IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS,                     )
     Plaintiff,                   )
) v.                               )
) UNITED STATES OF AMERICA and     )
) ERIC H. HOLDER, JR., In His      )
) Official Capacity As Attorney     )
) General Of The United States,     )
) Defendants,                   )
) WENDY DAVIS, et al.,            )
) Defendant-Intervenors,          )
) AMERICAN LEGISLATIVE             )
) CAUCUS,                        )
) Defendant-Intervenors,          )
) GREG GONZALEZ, et al.,           )
) Defendant-Intervenors,          )
) TEXAS LEGISLATIVE BLACK CAUCUS,  )
) Defendant-Intervenor,           )
) TEXAS LATINO REDISTRICTING       )
) TASK FORCE,                     )
) Defendant-Intervenor,           )
) TEXAS STATE CONFERENCE OF        )
) NAACP BRANCHES, et al.,          )
) Defendant-Intervenors.          )
)__________________________________________ )
) No.1:11-CV-1303
) (RMC-TBG-BAH)
) (three-judge court) MEXICAN-
)-----------------------------------------------------------
) DAVIS DEFENDANT-INTERVENORS’ SUBMISSION OF
) EXPERT WITNESS REPORTS OF DR. ALLAN J. LICHTMAN
) The Davis Defendant-Intervenors respectfully submit two expert reports prepared by
Dr. Allan J. Lichtman. These reports include an analysis of the State of Texas’ proposed
congressional map and the State’s proposed state senate map, and constitute Dr. Lichtman’s
pre-filed testimony (Dr. Lichtman will testify the week of January 23, 2012).
Respectfully submitted,

/s/ J. Gerald Hebert  
J. GERALD HEBERT  
D.C. Bar #447676  
Attorney at Law  
191 Somerville Street, #405  
Alexandria, VA 22304  
Telephone: 703-628-4673  
hebert@voterlaw.com

PAUL M. SMITH  
MICHAEL DESANCTIS  
JESSICA RING AMUNSON  
CAROLINE LOPEZ  
Jenner & Block LLP  
1099 New York Ave., N.W.  
Washington, D.C. 20001  
Tel: (202) 639-6000  
Fax: (202) 639-6066

CHAD W. DUNN - 24036507  
Brazil & Dunn  
4201 FM 1960 West, Suite 530  
Houston, Texas 77068  
Telephone (281) 580-6310  
Facsimile (281) 580-6362

Attorneys for Davis Defendant-Intervenors

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2012, I electronically served the foregoing Davis Defendant-Intervenors’ submission of expert witness reports, along with accompanying reports, on counsel for all parties by ECF filing a copy with the clerk of this Court.

/s/ J. Gerald Hebert  
J. GERALD HEBERT
SUPPLEMENTAL REPORT ON RECENT GENERAL ELECTIONS IN TEXAS
STATE SENATE DISTRICT 10, RETROGRESSION AND INTENTIONAL
DISCRIMINATION

Allan J. Lichtman
Professor of History
American University
Washington, DC 20016

January 16, 2012

Pursuant to 28 U.S.C.§1746, I declare under penalty of perjury that the information set forth in
this report is true and correct to the best of my knowledge and belief.

Allan J. Lichtman
I. Statement of Inquiry

1. This report supplements the previous report I prepared and submitted on State Senate redistricting and Senate District 10 in Texas. This report examines the issue of whether the state of Texas in redrawn the boundaries of SD 10 in 2011 retrogressed minority voters’ ability to elect candidates of their choice to State Senate positions. It also considers the issue of whether the state of Texas intentionally discriminated against minority voters in the drawing of State Senate districts in 2011. My expected fee in this matter is $400 per hour. I have enclosed an updated CV and a table of cases in which I have provided written or oral testimony.

II. Summary of Opinions

2. I found that the state of Texas in drawing new boundaries for SD 10 in 2011 retrogressed the ability of Latino and African American voters to elect candidates of their choice to the State Senate. I also found that the state of Texas intentionally discriminated against Latino and African American voters in the creation of the state-passed proposed plan for the State Senate.

III. Qualifications

3. I am a Professor of History at American University in Washington, D.C., where I have been employed for 38 years. I was appointed distinguished professor in 2011. This is the university’s highest academic honor. Formerly I served as Chair of the History Department and Associate Dean of the College of Arts and Sciences at American University. I received my BA in History from Brandeis University in 1967 and my Ph.D. in History from Harvard University in 1973, with a specialty in the mathematical analysis of historical data. My areas of expertise include political history, electoral analysis, and historical and quantitative methodology. I am
the author of numerous scholarly works on quantitative methodology in social science. This scholarship includes articles in such academic journals as Political Methodology, Journal of Interdisciplinary History, International Journal of Forecasting, and Social Science History. In addition, I have coauthored Ecological Inference with Dr. Laura Langbein, a standard text on the analysis of social science data, including political information. I have published articles on the application of social science analysis to civil rights issues. This work includes articles in such journals as Journal of Law and Politics, La Raza Law Journal, Evaluation Review, Journal of Legal Studies, and National Law Journal. My scholarship also includes the use of quantitative and qualitative techniques to conduct contemporary and historical studies, published in such academic journals as The Proceedings of the National Academy of Sciences, The American Historical Review, Forecast, and The Journal of Social History. Quantitative and historical analyses also ground my books, Prejudice and the Old Politics: The Presidential Election of 1928, The Thirteen Keys to the Presidency (co-authored with Ken DeCell), The Keys to the White House, and White Protestant Nation: The Rise of the American Conservative Movement. My most recent book, White Protestant Nation, was one of five finalists for the National Book Critics Circle Award for the best general nonfiction book published in America.

4. I have worked as a consultant or expert witness for both plaintiffs and defendants in more than seventy-five voting and civil rights cases. These include several cases in the state of Texas, among them the 2003 congressional redistricting case that became the U. S. Supreme Court case, League of United Latin Am. Citizens (LULAC) v. Perry, 548 U.S. 399 (2006). The majority opinion written by Justice Kennedy authoritatively cited my statistical work several times. In late 2011, I was the expert witness in Illinois for the prevailing state parties in separate
litigation challenging both the adopted state plan for the State House and for Congress.¹ My work includes more than a dozen cases for the United States Department of Justice and cases for many civil rights organizations. I have also worked as a consultant or expert witness in defending enacted plans from voting rights challenges. A copy of my resume and a table of cases are attached as Appendix I of this report.

IV. Data and Methods

5. The data and methods of analyses here are the same as those in my initial report on SD 10. Unless otherwise indicated, statistical and cartographic data was provided by the Texas Legislative Council. The report also relies on documentary material, which is footnoted and referenced.

V. Retrogression of Minority Ability to Elect Candidates of Their Choice to State Senate

6. As indicated in my supplemental report on congressional districts, African Americans and Latinos accounted for 78.7 percent of the Texas population growth between 2000 and 2010. All minorities combined accounted for 89 percent of the Texas population growth. Despite this growth, the state-passed State Senate plan adds no new districts in which minorities have the ability to elect candidates of their choice and actually eliminates one such ability to elect district for minority voters – SD 10-- in Tarrant County. As indicated in my initial report on SD 10, the state-passed proposed plan eliminates this ability to elect district by fragmenting the African American and Latino populations in existing SD 10 and placing the displaced minority population in districts controlled by Anglo voters.

7. The state-passed proposed plan is retrogressive in that it eliminates the ability of minority voters to elect candidates of choice in SD 10 despite disproportionate growth in the Latino and African American populations in Tarrant County since 2000. As indicated in Table 1, African Americans and Latinos accounted for 78.5 percent of Tarrant County’s total population growth between 2000 and 2010. All minorities combined, as indicated in Table 1, accounted for 88.3 percent of the County’s total population growth. As further indicated in Table 1, African Americans and Latinos currently make up 41.7 percent of Tarrant County’s total population and combined minorities 47.9 percent. With regard to voting age population, Table 2 demonstrates that African Americans and Latinos accounted for 68.7 percent of Tarrant County’s growth since 2000 and combined minorities for 78.7 percent. Table 2 additionally demonstrates that African Americans and Latinos currently make up 37.0 percent of Tarrant County’s voting age population and combined minorities constitute 43.2 percent of the County’s voting age population.
### Table 1

Tarrant County Population and Growth by Race, 2000-2010

<table>
<thead>
<tr>
<th>Race</th>
<th>2000</th>
<th>2000%</th>
<th>2010</th>
<th>2010%</th>
<th>Increase</th>
<th>% Total Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hispanic</td>
<td>285,290</td>
<td>19.7%</td>
<td>482,977</td>
<td>26.5%</td>
<td>197,687</td>
<td>53.5%</td>
</tr>
<tr>
<td>African American</td>
<td>192,589</td>
<td>13.3%</td>
<td>286,376</td>
<td>15.7%</td>
<td>93,787</td>
<td>25.4%</td>
</tr>
<tr>
<td>Black+Hispanic</td>
<td>474,148</td>
<td>32.7%</td>
<td>758,841</td>
<td>41.7%</td>
<td>284,693</td>
<td>78.5%</td>
</tr>
<tr>
<td>Anglo</td>
<td>895,253</td>
<td>61.7%</td>
<td>937,135</td>
<td>51.5%</td>
<td>41,882</td>
<td>11.3%</td>
</tr>
<tr>
<td>Other</td>
<td>76,818</td>
<td>5.3%</td>
<td>113,058</td>
<td>6.2%</td>
<td>36,240</td>
<td>9.8%</td>
</tr>
<tr>
<td>Total</td>
<td>1,449,950</td>
<td>100%</td>
<td>1,819,546</td>
<td>100%</td>
<td>369,596</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

### Table 2

Tarrant County Voting Age Population and Growth by Race, 2000-2010

<table>
<thead>
<tr>
<th>Race</th>
<th>2000</th>
<th>2000%</th>
<th>2010</th>
<th>2010%</th>
<th>Increase</th>
<th>% Total Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hispanic</td>
<td>179,185</td>
<td>17.2%</td>
<td>298,169</td>
<td>22.8%</td>
<td>118,984</td>
<td>44.9%</td>
</tr>
<tr>
<td>African American</td>
<td>126,630</td>
<td>12.2%</td>
<td>190,640</td>
<td>14.6%</td>
<td>64,010</td>
<td>24.1%</td>
</tr>
<tr>
<td>Black+Hispanic</td>
<td>304,000</td>
<td>29.2%</td>
<td>484,106</td>
<td>37.0%</td>
<td>180,106</td>
<td>68.7%</td>
</tr>
<tr>
<td>Anglo</td>
<td>681,298</td>
<td>65.4%</td>
<td>736,930</td>
<td>56.4%</td>
<td>55,632</td>
<td>21.0%</td>
</tr>
<tr>
<td>Other</td>
<td>54,449</td>
<td>5.2%</td>
<td>80,937</td>
<td>6.2%</td>
<td>26,488</td>
<td>10.0%</td>
</tr>
<tr>
<td>Total</td>
<td>1,041,562</td>
<td>100.0%</td>
<td>1,306,676</td>
<td>100.0%</td>
<td>265,114</td>
<td>100.0%</td>
</tr>
</tbody>
</table>
8. As demonstrated in my initial report on SD 10 in the 2008 State Senate election, a virtually unanimous coalition of African American and Latino voters elected the candidate of their choice to the State Senate. These voters had also come close to doing so in the previous State Senate contest. John Alford, the expert for the state of Texas attributes the victory of Democrat Wendy Davis in 2008 to her higher than usual crossover vote from Anglo voters. My initial report likewise recognized that Davis had won a greater percentage of the Anglo vote than was typical for a minority candidate of choice in Tarrant County, although Anglo crossover was a modest 30 percent. However, Davis would not have won her victory in 2008 without an extraordinary mobilization of African American and Latino voters, who demonstrated an effective ability to participate in that election and elect a candidate of choice.

9. The large-scale mobilization of African Americans and Latinos in the 2008 State Senate election is demonstrated in several ways. First, as indicated in Table 3, African Americans and Latinos combined turned out in much greater percentages and numbers for Davis in 2008 that for Democrat Hill in 2004, another presidential election year. As demonstrated in Table 3, African American turnout increased substantially from 47 percent in 2004 to 59 percent in 2008. Although Latino turnout remained unchanged at 11 percent, that percentage represented

<table>
<thead>
<tr>
<th>Election Year</th>
<th>% of Voting Age African Americans Turning Out State Senate Election</th>
<th>% of Voting Age Latinos Turning Out State Senate Election</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>47%</td>
<td>11%</td>
</tr>
<tr>
<td>2008</td>
<td>59%</td>
<td>11%</td>
</tr>
</tbody>
</table>

Table 4
Turnout of Voting Age African Americans and Latinos for Wendy Davis in SD 10, Tarrant County Compared to Turnout for Barack Obama and Rick Noriega in all of Tarrant County, Ecological Regression Estimates

<table>
<thead>
<tr>
<th>Candidate in 2008</th>
<th>% of Voting Age African Americans Turning Out</th>
<th>% of Voting Age Latinos Americans Turning Out</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wendy Davis, State Senate District 10, Tarrant County</td>
<td>59%</td>
<td>11%</td>
</tr>
<tr>
<td>Mean of Barack Obama, President, and Rick Noriega, US Senate, All of Tarrant County</td>
<td>57%</td>
<td>7%</td>
</tr>
</tbody>
</table>
more actual voters in 2008 than 2004 given the very rapid growth of the Latino voting age population in Tarrant County as demonstrated by Table 2 above. The expanded minority participation in the Senate District 10 election in 2008 cannot be explained by the presence of African American Barack Obama as the Democratic candidate for president or Latino Rick Noriega as the Democratic candidate for Senator. The evidence from local politicians in Tarrant County, cited in my initial report, indicates that the Davis campaign for Senate, not these top-of-the-ticket races, was driving mobilization in SD 10 in the 2008 general election. This testimonial evidence is confirmed by statistical analysis. Table 4 demonstrates that Democratic State Senate candidate Wendy Davis mobilized a higher turnout of both African American and Latino voters than the average of Obama and Noriega overall in Tarrant County, even though there typically is a substantial falloff in minority voter participation in bottom-of-the-ticket contests like State Senate as compared to top-of-the-ticket contests like US President and US Senator. These results, along with the documentary evidence in my initial report, also refute Dr. Alford’s assertion that Senator Davis’s victory resulted from the fact that 2008 was a generically good year for Democrats. Moreover, in his report on congressional districts, Dr. Alford claims that the incumbent status of Republican congressional representatives elected in 2010 will help them gain reelection, but does not mention that Senator Davis too will have incumbency status in her reelection campaign.3

V. Intentional Discrimination Against Minority Voters

10. The demonstration in my first report of intentional discrimination against minority voters in the creation of the state-passed proposed senate plan is confirmed by consideration of

demographic change in Tarrant County documented in Tables 1 and 2 above. Given the predominant African-American and Latino growth in Tarrant County since 2000, the elimination of the only Tarrant County State Senate district in which these minority voters have demonstrated the ability to elect a candidate of their choice is explicable only by the intent to weaken minority voter strength. The dismantling of SD 10 cannot be explained by traditional redistricting principles as it disrupts minority communities of interests and splits Tarrant County among four districts, as compared to only three districts under the current plan. As indicated by Map 1 under the state-passed proposed plan, Tarrant County is split by a fourth district, SD22, protruding from overwhelmingly Anglo Ellis County into Tarrant County, cutting out a heavily minority neighborhoods of existing SD 10 and placing them into Anglo-dominated SD 22, which extends more than 100 miles to the south past the city of Waco. (Tarrant County and SD 10 are on the left panel of Map 1.) The neighborhoods in previous SD 10 in Tarrant County that the state moved into SD 22 are 78.2 percent African American and Hispanic in population, whereas SD 22 overall is just 32.1 percent African American and Latino.

Similarly, under the State-enacted plan, Anglo-controlled SD 12 captures the heavily Hispanic neighborhoods in the northern part of existing SD10. Currently, residents living in the heavily Hispanic neighborhoods in Fort Worth’s historic Northside and in the Diamond Hill area are a critical part of the minority voting bloc that elected their candidate of choice in 2008 in SD10. By extending SD12 into these north Fort Worth neighborhoods, voters in the area will be stranded in a heavily Anglo district that is controlled by exurban voters living in Denton County

4 It is worth noting that in his many reports on the post-2010 redistricting in Texas for this litigation and the Perez case, Dr. Alford does not address the issue of intentional discrimination. As demonstrated in the key article on the topic (J. Morgan Kousser, “How to Determine Intent: Lessons From L. A.,” *Journal of Law & Politics*, VII (1991).) expert analysis is needed to assess this issue.
to the far north, thus eliminating their ability to continue electing their candidate of choice in SD10 and while stranding them in District 12 where they will have no influence on the election for State Senate.

The protrusion into Tarrant County from the south by SD22 and the envelopment of Hispanic neighborhoods in exiting SD10 by the State-enacted SD12 strongly points to an intent to retrogress minority voting strength in existing SD 10 and deprive minorities of their ability to elect their candidate to choice to State Senate District 10 in 2012 and subsequent contests. Like the current benchmark plan, the Court-ordered plan restores the minority communities to SD 10 that had been carved out by the state-passed plan.

11. The process of excluding minority input into the state-passed proposed State Senate plan that was documented in my prior Senate report is further confirmed by the lack of
Map 1
Senate District 10, State-Passed Proposed Plan S148, Shaded for Black and Hispanic Population

DALLAS & TARRANT COUNTIES

Black+Hispanic Population
by VTD

State Senate Districts
Enacted by the 83rd Legislature, 2011
PLAN 5148

Percent Black+Hispanic Population
2010 Census

< 5.0
5.0 to 9.9
10.0 to 14.9
15.0 to 19.9
20.0 to 24.9
25.0 to 29.9
30.0 to 34.9
35.0 to 39.9
40.0 to 49.9
50.0 to 100
timely hearings and the truncated process for passing the bill. On May 10, 2011, the Senate Redistricting Committee first announced public hearings on the proposed State Senate bill, and the bill was released at 5pm on that same day. The only public hearing in the Senate Redistricting Committee was held two days later on May 12, 2011. This was obviously insufficient notice for full and effective public participation, particularly by members of the minority community in Tarrant who strongly opposed the elimination of their ability to elect SD 10. The Committee also gave members a deadline of May 12 to submit any amendments, further truncating the process and making meaningful participation extremely difficult. The Senate leaders then ignored the overwhelmingly negative response to the bill from members of the public who were able to attend the May 12 hearing. The Committee met the following day with no public input permitted and passed the proposed State Senate bill over the objections of all minority members. The House Redistricting Committee announced on May 18, 2011 that it was meeting that same day to consider the Senate Redistricting proposed bill. That too was clearly inadequate notice for any meaningful input by minority voters or their elected representatives. The meeting room for the House hearing on the Senate bill did not include any facilities for public viewing of the bill or audio or video recording of the proceedings. Minority group members of the House Redistricting Committee, such as Rep. Marc Veasey, vehemently protested the discriminatory redistricting process. The Committee then passed the proposed Senate bill over the objections of all minority members with the exception of Representative Pena (as explained in my prior report) who had switched parties to become a Republican after the 2010 elections.5

---

5 Texas House Redistricting Committee hearing, May 18, 2011
12. In sum, additional evidence and analysis confirms the finding of my initial report that the state-passed State Senate plan eliminated an ability to elect district for minority voters in Tarrant County – existing SD 10. It did so despite substantial and disproportionate growth of minority population in the County since 2000. Additional evidence and analysis also confirms the finding that the fragmentation of the minority population in existing SD 10 represented an intentional effort to weaken the ability of minority voters in Tarrant County to elect candidates of their choice to State Senate District 10.

13. After reviewing the transcript of my deposition given on January 12, 2012, I am submitting two minor corrections and an elaboration on election returns in benchmark Senate District 10.

14. On page 286 of my January 12 deposition, and in my original report in the *Davis v. Perry* litigation in San Antonio, I stated that field hearings on proposed *senate* maps were held in Texas during the post-2000 round of redistricting. Report at page 13. In fact, the field hearings that I recall were held regarding *congressional* redistricting during the summer of 2003 following the regular session of the Texas Legislature. By the summer of 2003, of course, the census data had been out for more than two years and proposed congressional redistricting plans had been made public. The 2003 field hearings that the Texas Legislature conducted gave the public an opportunity to comment on proposed plans. Thus, the point I made in my October 21, 2011 report in *Davis v. Perry* and in my deposition testimony remains valid, that the State has recognized the importance of conducting field hearings and has done so after the census data were released and proposed or alternative redistricting plans could be considered. As sworn Declarations from several legislators made clear, the 2011 redistricting process was one in which the public was largely excluded. Senator Judith Zaffirini, for example, who served on the Senate
Redistricting Committee in 2011 and in previous redistricting cycles, provided a sworn
Declaration that I relied upon that stated as follows:

The public at large was not given adequate opportunity to comment on the plans
being considered by the Texas Legislature. No public hearings on proposed maps
were held outside the State Capitol in Austin. The single public hearing
conducted was held with minimal public notice. Citizens from around our very
large state, particularly those on our southern border and in other areas far from
Austin, were not given adequate notice to arrange travel to Austin, much less time
to review adequately and to develop comments about the proposed plan.


15. The point I made in my original report was that in 2011 the Texas Legislature did not
conduct field hearings that would have given the public greater opportunity to have input into the
process and any proposed plans. The failure to do so, especially given that the Legislature did
conduct field hearings across the State in 2003 during the congressional redistricting process, is
an indicator that the 2011 redistricting process was the product of a racially discriminatory
intent.

16. In my January 12, 2012 deposition at pp. 292-293, when commenting upon the
State's failure to seek or follow legal advice to avoid adopting a discriminatory congressional
plan, I mistakenly opined that attorney Mike Morrison and the other two attorneys advising the
Senate Redistricting Committee in 2011 were employees of the committee. I got this impression
because they spoke about how different and rushed the redistricting process was in 2011 as
compared to how it was in the last cycle, which suggested to me they were in-house legislative
counsel. After conferring with counsel for the Davis Intervenors, and reviewing transcripts of
senate hearings, it is now my understanding that Mr. Morrison and his co-counsel were hired as
outside legal counsel to advise the Senate Redistricting Committee on voting rights matters and
the legality of proposed redistricting plans. The point I was making in my January 12, 2012 deposition was that the Senate Redistricting Committee’s legal counsel had not reviewed the proposed plan, had not conducted any analysis of it, and that the process was different in 2011 than in 2011. Here again, it does not matter whether the legal counsel were in-house or outside counsel specifically retained for purposes of assessing compliance with the Voting Rights Act. The fact that the retained legal counsel had not seen the plan until late in the process and thus had been unable to do any Voting Rights Act analysis of the plan is telling. So too is the fact that these same outside retained attorneys had served as legal counsel in the prior round of redistricting and had noted the differences between the two redistricting cycles. Not having retained legal counsel review the plan and the failure to provide the proposed plan to them in a timely way, particularly when the retained counsel made clear that the 2011 process was much more rushed than the previous process, is a departure from past practice and further proof the 2011 redistricting process was racially discriminatory.

17. Neither of these clarifications changes the substance of my analysis of the Texas Senate and congressional redistricting plans nor my conclusion that the senate and congressional plans were adopted with discriminatory intent. The State did not seek and did not allow meaningful, substantive comment by minority citizens or their elected representatives during the redistricting process. The Anglo senators who controlled the Senate Redistricting Committee neither sought nor permitted the legal counsel specifically retained to provide advice and guidance to the Committee on Voting Rights Act matters to assess the legality of the proposed Senate map that was eventually enacted.

18. Also, in light of questions posed during deposition, I want to provide additional comments to support my analysis that the Senate District 10 campaign in 2008 and Wendy
Davis’ 2008 election demonstrates the ability of African American and Latino voters in the district to elect their candidate of choice.

19. Speculation that Davis’ election in 2008 and the large minority support she received was primarily the result of enthusiasm and political activity generated by top of the ballot Presidential candidate Barrack Obama and Democratic Senatorial nominee Rick Noriega is not supported by data. In the 2008 general election, Senators Davis received 147,832 votes in SD10. Barrack Obama received 143,351 – 4,481 fewer votes than Davis. Rick Noriega received 137,745 – 10,087 fewer votes than Davis. Even though Wendy Davis ran in a down ballot race for State Senate, she received considerably more total votes than Obama for President or Noriega for US Senate, the number one and number two races on the ballot.

20. My analysis of SD10 demonstrated that Davis received more than 90 percent support from black and Latino voters while at least 70 percent of Anglos voted in bloc against her. Given that Davis received significantly more votes than top of the ballot candidates Obama and Noriega and given the relatively low level of support for Davis among Anglo voters, it appears that the Senate District 10 election was generating minority turnout and minority support for Davis beyond any excitement or interest among these voters in Obama or Noriega. In addition, these election results are a further indication of the Tarrant County minority voter coalition’s focus on SD 10 in 2008, as well as the emphasis placed on winning this state senate seat as discussed by Texas Democratic State Party Chair Boyd Richie in his sworn Declaration.
Appendix II: Resume and Table of Cases
Curriculum Vitae

Allan J. Lichtman  
9219 Villa Dr.  
Bethesda, MD 20817  

(301) 530-8262 h  
(202) 885-2411 o  

October, 2011

EDUCATION

BA, Brandeis University, Phi Beta Kappa, Magna Cum Laude, 1967

PhD, Harvard University, Graduate Prize Fellow, 1973

PROFESSIONAL EXPERIENCE

Teaching Fellow, American History, Harvard University, 1969-73

Instructor, Brandeis University, 1970, quantitative history.

Assistant Professor of History, American University, 1973-1977

Associate Professor of History, American University, 1977-1978

Professor of History, American University, 1979 –

Distinguished Professor of History, American University, 2011 -

Expert witness in more than 75 redistricting, voting rights and civil rights cases (see Table of Cases attached)

Associate Dean for Faculty and Curricular Development, College of Arts & Sciences, The American University 1985-1987

Chair, Department of History, American University, 1997- 2001

Regular political analyst for CNN Headline News, 2003-2006

HONORS AND AWARDS

Outstanding Teacher, College of Arts and Sciences, 1975-76
Outstanding Scholar, College of Arts and Sciences, 1978-79

Outstanding Scholar, The American University, 1982-83

Outstanding Scholar/Teacher, The American University, 1992-93 (Highest University faculty award)

Sherman Fairchild Distinguished Visiting Scholar, California Institute of Technology, 1980-81

American University summer research grant, 1978 & 1982

Chamber of Commerce, Outstanding Young Men of America 1979-80

Graduate Student Council, American University, Faculty Award, 1982


National Age Group Champion (30-34) 3000 meter steeplechase 1979

Eastern Region Age Group Champion (30-34) 1500 meter run 1979

Defeated twenty opponents on nationally syndicated quiz show, TIC TAC DOUGH, 1981

Listing in Marquis, WHO’S WHO IN THE AMERICA AND WHO’S WHO IN THE WORLD

McDonnell Foundation, Prediction of Complex Systems ($50,000, three years), 2003-2005

Organization of American Historians, Distinguished Lecturer, 2004 -

Selected by the Teaching Company as one of America’s Super Star Teachers.”

Associate Editor, International Journal of Operations Research and Information Systems, 2008 -

Keynote Speaker, International Forecasting Summit, 2007 and 2008

Cited authoritatively by United States Supreme Court in statewide Texas Congressional redistricting case LULAC v. Perry (2006)

Elected Member, PEN American Center, 2009

SCHOLARSHIP

A. Books


ECOLOGICAL INFERENCE (Sage Series in Quantitative Applications in the Social Sciences, 1978, with Laura Irwin Langbein)

YOUR FAMILY HISTORY: HOW TO USE ORAL HISTORY, PERSONAL FAMILY ARCHIVES, AND PUBLIC DOCUMENTS TO DISCOVER YOUR HERITAGE (New York: Random House, 1978)


THE THIRTEEN KEYS TO THE PRESIDENCY (Lanham: Madison Books, 1990, with Ken DeCell)


FDR AND THE JEWS, Accepted for publication, Harvard University Press, with Richard Breitman.

THE KEYS TO THE WHITE HOUSE, 2012 EDITION (Forthcoming, in press, Lanham: Rowman & Littlefield)
Monograph:


B. Scholarly Articles


"Across the Great Divide: Inferring Individual Behavior From Aggregate Data," POLITICAL METHODOLOGY (with Laura Irwin, Fall 1976) REF

"Regression vs. Homogeneous Units: A Specification Analysis," SOCIAL SCIENCE HISTORY (Winter 1978) REF


"The End of Realignment Theory? Toward a New Research Program for American Political History," HISTORICAL METHODS (Fall 1982)


"Political Realignment and `Ethnocultural` Voting in Late Nineteenth Century America," JOURNAL OF SOCIAL HISTORY (March 1983) REF


"Personal Family History: A Bridge to the Past," PROLOGUE (Spring 1984)

"Geography as Destiny," REVIEWS IN AMERICAN HISTORY (September 1985)


"Discriminatory Election Systems and the Political Cohesion Doctrine," NATIONAL LAW JOURNAL (with Gerald Hebert, Oct. 5, 1987)


"Black/White Voter Registration Disparities in Mississippi: Legal and Methodological Issues in Challenging Bureau of Census Data," JOURNAL OF LAW AND POLITICS (Spring, 1991, with Samuel Issacharoff) REF


"Passing the Test: Ecological Regression in the Los Angeles County Case and Beyond," EVALUATION REVIEW (December 1991) REF


"Adjusting Census Data for Reapportionment: The Independent Role of the States," JOURNAL OF LITIGATION (December 1993, with Samuel Issacharoff)

"The Keys to the White House: Who Will be the Next American President?," SOCIAL EDUCATION 60 (1996)


“History: Social Science Applications,” ENCYCLOPEDIA OF SOCIAL MEASUREMENT (Elseveir, 2006)


“The Updated Version of the Keys,” SOCIAL EDUCATION (October 2008)


"The Alternative-Justification Affirmative: A New Case Form," JOURNAL OF THE AMERICAN FORENSIC ASSOCIATION (with Charles Garvin and Jerome Corsi, Fall 1973) REF


"Policy Dispute and Paradigm Evaluation," JOURNAL OF THE AMERICAN FORENSIC ASSOCIATION (with Daniel Rohrer, Fall 1982) REF

"New Paradigms For Academic Debate," JOURNAL OF THE AMERICAN FORENSIC ASSOCIATION (Fall 1985) REF


"Decision Rules in Policy Debate;" "The Debate Resolution;" "Affirmative Case Approaches;" "A General Theory of the Counterplan;" "The Role of Empirical Evidence in Debate;" and

C. Selected Popular Articles

"Presidency By The Book," POLITICS TODAY (November 1979) Reprinted: LOS ANGELES TIMES

"The Grand Old Ploys," NEW YORK TIMES
Op Ed (July 18, 1980)

"The New Prohibitionism," THE CHRISTIAN CENTURY (October 29, 1980)

"Which Party Really Wants to `Get Government Off Our Backs`?" CHRISTIAN SCIENCE MONITOR Opinion Page (December 2, 1980)

"Do Americans Really Want `Coolidge Prosperity` Again?" CHRISTIAN SCIENCE MONITOR Opinion Page (August 19, 1981)

"Chipping Away at Civil Rights," CHRISTIAN SCIENCE MONITOR Opinion Page (February 17, 1982)


"The Mirage of Efficiency," CHRISTIAN SCIENCE MONITOR Opinion Page (October 6, 1982)

"For RIFs, It Should Be RIP," LOS ANGELES TIMES Opinion Page (January 25, 1983)

"The Patronage Monster, Con`t." WASHINGTON POST Free For All Page (March 16, 1983)

"A Strong Rights Unit," NEW YORK TIMES Op Ed Page (June 19, 1983)

"Abusing the Public Till," LOS ANGELES TIMES Opinion Page (July 26, 1983)

The First Gender Gap," CHRISTIAN SCIENCE MONITOR Opinion Page (August 16, 1983)

"Is Reagan A Sure Thing?" FT. LAUDERDALE NEWS Outlook Section (February 5, 1984)

"The Keys to the American Presidency: Predicting the Next Election," TALENT (Summer 1984)

"GOP: Winning the Political Battle for `88," CHRISTIAN SCIENCE MONITOR, Opinion Page, (December 27, 1984)
"The Return of `Benign Neglect`," WASHINGTON POST, Free For All, (May 25, 1985)


"Democrats Take Over the Senate" THE WASHINGTONIAN (November 1986; article by Ken DeCell on Lichtman’s advance predictions that the Democrats would recapture the Senate in 1986)

"Welcome War?" THE BALTIMORE EVENING SUN, Opinion Page, (July 15, 1987)


"President Bill?," WASHINGTONIAN (October 1992; advance prediction of Bill Clinton's 1992 victory)

"Don't be Talked Out of Boldness,” CHRISTIAN SCIENCE MONITOR, Opinion Page (with Jesse Jackson, November 9, 1992)

"Defending the Second Reconstruction," CHRISTIAN SCIENCE MONITOR, Opinion Page (April 8, 1994)

"Quotas Aren't The Issue," NEW YORK TIMES, Op Ed Page (December 7, 1994)

"History According to Newt," WASHINGTON MONTHLY (May, 1995)


“Race Was Big Factor in Ballot Rejection, BALTIMORE SUN Op Ed (March 5, 2002)

“Why is George Bush President?” NATIONAL CATHOLIC REPORTER (Dec. 19, 2003)


“Why Obama is Colorblind and McCain is Ageless,” JEWISH DAILY FORWARD (June 26, 2008)
“Splintered Conservatives McCain,” POLITICO (June 24, 2008)

“Will Obama be a Smith or a Kennedy,” NATIONAL CATHOLIC REPORTER (October 17, 2008)


Bi-weekly column, THE MONTGOMERY JOURNAL, GAZETTE 1990 - present

Election-year column, REUTERS NEWS SERVICE 1996 & 2000

D. Video Publication


TEACHING

Ongoing Courses


New Courses: Taught for the first time at The American University

Quantification in History, Women in Twentieth Century American Politics, Women in Twentieth Century America, Historians and the Living Past (a course designed to introduce students to the excitement and relevance of historical study), Historians and the Living Past for Honors Students, How to Think: Critical Analysis in the Social Sciences, Pivotal Years of American Politics, Government and the Citizen (Honors Program), Introduction to Historical Quantification, Public Policy in U. S. History, Honors Seminar in U.S. Presidential Elections, America’s Presidential Elections, What Is America?, Honors Seminar on FDR, Jews, and the Holocaust.

TELEVISION APPEARANCES

More than 1,000 instances of political commentary on NBC, CBS, ABC, CNN, C-SPAN, FOX, MSNBC, BBC, CBC, CTV, NPR, VOA, and numerous other broadcasting outlets internationally, including Japanese, Russian, Chinese, German, French, Irish, Austrian,
Australian, Russian, Swedish, Danish, Dutch, and Middle Eastern television.

Regular political commentary for NBC News Nightside.

Regular political commentary for Voice of America and USIA.

Regular political commentary for America’s Talking Cable Network.

Regular political commentary for the Canadian Broadcasting System.

Regular political commentary for CNN, Headline News

Consultant and on-air commentator for NBC special productions video project on the history of the American presidency.

CBS New Consultant, 1998 and 1999

Featured appearances on several History Channel specials including *The Nuclear Football* and *The President’s Book of Secrets*.

**RADIO SHOWS**

I have participated in more than 2000 radio interview and talk shows broadcast nationwide, in foreign nations, and in cities such as Washington, D. C., New York, Atlanta, Chicago, Los Angeles and Detroit. My appearances include the Voice of America, National Public Radio, and well as all major commercial radio networks.

**PRESS CITATIONS**

I have been cited many hundreds of times on public affairs in the leading newspapers and magazines worldwide. These include, among many others,


**SELECTED CONFERENCES, PRESENTATIONS, & LECTURES: UNITED STATES**

Invited participant and speaker, Bostick Conference on Fogel and Engerman’s TIME ON THE CROSS, University of South Carolina, November 1-2, 1974

"A Psychological Model of American Nativism," Bloomsberg State Historical Conference, April 1975

"Methodology for Aggregating Data in Education Research," National Institute of Education, Symposium on Methodology, July 1975, with Laura Irwin

Featured Speaker, The Joint Washington State Bicentennial Conference on Family History, October 1975

Featured Speaker, The Santa Barbara Conference on Family History, May 1976

Chair, The Smithsonian Institution and the American University Conference on Techniques for Studying Historical and Contemporary Families, June 1976

Panel Chair, Sixth International Smithsonian Symposium on Kin and Communities in America, June 1977


Commentator on papers in argumentation, Annual Meeting of the Speech Communication Association, November 1978

Commentator on papers on family policy, Annual Meeting of the American Association for the Advancement of Science, Jan. 1979

"Phenomenology, History, and Social Science," Graduate Colloquium of the Department of Philosophy," The American University, March 1979

"Comparing Tests for Aggregation Bias: Party Realignments of the 1930`s," Annual Meeting of the Midwest Political Science Association March 1979, with Laura Irwin Langbein


"Critical Elections in Historical Perspective: the 1890s and the 1930s," Annual Meeting of the Social Science History Association, November 1982

Commentator for Papers on the use of Census data for historical research, Annual Meeting of the Organization of American Historians, April 1983

"Thirteen Keys to the Presidency: How to Predict the Next Election," Featured Presentation, Annual Conference of the International Platform Association, August 1983, Received a Top Speaker Award


Local Arrangements Chair, Annual Convention of the Social Science History Association, October 1983

"Forecasting the Next Election," Featured Speaker, Annual Convention of the American Feed Manufacturers Association, May 1984

Featured Speaker, "The Ferraro Nomination," Annual Convention of The International Platform Association, August 1984, Top Speaker Award

"Forecasting the 1984 Election," Annual Convention of the Social Science History Association Oct. 1984,

Featured Speaker, "The Keys to the Presidency," Meeting of Women in Government Relations October 1984


Keynote Speaker, Convocation of Lake Forest College, Nov. 1989.

Featured Speaker, The American University-Smithsonian Institution Conference on the Voting Rights Act, April 1990

Panel Speaker, Voting Rights Conference of the Lawyer's Committee for Civil Rights Under Law, April 1990

Panel Speaker, Voting Rights Conference of the NAACP, July 1990

Panel Speaker, Voting Rights Conference of Stetson University, April 1991

Panel Chair, Annual Meeting of the Organization of American Historians, April, 1992

Panel Speaker, Symposium on "Lessons from 200 Years of Democratic Party History, Center for National Policy, May 1992

Olin Memorial Lecture, U.S. Naval Academy, October 1992

Commentator, Annual Meeting of the Organization of American Historians, April, 1993

Panel presentation, Conference on Indian Law, National Bar Association, April 1993

Feature Presentation, Black Political Science Association, Norfolk State University, June 1993
Feature Presentation, Southern Regional Council Conference, Atlanta Georgia, November, 1994

Master of Ceremonies and Speaker, State of the County Brunch, Montgomery County, February, 1996

Feature Presentation, Predicting The Next Presidential Election, Freedom’s Foundation Seminar on the American Presidency, August 1996

Feature Presentation, Predicting The Next Presidential Election, Salisbury State College, October 1996

Feature Presentation on the Keys to the White House, Dirksen Center, Peoria, Illinois, August, 2000

Feature Presentation on American Political History, Regional Conference of the Organization of American Historians, August 2000


Testimony Presented Before the United States House of Representatives, Judiciary Committee, Subcommittee on the Constitution, February 2001

Testimony Presented Before the United States Senate, Government Operations Committee, Regarding Racial Differentials in Ballot Rejection Rates in the Florida Presidential Election, June 2001

Testimony Presented Before the Texas State Senate Redistricting Committee, Congressional Redistricting, July 2003

Testimony Presented Before the Texas State House Redistricting Committee, Congressional Redistricting, July 2003

American University Honors Program Tea Talk on the Election, September 2004


Keynote Speaker, Hubert Humphrey Fellows, Arlington, Virginia, 2007-2008

Feature Presentation, Forecasting 2008, Annual Meeting of the American Political Science Association, Chicago, August 2007

Feature Presentation on the Keys to the White House, Senior Executive’s Service, Washington, DC, June 2008

Feature Presentation, American Political History, Rockford Illinois School District, July 2008

American University Honors Program Tea Talk on the Election, September 2008

Featured Lecture, Keys to the White House, American Association for the Advancement of Science, Washington, DC, September 2008

Keynote Speaker, International Forecasting Summit, Boston, September 2008

Keynote Lecture, Hubert Humphrey Fellows, Arlington, Virginia October 2008

Featured Lectures, Keys to the White, Oklahoma Central and East Central Universities, October 2008

Bishop C. C. McCabe Lecture, "Seven Days until Tomorrow" American University, October 28, 2008

Featured Lecture, WHITE PROTESTANT NATION, Eisenhower Institute, December 2008

American University Faculty on the Road Lecture, "Election 2008: What Happened and Why?" Boston, February 2009

Critic Meets Author Session on WHITE PROTESTANT NATION, Social Science History Association, November 2009

American University Faculty on the Road Lecture, "The Keys for 2012" Chicago, April 2010

Keynote Speaker, Hubert Humphrey Fellows, Arlington, Virginia October, 2010

Panel Participant, Search for Common Ground, Washington, DC, April 2011

SELECTED CONFERENCES, PRESENTATIONS, & LECTURES: INTERNATIONAL

Featured Speaker, World Conference on Disarmament, Moscow, Russia, November 1986

Delegation Head, Delegation of Washington Area Scholars to Taiwan, Presented Paper on the promotion of democracy based on the American experience, July 1993
Lecture Series, American History, Doshisha University, Kyoto, Japan, December 2000

Lectures and Political Consultation, Nairobi, Kenya, for RFK Memorial Institute, October 2002

Featured Lectures, US Department of State, Scotland and England, including Oxford University, University of Edinburg, and Chatham House, June 2004

Keynote Speech, American University in Cairo, October 2004

Feature Presentation on the Keys to the White House, University of Munich, June 2008

Featured Lectures, US Department of State, Russia, Ukraine, Slovenia, Austria, and Romania, 2008-2010

Paper Presentation, Fourth International Conference on Interdisciplinary Social Science, Athens, Greece, July 2009

DEPARTMENTAL AND UNIVERSITY SERVICE

Department of History Council 1973 -

Undergraduate Committee, Department of History 1973-1977

Chair Undergraduate Committee, Department of History 1984-1985

Graduate Committee, Department of History, 1978-1984

Freshman Advisor, 1973-1979

First Year Module in Human Communications, 1977-1979

University Committee on Fellowships and Awards 1976-1978

University Senate 1978-1979, 1984-1985

University Senate Parliamentarian and Executive Board 1978-1979

Founding Director, American University Honors Program, 1977-1979

Chair, College of Arts and Sciences Budget Committee 1977-1978, 1982-1984

University Grievance Committee, 1984-1985

Member, University Honors Committee 1981-1982
College of Arts and Sciences Curriculum Committee 1981-1982

Jewish Studies Advisory Board, 1982-1984

Mellon Grant Executive Board, College of Arts & Sciences, 1982-1983

Chair, College of Arts and Sciences Faculty Colloquium, 1983

Chair, College of Arts and Sciences Task Force on the Department of Performing Arts, 1984-1985

Local Arrangements Chair, National Convention of the Social Science History Association, 1983

Chair, Rank & Tenure Committee of the Department of History, 1981-1982, 1984-1985

Board Member, Center for Congressional and Presidential Studies, The American University, 1988-1989

Chair, Graduate Committee, Department of History, 1989 - 1991

Chair, Distinguished Professor Search Committee 1991

Member, College of Arts & Sciences Associate Dean Search Committee, 1991

Board Member, The American University Press, 1991-1995

Chair, Subcommittee on Demographic Change, The American University Committee on Middle States Accreditation Review 1992-1994

Member, Dean's Committee on Curriculum Change, College of Arts and Sciences 1992-1993

Member, Dean's Committee on Teaching, College of Arts and Sciences 1992

Co-Chair, Department of History Graduate Committee, 1994-1995

Vice-Chair, College of Arts & Sciences Educational Policy Committee, 1994-1995

Elected Member, University Provost Search Committee, 1995-1996

Chair, Search Committee for British and European Historian, Department of History, 1996

Department Chair, 1999-2001
CAS Research Committee, 2006-2007

University Budget and Benefits Committee, 2008

Chair, Personnel Committee, Department of History, 2010-

Chair, Term Faculty Search Committee, Department of History, 2011-

OTHER POSITIONS

Director of Forensics, Brandeis University, 1968-71

Director of Forensics, Harvard University, 1971-72

Chair, New York-New England Debate Committee, 1970-71

Historical consultant to the Kin and Communities Program of the Smithsonian Institution 1974-1979

Along with general advisory duties, this position has involved the following activities:

1. directing a national conference on techniques for studying historical and contemporary families held at the Smithsonian in June 1976.
2. chairing a public session at the Smithsonian on how to do the history of one's own family.
3. helping to direct the Sixth International Smithsonian Symposium on Kin and Communities in America (June 1977).
4. editing the volume of essays from the symposium.

Consultant to John Anderson campaign for president, 1980.

I researched and wrote a study on "Restrictive Ballot Laws and Third-Force Presidential Candidates." This document was a major component of Anderson's legal arguments against restrictive ballot laws that ultimately prevailed in the Supreme Court (Anderson v. Celebreze 1983). According to Anderson's attorney: "the basis for the majority's decision echoes the themes you incorporated in your original historical piece we filed in the District Court."


I advised researchers at the Policy Studies Program on the application of pattern recognition techniques to their work on the recovery of communities from the effects of such natural disasters as earthquakes and floods.

Consultant to the New York City Charter Revision Commission, 2000-2006
I analyzed the implications of non-partisan elections for voting rights issues for the Charter Revision Commissions appointed by mayors Rudy Giuliani and Michael Bloomberg.

ALLAN J. LICHTMAN, CASES (DATES APPROXIMATE)
DEPOSITION, AFFIDAVIT, OR ORAL TESTIMONY

Committee for a Fair and Balanced Map v. Illinois State Bd. (U. S. District Court, Illinois) 2011

Radogno v. Illinois State Bd. of Elections (U. S. District Court, Illinois) 2011

Perez, et al. v. Perry, et al. (U. S. District Court, Texas) 2011

United States vs. Demario James Atwater (U. S. District Court, North Carolina) 2010

Boddie v. Cleveland School Board, Mississippi (U. S. District Court, Mississippi) 2010

Esther V. Madera Unified School District (Superior Court, California) 2008

Negron v. Bethlehem Area School District (U. S. District Court, Pennsylvania) 2008

Farley v. City of Hattiesburg (U. S. District Court, Mississippi) 2008

Jamison v. City of Tupelo (U. S. District Court, Mississippi) 2005

Session v. Perry (U. S. District Court, Texas) 2003

Rodriguez v. Pataki (U. S. District Court, New York) 2003

Boddie v. Cleveland, Mississippi (U. S. District Court, Mississippi) 2003

Levy v. Miami-Dade County (U. S. District Court, Florida) 2002

Martinez v. Bush (U. S. District Court, Florida) 2002

Curry v. Glendening (Maryland, State Court) 2002

O’Lear v. Miller (U. S. District Court, Michigan) 2002

Campuzano v. Illinois Board of Election (U. S. District Court, Illinois) 2002

Vieth v. Commonwealth of Pennsylvania (U. S. District Court, Pennsylvania) 2002

Leroux v. Miller (Michigan, State Supreme Court) 2002
Balderas v. State of Texas (U.S. District Court, Texas) 2001

Del Rio v. Perry (Texas, State Court) 2001

Page V. Bartels (U.S. District Court, New Jersey) 2001

West v. Gilmore (Virginia, State Court), 2001

U.S. v. City of Santa Paula (California, U.S. District Court) 2001

NAACP v. Fordice (Mississippi, U.S. District Court) 2000

Voting Integrity Project v. Marc Fleisher (Arizona, U.S. District Court) 2000

Packingham v. Metropolitan Dade County (U.S. District Court, Florida) 1999

Houston v. Lafayette County (U.S. District Court, Northern District of Mississippi, Western District) 1991, 1998

Citizens to Establish a Reform Party in Arkansas v. Sharon Priest (U.S. District Court, Eastern District of Arkansas) 1996

National Coalition v. Glendening (U.S. District Court, Maryland) 1996

Vecinos de Barrio Uno v. Holyoke (U.S. District Court, Massachusetts), 1996

Scott v. Florida Senate (U.S. District Court, Middle District of Florida) 1995

King v. Board of Elections (U.S. District Court, Northern District of Illinois) 1995

Vera v. Richards (U.S. District Court, Southern District of Texas) 1994

United States v. Jones (U.S. District Court, Southern District of Alabama) 1994

Johnson v. Miller (U.S. District Court, Southern District of Georgia, Augusta Division) 1994

Hays v. Louisiana (U.S. District Court, Western District of Louisiana, Shreveport Division) 1993

People Who Care v. Rockford Board of Education (U.S. District Court, Northern District of Illinois, Eastern Division) 1993

Shaw v. Hunt (U.S. District Court, Eastern District of North Carolina, Raleigh District) 1993

Neff v. Austin (State of Michigan, Supreme Court) 1992

Terrazas v. Slagle (U.S. District Court, Western District of Texas, Austin Division) 1992

Gonzalez v. Monterey County (U.S. District Court, Northern District of California) 1992

DeGrandy v. Wetherell (U.S. District Court, Northern District of Florida, Tallahassee Division) 1992

NAACP v. Austin (U.S. District Court, Eastern District of Michigan, Eastern Division) 1992

Good v. Austin (U.S. District Court, Eastern District of Michigan, Southern Division) 1992

Ortiz v. City of Philadelphia (U.S. District Court, Eastern District of Pennsylvania) 1991-1993

FAIR v. Weprin (U.S. District Court, Northern District, of New York) 1992

Davis v. Chiles (U.S. District Court, Northern District of Florida) 1991

McDaniels v. Mehfoud (U.S. District Court, Eastern District of Virginia) 1991


Ward v. Columbus County (U.S. District Court, Eastern District of North Carolina) 1991

Republican Party State Committee v. Michael J. Connolly (U.S. District Court, Massachusetts) 1991

Jenkins v. Red Clay Consolidated School District (U.S. District Court, District of Delaware) 1991

Watkins v. Mabus (U.S. District Court, Southern District of Mississippi) 1991

Mena v. Richards (Hidalgo County Texas District Court) 1991

Republican Party of Virginia v. Wilder (U.S. District Court, Western District of Virginia) 1991

Nipper v. Chiles (U.S. District Court, Middle District of Florida) 1991-1994

Smith v. Board of Superivsors of Brunswick County (U.S. District Court, Eastern District of...
Virginia) 1991-1992

New Alliance Party v. Hand (U.S. District Court, Alabama) 1990

Concerned Citizens v. Hardee County (U.S. District Court, Florida) 1990

United Parents Association v. NYC Board of Elections (U.S. District Court, New York) 1990

Garza v. County of Los Angeles (U.S. District Court, California) 1990

Person v. Moore County (U.S. District Court, Middle District of North Carolina, Rockingham Division) 1989

Ewing v. Monroe County (U.S. District Court, Northern District of Mississippi) 1989

White v. Daniel (U.S. District Court, Eastern District of Virginia) 1989

Gunn v. Chickasaw County (U.S. District Court, Mississippi) 1989

SCLC v. State of Alabama (U.S. District Court, Middle District of Alabama, Northern Division) 1989-1995

Bradford County NAACP v. City of Starke (U.S. District Court, Middle District of Florida) 1988

PUSH v. Allain (U.S. District Court, Mississippi) 1988

Baltimore Neighborhoods, Inc. v. C.F. Sauers (U.S. District Court, Maryland) 1988

United States v. Wicomico County (U.S. District Court, Maryland) 1988

Metropolitan Pittsburgh Crusade v. City of Pittsburgh (U.S. District Court, Western District of Pennsylvania) 1987

McNeil v. City of Springfield (U.S. District Court, Central District of Illinois) 1987


Robinson v. City of Cleveland (U.S. District Court, Delta District of Mississippi) 1987

Martin v. Allain (U.S. District Court, Southern District of Mississippi) 1987

Smith v. Clinton (U.S. District Court, Eastern District of Arkansas) 1987

Burrell v. Allain (U.S. District Court, Southern District, of Mississippi) 1986
United States v. Dallas County (U.S. District Court, Southern District of Alabama) 1986

United States v. Marengo County (U.S. District Court, Southern District of Alabama) 1986

Jordan v. City of Greenwood (U.S. District Court, Mississippi) 1984

Johnson v. Halifax County (U.S. District Court, Eastern District of North Carolina) 1984

Anderson v. Celebreeze (U.S. District Court, Ohio) 1980
Supplemental Report of Allan J. Lichtman: Texas Congressional Districts, Retrogression and Intentional Discrimination

Allan J. Lichtman
Professor of History
American University
Washington, DC 20016

January 11, 2012

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the information set forth in this report is true and correct to the best of my knowledge and belief.

Allan J. Lichtman
I. Statement of Inquiry

1. This report supplements an earlier report that I submitted in *Perez, et al. v. Perry, et al.*, on congressional and state house redistricting in Texas. In this report I have been asked to consider whether the state-passed proposed plan for congressional districts is retrogressive of minority abilities to elect candidates of their choice to congressional positions. I have also been asked to consider whether the state-passed congressional plan was enacted with discriminatory intent against minority voters in Texas.

2. My expected fee in this matter is $400 per hour. I have enclosed an updated CV and a table of cases in which I have provided written or oral testimony.

II. Summary of Opinions

3. The adopted Texas state plan for congressional districts is retrogressive of the ability of minority voters to elect candidates of their choice to Congress. In addition, the adopted state plan represents intentional discrimination against minority voters in Texas.

III. Qualifications

4. I am a Professor of History at American University in Washington, D.C., where I have been employed for 38 years. I was appointed distinguished professor in 2011. This is the university’s highest academic honor. Formerly I served as Chair of the History Department and Associate Dean of the College of Arts and Sciences at American University. I received my BA in History from Brandeis University in 1967 and my Ph.D in History from Harvard University in 1973, with a specialty in the mathematical analysis of historical data. My areas of expertise include political history, electoral analysis, and historical and quantitative methodology. I am the author of numerous scholarly works on quantitative methodology in social science. This
scholarship includes articles in such academic journals as Political Methodology, Journal of Interdisciplinary History, International Journal of Forecasting, and Social Science History. In addition, I have coauthored Ecological Inference with Dr. Laura Langbein, a standard text on the analysis of social science data, including political information. I have published articles on the application of social science analysis to civil rights issues. This work includes articles in such journals as Journal of Law and Politics, La Raza Law Journal, Evaluation Review, Journal of Legal Studies, and National Law Journal. My scholarship also includes the use of quantitative and qualitative techniques to conduct contemporary and historical studies, published in such academic journals as The Proceedings of the National Academy of Sciences, The American Historical Review, Forecast, and The Journal of Social History. Quantitative and historical analyses also ground my books, Prejudice and the Old Politics: The Presidential Election of 1928, The Thirteen Keys to the Presidency (co-authored with Ken DeCell), The Keys to the White House, and White Protestant Nation: The Rise of the American Conservative Movement. My most recent book, White Protestant Nation, was one of five finalists for the National Book Critics Circle Award for the best general nonfiction book published in America.

5. I have worked as a consultant or expert witness for both plaintiffs and defendants in more than seventy-five voting and civil rights cases. These include several cases in the state of Texas, among them the 2003 congressional redistricting case that became the U. S. Supreme Court case, League of United Latin Am. Citizens (LULAC) v. Perry, 548 U.S. 399 (2006). The majority opinion written by Justice Kennedy authoritatively cited my statistical work several times. In late 2011, I was the expert witness in Illinois for the prevailing state parties in separate
litigation challenging both the adopted state plan for the State House and for Congress.¹ My
work includes more than a dozen cases for the United States Department of Justice and cases for
many civil rights organizations. I have also worked as a consultant or expert witness in defending
enacted plans from voting rights challenges. A copy of my resume and a table of cases are
attached as Appendix I of this report.

IV. Data and Methods

6. The statistical analysis in this report relies on the same standard data and
methodology utilized in social science that I relied upon for my report in Perez, et al. v. Perry, et
al. I have also drawn upon the reports of other experts in the current litigation, as well as
documentary and cartographic evidence. Statistical and map data was obtained from the Texas
Legislative Council.

V. Retrogression of the Ability of Minority Voters to Elect Candidates of Their Choice to
Congressional Positions

7. The benchmark existing congressional plan for assessing retrogression is C100.
Dr. Lisa Handley, the expert witness for the United States Department of Justice, analyzed the
ability of minorities to elect candidates of their choice in 10 majority-minority districts under
Plan C100. Dr. Handley correctly recognized that the ability of minorities to elect candidates of
their choice in a given district cannot be assessed fully from the demographic makeup of the
districts alone. Rather a searching practical inquiry is necessary that focuses on actual election
results within districts. I made this same point in my Perez Report, noting, “Thus minority-
opportunity legislative districts in Texas must be carefully crafted to avoid the defeat of minority

candidates of choice by Anglo bloc voting, especially given turnout differences across counties.”

Both Dr. Handley and I assessed the ability of minorities to elect candidates of their choice in existing congressional districts by reconstituting the results of past elections in those districts.

8. Dr. Handley utilized both an endogenous and an exogenous test for the ability of minorities to elect candidates of their choice in existing congressional districts under C100. For the more probative endogenous test involving elections for Congress, she found that for 7 majority-minority districts with a Latino voting age or citizen voting majority, the Democratic candidate – the candidate of choice of Latino voters in general elections -- prevailed in at least two-thirds of congressional elections held within those districts. She also found that on average in all of these districts the candidates of choice of Latino voters prevailed more than half the time when averaging endogenous and exogenous elections. The state’s expert Dr. John Alford makes a point of noting that in 2010 Republican congressional candidates defeated Democratic incumbents in CD 23 and CD 27, which Dr. Handley assesses as minority ability districts. However, Dr. Alford fails to note that 2010 was an extraordinary year for Republican congressional candidates in the nation and in Texas, although he does note that Republican numbers were low in 2008. Yet 2010 was a far better year for congressional Republicans than 2008 was for congressional Democrats. In addition, an ability district is not one in which the candidate of choice of minorities is guaranteed to prevail no matter what the political circumstances. Indeed, Dr. Alford admits that in his lexicon both existing CD 23 and existing CD

---

3 In some cases, neither the demographic data for a district nor reconstituted election returns can provide an accurate gauge of whether a district provides minority voters with an ability to elect their preferred candidate of choice. In such cases, one must examine the local political dynamics and realities that may have existed in the district.
27 were “opportunity districts” for minority voters. The Democratic congressional candidate prevailed in CD 27 in 2004, 2006, and 2008 and the Democratic candidate prevailed in CD 23 in 2006 (after the district was redrawn pursuant to the Supreme Court decision in *LULAC*) and in 2008.

9. In addition, Dr. Handley also found that for 3 majority-minority districts with at least a 35 percent African American voting age or citizen voting age population, the Democratic candidates of choice of black voters in general elections prevailed in 100 percent of all congressional elections and exogenous elections held within these districts. Thus, Dr. Handley properly concluded that benchmark plan included 10 majority-minority districts in which African Americans or Latinos have the ability to elect candidates of their choice to Congress.

10. There is an additional district in C100 that should also be counted as a district that provides minority voters the ability to elect candidates of their choice to Congress. That is Congressional District 25, in Travis County. This district is majority-minority in total population, but falls just short of a majority in its voting age population as indicated in Table 1. However, this is an effective crossover district that provides minority voters the ability to elect candidates of their choice. As indicated in Table 1 on page 8 of my *Perez* report, Travis County is an exception to the general pattern in Texas of Anglo voters voting against the candidates of choice of minority voters. See Table 1.

<table>
<thead>
<tr>
<th>Plan C100</th>
<th>Percent Anglo VAP</th>
<th>Percent Black VAP</th>
<th>Percent Latino VAP</th>
<th>Percent Black + Latino VAP</th>
<th>Percent Other VAP</th>
<th>Percent Combined Minority VAP</th>
</tr>
</thead>
<tbody>
<tr>
<td>CD 25</td>
<td>54.9%</td>
<td>8.2%</td>
<td>33.8%</td>
<td>41.5%</td>
<td>3.6%</td>
<td>45.1%</td>
</tr>
</tbody>
</table>

5 The analysis is my *Perez* report also clearly shows that in general elections African American and Latino voters overwhelming prefer Democratic candidates, see Table 2, p. 8.
of African Americans and Latinos in general elections. In Travis County there is generally more than sufficient Anglo crossover votes to elect minority candidates of choice.

11. These findings are confirmed by an endogenous and exogenous election analysis that focuses on existing Congressional District 25. The endogenous analysis examines actual congressional election results in existing CD 25; the exogenous analysis examines reconstituted statewide elections in this district. The exogenous analysis considers the same five 2008 and 2010 general elections explored in my Perez report. These contests incorporate a mix of candidates of different races, including a black Democrat vs. a white Republican (2008 president), two Latino Democrats vs. white Republicans (2008 Senate and 2010 Lt. Governor), a white Democrat vs. a white Republican (2010 governor), and a white Democrat vs. a black Republican (2008 State Supreme Court Justice). With respect to the endogenous test, Democratic candidate Lloyd Doggett prevailed in every congressional election held in CD 25 since 2004. Likewise, the results of the reconstituted election analysis reported in Table 2 show that the Democratic candidate prevailed within existing CD 25 in four of five contests. Thus the endogenous win rate for minority voters in CD 25 is 100 percent and the exogenous win rate is 80 percent. Clearly, CD 25 is an existing district that presents minority voters the ability to elect candidates of their choice. Thus, in addition to the 10 districts identified in Dr. Handley’s report, there are a total of 11 benchmark districts in which minority voters have the ability to elect candidates of their choice to Congress.6

---

6 The use of Dr. Handley’s slightly different exogenous test would likewise verify the ability of minorities in CD 25 to usually elect candidates of their choice, with a win rate of 60 percent.
Table 2
Reconstituted General Elections in Existing Congressional District 25 (Plan C100)

2010 General Election

<table>
<thead>
<tr>
<th></th>
<th>Governor</th>
<th>Lt. Governor</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Perry-R</td>
<td>White-D</td>
<td>Dewhurst-R</td>
</tr>
<tr>
<td>Plan C100</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CD 25</td>
<td>41.1%</td>
<td>55.2%</td>
<td>48.1%</td>
</tr>
</tbody>
</table>

Winning Percentage in Bold

2008 General Election

<table>
<thead>
<tr>
<th></th>
<th>President</th>
<th>U.S. Senate</th>
<th>Sup Ct Chief</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>McCain-R</td>
<td>Obama-D</td>
<td>Noriega-D</td>
</tr>
<tr>
<td>Plan C100</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CD 25</td>
<td>39.5%</td>
<td>59.8%</td>
<td>40.7%</td>
</tr>
</tbody>
</table>

Winning Percentage in Bold
12. The state passed proposed congressional plan (C185) results in the retrogression of the ability of minority voters in Texas to elect candidates of their choice to Congress. It does so by reducing the number of minority ability districts from 11 of 32 to 10 of 36. The state-passed proposed Plan C185 has thirteen districts with voting age majority minority populations. However, as demonstrated in my Perez report, three of those districts do not nearly provide minority voters the ability to elect candidates of their choice. These are proposed CD6, CD 23, and CD 27. The results reported in Table 8 on page 17 of my Perez report and reproduced as Table 3 below, show that in every one of the three districts the minority voters’ candidate of choice lost all five general elections studies in 2008 and 2010, usually by quite wide margins. In short, Latino and African-American voters, despite their near-unanimity in support of Democratic nominees, do not come close to electing candidates of their choice in these three Congressional Districts included in the state-passed proposed Plan C185. Thus the win rate for minority voters in these districts is 0 percent. The subtraction of these three districts leaves the state-passed proposed Plan with only ten effective majority-minority ability districts.\(^7\)

13. The state-passed proposed plan also dismantled Travis County CD 25, the 11\(^{th}\) minority ability to elect district in the existing benchmark plan. Plan 185 splinters Travis County into five separate districts: CD 10 (24 percent), CD 17 (13 percent), CD 21 (18 percent), CD 25 (24 percent), and CD 35 (21 percent). No more than 24 percent of Travis County is in any proposed district, even though Travis County contains considerably more population than needed for a single congressional district. The new districts comprising fragments of Travis County are

---

\(^7\) Endogenous tests cannot be conducted on proposed districts, which do not coincide with existing districts in which congressional elections have actually taken place.
Table 3
Reconstituted Election Returns Non-effective Voting Age Majority Minority Districts in State-Passed proposed Plan 185: Sorted From Highest to Lowest Minority Percentage

2010 General Election

<table>
<thead>
<tr>
<th>Cong. District State Plan 185</th>
<th>Governor</th>
<th>Lt. Governor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Perry-R</td>
<td>White-D</td>
</tr>
<tr>
<td>23</td>
<td>53.49%</td>
<td>43.75%</td>
</tr>
<tr>
<td>6</td>
<td>54.74%</td>
<td>41.95%</td>
</tr>
<tr>
<td>27</td>
<td>57.28%</td>
<td>40.05%</td>
</tr>
</tbody>
</table>

Winning Percentage in Bold

2008 General Election

<table>
<thead>
<tr>
<th>Cong. District State Plan 185</th>
<th>President</th>
<th>U.S. Senate</th>
<th>Sup Ct Chief</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>McCain-R</td>
<td>Obama-D</td>
<td>Cornyn-R</td>
</tr>
<tr>
<td>23</td>
<td>51.64%</td>
<td>47.52%</td>
<td>50.06%</td>
</tr>
<tr>
<td>6</td>
<td>56.62%</td>
<td>42.51%</td>
<td>54.92%</td>
</tr>
<tr>
<td>27</td>
<td>58.95%</td>
<td>40.12%</td>
<td>56.43%</td>
</tr>
</tbody>
</table>

Winning Percentage in Bold
all dominated by Anglo Republicans, in which minorities have no ability to elect candidates of their choice. There is no substitute crossover district in the state-passed plan for the dismembered existing CD 25. Thus, the state-passed proposed plan has the effect of retrogressing minority voter opportunities by reducing minority ability to elect districts from 11 of 32 to 10 of 36. This means that Anglo voters control the outcomes of electoral results in 26 of 36 congressional districts, equal to 72 percent (23 Anglo majority districts plus the three majority-minority districts that reflect Anglo preferences), compared to 11 of 32 under the existing plan, equal to 66 percent (10 effective majority-minority districts plus crossover CD 25). As indicated below, the Anglo percent of Texas’s citizen voting age population (59%) equals only 21.24 districts (.59 * 36). Thus, there is retrogression.

VI. Intentional Discrimination Against Minority Voters

14. Dr. Theodore Arrington and Dr. J. Morgan Kousser in their reports carefully examined the issue of intentional discrimination against minority voters in the crafting of congressional districts. This analysis expands upon and adds to the findings of those reports.8

First, it is important to consider demographic changes in the state of Texas since the 2000 Census. From 2000 to 2010 the total population of Texas rose from 20,851,820 to 25,145,561, an increase of 20.6 percent that netted Texas an additional four Congressional seats. Thus, in the post-2010 redistricting, the state had the opportunity to draw 36 rather than the previous 32 districts.

15. Latinos and African Americans accounted for most of Texas’s population growth since 2000 that led to this expanded number of districts. And all minority groups combined

---


11
accounted for nearly all of Texas’s population growth. As indicated in Table 4, African Americans and Latinos accounted for 78.7 percent of the Texas total population growth between 2000 and 2010. All minorities combined accounted for 89 percent of the Texas total population growth since 2000; Anglos accounted for only 11 percent of that growth. As a result of their rapid growth, African Americans and Latinos have come to comprise nearly a majority of the Texas’s total population in 2010 – 49.6 percent. All minority groups combined comprise a majority of Texas’s total population – 54.6 percent, with Anglos in the minority. With respect to voting age population, as indicated in Table 5, African Americans and Latinos also accounted for 70.3 percent of the growth in Texas’s voting age population. As a result of the disproportionate growth in Texas’s minority population, Table 5 demonstrates that African Americans and Latinos in 2010 comprise 45.2 percent of Texas’s voting age population and minorities combined comprise 50.3 percent. As further indicated in Table 6, African Americans and Latinos also comprise 37.2 percent of the state’s citizen voting age population, which translates proportionately into 13.39 congressional districts (.372 * 36 = 13.39). Taken together, all minorities comprise 41 percent of the 2010 citizens voting age population and Anglos comprise 59 percent. That translated proportionately into 21.24 Anglo districts.9

16. In creating only 10 ability to elect majority-minority districts and wiping out the only effective crossover district for minorities (CD 25), the state-passed proposed plan

---

### Table 4
Population Change in Texas by Racial Group, 2000-2010

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>2000</th>
<th>% 2000</th>
<th>2010</th>
<th>% 2010</th>
<th>Increase</th>
<th>% Tot. Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hispanic</td>
<td>6,669,666</td>
<td>31.9%</td>
<td>9,460,921</td>
<td>37.4%</td>
<td>2,791,255</td>
<td>63.7%</td>
</tr>
<tr>
<td>African American</td>
<td>2,493,057</td>
<td>11.9%</td>
<td>3,168,469</td>
<td>12.5%</td>
<td>675,412</td>
<td>15.4%</td>
</tr>
<tr>
<td><strong>Black+Hispanic</strong></td>
<td><strong>9,099,632</strong></td>
<td><strong>43.6%</strong></td>
<td><strong>12,480,239</strong></td>
<td><strong>49.6%</strong></td>
<td><strong>3,380,607</strong></td>
<td><strong>78.7%</strong></td>
</tr>
<tr>
<td>Anglo</td>
<td>10,933,313</td>
<td>52.3%</td>
<td>11,397,345</td>
<td>45.1%</td>
<td>464,032</td>
<td>10.6%</td>
</tr>
<tr>
<td>Other</td>
<td>818,875</td>
<td>3.9%</td>
<td>1,267,977</td>
<td>5.0%</td>
<td>449,102</td>
<td>10.3%</td>
</tr>
</tbody>
</table>

### Table 5
Voting Age Population Change in Texas by Racial Group, 2000-2010

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>2000</th>
<th>% 2000</th>
<th>2010</th>
<th>% 2010</th>
<th>Increase</th>
<th>% Tot. Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hispanic</td>
<td>4,282,901</td>
<td>28.6%</td>
<td>6,143,144</td>
<td>33.5%</td>
<td>1,860,243</td>
<td>55.5%</td>
</tr>
<tr>
<td>African American</td>
<td>1,688,638</td>
<td>11.3%</td>
<td>2,196,259</td>
<td>12.0%</td>
<td>507,621</td>
<td>15.1%</td>
</tr>
<tr>
<td><strong>Black+Hispanic</strong></td>
<td><strong>5,940,657</strong></td>
<td><strong>39.7%</strong></td>
<td><strong>8,271,192</strong></td>
<td><strong>45.2%</strong></td>
<td><strong>2,330,535</strong></td>
<td><strong>70.3%</strong></td>
</tr>
<tr>
<td>Anglo</td>
<td>8,426,166</td>
<td>56.2%</td>
<td>9,074,684</td>
<td>49.5%</td>
<td>648,518</td>
<td>19.3%</td>
</tr>
<tr>
<td>Other</td>
<td>598,238</td>
<td>4.0%</td>
<td>933,861</td>
<td>5.1%</td>
<td>335,623</td>
<td>10.0%</td>
</tr>
</tbody>
</table>

### Table 6
Citizen Voting Age Population in Texas by Racial Group, 2010

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>2010</th>
<th>% 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hispanic</td>
<td>3,679,230</td>
<td>24.7%</td>
</tr>
<tr>
<td>African American</td>
<td>1,861,959</td>
<td>12.5%</td>
</tr>
<tr>
<td><strong>Black+Hispanic</strong></td>
<td><strong>5,541,189</strong></td>
<td><strong>37.2%</strong></td>
</tr>
<tr>
<td>Anglo</td>
<td>8,788,445</td>
<td>59.0%</td>
</tr>
<tr>
<td>Other</td>
<td>566,035</td>
<td>3.8%</td>
</tr>
</tbody>
</table>
significantly fails to reflect the predominantly minority growth in population since 2000 and falls far short of rough proportionality relative to citizen voting age population in the number of minority voters’ ability to elect districts. Likewise the state has created a plan with 72 percent of districts (26 districts) controlled by Anglos who comprise only 59 percent of the Texas’s citizen voting age population (21.24 districts). These widely disproportionate results between the number of ability to elect districts in the state’s proposed plan and the percentage and amount of minority growth in the population are strong indications of an intentional effort to avoid the creation of minority ability districts. As the Arrington and Kousser reports indicate, the state-passed congressional districts cannot be explained by traditional redistricting principles. To the contrary, the reports show that the state-passed proposed districts violate such principles.

17. An intentional effort by the state to fragment minority voter strength to avoid the creation of minority ability to elect districts is further demonstrated by examining the Dallas County and Tarrant County region of the state in north Texas. Map1, an outline of the state-passed plan in the region demonstrates the bizarre configuration of many of these congressional districts, especially CD 12, CD 26, and CD 33 on the Tarrant County side. Typically, litigants have challenged bizarrely shaped districts as indicia of predominantly racially-driven redistricting with the intent to concentrate minority voters in districts. In this case, the bizarrely shaped districts are indicia of predominantly racially-driven redistricting with the intent to fragment minority communities in order to avoid creating minority ability to elect districts. Instead, minority voters are stranded in Anglo-dominated districts in which they have no ability to elect candidates of their choice to Congress. District 26 under the state-passed proposed plan, for example, knifes down with a long snake-like extension from Denton County into Tarrant County. This extension divides District 12 essentially in half, making the District barely
contiguous. As indicated in Map 2, this lightning bolt extension of CD 26 is configured to slice out of District 12 areas of substantial minority concentration, which are then linked with the predominantly Anglo population in Denton County to the north. As further indicated in Map 3 this extension of CD 26 into CD 12 is even more precisely calibrated in its twists and turns to pick up specifically Latino areas of concentration, while African American areas are left stranded in CD 12. This exquisitely designed construction can have no other plausible purpose other than to prevent the formation of a Tarrant County-based majority-minority district that could provide minorities the ability to elect candidates of their choice to Congress.\(^\text{10}\)

18. District 33 in the state-passed plan has a strangely shaped arm that extends from predominantly Anglo Parker County into minority concentration areas of Tarrant County as demonstrated in Map 4. It has another extension as well into predominantly Anglo Wise County. Again, this very deliberate configuration additionally serves to prevent the creation of a majority-minority ability to elect district in Tarrant County. As indicated in Table 7, CDs 12, 26, and 33 are all Anglo-dominated districts. In all of these districts, Anglo candidates (Republicans) easily prevailed in all five of the elections examined in this study. As demonstrated above, CD 6 is nominally majority-minority, but it is configured in such a way as to provide minority voters with no ability to elect candidates of their choice to Congress.

19. State plan drawer Ryan Downton provided a thin rationale for the lightning bolt appendage of jagged District 26 that dips down into Tarrant County. He testified that the strange shape of the lightning bolt resulted from the State’s desire to include an economic development area known as Trinity Vision within District 12 and not any desire to capture Hispanic voters. This testimony is implausible on its face that such a carefully designed extensive bisecting of

\(^\text{10}\) Kousser Declaration, pp. 119-122.
Map 1
Congressional Districts in Dallas/Tarrant Region, State-Passed Proposed Plan, C185
Map 2
Congressional District 26, Extension into Congressional District 12
State-Passed Proposed Plan C 185, The Darker Blue Areas Are the Most Heavily Black and Hispanic
Map 3
Hispanic Concentration Areas Taken in By the Extension of CD 26 Into CD 12,
State-Passed Proposed Plan C 185, Hispanic Areas in Green

Congressional District 12
as Enacted by the 82nd Legislature
with Hispanic Population

Source: 2000 Census PLANCUS

Wise | Denton

Johnson | Ellis
Map 4
Congressional District 33: State-Passed Proposed Plan C 185, The Darker Blue Areas Are the Most Heavily Black and Hispanic

Table 7
Demography of State-Passed Proposed CD 12, CD 26, and CD 33, Plan C185

<table>
<thead>
<tr>
<th>Plan C100</th>
<th>Percent Anglo VAP</th>
<th>Percent Black VAP</th>
<th>Percent Latino VAP</th>
<th>Percent Black + Latino VAP</th>
<th>Percent Other VAP</th>
<th>Percent Combined Minority VAP</th>
</tr>
</thead>
<tbody>
<tr>
<td>CD 12</td>
<td>59.7%</td>
<td>14.8%</td>
<td>21.0%</td>
<td>35.5%</td>
<td>4.9%</td>
<td>40.4%</td>
</tr>
<tr>
<td>CD 26</td>
<td>61.9%</td>
<td>7.5%</td>
<td>24.7%</td>
<td>32.0%</td>
<td>6.1%</td>
<td>38.1%</td>
</tr>
<tr>
<td>CD 33</td>
<td>58.9%</td>
<td>15.5%</td>
<td>19.8%</td>
<td>34.9%</td>
<td>6.2%</td>
<td>41.1%</td>
</tr>
</tbody>
</table>
CD 12 could be justified by this purpose. It is also contradicted by the facts. In a letter to the Department of Justice, Tarrant County Commissioner Roy Brooks, a member of the Trinity Vision Authority Board of Directors, noted that the Trinity Vision project is currently located in benchmark District 12, Kay Granger’s district. Commissioner Brooks also noted, that “the cuts around the Trinity Vision site are caused by the shift of CD26 to the west to pick up Hispanic neighborhoods” (as indicated above). Under the benchmark plan, the boundaries District 26 lie comfortably to the east of the Trinity Vision project. There was no need to move District 26 boundaries to the west except to capture and absorb Hispanic neighborhoods that would have more logically remained in District 12. Mr. Downton, who drew this configuration for the State of Texas, admitted during the San Antonio case (Perez v. Perry) that as a result of the configuration, CD 26 is now a “very strange shape”. Additionally, Commissioner Roy Brooks noted that a map presented by “Representative Veasey easily retained the Trinity Vision site within CD12 while also drawing an additional Hispanic opportunity district (CD34) and an additional African American opportunity district (CD35).”11 Thus, retaining the Trinity Vision project in CD 12 does not explain CD 26’s lightening bolt cut into Tarrant County and the concomitant fracturing of the mostly minority voters in that region of Tarrant County.

20. Under the state-passed proposed plan, the only effective majority-minority ability district in the entire Dallas and Tarrant County region is CD 30. However, as indicated in Table 8, the creators of the state-passed plan packed this already effective ability to elect district with additional minorities. Those added minority voters were not necessary to provide minorities the ability to elect candidates of their choice; minority voters already possessed that ability. Even with the lesser minority percentage under existing plan C100, District 30 was a 100 percent

11 Roy Brooks to Tim Mellett, 15 September 2011. Letter provided to me at the direction of Counsel.
effective minority ability district under Dr. Handley’s endogenous and exogenous tests. In the 2010 election, which was generally highly favorable to Republicans, incumbent African American Congressional Representative Eddie Bernice Johnson prevailed in existing CD 30 with a whopping 75.7 percent of the vote in a three candidate race. As indicated in Table 9, in the five general elections utilized for this study, the Democratic candidate prevailed in existing CD 30, with an average of 80 percent of the total vote cast. By expanding the minority population of CD 30, the state has deliberately created a heavily packed district that wastes many minority votes and diminishes the possibility of placing minority voters into an additional ability to elect district in the North Texas region of the State.

21. Packed CD 30 under the state-passed proposal plan is the only minority-majority ability district in the Dallas County and Tarrant County region, despite a large and growing African American and Latino population, which along with the maps and the packing of CD 30 provides further evidence of the state’s intentional effort to diminish the ability of minority voters to elect candidates of their choice to Congress in this region. All other districts in this North Texas region are effectively controlled by Anglos in their electoral composition. The state’s proposed plan maintains one effective (and packed) minority ability to elect district in this entire region, despite a rapidly growing and large minority population and a decreasing Anglo population. Table 10 demonstrates that since 2000 the Latino population in Dallas and Tarrant Counties has grown by 83.7 percent, the African American population by 34.1 percent, and population of other minorities by 12.0 percent. In contrast, the Anglo population in Dallas and Tarrant Counties has declined by 29.8 percent since 2000. Table 10 further demonstrates that African American and Latinos now comprise a majority of the population of these two counties – 52.6 percent. When all minorities are considered, Anglos comprise only 41 percent of the
### Table 8
Packing of CD 30 Under State-Passed Proposed Plan: Comparison of Demographic Under Existing Plan C100 and State-Passed C185

<table>
<thead>
<tr>
<th></th>
<th>Percent Anglo VAP</th>
<th>Percent Black VAP</th>
<th>Percent Latino VAP</th>
<th>Percent Black + Latino VAP</th>
<th>Percent Other VAP</th>
<th>Percent Combined Minority VAP</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLAN C100</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CD 30</td>
<td>21.1%</td>
<td>42.5%</td>
<td>34.7%</td>
<td>76.7%</td>
<td>2.2%</td>
<td>78.9%</td>
</tr>
<tr>
<td>PLAN C185</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CD 30</td>
<td>16.6%</td>
<td>46.5%</td>
<td>35.6%</td>
<td>81.5%</td>
<td>1.8%</td>
<td>83.3%</td>
</tr>
</tbody>
</table>

### Table 9
Reconstituted Election Returns Existing CD 30, Plan C100

#### 2010 General Election

<table>
<thead>
<tr>
<th></th>
<th>Governor</th>
<th>Lt. Governor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cong. District</td>
<td>Perry-R</td>
<td>Dewhurst-R</td>
</tr>
<tr>
<td>Existing Plan C100</td>
<td>White-D</td>
<td>Chavez-Thompson-D</td>
</tr>
<tr>
<td>30</td>
<td>17.7%</td>
<td>20.2%</td>
</tr>
</tbody>
</table>

Winning Percentage in Bold

#### 2008 General Election

<table>
<thead>
<tr>
<th></th>
<th>President</th>
<th>U.S. Senate</th>
<th>Sup Ct Chief</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cong. District</td>
<td>McCain-R</td>
<td>Obama-D</td>
<td>Noriega-D</td>
</tr>
<tr>
<td>Existing Plan C100</td>
<td>Cornyn-R</td>
<td>Jefferson-R</td>
<td>Jordan-D</td>
</tr>
<tr>
<td>30</td>
<td>17.9%</td>
<td>18.9%</td>
<td>17.7%</td>
</tr>
</tbody>
</table>

Winning Percentage in Bold
### Table 10
**Tarrant and Dallas County Population and Growth in Population by Race, 2000 to 2010**

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>2000</th>
<th>% 2000</th>
<th>2010</th>
<th>% 2010</th>
<th>Increase</th>
<th>% Tot. Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hispanic</td>
<td>948,019</td>
<td>25.8%</td>
<td>1,388,917</td>
<td>33.0%</td>
<td>440,898</td>
<td>83.7%</td>
</tr>
<tr>
<td>African American</td>
<td>655,198</td>
<td>17.8%</td>
<td>834,517</td>
<td>19.9%</td>
<td>179,319</td>
<td>34.1%</td>
</tr>
<tr>
<td><strong>Black+Hispanic</strong></td>
<td><strong>1,592,155</strong></td>
<td><strong>43.4%</strong></td>
<td><strong>2,197,799</strong></td>
<td><strong>52.6%</strong></td>
<td><strong>605,644</strong></td>
<td><strong>118.3%</strong></td>
</tr>
<tr>
<td>Anglo</td>
<td>1,878,570</td>
<td>51.1%</td>
<td>1,721,828</td>
<td>41.0%</td>
<td>-156,742</td>
<td>-29.8%</td>
</tr>
<tr>
<td>Other</td>
<td>194,393</td>
<td>5.3%</td>
<td>257,546</td>
<td>6.1%</td>
<td>63,153</td>
<td>12.0%</td>
</tr>
</tbody>
</table>

### Table 11
**Tarrant and Dallas County VAP and Growth in Population by Race, 2000 to 2010**

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>2000</th>
<th>% 2000</th>
<th>2010</th>
<th>% 2010</th>
<th>Increase</th>
<th>% Tot. Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hispanic</td>
<td>601,085</td>
<td>22.7%</td>
<td>868,001</td>
<td>28.7%</td>
<td>266,916</td>
<td>69.8%</td>
</tr>
<tr>
<td>African American</td>
<td>437,902</td>
<td>16.6%</td>
<td>574,872</td>
<td>19.0%</td>
<td>136,970</td>
<td>35.8%</td>
</tr>
<tr>
<td><strong>Black+Hispanic</strong></td>
<td><strong>1,033,366</strong></td>
<td><strong>39.1%</strong></td>
<td><strong>1,430,947</strong></td>
<td><strong>47.4%</strong></td>
<td><strong>397,581</strong></td>
<td><strong>105.7%</strong></td>
</tr>
<tr>
<td>Anglo</td>
<td>1,464,967</td>
<td>55.4%</td>
<td>1,394,819</td>
<td>46.1%</td>
<td>-70,148</td>
<td>-18.3%</td>
</tr>
<tr>
<td>Other</td>
<td>141,282</td>
<td>5.3%</td>
<td>190,083</td>
<td>6.3%</td>
<td>48,801</td>
<td>12.8%</td>
</tr>
</tbody>
</table>
population of the two counties. With respect to voting age population, Table 11 demonstrates that since 2000 the Latino voting age population in Dallas and Tarrant Counties has grown by 69.8 percent, the African American population by 35.8 percent, and the other population by 12.8 percent. In contrast the Anglo voting age population in Dallas and Tarrant Counties has declined by 18.3 percent since 2000. Table 11 further demonstrates that African American and Latinos now comprise 47.4 percent of the voting age population of these two counties. When all minorities are considered, Anglos comprise only 46.1 percent of the voting age population of the two counties.

22. As indicated in outline Map 6, the San Antonio court-ordered interim plan (C220) shows that it is feasible to create much more compact districts in the Dallas-Tarrant region using neutral redistricting principles and reflecting the minority growth and current minority population in the region. The court-ordered congressional plan resulted in the creation of an additional majority-minority ability to elect district - CD 33 - compared to the state-passed plan. Map 7 in this Report shows that newly drawn CD 33 in the court-ordered interim plan (C220) incorporates most of the Hispanic communities included within the lightning bolt extension of CD 26 under the state-passed proposed plan. Map 8 in this Report further demonstrates how CD33 incorporates both Hispanic and African American population areas. As indicated in Table 12, CD 33 under the Court-order plan is 60.7 in its African American and Latino voting age population, and 67.4 percent combined minority in its voting age population. As indicated in Table 13, minority preferred candidates prevailed in court-ordered CD 33 in all five elections studied. In sum, Texas packed minority voters into CD 30 under their enacted plan and fractured minority population concentrations into other congressional districts in the Dallas-
Map 7
Congressional District 33 Under Court-Ordered Plan, Hispanic Population Included
Map 8
Congressional District 33 Under Court-Ordered Plan, African American+ Hispanic Population Included
### Table 12
Demography of Court-ordered District 33 (Plan C22)

<table>
<thead>
<tr>
<th>Plan C220</th>
<th>Percent Anglo VAP</th>
<th>Percent Black VAP</th>
<th>Percent Latino VAP</th>
<th>Percent Black + Latino VAP</th>
<th>Percent Other VAP</th>
<th>Percent Combined Minority VAP</th>
</tr>
</thead>
<tbody>
<tr>
<td>CD 33</td>
<td>32.6%</td>
<td>26.3%</td>
<td>34.9%</td>
<td>60.7%</td>
<td>6.7%</td>
<td>67.4%</td>
</tr>
</tbody>
</table>

### Table 13
Reconstituted Election Returns Court-Ordered CD 33, Plan C220

#### 2010 General Election

<table>
<thead>
<tr>
<th>Cong. District Court-Ordered Plan C220</th>
<th>Governor</th>
<th>Lt. Governor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Perry-R</td>
<td>White-D</td>
</tr>
<tr>
<td>33</td>
<td>37.0%</td>
<td><strong>60.6%</strong></td>
</tr>
</tbody>
</table>

Winning Percentage in Bold

#### 2008 General Election

<table>
<thead>
<tr>
<th>Cong. District Court-Ordered Plan C220</th>
<th>President</th>
<th>U.S. Senate</th>
<th>Sup Ct Chief</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>McCain-R</td>
<td>Obama-D</td>
<td>Cornyn-R</td>
</tr>
<tr>
<td>33</td>
<td>36.8%</td>
<td><strong>62.5%</strong></td>
<td>36.5%</td>
</tr>
</tbody>
</table>

Winning Percentage in Bold
Fort Worth region of Texas to prevent the creation of a new ability to elect district that could easily be drawn. As the court-ordered plan by the San Antonio court showed, such a district emerges simply by respecting the minority population growth in that region. The fact that the State of Texas failed to draw this minority voter ability to elect district in the face of this evidence is an indication of racially discriminatory intent.

23. Regarding intentional discrimination, it is also important to note that the exclusion of minorities and those representing majority-minority districts from the redistricting process described in my State Senate Report also applies to the process for creating congressional districts in Texas. In an August 24, 2011 letter to the U. S. Department of Justice, Senate Redistricting Committee members Judith Zaffirini, a Latino, and Royce West, an African American, wrote that, “the congressional redistricting plan adopted by the State of Texas is the product of a discriminatory process…” They were joined in the letter by African American Senator Rodney Ellis. The Senators documented this charge with considerable information. Along with other evidence of a discriminatory process, they cited the following:12

* The only field hearings on congressional redistricting were held in 2010 before the release of redistricting Census data or any proposed plan.

* Congressional redistricting was not addressed by the Legislature during its entire regular session, which lasted for three months after the release of the Census data.

* During consideration of congressional redistricting in the special session, only one hearing was held in the State House and only one hearing was held in the State Senate during which the public was allowed to view and comment upon the state’s proposed plan.

12 Letter provided to me at the direction of counsel.
* While detailed maps and plans were discussed between Anglo legislators and Anglo members of Congress, minority legislators and minority group members (including minority members of the redistricting committees) were not included.

* Legislators who represent predominantly minority voters did not have an opportunity to see, review, or comment about any proposed plan until it was, in effect, a fait accompli.

* The Senate Redistricting Committee held only one hearing on the bill, just three days after its introduction, and ignored the almost unanimous opposition from those testifying on the State’s proposed congressional plan.

* Under questioning by Senators Zaffirini and West, Committee Chairman Kel Seliger could produce no evidence of minority involvement in the proposed congressional redistricting bill.

* As acknowledged by legal counsel hired by the Senate, the congressional redistricting process was extremely truncated as compared to previous redistricting cycles.

* All members of the Senate representing majority-minority districts voted against the congressional redistricting plan.

24. Transcripts of the Senate Redistricting Committee hearings on June 3, 2011 also provide contemporaneous, impartial evidence from the State’s Committee counsel of a closed, discriminatory process for drawing new congressional districts. In response to questions from minority Senators, legal counsel for the Redistricting Committee (Mike Morrison) disclosed that in contrast to the previous redistricting process, the Committee counsel had no input on the creation of the congressional plan. He stated, “this process has been quite different from what we’ve seen in the past. We didn’t get to Congressional; we didn’t see a plan until the regular session ended. Nobody has had the opportunity to study it the way it has been done in the past or
the way you do it ideally.” (Senate Redistricting Committee Hearing Transcript, June 3, 2011, 4:51:42, http://www.senate.state.tx.us/75r/Senate/commit/c625/c625.htm) The counsel indicated he had first seen the plan the morning of its submission and also indicated that generally the post-2010 process was fundamentally different from the previous process: “We went all over the state as you said earlier today. We spent 16 hours in one place, 20 in another. We sat down in your office, we visited. We hired experts to do retrogression analysis and if time permits that would be the way to do it this time.” (Transcript, 4:52:27) The Committee counsel also indicated that they did not provide any input on whether the congressional plan complied with Section 5 of the Voting Rights Act. (Transcript, 5:05-14 to 5:06:27).

25. As with the State Senate plan, the Texas congressional redistricting plan was adopted under conditions of considerable racial animosity and polarization. The Texas voter ID bill, for example, which was enacted in 2011, caused considerable racial tension in the Legislature. A news article entitled “Racial Tensions Wreck Capital,” by the Amarillo Globe-News, on June 18, 2011 noted, “Racial tensions flare up every now and then at the State Capitol. But few times in recent history has the tension lasted as long as it did this week.” The article cited the congressional redistricting legislation voted on that week by the State House as a cause of this tension, among other issues. A week later the editor of the San Antonio Express-News noted “Is it just me, or is the distinct scent of ethnic and racial tension in the air more than usual in San Antonio, blowing down Interstate 35 from the state capitol?” He also cited racial conflicts over congressional redistricting, immigration, and education. At a time when Hispanic growth is redefining Texas and the nation, he said, “It seems like a really bad time, then, to return to a time defined by racial, ethnic and education inequality, just when we can clearly see the future, a
shared future."13

26. In sum, the state-passed proposed congressional redistricting plan results in the retrogression of the ability of minority voters to elect candidates of their choice to Congress. It reduces the number of minority ability congressional districts in the state of Texas from 11 of 32 districts to 10 of 36 districts. The congressional redistricting plan also represents intentional discrimination against minority voters. This purposeful discrimination is disclosed in the failure of the plan to reflect the dramatic, explosive minority population growth in Texas and the current substantial minority component of the state’s population. This failure cannot be explained by an attempt to conform to traditional districting principles. The purposeful discrimination is also reflected in the drawing of bizarrely shaped districts to avoid creating majority-minority ability districts. In addition, it is reflected in a truncated, closed, and exclusionary redistricting process conducting under conditions of racial tension and polarization in Texas.

---