warnings, H.B. 4 as substituted further weakens Black and Hispanic Texans' electoral opportunities and disrupts the ability of racial minority voters to access congressional representation in Houston, Dallas-Fort Worth, and other areas of the state. Consistent with other public testimony, our July 24, August 8, and August 17 testimonies detailed that the Legislature had no factual or legal basis to use mid-decade redistricting to significantly alter districts in any way that denies or dilutes Black and Hispanic voters of their electoral opportunities and influence.³⁷ We and other members of the public, for example, warned this Committee not to change Congressional Districts 9 and 18 in Harris County in any way that would disrupt how those districts have been functioning for Black voters to elect their preferred Black representatives in elections.³⁸ In addition, other public testimony emphasized the need for Hispanic voters to retain meaningful access to representation in Harris County and the Dallas-Fort Worth area, among other regions, based on the current demographics and electoral patterns.³⁹ These concerns and warnings were repeatedly reiterated during oral testimony presented to this Committee during the four regional hearings held in the first special session and at subsequent public hearings.⁴⁰ Testimony, for example, reflected a recognition that it is possible to maintain electoral opportunity for both Black and Latino voters in Harris and Dallas-Fort Worth, while also establishing new opportunities for racial minority voters in those areas.

Ours and other public testimony also stressed that the only basis offered, at least initially, to consider altering districts like 9, 18, 29, and 33—all currently serving racial minority Texan voters and electing Black or Hispanic representatives—was the Department's criticism of their racial makeup.⁴¹ To date, neither this Committee nor the Department has publicly pointed to any credible legal or factual analysis justifying such

³⁶ LDF, et al. July 24 Testimony, *supra* note 1; LDF, et al. August 8 Testimony, *supra* note 1; LDF, et al. August 17 Testimony, *supra* note 1.

³⁷ *Id.*; Public Comments and Testimony Submitted to this Committee, *supra* note 34.

³⁸ See, e.g., LDF et al. July 24 Testimony, *supra* note 1; see generally *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting*, 89th Tex. Leg., Tex. Senate Special Comm. on Cong. Redistricting (July 28, 2025) (statement by Judson Robinson on behalf of HAUL, at 1:28:20), <https://senate.texas.gov/videoplayer.php?vid=22397&lang=en>

³⁹ See, e.g., July 25 Senate Redistricting Committee Hearing, *supra* note 17 (statement by Rep. Sylvia Garcia, at 53:20).

⁴⁰ Public Comments and Testimony Submitted to the Committee, *supra* note 34.

⁴¹ LDF et al. July 24 Testimony, *supra* note 1; see also Public Comments and Testimony Submitted to the Committee, *supra* note 34.

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significant disruptions to those district configurations.⁴² In fact, as noted above, Chair King publicly stated he disagreed with the Department's allegations about specific districts like 9, 18, 29, and 33, maintaining that the current 2021 congressional map is a legal map.⁴³ Yet, those districts, among others, are proposed to undergo significant and harmful changes to Black and Hispanic voters, under *every* iteration of the legislatively proposed maps considered in these special sessions—that is, C2308, which is reflected in H.B. 4 and S.B. 4, and now C2333 reflected in H.B. 4 as substituted.⁴⁴

As just one example of our concerns, H.B. 4 as substituted packs Black voters in Congressional District 18 at levels that are unnecessary to provide them with electoral opportunity,⁴⁵ while eliminating another effective opportunity for Black voters in Congressional District 9.⁴⁶ In so doing, the Committees that have considered C2308 and voted to advance it have effectively conceded that it is possible to develop a reasonably configured, majority Black- citizen-voting-age population (or another such form of electoral opportunity) district in Harris County in Congressional District 18. Similarly, the proposed map increases the Black-citizen-voting-age population to just above 50% in Congressional District 30⁴⁷ in the Dallas-Fort Worth area, even though the district has been performing

⁴² DOJ July 7 Letter, *supra* note 18; *see also* Public Comments and Testimony Submitted to the Committee, *supra* note 34.

⁴³ July 29 Senate Redistricting Committee Hearing, *supra* note 20, (statement by Chair King, at 33:54); *see also* August 1 House Redistricting Committee Meeting, *supra* note 21 (statement by Rep. Hunter, at 1:44:30) (stating he was told by the law firm Butler Snow that he worked with to develop the 2021 congressional map that it is legally compliant); August 18 House Redistricting Committee Hearing, *supra* note 12 (statement by Rep. Hunter, at 35:05). The public has no specific, documented information to discern how so. *See* Public Comments and Testimony Submitted to the Committee, *supra* note 34.

⁴⁴ *Supra* note 11.

⁴⁵ *Compare American Community Survey Special Tabulation Using Census and American Community Survey Data*, Congressional Districts – Plan C2193, Tex. Legis. Council (Feb. 19, 2025), https://data.capitol.texas.gov/dataset/b806b39a-4bab-4103-a66a-9c99bcaba490/resource/351077a4-ed22-4c33-bea5-8057e996622e/download/planc2193_r116_acs1923.pdf (reflecting that the Black citizen-voting-age population (“BCVAP”) in Congressional District 18 in the 2021 existing map is 38.8%) [hereinafter 2021 Plan CVAPs by Congressional Districts], *with American Community Survey Special Tabulation Using Census and American Community Survey Data*, Congressional Districts _Plan C2333 (Aug. 18, 2025), <https://data.capitol.texas.gov/dataset/748c952b-e926-4f44-8d01-a738884b3ec8/resource/e6810d9e-2d88-421d-9e3e-31ad902b3273/download/planc2333r116.pdf> (reflecting that the BCVAP in the proposed map is 50.5%) [hereinafter H.B. 4 As Substituted CVAPs by Congressional Districts].

⁴⁶ *Compare* 2021 Plan CVAPs by Congressional Districts, *supra* note 45 (reflecting that the BCVAP in Congressional District 9 in the 2021 existing map is 45.0%), *with* H.B. 4 As Substituted CVAPs by Congressional Districts, *supra* note 45 (reflecting that the BCVAP in Congressional District 9 in the proposed map is 11.5%).

⁴⁷ *Compare* 2021 Plan CVAPs by Congressional Districts, *supra* note 45 (reflecting that the BCVAP in Congressional District 30 in the 2021 existing map is 46%), *with* H.B. 4 As Substituted CVAPs by Congressional Districts, *supra* note 45 (reflecting that the BCVAP in Congressional District 30 in the proposed map is 50.2%).

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for Black voters in recent elections when their share of the population was below 50%.⁴⁸ But nothing in the Voting Rights Act or other federal case law interpreting that statute requires that an illustrative district that meets the 50% plus one requirement for a single-racial group must also be the operative district put forward as a potential remedial district.⁴⁹

To be clear, while Congressional District 18 in Harris County and Congressional District 30 in the Dallas-Fort Worth area each may be a district in which Black voters can comprise a majority of the voters, recent elections show that Black voters in neither district need be a majority-Black district to provide Black voters with electoral opportunity in each district, as required by the Voting Rights Act and U.S. Constitution.⁵⁰

As we stated in our July 24, August 8, and August 17 testimonies, it is well known and well documented that Texas is home to the largest number of Black registered voters among all 50 states.⁵¹ Many of those Black voters live in Houston and Dallas-Fort Worth.⁵² No legislatively-sponsored plan to date, including the plan currently before this Committee, reflects the electoral opportunities for racial minority voters in those areas.

⁴⁸ See, e.g., *Cooper v. Harris*, 581 U.S. 285, 302-304 (2017); see also *infra* notes 49-54. Texas officials have defended the 2021 enacted congressional map in federal litigation as being drawn blind to the race of voters. See LDF et al. July 24 Testimony, *supra* note 1, at 1-2. Yet Congressional District 18 and Congressional District 30 increase the BCVAP to slightly over 50% at 50.8 and 50.2, respectively. See *supra* notes 45, 47. While there is nothing infirm about race conscious decision-making, LDF et al. July 24 Testimony, *supra* note 1, at 3, n.19 (quoting *Allen v. Milligan*, 599 U.S. 1, 31 (2023)), the use of artificial racial population targets to minimize Black and Hispanic electoral opportunities can raise constitutional concerns, see *infra* notes 49-54.

⁴⁹ Compare *Thornburg v. Gingles*, 478 U.S. 30, 42-43 (1986) (identifying what is required to show Section 2 liability under prong one of a discriminatory results vote dilution analysis), with *Bartlett v. Strickland*, 556 U.S. 1, 24 (2009) (holding that while Section 2 does not require the creation of districts that are less than 50 percent minority voting-age population, it observed such districts are not prohibited by Section 2); see also *Bartlett*, 556 U.S. at 24 (“States that wish to draw crossover districts are free to do so where no other prohibition exists.”). Indeed, “[t]he option to draw such [crossover] districts gives legislatures a choice that can lead to less racial isolation, not more.” *Id.* at 23. To be sure, “§ 2 allows States to choose their own method of complying with the Voting Rights Act, and we have said that may include drawing crossover districts.” *Id.*; see also *Cooper*, 581 U.S. at 302-304.

⁵⁰ A rigid rule or interpretation of the Voting Rights Act requiring the creation of a majority-minority district whenever a Section 2 violation exists could violate *Shaw*’s directive that Section 2 remedies should be “narrowly tailored.” *Shaw v. Hunt*, 517 U.S. 899, 908 (1996). As the Supreme Court cautioned in *Bartlett*, Section 2 “should not be interpreted to entrench majority-minority districts by statutory command, for that ... could pose constitutional concerns,” 556 U.S. at 23-24, by increasing, rather than reducing, the degree of race-based decision-making involved in redistricting determinations; see also *Cooper*, 581 U.S. at 302-304.

⁵¹ LDF, et al. July 24 Testimony, *supra* note 1, at 5; LDF, et al. August 8 Testimony, *supra* note 1; LDF, et al. August 17 Testimony, *supra* note 1.

⁵² *Black History Month: African Americans in Texas*, Tex. Demographic Ctr. (2022), https://demographics.texas.gov/Visualizations/2022/BlackHistoryMonth/2022_BlackHistoryMonthGraphic.pdf; Bethany Blankley, *Census: Texas, Harris County Have Largest Black Population in U.S.*, The Center Square (June 28, 2023), https://www.thecentersquare.com/texas/article_e9a1ce44-15ac-11ee-8ff3-3f10caf1ff51.html.



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We urge the Legislature not to adopt this map, which runs afoul of fair processes, as well as the U.S. Constitution and Voting Rights Act. To reiterate, the public has a right to know who, what, when, where, why, and how any legislatively proposed map--and the specific districts within them--have been developed. They have a right to sufficient time to understand the implications of a map on their lives in a meaningful and transparent process. Additionally, as explained above, among other harms, H.B. 4 as substituted eliminates effective opportunities for Black voters in areas of Texas like Harris County based on their racial makeup. As our July 24, August 8, and August 17 testimonies referenced, the Supreme Court explained in *Bartlett v. Strickland*, 556 U.S. 1, 24 (2009), that “if there were a showing that a State intentionally drew district lines in order to destroy otherwise effective crossover districts, that would raise serious questions under both the Fourteenth and Fifteenth Amendments” of the U.S. Constitution. H.B. 4 as substituted also strains the promises of the Voting Rights Act. It does so, as one example, by needlessly packing Black voters in districts in which they comprise the majority in Harris and Dallas-Fort Worth areas because it has been shown to be unnecessary for Black voters to be a majority of voters in those districts to participate in elections in each of those areas effectively. *Id.* at 23-24. And considering recent testimony and the significant changes proposed for congressional districts serving racial minority voters, H.B. 4 as substituted appears to harm Black voters as a means to increase political advantage, which is also prohibited by the U.S. Constitution.⁵³

As we continue to reiterate, at issue is the right to be a part of our shared democratic processes, including the right to urge representatives to act in service of all the rights that flow from political participation like funding for schools, environmental disaster relief, healthcare, and jobs that pay living wages.⁵⁴

For all these reasons, following the conclusion of this Committee’s public hearings during the second legislative special session, we continue to urge Texas’ Legislature to refrain from conducting mid-decade congressional redistricting under these circumstances. We further reiterate that the Legislature must not draw lines in any way that further harms Black Texan voters and other voters of color and risks greater damage to those communities. This Committee must reject H.B. 4 as substituted.

⁵³ *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 7, n.1 (2024); *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 440 (2006) (stating that taking away a political opportunity just as minority voters were about to exercise it “bears the mark of intentional discrimination”); *Hunter v. Underwood*, 471 U.S. 222, 233 (1985) (finding intentional discrimination where a state enacted a law to harm Black and poor white voters for partisan purposes); *Bartlett*, 556 U.S. at 24.

⁵⁴ *Cf. Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).



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NAACP Legal Defense and Educational Fund, Inc. ("LDF")

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in education, economic justice, political participation, and criminal justice. Throughout its history, LDF has worked to enforce and promote laws and policies that increase access to the electoral process and prohibit voter discrimination, intimidation, and suppression. LDF has been fully separate from the NAACP since 1957, though LDF was originally founded by the NAACP and shared its commitment to equal rights.

Barbara Jordan Leadership Institute

As a nonpartisan organization founded and led by Black women driven by our lived experiences, The Barbara Jordan Leadership Institute (BJLI) provides a comprehensive approach to community based leadership in action through voter education, advocacy, and leadership development. BJLI's mission is to increase the diversity of leadership by training, mentoring, supporting, and uplifting Black communities throughout Texas.

Houston Area Urban League

The Houston Area Urban League ("HAUL") is a nonpartisan, nonprofit organization with its principal office in Houston. HAUL's mission is to enable Black people and other marginalized communities to secure economic self-reliance, parity, power, and civil rights.

Delta Sigma Theta Sorority, Incorporated

Delta Sigma Theta Sorority, Incorporated was founded on January 13, 1913, on the campus of Howard University to promote academic excellence; to provide scholarships; to provide support to the underserved; educate and stimulate participation in the establishment of positive public policy; and to highlight issues and provide solutions for problems in their communities. Since its founding, more than 350,000 women have joined the organization,



Houston Area
Urban League



making it one of the largest predominantly Black women's organizations in the country. Delta Sigma Theta Sorority, Incorporated has over 1,000 collegiate and alumnae chapters worldwide, continuing to uplift Black communities globally through its unwavering mission and strategic action.

The Sorority's tradition of activism on the frontlines dates back to just weeks after its inception, when its Founders boldly marched in the 1913 Women's Suffrage Parade—the only Black women's organization to do so. In keeping with this tradition, members of Delta Sigma Theta conduct voter registration drives and host voter education programs on many topics, including redistricting. Delta Sigma Theta has 75 chapters, alumnae and collegiate, and approximately 20,445 members in Texas, most of whom are registered voters in Texas.

Black Voters Matter

Black Voters Matter is a fund that supports local organizations and leaders working for social justice and civic engagement in predominantly Black communities. BVM's goal is to increase power in marginalized, predominantly Black communities. BVM achieves this goal through voter registration/get-out-the-vote activities, policy advocacy, development and training, and electoral communications.

Friendship-West Baptist Church

Friendship-West Baptist Church's vision is to live into becoming a game-changing Christian movement, connecting people to Jesus Christ and fighting for justice, while creating the beloved community.