

fees and extra-legal practices, usurious taxes, harassment by American squatters, and periodic floods and drought destroyed the land tenure of the great majority of Mexican Americans. The loss of their lands precipitated a catastrophic decline into poverty for Mexican Americans and resulted in their being largely excluded from political participation by the 1870s.

6) Involvement in the new American political system was key for the Mexican Americans in Los Angeles County, Santa Barbara County and San Diego County, the areas of population concentration for the group in the second half of the nineteenth century. Unlike Spanish-speaking communities in northern California, which were quickly eclipsed as a result of the changes brought by the Gold Rush after 1849, Mexican Americans in southern California continued to hold on precariously to their way of life until the 1870s. During the 1850s and 1860s, Mexican Americans shared political office holding with an increasing number of Anglos who moved to the growing towns of the region. However, as soon as Anglo Americans reached majority status in southern California towns by the 1860s and 1870s, they systematically moved to exclude Spanish-speaking citizens from meaningful participation in local affairs. Fewer and fewer Spanish-surnamed candidates appeared in elections as Anglos secured the reigns of political power. With few exceptions, polarized racial voting patterns emerged as soon as Anglos achieved numerical superiority and as they moved to dilute Mexican Americans' political power. In the City of Santa Barbara, for example, Anglo politicians in the 1870s changed the system of at-large voting to a single-member ward system thereby concentrating Mexican American voters into a specified district that ensured that they would elect only one representative who would be totally powerless against four candidates elected from the Anglo slate. To make matters worse, Mexican Americans were denied participation in the Democratic Party Central Committee in the

county and later banned from the party's state convention, prompting a delegate to report that they were "deliberately kicked out of the party" in 1882 and "treated with utter contempt" (Camarillo, 1979:76). A similar pattern of exclusion manifested itself in the City of Los Angeles by the 1870s. For example, despite the fact that Mexican Americans constituted about twenty percent of the voters in the city, and that a few continued to be appointed to local political positions, Anglos instituted a wardship-based electoral system by 1880 that fragmented Mexican Americans voters into several wards thereby nullifying any impact they might have on city-wide elections. A historian who researched these developments concluded that "For practical purposes the mass of laborers in the *barrio* remained politically inarticulate and unrepresented..." (Griswold del Castillo 1979:160). By the last decade of the nineteenth century it was rare to find a Spanish-surname elected official anywhere in southern California towns and cities. Further reinforcing Spanish-speaking citizens' political powerlessness, the State Legislature approved an English language literacy amendment to the constitution in 1894. Any voter who could not read part of the State's Constitution in English could be denied the right to vote by the registrar. Though it is doubtful this provision of state law was used to deny the right to vote for other citizens who spoke a language other than English, it certainly sealed the fate of the Mexican American electorate in California (Bollinger, 1977). (Not until 1970 was this discriminatory provision ruled unconstitutional by the California State Supreme Court in *Castro v. State of California*.) By the turn of the century, Mexican Americans were a disenfranchised minority population whose right of suffrage and other civil rights as American citizens, guaranteed by the Treaty of Guadalupe Hidalgo, had been violated and abridged.

7) The exclusion of Mexican Americans from political participation in Los Angeles and in other areas of southern California largely reflected their social status as a segregated racial minority. Spanish-speaking citizens throughout the region were residentially isolated from their Anglo counterparts and suffered the consequences of decades of discriminatory practices and laws. For example, state laws enacted during the 1850s restricted some of their cultural practices, such as bear-bull fights, and the so-called "Greaser Law," an anti-vagrancy statute, banned assemblies of Mexican Americans on Sundays. Lynchings of Mexican Americans, "race wars" in Los Angeles, and other incidents in the decades following statehood gave Mexican Americans a clear message that they now lived under a different political and legal regime that required them to retreat to the confines of their emerging *barrios* where they could minimize contact with the Anglo majority (Camarillo, 1984; Griswold del Castillo, 1979). Mexican Americans in other towns and cities throughout southern California also experienced discrimination in various forms. For example, in the original *pueblo* of San Diego (now known as Old Town), the Spanish-speaking people became physically segregated by the early 1870s when white businessmen and boosters, hoping to create a "new" San Diego away from the old Mexican town, established San Diego by the bay. Left with few resources and commercial activity, Old Town San Diego withered away over time as residents relocated and as historic adobe structures fell into decay. Not until decades later, when city fathers and businessmen from nearby San Diego deemed the old ruins of the *pueblo* a potentially valuable tourist site, were many of the buildings of Old Town restored.

8) Early in the twentieth century, immigration on a mass scale greatly expanded the size and distribution of the Mexican-origin population in the United States. By the 1920s, Los

Angeles was home to the largest population of Mexican Americans and Mexican immigrants in the nation. The legacy of anti-Mexican attitudes from the previous century were carried over and reinforced in the new century. As Mexican numbers grew, so too did a Jim Crow-like system of segregation. By the mid-1900s, for example, the great majority of Mexican American children attended segregated public schools or were isolated in "Mexican-only" classrooms separate from their Anglo peers (Gonzalez, 1990; Menchaca, 1995). Restaurants, movie theaters, public swimming pools, and other establishments routinely restricted use of facilities to Mexican Americans, especially those clearly on the darker side of the color line (Penrod, 1948; Camarillo, 1984). Residential segregation was common place by the 1930s as most cities and towns where Mexican Americans resided in substantial numbers employed racially restrictive real estate covenants which forbade the sale or rental of property to particular minority groups. Indeed, in a statewide questionnaire sent to real estate agents up and down California, the great majority reported that restricted housing was the norm and that segregation of Mexicans, blacks, and Asians was the rule. For example, the president of the realty board in the City of Compton indicated in the survey in 1927 that "All subdivisions in Compton since 1921 have restrictions against any but the white race." He added that "We have only a few Mexicans and Japanese in the old part of the city." When asked how the problem of racial minorities could be best handled, he replied: "Advocate and push improvements and the Mexicans will move... Sell the undesirables' property to a desirable" and "never sell to an undesirable." In another example, the secretary of the Whittier Realty Board reported that "Race segregation is not a serious problem with us... Our realtors do not sell to Mexicans and Japanese outside certain sections where it is agreed by community custom they shall reside." (Survey of Race Relations, 1927). Yet another

example of the segregation of Mexican Americans and Mexican immigrants unfolded in San Diego in the early 1900s. Although a small community of Spanish-speaking people continued to live in Old Town during the early twentieth century, a much larger number of Mexican immigrants settled in an area of "new" San Diego, just southeast of downtown. Real estate covenants which forbade minorities from living in most areas of the city, in addition to affordable housing units left behind by whites who moved to the expanding suburbs, ushered in a large migration of Mexican immigrants after World War I. Mexican immigrants became a major source of labor in the fish canneries, nearby factories, and other businesses that formed an important part of San Diego's growing economy. Logan Heights, once the home to white families, rapidly became known as "Barrio Logan" to Mexican Americans who were estimated at about 20,000 in the late 1920s (Camarillo, 1979). By the Great Depression, Barrio Logan contained the second largest Mexican-origin population in the state. Here, according to an historian, a segregated style of life for Mexican Americans unfolded:

The substandard conditions of the San Diego Mexican community, as reflected by their occupational status, living environment, and health problems, were magnified by their segregation. Separate schools, churches, and businesses existed for the Mexican community. (Shelton, 1975: 71)

9) The practice of realtors restricting Mexican Americans from entering white neighborhoods resulted in an overtly segregated residential pattern that forced Mexican Americans into particular areas of cities and towns. The use of the ubiquitous real estate covenant was thoroughly effective in establishing and maintaining residential boundaries between whites and non-whites during the first half of the 1900s. For example, it was reported to the Los Angeles County Board of Supervisors in 1946 that the percentage of municipalities with

restricted housing covenants excluding Mexican Americans, blacks, and Asians increased from an estimated twenty percent in the 1920 to eighty percent by the mid-1940s (John Anson Ford Collection). Despite the decision of the U.S. Supreme Court in *Shelley v. Kramer*, which ruled that restrictive real estate clauses were not legally binding, the informal practices among realtors continued well into the 1960s. The problem of residential segregation and discriminatory practices among realtors attracted the attention of the U.S. Commission on Civil Rights when it issued a report in 1966 (Ernesto Galarza Collection):

The Commission investigators also heard charges that real estate brokers refused to sell houses to Mexican-Americans in areas where members of that group had not traditionally lived. Such charges were made by Mexican-American residents of Los Angeles. . . . In 1955, a Los Angeles real estate board expelled two members for selling homes to persons referred to as a "clear detriment to property values." One of the purchasers was a Mexican-American family.

The consequences of decades of discriminatory residential segregation against Mexican American profoundly impacted where Mexican Americans could and could not live in Los Angeles-area cities. A study that analyzed data from the 1960 U.S. Census revealed that Los Angeles' Mexican Americans had the third highest index of residential dissimilarity, or segregation, from Anglos among the thirty five largest cities in the Southwest (Grebler, et al., 1970). Regardless of fair housing laws passed by the federal and state government in the 1960s, the imprint of past discriminatory real estate practices is still clearly visible today in areas of Los Angeles County that continue to have large concentrations of Spanish-surnamed residents.

10) Discriminatory practices against Mexican Americans in the housing markets of Los Angeles in the decades after World War I were obviously reactions to the growing numbers of Mexican immigrants and their children in the region. By 1930, for example, Mexican-origin people in the City of Los Angeles numbered well over 100,000 while their total population

surpassed 368,000 in the state (Camarillo, 1984). As their population increased so too did various practices that excluded them from public places. During the 1930s and 1940s, for example, it was not uncommon to see signs posted at swimming pools, barber shops, and theaters that indicated "No Negroes or Mexicans Allowed" or "White Trade Only." Other establishments, such as restaurants and public parks, did not have to post signs for Mexicans to know that "customary" exclusion kept Mexican Americans away. Throughout the 1940s, 1950s, and into the 1960s, various reports by individuals and government agencies and non-profit organizations documented the social discrimination directed against the group. For example, in a report submitted to a Los Angeles grand jury investigation in 1942 regarding the status of Mexican American youth, the problem of discrimination was identified (Report of Special Committee on Problems of Mexican Youth of the 1942 Grand Jury of Los Angeles):

Discrimination and segregation as evidenced by public signs and rules, such as appear in certain restaurants, public swimming plunges, public parks, theatres and even schools, causes resentment among the Mexican people. There are certain parks in this state in which a Mexican may not appear, or else only on a certain day of the week, and it is made evident by signs reading to the effect – for instance, "Tuesdays reserved for Negroes and Mexicans."

Discriminatory treatment of this type was documented by Mexican American community-based organizations, by various writers, and by the U.S. Commission on Civil Rights in 1970 (Penrod, 1948; McWilliams, 1948; Report of the U.S. Commission on Civil Rights, 1970). Although laws were passed by Congress in the 1960s and 1970s that made illegal past discriminatory practices that had long excluded and segregated Mexican Americans and other racial minorities from public accommodations, legacies of exclusion continued into the current period.

11) Mexican American residents in cities also suffered from the discriminatory treatment that resulted from zoning policies and institutional neglect on the part of city hall. San Diego is a case in point. Barrio Logan continued to house the great majority of Mexican Americans in San Diego well into the second half of the twentieth century. As a result of World War II and the significant expansion of industry in the post-war decades, Barrio Logan residents were increasingly pushed out to make way for junk yards, scrap metal processing centers, and other industrial development. The city's re-zoning of the area from residential to mixed use (i.e., industrial use) had a huge impact on the lives of thousands of Mexican American residents. Hundreds more in the community were dislocated as their homes were bulldozed to make way for the interstate freeway and bridge-building projects. Commercial establishments upon which residents depended for many decades were also destroyed. By the early 1970s, frustrated by decades of physical dislocation, environmental degradation, and political powerlessness in halting the destruction of their community, Barrio Logan residents banded together to salvage a parcel of land under the Coronado Bridge they named "Chicano Park." The successful battle they waged for the establishment and expansion of Chicano Park during the 1970s and 1980s symbolized the aspirations of Barrio Logan residents to gain some semblance of control over their own lives as residents of an area of San Diego long ignored by City Hall and most residents of the city (Chicano Park, 1988; *San Diego Business Journal*, 12/7/92). Today, Barrio Logan residents continue to advocate for the cleaning up of environmental hazards that contaminate their neighborhoods as they struggle to rebuild the heart of San Diego's largest and oldest Mexican American community (*San Diego Business Journal*, 11/3/97 and 9/10/01).

12) Nowhere in the state were the effects of discrimination felt by Mexican Americans more severely in the twentieth century than in Los Angeles city and county. The history of pervasive social discrimination in Los Angeles in the areas of education, housing, and access to public accommodations all affected the ability of Mexican Americans to participate in the political process. In addition, policies and practices limiting or restricting Mexican Americans from exercising their right to vote and electing candidates of choice greatly hindered the inclusion of the state's largest ethnic group into the body politic.

13) Practices that were meant to exclude Mexican Americans and other minorities from participation in mainstream society had analogs in the political arena. By the 1930s and 1940s, when tens of thousands of the children of Mexican immigrants came of age, they realized that their rights as citizens, including their right to vote and elect candidates of choice, were hindered by various discriminatory policies and practices. . The lack of any elected and appointed political representatives from the large Mexican American community in Los Angeles in the 1940s prompted the chairman of the county's Coordinating Council for Latin American Youth to write Governor Earl Warren. "May we call your attention to the fact," the chairman of the Council, Manuel Ruiz, respectfully stated, "that although there are close to 300,000 Spanish speaking voters in Los Angeles County that there has never been appointed to the bench, or to any other important position, a person of Mexican or Spanish extraction whose status at the same time has been one of leadership among these people" (Manuel Ruiz Collection). The first Mexican American to win a city council seat in Los Angeles in the twentieth century was Edward Roybal, but after he was elected to Congress in 1960, it was not until the mid-1980s that another Mexican American joined the ranks of this political body. The Los Angeles County Board of Supervisors,

arguably the most powerful political entity in the region, did not seat a Mexican American until after the Ninth Circuit Court of Appeals affirmed a district court finding that the county supervisors had intentionally acted to fragment the Hispanic vote, a direct violation of the Voting Rights Act. Vote dilution, gerrymandering, and voter intimidation over many decades in Los Angeles were among the primary factors explaining why Mexican Americans remained outside the political arena through most of the twentieth century.

14) The problem of political gerrymandering and fragmentation of Mexican American voters, exacerbated by voting irregularities and other discriminatory practices, continued to perplex leaders and supporters of Los Angeles' largest minority group into the 1970s and after. In 1966-67, for example, the California Advisory Committee to the U.S. Commissions on Civil Rights concluded in its report a discussion of some of the problems that explained why Mexican Americans in Los Angeles remained largely politically unrepresented (Ernesto Galarza Collection):

East Los Angeles, the nation's largest Mexican-American community, has been effectively sliced up so that it would be difficult for a Mexican-American candidate to win a city, state, or federal election as a representative of the district. As an example, East Los Angeles is divided into six different State Assembly districts, none with more than 25% Mexican-American population. Elections for seats on the Los Angeles City board of education are districtwide, making it nearly impossible for a Mexican-American candidate to win. There is no Mexican-American in the California State Assembly or Senate. Edward Roybal is the lone Mexican-American from California in the U.S. House of Representatives.

In 1968, the Southwest Council of La Raza, an advocacy organization for Mexican Americans, reinforced this conclusion drawn by the California Advisory Committee. The Council stated that "Due to political gerrymandering, Mexican Americans in East Los Angeles have no expressions or resolutions of their problems" and that "The political disenfranchisement of Mexican

American...continues to be the root cause of the inability of the community to promote their own causes and get redress of their grievances" (Southwest Council of La Raza, Galarza Collection).

In a report released in 1971 by the California Advisory Committee to the U.S. Commission on Civil Rights, members again pointed to a history of racism and exclusion in explaining the relative omission of Mexican American elected officials in local and state government (*Political Participation of Mexican Americans in California*).

15) In addition to the problems brought about by gerrymandered political districts in which thousands of Mexican Americans resided, the group was also hindered in its political aspirations by various voting irregularities and illegal practices. For example, during the 1950s and 1960s, there were hundreds of claims made by Mexican American voters in Los Angeles that they had experienced intimidation at the polls from voting site registrars; some were harassed over English language literacy issues; and others received telephone calls indicating they could not vote unless they brought their registration stubs with them to the polls (American G.I. Forum, Citizens' Committee for Fair Elections, 1958; Los Angeles *Herald Examiner* 10-29-64; Los Angeles *Times*, 11-2-64)

16) The Hispanic-origin population continues to grow in unprecedented fashion. In 1980, for example, Hispanics in California numbered about 4.5 million and constituted slightly less than twenty (20) percent of the state's total population. Twenty years later, as Census 2000 figures revealed, the percentage of Hispanics as part of California's total population rose to nearly thirty-three (33) percent; they now number about eleven million. Over 4.2 million Hispanics live in Los Angeles County alone, according to the Census Bureau, and they comprise forty seven (47) percent of the total population in the City of Los Angeles (Census 2000 Brief:

*The Hispanic Population*, May 2001). In the San Fernando Valley area of Los Angeles County, Hispanics constitute eighty-nine (89) percent of the population in the valley's oldest municipality, the City of San Fernando. Elsewhere in southern California, for example, Hispanics in San Diego County now account for twenty seven (27) percent of the total population and form twenty five (25) percent of the one and quarter million persons in the City of San Diego (U.S. Census 2000).

17) Hispanics are also a group that continues to exhibit indices of extreme social disadvantage. In a recent report published by the Public Policy Institute of California, entitled *A Portrait of Race and Ethnicity in California*, one can scan every major measurement of well being and quickly come to the conclusion that Hispanics as a group occupy the bottom rungs of the socioeconomic ladder. They are among the least educated and among the most likely not to complete high school (in 1997, for example, Hispanics had a high school completion rate of only fifty-five percent in comparison to whites, Asians, and African Americans whose rates were above ninety percent). These educational disparities persist to date and appear in scoring data from the state's STAR test. In 2001, in San Diego County, the mean scaled score for white test takers was higher than the mean scaled score for Latinos in every subject (4-5 subjects tested per grade level) at every grade level (grades 2-11). More telling, without exception (out of 43 combinations of grade and subject matter), the percentage of white test takers in San Diego County scoring above the 50th national percentile rank was at least 29 points higher than the equivalent percentage of Latino test takers. In 2001, in Los Angeles County, the mean scaled score for white test takers was, as in San Diego County, higher than the mean scaled score for Latinos in every subject at every grade level. And, without exception (out of 43 combinations of

grade and subject matter), the percentage of white test takers in Los Angeles County scoring above the 50th national percentile rank was at least 25 points higher than the equivalent percentage of Latino test takers. Hispanics have the lowest levels of median family income despite some of the highest labor market participation rates of any group (by 1998, Hispanic and African American family median income was only fifty-one and sixty percent, respectively, of family income for non-Hispanics whites in California). The poverty rate for Hispanics in 1995 was the highest of any group in the state at about twenty eight percent (by contrast, the rate for non-Hispanic whites was ten percent). They suffer from inadequate health care service and lack of health insurance coverage. They are, in short, a group that will become the majority population in the state within the next generation and a group that must be prepared to more fully access opportunities in education, employment, health care, and other areas of California society in order to improve its status over time. Current indices of social and economic disadvantage among Hispanics reflects a legacy of discrimination and exclusion many generations old. The laws enacted in the 1960s and 1970s to protect the rights and increase opportunities for Hispanics and other racial minorities have helped a great deal, but they have not leveled the playing field completely as the nation's largest minority groups continue to carry the weight of history on their backs.

18) Many old problems of economic and income equality and educational failure persist and are taking a heavy toll on large sectors of the Hispanic population in California. And despite political gains and a growing electoral influence in local and state-wide elections, Hispanic voters still face issues that hinder their maximum participation in the political process. In the 1990s, intimidation of Hispanic voters, a problem many decades old, took new twists. For

example, in 1996 Governor Pete Wilson, alarmed when it was reported that a few Mexican immigrants, who it turned out had past criminal records, were granted naturalized status as U.S. citizens, grossly exaggerated the problem and set off reactions in certain quarters that led to a proposed campaign to thwart "illegal" Hispanic voters when they went to the polls. An article in *Los Angeles Times* noted that "Wilson slurred many law-abiding new citizens by suggesting that perhaps thousands of criminals were naturalized" (*Times*, 10-22-96). The Los Angeles district director of the Immigration and Naturalization Service quickly denied Wilson's reckless allegations. Wilson's comments were reminiscent of a similar type of voter intimidation initiative that had been launched in Orange County in 1988 as unofficial guards patrolled voting sites with signs in English and Spanish warning non-citizens against voting (*Los Angeles Times*, 10-22-96 and 10-30-96; letter to U.S. Attorney General Janet Reno, 10-31-96, from leaders of several civil rights organizations). Adding fuel to apprehensions among Hispanics about what was perceived by many to be a growing anti-Hispanic climate in California, Propositions 187 and 209 contributed greatly to these fears. The proposition to restrict public services and education to illegal immigrants and their children won easily with a large majority vote in 1994. Though Proposition 187 was eventually ruled unconstitutional in a federal court, it served notice to hundreds of thousands of Hispanics that California was a state that did not value a large percentage of its Hispanic community. Proposition 209, an anti-affirmative initiative launched a few years later, provided another negative message that was not lost on Hispanic voters (*San Francisco Chronicle*, 11-28-96; *Los Angeles Times*, 10-29-98). Both of these propositions revealed how polarized issues resulted in an increasingly polarized electorate with Hispanics strongly against these propositions while Anglos were strongly in support (*Los Angeles Times*,

California Exit Poll, 11-8-94). Proposition 227 in 1998, an anti-bilingual education initiative, exacerbated the problem further. 63% of Hispanics voted against Proposition 227 while 67% of Anglos voted in support (Los Angeles *Times*, California Exit Poll, 6-2-98). These types of political campaigns, together with decades of discrimination against Hispanics, contributed to the development of a negative racial climate in California during the 1990s.

19) The consequences of the various propositions discussed above on the development of a negative racial political climate manifested itself in many cities and regions throughout California. The San Fernando Valley is a case in point. The annexation of much of the valley by the City of Los Angeles in 1915 set in motion patterns of residential development that also shaped the greater Los Angeles region. Early on in the development of the valley, minorities were largely restricted to two areas in the northeast, Pacoima and San Fernando. Mexican Americans began to settle in both locations in the pre-World War II decades and their communities greatly expanded in the post-war years. During and after the war, blacks were also attracted to these areas, the only neighborhoods in the valley where they were allowed to live in new housing tracts (*Times*, 8/28/2002) Over time, more and more Hispanics settled in the area and they now form the large majority of residents in this northeast section of the valley. Several ballot measures in the 1990s revealed the rifts between the Hispanics and their white counterparts in the valley. For example, Proposition 187, the "Save Our State" campaign, received a great boost from the valley when a group of local citizens organized to form "Voice of Citizens Together." Alarmed by what they believed was a growing crisis of illegal immigration, they played a key role in spearheading a movement that resulted in the passage of Proposition 187 in 1994. Exit polls conducted during the November 1994 elections revealed that valley residents felt

more strongly than most Californians that immigration was the primary issue that brought them to the polls (*Times*, 11/10/94, Valley Edition). This reaction against immigrants, which many Hispanics in the valley saw as an attack against all Hispanics, created a reaction that stirred the emotions. For example, angered by the growing public sentiment against Hispanic immigrants, over 2,000 Latino students at fourteen local valley schools walked out of their classes in a pre-election sign of protest against the measure. They were part of a group of 10,000 students who also participated in the peaceful protest throughout the Los Angeles metropolitan region (11/3/94, Valley Edition). Two years later, Proposition 209 also divided valley residents largely along racial lines. Valley residents approved the measure with a far higher percentage fifty-three (53) percent in comparison to other Los Angeles city and county voters (39% and 47% respectively supported the measure). Hispanic and African American voters in the Pacoima area, by contrast, voted the measure down by a two-to-one margin. (*Times*, 11/9/96, Valley Edition). Therefore, it was not surprising, given the climate of distrust and growing racial polarization among many residents in the valley over incendiary propositions, that a campaign that pitted a Latino candidate against a white candidate of Jewish background for the Democratic candidacy for the 20<sup>th</sup> Senate District ended up a contest that raised inter-ethnic tensions. According to a political commentator who observed the acerbic political contest, "Charges of 'race baiting' and 'racially offensive' tactics flew back and forth between the candidates and their campaigns" (*California Journal*, 9/1/98). This particular political campaign demonstrated how racial politics was affected by the climate of opinion during the 1990s in California inflamed by several key propositions which at heart involved racial issues. It is not surprising, therefore, to note that it

was not until the 1990s that the first Hispanic was elected to office despite the fact that a very large Latino population had long existed in the San Fernando Valley.

20) Another problem that persists into the twenty first century is the gap that currently exists between Hispanics and all other groups with regard to the percentage of eligible population who register to vote and who actually cast their votes on election day. For example, in 1996 Hispanics had the lowest percentage of eligible population that registered to vote (68%) and eligible population that voted (54%). By contrast, eighty-one (81) percent of the white population and seventy-seven (77) of the African American eligible population registered to vote and sixty-eight (68) percent and sixty-four (64) percent respectively of the eligible population voted in 1996 (*A Portrait of Race and Ethnicity in California*, 2001).

	<u>California 1996</u>		
	Hispanics	Whites	African-Americans
% of eligible registered to vote	68%	81%	77%
% of eligible that voted	54%	68%	64%

If Hispanics are to be incorporated into the fabric of American society as they emerge as the majority population in the state of California over the next twenty or thirty years, their full integration as participants in the political process will be critical to the preservation of our participatory democracy. The case under consideration --involving the recently approved redistricting plan in California that diminishes Hispanics' opportunity to elect candidates of choice in congressional and senatorial districts in Los Angeles County to achieve more electoral strength in a district in San Diego County --points to the fact that Hispanics have not yet overcome obstacles that prevent them from exercising their full potential as voters. This problem is particularly important as the voting age population of Hispanics continues to soar in California. It is also especially important for Hispanics to have equal opportunity to elect candidates of choice as recent research indicates that the effects of minority-majority districts and minority representation and political participation are intimately tied to one another. Voter participation among Latinos is particularly high in districts where they enjoy both majority status as well as descriptive representation (i.e., representation by legislators of the same race or ethnicity). (Gay, 2001:vii) Given the dramatic growth of the voting age and registered voters among Hispanics, political districts must be drawn or redrawn with these important

considerations in mind. Redistricting plans that maximize Hispanic voter influence will be one of the keys for narrowing the electoral participation rate for Hispanics.

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## MEMORANDUM July 13, 2011

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This memorandum sets forth our opinions and advice concerning Section 2 of the federal Voting Rights Act of 1965 (“Section 2”) and its implications for the Latino population in Los Angeles County. This memorandum further responds to issues raised concerning how Section 2 impacts the map-drawing process with respect to portions of Los Angeles County where Latino populations are adjacent to non-Latino populations, including in the South and Southwest areas of Los Angeles County in particular.

As explained further below, Section 2 likely requires that the Commission create several Latino-majority districts in Los Angeles County in order to avoid dilution of Latinos’ effective and equal participation in the electoral process. In other words, if the Commission does *not* create several Latino-majority districts in Los Angeles County, a court might find that the Commission’s maps have resulted in Latinos having less opportunity than other members of the electorate to participate in the political process and elect representatives of their choice, in violation of Section 2.<sup>1</sup> This is also particularly the case in the South and Southwest regions of Los Angeles County, as described in more detail below.

To the extent the Commission chooses, for whatever reason, not to draw certain Latino-majority districts in Los Angeles County (including in the South and Southwest regions), the Commission should nevertheless avoid placing a substantial Latino population in a district where racially polarized voting would usually operate to defeat the ability of Latinos to elect candidates of their choice, if an alternative configuration exists that would avoid that outcome.

### I. ANALYSIS OF LOS ANGELES COUNTY, LATINOS, AND SECTION 2

Pursuant to the Commission’s request, we analyzed whether Latinos in Los Angeles County may have a potential claim under Section 2 in the event certain Latino-majority districts are not drawn. We have determined that, if the Commission does not create several Latino-majority districts in Los Angeles County, Latinos may have a colorable claim that the Commission’s maps violate Section 2.

#### A. Legal Framework: Section 2 of the Voting Rights Act.

Congress enacted Section 2 in an effort to combat minority vote dilution. Section 2 provides that no “standard, practice, or procedure shall be imposed or applied ... in a manner which results in a denial or abridgement of the right ... to vote on account of race or color”

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<sup>1</sup> The precise locations where these districts should be drawn is beyond the scope of this memorandum.

# GIBSON DUNN

Page 2

or membership in a language minority group. 42 U.S.C. §§ 1973(a), 1973b(f)(2). A violation of Section 2 “is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) of this section in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” 42 U.S.C. § 1973(b).

In 1982, Congress clarified that Section 2 plaintiffs need not prove that “a contested electoral mechanism was *intentionally* adopted or maintained by state officials for a discriminatory purpose.” *Thornburg v. Gingles*, 478 U.S. 30, 35 (1986) (emphasis added). Rather, a “violation [can] be proved by showing discriminatory *effect* alone.” *Id.* (emphasis added). In other words, following the 1982 amendments, a violation of Section 2 can be established where “a contested electoral practice or structure *results* in members of a protected group having less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” *Id.* at 44 (emphasis added).

The United States Supreme Court has invoked Section 2 to strike down legislative redistricting plans that result in minority vote dilution as defined by Section 2. *See generally League of United Latin American Citizens v. Perry*, 548 U.S. 399 (2006) (“LULAC”).

The Supreme Court has established a number of elements that a plaintiff must prove to establish that a redistricting plan violates Section 2. Initially, a Section 2 plaintiff must satisfy the three so-called “*Gingles* preconditions” articulated by the Court in *Gingles*. *See Growe v. Emison*, 507 U.S. 25, 37-42 (1993). The *Gingles* preconditions are as follows:

“First, the minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district.” *Gingles*, 478 U.S. at 50.<sup>2</sup>

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<sup>2</sup> A minority group is sufficiently large only where “the minority population in the potential election district is greater than 50 percent.” *Bartlett v. Strickland*, 129 S. Ct. 1231, 1246 (2009). Although the Supreme Court has not expressly defined the proper measure of “minority population,” the Ninth Circuit Court of Appeals has endorsed the use of citizen voting age population (“CVAP”) statistics. *See Romero v. City of Pomona*, 883 F.2d 1418, 1426 (9th Cir. 1989) (“The district court was correct in holding that *eligible minority voter population*, rather than total minority population, is the appropriate measure of geographical compactness.” (emphasis added)), abrogated on other grounds, *Townsend v. Holman Consulting Corp.*, 914 F.2d 1136, 1141 (9th Cir. 1990) (en banc); *see also LULAC*, 548 U.S. at 429 (observing, in dicta, that CVAP “fits

“Second, the minority group must be able to show that it is politically cohesive.” *Id.* at 51.

“Third, the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it ... usually to defeat the minority’s preferred candidate.” *Id.*<sup>3</sup>

The second and third *Gingles* preconditions are often referred to collectively as “racially polarized voting” and considered together. Courts first assess whether a politically cohesive minority group exists, *i.e.*, “a significant number of minority group members vote for the same candidates.” *Id.* at 56. Then, courts look for legally significant majority bloc voting, *i.e.*, a pattern in which the majority’s “bloc vote ... normally will defeat the combined strength of minority support plus [majority] ‘crossover votes.’” *Id.* This analysis typically requires expert testimony. *See, e.g., id.* at 53-74 (considering expert testimony regarding minority group’s lack of success in past elections).

A plaintiff who establishes all three *Gingles* preconditions has not yet established that a challenged district violates Section 2. Instead, once the *Gingles* preconditions have been shown, a court must then consider whether, “based on the ‘totality of the circumstances,’ minorities have been denied an ‘equal opportunity’ to ‘participate in the political process and to elect representatives of their choice.’” *Abrams v. Johnson*, 521 U.S. 74, 90 (1997) (quoting 42 U.S.C. § 1973(b)).

The following is a non-exhaustive list of factors (the so-called “Senate Report Factors,” based on the Senate Report accompanying the 1982 amendments to Section 2) that courts use to determine whether, based on the totality of circumstances, a Section 2 violation exists:

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the language of § 2 because only eligible voters affect a group’s opportunity to elect candidates”).

<sup>3</sup> The “majority” does not actually have to be white (as opposed to some other racial group), or even comprised of a single racial group, in order to satisfy the third *Gingles* precondition. *See Gomez v. City of Watsonville*, 863 F.2d 1407, 1417 (9th Cir. 1988) (“Although the court did not separately find that Anglo bloc voting occurs, it is clear that the non-Hispanic majority in Watsonville usually votes sufficiently as a bloc to defeat the minority votes plus any crossover votes.”); *Meek v. Metropolitan Dade County, Fla.*, 805 F. Supp. 967, 976 & n.14 (S.D. Fla. 1992) (“In order to prove the third prong in *Gingles*, Black Plaintiffs must be able to demonstrate that the Non-Black majority votes sufficiently as a bloc .... Non-Blacks refer to Hispanics and Non-Hispanic Whites.”), affirmed in part, reversed in part on other grounds by *Meek v. Metropolitan Dade County, Fla.*, 985 F.2d 1471 (11th Cir. 1993).

1. “[W]hether the number of districts in which the minority group forms an effective majority is roughly proportional to its share of the population in the relevant area.” *LULAC*, 548 U.S. at 426. “[T]he proper geographic scope for assessing proportionality is ... statewide.” *Id.* at 437.
2. “[T]he extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise participate in the democratic process.” *Gingles*, 478 U.S. at 37 (quoting S. Rep. No. 97-417, 97th Cong., 2nd Sess. at 28-29 (1982), U.S. Code Cong. & Admin. News 1982, at 177, 206-07)).
3. “[T]he extent to which voting in the elections of the state or political subdivision is racially polarized.” *Id.* at 37.
4. “[T]he extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group.” *Id.*
5. “[I]f there is a candidate slating process, whether the members of the minority group have been denied access to the process.” *Id.*
6. “[W]hether political campaigns have been characterized by overt or subtle racial appeals.” *Id.*
7. “[T]he extent to which members of the minority group have been elected to public office in the jurisdiction.” *Id.*
8. “[W]hether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group” *Id.*
9. “[W]hether the policy underlying the state or political subdivision’s use of such voting qualification, prerequisite to voting, or standard, practice or procedure is tenuous.” *Id.*

**B. First *Gingles* Precondition: Latinos in Los Angeles County Are a Sufficiently Large and Geographically Compact Minority Group.**

We have concluded that, as to a number of regions in Los Angeles County, Latinos comprise a sufficiently large and geographically compact group such that they could constitute a majority in a single-member district.

This was not a close call. With respect to the “sufficiently large” inquiry, the Latino CVAP population in Los Angeles County as a whole is approximately 1.8 million. The ideal size of an Assembly District is 465,674; the ideal size for a Senate District is 931,349; and the ideal size for a Congressional District is 702,905. Moreover, any suggestion that the Latino population in Los Angeles County is not “geographically compact,” especially in the South and Southwest regions of the county, would not be viable.<sup>4</sup> Accordingly, several Assembly, Senate, and Congressional Districts may be formed in which Latinos constitute a majority of the CVAP in a geographically compact area.

**C. Second and Third *Gingles* Preconditions: There is Significant Evidence of Racially Polarized Voting in Los Angeles County.**

We have concluded that racially polarized voting likely exists in Los Angeles County. The evidence we have reviewed indicates that a significant number of Latinos vote together for the same candidates, while non-Latinos vote in significant numbers for different candidates. Moreover, the evidence is sufficiently abundant that we believe it is reasonable to infer that a sophisticated plaintiff’s expert could develop evidence to persuade a court that the second and third *Gingles* preconditions have been met in Los Angeles County.

The Commission retained an expert with experience evaluating whether racially polarized voting exists, Professor Matt A. Barreto, Ph.D., of the University of Washington. The Commission instructed Dr. Barreto to work with counsel and to analyze certain areas of Los Angeles County, at our direction and under our supervision, to make a preliminary determination of whether racially polarized voting exists in Los Angeles County. Dr. Barreto has considered available information and has concluded that (i) strong evidence of political cohesiveness exists among Latinos and (ii) there is strong and substantial evidence of racially polarized voting throughout Los Angeles County.

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<sup>4</sup> Courts take a flexible approach to evaluating *Gingles* compactness. *See Sanchez v. City of Colorado*, 97 F.3d 1303, 1311 (10th Cir. 1996). A minority population may be “geographically compact” for *Gingles* purposes even if it is not strictly contiguous. That is, two non-contiguous minority populations “in reasonably close proximity” could form a “geographically compact” minority group if they “share similar interests” with each other. *LULAC*, 548 U.S. at 435 (“We also accept that in some cases members of a racial group in different areas—for example, rural and urban communities—could share similar interests and therefore form a compact district if the areas are in reasonably close proximity.... We emphasize it is the enormous geographical distance [*i.e.*, 300 miles] separating the Austin and Mexican-border communities, coupled with the disparate needs and interests of these populations—not either factor alone—that renders District 25 noncompact for § 2 purposes.”).

A high-level summary of Dr. Barreto's analysis is attached to this memorandum as Attachment A. As the summary makes clear, Dr. Barreto has concluded that in Los Angeles County, "[w]ith almost no exceptions, when Latino candidates run for office, they have received strong and unified support from Latino voters." (Attachment A at 1-2.) He also determined that "analyses of voting patterns in Los Angeles [from 1997 through 2010] have demonstrated statistically significant differences in candidate choice, between Latinos and non-Latinos." (*Id.* at 2.) Dr. Barreto thus has preliminarily found "that polarized voting exists countywide throughout Los Angeles, as well as in specific regions such as the city of Los Angeles, the eastern San Gabriel Valley area, northern L.A. County and central/southwest region of L.A. County." (*Id.* at 3.)

**D. The "Totality of the Circumstances" Supports Drawing Latino-Majority Districts in Los Angeles County.**

Because the three *Gingles* preconditions likely are satisfied in certain regions of Los Angeles County, whether a Latino plaintiff could establish a Section 2 violation will depend on whether, based on the totality of the circumstances, Latinos have been denied an opportunity to participate in the political process and to elect representatives of their choice. The public testimony and organized group submissions provide ample evidence that the "totality of the circumstances" weigh in favor of a Section 2 claim in Los Angeles on behalf of Latinos, which can be avoided by the Commission drawing several majority Latino districts.

For example, the testimony of Arturo Vargas, Executive Director of NALEO, to the Commission, dated June 28, 2011, discusses "Barriers to Latino Participation and Representation in California." (Attachment B at 10.) Mr. Vargas explains that "[f]or much of the 20th century, gerrymandering, vote dilution, and voter intimidation were primary factors in keeping Latinos underrepresented." (*Id.*)

Mr. Vargas's testimony also discusses a survey that highlights the discrimination against Latinos in the electoral process: "The most prevalent types of discrimination identified by these respondents included problems with: voter assistance (59%); polling locations (56%); provisional ballots (56%); and unwarranted challenges to voters based on citizenship status or ID requirements (53%). Several respondents specifically mentioned the lack of bilingual pollworkers and other adequate language assistance at polling sites." (*Id.* at 12.)

Further, Mr. Vargas's testimony discusses the educational disparities between Latinos and non-Latino whites in Los Angeles County—46.6% of Latino adults in Los Angeles County have not completed high school, compared with just 6.8% of non-Latino white adults. (*Id.* at 14.)

Moreover, 40.8% of the Latino population in Los Angeles County is not fully proficient in English; the corresponding figure for non-Latino whites is only 7.8%. (*Id.* at 15.) The percent of Latinos in Los Angeles living below the poverty level is more than 10% higher than the percentage of non-Latino whites. (*Id.* at 17.) And nearly one-third of Latinos in Los Angeles have no health insurance, compared with around 10% of non-Latino whites who are uninsured. (*Id.*)

In addition to Mr. Vargas's testimony, we reviewed the 2002 expert witness report of Albert M. Camarillo, professor of history at Stanford University. (Attachment C.) Professor Camarillo's report provides abundant support for the conclusion that a history of discrimination exists against Latinos in California and Los Angeles in particular.

For example, Professor Camarillo discusses Propositions 187 (to restrict public services and education to illegal immigrants and their children) and 209 (an anti-affirmative-action initiative) contributing to an anti-Hispanic climate in California. "Both of these propositions revealed how polarized issues resulted in an increasingly polarized electorate with Hispanics strongly against these propositions while Anglos were strongly in support." (*Id.* at 17.)

Professor Camarillo also explains that there is a large gap between Hispanics and all other groups regarding the percentage of eligible population who register to vote and who actually cast their votes on election day. (*Id.* at 20.)

As far as we are aware, the discussions and evidence in Mr. Vargas's testimony and Professor Camarillo's report have not been contradicted by any testimony received by the Commission.

**E. Conclusion: The Commission Should Draw Several Latino-Majority Districts in Los Angeles County.**

In sum, Latinos in Los Angeles County likely represent a sufficiently large and geographically compact group that would constitute a majority in several single-member districts. In addition, there is strong evidence suggesting the existence of racially polarized voting affecting Latinos in areas of Los Angeles County. Finally, the totality of circumstances indicates that Latinos would be denied an equal opportunity to participate in the political process and elect candidates of their choice, if such majority districts are not drawn.

Accordingly, after reviewing and considering the available evidence, we have concluded that the Commission should create several Latino-majority districts in Los Angeles County. If the Commission does not create these districts, Latino plaintiffs in subsequent litigation challenging the Commission's maps may be successful in proving a violation of Section 2. While there may not be a specific maximum or minimum number of

districts that must be drawn, we will continue to evaluate the various iterations of draft visualizations that the Commission develops over the next few weeks and until the final maps are determined.

## II. RECOMMENDATIONS FOR SOUTH AND SOUTHWEST PORTIONS OF LOS ANGELES COUNTY

As requested by the Commission, with Section 2 in mind, we have taken a closer look at the South and Southwest portions of Los Angeles County in particular.

The Latino community in these regions appears to satisfy the first *Gingles* precondition. There is a significant Latino population in this area. For instance, Latinos make up a majority of the CVAP in several prior visualizations for a potential Congressional district referred to as “COMP.” Latinos in these regions thus appear to constitute a sufficiently large and geographically compact group such that they could constitute a majority in a single-member district.

Dr. Barreto considered whether racially polarized voting exists in Los Angeles County, and also focused on the areas that include the South and Southwest regions of Los Angeles County. In those regions, Dr. Barreto preliminarily reported significant levels of racially polarized voting, including evidence of racially polarized voting between Latinos and non-Latinos.

Dr. Barreto’s summary includes a review of several studies reflecting polarized voting between Latinos and African Americans in Los Angeles County. In particular, he notes that there have been significant population shifts among cities that were formerly majority African American that are now majority Latino. (Attachment A at 3.) In one study, he observes that there were large differences in voting preferences between Latinos and African Americans in the 2008 Democratic primary presidential election. (*Id.*) He also refers to extensive analysis included in an expert report by Morgan Kousser, a noted historian and voting rights expert, finding strong differences in voting patterns between African Americans and Latinos in Compton city council elections. (*Id.*) In the recent Attorney General election, there was again strong evidence of racial bloc voting between Latinos and African Americans, with African American voters favoring Harris overwhelmingly and Latino voters favoring Delgadillo and Torrico. (*Id.*)

The summary by Dr. Barreto also considers data from a 2007 special election for the 37th Congressional district. (*Id.* at 3-4.) In the primary election, 82.6% of Latinos favored a Latino candidate while 92.6% of the black vote went to the African-American candidates. (*Id.* at 4.)

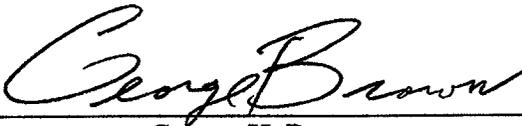
Consequently, in light of the fact that Section 2 likely requires the Commission to draw some number of Latino-majority districts in Los Angeles County (as discussed above in

# GIBSON DUNN

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Section I(E)), and given the strong evidence of racially polarized voting in the South and Southwest regions of Los Angeles County, we recommend that the Commission consider drawing a Latino-majority district in areas adjacent to Latino populations in the South and Southwest regions of Los Angeles County—including the current visualization districts labeled “AD LAWBC” and “CD COMP.”

Alternatively, if the Commission chooses not to draw a Latino-majority district in the South or Southwest regions of Los Angeles County, or if the Commission determines it is not feasible to do so, the Commission should nevertheless avoid placing a substantial Latino population in a district where racially polarized voting would usually operate to defeat the ability of Latinos to elect candidates of their choice, if an alternative configuration exists that would avoid that outcome and that could be drawn in compliance with the U.S. and California Constitutions.



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George H. Brown

GHB

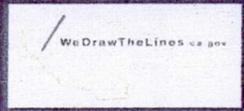
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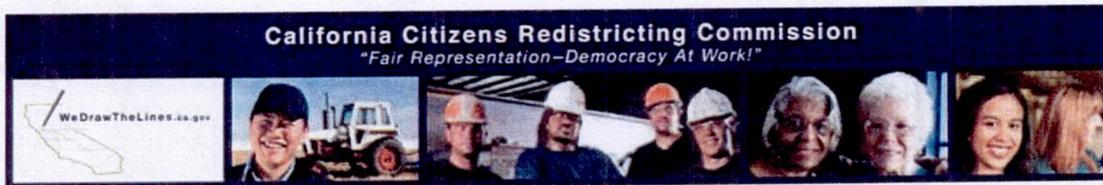




**California Citizens Redistricting Commission**  
*"Fair Representation—Democracy At Work!"*



**STATE OF CALIFORNIA**  
**CITIZENS REDISTRICTING COMMISSION**  
**FINAL REPORT ON 2011 REDISTRICTING**  
**AUGUST 15, 2011**



901 P Street, Suite 154A, Sacramento, CA 95814

August 15, 2011

The Hon. Deborah Bowen  
California Secretary of State  
1500 11<sup>th</sup> Street  
Sacramento, California 95814

Dear Secretary Bowen:

The California Citizens Redistricting Commission (Commission) was established pursuant to the procedures set forth by Proposition 11, the Voters First Act, and Proposition 20, the Voters First Act for Congress, the provisions of which are now found in Section 2 of Article XXI of the California Constitution and at Government Code Section 8252. These constitutional and statutory provisions set forth the Commission's responsibilities with respect to drawing the boundary lines for the California Assembly, Senate, Board of Equalization and Congressional districts (the Maps).

The Voters First Act for Congress requires the Commission to certify the Maps, and prepare a final report, and cause them to be provided to your office by August 15, 2011. Accordingly, this letter confirms that the Commission has timely completed these responsibilities and hereby provides the Secretary of State's Office with the following:

1. **State Assembly.** Resolution of August 15, 2011 certifying the statewide California Assembly maps were approved by the Commission in the manner required by Section 2 of Article XXI of the California Constitution; a copy of the statewide Assembly map; copies of the 80 individual Assembly districts; and a "disc" labeled `crc_20110815_assembly_certified_statewide.zip` SHA-1: `323d2c56df6bf3ad6b3b4e58fd7c5d0338a476b8` containing the unique data files for the Assembly districts, from which the statewide and individual district maps are created.
2. **State Senate.** Resolution of August 15, 2011 certifying the statewide California Senate maps were approved by the Commission in the manner required by Section 2 of Article XXI of the California Constitution; a copy of the statewide Senate map; copies of the 40 individual Senate districts; and a "disc" labeled `crc_20110815_senate_certified_statewide.zip` SHA-1:

14cd4e126ddc5bdce946f67376574918f3082d6b containing the unique data files for the Senate districts, from which the statewide and individual district maps are created.

3. **State Board of Equalization.** Resolution of August 15, 2011 certifying the statewide California Board of Equalization maps were approved by the Commission in the manner required by Section 2 of Article XXI of the California Constitution; a copy of the statewide Board of Equalization map; copies of the four individual Board of Equalization districts; and a “disc” labeled `crc_20110815_boe_certified_statewide.zip`SHA-1: `3dd8d0f1325818b92429f987c03668ba036ece1d` containing the unique data files for the Board of Equalization districts from which the statewide and individual district maps are created.
4. **Congressional Districts.** Resolution of August 15, 2011 certifying the statewide California Congressional districts were approved by the Commission in the manner required by Section 2 of Article XXI of the California Constitution; a copy of the statewide Congressional map; copies of the 53 individual Congressional districts; and a “disc” labeled `crc_20110815_congress_certified_statewide.zip` SHA-1: `1893c0695a42454a202f5b1ef433abff6b491db9` containing the unique data files for the Congressional districts from which the statewide and individual district maps are created.
5. **Final Report.** A copy of the final report prepared as required by Section 2(h) of Article XXI of the California Constitution.

It has been an honor for the Commission to serve the people of the State of California.

Sincerely,

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Vincent Barabba  
Acting Chair  
On Behalf of the California Citizens  
Redistricting Commission

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Gabino Aguirre  
Acting Vice Chair  
On Behalf of the California Citizens  
Redistricting Commission

**STATE OF CALIFORNIA**  
**CITIZENS REDISTRICTING COMMISSION**  
**FINAL REPORT ON 2011 REDISTRICTING**  
**AUGUST 15, 2011**

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- Appendix 1:** District maps (Assembly, Senate, Board of Equalization, and Congressional).
- Appendix 2:** Population deviation report.
- Appendix 3:** Population statistics for each district (Assembly, Senate, Board of Equalization, and Congressional).
- Appendix 4:** County report and city report, per district (Assembly, Senate, Board of Equalization, and Congressional).
- Appendix 5:** Nesting report (Senate and Board of Equalization).
- Appendix 6:** Hash report.

## I. INTRODUCTION

The Citizens Redistricting Commission for the State of California (the “Commission”) has completed the creation of statewide district maps for Assembly, Senate, Board of Equalization, and Congress in accordance with the provisions of Article XXI of the California Constitution. The maps have received final approval by the Commission and have been certified to the Secretary of State.

This effort has been a historic event in the history of California. A group of 14 citizens, chosen from an applicant pool of more than 36,000, engaged in an extraordinary effort to conduct an open and transparent public process designed to receive input from the people of California about their communities and desires for fair and effective representation at each district level. The amount of public participation has been unprecedented. Through the course of 34 public meetings and 32 locations around the state, more than 2,700 people participated in person, and over 20,000 written comments were submitted. In addition, extensive participation in the form of proposed alternative maps for the state, various regions, or selected districts were received from a variety of individuals and groups.

The result of this effort is a set of statewide district maps for Assembly, Senate, Board of Equalization, and Congress that fully and fairly reflects the input of the people of California. The process was open, transparent, and free of partisanship. There were long and difficult debates, and disagreements among competing communities and interested persons. No person or group was excluded from full participation in the process. In the end, the full Commission voted overwhelmingly to approve each set of maps.

The people of California demanded a fair and open process when they adopted Propositions 11 and 20, which amended the California Constitution and created the Commission. The people participated in the implementation of the Commission, with over 36,000 applicants vying for 14 seats on the Commission. The people participated in the deliberations and debate over where to draw the lines.

The Commission is proud to have served the people of this great State, and it now urges everyone to embrace this historic process and support the resulting maps that were created in collaboration with the public.

### ***A Fair and Impartial Commission Was Selected.***

Redistricting in past decades has been conducted by the Legislature, when the Legislature and the Governor can agree, or by the courts, when they cannot. In November 2008, the voters approved Proposition 11 and enacted the Voters First Act (the “Act”) to shift the responsibility for drawing Assembly, Senate, and Board of Equalization districts to an independent Commission. In November 2010, the voters approved Proposition 20 and amended the Act to include Congressional redistricting within the Commission’s mandates. The Act’s stated purpose includes the following:

“The independent Citizens Redistricting Commission will draw districts based on strict, nonpartisan rules designed to ensure fair representation.”

The Act also charged the Commissioners with applying the law in a manner that is “impartial and reinforces public confidence in the integrity of the redistricting process.” (Cal Const., art. XXI, § 2, subd. (c)(6).) Consequently, the Act provides that each Commissioner is prohibited from holding elective public office at the federal, state, county or city level for a period of ten years from the date of their appointment, and from holding appointive public office for a period of five years. (*Ibid.*) In addition, Commissioners are ineligible for five years from holding any paid position with the Legislature or for any individual legislator, and cannot be a registered federal, state or local lobbyist during this period. (*Ibid.*)

The selection process for Commissioners was also designed to be extraordinarily fair and impartial, and to lead to a group of Commissioners who would meet very high standards of independence and would reflect the population of our state. To achieve this end, the Act created a process for the selection of Commissioners who would be free from partisan influence, and reflect the state’s diversity.

The Act established new sections of the Government Code to create a process that required the State Auditor, a constitutional officer independent of the executive branch and legislative control, to select the Commissioners through an application process open to all registered voters in a manner that promoted a diverse and qualified applicant pool. (Cal. Gov. Code, § 8251 et seq.) To ensure that the Commission was selected from a broad pool of Californians, the State Auditor undertook a significant outreach process throughout the state utilizing a wide variety of communications media, including mainstream and ethnic media, social media, a website, and staff assigned to respond to all telephone calls and e-mails.

The implementing laws required the State Auditor to establish an independent Applicant Review Panel (“ARP”) consisting of three qualified senior auditors licensed by the California Board of Accountancy, to screen the applicants for the Commission. (Gov. Code, § 8252, subd. (b).) The ARP was randomly selected in a manner identical to the first eight Commissioners, including one member for the largest party in the state, one member from the second largest party in the state, and one member not affiliated with either party. (*Ibid.*) Once the ARP was established, it held all of its meetings and interviews in public, and every event was live-streamed and archived for public review.

The ARP engaged in a review of all applicants who had preliminarily qualified after being screened through a detailed set of conflict of interest rules. (Gov. Code, § 8252, subds. (a)(2) & (d).) The selection process was public. The ARP was charged with selecting 60 qualified applicants, consisting of 20 from each of the three political subgroups. (*Id.*, § 8252, subd. (d).) The applicants were chosen based on their “analytical skills, ability to be impartial, and their appreciation for California’s diverse demographics and geography.” (*Ibid.*)

After this initial pool was selected, legislative leaders from the two major political parties were allowed to exercise discretionary strikes. (Gov. Code, § 8252, subd. (e).) The leaders for the Majority and Minority parties in the Assembly and the Senate were each allowed to eliminate two persons from each pool of applicants, based on their judgment and discretion. (*Ibid.*) This

procedure allowed for further scrutiny of the applicant pool by both Republican and Democratic party leaders to help ensure that real or perceived partisan leanings were further minimized. This process eliminated eight individuals from each of the three pools of 20 applicants, leaving 12 Republicans, 12 Democrats, and 12 not affiliated with either major party. (*Ibid.*) From the remaining pool, the State Auditor randomly selected three Democrats, three Republicans, and two not affiliated with either party, who became the first eight Commissioners. (*Id.*, § 8252, subd. (f).)

This extraordinary effort to implement a fair selection process then continued, with the first eight Commissioners charged with selecting the remaining six Commissioners from the balance of the Applicant pool. The eight Commissioners deliberated on each applicant and applied all necessary criteria to establish a proposed slate of six. Specifically, the eight Commissioners were charged with applying the following additional criteria:

The six appointees shall be chosen to ensure the commission reflects this state's diversity, including but not limited to racial, ethnic, geographic, and gender diversity. However, it is not intended that formulas or specific ratios be applied for this purpose. Applicants shall also be chosen based on relevant analytical skills and ability to be impartial.

(Gov. Code, § 8252, subd. (g).) The eight Commissioners were required to, and did, agree on the proposed slate of six commissioners by a supermajority vote of at least two Democrats, two Republicans, and one affiliated with neither major party.

As a result of this process, the Commission consisted of five individuals who were registered as Democrats, five Republicans, and four Decline-to-State voters. The Commissioners chosen reflect the diversity of our state in several ways. They have different educational and employment experiences, come from different geographic regions, have worked in multiple locations around the state, and reflect the ethnic diversity of California. The Commissioners' backgrounds and biographic information are available on the Commission's website: [www.wedrawthelines.ca.gov](http://www.wedrawthelines.ca.gov).

***There was an Open and Extensive Public Hearing and Input Process.***

The Voters First Act amended article XXI section 2(b) of the California Constitution to provide that the Commission “conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines.” In addition, the Act required the Commission to “establish and implement an open hearing process for public input and deliberation” and to conduct an “outreach program to solicit broad public participation in the redistricting public review process.” (Gov. Code, § 8253, subd. (a)(7).) The Commission took this obligation very seriously and made extensive efforts to ensure compliance by creating an open and extensive public hearing and input process.

To fulfill these requirements, the Commission did the following:

- The Commission solicited testimony through significant public outreach that included mainstream and ethnic media, the Commission's website, social media, and through

organizations such as the California Chamber of Commerce, Common Cause, the League of Women Voters, the Mexican American Legal Defense and Educational Fund, the National Association of Latino Elected and Appointed Officials, the Asian Pacific American Legal Center, California Forward, the Greenlining Institute and the National Association for the Advancement of Colored People. The Commission also distributed its educational materials in English and six other languages (Spanish, Chinese, Japanese, Korean, Tagalog, and Vietnamese), and accepted testimony in any form or language in which the information was submitted. This included information over the phone, by e-mail, fax, petitions, hand-drawn maps, and in-person public testimony.

- During the course of the redistricting process, which began after the full Commission was sworn in during the month of January 2011, the Commission held more than 70 business meetings and 34 public input hearings that were scheduled throughout California. The Commission held meetings in 32 cities, in 23 counties. Meetings were carefully designed to be at times and locations that were convenient for average citizens to participate. For example, most meetings were held during the early evening hours, usually at a government or school location in the center of a community. The Commission extended the hours of its input hearings, allowing many meetings to go several hours beyond the scheduled adjournment where venues permitted.
- At each business meeting, the Commission regularly allowed an opportunity for public input and comment.
- More than 2,700 speakers spoke at the public input hearings and presented testimony about their communities and regions. For example, at its meeting on April 28, 2011 in Los Angeles, over 180 individuals attended and offered input. At another meeting in Culver City, more than 250 people arrived. The Commission held the session until 11:15 p.m. in order to allow as many speakers as possible to participate. These are just two of many examples of the Commission's extensive effort to engage the public and solicit input on district maps.
- Ultimately, the Commission received more than 2,000 written submissions containing testimony and maps reflecting proposed statewide, regional, or other districts. Some private individuals and organized groups submitted detailed electronic data files along with their proposed maps at input hearings and business meetings. Representative groups that submitted testimony and/or proposed maps included: the African American Redistricting Coalition; the Armenian National Committee of America: Western Region; the Black Farmers and Agriculturalist Association; the California Conservative Action Group; the California League of Conservation Voters; the California Institute of Jobs Economy and Education; the Central Coast Alliance United for a Sustainable Economy; the Chinese American Citizens Alliance; the Citizens for the San Gabriel Mountains; the Coalition of Asian Pacific Americans for Fair Redistricting; the Coalition of Suburban Communities for Fair Representation; the Council of Black Political Organizations; the East San Fernando Valley Redistricting Coalition; Equality California; the Inland Empire African American Redistricting Coalition; the Latino Policy Forum; the League of Women Voters; the Mexican American Legal Defense and Educational Fund; the National Association for the Advancement of Colored People; the People's Advocate; the

San Joaquin County Citizens for Constitutional Redistricting; the Sierra Club; the Silicon Valley Leadership Group; the South Bay Committee for Fair Redistricting; the Tri-Cities – Fremont, Newark, Union City; the United Latinos Vote; the Valley Industry and Commerce Association; and the WARD Economic Development Corp.

- The Commission’s staff also received written comments, input and suggestions from more than 20,000 individuals and groups that contain information about their communities, shared interests, backgrounds, histories, and suggested guidelines for district boundaries, as well as recommendations to the Commission on the overall process of redistricting.
- The Commission held 23 public input hearings around the state before it issued a set of draft maps on June 10, 2011. Following a five-day public review period, the Commission held 11 more public input hearings around the state to collect reactions and comments about the initial draft maps.
- Beginning in June 2011, the Commission’s meetings were held at the University of the Pacific McGeorge School of Law in Sacramento. The Commission held six meetings in June and 16 meetings during July at this location, and continued to receive extensive public input via written submissions, e-mail, and live public comment. At each of its meetings the Commission allowed for public participation and comment. During the June and July meetings more than 276 people appeared and offered public comments to the Commission, various groups regularly attended and monitored the deliberations, and individuals and groups continued to offer written comments, maps, and suggestions.
- All of the Commission’s public meetings were live-streamed, captured on video, and placed on the Commission’s website for public viewing at any time. Stenographers were present at the Commission business meetings and meetings where instructions were provided to Q2 Data and Research, LLC, the company retained to implement the Commission’s directions and to draw the draft districts and final maps. Transcripts of meetings were also placed on the Commission’s website. Finally, all of the completed documents prepared by the Commission and its staff, along with all documents presented to the Commission, by the public and suitable for posting were posted to the Commission’s website for public review.

Based on this extensive process, the Commission successfully met its mandate to hold open and transparent proceedings so that the public could participate thoroughly in the line drawing and redistricting process.

## **II. CRITERIA USED IN DRAWING MAPS**

Article XXI of the California Constitution also establishes the legal framework for drawing new political districts in California every ten years. This framework establishes a number of map-drawing criteria in descending order of priority, starting with the United States Constitution, then the federal Voting Rights Act of 1965 (42 U.S.C. §§ 1973–1973(aa)(6)) (the “Voting Rights Act”), and then a set of traditional redistricting criteria.

As explained below, the Commission carefully adhered to these criteria throughout the line-drawing process. As a result, the Commission’s maps provide an opportunity to achieve effective and fair representation—precisely what the voters intended when they enacted Propositions 11 and 20. (See, e.g., Cal. Const., art. XXI, § 2(d)(4).)

**A. The Framework: Article XXI of the California Constitution**

Article XXI, section 1, provides that in the year following the year in which the national Census is taken, the Commission “shall adjust the boundary lines of the congressional, State Senatorial, Assembly and Board of Equalization districts (also known as ‘redistricting’) in conformance with the standards and process set forth in Section 2.” (Cal. Const., art. XXI, § 1.)

Section 2 of Article XXI, in turn, provides that the Commission shall “(1) conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines; (2) draw district lines according to the redistricting criteria specified in this article; and (3) conduct themselves with integrity and fairness.” (Cal. Const., art. XXI, § 2, subd. (b).)

Section 2 of Article XXI also establishes six specific criteria that the Commission must consider in drawing the new district maps. Specifically, subdivision (d) provides as follows:

The commission shall establish single-member districts for the Senate, Assembly, Congress, and State Board of Equalization pursuant to a mapping process using the following criteria as set forth in the following order of priority:

- (1) Districts shall comply with the United States Constitution. Congressional districts shall achieve population equality as nearly as is practicable, and Senatorial, Assembly, and State Board of Equalization districts shall have reasonably equal population with other districts for the same office, except where deviation is required to comply with the federal Voting Rights Act or allowable by law.
- (2) Districts shall comply with the federal Voting Rights Act . . . .
- (3) Districts shall be geographically contiguous.
- (4) The geographic integrity of any city, county, city and county, local neighborhood, or local community of interest shall be respected in a manner that minimizes their division to the extent possible without violating the requirements of any of the preceding subdivisions. A community of interest is a contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Examples of such shared interests are those common to an urban area, a rural area, an industrial area, or an agricultural area, and those common to areas in which the people share similar living standards, use the same transportation facilities, have similar work opportunities, or have access to the same media of communication relevant to the election process. Communities of

interest shall not include relationships with political parties, incumbents, or political candidates.

(5) To the extent practicable, and where this does not conflict with the criteria above, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant population.

(6) To the extent practicable, and where this does not conflict with the criteria above, each Senate district shall be comprised of two whole, complete, and adjacent Assembly districts, and each Board of Equalization district shall be comprised of 10 whole, complete, and adjacent Senate districts.

(Cal. Const., art. XXI, § 2, subd. (d).)

Article XXI further states that the “place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.” (Cal. Const., art. XXI, § 2, subd. (e).)

Finally, Article XXI provides that “[d]istricts for the Congress, Senate, Assembly, and State Board of Equalization shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.” (Cal. Const., art. XXI, § 2, subd. (f).)

**B. The Six Redistricting Criteria Set Forth in Article XXI, Subdivision (d), of the California Constitution**

Each of the six enumerated criteria that the Commission considered in drawing the new political maps, as well as the specific decisions that the Commission made in light of these criteria, require further elaboration, described below.

***1. Criterion One: The United States Constitution***

The Commission’s highest ranking criterion is to comply with the United States Constitution. (Cal. Const., art. XXI, § 2, subd. (d)(1).) This priority reflects the federal Constitution’s Supremacy Clause: “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” (U.S. Const., art. VI, cl. 2.)

One aspect of federal constitutional compliance in the redistricting context is “population equality,” also known as adherence to the principle of “one person, one vote.” (See Cal. Const., art. XXI, § 2, subd. (d)(1) [“Congressional districts shall achieve population equality as nearly as is practicable, and Senatorial, Assembly, and State Board of Equalization districts shall have reasonably equal population with other districts for the same office, except where deviation is required to comply with the federal Voting Rights Act or allowable by law.”].) Another consideration for purposes of redistricting, although not mentioned specifically in Article XXI, is

compliance with the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

### **i. Population Equality**

The United States Constitution requires that any redistricting plan must achieve population equality among electoral districts. (See U.S. Const., art. I, § 2 [“The House of Representatives . . . shall be apportioned among the several States which may be included within this Union, according to their respective numbers.”]; see also *Reynolds v. Sims* (1964) 377 U.S. 533, 568 (*Reynolds*) [“[T]he Equal Protection Clause [of the Fourteenth Amendment] requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis.”].)

As the United States Supreme Court has explained, an individual’s right to vote for state or federal legislators may be unconstitutionally impaired when the weight of that vote is diluted, as compared with the votes of citizens living in other parts of the state (see, e.g., *Reynolds, supra*, 377 U.S. at p. 568), or of the United States (see, e.g., *Kirkpatrick v. Preisler* (1969) 394 U.S. 526, 530–531 (*Kirkpatrick*)).

Notably, different bases and standards govern population equality for U.S. congressional districts, on the one hand, and state legislative districts (Assembly and Senate) and districts for state entities such as the Board of Equalization, on the other.

#### **a. U.S. Congressional Districts**

With respect to congressional districts, the U.S. Supreme Court has imposed a *strict* standard of population equality. Indeed the “fundamental goal for the House of Representatives . . . requires that the State make a good-faith effort to achieve precise mathematical equality.” (*Kirkpatrick, supra*, 394 U.S. at pp. 530–531 [rejecting reapportionment plan where the average variation from the population ideal among districts was 1.6%]; see also *Karcher v. Daggett* (1983) 462 U.S. 725, 739–743 (*Karcher*) [rejecting reapportionment plan where the average variation from the population ideal among districts was .1384%].)

Nonetheless, recognizing that “[p]recise mathematical equality . . . may be difficult to achieve in an imperfect world,” the U.S. Supreme Court has explained that the population equality “standard is enforced only to the extent of requiring that districts be apportioned to achieve population equality *as nearly as is practicable*.” (*Karcher, supra*, 462 U.S. at p. 730, italics added, internal quotation marks and citation omitted.) The “as nearly as practicable” standard is mirrored in Article XXI of the California Constitution, which states that “Congressional districts shall achieve population equality as nearly as is practicable.” (Cal. Const., art. XXI, § 2, subd. (d)(1).)

Although the U.S. Supreme Court has theoretically recognized the practical need to deviate from strict population equality in congressional redistricting, the circumstances under which a state is permitted to do so are limited. Any deviation, no matter how small, must either be unavoidable or necessary to achieve a nondiscriminatory legislative policy. (See *Karcher*,

*supra*, 462 U.S. at pp. 740–741; see also *Kirkpatrick*, *supra*, 394 U.S. at p. 530 [rejecting contention “that there is a fixed numerical or percentage population variance small enough to be considered *de minimis* and to satisfy without question the [population equality] standard”].) Whether a nondiscriminatory legislative policy justifies a deviation depends on case-specific circumstances such as “the size of the deviations, the importance of the State’s interests, the consistency with which the plan as a whole reflects those interests, and the availability of alternatives that might substantially vindicate those interests yet approximate population equality more closely.” (See *Karcher*, *supra*, 462 U.S. at pp. 740–741.)

In strict compliance with these standards, the Commission’s congressional district maps achieved a total deviation of +/- 1 person. Specifically, 20 of the 53 congressional districts achieved the ideal population of 702,905 persons. Twelve of the 53 districts achieved a population of 702,906 persons, or one person more than the ideal. Twenty-one of the 53 districts achieved a population of 702,904 persons, or one person less than the ideal.

#### **b. State Legislative and Board of Equalization Districts**

With respect to population equality in state districts, the U.S. Supreme Court has afforded states “[s]omewhat more flexibility” than what is permitted in Congressional redistricting. (*Reynolds*, *supra*, 377 U.S. at p. 578.) Unlike the population-equality requirement for congressional districts, which is based on Article I, section 2 of the U.S Constitution, the population-equality requirement for state legislative districts is derived from the Equal Protection Clause of the Fourteenth Amendment. (See *id.* at p. 568.)

“[A]s a general matter, . . . an apportionment plan with a maximum population deviation under 10% falls within [a] category of minor deviations” insufficient to “make out a prima facie case of invidious discrimination under the Fourteenth Amendment.” (*Brown v. Thompson* (1983) 462 U.S. 835, 842, quoting *Gaffney v. Cummings* (1973) 412 U.S. 735, 745.) Yet drawing state legislative districts that fall within a 10% maximum deviation does not provide a “safe harbor” from any constitutional challenge. (See *Larios v. Cox* (N.D.Ga. 2004) 300 F.Supp.2d 1320 (*Larios*), *affd.* (2004) 542 U.S. 947 [affirming district court decision holding that state redistricting plan with total deviation under 10% nonetheless violated population equality requirement].)

Because there is no safe harbor, any degree of population deviation among state legislative districts must be supported by consistently applied and legitimate state interests. (See *Reynolds*, *supra*, 377 U.S. at p. 579 [“So long as the divergences from a strict population are based on legitimate considerations incident to the effectuation of a rational state policy, some deviations from the equal-population principle are constitutionally permissible with respect to the apportionment of seats in either or both of the two houses of a bicameral state legislature.”].) A state must justify deviations as “further[ing] legitimate state interests such as making districts compact and contiguous, respecting political subdivisions, maintaining the cores of prior districts, and avoiding incumbent pairings.” (*Larios*, *supra*, 300 F.Supp.2d at pp. 1337–1338.) Moreover, a state must apply the justifications for deviation in a nondiscriminatory and consistent manner. (See *id.* at pp. 1341–1342 [holding that a redistricting scheme was “baldly unconstitutional” where the “deviations were created to protect incumbents in a wholly inconsistent and discriminatory way”].)

The state may, of course, adopt more stringent population equality requirements than those permitted by the California constitution. (See, e.g., *Kelo v. City of New London, Conn.* (2005) 545 U.S. 469, 489.) As discussed in *Legislature v. Reinecke* (1973) 10 Cal.3d 396 (*Reinecke*), the special masters responsible for the 1970s redistricting decided that legislative districts should be “reasonably equal” in population, which they construed to mean:

districts should be within 1 percent of the ideal except in unusual circumstances, and in no event should a deviation greater than 2 percent be permitted. Although a greater percentage variation has been permitted in the reapportionment plans of other states[,] the populations of districts in such states were relatively small. Legislative districts in California are large, so that even a 1 percent or 2 percent variance in population affects a large number of persons.

(*Id.* at p. 411.) The California Supreme Court in *Reinecke* acknowledged that some objectors had criticized the masters for “adopt[ing] too rigorous standards of population equality” (*id.* at p. 402), but the Court ultimately adopted the masters’ plans.

Article XXI of the California Constitution was first enacted in 1980. As originally enacted, it mirrored the special masters’ standard from the 1970s and required that “the population of all districts of a particular type shall be *reasonably equal*.” (*Wilson v. Eu* (1992) 1 Cal.4th 707, 753 (*Wilson*), italics added.) The Attorney General had interpreted that language “as incorporating the more restrictive population requirements contained in [*Reinecke*] that the ‘population of senate and assembly districts should be within 1 percent of the ideal except in unusual circumstances, and in no event should a deviation greater than 2 percent be permitted.’” (*Ibid.*, quoting *Reinecke, supra*, 10 Cal.3d at p. 411.) Accordingly, the special masters in the 1990s expressly complied with that stricter deviation limit, while acknowledging that they had selected a maximum deviation that may have been even more stringent than the California Constitution required. (*Wilson, supra*, 1 Cal.4th at p. 753.) The California Supreme Court approved the masters’ plans without explicitly ruling on the maximum deviation permitted under the California Constitution. (See *id.* at p. 719.)

Proposition 11 and Proposition 20 amended the population-equality language in California’s Constitution to state that “Senatorial, Assembly, and State Board of Equalization districts shall have *reasonably equal population* with other districts for the same office, *except where deviation is required to comply with the federal Voting Rights Act or allowable by law*.” (Cal. Const., art. XXI, § (2), subd. (d)(1), amended by initiative, Gen. Elec. (Nov. 3, 2010), italics added.)

No court has interpreted the population-equality language in Propositions 11 or 20. Accordingly, no court has decided whether, or how, the addition of the phrase “except where deviation is required to comply with the federal Voting Rights Act or allowable by law” to “reasonably equal population,” may alter the total deviation allowed under the California Constitution.

In light of the greater flexibility for population deviation in state legislative districts, but mindful of the uncertainty with respect to California’s own constitutional standard, the Commission decided that its maps should strive for a total population deviation of zero; the

Commission would allow no more than a 2.0% total deviation except where further deviation would be required to comply with the federal Voting Rights Act or allowable by law.

Ultimately the maps were drawn to successfully maintain the population size of each district within +/- 1.0% of the ideal.

The ideal size of an Assembly district is 465,674 persons. Fifty-nine of the 80 Assembly districts achieved a deviation within 0.75% of the ideal, and the remaining 21 Assembly districts deviate less than 1.0% from the ideal. The Commission's Assembly districts achieved an overall average deviation of within 0.506% of the ideal.

The ideal size of a Senate district in California is 931,349. Twenty-nine of the 40 Senate districts have a deviation from the ideal of less than 0.50%, and the remaining 11 Senate districts deviate less than 1.0% from the ideal. Senate districts achieved an overall average deviation from the ideal of 0.449%.

The ideal size of a Board of Equalization district is 9,313,489. The Commission's four Board of Equalization districts achieved a deviation of within 1.0% of the ideal, with a range of -1.0% to +0.812% deviation from the ideal, and an average deviation of 0.630%.

## ii. Equal Protection Clause of the Fourteenth Amendment

The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution provides that "no state shall . . . deny to any person within its jurisdiction the equal protection of the laws." (U.S. Const., 14th Amend., § 1.) As interpreted by the U.S. Supreme Court, the Equal Protection Clause prohibits a state from using race as the *sole* or *predominant* factor in constructing districts, unless doing so satisfies the Court's "strict scrutiny" standard because it is necessary to achieve a compelling state interest. (See, e.g., *Bush v. Vera* (1996) 517 U.S. 952, 958–959 (*Vera*) (plur. opn. of O'Connor, J., joined by Rehnquist, C.J., and Kennedy, J.).)

However, the Equal Protection Clause does not preclude *any* consideration of race in redistricting. Indeed, the U.S. Supreme Court has acknowledged that "[r]edistricting legislatures will . . . almost always be aware of racial demographics." (*Miller v. Johnson* (1995) 515 U.S. 900, 916 (*Miller*)). As long as race is *not* the sole or predominant factor used to draw a particular district in a particular way, then a court will analyze a Fourteenth Amendment challenge to a district using a deferential "rational basis" review. (See *Vera, supra*, 517 U.S. at pp. 958–959 (plur. opn. of O'Connor, J., joined by Rehnquist, C.J., and Kennedy, J.); see generally *Nordlinger v. Hahn* (1992) 505 U.S. 1, 11 ["In general, the Equal Protection Clause is satisfied so long as there is a plausible policy reason for the classification, the legislative facts on which the classification is apparently based rationally may have been considered by the governmental decisionmaker, and the relationship of the classification to its goal is not so attenuated as to render the distinction arbitrary or irrational."], citations omitted.)

In other words, "[s]trict scrutiny does not apply merely because redistricting is performed with consciousness of race." (*Vera, supra*, 517 U.S. at pp. 958–959.) "Nor does [strict scrutiny] apply to all cases of intentional creation of majority-minority districts," as required by the Voting Rights Act, discussed *infra* at pp. 13–16. (*Ibid.*) Instead, strict scrutiny applies only where race is

the sole or “*predominant* factor motivating the legislature’s [redistricting] decision.” (*Ibid.*) A court evaluates whether race was the predominant factor motivating a redistricting decision by deciding whether “the legislature subordinated traditional race-neutral districting principles, including but not limited to compactness, contiguity, and respect for political subdivisions or communities defined by actual shared interests, to racial considerations.” (*Miller, supra*, 515 U.S. at p. 916.)

Courts have on occasion considered the shape of the challenged district in determining whether the redistricting body subordinated traditional principles to racial considerations. (*Shaw v. Reno* (1993) 509 U.S. 630, 647 [“We believe that reapportionment is one area in which appearances do matter. A reapportionment plan that includes in one district individuals who belong to the same race, but who are otherwise widely separated by geographical and political boundaries, and who may have little in common with one another but the color of their skin, bears an uncomfortable resemblance to political apartheid.”].) Although shape is neither necessary nor sufficient to establish a constitutional violation, an oddly shaped district “may be persuasive circumstantial evidence that race for its own sake, and not other districting principles, was the legislature’s dominant and controlling rationale in drawing its district lines.” (*Miller, supra*, 515 U.S. at p. 913; see also *Bush, supra*, 517 U.S. at p. 962 [holding that strict scrutiny applied where “the State substantially neglected traditional districting criteria such as compactness, it was committed from the outset to creating majority-minority districts, and it manipulated district lines to exploit unprecedentedly detailed racial data”].)

The U.S. Supreme Court has reserved ruling explicitly on the question of whether a state’s compliance with Sections 2 or 5 of the Voting Rights Act may serve as a “compelling governmental interest” that would justify drawing districts based predominantly on race. (E.g., *Bush, supra*, 517 U.S. at p. 977 [“As we have done in each of our previous cases . . . we assume without deciding that compliance with the [Voting Rights Act] can be a compelling state interest.”].) Nevertheless, a majority of the current U.S. Supreme Court Justices have written or joined in separate opinions indicating that compliance with Section 5 of the Voting Rights Act would likely be a compelling state interest.<sup>1</sup>

Note that even if compliance with the Voting Rights Act is found to be a compelling governmental interest for purposes of strict scrutiny, the proposed district must still be “narrowly tailored” to achieve compliance with the Voting Rights Act. Consequently, if the redistricting body has a “strong basis in evidence” for concluding that the “creation of a majority-minority district is reasonably necessary to comply with § 2, and the districting that is based on race

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<sup>1</sup> (*League of United Latin American Citizens v. Perry* (2006) 548 U.S. 399, 518 (*LULAC*) [“I would hold that compliance with § 5 of the Voting Rights Act can be [a compelling state] interest.”] (conc. & dis. opn. of Scalia, J., joined by Thomas and Alito, JJ., and Roberts, C.J.); *id.* at p. 47, fn. 12 [“Justice BREYER has authorized me to state that he agrees with Justice SCALIA that compliance with § 5 of the Voting Rights Act is also a compelling state interest.] (conc. and dis. opn. of Stevens, J., joined by Breyer, J.); see also *id.* at p. 475 [noting that a “State must justify its [race-predominant] districting decision by establishing that it was narrowly tailored to serve a compelling state interest, such as compliance with § 2 of the Voting Rights Act”] (conc. & dis. opn. of Stevens, J., joined by Breyer, J.); *Vera, supra*, 517 U.S. at p. 1033 [adopting the “perfectly obvious assumption that a State has a compelling interest in comply with § 2 of the Voting Rights Act”] (dis. opn. of Stevens, J., joined by Ginsburg and Breyer, JJ.).)

substantially addresses the § 2 violation, it satisfies strict scrutiny.” (*Vera, supra*, 517 U.S. at p. 977, citations omitted.)

In light of these principles, the Commission’s map-drawing process relied on race-neutral, traditional redistricting criteria as its primary focus in crafting district lines, even in areas where the Voting Rights Act required the creation of a majority-minority district. While the Commission was aware of and sensitive to the Census data and demographics of the areas under review—in particular with respect to areas in which the Voting Rights Act arguably may have required the drawing of a majority-minority district—race was never the sole or predominant criterion used to draw any of the district lines. The Commission made a substantial effort to focus on the shared interests and community relationships that belonged together for fair and effective representation of all of the people of the state of California when drawing district lines.

## **2. Criterion Two: The Federal Voting Rights Act**

The Commission’s second criterion in order of priority is that “[d]istricts shall comply with the federal Voting Rights Act. (Cal. Const., art. XXI, § 2, subd. (d)(2).) Compliance with the federal Voting Rights Act has two relevant components: Section 2 and Section 5.

In addition, the Voters First Act requires that at least one of the legal counsel hired by the Commission has experience and expertise in implementation and enforcement of the federal Voting Rights Act. (Gov. Code, § 8253(a)(5).) Accordingly, the Commission retained the law firm of Gibson, Dunn & Crutcher LLP to serve as its Voting Rights Act counsel and to help ensure compliance with Section 2 and Section 5 of the Voting Rights Act.

### **i. Section 2 of the Voting Rights Act**

Congress enacted Section 2 of the Voting Rights Act in an effort to combat minority vote dilution. Section 2 provides that no “standard, practice, or procedure shall be imposed or applied . . . in a manner which results in a denial or abridgement of the right . . . to vote on account of race or color” or membership in a language minority group. (42 U.S.C. §§ 1973(a), 1973b(f)(2).)

#### **a. Legal Standard**

“A violation [of Section 2] is established if, based on the totality of circumstances, it is shown that the political processes . . . are not equally open to participation by members of a class of citizens protected by subsection (a) of this section in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” (42 U.S.C. § 1973(b).)

In 1982, Congress clarified that Section 2 plaintiffs need not prove that “a contested electoral mechanism was intentionally adopted or maintained by state officials for a discriminatory purpose.” (*Thornburg v. Gingles* (1986) 478 U.S. 30, 35 (*Gingles*).) Rather, a “violation [can] be proved by showing discriminatory effect alone.” (*Ibid.*) Accordingly, a Section 2 violation occurs where “a contested electoral practice or structure results in members of a protected group having less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” (*Id.* at p. 63.) Importantly,

the U.S. Supreme Court has invoked Section 2 to strike down legislative redistricting plans that result in minority vote dilution as defined by Section 2. (See *LULAC*, *supra*, 548 U.S. at pp. 423–443.)

A single-member redistricting scheme can run afoul of Section 2 either through “cracking” or “packing” minority voters. “Cracking” occurs when a redistricting plan fragments “a minority group that is large enough to constitute the majority in a single-member district . . . among various districts so that it is a majority in none.” (*Voinovich v. Quilter* (1993) 507 U.S. 146, 153 (*Voinovich*)). “If the majority in each district votes as a bloc against the minority[-preferred] candidate, the fragmented minority group will be unable to muster sufficient votes in any district to carry its candidate to victory.” (*Ibid.*; see also *LULAC*, *supra*, 548 U.S. at pp. 427–443 [redistricting program violated Section 2 by reducing Latino citizen voting-age population from 54.7% to 46% in challenged district].)

“Packing,” on the other hand, occurs when a redistricting plan results in excessive concentration of minority voters within a district, thereby depriving minority voters of influence in surrounding districts. (*Voinovich*, *supra*, 507 U.S. at p. 153; see, e.g., *Bone Shirt v. Hazeltine* (8th Cir. 2006) 461 F.3d 1011, 1016–1019 [finding a Section 2 violation where Native Americans comprised eighty-six percent of the voting-age population in a district].)

The Supreme Court has established a number of elements that a plaintiff must prove to establish that a redistricting plan violates Section 2. Initially, a Section 2 plaintiff must satisfy the three so-called “*Gingles* preconditions” articulated by the Court in *Thornburg v. Gingles*. (See *Grove v. Emison* (1993) 507 U.S. 25, 37–42.) The *Gingles* preconditions are as follows:

“First, the minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district.”

“Second, the minority group must be able to show that it is politically cohesive.”

“Third, the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.”

(*Gingles*, *supra*, 478 U.S. at pp. 50–51.)<sup>2</sup>

With respect to the first *Gingles* precondition—a sufficiently large and geographically compact minority group—a minority group is sufficiently large only where “the minority

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<sup>2</sup> The “majority” does not actually have to be white (as opposed to some other racial group), or even comprised of a single racial group, in order to satisfy the third *Gingles* precondition. (See *Gomez v. City of Watsonville* (9th Cir. 1988) 863 F.2d 1407, 1417 [“Although the court did not separately find that Anglo bloc voting occurs, it is clear that the non-Hispanic majority in Watsonville usually votes sufficiently as a bloc to defeat the minority votes plus any crossover votes.”]; *Meek v. Metropolitan Dade County, Fla.* (S.D. Fla. 1992) 805 F.Supp. 967, 976 & fn.14 [“In order to prove the third prong in *Gingles*, Black Plaintiffs must be able to demonstrate that the Non-Black majority votes sufficiently as a bloc . . . Non-Blacks refer to Hispanics and Non-Hispanic Whites.”], *affd.* in part & *revd.* in part on other grounds (11th Cir. 1993) 985 F.2d 1471.)

population in the potential election district is greater than 50 percent.” (*Bartlett v. Strickland* (2009) 129 S.Ct. 1231, 1246 (*Bartlett*) (plur. opn. of Kennedy, J., joined by Roberts, C.J. and Alito, J.)) Although the Supreme Court has not expressly defined the proper measure of “minority population,” the Ninth Circuit Court of Appeals has endorsed the use of citizen voting age population (“CVAP”) statistics, rather than total population or voting-age population statistics, to satisfy the first *Gingles* precondition. (*Romero v. City of Pomona* (9th Cir. 1989) 883 F.2d 1418, 1426 [“The district court was correct in holding that eligible minority voter population, rather than total minority population, is the appropriate measure of geographical compactness.”], abrogated on other grounds, *Townsend v. Holman Consulting Corp.* (9th Cir. 1990) 914 F.2d 1136, 1141 [en banc]; see also *LULAC, supra*, 548 U.S. at p. 429 [observing, in dicta, that CVAP “fits the language of § 2 because only eligible voters affect a group’s opportunity to elect candidates”].)<sup>3</sup>

In addition, proof that the minority population in a hypothetical election district is large enough to form a “cross-over” district does *not* satisfy the first *Gingles* precondition. (See *Bartlett, supra*, 129 S.Ct. at pp. 1242–1243.) A district in which minority voters make up less than a majority, but can elect a candidate of the minority group’s choice where white voters “cross over” to support the minority’s preferred candidate is referred to as a “cross-over district.” (*Ibid.*) Notably, the fact that influence or cross-over districts cannot be used as a basis for asserting a Section 2 violation does not mean that these district types are prohibited. To the contrary, the Supreme Court has acknowledged that state legislative bodies may legitimately consider the use of cross-over districts to enhance or protect minority voting interests. (See *id.* at p. 1248 [“Our holding that § 2 does not require crossover districts does not consider the permissibility of such districts as a matter of legislative choice or discretion. Assuming a majority-minority district with a substantial minority population, a legislative determination, based on proper factors, to create two crossover districts may serve to diminish the significance and influence of race by encouraging minority and majority voters to work together toward a common goal. The option to draw such districts gives legislatures a choice that can lead to less racial isolation, not more.”].)

Further, the *Gingles* “compactness” inquiry focuses on the compactness of the *minority population*, not the shape of the district itself. (*LULAC, supra*, 548 U.S. at p. 433.) “[W]hile no precise rule has emerged governing [*Gingles*] compactness, the inquiry should take into account

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<sup>3</sup> The decennial Census does not collect or report actual data to establish citizenship. However, the Census Bureau’s American Community Survey (“ACS”) provides a rolling estimate of citizen voting age population or CVAP in a given geographic area over a 5-year period. The U.S. Bureau of the Census has issued disclaimers cautioning users about the inherent unreliability of this data, and explains that it cannot be used as an estimate of a specific population at a specific point in time. Nevertheless, because of the requirements of the Voting Rights Act, the Commission needed to use the most readily available and commonly used data in order to make its determinations about whether the Voting Rights Act required the drawing of certain districts. The Commission’s mapping consultant used CVAP data from California’s Statewide Database (which is based on the ACS CVAP data, but adjusted for census block estimates) to provide estimates to the Commission and its counsel of CVAP in any given area. While this CVAP data is not an exact number, the Commission, with expert guidance from its mapping consultant, exercised its judgment and relied on the CVAP data from the Statewide Database as the best available estimate of CVAP in a given area (the Commission also considered other population data reported in the 2010 Census, including Voting-Age Population and Total Population).

traditional districting principles such as maintaining communities of interest and traditional boundaries.” (*Ibid.*, citations omitted.) A district that “reaches out to grab small and apparently isolated minority communities” is not reasonably compact. (*Vera, supra*, 517 U.S. at p. 979.) Nonetheless, a minority population may be “geographically compact” for *Gingles* purposes even if it is not strictly contiguous. That is, two non-contiguous minority populations “in reasonably close proximity” could form a “geographically compact” minority group if they “share similar interests” with each other. (*LULAC, supra*, 548 U.S. at p. 435.)<sup>4</sup>

The second and third *Gingles* preconditions are often referred to collectively as “racially polarized voting” and are considered together. Courts first assess whether a politically cohesive minority group exists, i.e., “a significant number of minority group members usually vote for the same candidates.” (*Gingles, supra*, 478 U.S. at p. 56.) Then, courts look for legally significant majority bloc voting, i.e., a pattern in which the majority’s “bloc vote . . . normally will defeat the combined strength of minority support plus [majority] ‘crossover votes.’” (*Id.* at p. 55.) This analysis typically requires expert testimony. (See, e.g., *id.* at pp. 53–74 [considering expert testimony regarding minority group’s lack of success in past elections].)

A plaintiff who establishes all three *Gingles* preconditions has not yet established that a challenged district violates Section 2. Instead, once the *Gingles* preconditions have been shown, a court must then consider whether, “based on the ‘totality of the circumstances,’ minorities have been denied an ‘equal opportunity’ to ‘participate in the political process and to elect representatives of their choice.’” (*Abrams v. Johnson* (1997) 521 U.S. 74, 90, quoting 42 U.S.C. § 1973(b).)<sup>5</sup>

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4 “Because *Gingles* advances a functional evaluation of whether the minority population is large enough to form a district in the first instance, the Circuits have been flexible in assessing the showing made for this precondition.” (*Sanchez v. City of Colorado* (10th Cir. 1996) 97 F.3d 1303, 1311; see *Houston v. Lafayette County, Miss.* (5th Cir. 1995) 56 F.3d 606, 611.)

5 Courts look to the following non-exhaustive list of factors (the so-called “Senate Report Factors,” based on the Senate Report accompanying the 1982 amendments to Section 2) to determine whether, based on the totality of circumstances, a Section 2 violation exists:

- (1) “[W]hether the number of districts in which the minority group forms an effective majority is roughly proportional to its share of the population in the relevant area.” (*LULAC, supra*, 548 U.S. at p. 426.) “[T]he proper geographic scope for assessing proportionality [is] statewide.” (*Id.* at p. 437.)
- (2) “[T]he extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise participate in the democratic process.” (*Gingles, supra*, 478 U.S. at pp. 36–37, quoting Sen.Rep. No. 97-417, 2d Sess. (1982), reprinted in 1982 U.S. Code Cong. & Admin. News, pp. 206–207.)
- (3) “[T]he extent to which voting in the elections of the state or political subdivision is racially polarized.” (*Id.* at p. 37.)
- (4) “[T]he extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group.” (*Ibid.*)
- (5) “[I]f there is a candidate slating process, whether the members of the minority group have been denied access to the process.” (*Ibid.*)
- (6) “[T]he extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process.” (*Ibid.*)

**b. The Commission’s Compliance with Section 2 of the Voting Rights Act**

With the legal framework of Section 2 of the Voting Rights Act in mind, the Commission worked to identify areas of the state where, at least potentially, a geographically compact concentration of a single minority group could form a majority (50% or greater CVAP) in a Congressional, Senate, or Assembly district. In each of those areas, the Commission discussed with legal counsel whether Section 2 required the drawing of a majority-minority district. To assist counsel in forming its legal judgment about potential Section 2 required districts, the Commission hired Dr. Matt Barreto (Associate Professor of Political Science at the University of Washington) to help evaluate the evidence about racially polarized voting in counties where the Commission had identified significant minority concentrations.

**Areas Other than Los Angeles County.**

The Commission’s counsel worked with Dr. Barreto to evaluate evidence of racially polarized voting in Fresno, Kings, Orange, San Diego, Riverside, and San Bernardino Counties. After evaluating that evidence, counsel reported to the Commission that there was strong evidence of racially polarized voting with respect to Latinos and non-Latinos in Fresno, Orange, San Diego, Riverside, and San Bernardino Counties. In the judgment of the Commission’s Voting Rights Act counsel, there were sufficient indicia that the *Gingles* preconditions had been satisfied with respect to certain geographically compact Latino populations within those counties, and there was sufficient evidence concerning the totality of the circumstances, that there would likely be a Section 2 violation if majority-minority districts were not drawn. Counsel further reported that the available evidence regarding racially polarized voting in Kings County elections was inconclusive.

Based on this advice, which the Commission evaluated in detail and then accepted, the Commission chose to draw the following majority-Latino districts, employing both racial/ethnic data and traditional redistricting criteria to the extent practicable:

Type	No.	Area	LCVAP %
AD	31	Fresno	50.81%
AD	69	Orange	52.60%
AD	80	San Diego	50.76%

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(7) “[W]hether political campaigns have been characterized by overt or subtle racial appeals.” (*Ibid.*)

(8) “[T]he extent to which members of the minority group have been elected to public office in the jurisdiction.” (*Ibid.*)

(9) “[W]hether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group.” (*Ibid.*)

(10) “[W]hether the policy underlying the state or political subdivision’s use of such voting qualification, prerequisite to voting, or standard, practice or procedure is tenuous.” (*Ibid.*)

(11) The extent to which there is evidence of “the lingering effects of past discrimination.” (*Id.* at p. 48, fn.15.)

Type	No.	Area	LCVAP %
AD	52	San Bernardino	50.56%
AD	47	San Bernardino	52.32%
SD	20	San Bernardino	51.39%
CD	35	San Bernardino	51.94%

**Los Angeles County**

The Commission paid particular attention to Section 2 issues within Los Angeles County, which, with approximately 9.8 million people, is California’s most populous county and among its most racially and ethnically diverse regions. The Commission held several meetings in the Los Angeles area and heard input from hundreds of people. Many groups and individuals also submitted maps, written reports, and written commentary about how district lines should be drawn. The Commission evaluated the application of the legal framework discussed above to several minority populations, including Latinos, African Americans and Asian Americans. Each population is discussed in turn.

***Latinos in Los Angeles County***

The Commission was advised by counsel that if the Commission did not draw several Latino-majority districts in Los Angeles County, Latinos might potentially have a viable claim that the Commission’s maps violate Section 2. The Commission evaluated counsel’s advice thoroughly, and took it into account when drawing the Los Angeles area districts, as discussed below.

The Latino CVAP population, as a whole, in Los Angeles County numbers approximately 1.8 million. Regarding the first *Gingles* precondition, the Commission’s counsel advised that there are a number of areas in Los Angeles County where Latinos comprise a sufficiently large and geographically compact group such that they could constitute a majority in a single-member district.

The Commission’s counsel, working with Dr. Barreto, also advised the Commission that there was strong evidence that polarized voting exists in Los Angeles County between Latinos and non-Latinos. In particular, the Commission received a summary from Dr. Barreto covering more than a dozen studies reflecting election analyses covering a multi-year period which concluded that there is a significant body of evidence that Latinos vote in a politically cohesive manner for their preferred candidates, while non-Latinos vote in significant numbers for different candidates. The evidence is especially strong at the level of primary elections and where there are contested seats (as opposed to elections involving long-term incumbents).

Based in part on the public testimony and on submissions by individuals and groups, the Commission’s counsel also advised that there was sufficient evidence that the “totality of the circumstances” weighed in favor of a Section 2 claim in Los Angeles on behalf of Latinos, and

that the Commission could avoid potential liability under Section 2 by drawing several majority-Latino districts. Among other things, the Commission considered (a) the testimony of Arturo Vargas, Executive Director of NALEO, dated June 28, 2011, which addressed barriers to Latino participation and representation in California, including educational and income disparities, vote dilution, gerrymandering, and voter intimidation, and (b) the expert witness report of Albert M. Camarillo, professor of history at Stanford University, which provided abundant support for the conclusion that a history of discrimination exists against Latinos in California and Los Angeles in particular. The Commission was not presented with any contradictory evidence on these points.

Accordingly, the Commission's counsel advised that in light of the requirements of Section 2 of the Voting Rights Act and the available evidence, the Commission should create several majority-Latino districts in Los Angeles County.

The Commission focused its efforts on trying to group cities, neighborhoods, and communities together based on shared interests and commonalities, including social, economic, cultural, and geographic factors. The Commission obtained this information by evaluating public input and available Census data, and by considering their own personal knowledge of the area. As a result of this process several majority-Latino districts were drawn in the Los Angeles area, and the Commission concluded that it had met its obligation to comply with Section 2 of the Voting Rights Act concerning the Latino population. These districts included Assembly Districts 39, 48, 51, 53, 57, 58, 59, and 63; Senate Districts 24, 32, and 33; and Congressional Districts 29, 32, 34, 38, 40, and 44. Detailed descriptions and information about these districts are included with the discussion of other districts later in this report, and in the accompanying data, appendices, and maps.

### ***African Americans in Los Angeles County***

The Commission also considered whether Section 2 of the Voting Rights Act required the creation of majority-minority districts for African Americans in Los Angeles County. A preliminary analysis showed that African Americans could form a majority CVAP in a reasonably compact geographic area in at least one Assembly district and one Congressional district. Consequently, the Commission sought information from its counsel and its racially polarized voting consultant about the application of the remaining *Gingles* preconditions and the totality of the circumstances requirement.

Evidence summarized by Dr. Barreto demonstrated that there was racially polarized voting between Latinos and African Americans in portions of Los Angeles where these communities are adjacent. Dr. Barreto did not conduct further studies to determine whether there was polarized voting between African Americans and other populations, based in part on the strong input from voices in the communities where African Americans reside, as discussed below.

Many public speakers and organized groups provided substantial testimony about the history of African American participation in politics in Los Angeles. According to this input, African Americans have enjoyed substantial electoral success by forming coalitions with a variety of groups over a period of many years. For example, the African American Redistricting

Collaborative (“AARC”) observed that African Americans have enjoyed substantial electoral success in South Los Angeles by forming coalitions with other groups. (See Report on AARC’s Redistricting Proposal (May 26, 2011) pp. 2–3, & fn.6.) Indeed, African American-preferred candidates have been elected in four Assembly districts, two California Senate districts, and three congressional districts in South Los Angeles. (*Ibid.*) These candidates have succeeded even despite the fact that African Americans make up less than 30% of the total voting population in some districts. (*Ibid.*) In short, African Americans in Los Angeles County have enjoyed a history of “electoral effectiveness” despite the lack of majority-Black districts. (*Id.* at p. 3.)

The May 26, 2011, submission of the Inland Empire African American Redistricting Coalition made similar points. Likewise, the Black Farmers and Agriculturalist Association observed that “[n]one of the [seats in the State Senate and Congress that are currently held by African Americans] exceeded 30% Black population when drawn in 2001. . . . *Black people have persistently won seats in jurisdictions with less than 20% Black populations.*” (William Boyer, Testimony for California Citizens Redistricting Commission (May 24, 2011) p. 4, italics added.)

There was also a concern raised in public input that concentrating a large percentage of African Americans in a single majority district would actually be detrimental to the ability of African Americans to fairly participate in the electoral process. Some members of the public suggested that the intentional creation of such a majority-Black district could give rise to a violation of Section 2 of the Voting Rights Act based on intentional discrimination, or to a “packing” claim.

Based on this substantial input and the dearth of public input to the contrary, the Commission’s counsel advised the Commission that a court considering the totality of circumstances could likely conclude that Section 2 of the Voting Rights Act did not require the creation of a majority-Black district in Los Angeles County. Consequently, the Commission did not create a majority-African American district. The Commission did, however, rely on public testimony and submissions to create districts that took into account significant African American population concentrations, but also relied heavily on non-racial redistricting criteria, which maintained the integrity of cities, local neighborhoods, and local communities of interest and linked together populations with common social and economic interests.

### ***Asian Americans in Los Angeles County***

The Commission identified one area of Los Angeles County in which Asian Americans could form a geographically compact majority of the citizen voting age population at the Assembly district level. The Commission heard significant public testimony evidencing a history of racial tension in the area and a lack of political power among the local Asian American community.

For example, according to the submission of the Coalition of Asian Pacific Americans for Fair Redistricting (“CAPAFR”), multiple cities in this area have faced enforcement actions from the U.S. Department of Justice (“DOJ”) for failing to comply with Section 203 of the Voting Rights Act. (See CAPAFR’s Statewide Plan for California Assembly Districts and Proposed Regional Plan for California Senate District (May 23, 2011) at Tab 2, pp. 7–8.) With respect to the San Gabriel Valley area of Los Angeles in particular, the CAPAFR submission explained

that Asian Americans in the San Gabriel Valley have faced barriers to political participation; local jurisdictions' failures to provide language assistance mandated by Section 203 necessitated enforcement actions by the DOJ against the city of Rosemead in 2005 and the city of Walnut in 2007, each of which resulted in a consent decree. (*Id.* at Tab 2, p. 8.)

In addition, the Commission's counsel directed Dr. Barreto to evaluate evidence of racially polarized voting in the San Gabriel Valley area of Los Angeles County. Based on the evidence evaluated by Dr. Barreto concerning the existence of racially polarized voting with respect to Asian Americans, the Commission's counsel advised that there were sufficient indicia that all three *Gingles* preconditions had been satisfied as to a geographically compact Asian American population in this area, and in consideration of the totality of the circumstances factors, a court could likely find a Section 2 violation if a majority-minority Assembly district were not drawn. The Commission evaluated and considered this advice and also relied on community-of-interest testimony and public input to develop a district with a majority-Asian American population, i.e., Assembly District No. 49.

## ii. Section 5 of the Voting Rights Act

Section 5 of the Voting Rights Act requires California to obtain pre-clearance of its newly drawn congressional, Assembly, Senate, and Board of Equalization redistricting plans from either the Attorney General of the United States or the United States District Court for the District of Columbia before those plans can go into effect. (42 U.S.C. § 1973c.)

Unlike Section 2, Section 5 applies only to changes made in certain counties; specifically, those which imposed a test or device as a prerequisite to voting and in which fewer than half of the residents of voting age were registered to vote, or voted in the presidential elections of 1964, 1968, or 1972. (See 42 U.S.C. § 1973b(b); *Wilson, supra*, 1 Cal.4th at p. 746.) Pursuant to this formula, Section 5 applies to Kings, Merced, Monterey, and Yuba Counties (the "Covered Counties"), and California must submit any statewide voting-related change that affects these counties for pre-clearance to the DOJ or to a federal district court in Washington, D.C. (See, e.g., *Lopez v. Monterey County* (1999) 525 U.S. 266, 287.)

A redistricting scheme that is enacted with the "purpose" of diminishing the ability of racial or language minority groups to elect their preferred candidate violates Section 5. (42 U.S.C. § 1973c(b) ["Any voting qualification or prerequisite to voting or standard, practice or procedure with respect to voting that has the purpose of . . . diminishing the ability of any citizens of the United States on account of race or color, or [membership in a language minority] to elect their preferred candidates of choice denies or abridges the right to vote within the meaning of . . . this section."].) Congress has broadly defined the "term 'purpose' . . . [to] include any discriminatory purpose." (*Id.* at § 1973c(c).) Upon receiving a redistricting plan for pre-clearance, the DOJ conducts a holistic review of the proposed changes to the Covered Counties and the process used to adopt these changes to determine whether any direct or circumstantial evidence of a discriminatory purpose exists. (See Department of Justice Guidance Concerning Redistricting Under Section 5 of the Voting Rights Act (Feb. 9, 2011) 76 Fed. Reg. 7,471 ("DOJ Guidance").)

Even where a redistricting scheme was not enacted with a discriminatory purpose, it will run afoul of Section 5 if it has the “effect” of diminishing the ability of racial or language minority groups to elect their preferred candidate. (42 U.S.C. § 1973c(b) [“Any voting qualification or prerequisite to voting or standard, practice or procedure with respect to voting that . . . will have the effect of diminishing the ability of any citizens of the United States on account of race or color, or [membership in a language minority] to elect their preferred candidates of choice denies or abridges the right to vote within the meaning of . . . this section.”].) A redistricting scheme “has the ‘effect’ of denying or abridging the right to vote if it leads to a retrogression in the position of racial or language minorities with respect to their effective exercise of the electoral franchise.” (*Riley v. Kennedy* (2008) 553 U.S. 406, 412, internal quotations and alterations omitted.) In determining whether a submitted change is retrogressive, the DOJ will compare the submitted change to the last legally enforceable redistricting plan in force or effect. (See *id.* at p. 421.)

The most recent United States Supreme Court case addressing Section 5 adopted a holistic method for evaluating retrogression. (See *Georgia v. Ashcroft* (2003) 539 U.S. 461, 479–485 (*Ashcroft*)). In doing so, the Court formulated a list of factors to guide the analysis of state-wide redistricting plans, including the number of majority-minority districts appearing in the plan; the number of influence or coalition districts appearing in the plan; the ability of minority groups to elect candidates of choice pursuant to the plan; the minority groups’ ability to influence the political process pursuant to the plan; the political party preferences of minority groups; voter registration rates of minority groups; the ability of representatives of minority communities to obtain leadership positions once elected; whether the representatives elected by minority groups at all levels support the proposed redistricting plan; the merits of alternative proposed redistricting plans; Census data from the time the benchmark plan was created; current Census data; and testimony from individual intervenors. (*Ibid.*)

In 2006, Congress amended the language of Section 5 in part because it believed that the *Ashcroft* decision had “misconstrued Congress’ original intent in enacting the Voting Rights Act of 1965.” (Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006 (2006) Pub. L. No. 109-246 § 2(b)(6).) Accordingly, Congress refocused the retrogression analysis on “protect[ing] the ability of [racial or language minorities] to elect their preferred candidates of choice.” (See 42 U.S.C. § 1973c(d).) Because the U.S. Supreme Court has not yet construed Section 5 retrogression in light of the 2006 amendment, there is still some uncertainty regarding whether and to what extent the *Georgia v. Ashcroft* factors remain probative in evaluating retrogression. (See *ibid.*) There is also uncertainty about the standards to be applied in evaluating electoral changes covered by Section 5 and the appropriate interpretation of the 2006 amendments. (See, e.g., Persily, *The Promise and Pitfalls of the Voting Rights Act* (2007) 117 Yale L.J. 174, 234–245.)

In light of Section 5, and plausible interpretations of the 2006 Amendments on the retrogression standard, the Commission drew districts that maintained minority voting strength to the extent possible and did not diminish the ability of any minority group to elect their preferred candidates, while also maintaining consistency with the public input concerning appropriate groupings of cities, counties, local neighborhoods, and local communities of interest. The Commission paid close attention to racial and ethnic minority demographics within districts containing all or part of the Covered Counties. In the Commission’s view, in consultation with

its Voting Rights Act counsel, the districts that contain all or part of the Covered Counties are non-retrogressive and do not diminish the ability of protected groups to elect the candidates of their choice.

The districts that include Covered Counties and were therefore subject to the provisions of Section 5 were: Assembly Districts 3 (Yuba), 21 (Merced), 29 (Monterey), 30 (Monterey), and 32 (Kings); Senate Districts 4 (Yuba), 12 (Merced, Monterey), 14 (Kings), and 17 (Monterey); Congressional Districts 3 (Yuba), 16 (Merced), 20 (Monterey), and 21 (Kings); and Board of Equalization Districts 1 (Kings, Merced, Yuba) and 2 (Monterey).

### **3. Criterion Three: Geographic Contiguity**

The Commission's third criterion is that "[d]istricts shall be geographically contiguous." (Cal. Const. art. XXI, § 2, subd. (d)(3).)

The California Supreme Court has endorsed a "functional" approach to contiguity as it appeared in prior iterations of the Constitution. (See *Wilson, supra*, 1 Cal.4th at p. 725 [approving the special masters' "concept of functional contiguity and compactness"].) Although there is no judicial decision interpreting the term "contiguous" under Propositions 11 or 20, the Commission has relied on commonly accepted interpretations of contiguity that focus on ensuring that areas within a district are connected to each other.

All of the Commission's districts are geographically contiguous and comply with the Voters First Act. Historically, several islands that lie off the California coastline (e.g., Santa Catalina Island, the Farallon Islands, and the Channel Islands) have formed portions of California counties—these islands traditionally have been maintained in congressional, legislative, or Board of Equalization districts that contain all or part of such counties. The islands satisfy contiguity requirements by being contiguous by water travel. In similar areas, such as the city of Coronado in San Diego County, the Commission employed a functional approach to contiguity, relying on forms of water travel, such as regularly scheduled ferryboats, to maintain contiguity within a district.

### **4. Criterion Four: Geographic Integrity**

The Commission's fourth criterion provides: "[t]he geographic integrity of any city, county, city and county, local neighborhood, or local community of interest shall be respected in a manner that minimizes their division to the extent possible without violating the requirements of any of the preceding subdivisions." (Cal. Const., art. XXI, § 2, subd. (d)(4).) The Commission relied on Census geographic data to determine the boundaries of cities, counties, and the city and county of San Francisco. In addition, the Commission relied on appropriate municipal data such as planning department boundaries or neighborhood council boundaries to help determine the boundaries of neighborhoods in major cities such as Los Angeles, San Diego, and San Francisco.

A local "community of interest" is defined under the Constitution as "a contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Examples of such shared interests are those common to an urban area, a rural area, an industrial area, or an agricultural area, and those common to areas in which the people share similar living standards, use the same

transportation facilities, have similar work opportunities, or have access to the same media of communication relevant to the election process.” (Cal. Const., art. XXI, § 2, subd. (d)(4).)

Section 2(d)(4) also clarifies that “[c]ommunities of interest shall not include relationships with political parties, incumbents or political candidates.” (See Cal. Const., art. XXI, § 2, subd. (d)(4); accord *id.*, § 2, subd. (e) [“Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.”].)

As discussed above, the Commission’s map-drawing process included extensive public hearings and other opportunities for public input. The Commission took this input into account and its maps minimized the division of counties, cities, local neighborhoods, and local communities of interest to the extent possible. The Commission accomplished the goal of minimizing fragmentation of geographic areas by using a district-by-district approach in which the Commission deliberated over the best approach to minimize the splitting of cities, counties, neighborhoods, and local communities of interest. When those same-level criteria were in conflict and could not be simultaneously satisfied, the Commission chose the configuration that best reflected the shared interests of the community.

#### **5. Criterion Five: Geographic Compactness**

The Commission’s fifth criterion in order of priority states that “[t]o the extent practicable, and where this does not conflict with the criteria above, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant population.” (Cal. Const., art. XXI, § 2, subd. (d)(5).) While compactness is not mathematically or geographically defined under the Act, at a minimum, it indicates that nearby areas of population should not be bypassed for more distant population, to the extent practicable and unless required by a higher-ordered criterion.

The Commission’s districts are geographically compact under the definition of compactness within the Act, both to the extent practicable and in light of higher-ranked other criteria such as compliance with the United States Constitution, the federal Voting Rights Act, geographic contiguity, and maintaining the geographic integrity of cities, counties, local neighborhoods, and local communities of interest.

#### **6. Criterion Six: Nesting**

The Commission’s first draft maps issued on June 10, 2011, reflected an attempt to achieve nearly full compliance with the nesting criterion. (See Cal. Const., art. XXI, § 2, subd. (d)(6).) Almost all Senate districts were made up of two whole Assembly Districts, and each Board of Equalization District was made up of ten whole Senate districts. However, the Commission determined that its June 10, 2011 draft maps might not achieve full compliance with the Voting Rights Act through nesting and that many nested districts exacerbated the division of counties and cities. Accordingly, the Commission determined that in most instances it was not practicable, in light of higher-ordered criteria, to achieve strict compliance with the nesting criterion.

The Commission’s final maps attempted to nest two whole Assembly districts within a single Senate district, where practicable, and ten whole Senate districts within a single Board of

Equalization District, where practicable. In most instances, however, the Commission achieved only partial nesting in order to comply with higher-ranked criteria, such as minimizing the division of cities and counties within Senate and Board of Equalization districts. Nevertheless, the Commission achieved significant partial nesting, or “blended” Senate districts made up of two Assembly districts with substantial portions put together in one Senate district. This allowed the Commission to best comply with the higher-ranked criteria and repair unavoidable splits that occurred in the Assembly districts.

Specifically, three of the Commission’s Senate districts were between 65% and 69.9% nested. Fifteen of the Senate districts were between 70% and 79% nested. Ten of the Senate districts were between 80% and 89.9% nested. Nine of the Senate districts were between 90% and 99.9% nested. And three of the Senate districts were 100% nested.

#### **7. *No Consideration of Incumbent Status***

Article XXI states that the “place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.” (Cal. Const., art. XXI, § 2, subd. (e).)

In strict compliance with this requirement, the Commission gave no consideration to incumbent status, partisan registration, or residences of candidates or incumbents when drawing districts.

#### **8. *Numbering of Districts***

Article IV, section 2 of the California Constitution provides that California’s 40 Senators are elected to four-year terms, half of which begin every two years. (Cal. Const., art. IV, § 2, subd. (a).) Under this system, 20 of California’s Senate seats are up for election every two years. The next Senate election—in 2012—will apply to all of the odd-numbered Senate districts, while even-numbered Senate districts are up for election in 2014.

Because all of the odd-numbered Senate district seats will be up for election in 2012, the Commission took note of the following practical issue: following the release of the new maps, some Californians who had voted in Senate elections in 2008 and would have been eligible to vote again in 2012, because they had been in an odd-numbered district, might have to wait until 2014 to vote, because they would subsequently be in an even-numbered district after the decennial redistricting. This issue is commonly known as “deferral.” Conversely, other Californians who had voted in Senate elections in 2010 and would have been eligible to vote again in 2014, because they had been in an even-numbered district, might be able to vote two years earlier in 2012, because they would subsequently be in an odd-numbered district. This is commonly known as “acceleration.”

Consequently, in light of these issues, the Commission chose a numbering alternative for Senate districts that best maintained continuity in terms of the placement of voters in odd and even districts. In other words, if a voter was in an odd-numbered Senate district during the last decade, the Commission chose the numbering alternative that maximized the likelihood that this

same voter would remain in an odd-numbered Senate district for the next decade, thereby minimizing deferral.

For each Senate district that it drew, the Commission determined the percentage of the population in that district that had been in an odd-numbered district during the last decade. The Commission selected the 20 Senate districts with the highest percentage of voters who had been in odd-numbered districts during the last decade. These 20 districts were selected as the odd-numbered districts. The remaining 20 districts became the even-numbered districts.

Next, the Commission took the 20 odd-numbered districts and started with the northernmost district along the Oregon Border. This was given the number SD 1. The Commission then moved south, based on the northernmost point in each remaining odd-numbered district, and numbered each district consecutively: SD 3, 5, 7, 9, etc.

Finally, the Commission took the northernmost even-numbered district along the Oregon border and gave it the number SD 2. The Commission then moved south, based on the northernmost point in each remaining even-numbered district, and numbered each district consecutively: SD 2, 4, 6, 8, etc.

The Commission did seriously consider alternative numbering systems for Senate districts, such as a simple north-to-south consecutive numbering scheme, but made the determination that an approach that minimized deferrals would result in the most fair and effective representation for voters throughout the state.

### **III. DETAILS ABOUT THE DISTRICTS**

Set forth below is a discussion of each of the statewide maps for Assembly, Senate, Board of Equalization, and California's congressional delegation. We begin with an overview of the regional issues and include a discussion of the major issues and decisions made for each district.

Details about each district are provided in the data Appendices attached to this report. In addition, interactive maps with street-level detail are available on the Statewide Database website or by downloading Equivalency, Shape or .kmz files that work with the free Google Earth program. Links for both are available at <http://www.wedrawthelines.ca.gov>. The official version of the final maps and accompanying data have been delivered to the Secretary of State.

#### **A. Regional Overview**

California is the most populous state in the nation and the third largest by landmass. It is a state of great geographic and ethnic diversity, and appreciation of this diversity was one of the key selection criteria for Commissioners. This state is home to both the highest and lowest points in the Continental United States—Mt. Whitney and Death Valley—as well as sunny beaches, wind-whipped coasts, redwood forests, rugged mountains, high and low deserts, internationally renowned metropolitan centers, and an agricultural heartland that feeds the nation and the world. With its reputation as a land of opportunity, the state has attracted a steady stream of immigrants and now boasts a polyglot of languages and ethnicities. Since the Gold Rush, California has

exceeded the population growth rate of the country. In 2010, for the first time, even though immigration to the state continues, people born in California now exceed the number of people who have migrated here to live.

2010 was the first year where California's population growth matched the national average of 10%, but the growth has been far from even throughout the state. Coastal areas grew more slowly than inland areas. For example, Los Angeles County grew at only a 3% rate, leading to a relative loss of electoral districts. In addition to the geographic shift of districts, there were significant differences in the growth of the different racial groups residing in California. 2009 marked the first year where no racial group had a majority. According to the 2010 Census, the Asian American population grew at the fastest rate of 31%. Latinos as a group had the largest increase in the number of people, and with a growth rate of 28% are expected to eventually become the single largest ethnic group in the state. In contrast, African Americans had the lowest increase at 2%.

The Commission had to consider all of these demographic shifts in the decennial process of redistricting. To realize its mission of creating fair representation for Californians, the Commission also considered natural topography, ecological zones, and industrial/economic interests that define communities, as well as transportation corridors that either link or serve as barriers to access.

For Northern California and the mountainous Sierra foothills regions, the Commission responded to public testimony asking us to separate more sparsely populated, rural regions from densely populated, urban areas. The 19 counties north of Sacramento span approximately a third of California's land, yet make up fewer than 5% of its residents, for a population density of 35 persons/square mile. In comparison, San Francisco has a population density of over 17,000 persons/square mile.

The San Francisco Bay Area is characterized by the topography of its Bay, which creates natural water boundaries, a peninsula, and inland areas that shaped the districts there. In general, the Commission avoided crossing bridges unless absolutely necessary to achieve population equality.

For the San Joaquin Valley and Central Coast regions, the Commission responded to public testimony asking us to respect the mountain range in between the two regions, with only one exception (the Senate district drawn to comply with the Section 5 benchmarks for Merced and Monterey Counties, which connected inland Merced County with the eastern part of Monterey County and San Benito County). The Tehachapi Mountains in the south also separate the Central Valley from Los Angeles County, and the Commission was able to honor this major boundary between regions. There was conflicting testimony about separating the communities of the Central Valley floor with that of the foothills and Sierras to the east, so the Commission further struck a balance maintaining the separations and connections between the Valley floor and these communities. Issues of water use, agriculture and urban economies, transportation routes, and environmental concerns framed much of the public testimony.

Southern California's six counties boast over half of the state's residents in the southern quarter of California. The Inland Empire region experienced one of the highest rates of

population growth within the state, including Riverside County, which increased by 41% and is home to two of the newest cities in the state, Eastvale and Jurupa Valley. This was a marked contrast with the Los Angeles metropolitan area which grew more slowly. However, Los Angeles County is still the state's largest county and continues to be home to a tremendous diversity of Californians, where:

- The Asian American population grew from 1,137,500 to 1,345,149 for an increase of 18.3%
- The African American population declined from 930,957 to 856,874, a reduction of -8%
- The Hispanic Population increased from 4,242,213 to 4,687,889, an increase of more than 10%

As discussed above, this area presented several specific issues under Section 2 of the Voting Rights Act.

## **B. The Assembly Districts**

The 80 Assembly districts have an ideal population of 465,674, and in consideration of population equality, the Commission chose to limit the population deviation range to +/-1.0% (reflecting a total population deviation of 2.0%). With these districts, the Commission was able to respect many local communities of interest and group similar communities; however, it was more difficult to keep densely populated counties, cities, neighborhoods, and larger communities of interest whole due to the district size and correspondingly smaller number allowable in the population deviation percentage. A total of ten counties and 35 cities smaller than an Assembly district were split. The highest positive deviation was 0.999% and the lowest negative deviation was -0.982%, with an average deviation of 0.506%.

**AD 1** consists of the whole counties of Siskiyou, Modoc, Shasta, Lassen, Plumas, Sierra, Nevada, eastern Butte and eastern Placer counties. This district includes the north mountain watershed, northeastern desert and the North Lake Tahoe basin. This district is characterized by agriculture, timber, mountain tourism and country living and also includes several Native American communities. Butte County was split to achieve population equality, and the mountainous portion of Placer County is included.

**AD 2** consists of the north coast, including the whole counties of Del Norte, Humboldt, Trinity, Mendocino and northern Sonoma County to achieve population equality, which are separated from inland areas by the coastal mountain range. This district is characterized by fishing/marine, wine industry and coastal tourism interests and includes several Native American communities. The largest city in the district, the Sonoma County seat of Santa Rosa, was split to achieve population equality and in an attempt to keep part of it within the north coastal district, with which it has many economic interests.

**AD 3** consists of the whole counties of Tehama, Glenn, Yuba, Sutter, northern Colusa, and western Butte counties. This district includes a Covered County (Yuba) and complies with