Proposal to Re-District the Newport-Mesa Unified School District

From

USgeocoder LLC

August 14, 2021
Cover Letter

Jonathon Geiszler Director of Purchasing & Warehouse
Newport-Mesa Unified School District
855 W. Base Line Rd
Rialto, CA 92376

Re: Proposal in Response to RFP 100-22 for Demography and Redistricting Services

Dear Mr. Geiszler:

As a result of changes in population of the Newport-Mesa Unified School District, the district must undertake a study to determine if its current districts (aka “district divisions”) are still equal enough in population to satisfy legal requirements such as the one man one vote rule and no “packing” or “splitting” of racial or ethnic groups occurs. Packing is when districts are drawn so that an ethnic or racial group that could have a majority in multiple districts are redrawn into a single district. Splitting occurs when a group that is large enough to elect one of its own is split up into multiple districts so that members of other groups, assuming people vote by their identities with such groups, would make it very unlikely that members of the split group could elect a representative to the jurisdiction.

In addition, California Education Code §5019.5 prescribes:

a) Following each decennial federal census, and using population figures as validated by the Demographic Research Unit of the Department of Finance as a basis, the governing board of each school district or community college district in which trustee areas have been established, and in which each trustee is elected by the residents of the area the trustee represents, shall adjust the boundaries of any or all of the trustee areas of the district so that one or both of the following conditions is satisfied:

(1) The population of each area is, as nearly as may be, the same proportion of the total population of the district as the ratio that the number of governing board members elected from the area bears to the total number of members of the governing board.

(2) The population of each area is, as nearly as may be, the same proportion of the total population of the district as each of the other areas.

(b) The boundaries of the trustee areas shall be adjusted by the governing board of each school district or community college

To: Newport-Mesa Unified School District
Re: Re-Districting Project

Page 2 of 58
August 14, 2021,
district, in accordance with subdivision (a), before the first day of March of the year following the year in which the results of each decennial census are released. If the governing board fails to adjust the boundaries before the first day of March of the year following the year in which the results of each decennial census are released, the county committee on school district organization shall do so before the 30th day of April of the same year.

If the study determines that re-districting is necessary, US geocoder will assist as below described the Newport-Mesa Unified School District (District or District Board) with re-drawing of its divisions. The fees quoted are good for 120 days from August 12, 2021 and include description and charges for all processes and tasks to complete the scope of work in the Newport-Mesa Unified School District’s RFP.

I warrant USgeocoder has reviewed the terms of the RFP dated July 29, 2021 and am authorized to sign this letter committing USgeocoder to the proposed terms offered to fulfill the requirements of said RFP as follows in the accompanying proposal. The work hereunder will be coordinated out of USgeocoder’s San Jose, CA headquarters office. Mitchell Pearce will be the contact person.

As more fully detailed below, USgeocoder personnel have unique and extraordinary combinations of experience in teaching, politics, advocacy, demography, cartography, and computer programming necessary to the redistricting process. All USgeocoder personnel proposed for this project have worked and taught in demographically diverse environments to diverse audiences. Teaching skills are necessary for the successful presentation of complex facts in emotionally charged environments. Re-districting, in that it determines much of political reality for ten years at a time, can be such an emotionally charged topic presented to a widely diverse audience.

Newport-Mesa Unified School District will be well served by our expertise.

Mitchell J. Pearce, CEO and Minority Managing Member

Enc: 3 paper copies, 1 MS word doc on DVD/CD
Table of Contents

Cover Letter............................................................................................................................................. 2
USgeocoder and Its Personnel Who Will lead This Project: ......................................................... 5
Software for this Project........................................................................................................................ 7
USgeocoder Approach............................................................................................................................. 7
When US Census Data to Perform Redistricting Will Be Available: ............................................. 8
Timeframe for Redistricting under California Law: ........................................................................... 8
Implementation Schedule: ..................................................................................................................... 8
  Phase 1, Determination if Redistricting is Necessary: ................................................................. 8
  Phase 2, Developing and Presenting the District Board’s Model Map: ........................................ 8
  Phase 3, Public Hearing and Vote: ............................................................................................... 9
Additional Comments on Scope of Work: ......................................................................................... 9
Cost for Proposal by Phase: ................................................................................................................ 10
Payment Terms: .................................................................................................................................. 12
References: ........................................................................................................................................ 12
  USgeocoder general experience references: ............................................................................... 12
  Recommendation of Mr. Vennemann from the 2008 Obama for America Campaign .............. 13
  Sample of Mr. Korbel as Expert Witness District Map Drawer.................................................. 14
A Guide to Understanding Requirements for Redistricting California Cities and Counties...... 38

To: Newport-Mesa Unified School District
Re: Re-Districting Project

Page 4 of 58
August 14, 2021,
USgeocoder and Its Personnel Who Will Lead This Project:

*USgeocoder LLC*, was originally founded as a sole proprietorship named Online Image by Maggie Pearce, a naturalized US citizen from mainland China, in 2000. Online Image was reorganized into a Nevada Series Limited Liability Company in February 2017. Maggie Pearce is COO and Majority Managing Member. Mitchell Pearce is CEO and Minority Managing Member. USgeocoder's API’s have been serving clients since 2009 in political advocacy, state government agencies service delivery (including California agencies), government business relations, mortgage origination, Universities’ student records and advocacy management, employee management, medical record management, and business asset management.

USgeocoder’s API powers the location engine for [https://downpaymentresource.com](https://downpaymentresource.com) which matches down payment assistance programs to every home for sale in the United States. Additional clients include businesses ranging in size from Fortune 100 and Forbes Private 50 corporations to “Moms and Pops”. USgeocoder's API’s are embedded in community banks’ transactions, state government services, PACE funding, university student record management, college admissions algorithms, sales tax compliance, construction permit management, employee management, and business asset management throughout the USA. Typical large-scale projects have included confirming the location of attendance boundaries of and Census blocks served by every public school in the USA and Census Block descriptions of every private school in the USA at 1, 2, and 3 mile radii. These were used for developing demographic descriptions of the neighborhoods surrounding the schools. Those descriptions are used in the admissions process for scores of selective USA colleges and universities.

*Karsten Vennemann, M.S.*, has taught courses in Geographic Information Systems and developed multiple GIS applications for governments in North America, Europe, and Africa. Mr. Vennemann designed and developed Mr. Barrack Obama’s Get Out the Vote operation in the 2008 swing states presidential campaign. This was the first time a GIS was used to manage a Presidential candidate’s GOTV campaign. Mr. Vennemann’s work in that campaign is generally credited for President Obama winning enough swing states to become President. Mr. Vennemann is USgeocoder’s cartographer, responsible for USgeocoder's mapping projects including the mapping engine for USgeocoder's products and services.

*George Korbel, Esq.* has fifty years’ experience in voting rights, Congressional apportionment, state and local re-districting and civil rights law. He has published two monographs on the subjects of voting rights and re-districting.
that have been sighted by the U.S. Supreme Court. He has been attorney for plaintiffs in multiple voting rights cases and re-districting cases ranging over more than thirty years. Cases included *Graves v. Barnes*, 343 F. Supp. 648 (W.D. Tex. 1971) affirmed in relevant part sub norm *White v. Regester*, 412 U. S. 755 (1973) which was the case that resulted in Texas apportioning at large state legislative districts into single member districts. It was also the first case to prove vote dilution that was affirmed by the US Supreme Court. He has been an expert witness in multiple re-districting plans of several Federal Voting Rights Acts Section 5 and multiple Fourteenth Amendment Cases concerning Single Member v At Large District issues. Mr. Korbel has testified as an expert witness before committees of both Houses of Congress and both houses of the Texas state legislature. Representative entities that have hired Mr. Korbel to draw districts include San Antonio Texas, City of Austin, Bexar County Texas, Travis County Texas, and Houston Community College District. Large Districts which Mr. Korbel drew in the process of re-districting litigation include Harris County State Legislative Districts, City of Houston, and Lone Star College District. Mr. Korbel serves as counsel for USgeocoder on all re-districting matters.

Additional company references and biographical materials for Mr. Vennemann and Mr. Korbel follow at the end of this document.

*Mitchell Pearce, D.C., M.S., and Minority Managing Member of USgeocoder LLC,* led the teams that developed USgeocoder's databases query engines, USgeocoder government relations and political advocacy services, and the school demography projects aforementioned. He is now mostly responsible for business development, research strategy, and customer relations. For the 35 years prior to USgeocoder, Dr. Pearce practiced and taught chiropractors and acupuncturists on the pre and post-doctoral levels. He has developed and taught dozens of seminars and courses in two states, five colleges, and a traditional medical university in China. He also led chiropractic political advocacy efforts. He is responsible for Kaiser Permanente in Northern California and the first northern California hospital adopting policies to accept referrals from chiropractors for their services. Dr. Pearce served as director of legislative affairs and co-authored an advisory paper from the Council on Nutrition of the American Chiropractic Association to the FDA and WHO on labeling of infant formulas in 2002. Dr. Pearce was certified as a California paralegal in August 2001. His areas of legal interest are civil rights, civil prosecution of fraud and RICO, medical malpractice defense, administrative law, and plaintiff personal injury. Dr. Pearce is also a real estate broker. Real estate experience tangentially relevant to this project is representing the real estate interests of endangered species for the Santa Clara Valley Habitat Agency from August 2015 till August 2017. Dr. Pearce also walked a school through the
entire location selection and City of San Jose approval process in San Jose California.

Software for this Project

Mr. Vennemann will use QGIS, an open source software designed to be used by GIS professionals. USgeocoder will extract the finished maps as shape files for the district’s future use. The Newport-Mesa Unified School District will be able to use those files in ARCGIS, QGIS, USgeocoder’s proprietary API’s and any other standard GIS. USgeocoder will also provide PDF’s for public consumption and posting to the District’s redistricting webpages. In the event Mr. Vennemen becomes unavailable, Mr. Korbelt will use Maptitude or Dr. Pearce will use DRA 2020 to complete the map drawing and testing portions for this project. Both of these programs can also provide final product in standard shape files.

USgeocoder Approach

USgeocoder proposes to provide a redistricting plan with public input in three phases.

*Phase 1* will be an initial study to determine if re-districting is needed. If it turns out, as a result of studying the populations of the current district divisions, re-districting is not recommended by USgeocoder, the process will end at this point. Most likely, the current districts won’t be found to be in balance and phase 2 will begin.

*Phase 2* will consist of consulting with the District Board and district employees they designate, and then developing an initial re-districting plan to propose to the voters for their consideration. At that *public meeting*, the District Board will call for additional public input to be presented to the District Board and USgeocoder that may consist of suggestions, observations, questions, proposed maps, proposed tables, or other input that will assist USgeocoder and the District Board to produce modifications to their proposed plan and/or alternatives to their proposed plans reflecting the concerns and desires of the citizenry.

*Phase 3*, will consist of USgeocoder producing a draft map for public discussion, facilitating, per the Board’s instruction, a *public hearing* where citizen input can be gathered, discussed, and considered. After the hearing USgeocoder will gather additional input, synthesize all input and render maps and compliance tests. A report on all input will be made and published for public comment. After the public comment period, the district maps and plans, along with testing results and population metrics germane to compliance
testing will be presented at a second public hearing of the District Board. Per CA Education Code §5019(c)(2), the plans(s) will be placed up for debate. Upon close of debate, a vote will be taken and a plan adopted.

When US Census Data to Perform Redistricting Will Be Available:

Two days ago, the US Census Bureau released the files upon which the CA Dept of Finance must rely and modify by moving incarcerated populations to their last known residences. US Geocoder expects the Finance Department to release their versions of the file within week(s).

Timeframe for Redistricting under California Law:

School boards are required to complete re-districting by March first 2022. CA Education Code 5019.5(b).

Implementation Schedule:

Phase 1, Determination if Redistricting is Necessary:

Newport-Mesa Unified School District to forward its shape map and census block assignments tables to USgeocoder prior to August 20, 2021. Using this information, USgeocoder authors and distributes its report regarding whether re-districting is needed via email and follow-up regular USPS mail by September 13, 2021. If USgeocoder sees the current districts are in population balance, USGeocoder shall forward a copy of the maps and data proving such to the Board. At which time, USgeocoder's tasks will be complete and a final invoice shall be delivered to the Board.

Phase 2, Developing and Presenting the District Board's Model Map:

If USgeocoder finds re-districting will be needed, the District Board shall schedule a public meeting of the council to present USgeocoder's and the District's schedule for public input for no later than October 01, 2021. Dr. Pearce shall attend the meeting in person to explain how to draw and test maps using DRA2020 free web-based re-districting software, how to forward maps and comments to USgeocoder, and will also engage in education of the public and Board regarding the “Can Do’s and Cannot Dos” of redistricting. As part of our commitment to that engagement, USgeocoder’s A Guide to Understanding Requirements for Redistricting California Cities and Counties is included at the end of this document. The answers to questions 1 to 8 therein should be

To: Newport-Mesa Unified School District
Re: Re-Districting Project

Page 8 of 58
August 14, 2021,
helpful. USgeocoder also presumes the Board will educate USgeocoder as to the communities of interest Board members wish to preserve within districts, the Board’s priorities that should be reflected in the proposed maps, and citizen concerns that have been brought to their attention regarding the re-districting process.

The Board shall set a comment and citizen alternative map submission period to last 30 days. Within 15 days of the meeting, USgeocoder shall draw a proposed map for the District and submit it for comments and review by Board members and staff. Within the next 15 days, USgeocoder shall publish a proposed draft map and any citizen proposed maps to the Board for public comment. USgeocoder shall present the proposed maps in PDF format, and if the Board’s website can show shape files, shall assist Board staff in loading the shapes files for display on the Board’s website. The Board shall announce the publications at a public meeting and set period of further public comment Public comment shall last 30 days.

Phase 3, Public Hearing and Vote:

By December 20, USgeocoder distributes final draft map of the Newport-Mesa Unified School District Plan, addressing all objections raised and suggestions from Board members and staff input from the comment period at the Public Meeting. USgeocoder shall also present all alternative maps and its test reports regarding how well the alternative maps balance or appear to raise red flags.

Debate and Vote Meeting: At its next public meeting, District Board publishes same for consideration at a meeting devoted to re-districting scheduled for no later than February 05, 2022. At that meeting, a debate takes place till a call for the vote is made. Then the plans are voted upon and a plan is adopted. Dr. Pearce also attends this meeting.

Additional Comments on Scope of Work:

In addition to the foregoing descriptions of process and tasks, further discussion or written commentary can be provided regarding the differences between the Federal Voting Rights Act and California Voting Rights Act and the way in which the FAIRMAPS Act interplays with the California Voting Rights Act. USgeocoder can also discuss the threshold requirements for proving cohesiveness, voting population and etc. for proving sufficient population for establishing an opportunity or coalition district under the Federal Voting Rights Act and difference in requirements for the California Voting Rights Act.

USgeocoder expects its reports to be comprehensive enough to be used “straight out of the box” by District staff and the District Board. USgeocoder
intends to work closely with staff and District Board so as to be able to provide product that is cogent, comprehensive, and reasonably easy for the public to interact with and understand. Although USgeocoder will not provide legal advice, USgeocoder will be using the advice of Mr. Korbel in formulating answers to questions and its reports. USgeocoder expects to produce maps and reports that district staff can load directly to its websites so as to be in compliance with the public disclosure aspects of its re-districting requirements.

USgeocoder will work with district staff to develop outreach materials without charge in support of the project if USgeocoder is awarded the contract. Dr. Pearce has been interviewed by the press on multiple occasions and is comfortable to be interviewed in support of public outreach by the Newport-Mesa Unified School District. USgeocoder suggests news releases to all media serving the district, news interviews for television and radio serving the district, announcements through the Cities' and District website and normal school to student and parent portals, newsletters and grade reports.

Cost for Proposal by Phase:

_Assumptions:_ Newport-Mesa Unified School District will provide security, refreshments, and certified translators to be in attendance at the public hearing and certified translation of any written input provided in a foreign language required under California law. No more than 2 alternative proposals to the District Board proposed plan will be presented for consideration throughout the process, and no more than 3 plans will be published after the public hearing. USgeocoder assumes meetings will be held at night and will last long enough to preclude a return flight the nights of the meetings. This necessitates the costs for overnight accommodation.

Mr. Korbel's bills will be absorbed and paid by USgeocoder since he is counsel to USgeocoder, not the district.

**Phase 1:** Publish initial study **$2,000.00.**

**Phase 2:** Total initial re-districting map report presented to District Board via email: **$3,880.00.** Dr. Pearce physically attends _District Public meeting_ to present District's draft proposed plan, describe how to use DRA 2020 to draw alternative maps and district metrics, and how to provide results to USgeocoder for assembly and presentation to the District Board. **$1,800** (assumes attending 5 hours meeting, includes $800 for transportation, lodging one night, two meals, set up, and tear down). Phase 2 cost: **$5,680.00**

**Phase 3:**

To: Newport-Mesa Unified School District
Re: Re-Districting Project

August 14, 2021,
Preparation for Public Hearing: Incorporate changes suggested by submitters during the post Public meeting submittal period. Assumes no more than 3 published final reports for three viable maps to District Board and district Website $8,600.

Public Hearing and Vote: Dr. Pearce will present all submitted final plans and their metrics. The City Council will hold debate and vote. This meeting is expected to last 7 hours so the price will be $1,400. It will end after airlines are down for the night, necessitating overnight accommodations, two meals, and round-trip airfare estimated at $800.00. Total Public Hearing and Vote cost: $2,200.

Phase 3 Total Cost: $10,800.

Total Cost Entire Redistricting Project: $18,480.

If more than 3 re-districting plans are submitted, an additional cost of $3,500/plan will apply. If no need for re-districting is determined, only the costs of Phase 1 will be earned and owed. If only 1 plan/map are presented, USGeocoder can discount the bill by $4,000. If only two maps/plans are presented at the final meeting, the bill will be reduced by $1,500.

PLEASE NOTE: The gathering, research, and mustering of evidence to prove the need to draw maps that satisfy a claim to rectify a Federal Voting Rights Section 2 violation or a Section 14040 California Voting Rights violation is beyond the scope of work detailed in the RFP's Scope of Work document. USGeocoder believes work sufficient to make such proof would more than double the cost of USGeocoder's proposal. USGeocoder assumes the District will describe USGeocoder's limitations of engagement with the public so that mission creep that would start USGeocoder or the district down this slippery slope of legal inquiry does not occur without a budget in place to cover the increased expense. USGeocoder's position is that we are data nerds who draw maps, not lawyers, historians, investigators, or advocates. It is the claimants' job to research, gather, and present evidence to the district if they wish to present such a claim and request districts to be drawn to remedy their putative claim. USGeocoder's position is that whether the history presented is sufficient to act on is entirely up to the District Board. Once the District Board makes a determination, it can direct USGeocoder accordingly. In such event, USGeocoder reserves the right to charge for its expertise and time should the scope of work presented through the claimant and desired by the district exceeds the scope of work presented in the RFP and USGeocoder's proposal. USGeocoder presumes District can authorize USGeocoder to be paid by the party requesting these services, authorize the Board to pay such services, or insist the requesting party find third party

To: Newport-Mesa Unified School District
Re: Re-Districting Project
Page 11 of 58
August 14, 2021,
assistance for these services. USgeocoder makes no comments regarding which course of action the Board may wish to take.

Payment Terms:
Each phase net 30.

References:
USgeocoder has no terminated public agency contracts to report. All Public Agency contracts are still ongoing. USgeocoder has no conflicts of interest to report.

Experience for the Company and the leads for this project are described above. References concerning the experience are as follows:

USgeocoder general experience references:
FEDEX government relations:
Karen Hoffman Ryan
901-818-7220

School Demography project:
Brian Zucker, president of Human Capital Resources
847-370-2520

Down Payment Assistance Project:
DownPaymentResource.com
Rob Chrane Managing Member
404-272-7054

Koch Industries Public Sector
Address to Jurisdiction Project
Elected Representative unique Identification and match to current District project
Pat Wilson
316-828-8215

As a sample of USgeocoder's report writing, a copy of "A Guide to Understanding Requirements for Redistricting California Cities and Counties" is attached after page 38.

To: Newport-Mesa Unified School District
Re: Re-Districting Project
Recommendation of Mr. Vennemann from the 2008 Obama for America Campaign

Reference Contact

<table>
<thead>
<tr>
<th>Uday Sreekanth</th>
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<tbody>
<tr>
<td>Chief Data Architect, Deputy CTO</td>
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<tr>
<td>Obama for America</td>
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<tr>
<td>Mobile: 650 906 8329</td>
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<tr>
<td><a href="mailto:uday@barackobama.com">uday@barackobama.com</a> and <a href="mailto:udaysreekanth@yahoo.com">udaysreekanth@yahoo.com</a></td>
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Project Summary

Terra GIS implemented a low cost web GIS system for the Obama for America campaign in 2008. The goal of the application was to support the work of campaign field organizers in battleground states for voter targeting and prioritization purposes. Technically the application was hosted on an Amazon EC2 server running an Ubuntu (Linux) operating system, Apache 2 HTTP Server, PHP server side scripting and included three main building blocks of the web GIS: a spatial database (PostGIS), a map rendering engine (MapServer), and a mapping framework which supplies the map viewer (OpenLayers). The initial application was set-up for the state of Indiana as a template and was used as a model to build similar applications for other battleground states to follow. The idea was that all battleground states have their dedicated website and data sources, but share the server applications and GIS components. Data relevant to the Campaign such as voter registration percentages, voter persuasion rates, and vote activities of prior elections were mapped on voting district (precincts) level. In addition, information about individual voters and their likely candidate of choice, along with a variety of base layers were published as Web Map Services (WMS) via MapServer. Many of the relevant election data in the PostGIS databases were then updated by the campaign on a daily basis. Spatial data from WMS were then draped over background layers such as Yahoo or Google base maps in the OpenLayers map viewer. The template-oriented approach worked well for the campaign and later was rolled out to about a dozen battleground states. The project illustrates how powerful interoperable GIS components can be, even with minimal customization and on a low budget.


Recommendation for Terra GIS Ltd

Obama for America Inc. (the following is not intended for wider public distribution):

Karsten Vennemann, a principal at Terra GIS provided consulting services to the Obama campaign in the GIS space by enabling us to build custom web-based mapping solutions to satisfy specific campaign needs. Karsten introduced us to a combination stack of open source solutions (PostGIS, MapServer, OpenLayers) and assisted us through the configuration, code and deployment on very short notice. We deployed the solution on the Amazon EC2 compute cloud based on input from him, scaling up only when needed and paying for hardware optimally, thus reducing our operational costs.

Karsten understood the technologies really well, outlined an end-to-end solution, and brought us up to speed much quicker than it would have taken for us to discover all the nuances on our own. He was able to easily provide us with examples of what we wanted to do. His accessibility and un hurried style of interaction went beyond the expected interaction outlined in our contract, and he took a genuine interest in making sure the solution was elegant and usable. When we pushed the envelope on some features and capabilities, he scoured the news to find a solution. In summary, our GIS solution suite for visualizing voter data was greatly aided by Karsten’s effort.

Uday Sreekanth  
Chief Data Architect, Deputy CTO  
Obama for America  
uday@barackobama.com and udaysreekanth@yahoo.com

A full resume for Mr. Vennemann is available upon request.

To: Newport-Mesa Unified School District  
Re: Re-Districting Project
Sample of Mr. Korbel as Expert Witness District Map Drawer

A sample of George Korbel 's experience in drawing district maps, a pre-trial memorandum describing his proposed testimony regarding maps he drew for seven Texas Counties, the city of Houston and the Dallas Fort Worth Area follows on the next pages.
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SHANNON PEREZ, et al.,

Plaintiffs,

v.

STATE OF TEXAS, et al.,

Defendants.

CIVIL ACTION NO.
SA-11-CA-360-OLG-JES-XR
[Lead Case]

PLAINTIFF MALC’S AMENDED PRE-TRIAL BENCH BRIEF AND PRE-TRIAL DISCLOSURES

Pursuant to and in response to this Court’s orders of June 1, 2017 and May 1, 2017,

Plaintiff MALC submits the following disclosures and statement of the case:

I. Pre-Trial disclosures:

a. MALC has no stipulations of fact or agreements with the parties beyond the joint stipulation of facts to be submitted by the Texas OAG.

b. MALC expects to present the following fact and expert witnesses:

   House -
   Lay witnesses – Rep. Rafael Anchia (15min); Trey Martinez Fischer (30min)
   Experts – George Korbel (20 min.); Dr. Robert Brischetto (20min)

   Congress –
   Lay witness - Anchia (15min.); Rep. Ana Hernandez (15min.)
   Expert - Korbel (30min); Dr. Henry Flores (30min).

c. Plaintiff MALC does not intend to present any witness testimony through deposition designation.

d. Plaintiff MALC’s exhibit list is attached hereto.

II. Claims and expected evidence in support of claims:
A. Section 2 of the Voting Rights Act – Results - H358.

1. Plan H358 as a Whole

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 of the Voting Rights Act in that Article III, § 26 of the Texas Constitution was used to avoid the creation of additional majority Latino and majority minority (coalition) opportunity districts in H358. See Dkt. 897, MALC’s Third Amended Complaint, ¶¶ 7, 38-45, 75.

More generally, MALC has submitted Section 2 results claims that Texas could have enacted a plan with more minority opportunity districts (both single-minority and coalition district or combined minority districts). Id. ¶¶ 2. 74-75.

Plaintiff MALC has standing to present these claims as an organizational and associational plaintiff.

a. MALC Has Standing

1) MALC has Associational Standing


We have recognized that an association has standing to bring suit on behalf of its members when: (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization’s purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit. 432 U.S. at 343.

a) Individual MALC members have standing.

MALC’s members are members of the State House of Representatives. All MALC members are citizens, residents and voters of Texas. Most of MALC’s members are Latino, and
most represent Latino majority districts. As individual voters, they have individual standing to
challenge discriminatory election practices. *LULAC v. Clements,* 999 F.2d 831, 845-46 (5th Cir.
1993) (“We agree that the standing of voters in a voting rights case cannot be gainsaid.”)
Plaintiff’s Third Amended Complaint sets out those factual allegations. (Plaintiff’s Third
Amended Complaint pp. 3-4.) Moreover, the Plaintiff’s Third Amended Complaint, in fact,
describes the discriminatory redistricting practices that are included in the challenged 2013 plan
adopted by the State for the Texas House of Representatives. MALC’s Third Amended
Complaint specifies some of the districts represented by Plaintiff’s members as illustrative of
that discrimination. Dkt. 897, Plaintiff’s Third Amended Complaint, ¶¶ 42-43 (Nueces County).
¶ 46-50 (Harris County). These allegations include among other things that the Texas plans
failed to account for the population growth of the Latino and minority community, over-
populating most of the Latino majority districts to avoid creating additional Latino majority
districts, using the so-called “whole county rule” in a manner to eliminate a majority Latino
opportunity district in Nueces County and to avoid adding Latino majority districts to Harris,
Bell, Dallas and Fort Bend Counties and using traditional racial gerrymandering techniques
such as packing and cracking to limit the number of Latino majority districts. *Id. ¶¶ 2-4, 6-7,
38-39, 41, 43-45, 47-57.*

Finally, the rules of pleading practice in federal court are governed by Rule 8(a)(2).
Thus, Plaintiff is not required to allege more specific facts. Plaintiff did not specifically allege
facts in its Third Amended Complaint such as: the fact that Representative Raul Torres, a
Republican member of MALC at the time of the filing of this action and the initial
redistricting, had his district completely eliminated and was then paired with Anglo
Republican Representative Connie Scott. Yet, Plaintiff’s allegations clearly put the Defendants
on notice of the type of facts Plaintiff will develop in furtherance of its claims. Clearly, the
individual members of MALC have standing to bring these claims themselves.

b) MALC's claims are germane to its purpose and goals.

MALC has alleged that its purpose is to serve the members of the Texas House of Representatives and their staffs in matters of interest to the Mexican American community of Texas, in order to form a strong and cohesive voice on those matters in the legislative process, including redistricting. MALC's purpose includes "strengthening their numbers and better representing a united Latino constituency across the state." 2017 MALC Exh. 1. MALC has raised concerns regarding redistricting in Texas both during the legislative process and in the courts. MALC successfully challenged the 2000 redistricting, resulting in greater representation for the Latino community of Texas and protecting the districts of its members. In the 2011 redistricting process, MALC again played a vital role during the legislative process and has intervened without objection from the State in *Teuber v. State of Texas*, (W.D. Tex. Civil Action No. SA-11-ca-572). Defending the integrity of its members' districts and challenging redistricting plans that dilute Latino voting strength is germane to MALC's goals and purposes.

c) Individual members of MALC are not necessary parties.

MALC is only seeking injunctive and declaratory relief in this lawsuit and, therefore, the participation of MALC's individual members is not necessary. See *Warth v. Seldin*, 422 U.S. 490, 515 (1975) (noting that "if in a proper case the association seeks a declaration, injunction, or some other form of prospective relief, it can reasonably be supposed that the remedy, if granted, will inure to the benefit of those members of the association actually injured. Indeed, in all cases in which we have expressly recognized standing in associations to represent their members, the relief sought has been of this kind.")
Thus, the three-pronged test for associational standing has been met here.

2) MALC has Organizational Standing

In addition to associational standing, MALC also has organizational standing of its own. See Warth v. Seldin, 422 U.S. 490, 511 (1975). MALC’s organizational purpose, at least in part, is to provide representation through the legislative process to its Latino constituency across the state. 2017 MALC Exh. 1. Moreover, MALC’s membership and strength as an organization depends on growing its membership. The illegal redistricting plans not only dilute Latino voter opportunities by failing to develop additional Latino and minority opportunity districts but thereby also denied MALC additional members and eliminated members as well. (Nueces County). MALC is thus directly impacted by a redistricting plan that limits, eliminates, and fails to include additional minority opportunity districts required by Section 2. Warth, 422 U.S. at 511.¹

b. Witnesses and summary of testimony

Plaintiff MALC intends to call Representative Rafael Anchia on the issue of standing, to describe the purpose and membership of MALC. He will also testify regarding the availability of additional compact majority minority districts in Dallas County, the common interests of minority voters in Dallas County, and will describe a change to his district boundaries adopted in the 2013 special session of the Texas Legislature.

c. Expert witnesses

George Korbel will be offered to show plans he has drawn in various parts of the state

¹ MALC also relies on the standing of co-Plaintiffs LULAC and NAACP in the areas of Fort Bend, Harris, Dallas, Nueces, and Bell counties all of whom are seeking the same relief. See e.g. Ruiz v. Estelle, 161 F.3d 814 (1998). (intervenors and similarly situated litigants may not independently require standing if one co-litigant has standing and the intervenor or co-litigant is seeking the same relief).
that increase Latino and minority (coalition) opportunity districts.

**Dr. Robert Brischetto** will discuss the existence of racially polarized voting in the 2014 and 2016 elections.

d. Key exhibits

Plaintiff MALC will utilize the joint exhibits associated with Plan H391 with Mr. Korbel and other witnesses. Plaintiffs will also rely on internal MALC documents showing membership and purpose of the organization. Finally, MALC will rely on Dr. Brischetto's report and the tables and exhibits associated with his report.

2. Regional Claims

a. El Paso

MALC does not complain of H358 with regard to El Paso

b. Nueces County

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 of the Voting Rights Act in that Article III, § 26 of the Texas Constitution was used to avoid the creation of an additional majority Latino district in H358 in Nueces County. See Dkt. 897, MALC's Third Amended Complaint, ¶¶ 42-44, 74-75.

1) MALC Has Standing

   a) MALC has Associational and Organizational Standing

   See MALC's standing argument above. In addition, MALC membership in Nueces County included, when this case was first filed, a Latino Republican member whose district was eliminated in Plan H358 as it was in Plan H283.

2) Lay witnesses
MALC does not intend to offer any additional lay witnesses with regard to Nueces County, but rather intends to rely on this Court's evaluation of the formulation and impact of H283 in Nueces County since H358 makes no changes in Nueces County. See Dkt. 1365, pp. 32-40.

3) Expert witnesses

George Korbel will be offered to show plans he has drawn in Nueces County that increase Latino opportunity districts.

Dr. Robert Brischetto will discuss the existence of racially polarized voting in the 2014 and 2016 elections.

4) Key exhibits

MALC will submit and utilize the joint exhibits associated with Plan H391 as it relates to districts in Nueces County, with Mr. Korbel. MALC will rely on Dr. Brischetto's report and the tables and exhibits associated with his report.

c. Harris County

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 of the Voting Rights Act in the failure of the State to create additional majority minority opportunity districts in H358 in Harris County. See Dkt. 897, MALC's Third Amended Complaint, ¶¶ 8, 49-50, and 74-75.

1) Plaintiff MALC has standing to present these claims as an organizational and associational plaintiff.

See MALC's standing argument above. In addition, MALC membership in Harris County includes a number of Latino, African American, and Asian American members.

2) Lay witnesses
MALC does not intend to offer any additional lay witnesses with regard to Harris County, but rather intends to rely on this Court’s evaluation of the formulation and impact of H283 in Harris County. See Dkt. 1365, pp. 56-7.

3) Expert witnesses

George Korbel will be offered to show plans he has drawn in Harris County that increase minority opportunity districts.

MALC will rely on the testimony of experts for other Plaintiffs regarding the existence of racially polarized voting in the 2014 and 2016 elections.

4) Key exhibits

MALC will submit and utilize the joint exhibits associated with Plan H391 as it relates to districts in Harris County, with Mr. Korbel.

d. Fort Bend County

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 of the Voting Rights Act in the failure of the State to create of additional majority minority opportunity districts in H358 in Fort Bend County. See Dkt. 897, MALC’s Third Amended Complaint, ¶¶ 8, 51-53, 74-75.

1) Plaintiff MALC has standing to present these claims as an organizational and associational plaintiff.

See MALC’s standing argument above.

2) Lay witnesses

MALC does not intend to offer any additional lay witnesses with regard to Fort Bend County, but, in the interest of time and the streamlining of trial presentation, will rely on witnesses offered by other plaintiffs.

3) Expert witnesses
George Korbel will be offered to show plans he has drawn in Fort Bend County that increase minority opportunity districts.

MALC will rely on the testimony of experts for other Plaintiffs regarding the existence of racially polarized voting in the 2014 and 2016 elections.

4) Key exhibits

MALC will submit and utilize the joint exhibits associated with Plan H391 as it relates to districts in Fort Bend County.

e. Bell/Lampasas Counties

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 of the Voting Rights Act in the failure of the State to create additional majority minority opportunity districts in H358 in Bell County. See Dkt. 897, MALC’s Third Amended Complaint, ¶¶ 8, 54-56, 74-75.

1) Plaintiff MALC has standing to present these claims as an organizational and associational plaintiff.

See MALC’s standing argument above.

2) Lay witnesses

MALC does not intend to offer any additional lay witnesses with regard to Bell County, but rather intends to rely on this Court’s evaluation of the formulation and impact of H283 in Bell County. See Dkt. 1365, pp. 75-77.

3) Expert witnesses

George Korbel will be offered to show plans he has drawn in Bell County that increase Latino opportunity districts.

MALC will rely on the testimony of experts for other Plaintiffs regarding the existence of racially polarized voting in the 2014 and 2016 elections.
4) Key exhibits
MALC will submit and utilize the joint exhibits associated with Plan H391 as it relates to districts in Bell County.

f. Dallas County

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 of the Voting Rights Act in the failure of the State to create of additional majority minority opportunity districts in H358 in Dallas County. See Dkt. 897, MALC's Third Amended Complaint, ¶¶ 8, 57, 74-75.

1) Plaintiff MALC has standing to present these claims as an organizational and associational plaintiff.

See MALC’s standing argument above. In addition, MALC membership in Dallas County includes a number of Latino members.

2) Lay witnesses

Plaintiff MALC intends to call Representative Rafael Anchia on the issue of standing, to describe the purpose and membership of MALC. He will also testify regarding the availability of additional compact majority minority districts in Dallas County, the common interests of minority voters in Dallas County, and will describe a change to his district boundaries adopted in the 2013 special session of the Texas Legislature. MALC also relies on this Court's evaluation of the formulation and impact of H283 in Dallas County. See Dkt. 1365, pp. 65-6.

3) Expert witnesses

George Korbel will be offered to show plans he has drawn in Dallas County that increase minority opportunity districts.

MALC will rely on the testimony of experts for other Plaintiff's regarding the existence of racially polarized voting in the 2014 and 2016 elections.
4) Key exhibits

MALC will submit and utilize the joint exhibits associated with Plan H391 as it relates to districts in Dallas County, with Mr. Korbel.

**g. Tarrant County**

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 of the Voting Rights Act in the failure of the State to create additional majority minority opportunity districts in H358 in Tarrant County. See Dkt. 897, MALC's Third Amended Complaint, p.3 ¶ 8, p.16-17, ¶¶ 74-75.

1) Plaintiff MALC has standing to present these claims as an organizational and associational plaintiff.

See MALC’s standing argument above. In addition, MALC membership in Tarrant County includes a Latino member.

2) Lay witnesses

MALC does not intend to offer any additional lay witnesses with regard to Tarrant County, but rather intends to rely on this Court’s evaluation of the formulation and impact of H283 in Tarrant County. See Dkt. 1365, pp. 71.

3) Expert witnesses

George Korbel will be offered to show plans he has drawn in Tarrant County that increase minority opportunity districts.

MALC will rely on the testimony of experts for other Plaintiffs regarding the existence of racially polarized voting in the 2014 and 2016 elections.

4) Key exhibits

MALC will submit and utilize the joint exhibits associated with Plan H391 as it relates to districts in Tarrant County, with Mr. Korbel.
h. West Texas – Midland/Ector County Area

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 of the Voting Rights Act in the failure of the State to create an additional majority Latino opportunity districts in H358 in the Midland/Ector County area. See Dkt. 897, MALC’s Third Amended Complaint, ¶¶ 8, 37-40, 74-75.

1) Plaintiff MALC has standing to present these claims as an organizational and associational plaintiff.

See MALC’s standing argument above. In addition, MALC membership in the West Texas area includes a Latino member.

2) Lay witnesses

Plaintiff MALC intends to rely on the testimony offered by MALC of Commissioner Luis Sanchez found at Trial Transcript Vol. 2, pp. 437-469, 7-15-14.

3) Expert witnesses

MALC will offer Dr. Robert Brischetto on racially polarized voting in the 2014 and 2016 elections.

4) Key exhibits

MALC will rely on Exhibits 33 and 43, which are the amendments offered during the 2013 Legislative session which show that Latino CVAP majority district can be created in West Texas.

i. Bexar County

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 diluted the voting strength of Latinos in Bexar County. See Dkt. 897, MALC’s Third Amended Complaint, ¶¶ 8, 58, 74-75. In its recent order regarding H283, this Court made findings concerning Bexar County, including intentional discrimination in the adoption of Plan H283 as
to HD 117. See Dkt. 1365, pp. 28-32. Texas has adopted this Court’s interim remedy as to HD 117. However, this remedy could not take into consideration the intentional discrimination found by this Court. “[T]he burden rests on the State to prove that its proposed remedy completely cures the harm in this case.” See United States v. Virginia, 518 U.S. 515, 547 (1196), (noting that the defendant “was obliged to show that its remedial proposal ‘directly address[ed] and relate[d] to’ the violation”).

1) Plaintiff MALC has standing to present these claims as an organizational and associational plaintiff.

See MALC’s standing argument above. In addition, MALC membership includes several Latino members in Bexar County, including Rep. Philip Cortez who resides in the disputed district, HD 117.

2) Lay witnesses

MALC does not intend to offer any additional lay witnesses with regard to Bexar County, but rather intends to rely on this Court’s evaluation of the formulation and impact of H283 in Bexar County, (See Dkt. 1365, pp. 28-32), and the State’s defense of its interim remedy in curing the intentionally discriminatory defects of HD 117.

3) Expert witnesses

MALC will offer Dr. Robert Brischetto on racially polarized voting in the 2014 and 2016 elections.

4) Key exhibits

MALC will submit and utilize the joint exhibits associated with Plan H391 as it relates to districts in Bexar County, with Mr. Korbel.

B. Section 2 of the Voting Rights Act and Fourteenth Amendment - Intent - H358

1. Plan H358 as a Whole
Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 and the Fourteenth Amendment, in that Article III, § 26 was used to avoid the creation of additional majority Latino and majority minority (coalition) opportunity districts in H358. See Dkt. 897, MALC’s Third Amended Complaint, ¶¶ 7, 10, 38-45, 70-73, 77, and 83.

Plaintiff MALC has standing to present these claims as an organizational and associational plaintiff.

a. MALC Has Standing - MALC has Associational and Organizational Standing

See MALC’s standing arguments above.

b. Lay witnesses

Plaintiff MALC intends rely on the testimony described above. In addition, MALC will offer the testimony of Trey Martinez Fischer who will testify regarding the Village of Arlington Heights factors on intentional discrimination as it relates to the 2013 special legislative session.

c. Expert witnesses

MALC will not offer an expert on intentional discrimination but will rely on the testimony of experts for other Plaintiffs. To the degree the existence of racially polarized voting pertains to a determination of intentional discrimination. MALC will present Dr. Robert Brischetto on racially polarized voting in the 2014 and 2016 elections.

d. Key exhibits

MALC will rely on 2017 MALC Exhibits 16-20, including the House Journal, describing floor debate on the redistricting bill considered and passed in the 2013 special legislative session, amendments offered during the debate, on the House floor and in committee that would create additional minority opportunity district.

2. Regional Claims of Intentional Discrimination
a. El Paso

MALC does not complain of H358 with regard to El Paso.

b. Nueces County

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 of the Voting Rights Act and the Fourteenth Amendment, in that Article III, § 26 was used to avoid the creation of an additional majority Latino district in H358 in Nueces County and with the intent to discriminate. See Dkt. 897, MALC’s Third Amended Complaint, ¶¶ 6-10, 42-44, ¶¶ 76-8.

1) MALC Has Standing

See MALC’s standing argument above. In addition, MALC membership in Nueces County included, when this case was first filed, a Latino Republican member whose district was eliminated in Plan H358 as it was in Plan H283.

2) Lay witnesses

MALC does not intend to offer any additional lay witnesses with regard to Nueces County, but rather intends to rely on this Court’s evaluation of the formulation and impact of H283 in Nueces County since H358 makes no changes in Nueces County. See Dkt. 1365, pp. 32-40.

3) Expert witnesses

George Korbel will be offered to show plans he has drawn in Nueces County that increase Latino opportunity districts.

Dr. Robert Brischetto will discuss the existence of racially polarized voting in the 2014 and 2016 elections.

4) Key exhibits
MALC will submit and utilize the joint exhibits associated with Plan H391 as they relate to districts in Nueces County, with Mr. Korbel. MALC will rely on Dr. Brischetto's report and the tables and exhibits associated with his report.

c. Harris County

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 of the Voting Rights Act and the 14th Amendment in the failure of the State to create additional majority minority opportunity districts in H358 in Harris County. See Dkt. 897, MALC’s Third Amended Complaint, ¶¶ 8, 49-50, 74-75.

1) Plaintiff MALC has standing to present these claims as an organizational and associational plaintiff.

See MALC’s standing argument above. In addition, MALC membership in Harris County includes a number of Latino and African American and Asian American members.

2) Lay witnesses

MALC does not intend to offer any additional lay witnesses with regard to Harris County, but rather intends to rely on this Court’s evaluation of the formulation and impact of H283 in Harris County. See Dkt. 1365, pp. 56-7.

3) Expert witnesses

George Korbel will be offered to show plans he has drawn in Harris County that increase minority opportunity districts.

MALC will rely on the testimony of experts for other Plaintiffs regarding the existence of racially polarized voting in the 2014 and 2016 elections.

4) Key exhibits

MALC will submit and utilize the joint exhibits associated with Plan H391 as it relates to districts in Harris County, with Mr. Korbel.
d. Fort Bend County

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 of the Voting Rights Act and the Fourteenth Amendment in the failure of the State to create additional majority minority opportunity districts in H358 in Fort Bend County. See Dkt. 897, MALC’s Third Amended Complaint, ¶¶ 8, 51-53, 74-75.

1) Plaintiff MALC has standing to present these claims as an organizational and associational plaintiff.

See MALC’s standing argument above.

2) Lay witnesses

MALC does not intend to offer any additional lay witnesses with regard to Fort Bend County.

3) Expert witnesses

George Korbel will be offered to show plans he has drawn in Fort Bend County that increase minority opportunity districts.

MALC will rely on the testimony of experts for other Plaintiffs regarding the existence of racially polarized voting in the 2014 and 2016 elections.

4) Key exhibits

MALC will submit and utilize the joint exhibits associated with Plan H391 as they relate to districts in Harris County.

e. Bell Counties

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 of the Voting Rights Act and the Fourteenth Amendment in the fragmentation of the African American community in Killeen and the failure of the State to create additional majority
minority opportunity districts in H358 in Bell County. See Dkt. 897, MALC's Third Amended Complaint, ¶¶ 8, 54-56, and 76-7.

1) Plaintiff MALC has standing to present these claims as an organizational and associational plaintiff.

See MALC's standing argument above.

2) Lay witnesses

MALC does not intend to offer any additional lay witnesses with regard to Bell County, but rather, since the Bell County districts in H235 are identical to the districts in Bell County under H283, intends to rely on this Court's evaluation of the formulation and impact of H283 in Bell County. See Dkt. 1365, pp. 75-7.

3) Expert witnesses

George Korbel will be offered to show plans he has drawn in Bell County that increase Latino opportunity districts.

MALC will rely on the testimony of experts for other Plaintiffs regarding the existence of racially polarized voting in the 2014 and 2016 elections.

4) Key exhibits

MALC will submit and utilize the joint exhibits associated with Plan H391 as it relates to districts in Bell County.

a. Dallas County

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 of the Voting Rights Act and the Fourteenth Amendment, in Dallas County. See Dkt. 897, MALC's Third Amended Complaint, ¶¶ 8, 57, 76-7.

1) Plaintiff MALC has standing to present these claims as an organizational and associational plaintiff.
See MALC’s standing argument above. In addition, MALC membership in Dallas County includes a number of Latino members.

2) Lay witnesses

Plaintiff MALC intends to call Representative Rafael Anchia on the issue of standing, to describe the purpose and membership of MALC. He will also testify regarding the availability of additional compact majority minority districts in Dallas County, the common interests of minority voters in Dallas County and will describe a change to his district boundaries adopted in the 2013 special session of the Texas Legislature. MALC also relies on this Court’s evaluation of the formulation and impact of H283 in Dallas County. See Dkt. 1365, pp. 65-66.

3) Expert witnesses

George Korbel will be offered to show plans he has drawn in Dallas County that increase minority opportunity districts.

MALC will rely on the testimony of experts for other Plaintiffs regarding the existence of racially polarized voting in the 2014 and 2016 elections.

4) Key exhibits

MALC will submit and utilize the joint exhibits associated with Plan H391 as it relates to districts in Dallas County, with Mr. Korbel.

g. Tarrant County

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 violates Section 2 of the Voting Rights Act in the failure of the State to create additional majority minority opportunity districts in H358 in Tarrant County. See Dkt. 897, MALC’s Third Amended Complaint, ¶ 8, 74-75.

1) Plaintiff MALC has standing to present these claims as an organizational and associational plaintiff.
See MALC's standing argument above. In addition, MALC membership in Tarrant County includes a Latino member.

2) Lay witnesses

MALC does not intend to offer any additional lay witnesses with regard to Tarrant County, but rather intends to rely on this Court's evaluation of the formulation and impact of H283 in Tarrant County. See Dkt. 1365, pp. 71.

3) Expert witnesses

George Korbel will be offered to show plans he has drawn in Tarrant County that increase minority opportunity districts.

MALC will rely on the testimony of experts for other Plaintiffs regarding the existence of racially polarized voting in the 2014 and 2016 elections.

4) Key exhibits

MALC will submit and utilize the joint exhibits associated with Plan H391 as it relates to districts in Tarrant County, with Mr. Korbel.

h. West Texas – Midland/Ector County Area

Plaintiff MALC does not assert an intentional discrimination claim as to the Midland/Ector County area.

i. Bexar County

Plaintiff MALC has submitted to this Court claims for relief asserting that H358 diluted the voting strength of Latinos in Bexar County. See Dkt. 897, MALC's Third Amended Complaint, ¶¶ 8, 58, 74-75. In its recent order regarding H283, this Court made findings concerning Bexar County, including intentional discrimination in the adoption of Plan H283 as to HD 117. See Dkt. 1365, pp. 28-32. Texas has adopted this Court's interim remedy as to HD
117. However, this remedy could not take into consideration the intentional discrimination found by this Court. "[T]he burden rests on the State to prove that its proposed remedy completely cures the harm in this case." See United States v. Virginia, 518 U.S. 515, 547 (1196). (noting that the defendant "was obliged to show that its remedial proposal 'directly address[ed] and relate[d] to' the violation").

C. Claims as to C235

1. Claims to C235 as a whole.

Plaintiff MALC has submitted to the Court claims for relief asserting that C235 violates Section 2 of the Voting Rights, because it results in Latino and minority vote dilution. Dkt. 897 ¶¶ 2, 8, 60-63. Plaintiff MALC also asserts that C235 was adopted with a discriminatory intent to dilute and minimize minority electoral opportunity in violation of both Section 2 of the Voting Rights Act and the 14th Amendment. Dkt. 897, ¶¶ 2-3, 58, 10, 64-71, 83.

As describe previously, MALC has standing as an associational and organizational plaintiff. Moreover, MALC has members in Dallas, Tarrant, Nueces, Harris, Travis, and Bexar counties. MALC intends to call the following witnesses: Korbel, Brischetto, Dr. Henry Flores, and Martinez Fischer. MALC will offer exhibits associated with Plans C283 and C285, as part of its proof.

2. Claims as to DFW CD 30/CD 33

MALC has submitted to the Court claims for relief in DFW CD 30/CD 33 in its general description of the manner in which C235 treated the minority voters of Texas. Dkt 897, ¶¶ 60-61, 72. MALC also made more specific allegations as to this area. Dkt. 897, ¶¶ 73.

As describe previously, MALC has standing as an associational and organizational plaintiff. Moreover, MALC has members in Dallas and Tarrant counties. MALC intends to call
the following witnesses: **Korbél**, and Martinez Fischer. MALC will offer exhibits associated with Plans C283 and C285, as part of its proof.

3. **Claims as to Houston area**

   MALC has submitted to the Court claims for relief in the **Houston area** in its general description of the manner in which C235 treated the minority voters of Texas. Dkt 897, ¶¶ 60-61. As describe previously, MALC has standing as an associational and organizational plaintiff. Moreover, MALC has members in Harris County. MALC intends to call the following witnesses: **Korbél**, and Martinez Fischer. MALC will offer exhibits associated with Plans C283 and C285, as part of its proof.

4. **Austin area/CD 35**

   MALC has submitted to the Court claims for relief in the Austin/CD 35 area in its general description of the manner in which C235 treated the minority voters of Texas. Dkt 897, ¶¶ 60-61. More specifically, MALC plead the elimination of an effective crossover district as impacting the minority voters of the area. Dkt. 897, ¶¶ 68-9.

   As describe previously, MALC has standing as an associational and organizational plaintiff. Moreover, MALC has members in **Travis County**. MALC intends to call the following witnesses: **Korbél**, Brischetto, Martinez Fischer. MALC will offer exhibits associated with Plans C283 and C285, as part of its proof.

5. **CD 23**

   MALC has submitted to the Court claims for relief with regard to CD 23 in its general description of the manner in which C235 treated the minority voters of Texas. Dkt 897, ¶¶ 60-61. More specifically, MALC plead specific allegations about the dilution of the minority voters of the area as well. In addition MALC has alleged that the modifications made to CD 23 as
incorporated in C235 insufficiently addressed the intentional dilution of Latino voting strength.
Dkt. 897, ¶ 64.

As described previously, MALC has standing as an associational and organizational 
plaintiff. Moreover, MALC has members who represent districts within the boundaries of CD 23.
MALC intends to call the following witnesses: Korbel, Brischetto, Flores, and Martinez Fischer. 
MALC will offer exhibits associated with Plans C283 and C285, as part of its proof.

6. CD 27

MALC has submitted to the Court claims for relief with regard to CD 27 in its general 
description of the manner in which C235 treated the minority voters of Texas. Dkt 897, ¶¶ 60-61. 
More specifically, MALC pled specific allegations of the dilution of the minority voters of the 
area. Dkt 897, ¶¶ 65-6. In addition, C235 makes no changes to CD 27 from its configuration in 
C185 and therefore continues the violation found by this court as to C185. See Dkt. 1339, pp. 58, 
and 165.

As described previously, MALC has standing as an associational and organizational 
plaintiff. Moreover, MALC has members who represent districts within the boundaries of CD 27.
MALC intends to call following witnesses: Korbel, Brischetto, Martinez Fischer. MALC will 
offer exhibits associated with Plans C283 and C285, as part of its proof.

DATED: July 4, 2017

Respectfully submitted,

/s/ Jose Garza
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23 of 24
A Guide to Understanding Requirements for Redistricting California Cities and Counties

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A Guide to Understanding Requirements for Redistricting California Cities and Counties

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To: Newport-Mesa Unified School District
Re: Re-Districting Project

Page 39 of 58
August 14, 2021,
Table of Contents

How to Use This Paper ................................................................. 3

Introduction .................................................................................. 4

The Purpose and Method Requirements for Redistricting ............... 5

Answers to 8 Common Questions Clarify the Goals and Requirements for
Redistricting ................................................................................. 5

Answer to Question 1: The Voting Rights Act and California Fair Map Act
protect all races as well as Asian American, Native American, and Spanish
Speaking Ethnicities ................................................................. 5

Voting Rights Act of 1965 ............................................................. 5

California Fair Maps Act ............................................................. 6

Answer to Question 2: If intent to dilute a racial or language group vote is
not provable, the Three Gingles factors must be proven .................... 7

Answer to Question 3: The Decennial Census is the Required Database for
Apportioning Local Government Districts ....................................... 8

Answer to Question 4: No Bright Line or De Minimis Rule exists. The test is
whether the attempt to approach 0 deviation is honest and practicable given
permissible state-specific policy considerations .................................. 9

Answer to Question 5: Election Code §§ 21500(c)(1), 21601(c)(1) and
21621(c)(1) define 'contiguous' for California election purposes ............ 11

Answer to Question 6: Consideration of neighborhoods and communities
of interest articulated in Election Code §§ 21500(c)(2), 21602(c)(2) and 21621(c)(2)
may be limited by Supreme Court interpretation of the Voting Rights Act and by
the wording of Election Codes §§ 21500(b), 21601(b) and 21621(b) ............ 12

Answer to Question 7: The most important factor in determining whether a
district is compact is whether nearby populations(s) are bypassed in order to
include more distant populations .................................................. 15

Answer to Question 8: Look for evidence of packing and cracking on the
basis of previous election voting and registration patterns as well as
income/persons per household. Also look for the total population of rural voters
versus urban voters in county districts ........................................... 17

When US Census Data to Perform Redistricting Will Be Available ......... 18

Timeframe for Redistricting Cities California Cities: ....................... 18

Timeframe for Re-Districting California Counties ......................... 19
How to Use This Paper

This paper was originally written to inform USgeocoder employees and contractors of a non-lawyer's basic understanding of the legal framework within which redistricting assignments to USgeocoder must be undertaken. It is also meant to give those who hire USgeocoder an ability to know we won't stray outside the legal requirements for redistricting when we draw district maps. This paper is not meant to be used as legal advice. It may be used to assist people interested in redistricting to become familiar with basic concepts so they can have more fruitful discussions with their lawyers. We strongly suggest those who want to influence the redistricting process read this paper so they can develop their questions for lawyers they'll hire to advance their theses.

This paper does not address how to muster the facts or present the evidence necessary to prove how a federally protected class should be represented within or across districts. A good first read for a basic description of requirements and process is *League of United Latin American Citizens v Perry* 548 US 399 (2006). With regard to appellate level law on communities of interest and neighborhoods, there is only *Pico Neighborhood Association v City of Santa Monica* 51 Cal. App. 5th 1002 (2020). Because the California Supreme Court has agreed to decide further on that case, the case cannot be cited as legal authority. That said, the case is good reading concerning the framing of issues of concern when considering neighborhoods and communities of interest. Readers are advised: The best steps are taken by following the advice of your lawyers.

USgeocoder LLC is a company of data nerds who make maps that computers and people can read. We tell the stories of places with maps and numbers. Neither USgeocoder nor anyone working for it is authorized to give legal advice. We work for anyone who needs maps that answer questions and present data in understandable ways. Our only interest in the outcome of redistricting is that our maps are accurate and conform with legal requirements.

When USgeocoder is working for a city redistricting, it can only assist others with redistricting maps in the manner the city authorizes, such as
running workshops and meetings and providing technical support, demographic and cartographic knowledge. If the city authorizes us to assist the public with preparing their maps for city consideration, those seeking USgeocoder help must sign a waiver of claims of conflict of interest, and waiver of liabilities against the city and against USgeocoder LLC. USgeocoder welcomes anyone with an interest in re-districting to contact and hire us to develop and present their maps and numbers to governments throughout California.

Introduction

Population changes over the past ten years will likely trigger reapportionment among county districts and city wards throughout California. In turn, this can significantly impact the election of county supervisors and city council members, state-wide.

Reapportionment requires studies be undertaken to determine if current city council districts (aka “city wards”) and county supervisory districts are still equal enough in population to satisfy certain legal requirements of the Voting Rights Act of 1965. Such requirements include the one man one vote rule and that no “packing” or “cracking” of racial or ethnic groups takes place.

Packing occurs when an ethnic or racial group is large enough to elect its choice of candidates in multiple districts, but the districts are drawn to push most of the members of the group into a single district.

Cracking, also known as “splitting”, takes place when a group that is the majority in a single district gets split up into multiple districts thereby making it very unlikely members of the split group could elect a candidate of their choice. Both packing and cracking are violations of Section 2 of the Voting Rights Act of 1965 as amended.

California Election Code sections (“§§”) 21601(c-d) and 21621(c-d), prescribe additional rules when redistricting cities. In order from highest to lowest priority: 1) the districts must be contiguous. 2) Communities of Interest must not be split into separate districts, 3) districts must be easily identifiable by residents 4) the district must be geographically compact, and 5) must not favor one political party over another. California Election Code §21500(c), which applies to counties, states the same and adds that member cities within the county not be split into separate supervisory districts to the extent practicable.

If a study determines re-districting is necessary, re-drawing of precincts (aka Voting Tabulation Districts or VTDs) may also be necessary to ensure
precincts reflect the boundaries of the newly drawn wards and supervisory districts.

The Purpose and Method Requirements for Redistricting

Answers to 8 Common Questions Clarify the Goals and Requirements for Redistricting

1. Do the Federal Voting Rights Act and California FAIRMAPS Act protect only communities of color and/or Hispanic heritage?
2. What tests can prove or disprove redistricting has violated the Federal Voting Rights Act without having to prove intent to violate the Act?
3. What is the correct measure of a population (e.g., census data of population, census data of citizenship, registered voter data)?
4. How close to equal size must districts be in order to meet the one man one vote requirement while not contravening permissible state policies?
5. How do we define contiguous?
6. What factors help define "common social and economic" interests?
7. What makes a district geographically compact or not compact?
8. How do we avoid results that look like districting was done to favor or discriminate against a political party?

Answer to Question 1: The Voting Rights Act and California Fair Maps Act protect all races as well as Asian American, Native American, and Spanish Speaking Ethnicities.

Voting Rights Act of 1965:

The US Supreme Court in *Shelby County v. Holder*, 133 S. Ct. 2612 (2013) terminated enforcement of racial equality in exercising the power of the vote through Section 5 and Sections 4(b) and 4(b)(4) of the Voting Rights Act. Such Sections and sub-sections of the Act had required pre-clearance with the U.S. Department of Justice Office of Civil Rights when re-districting plans were likely to affect certain counties in several states. This ruling by the Supreme Court rendered Section 4(a) essentially moot. Nevertheless, enforcement of the Act via civil litigation in court with reliance on Section 2 of the Act remains alive and well.

Section 2 of the Voting Rights Act, currently codified as U.S. Title 52 § 10301 states:

(a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any
State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 10303(f)(2) of this title, as provided in subsection (b).

(b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

U.S. Title 52 § 10303(f)(2) states:

No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote because he is a member of a language minority group.

A minority language group is defined in Title 52 § 10310(c)(3):

The term "language minorities" or "language minority group" means persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage.

As can be seen by the language above, the Act applies to all races and all American Indian, Asian American, Alaskan Native, or Spanish language speaking ethnicities. The Act’s purpose is to protect those who have been subjected to a history of discrimination by voting laws that result in dilution of the power of their vote. Thus, the Act protects all citizens from past, present, and future discrimination no matter how the winds of prejudice may blow.

California Fair Maps Act

Cal. Election Code §§21500-21629 does not reference race or language or ethnicity. However, Election codes §§ 21500 (b), 21601(b) and 21261(b) state all

To: Newport-Mesa Unified School District
Re: Re-Districting Project
redistricting of counties and cities must follow the US Constitution, California Constitution, and the Federal Voting Rights Act requirements.

California has 155 cities with white minorities which, so far, have not seen a history of discrimination against them. It is possible that whites in one or more of these cities could eventually challenge a city re-districting plan if they prove a history of reduction in their ability to influence and participate in the political process owing to dilution of their votes caused by re-districting, and that such reduced influence correlates with the needs of their communities being slighted or ignored by the governments in question.

Answer to Question 2: If Intent to dilute a racial or language group vote is not provable, the Three Gingles factors must be proven.

*Thornburg v. Gingles* 478 U.S. 30 (1986) was the seminal case that described how to find a redistricting scheme violated Section 2 of the Voting Rights Act without having to prove the discrimination was intentional. As stated by the US Supreme Court in *League of United Latin American Citizens v Perry* 548 US 399 (2006) at page 425-426:

The Court has identified three threshold conditions for establishing a § 2 violation: (1) the racial group is sufficiently large and geographically compact to constitute a majority in a single-member district; (2) the racial group is politically cohesive; and (3) the majority vote[s] sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate. These are the so-called Gingles requirements.

If all three Gingles requirements are established, the statutory text directs us to consider the “totality of circumstances” to determine whether members of a racial group have less opportunity than do other members of the electorate. *De Grandy; supra*, at 1011-1012; see also *Abrams v. Johnson*, 521 U.S. 74, 91 (1997). The general terms of the statutory standard “totality of circumstances” require judicial interpretation. For this purpose, the Court has referred to the Senate Report on the 1982 amendments to the Voting Rights Act, which identifies factors typically relevant to a § 2 claim, including:

[1]The history of voting-related discrimination in the State or political subdivision; the extent to which voting in the elections of the State or political subdivision is racially polarized; the extent to which the State or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination
against the minority group . . . ; the extent to which minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process; the use of overt or subtle racial appeals in political campaigns; and the extent to which members of the minority group have been elected to public office in the jurisdiction. The Report notes also that evidence demonstrating that elected officials are unresponsive to the particularized needs of the members of the minority group and that the policy underlying the State's or the political subdivision's use of the contested practice or structure is tenuous may have probative value. Gingles, supra, at 44-45 (citing S. Rep. No. 97-417 (1982) (hereinafter Senate Report); pinpoint citations omitted).

Another relevant consideration is whether the number of districts in which the minority group forms an effective majority is roughly proportional to its share of the population in the relevant area. De Grandy, supra, at 1000.

A "cohesive minority" is a minority where everyone in the minority group votes the same way. When a minority votes cohesively and the majority blocks en bloc so that neither will vote for the other's candidates, voting is said to be "racially polarized."

Answer to Question 3: The Decennial Census is the Required Database for Apportioning Local Government Districts

In Reynolds v. Sims, 377 U.S. 533 (1964) at page 568, the US Supreme Court stated re-districting of state legislatures must be based upon population. In Burns v. Richardson, 384 US 73 (1966), The US Supreme Court noted at pages 91-93 that population of citizens and populations of all persons could be used as a basis of apportionment. It noted that Hawaii population varies wildly based upon tourism and the waxing and waning of disturbances in the Pacific giving rise to fluctuations in the military population, most of whom are not residents of Hawaii, and thus, apportioning on the basis of the population of Hawaiian citizens was appropriate. Ibid pp 94-97.

The Burns court also cited with approval Ellis v Mayor and City Council of Baltimore (4th Cir. 1965) 352 F.2 123 that invalidated the city's re-apportionment because it was based on voter registration data. Ibid p 93.

Calderon v City of Los Angeles 4 Cal. 3d 251 (1971) at pages 258-259, the California Supreme Court held, absent proof that a voting database provided a
reliable count of population, it violates the US Constitution to re-apportion voting within cities using only registered voter data.

California Elections Code §§ 21500(a)(1), 21601(a)(1) and 21621(a)(1) mandate, "Population equality shall be based on the total population of the city as determined by the most recent federal decennial census for which the redistricting data described in Public law 94-171 are available." (i.e., the US Census decennial Census). However, incarcerated persons shall be assigned the census block of their last known address. Election Code §§ 21500(a)(2), 210601(a)(2) and 210621(a)(2).

Parcel databases such as those maintained by USgeocoder, LLC, CoreLogic, Inc., or Black Knight Services, Inc., may provide more accurate representations of population distribution and be useful for dividing a census block so as to lessen deviation of votes between districts. However, parcels are not people. Parcel data does not reveal the number of people residing on a parcel, and parcels often have no one residing on them. At best, if the land use code for the parcel is available, as it usually is in the USgeocoder data base, parcels could be identified as residential or commercial, and a census block could be split based upon apportioning the number of residential parcels. When a bedroom count is also available certain assumptions could be made as to the potential population of the parcels that, at least theoretically, could support decisions for where in the census block the split should occur. This could improve the parcel data set as a basis for splitting census blocks. The California legislature did not, however, permit using anything other than the decennial census as a basis for apportionment of population to districts through the redistricting process. As stated in Reynolds v. Sims 377 US 533 (1964) at page 579, "people, not land or trees or pastures, vote." Hence, it is inappropriate to count parcels rather than people, no matter how fervent the effort to equalize the power of the vote among the population may be.

Answer to Question 4: For State Legislative Re-Districting, No Bright Line or De Minimis Rule exists. The test is whether the attempt to approach 0 deviation is honest and practicable given permissible state-specific policy considerations. But for Local Government Re-Districting, the Requirement for Equal Representation is More Stringent

In Reynolds v. Sims 377 US 533 (1964), at page 562 the court said:

... Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political
rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.

At page 577 the Reynolds court continued:

...the equal Protection Clause requires that a state make an honest and good faith effort to construct districts, in both houses of the legislature, as nearly of equal population as practicable."

The court reaffirmed this position in Mahan v Howell 410 US 315 (1973). At pages 323 - 327, the court found that a deviation of 1.8% from the ideal was not justified by a need for such absolute equality since the attempt resulted in dilution in voting power of Scott County to “almost nil” and Virginia Beach residents claimed they had been effectively disenfranchised. Ibid p 323 The court then went on to approve a plan with a total 16% deviation (i.e. +/- 8% from 0) on the basis that state plans for redistricting are not to be judged under the requirements of Article 2 §2 but under the Equal Protection Clause. It further stated that lower courts determinations as to what is considered adequate in any one case are not helpful in other cases since all cases are so fact-specific. It stated that 16% deviation presented in this case may be approaching a limit of tolerance but that the goal of not emasculating equal protection was met and the state’s concern about equal representation of votes as presented through its government subdivisions (counties and independent cities) to the legislatures was a rational state concern.

In Kirkpatrick v Preisler 394 US 526 (1969) at page 530, the Supreme Court stated with regard to Legislative Apportionment,

[We] reject Missouri’s argument that there is a fixed numerical or percentage population variance small enough to be De Minimus and to satisfy without question the ‘nearly as practicable standard’. The whole thrust of the ‘as nearly as practicable’ approach is inconsistent with the adoption of fixed numerical standards which excuse populations variances without regard to the circumstances of each particular case.

In Brown et al v Thomson, Secretary of State of Wyoming, et al, 462 U.S. 835 (1983) at page 842, the Supreme Court stated it has found that a deviation in legislative districts population of less than 10% are insufficient to make out a prima facie case of invidious discrimination under the Fourteenth Amendment.

In Harris v Arizona Independent Redistricting Commission, 136 C Ct. 1301 (2016) the Supreme Court held that a less than 10% overall deviation was not sufficient evidence in and of itself that the one man one vote rule had been
impermissibly violated resulting in slighting of Republican voting power. The defendants produced evidence that the reason for the variation was to satisfy its obligations under section 5 of the Voting Rights Act.

In *Avery v. Midland County* (1968) 390 US 474 at pages 484-485, the Supreme Court announced, "the Constitution permits no substantial variation from equal population in drawing districts from units of local government having general government powers."

In *Hadley v. Junior College District* 397 US 50 (1970) at pages 54-56, the US Supreme Court announced the one person one vote principal necessitates that each district within the local government of any kind that is run by elected officials "must be established on a basis that will insure, as far as practicable, that equal numbers of voters can vote for proportionally equal numbers of officials." Thus, the "as far as practicable" test for equality stands for apportionment of city wards.

In *Silver v. Reagan* (1967) 67 Cal.2d 452, at page 458, the California Supreme Court stated "deviations from equality cannot be presumed valid but must be justified by a specific showing that a permissable state policy is thereby promoted."

In *Calderon v. City of Los Angeles* 4 Cal. 3d 251 supra at pages 269-271, the California Supreme Court adopted the "as far as practicable" test of the foregoing US Supreme Court cases.

The California Legislature has declared those state policies it wishes to promote during re-districting as per Election Code §§ 21601(c-d), 21621(c-e) and 21500(c-d).

Answer to Question 5: Election Code §§ 21500(c-1), 21601 (c)(1) and 21621(c)(1) define 'contiguous' for California election purposes.

There is nothing in the Federal Voting Rights Act, US Constitution, or the California Constitution that requires apportionment of local government districts to result in contiguous districts. An example of districts that are not contiguous, are the towns of Cohasset and Brookline in Norfolk County Massachusetts where the member district, Cohasset, is separated from the rest of Norfolk County by Plymouth County's member districts of Hingham and Hull Massachusetts. Likewise, the town of Brookline District is separated from the bulk of Norfolk by the Town of Newton, which is a Middlesex County District, and part of Boston which is Suffolk County. Election codes §§21500(c)(1) 21601(c)(1) and 21621(c)(1) state:
To the extent practicable, [county in § 21500] city [§ 21610 and § 21621] council districts shall be geographically contiguous. Areas that meet only at the points of adjoining districts are not contiguous. Areas that are separated by water and not connected by a bridge, tunnel, or regular ferry service are not contiguous." To the extent an area of a city is isolated completely from the rest of a city or connected only at a corner to the rest of the city and it has a large enough population to be a district, the fact of its isolation cannot be remedied through reapportionment only to annex intermediate areas, so successfully adhering to this rule may be impracticable in such cases.

Answer to Question 6: Consideration of neighborhoods and communities of interest articulated in Election Code §§21500(c)(2), 21602(c)(2) and 21621(c)(2) may be limited by Supreme Court interpretation of the Voting Rights Act and by the wording of Election Codes §§21500(b), 21601(b) and 21621(b).

Only these election codes and the California Constitution at Article XXI section 2(d)(4) define a "community of interest". It is not the same as a neighborhood. It is a population that "shares common social or economic interests that should be included within a single district for purposes of effective and fair representation".

The codes states both neighborhoods and "communities of interest" shall be respected in a manner that minimizes their division.

The Supremacy clause of the US Constitution states that laws passed by Congress supersede laws on the same subject matter passed by the states. Likewise, interpretation of those laws by the US Supreme Court supersedes interpretations by any other judicial body. In Reynolds v Sims, supra at page 557, quoting their previous decision in Gray v Sanders 372 US 368, (1963) page 381:

Once the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote—whatever their race, whatever their sex, whatever their occupation, whatever their income, and wherever their home may be in that geographical unit. This is required by the Equal Protection Clause of the Fourteenth Amendment. The concept of 'we the people' under the Constitution visualizes no preferred class of voters but equality among those who meet the basic qualifications.
The idea that every voter is equal to every other voter in his State, when he casts his ballot in favor of one of several competing candidates, underlies many of our decisions.

Continuing, we stated that "there is no indication in the Constitution that homeste or occupation affords a permissible basis for distinguishing between qualified voters within the State." And, finally, we concluded: "The conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing—one person, one vote."

Decided shortly after Reynolds, the Supreme Court wrote in Davis v Mann 377 US 673 (1964) at pages 691-692:

We reject appellants' argument that the underrepresentation of Arlington, Fairfax, and Norfolk is constitutionally justifiable since it allegedly resulted in part from the fact that those areas contain large numbers of military and military-related personnel. Discrimination against a class of individuals, merely because of the nature of their employment, without more being shown, is constitutionally impermissible.

It is difficult to see how the military and military-related personnel, together with their families in Arlington, Fairfax, and Norfolk could not be considered sharing the same economic and social ties sufficient to be considered a "community of interest" as it is defined in Elections Code §§ 21500(c)(2), 21601(c)(2) and 21621(c)(2) and in California Constitution Article XXI, Section 2(d)(4).

California Constitution Article XXI §2(d)(4) further defines a community of interest:

Examples of such shared interests are those common to an urban area, a rural area, an industrial area, or an agricultural area, and those common to areas in which the people share similar living standards, use the same transportation facilities, have similar work opportunities, or have access to the same media of communication relevant to the election process. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

The Reynolds and Davis courts expressly prohibit using characterization of land and its demographic description (e.g. urban, rural, industrial,
agricultural) employment (e.g. work opportunities, military personnel work where the military jobs and opportunities exist) and income (which is the most salient component of living standards) in ways that could dilute the one man one vote rule.

It is highly unlikely that access to means of transportation or media of communication would convince the Supreme Court to allow these to have any influence on apportioning district populations given these statements in *Reynolds v Sims* at page 580:

Modern developments and improvements in transportation and communications make rather hollow, in the mid-1960's, most claims that deviations from population-based representation can validly be based solely on geographical considerations. Arguments for allowing such deviations in order to ensure effective representation for sparsely settled areas and to prevent legislative districts from becoming so large that the availability of access of citizens to their representatives is impaired are today, for the most part, unconvincing.

The *Reynolds* Court continued at pages 380:

A consideration that appears to be of more substance in justifying some deviations from population-based representation in state legislatures is that of insuring some voice to political subdivisions, as political subdivisions.

And at page 581:

But if, even as a result of a clearly rational state policy of according some legislative representation to political subdivisions, population is submerged as the controlling consideration in the apportionment of seats in the particular legislative body, then the right of all of the State's citizens to cast an effective and adequately weighted vote would be unconstitutionally impaired.

City wards and county supervisory districts are not governmental subdivisions of anything. Neither are governmental units that have power to tax or legislate; they are only geographies of convenience for assuring representation from all parts of a city or county occur on its governing body. Nor do they deliver any government services, have the power to enforce any law or deputize anyone to do so. A neighborhood is a geographic place within a city or county defined only by the local customs and tastes of its residents. It also is not a governing entity. Thus, the exception to prohibition of
consideration of apportionment on anything other than population is not available to rescue this stated purpose of the California Legislature if using these sections of the Election Code were to result in a deviation from equality of the vote amongst the city or county population. The extent to which adherence to these codes may improve administration of government without disturbing the equalization of the power of the vote amongst the population is certainly the limit of practicable application of these sections.

Given that the Supreme Court is the final word on what is and is not constitutional, it is difficult to see how re-districting based on any consideration of neighborhoods or communities of interest can pass federal judicial scrutiny. Elections Code §§ 21500(b), 21601(b) and 21621(b) all state that re-districting must adhere to the US Constitution and the State Constitution. Consideration of communities of interest only exists in article XXI which refers only to redistricting Congressional, Legislative, and Board of Equalization Districts. Thus, there is no California Constitutional requirement to consider neighborhoods or communities of interest when re-districting on the county or city level. There is, however, a US Constitutional Requirement to ignore these considerations if they cause a deviation in population equality among districts. Hence, the application of Elections Code §§ 21500(c)(2), 21601(c)(2) and 21621(c)(2) are limited by the constraints of Election Codes §§ 21500(b), 21601(b) and 21621(b).

The foregoing said, the Supreme Court has on multiple occasions stated considering the needs and concerns of communities of interest in apportioning districts is a traditional function of re-districting. See e.g. League of United Latin American Citizens v. Perry 548 U.S. 399 (2006) at pages 432-434 regarding reasons for why compactness is important. Rucho v Common Cause 139 S. Ct. 2484 (2019) at page 2500 listing ‘traditional’ districting criteria. Bethune-Hill v State Board of Elections 137 S Ct 788 (2017) at page 795 noting “traditional redistricting factors such as compactness, contiguity of territory, and respect for communities of interest.” Nowhere has the Supreme Court stated these traditional criteria are no longer valid. The foregoing discussion is just to state that these criteria cannot cause deviation from the one person one vote rule or violate the Voting Rights Act of 1965.

Answer to Question 7: The most important factor in determining whether a district is compact is whether nearby population(s) are bypassed in order to include more distant populations.

The hoary practice of political Gerrymandering is the process of mapping representational districts; such as Congressional, Legislative, County Council
and City Council Districts; so that populations most likely to vote for
incumbents of the party in power are concentrated just enough to carry the
district for the incumbent while the populations most likely to vote for the
party out of power are scattered about in small enough fragments of districts
to prevent them from ever having a majority vote in those districts. The Federal
Voting Rights Act prevents Gerrymandering on the bases of race, ethnicity, and
language only. The US Supreme Court, in Rucho v Common Cause 139 S. Ct
2484 (2019) stated that the courts have no jurisdiction that would allow them
to rein in political gerrymandering.

One can readily find examples of political Gerrymandering in most states.
The most obvious sign of Gerrymandering on a map is districts that wrap
around or protrude into other districts. Another easy sign is when a district
looks like a bent barbell, a snake digesting a meal, a Packman eating its
neighbor, or an octopus-like creature holding one or more fish.

To see examples, go to USgeocoder.com and enter an address in almost
any state that does not have a redistricting commission. When the map comes
up:

Click on the Map Layer & Legend.
Unclick transportation network and landmarks
Click on the 117th Congressional Dist, State Upper House 2020, or State
Lower House 2020.
Zoom out so you can see the borders of districts, then move around in
the map.

It will quickly become apparent that the most important tool in
gerrymandering is being able to bypass nearby areas of population not wanted
in the district so as to include areas that are wanted in the district. Elections
Codes §§ 21500(c)(5), 21601(c)(4) and 20621(c)(4) explicitly restrict bypassing
nearby populations so as to include distant populations.

The second most important tool is the ability to stretch, bulge, and bend
districts. This also allows the Gerrymandering politician to concentrate the bulk
of his district in the areas that will vote for his party while avoiding areas that
vote against his party. Simple visual scanning of the district maps in
USgeocoder can reveal such behavior.

Also, the more equidistant from a center the borders of a district are, the
more compact it is. The more a district bends, bulges, and stretches, the less
equidistant from the center its borders become. In technical speak, the higher
the “Reock score”, the more compact the district. **DRA 2020** contains
calculation of the Reock score for districts mapped by the program.

**Answer to Question 8:** Look for evidence of packing and cracking on the
basis of previous election voting and registration patterns as well as
income/persons per household. Also look for the total population
of rural voters versus urban voters in county districts.

Nothing tells you more about how people in a geography will vote than
how those in the geography voted in the last election. The next best data is how
people are registered to vote.

**DRA 2020** a.k.a. Dave’s Redistricting is a web-based re-districting
platform designed for use by people who do not have degrees in either math,
geography, computer science, or political science to create re-districting maps.
It is well designed and well stocked with American Community Survey (ACS)
demographic and voter registration by, depending on the dataset, Census block
or block group. The ACS 2019 file provides the most recent Census data on
income and household makeup down to the census block group level.

It is no secret that those who receive public assistance tend to vote
Democrat and those who pay high taxes tend to vote Republican. The ACS 2019
data at **DRA 2020** will assist you in determining where each of those groups of
people live throughout the US.

At the county and larger level, it’s also no secret that rural areas generally
vote Republican while urban areas tend to vote Democrat. To see the urban
versus rural distribution of geographies within districts visually, go to
**USgeocoder.com** and:

Enter an address
When the map comes up, click on map layer and legend
Unclick landmarks and transportation
Click on the + at Political Districts
Click on the district you want to study, such as county
Click Urban Area. Urban areas turn dark grey
You can overlap the borders of Census Tracts to see how Rural and
Urban match up on a more granular level.

Use **DRA 2020** to build your proposed re-districting maps.
Utilize their analytic tools to check for compactness and partisan lean.
Also, check to see if you’ve fragmented one party over multiple districts in such a way that members of that party never get above 45% of the population.

Then check to see if the other party has maximized the number of districts it can be in with over 50% of the vote.

If you notice that by slightly moving the lines for districts you can change partisan lean, then, you are well on your way to becoming successful at political gerrymandering!

To get even better at it, try splitting as many fairly compact clusters of voters in the opposition party between districts while pulling clusters of voters who vote for your party into districts. Soon, you’ll see you can change the competitiveness of a district with ease!

However, if you want competitive elections and to comply with the California FAIRMAPS Act, you’ll need to avoid splitting populations of the voters who vote for the opposing party between adjacent districts that have large populations of your preferred voters. You also must avoid packing voters for the opposing party into supermajorities where they could just be majorities.

When US Census Data to Perform Redistricting Will Be Available:

The US Census Bureau has, until this year, produced the Decennial Census Files for Redistricting by April in years ending in 0. This year, these files will not be available until September 31, 2021. (Combined Declarations of Micheal Thieme and James Whitmore in State of Ohio v Gina Raimondo US District Court Southern District of Ohio Western Division of Dayton Case No. 3:21-cv-0064-TMR) We expect a “legacy form” of the data to be available August 16, 2021. DRA 2020 and USgeocoder will have the “legacy form” data integrated into their and our programs within three weeks of its release.

Timeframe for Redistricting California Cities:

Redistricting must be completed no sooner than August 01, 2021 and no later than 174 days before the next election for those cities that hold their elections for city council on the day of the statewide primary. (CA Elections Code § 2160(a)(2)). Since the next election is June 07, 2021, redistricting must be completed by December 15, 2021. For those cities that hold their elections with the November 02, 2022 general election re-districting must be completed no later than 204 days prior to November 02, 2022. (Election Code §§ 21602(a)(3) & 21602(a)(3) That date is April 11, 2022.

GUIDETO REDISTRICTING CA CITIES & COUNTIES
JULY 19, 2021

MITCHELL PEARCE
PAGE 18 OF 20

To: Newport-Mesa Unified School District
Re: Re-Districting Project

Page 56 of 58
August 14, 2021,
Four public meetings must be held of which one must be before the City Council proposes a draft or model map. Periods of public comment can be for a time the City Council sets. The length of time between public meetings can be prescribed by the City Council. (Elections Code § 21607.1)

Drafts of maps can be based upon estimates of what the census of voters will be in the official US Census results. (Election Code § 21608(d)2). DRA 2020 has loaded American Community Survey 2019 demography files which can be used for this purpose.

Using those files, cities and counties can determine if their populations have shifted enough to require re-districting. Thus, in order to get their re-districting done on time, cities with a December 15, 2021 deadline can get a jump on the process prior to the Census files being released by using ACS data and by scheduling their meetings with just slightly more time than is stated in the requirements of notice.

Timeframe for Re-Districting California Counties

California counties also must have their re-districting done 205 days prior to the November 02, 2022 election (Election Code § 21501(a)(2)). However, counties have to hold their four meetings on redistricting at least 30 days apart. The legislature has authorized using the 2010 data by amending Election Code 21500(a)(1), 21601(a)(1). Because that will result in re-districting with obsolete data, the resulting re-districting will not be in compliance with the rule of one man one vote. Counties will be subject to liability that can only be avoided by re-districting again in 2022 using population data from the 2020 Census. Careful adherence to the shortest allowed notice periods and starting with pre-census data may be necessary to avoid these liabilities.

About USgeocoder

USgeocoder LLC specializes in matching people and addresses to political jurisdictions while protecting their privacy. USgeocoder APIs power government relations management and advocacy systems, sales tax management solutions, construction permit management, mortgage origination, real estate transactions, business asset management, employee management, student record management, and state agency services delivery throughout the United States. USgeocoder’s API is the location engine for DownPaymentResource.com an application that matches down payment assistance programs to every home in the US. To see the information available within USgeocoder’s API enter an street address and zip code in the Live Demo on the USGeocoder home page.
Once the map shows up, click on the + in the upper left hand corner, then scroll down.

From the DRA 2020 website

Dave’s Redistricting is a team of volunteers with a shared passion for technology and democracy. Our mission is to empower civic organizations and citizen activists to advocate for fair congressional and legislative districts and increased transparency in the redistricting process.

DRA 2020 is a free web app to create, view, analyze, and share redistricting maps for all 50 states and the District of Columbia. DRA 2020 includes demographic data from the 2010 census and 2018 5-Year ACS estimates and extensive election data. Official congressional and legislative district maps are included and can be used to start new maps, or you can create maps from scratch. A comprehensive feature set makes it easy to create and modify maps while keeping them within the accepted parameters. DRA 2020 also includes a rich set of analytics, including measures of proportionality, competitiveness, minority representation, compactness and splitting.

About the Author

Dr. Mitchell Pearce is a co-founder and CEO of USgeocoder LLC. He directed the development and query structures for USgeocoder's database and API's. Prior to founding USgeocoder, Dr. Pearce spent 35 years practicing and teaching chiropractic and acupuncture. In 1981 through 1983, he convinced Kaiser Permanente and Northern California hospitals to open their diagnostic facilities to chiropractic patients. Dr. Pearce has been an advocate in multiple positions and organizations for acupuncture and chiropractic throughout much of his career. As a Realtor, Dr. Pearce also spent 2 years representing endangered species for the Santa Clara Valley Habitat Authority.