

1 Scott Rafferty, Esq (SBN 224389)

2 1913 Whitecliff Court

3 Walnut Creek CA 94596

4 202-380-5525

5 [rafferty@gmail.com](mailto:rafferty@gmail.com)

6 Attorney for Plaintiffs

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9  
10 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
11 COUNTY OF CONTRA COSTA

12 LINDA RUIZ-LOZITO

13 AYANA YOUNG

14 BAY AREA VOTING RIGHTS

15 INITIATIVE

16 Plaintiffs,

17 vs.

18 WEST CONTRA COSTA UNIFIED

19 SCHOOL DISTRICT,

20 Defendant

Case No.: MSC18-00570 [Dept 12]

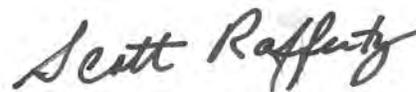
INDEX OF EXHIBITS IN SUPPORT OF  
APPLICATION FOR PRELIMINARY  
INJUNCTION

[Civ. Proc. Code, §526]

Hearing Date: June 29, 2018

Complaint Filed: March 21, 2018

Judge: Hon. Charles Treat [Dept. 12]

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Scott J. Rafferty

Attorney for Plaintiffs

June 27, 2018

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INJUNCTION

## FIRST DECLARATION, May 22, 2018 [filed with application; not duplicated]

1	Petition to comply ("demand letter")	0004-0016
2	Minutes, April 18, 2018 special meeting	0017-0022
3	Defendants "Freeway" map	0023-0024
4	Email, Rafferty to Spinelli, asking for consent to injunction and/or scheduling agreement	0025-0029
5	Email, Rafferty to Spinelli, asking for clarification of intended effect of ballot question	0030

## SECOND DECLARATION, June 4, 2018 [filed with application; not duplicated]

6	Letter, Rafferty to Duffy and Alleyne, with plaintiffs' map	[9 pages]
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## THIRD DECLARATION

7	Curriculum Vitae	0042-0049
8	Plaintiffs' Map	0050-0052
9	Defendants "June 4" Map	0053-0054
10	Registrar's Letter re precinct boundaries	0055
11	Excerpts from Presentations by NDC and Dr. Douglas Johnson	
	to WCCUSD, April 18, 2018, on "continuity in office" (includes data errors)	0056-0061
	to League of Cities, May 3, 2018, proposing use of referenda to contravene CVRA	0061-0063
	to CSBA, December 1, 2017, claiming cultural change requires elimination of all at-large trustees	0064-0065
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12	Letter, Alleyne to Rafferty, June 14, 2018	0068

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**Scott J. Rafferty**


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1913 Whitecliff Court  
Walnut Creek CA 94596

Direct: (202) 380-5525  
[rafferty@gmail.com](mailto:rafferty@gmail.com)

**PROFILE:**

- *Extensive experience as a management consultant, attorney and regulatory economist*
- *Pioneered use of disclosure, market-based incentives, and statistical surveillance to improve regulatory enforcement and increase government transparency*
- *Proven leader and manager of interdisciplinary teams in the public and private sectors*

**EDUCATION:****Oxford University (Balliol College)****Rhodes Scholar (1977); D.Phil. (1986)**

“Legislative Reform of the Telecommunications Industry: United States and Great Britain”

Concentration: Regulatory economics

**Yale Law School****J.D. (1979)**

Concentration: Civil rights, regulation and labor law

**Princeton University, Woodrow Wilson School****A.B. (1976)**

*Summa cum Laude, Phi Beta Kappa, Wilson School Thesis Prize*

Thesis: “Building the Consensus: The Civil Rights Division in the Kennedy Administration”

50 trimester-hours graduate credit to M.P.A. degree in Urban Economics

**PROFESSIONAL EXPERIENCE:****Attorney in private practice, Walnut Creek CA (2012-2018)**

- Represented prospective plaintiffs in Antioch and Concord; currently represent prospective plaintiffs in Antioch USD, Brentwood, Washington USD
- All other recent engagements are omitted due to concerns for the confidentiality of my clients.

**Deputy Director for Research and Policy, Administrative Conference of the United States (federal agency), Washington DC (2010 - 2012)**

- Managed consultants and attorney-advisers who conduct work in connection with the Conference’s research and policy projects.
- Supported the Conference Committee on Administration and Management, keeping its chair and members informed on current research.
- Organized project into E-FOIA and electronic publication of federal legal materials, including the use of copyrighted materials in rules and guidance
- Digitized 1200 historic ACUS studies into best practices in administrative procedure at no cost to government.
- Served as Designated Federal Officer at Conference Plenary Session and committee meetings, advising on compliance with Federal Advisory Committee Act
- Performed research into collaborative regulatory enforcement, including self-regulatory organizations and privately funded inspections
- Managed project into third-party certification
- Organized conference on e-Rulemaking with Brookings, identifying innovations at state and federal agencies
- Organized interagency workshops on online dispute resolution, case management, and immigration adjudication.
- Recovered and organized 400,000 pages of archival materials

***Principal, Law Offices of Scott Rafferty*** Washington DC and Mountain View CA (2002 - 2010)  
***Practice specializing in Information Technology, Regulation, and Public Advocacy***

***Accomplishments***

- As Director of Litigation for Citizens for Responsibility and Ethics in Washington, refocused litigation strategy to extend federal recordkeeping and FOIA/Privacy Act requirements to electronic documents
  - Briefed successful litigation to preserve and disclose White House visitor records;
  - Developed techniques to scan large FOIA requests for key content, facilitating web publication;
  - Achieved declassification of Kennedy-era civil rights records at the National Archives and their release for digitization.
- As Executive Director for Peninsula Ratepayers Association, represented utility consumers before the California Public Service Commission
  - Prevented Pacific Gas & Electric from using bankruptcy to preempt state regulation, avoiding substantial rate increases;
  - Built coalition with environmental groups to negotiate transfer of PG&E watershed lands from bankruptcy estate to nonprofit conservation entities;
  - Persuaded regulators to allow Voice Over Internet (VOIP), advocating disclosure as the primary means to enforce service quality.
- Enforced voting rights by working with state election officials and through litigation
  - Succeeded in challenging state legislation requiring soldiers to waive ballot secrecy if they participated in electronic ballot transmission program run by DoD contractor;
  - Challenged Veterans Administration policies that interfered with voter registration at homeless shelters, nursing homes, and recreational areas where veterans live;
  - Directed voter protection in Montana 2006 election which ultimately resulted in change in control of U.S. Senate;
  - Strengthened California recall requirements through federal injunction action.

***Senior Director, Business Development, SiRF Technology, San Jose, CA*** (10/2000-2/2002)  
***Built business and regulatory alliances for SiRF, which made leading-edge GPS chipsets for mobile telephones and consumer products***

***Accomplishments***

- Successfully defended federal regulation mandating 911 location technologies in all new mobile phones;
- Created competitive advantage with proactive corporate commitment to user security and privacy by preventing abuse of location data;
- Built technology-sharing alliance with chipset customer;
- Performed economic analysis of GPS deployment, showing effect of delay in E-911 mandate;
- Developed cross-licensing framework to protect against potential patent and antitrust claims while negotiating access to critical software.

***Director, Aerie Group, Washington DC***

(5/1992-11/2000)

***Accomplishments***

- Managed UN project to prepare state enterprises in Vietnam for privatization;
- As economic consultant to twelve states, designed regulations to introduce telecom competition, and promote broadband penetration, privacy, security, universal service, and service quality;
- Performed statistical analysis to show that the cable industry was not yet subject to effective competition, leading the incoming Clinton-Gore Administration to revise deregulatory rules;

- Created nationwide database (by zip code and telephone exchange) of consumer economic and demand variables and penetration of broadband and wireless services to enable members of telephone company trade association to target broadband deployment and cross-selling initiatives;
- Conducted or managed utility audits using quantitative statistical techniques to assess procurement practices and service quality;
- Implemented franchise auction for provider-of-last-resort obligation in rural Hawaii;
- Designed cost allocation accounting methodologies for utilities, which state commissions adopted and federal legislation incorporated;
- Advised national political committee on internet strategy;
- Testified before state legislatures and regulatory commissions in rulemaking and adjudicatory proceedings;
- Built internal skills of state agencies to research and testify in regulatory hearings; managed teams of economists and lawyers in complex regulatory proceedings; taught continuing professional education to regulatory CPAs

***Director of Telecommunications, Maryland Public Service Commission, Baltimore MD (9/1990-5/1992)***  
***As agency's first director, build and led staff to regulate telephone carriers***

***Accomplishments:***

- Designed Maryland broadband plan, evaluating opportunities for telemedicine, distance education, and content delivery;
- Managed statistical audit of affiliate transactions, using electronic discovery tools;
- Served as state representative to federal-state joint board on accounting separations;
- Enforced compliance with consumer safeguards, including privacy and service quality;
- Launched self-regulation of payphones that improved enforcement and saved state costs.

***Principal, Rafferty Consulting, Washington DC***

(1987-90)

***Accomplishments***

- Achieved \$965 million reduction in NY Tel rates, as well as "bubble up" compliance system and corporate restructuring to promote efficiency and ethical contracting;
- Consultant on privatization to first industry minister in post-communist Poland;
- Developed telecom job creation program for Irish Development Agency
- Performed economic evaluation of pioneering Prodigy electronic service; proposed modifications to business plan;
- Created security accounting tools to identify waste and fraud for telecommunications firms.

***NYNEX-TELCO Research, Washington DC (5/1986 -1/1987)***

***Managing Director and Senior Vice President***

***Accomplishments***

- Managing director of 120-employee software development firm; ensured employees were appropriately appraised and rewarded;
- Led team of 15 engineering and economic consultants who performed network planning and optimization and analyzed telecom markets for equipment and service suppliers;
- Restored consulting practice to profitability in less than 6 months, at which point legal restrictions forced NYNEX to leave this line of business.

***Senior Associate, McKinsey & Company, Washington DC and London, UK***

(1983-86)

***Accomplishments***

- Created plan for Dutch government to open telecom market to competition;

- Achieved \$85 million in cost reductions while maintaining technical synergies and positive management culture for telecommunications client; restructured major regional electrical utility company to enhance business accountability;
- Saved over 500 jobs and improved commercialization of research through Bell Labs re-organization;
- Specialized in organizational change to support changing business strategies;
- Led client teams to quantify post-merger staff needs;
- Created separate subsidiary structure for electric utility to enter competitive telecommunications and power management businesses, providing regulatory transparency and business synergies;
- Designed and implemented job development program for Republic of Ireland;
- Helped create exploration and development strategy for major European energy firm;
- Performed financial valuations of telecommunications companies.

***Counsel, House Subcommittee on Telecommunications, Energy and Commerce Committee  
Washington DC***

(1981-1983)

***Accomplishments***

- Represented committee members in *U.S. v. AT&T*, achieving 13 modifications to consent decree;
- Developed and prepared policy for increasing competition in U.S. telecommunications markets;
- Drafted AT&T divestiture bill and other laws relating to the telecommunications industry, including the Telecommunications for the Disabled Act;
- Co-authored detailed statistical analysis of competition and market penetration for each telecom market (“Technology in Transition”);
- Organized numerous hearings into telecom competition, privacy, and data protection.

***Associate, O’Melveny and Myers, P.C., Washington DC and Los Angeles CA***

(5/1979-81)

- Specialized in antitrust and securities litigation, including all phases of discovery and trial, including depositions and motion practice.
- Managed regulatory compliance in a major telecom merger;
- Developed regulatory strategies for Fortune 100 corporations;
- Handled all aspects of condemnation appeals before the General Accounting Office;
- Successfully defended auto manufacturer in recall proceeding;
- Represented airline industry in proceedings to reduce operations at National Airport.

***BAR ADMISSIONS***

Admitted to practice in California and District of Columbia; federal Northern District of California, and Second, Fifth, Ninth, Eleventh, D.C., and Federal Circuit Courts of Appeal.

***PROFESSIONAL ACTIVITIES***

President, Princeton Club of Northern California, 2002-2005

Chair, Governance Committee, Meals on Wheels, Diablo Region, 2016-present

Co-Chair, Oxford-Cambridge Committee of Northern California, 2002-2005

Program Chair, Tshwane (South Africa)-Washington DC Sister City Committee

Parish Council President, St. George Greek Orthodox Church, Bethesda MD, 1997-1999

Member, Organizational Effectiveness Committee, Democratic State Central Committee, 2017-present

***UNITED STATES CITIZEN, SSN \*\*\*\*\****

***PUBLICATIONS AND REPORTS***

“Legislative Reform of the Telecommunications Industry in the United States and Great Britain,” Ph.D. dissertation, Oxford University 1986.

“Building the Consensus: Civil Rights and the Department of Justice 1961- 1963,” senior thesis, Woodrow Wilson School, Woodrow Wilson School Thesis Prize, Aaron Austin Godfrey Thesis Prize. (on deposit at the Kennedy Library).

The American Experience: The Dilemma of Telecommunications in the United States,” Libra Press (U.K.), 1983.

Telecommunications in Transition: The Status of Competition in the Telecommunications Industry, Report by the Majority Staff of the Subcommittee on Telecommunications and Consumer Protection and Finance, U.S. House of Representatives Energy and Commerce Committee, Committee Print 97-V (GPO 86-058) November 1981. (I am the principal author of the introduction and pp. 55-2834 and co-author of pp. 29-54).

“Realizing Congress’s Promise of Effective Rate Regulation for Cable TV Consumers,” September 28, 1983 (The Wall Street Journal commissioned this report, which resulted in a front page article and the substantial changes to FCC regulations)

“Southern Republicanism,” Annals of the American Academy of Political and Social Sciences (1975) (citation pending) (summary of statistical analysis of the impact of the Voting Rights Act).

“Federal Protection of Civil Rights Against Acts of Violence” (1976) (on deposit at the Kennedy Library).

“Civil Rights Policy in the Kennedy Administration” (1976) (on deposit at the Kennedy Library)

“Black Voter Participation: A Survey Data Approach” (1975) (on deposit at the Kennedy Library) (statistical analysis of the impact of the Voting Rights Act”)

“Proceedings of the Fifth Annual Homeland Security Law Institute,” 35 Administrative & Regulatory Law News 29 (2010).

“Proceedings of the Fourth Annual Homeland Security Law Institute,” 34 Administrative & Regulatory Law News 28 (2009).

“Analyzing New York Telephone Company’s Request for Relief from the Rate Moratorium,” New York Public Service Commission No. 28961, January 11, 1990.

“Transactions Between New York Telephone Company and Unregulated Affiliates of NYNEX Corporation,” New York State Department of Law, New York Public Service Commission No. 90-C-0912, June 1990.

“The Impact of Transactions with Unregulated Affiliates on the Regulated Rates of New York Telephone Company,” New York State Department of Law, New York Public Service Commission No. 90-C-0912, July 1990. (This report was the focus of a front-page story by the Wall Street Journal on July 12, 1990).

“State Regulatory Jurisdiction over Voice-Over-Internet Telephony,” California Public Service Commission I-0402007, June 7, 2006.

“Protecting Ratepayers During the Bankruptcy of PG&E,” California Public Service Commission I-0204026, December 11, 2003.

“Opening Report for the Workshop on Competition in Telecommunications,” Arizona Corporations Commission, January 14, 1994.

“Comments on Competition in Telecommunications,” Arizona Corporations Commission (Residential Utilities Consumer Office), July 21, 1994.

“Incremental Cost and Telephone Calling Area Design,” Arizona Corporations Commission E-1051-93-183 (Residential Utilities Consumer Office), May 26, 1994.

“Rate Design for US West,” Arizona Corporations Commission E-1051-93-183 (Residential Utilities Consumer Office), March 14, 1994.

“Reforming the Universal Service Fund,” Arizona Corporations Commission (Residential Utilities Consumer Office), October 26, 1994.

“Making Retroactive Adjustments to Rates,” Arizona Corporations Commission E-1051-93-183 (Residential Utilities Consumer Office), October 26, 1994; additional comments filed July 3, 1996.

“Designing Alternative Regulation in Telecommunications,” Public Advocate, Delaware Public Service Commission Case No. 33, May 26, 1992; further comments filed June 22, 1993.

“Cost Methodology for Alternative Dialing Plans, Public Advocate, Delaware Public Service Commission Case No. 92-47, February 15, 1993.

“Competition in Long-Distance Telephony,” Public Advocate, Delaware Public Service Commission Case No. 42, November 2, 1994.

“Revenue Requirement and Reform in Rate Design to Reflect Competition, Public Advocate, Delaware Public Service Commission Case No. 92-47, January 15, 1993.

“Reforming the Structure of Regulated Telecommunications Utilities,” Florida Public Service Commission No. 920255-TL, June 1, 1992.

“Planning for the Entry of Competition,” Hawaii Department of Business, Economic Development & Tourism, Hawaii Public Service Commission No. 7702, March 24, 1995.

“Using Auction Mechanisms to Reallocate Utility Franchises,” Hawaii Department of Business, Economic Development & Tourism, Hawaii Public Service Commission No. 7702, April 5, 1995.

“Managing Competitive Entry,” Hawaii Department of Business, Economic Development & Tourism, Hawaii Public Service Commission No. 7702, May 12, 1995.

“Maintaining the Quality of Rural Telephone Service,” Hawaii Department of Business, Economic Development & Tourism, Hawaii Public Service Commission No. 94-0346, June 28, 1994.

“Regulating New Operator Service Providers,” Hawaii Department of Business, Economic Development & Tourism, Hawaii Public Service Commission No. 94-0144, June 5, 1995, further comments, January 16, 1996.

“Calculating the Cost of Capital and Revenue Requirement for Hawaiian Telephone Company,” Hawaii Department of Business, Economic Development & Tourism, Hawaii Public Service Commission

“Criteria for Awarding a Certificate of Public Convenience and Necessity,” Hawaii Department of Business, Economic Development & Tourism, Hawaii Public Service Commission No. 94-0093, November 14, 1994.

“Regulatory Reform Proposals Before the Illinois Legislature,” Conference Committee of the Illinois Legislature, May 3, 1992.

“Compensation for ‘Dial-Around Calls’ from Payphones,” Maryland Public Service Commission, Case No. 8585, April 19, 1993.

“Designing a Cost Allocation System for Regulated Telecommunications Utilities,” Maryland Public Service Commission, Case No. 8333, April 21, 1991.

“Implementing a Cost Allocation System for Regulated Telecommunications Utilities,” Maryland Public Service Commission, Case No. 8333, May 10, 1991; further comments, May 17, 1991.

“Toward a More Competitive Telecommunications Infrastructure for the State of Maryland,” Maryland Public Service Commission, Case No. 8388, November 7, 1991.

“Setting Payphone Rates in a Competitive Environment,” Michigan Public Service Commission U-10282, December 15, 1993.

“Evaluating Price Caps as a Form of Alternative Regulation,” New Jersey Division of Ratepayer Advocate, New Jersey Board of Public Utilities No. T09030358, Sept. 21, 1992.

“Analyzing the Impact of Price Cap Regulation on Regulated Service Quality,” New York Public Service Commission No. 92-C-0665, August 10, 1994.

“Proposing Alternatives to Rate-of-Return Regulation for the Western Reserve Telephone Company,” Ohio Consumers’ Counsel, Public Utility Commission of Ohio No. 93-230-TP-ALT, November 8, 1993.

“Proposing Alternatives to Rate-of-Return Regulation for the Cincinnati Bell Telephone Company,” Ohio Consumers’ Counsel, Public Utility Commission of Ohio No. 93-432-TP-ALT, March 3, 1994.

“Evaluating the Reasonableness of a Rate Settlement Proposed for the Western Reserve Telephone Company,” Ohio Consumers’ Counsel, Public Utility Commission of Ohio No. 92-1525-TP-CSS, January 28, 1994.

“Reforming the System of Cost Allocation and Jurisdictional Separations in the Face of Competitive Entry,” Ohio Consumers’ Counsel, Public Utility Commission of Ohio No. 92-1525-TP-CSS, August 25, 1993.

“Setting Rules for Competitive Entry,” Utah Department of Commerce, Utah Public Service Commission No. 94-2202-01, December 1, 1995.

“Is Regulation of Rates and Quality of Service Appropriate for Residential ISDN,” Utah Department of Commerce, Utah Public Service Commission, July 15, 1996.

“Developing a System of Cost Allocation for Regulated Utilities,” West Virginia Public Service Commission No. 90-424-T-PC, September 1992.

“Implementing West Virginia’s New Cost Allocation Methodology,” West Virginia Public Service Commission No. 90-424-T-PC, January 14, 1992.

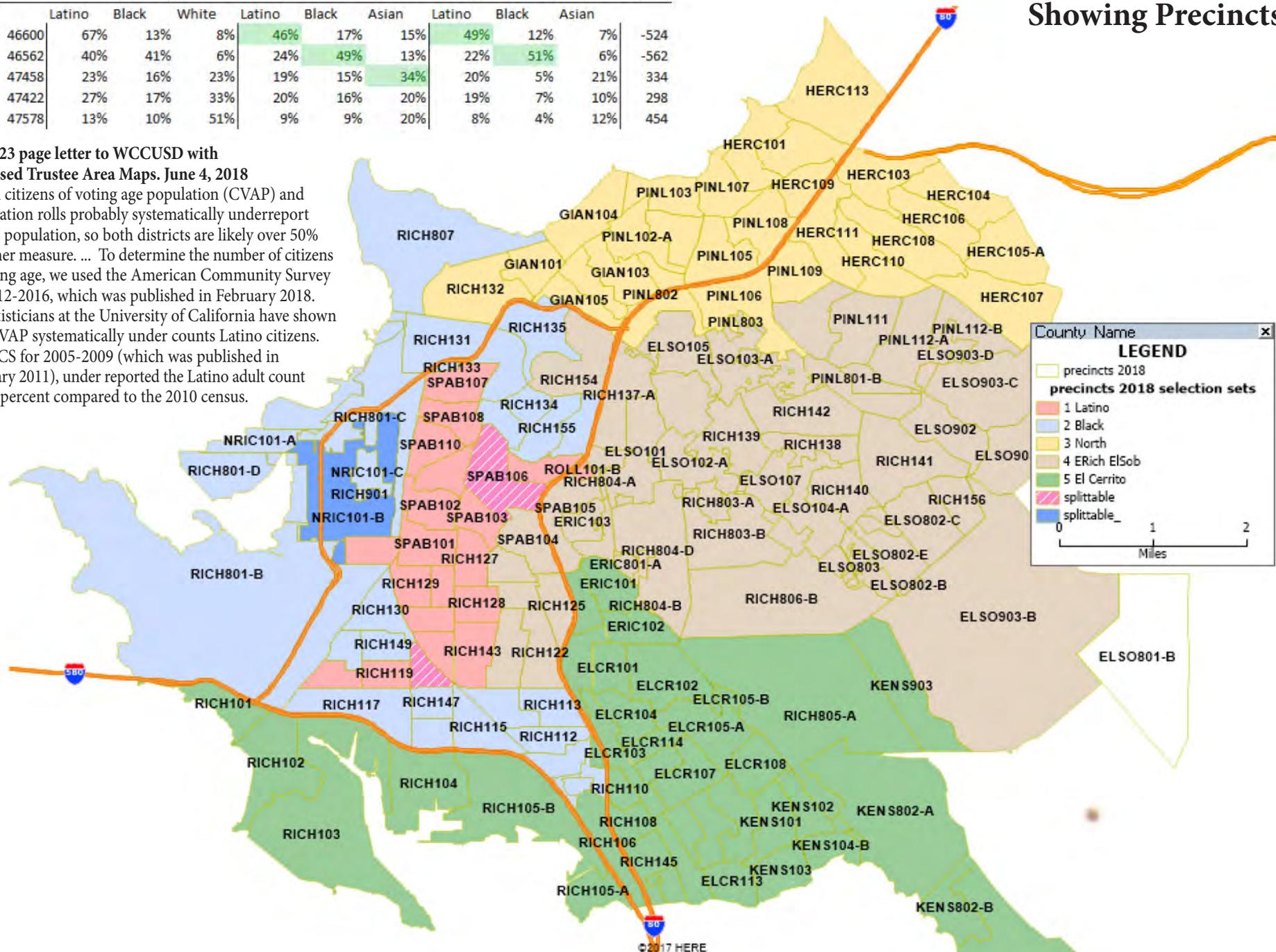
“Setting Rates for Payphones in a Competitive Environment,” Wisconsin Public Service Commission No. 2180-TR-103, October 6, 1992.

Plaintiff's Proposed Map Showing Precincts

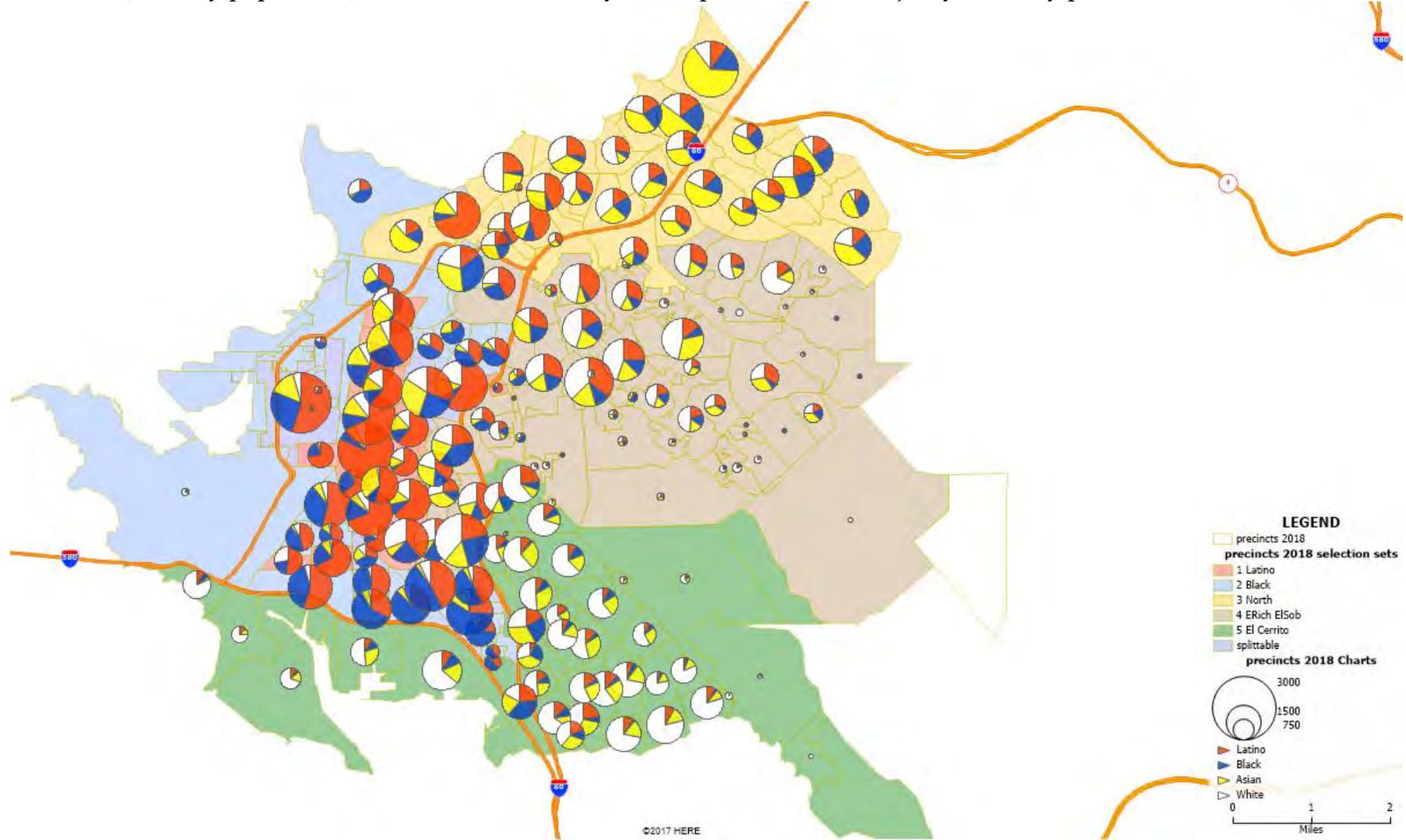
area	TOTAL	POPULATION						CITIZENS OF VOTING AGE			REGISTERED VOTERS			variation from ideal pop
	POP	POPULATION			CITIZENS OF VOTING AGE			REGISTERED VOTERS						
		Latino	Black	White	Latino	Black	Asian	Latino	Black	Asian				
1	46600	67%	13%	8%	46%	17%	15%	49%	12%	7%	-524			
2	46562	40%	41%	6%	24%	49%	13%	22%	51%	6%	-562			
3	47458	23%	16%	23%	19%	15%	34%	20%	5%	21%	334			
4	47422	27%	17%	33%	20%	16%	20%	19%	7%	10%	298			
5	47578	13%	10%	51%	9%	9%	20%	8%	4%	12%	454			

From 23 page letter to WCCUSD with Proposed Trustee Area Maps. June 4, 2018

.. Both citizens of voting age population (CVAP) and registration rolls probably systematically underreport Latino population, so both districts are likely over 50% on either measure. ... To determine the number of citizens of voting age, we used the American Community Survey for 2012-2016, which was published in February 2018. ... Statisticians at the University of California have shown that CVAP systematically under counts Latino citizens. The ACS for 2005-2009 (which was published in February 2011), under reported the Latino adult count by 8.3 percent compared to the 2010 census.



Pie charts (sized by population) show how successfully the map accumulates majority-minority precincts



# West Contra Costa Unified School District 2018 Districting

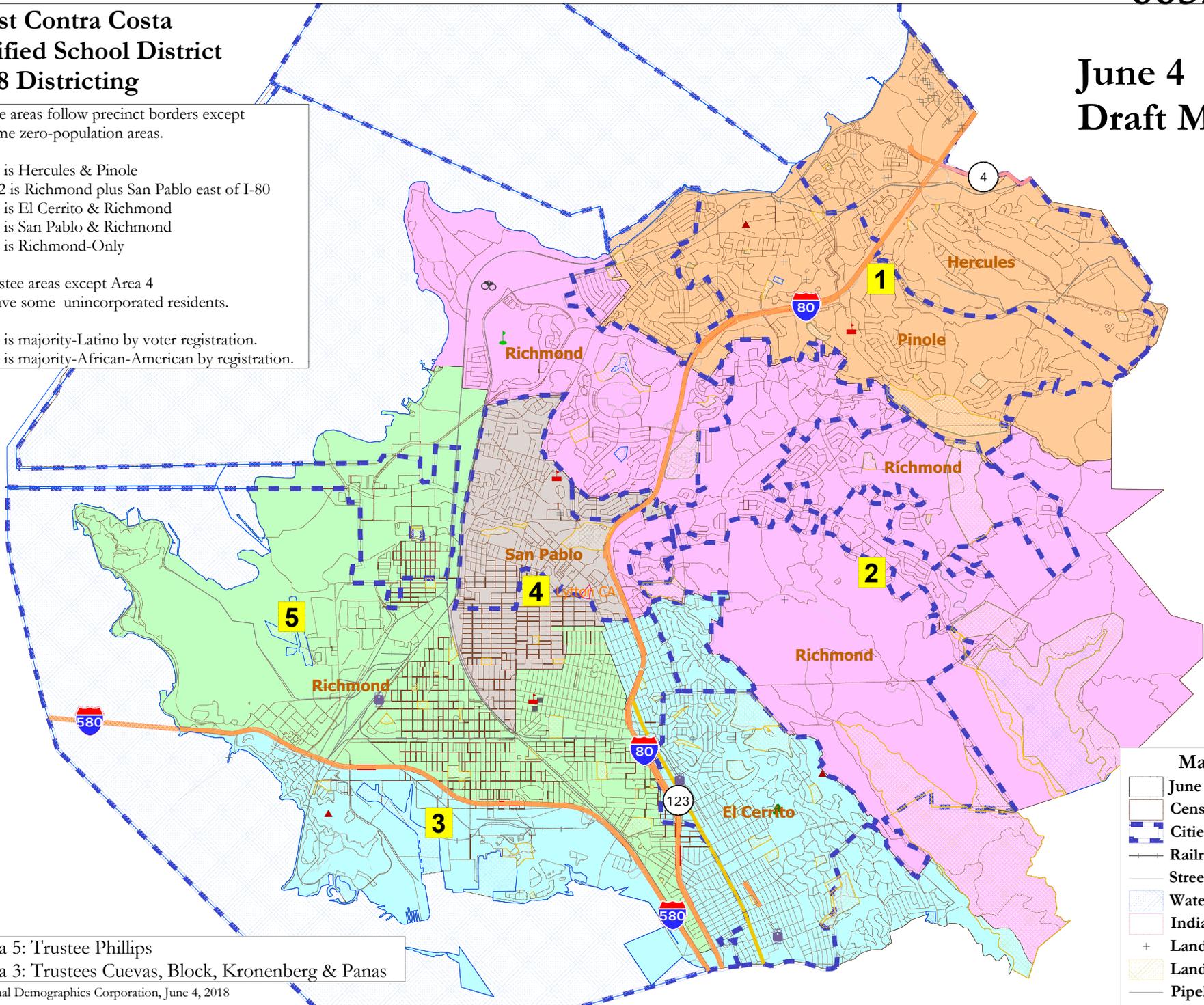
## June 4 Draft Map

Trustee areas follow precinct borders except for some zero-population areas.

Area 1 is Hercules & Pinole  
 Areas 2 is Richmond plus San Pablo east of I-80  
 Area 3 is El Cerrito & Richmond  
 Area 4 is San Pablo & Richmond  
 Area 5 is Richmond-Only

All trustee areas except Area 4 also have some unincorporated residents.

Area 4 is majority-Latino by voter registration.  
 Area 5 is majority-African-American by registration.



Area 5: Trustee Phillips  
 Area 3: Trustees Cuevas, Block, Kronenberg & Panas

- Map layers**
- June 4
  - Census Block
  - Cities and Towns
  - Railroad
  - Streets
  - Water Area
  - Indian Reservation
  - Landmark Point
  - Landmark Area
  - Pipeline/Power Line

WCCUSD - June 4 Map demographics							
District		1	2	3	4	5	Total
Ideal	Total Pop	47,918	45,533	47,537	46,095	48,764	235,847
47,169	Deviation from ideal	749	-1,636	368	-1,074	1,595	3,231
	% Deviation	1.59%	-3.47%	0.78%	-2.28%	3.38%	6.85%
Total Pop	% Hisp	20%	25%	13%	62%	47%	34%
	% NH White	27%	26%	51%	9%	8%	24%
	% NH Black	16%	23%	9%	14%	35%	19%
	% Asian-American	34%	22%	24%	13%	7%	20%
Citizen Voting Age Pop	Total	36,226	31,901	36,409	22,560	25,674	152,771
	% Hisp	18%	21%	9%	43%	27%	22%
	% NH White	30%	31%	58%	16%	15%	32%
	% NH Black	15%	23%	9%	19%	45%	21%
	% Asian/Pac.Isl.	34%	23%	22%	20%	11%	23%
Voter Registration (Nov 2016)	Total	27,546	24,471	33,049	16,813	22,114	123,994
	% Latino est.	24%	21%	9%	50.3%	28%	24%
	% Spanish-Surnamed	22%	19%	8%	45%	25%	21%
	% Asian-Surnamed	10%	8%	9%	5%	3%	7%
	% Filipino-Surnamed	6%	2%	1%	3%	1%	3%
	% NH White est.	39%	40%	70%	20%	16%	41%
	% NH Black	19%	28%	10%	21%	52%	24%
Voter Turnout (Nov 2016)	Total	20,563	17,883	27,344	10,219	13,226	89,234
	% Latino est.	24%	20%	9%	51%	29%	22%
	% Spanish-Surnamed	22%	18%	8%	46%	26%	20%
	% Asian-Surnamed	10%	8%	10%	5%	3%	8%
	% Filipino-Surnamed	5%	2%	1%	3%	1%	3%
	% NH White est.	43%	47%	71%	27%	18%	47%
	% NH Black	21%	29%	10%	29%	54%	25%
Voter Turnout (Nov 2014)	Total	11,059	9,832	17,987	4,537	6,927	50,340
	% Latino est.	18%	14%	7%	39%	18%	15%
	% Spanish-Surnamed	16%	13%	6%	35%	16%	14%
	% Asian-Surnamed	9%	7%	9%	5%	3%	7%
	% Filipino-Surnamed	4%	2%	1%	3%	1%	2%
	% NH White est.	49%	45%	74%	26%	21%	51%
	% NH Black est.	20%	31%	9%	26%	57%	24%
ACS Pop. Est.	Total	49,287	46,650	49,943	48,064	51,618	245,562
Age	age0-19	21%	21%	18%	28%	30%	24%
	age20-60	56%	57%	55%	57%	56%	56%
	age60plus	23%	22%	26%	14%	13%	20%
Immigration	immigrants	30%	30%	25%	45%	35%	33%
	naturalized	71%	58%	54%	37%	29%	48%
Language spoken at home	english	58%	55%	67%	28%	43%	50%
	spanish	14%	22%	9%	55%	45%	29%
	asian-lang	21%	14%	13%	13%	8%	14%
	other lang	8%	8%	10%	4%	4%	7%
Language Fluency	Speaks Eng. "Less than Very Well"	16%	18%	14%	39%	28%	23%
Education (among those age 25+)	hs-grad	55%	57%	35%	51%	53%	50%
	bachelor	24%	21%	31%	9%	11%	20%
	graduatedegree	11%	10%	28%	3%	5%	12%
Child in Household	child-under18	29%	26%	23%	39%	35%	30%
Pct of Pop. Age 16+	employed	61%	59%	64%	57%	57%	60%
Household Income	income 0-25k	11%	14%	11%	25%	30%	18%
	income 25-50k	16%	19%	15%	29%	28%	21%
	income 50-75k	17%	19%	17%	20%	18%	18%
	income 75-200k	47%	41%	44%	25%	22%	37%
	income 200k-plus	9%	7%	13%	1%	2%	7%
Housing Stats	single family	83%	73%	73%	67%	62%	72%
	multi-family	17%	27%	27%	33%	38%	28%
	rented	27%	41%	37%	56%	62%	44%
	owned	73%	59%	63%	44%	38%	56%
Total population data from the 2010 Decennial Census.							
Surname-based Voter Registration and Turnout data from the California Statewide Database.							
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2012-2016 American Community Survey and Special Tabulation 5-year data.							

## Moving from At-large to District Elections

November 27, 2017

**Point of Contact:** Scott O. Konopasek, Contra Costa County Assistant Registrar of Voters,  
[scott.konopasek@vote.cccounty.us](mailto:scott.konopasek@vote.cccounty.us)

We are aware of the letter many cities and districts in Contra Costa County have received from Shenkman & Hughes regarding changing from at large elections to elections by district. The letter solicits an interest on voluntarily changing systems, with an implied threat of legal action if a city or district expresses no interest in changing. It is important to note that the letter does not propose specific dates for any change to be effective.

While it would seem, on its face, that there is adequate time to make changes to be effective in 2018; that is not the case, especially if multiple jurisdictions are attempting to make similar changes in the same time frame. In addition to the need for each jurisdiction to hire qualified consultants and engineers to develop the districts and the mandated public hearing timelines, the scheduled elections in 2018 dramatically limit our time and resources to update systems in order to successfully implement new boundaries.

We would like to propose an outline of a plan for cities and districts to consider for making changes to be effective for the 2020 election cycle. Our office has considerable experience and expertise in the districting process and can be a valuable resource in assisting jurisdictions planning the decision making process, public input process and the technical process of proposing boundaries which meet state and federal voting rights acts requirements. Further, this office has an interest in where and how the proposed districts are drawn as all changes have a domino effect for voters throughout the county.

A 2020 plan would consist of a series of planning workshops with districts interested in making the change beginning in late 2018 and continuing throughout 2019. Furthermore, this office would provide “consulting” advice with jurisdiction planners and decision makers. With a mutual agreement on the scope of work, we would develop maps and population analyses for each city and district at no charge to the district.

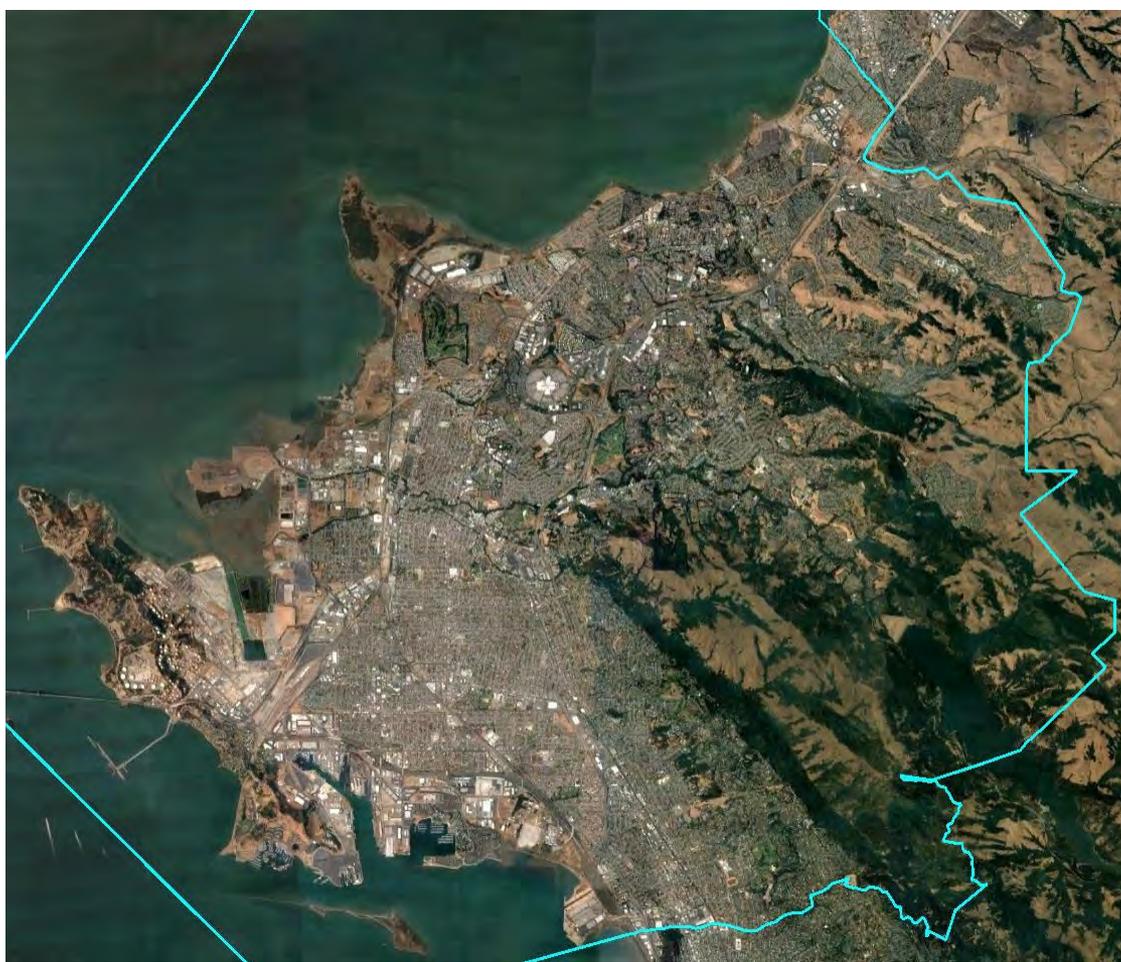
This approach would facilitate thoughtful boundaries and an orderly transition to the new election model, provide for appropriate public input, and permit the timely and accurate updating of voting systems and voter registration databases in plenty of time for the 2020 election.

Attempting to implement such wide reaching changes in 2018, especially if multiple jurisdictions are seeking the same change, will jeopardize the integrity of the other contests and measures appearing in the Gubernatorial primary and general elections. The back end changes and updates to voting systems and databases resulting from the changes cannot be done in 2018 unless approved district boundaries are provided to us by February 1, 2018.

It is our desire to be supportive of the change to district elections but we must work within the legal and operational constraints of the election schedule and calendar. Cities insisting on changes in 2018 must consider as part of that decision, the possibility that the City will have to conduct the election themselves and not be consolidated with the Gubernatorial election.

We suggest that cities and districts include our proposed 2020 implementation plan for the change to district elections in their responses to the Shenkman & Hughes letter.

pages 1-2  
4-7 only



# **West Contra Costa Unified 2018 Districting**

April 18, 2018

# Project Timeline

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Date	Event
April 11	1 <sup>st</sup> hearing: gather public input on the composition of districts
<b>April 18</b>	<b>2<sup>nd</sup> hearing: gather public input on the composition of districts</b>
<i>May 9 at the latest</i>	<i>Draft maps posted on website and available at District office</i>
May 16	3 <sup>rd</sup> hearing: public input on draft maps and election sequencing
June 13	4 <sup>th</sup> hearing: public input on draft maps and election sequencing Possible map selection.
July 11	Hearing, map selection and Board adoption of resolution.
TBD	County Committee hearing and action
Nov. 2018	Public vote on change in election system
Nov. 2020	First two trustee areas hold their first elections
2021	Districts redrawn to reflect 2020 Census data
2022	Remaining (redrawn) three trustee areas hold their first elections

# Traditional Districting Criteria

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## Federal Laws

- ❑ Equal Population
- ❑ Federal Voting Rights Act
- ❑ No Racial Gerrymandering



## Traditional Criteria

- ❑ Communities of interest
- ❑ Compact
- ❑ Contiguous
- ❑ Visible (Natural & man-made) boundaries
- ❑ Respect for voters' wishes and continuity in office
- ❑ *Planned future growth*



5

# Demographic Summary

Each of trustee area must have nearly equal population:

Five trustee areas: 47,169

Six trustee areas: 39,308

Seven trustee areas: 33,692

Latinos are 34% of the total population and 22% of the eligible voters (measured by Citizen Voting Age Population counts).

African-Americans are 21% of eligible voters, while Asian-Americans are 23% and Non-Hispanic Whites are 32%.

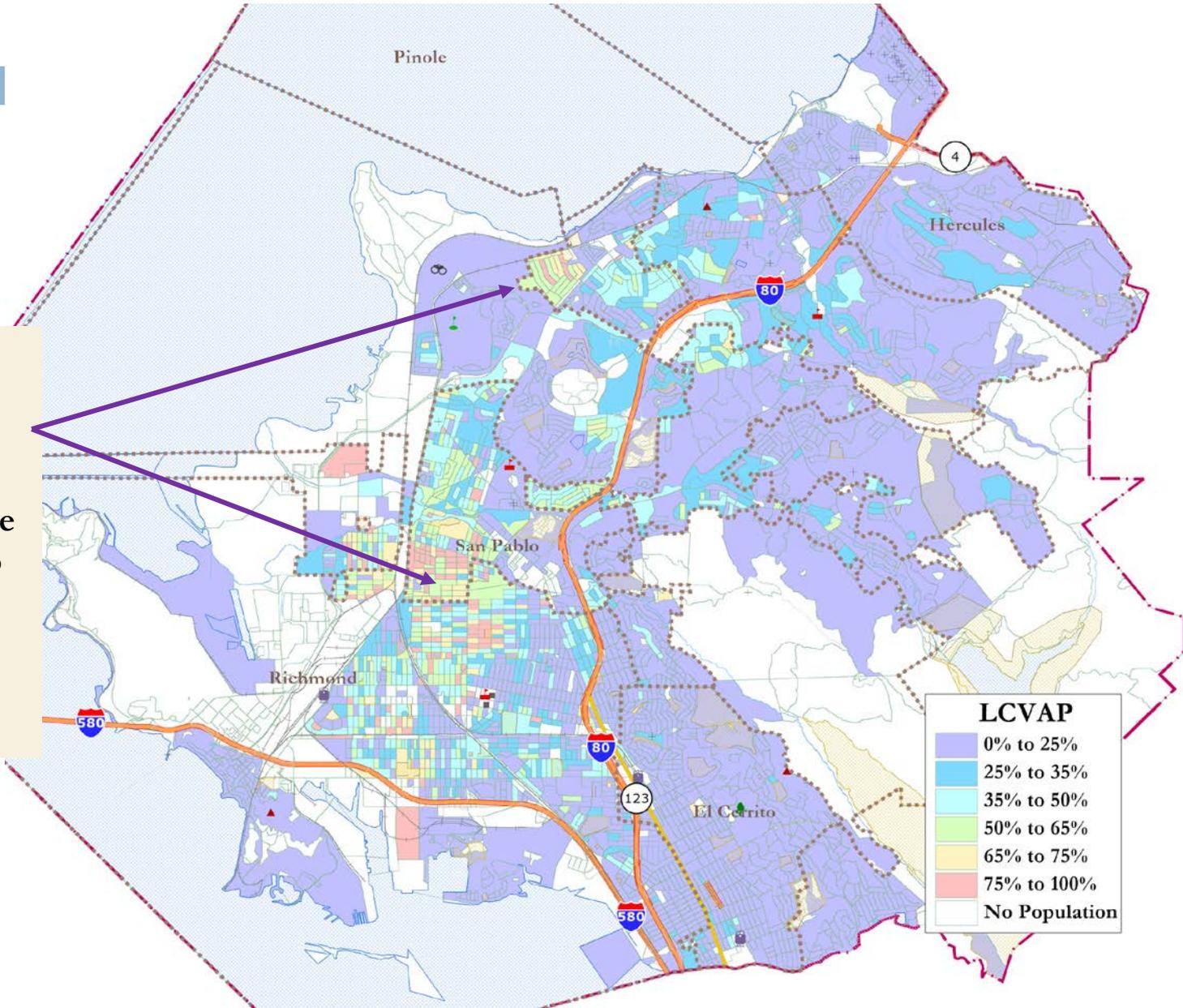
Race/Ethnic Profile	Count	Percent	ACS Profile	Count	Percent
Total Population	235,847		ACS Total Population	235,562	4%
Latino	79,253	34%	Immigrant	81,412	33%
NH White	57,125	24%	Naturalized (pct of total immigrants)	38,945	48%
NH Black/ African-American	45,780	19%	Age 5+	231,165	
NH Native American	1,218	1%	Speak English at home	116,613	50%
NH Asian-American	46,768	20%	Speak Spanish at home	67,190	29%
NH Pacific Islander	1,175	0%	Speak an Asian language at home	31,680	14%
NH Other	1,419	1%	Speak other language at home	15,682	7%
NH Multi-Race	3,109	1%	Speak English only "well" or less	52,769	23%
Citizen VAP total	152,771		Age 25+	169,255	
CVAP Latino	32,971	22%	Age 25+, no HS degree	30,939	18%
CVAP NH White	49,364	32%	Age 25+, HS degree (only)	84,470	50%
CVAP NH African-American	31,401	21%	Age 25+, bachelor degree (only)	33,423	20%
CVAP NH Asian & Pacific Islander	35,211	23%	Age 25+, graduate degree (only)	20,423	12%
CVAP Other	3,823	3%	Households	84,475	
			Child under 18 in Household	25,216	30%
Voter Registration (Nov. 2016)	123,994		Income \$0-25k	14,983	18%
Estimated Latino Reg	29,472	24%	Income \$25-50k	17,603	21%
Spanish-Surnamed Reg.	26,476	21%	Income \$50-75k	15,166	18%
Asian-Surnamed Reg.	9,202	7%	Income \$75-200k	31,004	37%
Filipino-Surnamed Reg.	3,240	3%	Income \$200k+	5,718	7%
Est. NH White Reg.	54,847	44%	Housing units	89,836	
Est. African-Amer. Reg	34,608	28%	Single-Family	64,477	72%
Democratic Reg.	79,765	64%	Multi-Family	25,359	28%
Republican Reg.	10,416	8%	Rented	36,781	44%
Other/No Party Reg.	33,813	27%	Owned	47,694	56%
Voters Casting Ballots (Nov. 2016)	89,234	72%	Voters Casting Ballots (Nov. 2014)	50,340	49%
Estimated Latino Voters	20,068	22%	Estimated Latino Voters	7,584	15%
Spanish-Surnamed Voters	2,882	3%	Spanish-Surnamed Voters	6,813	14%
Asian-Surnamed voters	7,256	8%	Asian-Surnamed voters	3,604	7%
Filipino-Surnamed voters	2,267	3%	Filipino-Surnamed voters	1,024	2%
Est. NH White voters	18,028	20%	Est. NH White voters	25,860	51%
Est. African-Amer. Reg	41,817	47%	Est. African-Amer. Reg	11,966	24%
Democratic voters	60,651	68%	Democratic voters	34,327	68%
Republican voters	7,642	9%	Republican voters	5,443	11%
Other/No Party voters	20,942	23%	Other/No Party voters	10,571	21%

0058

# Latino CVAP

6

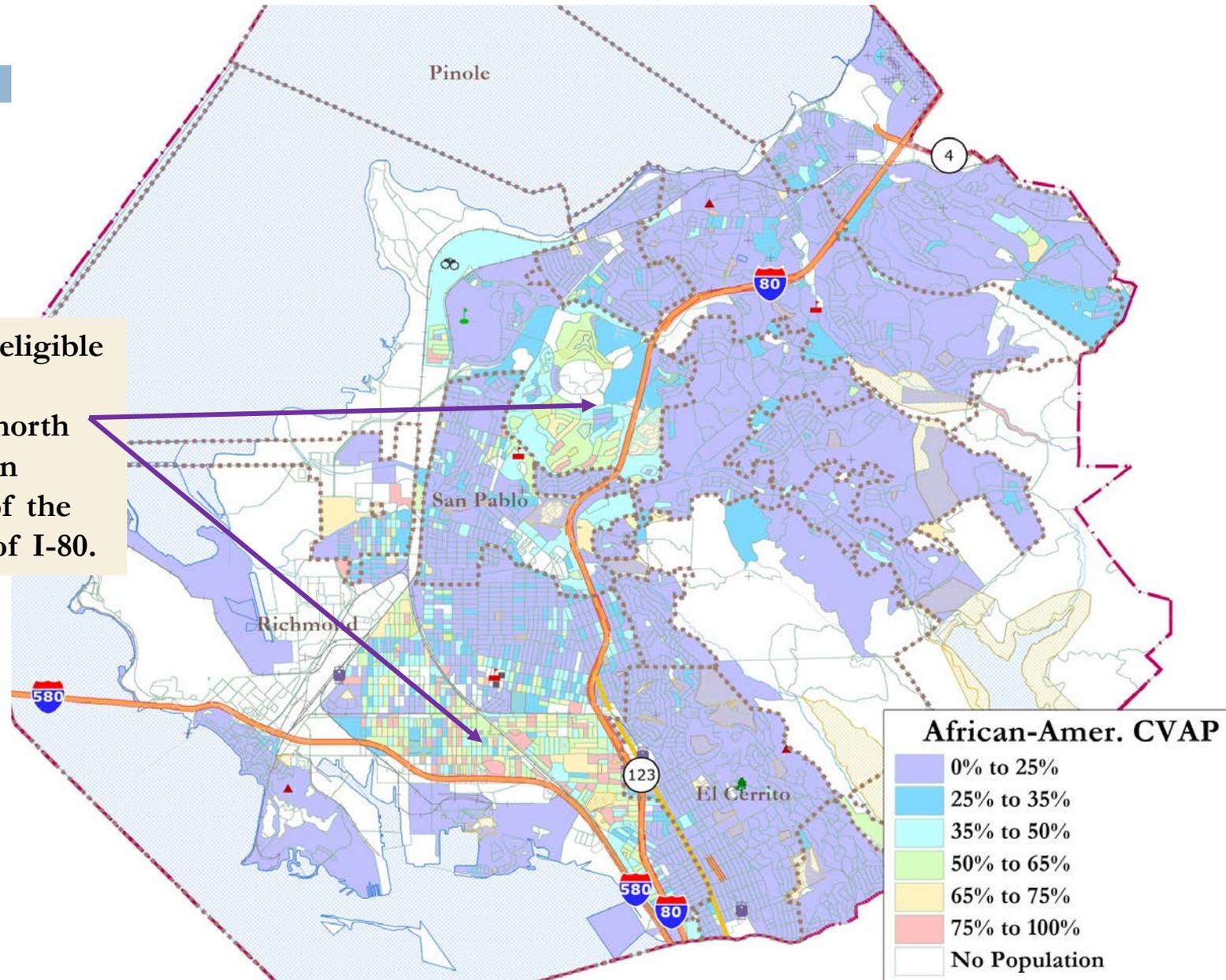
Latino eligible voters are more concentrated in southern San Pablo and the adjoining Richmond areas. There is also a heavily Latino pocket in the northern unincorporated "Montalvin Manor" area.



# African-American CVAP

7

African-American eligible voters are more concentrated just north of San Pablo and in Richmond south of the railroad and west of I-80.



# **The California Voting Rights Act: Recent Legislation & Litigation Outcomes**

Prepared by:  
James L. Markman  
Youstina N. Aziz  
714.990.0901



And  
Dr. Douglas Johnson  
310.200.2058



National Demographics Corporation

Subdivisions (a) and (c) of Government Code Section 34871 in turn provide:

[T]he legislative body may submit to the registered voters an ordinance providing for the election of members of the legislative body in any of the following ways:

(a) By districts in five, seven, or nine districts . . . [¶]

(c) By districts in four, six, or eight districts, with an elective mayor . . . .

Section 34886 states that “[a]n ordinance adopted pursuant to this section shall include a declaration that the change in the method of electing members of the legislative body is being made in furtherance of the purposes of the California Voting Rights Act of 2001.” (Emphasis Added). Section 34886 provides support for the position that a by-district system with an at-large mayor is not susceptible to CVRA violation because that Section specifically allows the adoption of that election system “in furtherance of the purposes” of the CVRA. Nonetheless, the broad definition of at-large election systems in the CVRA can provide the basis for a prospective plaintiff to challenge a jurisdiction’s adoption of an at-large mayor position.

The risk of such a challenge is higher if creating an at-large mayor seat would potentially dilute the voting power of a protected class.<sup>29</sup> A jurisdiction’s decision to establish an at-large mayor seat would involve it adding a district it otherwise wouldn’t have or eliminating a district that it would otherwise have. Depending on the jurisdiction’s demographics and concentration of members of protected classes, dividing the city into more or less districts can affect the voting power of the city’s protected class(es). If changing the number of districts decreases the voting power of a protected class in the city, that would bolster a prospective plaintiff’s argument that the city’s decision to create an at-large mayor position violates the CVRA.

*c. District Elections Ordinance and the Power to Petition for Referendum*

Article 2, Section 9(a) of the California Constitution provides that “[t]he referendum is the power of the electors to approve or reject statutes or parts of statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the state.” Based on the plain language of that provision, districting or reapportionment ordinances do not fall under any of these exceptions because they are not a statute calling elections; rather, the ordinances set forth the system of election and the conduct of the elections in the future. In dicta, the court in *Assembly of State of Cal. v. Deukmejian*, 30 Cal.3d 638, 654 (1982) noted that “[w]hile it is obvious that a reapportionment statute relates to elections, it is equally clear that such statutes do not call elections.” That case concerned a writ of mandate challenging the placement on the ballot of referenda challenging the state’s reapportionment statutes, and the Assembly, State Senate, and Congressional redistricting maps were successfully referended in 1982. In *Vandermost v. Bowen*, 53 Cal.4th 421, 437 (2012), the court noted that “if a referendum that is directed at a newly adopted redistricting map qualifies

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<sup>29</sup> The CVRA defines a “protected class” as “a class of voters who are members of a race, color, or language minority group, as this class is referenced and defined in the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.)” Elec. Code § 14026(d).

for the ballot, triggering a stay of the new redistricting map pending the electorate’s vote on the referendum, this court has the responsibility of determining which voting district map should be used for the upcoming interim electoral cycle.” (Internal citations omitted). In *Ortiz v. Board of Supervisors*, 107 Cal.App.3d 866, 872 (1980), the court stated that “[c]hanges in supervisorial district boundaries is a legislative function and thus subject to the referendum.” (Internal citations omitted).

Even though these cases discuss reapportionment or redistricting plans, the same general principles would apply to ordinances establishing district elections because they do not fall under any of the exceptions set forth in Article 2, Section 9(a) of the Constitution, and districting ordinances are similar to reapportionment statutes in that while they relate to elections, they do not “call elections.” Therefore, an ordinance establishing district-based elections would ordinarily be effective 30 days after adoption.<sup>30</sup>

In the past, perspective plaintiffs have made the argument that a local ballot measure cannot contravene state law (such as the CVRA) or policy, nor can a local ballot measure contravene the state's delegation of power to a local governing body. That argument also relies on the fact that California law was amended effective Jan. 1, 2017 to delegate the power to adopt district elections to city councils. However, there is nothing in the Elections Code that prevents a city from deciding to place the issue on the ballot for its voters, despite having the authority to change its election system by ordinance. Charter cities whose charters specify at-large elections must decide whether CVRA overrides the Charter or if a public vote on a charter amendment is necessary.

Making the ordinance effective thirty days after adoption creates an opportunity for referendum. If a petition for referendum is filed, however, and the matter has to be placed on the ballot, the city may face legal action by a prospective plaintiff claiming that the city’s election system violates the CVRA. There seems to be a gray area in the law and a need to balance between the power to petition for referendum and the need to apply state law.

#### IV. Litigation Update

##### a. *Southwest Voter Registration Education Project v. City of Rancho Cucamonga*

On December 23, 2015, the City of Rancho Cucamonga received a demand letter alleging violation of the CVRA. After receiving the letter, the city began analyzing the issue. On March 10, 2016, plaintiff Southwest Voter Registration Education Project<sup>31</sup> filed an action against the city alleging that the city’s at-large election system violated the CVRA.<sup>32</sup> On May 4, 2016, the City Council adopted a resolution submitting the question of district elections to the voters at the regular municipal election on November 8, 2016. The city’s electorate approved the measure at the November 2016 election.

<sup>30</sup> Gov. Code § 36937.

<sup>31</sup> The plaintiff subsequently amended its complaint to add an individual plaintiff to the action.

<sup>32</sup> *Southwest Voter Registration Education Project, et al. v. City of Rancho Cucamonga*, San Bernardino Superior Court Case No. CIVDS1603632.

# 15 Years With The California Voting Rights Act: *Lessons Learned & Challenges Ahead*

## CSBA Workshop

### December 1, 2017



# Statewide Impact

- Impact is gradual
  - Board members previously elected at-large tend to maintain an at-large viewpoint
  - Real change in Board culture generally only occurs after Board members who never won at-large are by-area
  - But every Board and Trustee is different



# The California Voting Rights Act

*What To Do When Your Agency Gets a Letter*

Thomas Rice & Doug Johnson

Municipal Law Webinar Series

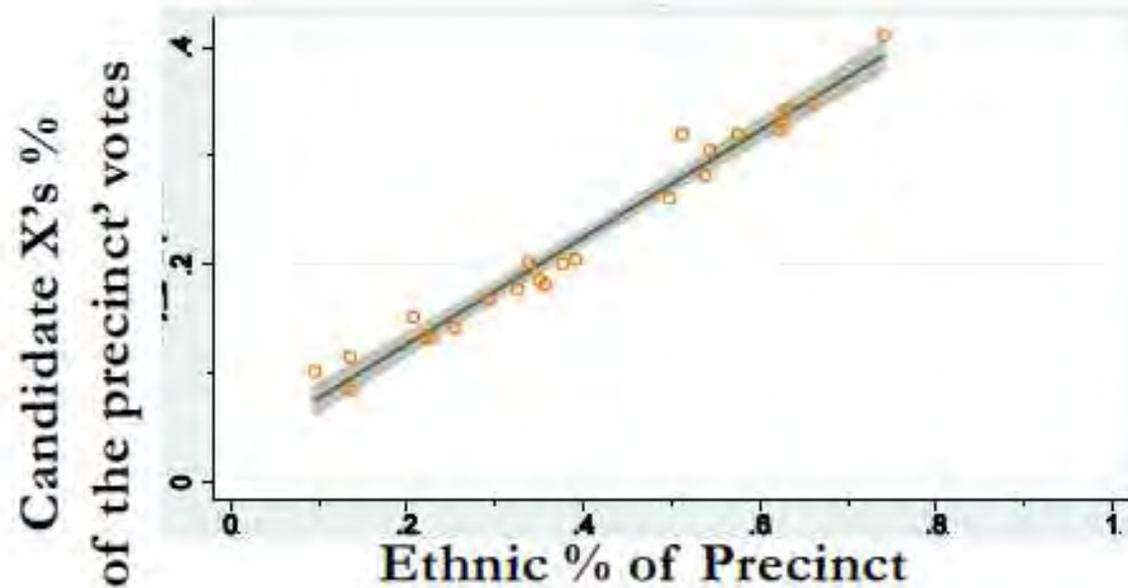
November 2, 2017



**BEST BEST & KRIEGER**  
ATTORNEYS AT LAW

• @bbklaw

## Level II Analysis – Example #1



An example of a good fit of the regression line to the dots, with a narrow confidence interval (the grey area) and, as a result, a clear preference.



**Contra Costa County Board of Education**

77 Santa Barbara Road, Pleasant Hill, CA 94523 • (925) 942-3380

June 14, 2018

Scott J. Rafferty  
Attorney at Law  
1913 Whitecliff Court  
Walnut Creek, CA 94596

Re: Your Letters of May 29 and June 4, 2018.

Dear Mr. Rafferty:

Thank you for the information regarding the status of district proceedings to create trustee areas in the West Contra Costa Unified School District and the related litigation filed by your clients in the Contra Costa County Superior Court. This responds to your request that the County Committee consider proposed maps in advance of the Court's ruling on your clients' motion for a preliminary injunction. It is my understanding that in the coming month, the Court may make important decisions about the proposed trustee areas and/or the process for creating them. One possibility is that the West Contra Costa Unified School District (WCCUSD) will submit a petition for creation of trustee areas to the County Committee in July, or as ordered by the Court. Given the pending litigation and the need for the County Committee to act objectively on any petition submitted, the County Committee will await presentation of a petition pursuant to Education Code section 5019 (c).

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Fatima Alleyne', written over a large, stylized blue scribble.

Fatima Alleyne, Ph.D.  
Chair, Contra Costa County Board of Education

c: Board Members, WCCUSD  
Matthew Duffy, Superintendent, WCCUSD

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