

Voting Patterns by Race in Recent Monroe County Elections

Dr. Lisa Handley

I. Scope of Project

I was retained by Monroe County, New York to conduct an analysis of voting patterns by race in recent elections. If I concluded that voting in the County is usually racially polarized, I was to identify the districts in the current County Legislative Plan (2011 District Plan) that provide Black voters with the opportunity to elect their candidates of choice to the County Legislature. I may also be asked to conduct a district-specific, functional analysis to ensure that proposed county legislative redistricting plans do not dilute minority voting strength.

II. Summary Conclusions

Based on my statistical analysis of voting patterns, I have concluded that voting is racially polarized in Monroe County. This is true of general elections across the County, although not often in the Rochester area of the County; and it is true of Democratic primaries in the Rochester area. However, I found that white bloc voting in Democratic primaries did not usually defeat the candidates preferred by Black voters in the Rochester area in several districts. Black voters have been able to elect their candidates of choice in five districts as currently configured, specifically Districts 22, 25, 27, 28, and 29. In addition, the Black-preferred candidates carried District 21 in a majority of the elections I examined, although not in the most recent County Legislative Democratic primary.

III. Professional Experience

I have over thirty-five years of experience as a voting rights and redistricting expert. I have advised scores of jurisdictions and other clients on minority voting rights and redistricting related issues and have served as an expert in dozens of voting rights cases. My clients have included state and local jurisdictions, independent redistricting commissions, the U.S. Department of Justice, national civil rights organizations, and such international organizations as the United Nations.

I have been actively involved in researching, writing, and teaching on subjects relating to voting rights, including minority representation, electoral system design, and redistricting. I co-authored a book, *Minority Representation and the Quest for Voting Equality* (Cambridge University Press, 1992) and co-edited a volume, *Redistricting in Comparative Perspective* (Oxford University Press, 2008), on these subjects. In addition, my research on these topics has appeared in peer-reviewed journals such as *Journal of Politics*, *Legislative Studies Quarterly*, *American Politics Quarterly*, *Journal of Law and Politics*, and *Law and Policy*, as well as law reviews (e.g., *North Carolina Law Review*) and a number of edited books. I hold a Ph.D. in political science from The George Washington University.

I have been a principal of Frontier International Electoral Consulting since co-founding the company in 1998. Frontier IEC specializes in providing electoral assistance in transitional democracies and post-conflict countries. In addition, I am a Visiting Research Academic at Oxford Brookes University in Oxford, United Kingdom.

IV. The Voting Rights Act and Racially Polarized Voting

The Voting Rights Act of 1965 prohibits any voting standard, practice or procedure – including redistricting plans – that result in the denial or dilution of minority voting strength. Section 2 of the Voting Rights Act was amended in 1982 to establish that intentional discrimination need not be proven (as the Supreme Court determined was required under the 15th Amendment to the Constitution). The U.S. Supreme Court first interpreted the amended Act in *Thornburg v. Gingles*,¹ a challenge to the 1982 North Carolina state legislative plans. In this case the U.S. Supreme Court held that plaintiffs must satisfy three preconditions to qualify for relief:

- The minority group must be sufficiently large and geographically compact to form a majority in a single-member district
- The minority group must be politically cohesive
- Whites must vote as a bloc to usually defeat the minority-preferred candidates

What do we mean when we say minority voters must be politically cohesive? And how do we know if white voters usually vote as a bloc to defeat the candidates preferred by minority voters? According to the Court, racially polarized voting is the “evidentiary linchpin” of a vote

¹ 478 U.S. 30 (1986).

dilution claim. Voting is racially polarized if minorities and whites consistently vote for different candidates. More specifically, if minorities consistently support the same candidates, they are said to be politically cohesive. If whites are consistently *not* supporting these candidates, they are said to be bloc voting against the minority-preferred candidates.

The Voting Rights Act requires a state or local jurisdiction to create districts that provide minority voters with an opportunity to elect their candidates of choice if voting is racially polarized and the candidates preferred by minority voters usually lose. If districts that provide minority voters with the opportunity to elect their preferred candidates already exist, these must be maintained in any redrawn plan in a manner that will continue to offer minority voters an opportunity to elect their preferred candidates.

V. Analyzing Voting Patterns by Race

An analysis of voting patterns by race serves as the foundation of two of the three elements of the “results test” as outlined in *Gingles*: a racial bloc voting analysis is needed to determine whether the minority group is politically cohesive; and the analysis is required to determine if whites are voting sufficiently as a bloc to usually defeat the candidates preferred by minority voters. The voting patterns of white and minority voters must be estimated using statistical techniques because direct information regarding the race of the voters is not, of course, available on the ballots cast.

Database To carry out an analysis of voting patterns by race, an aggregate level database must be constructed, usually employing election precincts (referred to as election districts, or EDs, in NY) as the units of observation. Information relating to the demographic composition and election results in these precincts is collected, merged and statistically analyzed to determine if there is a relationship between the demographic composition and support for specific candidates across the precincts. The demographic composition of the precincts is based on voter registration or turnout by race if this information is available; if it is not, then voting age population – specifically census data – is used to denote the racial makeup of the precincts.

Standard Statistical Techniques The courts routinely accept three standard statistical techniques for deriving estimates of voter choices by race: homogeneous precinct analysis,

ecological regression, and ecological inference.² Two of these analytic procedures – homogeneous precinct analysis and ecological regression – were employed by the plaintiffs’ expert in *Gingles*, have the benefit of the Supreme Court’s approval in that case, and have been used in most subsequent voting rights cases. The third technique, ecological inference, was developed after the *Gingles* decision and was designed, in part, to address some of the disadvantages associated with ecological regression analysis. Ecological inference analysis has been introduced and accepted in all recent vote dilution court proceedings.

Homogeneous precinct (HP) analysis is the simplest technique. It involves comparing the percentage of votes received by each of the candidates in precincts that are racially homogeneous. The general practice is to label a precinct as homogeneous if at least 90 percent of the voting age population is composed of a single race. In fact, the homogeneous results reported are not estimates – they are the actual precinct results. However, in most jurisdictions, most voters do not reside in homogeneous precincts. And voters who do reside in homogeneous precincts may not be representative of voters who live in more racially diverse precincts.

The second statistical technique employed, ecological regression (ER), uses information from all precincts, not simply the homogeneous ones, to derive estimates of the voting behavior of minorities and whites. If there is a strong linear relationship across precincts between the percentage of minorities and the percentage of votes cast for a given candidate, this relationship can be used to estimate the percentage of minority (and white) voters supporting the candidate.

The third technique, ecological inference (EI), was developed by Professor Gary King. This approach also uses information from all precincts but, unlike ecological regression, it does not rely on an assumption of linearity. Instead, it incorporates maximum likelihood statistics to produce estimates of voting patterns by race. In addition, it utilizes the method of bounds, which uses more of the available information from the precinct returns than is the case with ecological regression to produce the estimates.³ Unlike ecological regression, which can produce percentage

² For a detailed explanation of homogenous precinct analysis and ecological regression see Bernard Grofman, Lisa Handley and Richard Niemi, *Minority Representation and the Quest for Voting Equality* (Cambridge University Press, 1992). See Gary King, *A Solution to the Ecological Inference Problem* (Princeton University Press, 1997) for a more detailed explanation of ecological inference.

³ The following is an example of how the method of bounds works: if a given precinct has 100 voters, of whom 75 are Black and 25 are white, and the Black candidate received 80 votes, then at least 55 of the Black voters voted for the Black candidate and at most all 75 did. (The method of bounds is less useful

estimates of less than 0 or more than 100 percent, ecological inference was designed to produce only estimates that fall within the possible limits.

Estimates produced via EI are generally accepted by experts in the area of analyzing voting patterns to be the most accurate, with HP and ER estimates considered good checks on the EI estimates. EI estimates are especially useful when deriving estimates for more than a single minority group.

VI. Analyzing Voting Patterns in Monroe County

Database An ED level data was constructed by the GIS analysts in the Monroe County GIS Services Division that merged demographic data with election results. Because New York, and specifically Monroe County, does not collect voter registration data by race, census data – more specifically, the PL94-171 redistricting data – was used to portray the racial composition (non-Hispanic white, non-Hispanic Black, and Hispanic voting age population) of the EDs.

Statistical analysis Producing reliable estimates of voting patterns by race and ethnicity requires an adequate number of minority voters. Only two groups of protected minority voters satisfy this condition in Monroe County: Black and Hispanic voters.⁴ However, neither of these two groups comprised at least 90% of the voting age population in enough EDs to calculate homogeneous precinct estimates.

Geographic area of interest The geographic focus of my analysis was the Rochester area of Monroe County. This is the only area of the County where there is a sufficient number of minority voters to create and maintain districts that would provide these voters with an opportunity to elect their candidates of choice to the County Legislature.

Elections examined I analyzed all recent Democratic primaries and general elections for the County Legislature in Districts 21 – 29.⁵ Because the courts have indicated that elections that

for calculating estimates for white voters in this example as anywhere between none of the whites and all of the whites could have voted for the candidate.)

⁴ The courts and the U.S. Department of Justice recognize five minority groups as protected under the Voting Rights Act: Black voters, Hispanic voters, Asian voters, American Indian voters, and Alaska Native voters.

⁵ There were no recent county legislative Republican primaries for the districts I have focused on in this report. In any case, because the vast majority of Black and Hispanic voters in New York who choose to vote in primaries cast their ballots in Democratic rather than Republican primaries, Democratic primaries are far more probative for ascertaining the candidates preferred by Black and Hispanic voters.

include minority candidates are more probative than contests in which all of the candidates are white,⁶ I have indicated the race and Hispanic ethnicity of the candidates competing in these elections. Most of the county legislative elections analyzed included Black or Hispanic candidates. Table 1 lists the county legislative elections analyzed.

Table 1: County Legislative Elections Analyzed

District	Democratic Primaries			General Elections		
	<i>2015</i>	<i>2019</i>	<i>2021</i>	<i>2015</i>	<i>2019</i>	<i>2021</i>
21	analyzed	analyzed	analyzed	no contest	analyzed	no contest
22	no contest	no contest	analyzed	no contest	no contest	no contest
23	analyzed	analyzed	no contest	no contest	no contest	no contest
24	no contest	no contest	analyzed	no contest	no contest	analyzed
25	no contest	analyzed	analyzed	no contest	no contest	analyzed
26	no contest	analyzed	no contest	analyzed	analyzed	no contest
27	no contest	analyzed	no contest	no contest	no contest	analyzed
28	analyzed	analyzed	analyzed	no contest	no contest	no contest
29	analyzed	no contest	analyzed	no contest	no contest	no contest

While county legislative elections are the most relevant for determining if voting is polarized since these are the elections for holding office in the districts at issue (elections for the office at issue are referred to as “endogenous elections”), elections that encompass a wider geographic area are also useful to analyze. They not only provide additional information about voting in the specific area of interest, they may also serve as “bellwether elections” to assist in determining if the current or proposed districts provide or are likely to provide minority voters with an opportunity to elect their candidates of choice.

⁶ Election contests that include minority candidates are more probative because it is not sufficient for minority voters to be able to elect their candidates of choice only if these candidates are white. On the other hand, it is important to recognize that not all minority candidates are the preferred candidates of minority voters.

Six recent exogenous elections that included Black candidates were analyzed to determine if voting was polarized. Table 2, below, lists the exogenous contests analyzed and identifies the Black candidates running for office in these contests.

Table 2. Exogeneous Election Contests Analyzed

Office	Election cycle	Minority candidate(s)
<i>Federal</i>		
U.S. House District 25	2020 Democratic primary	Robin Wilt (B)
	2018 Democratic primary	Adam McFadden (B)
		Robin Wilt (B)
<i>Countywide</i>		
County Clerk	2020 Democratic primary	Jennifer Boutte (B)
<i>City of Rochester</i>		
Mayor	2021 Democratic primary	Malik Evans (B)
		Lovely Warren (B)
	2017 Democratic primary	Lovely Warren (B)
		James Sheppard (B)
	2013 Democratic primary	Lovely Warren (B)

VII. Voting Patterns in Recent Monroe County Legislative Elections

The summary table found in *Appendix A*, at the end of this report, provides the estimates of the percentages of Black, Hispanic and non-Hispanic white voters who voted for each of the candidates in the county legislative election contests analyzed. (*Appendix A1* reports the estimates for the Democratic primaries; *Appendix A2* reports the estimates for the general elections.) The results of these analyses follows.

District 21: This district is currently represented by white Democrat Rachel Barnhart, who was first elected in 2019. The 2019 Democratic primary in District 21 was not racially polarized between Black and white voters – a majority of both Black and white voters supported her. Because the estimates for Hispanic voters point in different directions, it is less clear who Hispanic voters preferred but, because EI estimates are generally considered by experts in the field to be

more accurate, it is most likely that a majority of Hispanic voters also supported her bid for the nomination against Hispanic candidate Victor Sanchez. In the 2019 general election, Barnhart faced Sanchez (Working Families) again. This contest was not polarized: white, Black, and Hispanic voters supported Democrat Barnhart.

The 2021 Democratic primary was racially polarized, with a large majority of white voters supporting Barnhart, but the majority of Black and Hispanic voters supporting her opponent, Black candidate Wanda Ridgeway. Barnhart won the Democratic nomination and was unopposed in the 2021 general election.

The 2015 Democratic primary in District 21 was also racially polarized. White voters overwhelmingly supported the white candidate Mark Muoio, but Black and Hispanic voters supported his Black opponent, Bobbi Mitchell. Muoio won the primary and was unopposed in the general election.

District 22: Black Democrat Vincent Felder was unchallenged in the 2015 and 2019 Democratic primaries and general elections. He lost the 2021 Democratic primary to his Hispanic challenger, Mercedes Vazquez Simmons. Vazquez Simmons was supported by a large majority of Hispanic and white voters, and most likely by a majority of Black voters as well. She was unopposed in the 2021 general election.

District 23: White Democrat Linda Hasman currently represents this district. She faced no opposition in the 2021 Democratic primary or general election. In 2019, she won the Democratic primary in a three-way race in which voting was racially polarized. While a majority of white voters supported Hasman, Black voters preferred one of her white opponents, Scotty Ginett. Hasman was unopposed in the 2019 general election.⁷

The 2015 Democratic primary in District 23 was also racially polarized. White voters supported the winning candidate, Black Democrat James Sheppard, but a majority of Black voters supported his opponent, C. Mitchell Rowe. Sheppard was unopposed in the 2015 general election.

District 24: White Democrat Joshua Bauroth was unchallenged in the 2015 and 2019 Democratic primaries and general elections. In the 2021 Democratic primary, white candidate

⁷ There is not a sufficient number of Hispanic voters in District 23 to produce accurate estimates of Hispanic voting patterns.

Albert Blankley and South Asian candidate Rajesh Barnabas competed in a very tight election in which estimates of voting patterns by race were too close to call for white and Black voters.⁸

In the 2021 general election, Black and white voters both supported Blankley.

District 25: Black Democrat John Lightfoot was unchallenged in the 2015 Democratic primary and general election. In 2019, he faced Black opponent Montgomery Bryant in the Democratic primary. This contest was not polarized – Black, Hispanic, and probably white voters, supported him. Lightfoot won the Democratic nomination and was unopposed in the 2019 general election.

Three candidates competed in the 2021 Democratic primary, two Black candidates (Dorian Hall and Kenneth Muhammad) and a white candidate, Caroline Delvecchio Hoffman. Delvecchio Hoffman was clearly the candidate of choice of white and Hispanic voters; Black voters divided their support among the three candidates with Delvecchio Hoffman most likely the candidate of choice of a plurality of Black voters (EI estimate). In the 2021 general election, Delvecchio Hoffman faced Dorian Hall (Working Families) again. This contest was not polarized: a very large majority of white, Black and Hispanic voters supported her.

District 26: In the 2015 general election, Tony Micciche, a white Republican, defeated Yversha Roman, a Hispanic Democratic in a polarized contest in which white voters supported Micciche and Black and Hispanic voters supported Roman. (There was no Democratic primary in 2015).

Prior to the 2019 Democratic primary, Micciche switched his party affiliation and ran in the Democratic primary against Roman. This contest was not polarized: a majority of white, Black, and Hispanic voters supported Roman. In the 2019 general election, Roman again faced Micciche, this time with Micciche affiliated with the Libertarian and Independent parties. Also in the race was Hispanic Republican candidate Orlando Rivera. This contest was polarized: Black and Hispanic voters supported Democratic candidate Roman; a plurality of white voters supported Republican candidate Rivera. Roman won with 48.9 percent of the vote in this three-way contest.

Roman was unchallenged in the 2021 Democratic primary. In the 2021 general election, she faced Republican candidate Rivera and won with 50.8 percent of the vote. This contest was

⁸There is not a sufficient number of Hispanic voters in District 24 to produce accurate estimates of Hispanic voting patterns.

polarized, with over 60 percent of white voters supporting the Republican but a strong majority of Black and Hispanic voters supporting Roman.

District 27: Black Democrat LaShay Harris was unopposed in the 2015 Democratic primary and general election. In the 2019 Democratic primary, two Black candidates competed for the nomination: Sabrina LaMar and Ebony Dukes. LaMar garnered the support of white and Hispanic voters, and probably a majority of Black voters as well. She was unopposed in the 2019 general election. In 2021, LaMar was unchallenged in the Democratic primary and defeated Scott Little (Young Minds) with over 88 percent of the vote in the general election. The general election was not polarized.

District 28: In the 2015 Democratic primary, white candidate Cindy Kaleh ran against Black candidate Ricky Frazier and won. Both Black and white voters supported Kaleh. Hispanic voters, however, supported Frazier. Kaleh was unopposed in the 2015 general election. There was no 2019 Democratic primary and in the 2019 general election, Asian (Laotian) Democratic candidate Frank Keophetlasy was unopposed. In the 2021 Democratic primary, Keophetlasy was defeated by Ricky Frazier, the candidate supported by a clear majority of Black and white voters. A majority of Hispanic voters also probably supported Frazier. Frazier was unopposed in the 2021 general election.

District 29: In the 2015 Democratic primary, Black candidate Ernest Flagler-Mitchell defeated Hispanic candidate Leslie Rivera in a polarized contest in which the candidate preferred by Black and Hispanic voters won. (White voters supported Rivera.) Flagler-Mitchell was unopposed in the 2015 general election. He was also unopposed in the 2019 Democratic primary and general election. Flagler-Mitchell was defeated in the 2021 Democratic primary by Black candidate William Burgess. This contest was not polarized: a majority of Black, white, and Hispanic voters supported Burgess. Burgess was unopposed in the 2021 general election.

Summary Conclusion With the exception of District 26, voting in the few recent general elections that were contested in this area of the County was not racially polarized. However, voting in recent Democratic primaries was often polarized. Even when voting was racially polarized, the candidates preferred by Black voters were successful in winning county legislative elections in Districts 22, 25, 27, 28, and 29. In addition, the legislator currently representing District 26 won the Democratic primary in 2019 with the support of Black and Hispanic voters, as well as the polarized 2019 and 2021 general elections. Although as will be seen below, candidates preferred

by Black voters can carry District 21, even when voting is racially polarized, the legislator currently representing this district is not the candidate of choice of Black voters.

VIII. Voting Patterns in Recent Exogenous Elections with Minority Candidates

The summary table found in *Appendix B* provides the estimates of the percentages of white, Black, and Hispanic voters who voted for each of the candidates in the six exogenous election contests analyzed. The results of this analysis are important for two reasons. First, there were not many recent contested county legislative elections in the Monroe County area of interest so this provides additional information about voting patterns in this area. Second, to ascertain how Black-preferred candidates are likely to fare in proposed districts – in which there have been no elections at all – exogenous elections can serve as bellwether elections if they (1) cover a broader area than any single county legislative district, (2) are racially polarized, and (3) include a minority candidate. The results of my analysis of the six exogenous elections follows.

2020 Democratic Primary County Clerk Two candidates competed in this primary: white candidate Jamie Romeo and Black candidate Jennifer Boutte. The contest was racially polarized between Black and white voters, with over 65% of white voters supporting Romeo and well over 75% of Black voters supporting Boutte. Hispanic voters probably preferred Romeo (EI estimates). Romeo won the nomination.

2020 Democratic Primary U.S. House District 25 Black candidate Robin Wilt challenged white incumbent Joseph Morelle in this primary election. Voting was not polarized: white, Black and Hispanic voters all supported Morelle in his bid for re-election.

2018 Democratic Primary: U.S. House District 25 District 25 was an open seat in 2018. Four candidates competed for the Democratic nomination: Morelle, Black candidates Adam McFadden and Robin Wilt, and white candidate Rachel Barnhart. The contest was racially polarized, with a majority of white voters supporting Morelle, a strong majority of Black voters supporting McFadden, and at least a plurality of Hispanic voters also supporting McFadden. Morelle won the nomination.

Rochester Mayoral Contest: 2013 Democratic Primary In 2013, Black candidate Lovely Warren defeated white incumbent Thomas Richards for the Democratic nomination. This contest was starkly polarized, with over 85% of white voters supporting Richards and over 90% of Black voters supporting Warren. Hispanic voters also provided very strong support for Warren.

Rochester Mayoral Contest: 2017 Democratic Primary Warren faced two challengers in her 2017 bid for the Democratic nomination: Black candidate James Sheppard and white candidate Rachel Barnhart. This contest was racially polarized, with Black and Hispanic voters providing very strong support for Warren and a near majority of white voters casting their votes for Sheppard. Warren won the nomination with over 62% of the vote.

Rochester Mayoral Contest: 2021 Democratic Primary Lovely Warren faced a single Black opponent, Malik Evans, in her bid for re-election in the Democratic primary in 2021. This contest was racially polarized between Black and white voters. An overwhelming majority of white voters supported Evans; Black voters supported Warren. A majority of Hispanic voters probably supported Evans. Warren lost this election.

Summary Conclusion: Five of the six exogenous elections analyzed were racially polarized between Black and white voters. Only the 2020 Democratic primary for U.S. House District 25, in which white incumbent Democrat Joseph Morelle defeated Black candidate Robin Wilt, was not polarized.

IX. Success Rate of Black-Preferred Candidates in Bellwether Elections

As noted above, five of the six exogenous elections analyzed were racially polarized and therefore can serve as bellwether elections. Table 4 lists the percentage of the vote the Black-preferred candidate received in these elections in County Legislative Districts 21-29 as they are currently configured. This information was obtained from the Monroe County Board of Elections Canvass Books posted on their website.⁹ The percentages do not reflect voting in the portions of Districts 23, 24, and 26 that fall outside of the Rochester City boundaries because (1) only Rochester voters could cast ballots in the three mayoral contests included in the table and (2) the Canvass tallies for the other two contests (the 2018 Democratic Primary for U.S. House District 25 and the 2020 Democratic Primary for County Clerk) are not reported in a way that allows these votes to be accurately attributed to the county legislative districts.

⁹ <https://www.monroecounty.gov/elections-results>

Table 4: Percentage of Vote Received by Minority-Preferred Candidates in Recent Elections

District	Mayor Rochester			US House District 25	County Clerk	Number (percent) of contests won
	<i>2013 DP (2 cand) Warren</i>	<i>2017 DP (3 cand) Warren</i>	<i>2021 DP (2 cand) Warren</i>	<i>2018 DP (4 cand) McFadden</i>	<i>2020 DP (2 cand) Boutte</i>	
21	54.9	56.8	29.9	26.6	52.1	3 60.0%
22	77.7	81.1	54.8	56.7	58.7	5 100.0%
23	18.7	29.6	6.9	9.2	41.5	0 0.0%
24	20.9	34.6	7.4	10.6	43.9	1 20.0%
25	71.8	76.1	43.9	48.4	58.6	4 80.0%
26	47.5	51.5	25.5	29.4	45.2	1 20.0%
27	73.7	83.5	55.3	56.2	62.6	5 100.0%
28	67.4	75.8	49.9	44.2	53.3	4 80.0%
29	68.6	71.9	50.8	43.4	56.1	5 100.0%

If the candidate of choice of Black voters is successful, the percentage reported in Table 4 is bolded. Some contests have more than two candidates thus 50% is not necessarily needed to win in these elections. The number and percentage of the five election contests won by the candidate of choice of Black voters is listed in the final two columns.

As Table 4 indicates, there are five districts in the current County Legislative Plan in which the candidates preferred by Black voters always won, or almost always won in the bellwether elections:¹⁰ Districts 22, 25, 27, 28 and 29. In addition, the Black-preferred candidate won a majority of the contests in District 21. With the exception of District 21, these districts are all currently represented in the County Legislature by candidates preferred by Black voters.

¹⁰The most challenging election for the Black-preferred candidate to win was the 2021 Rochester mayoral primary, when both minority and white support for Warren was less than in 2013 and 2017.

X. Minority Opportunity Districts in the Current Plan

The five districts in the current County Legislative Plan in which Black-preferred candidate are always or nearly always successful (Districts 22, 25, 27, 28 and 29) are districts that provide Black voters with an opportunity to elect their candidates of choice. District 21 elects Black-preferred candidates in a majority of the exogenous elections analyzed but is currently represented by a legislator who is not the Black-preferred candidate. Only one or two of the five districts that consistently elect Black-preferred candidates to the legislature are majority Black in voting age population (VAP) – the number of districts depends on how “Black” is defined.¹¹ The demographic composition of Districts 21, 22, 25, 26, 27, 28 and 29 are listed in Table 5, below.

Table 5: Demographic Composition of County Legislative Districts

District	Percent White VAP	Percent Black (any part) VAP	Percent Black (DOJ) VAP	Percent Hispanic VAP
21	43.6	39.2	35.9	16.1
22	13.6	51.9	46.4	33.9
25	34.9	46.9	44.1	10.6
27	23.9	64.0	61.1	9.3
28	24.0	48.4	44.3	21.0
29	20.0	45.9	40.6	35.2

¹¹ The white VAP reported is non-Hispanic white VAP. The Black (any part) VAP reported is anyone who indicated they are Black, either as a single race, in conjunction with another or more than one other race, or indicated that they were both Black and Hispanic. The Black (DOJ) VAP counts those who indicated they are single race non-Hispanic Black plus anyone who indicated that they were Black and white biracial, with Black being one of the races, per demographics GIS used.

XI. Drawing Black Opportunity Districts for the County Legislature

Because voting in Monroe County is racially polarized, maintaining districts that provide minority voters with the opportunity to elect their candidates of choice is important – in fact, a failure to do so would violate the Voting Rights Act.

There are currently five districts that provide Black voters with the opportunity to elect their preferred candidates to the County Legislature. These districts must be maintained as Black opportunity districts in any new redistricting plan adopted. But this does not necessarily mean that the districts must be redrawn with precisely the same percentage Black population. And it certainly does not require that all of the districts be drawn with 50% Black population, or some other population percentage, as a target. In fact, establishing a set demographic target such as 50% Black voting age population, without any analysis to support this, and applying it jurisdiction-wide, was expressly forbidden by the U.S. Supreme Court in *Alabama Legislative Black Caucus v. Alabama*,¹² a decision written by Justice Breyer and joined by the other liberal Justices on the Court at the time (Justices Ginsburg, Kagan, and Sotomayor), along with Justice Kennedy.

Instead of arbitrarily establishing a demographic target, a district-specific, functional analysis must be undertaken to determine if proposed districts are likely to provide minority voters with the ability to elect their candidates of choice to office. A very common and court-accepted approach to conducting a district-specific, functional analysis relies on reconfiguring the election results from bellwether elections to determine if the minority-preferred candidates would consistently win these contests in the proposed districts. Using reconfigured or recompiled election results to assess proposed districts entails (1) identifying bellwether elections based on an analysis of voting patterns by race, (2) disaggregating the election results for each of the candidates in the bellwether elections down from the level of the ED to the census blocks within each of the EDs (since most district drawing is done at the census block level rather than at the ED level), (3) designating which census blocks are assigned to each of the districts in the proposed plan, and (4) summing the disaggregated election results up to the level of the proposed districts to determine if the minority-preferred candidate would win. If the minority-preferred

¹² 575 U.S. 254 (2015).

candidates consistently carry the proposed districts, these districts are very likely to provide minority voters with an opportunity to elect their candidates of choice to office.

XII. Conclusion

Because voting is usually racially polarized in Monroe County, districts that provide minority voters with an opportunity to elect their candidates of choice must be created or, if they currently exist, must be maintained. A district-specific, functional analysis is required to determine if a proposed redistricting district plan continues to offer minority voters an opportunity to elect their candidates of choice.

There are currently five county legislative districts that consistently elect the candidates preferred by Black voters to the County Legislature. Any proposed plan should include at least five districts that provide Black voters with the ability to elect their candidates of choice to the County Legislature. If a proposed plan does not, this would dilute Black voting strength in violation of the Voting Rights Act. However, setting a demographic target for these districts, minus any analysis, is likely to be found to be unconstitutional and risks unnecessarily packing Black voters into fewer districts than they might otherwise be able to elect their candidates of choice. If Black voters are not unnecessarily packed, it may be possible to create a sixth minority opportunity district, one that could provide Black or Hispanic voters with the opportunity to elect their candidates of choice to the County Legislature.¹³

¹³ I have not examined (or attempted to draw) any proposed redistricting plans for the Monroe County Legislature. I suggest that it may be possible to draw an additional minority opportunity district (either Black or Hispanic) solely on the basis that District 21 often performs for Black voters.

APPENDIX A1

Voting in Recent County Legislative Democratic Primaries

Estimate of Voting Percentages by Race/ Ethnicity

Office & Candidate	Race	Vote	Percent of White votes		Percent of Black votes		Percent of Hispanic votes	
			EI	ER	EI	ER	EI	ER
2015 Democratic Primary								
District 21								
Bobbi Mitchell	B	39.4%	12.5	9.2	67.7	77.6	59.4	97.8
Mark Muoio	W	60.6%	87.5	90.9	32.3	22.3	40.6	7.1
District 23								
James Sheppard	B	77.3%	83.8	85.4	47.1	34.4	INS	INS
C. Mitchell Rowe	W	22.7%	16.2	14.5	52.9	66.4	INS	INS
District 28								
Cindy Kaleh	W	52.4%	56.9	84.7	52.3	58.1	47.4	29.2
Ricky Frazier	B	47.6%	43.1	15.5	47.7	42.0	52.6	70.2
District 29								
Ernest Flagler-Mitchell	B	69.2%	39.6	6.8	77.7	98.4	78.8	76.7
Leslie Rivera	H	30.8%	60.4	93.3	22.3	2.7	21.2	20.0
2019 Democratic Primary								
District 21								
Victor Sanchez	H	46.1%	44.2	44.6	47.9	48.8	46.7	61.3
Rachel Barnhart	W	53.9%	55.8	55.7	52.1	50.1	53.3	38.5
District 23								
Linda Hasman	W	50.0%	53.8	55.5	32.0	INS	INS	INS
Scotty Ginett	W	19.4%	15.5	8.0	39.7	INS	INS	INS
Todd Patrick Grady	W	30.5%	30.7	31.4	28.4	INS	INS	INS
District 25								
Montgomery Bryant	B	30.0%	47.4	61.8	11.4	10.0	34.2	3.4
John Lightfoot	B	70.0%	52.6	38.2	88.6	89.3	65.8	99.0
District 26								
Tony Micciche	W	38.1%	39.3	47.8	29.8	30.0	43.6	13.9
Yversha Roman	H	61.9%	60.7	52.7	70.2	69.5	56.4	83.0
District 27								
Ebony Dukes	B	39.6%	31.4	17.5	42.4	51.2	38.9	5.0
Sabrina LaMar	B	60.4%	68.7	83.0	57.6	48.6	61.1	94.4

APPENDIX A1

Voting in Recent County Legislative Democratic Primaries

Estimate of Voting Percentages by Race/ Ethnicity

Office & Candidate	Race	Vote	Percent of White votes		Percent of Black votes		Percent of Hispanic votes	
			EI	ER	EI	ER	EI	ER
2021 Democratic Primary								
District 21								
Rachel Barnhart	W	64.5%	88.5	91.0	37.3	16.0	47.1	3.3
Wanda Ridgeway	B	35.5%	11.5	9.1	62.7	84.4	52.9	93.7
District 22								
M. Vazquez Simmons	H	68.9%	75.6	90.2	64.0	43.3	75.0	73.3
Vincent Felder	B	31.1%	24.4	9.9	36.0	56.8	25.1	43.3
District 24								
Albert Blankley	W	50.2%	50.0	45.9	50.2	INS	INS	INS
Rajesh Barnabas	A	49.8%	50.0	54.1	49.8	INS	INS	INS
District 25								
C. Delvecchio Hoffman	W	54.0%	79.1	90.0	39.7	26.1	44.0	50.9
Dorian Hall	B	26.1%	14.5	9.6	32.7	34.6	27.8	0.9
Kenneth Muhammad	B	20.0%	6.4	0.3	27.6	37.1	28.3	5.8
District 28								
Frank Keophetlasy	A	38.0%	46.3	8.5	24.7	9.3	49.5	71.4
Ricky Frazier	B	62.0%	53.7	91.8	75.3	90.7	50.5	28.6
District 29								
Ernest Flagler-Mitchell	B	33.5%	23.0	7.5	33.1	45.9	39.2	43.1
William Burgess	B	66.5%	77.0	92.1	67.0	54.1	60.8	57.2

INS = insufficient number of voters to produce accurate estimates

APPENDIX A2

Voting in Recent County Legislative General Elections				Estimate of Voting Percentages by Race/ Ethnicity					
Office & Candidate	Race	Party	Vote	Percent of White votes		Percent of Black votes		Percent of Hispanic votes	
				EI	ER	EI	ER	EI	ER
2015 General									
District 21									
Mark Muoio	W	D, WF, I	100.0%						
District 22									
Vincent Felder	B	D	100.0%						
District 23									
James Sheppard	B	D, WF, I	100.0%						
District 24									
Joshua Bauroth	W	D, WF, I	100.0%						
District 25									
John Lightfoot	B	D, WF, I	100.0%						
District 26									
Yversha Roman	H	D, WF	43.7%	28.6	24.8	75.9	96.3	63.7	96.2
Tony Micciche	W	R, C, I, Rf	56.3%	71.4	74.8	24.1	4.6	36.3	1.2
District 27									
LaShay Harris	B	D, I	100.0%						
District 28									
Cindy Kaleh	W	D, WF, I	100.0%						
District 29									
Ernest Flagler-Mitchell	B	D	100.0%						
2019 General									
District 21									
Rachel Barnhart	W	D, SAM	76.0%	74.7	71.3	85.6	86.0	71.1	99.4
Victor Sanchez	H	WF	24.0%	25.3	28.8	14.4	14.5	28.9	0.0
District 22									
Vincent Felder	B	D	100.0%						
District 23									
Linda Hasman	W	D, WF	100.0%						
District 24									
Joshua Bauroth	W	D, WF	100.0%						
District 25									
John Lightfoot	B	D	100.0%						
District 26									
Yversha Roman	H	D, WF	48.9%	39.0	29.7	80.5	98.5	54.7	97.1
Orlando Rivera	BH	R, C	35.1%	44.0	49.1	12.5	0.0	26.7	0.5
Tony Micciche	W	Lib, I	15.9%	16.9	24.1	7.1	0.1	18.5	0.6
District 27									
Sabrina LaMar	B	D	100.0%						

APPENDIX A2

Voting in Recent County Legislative General Elections				Estimate of Voting Percentages by Race/ Ethnicity					
Office & Candidate	Race	Party	Vote	Percent of White votes		Percent of Black votes		Percent of Hispanic votes	
				EI	ER	EI	ER	EI	ER
District 28									
Frank Keophetlasy	A	D, WF	100.0%						
District 29									
Ernest Flagler-Mitchell	B	D	100.0%						
2021 General									
District 21									
Rachel Barnhart	W	D, WF	100.0%						
District 22									
M. Vazquez Simmons	H	D, WF	100.0%						
District 23									
Linda Hasman	W	D, WF	100.0%						
District 24									
Albert Blankley	W	D	68.4%	70.6	67.3	58.5	46.8	INS	INS
Rajesh Barnabas	A	WF	31.6%	29.4	32.4	41.6	53.1	INS	INS
District 25									
C. Delvecchio Hoffman	W	D	77.9%	76.3	67.6	87.9	86.5	64.5	92.8
Dorian Hall	B	WF	22.1%	23.7	33.3	12.1	13.9	35.5	0.0
District 26									
Yversha Roman	H	D, WF	50.8%	39.5	32.6	79.7	97.2	65.9	95.7
Orlando Rivera	BH	R, C	49.2%	60.5	67.0	20.3	1.7	34.1	0.7
District 27									
Sabrina LaMar	B	D	88.9%	84.7	57.9	96.9	99.2	62.3	70.1
Scott Little		Yng Minds	11.1%	15.8	46.0	3.1	0.4	37.7	30.9
District 28									
Ricky Frazier	B	D, WF	100.0%						
District 29									
Willilam Burgess	B	D, WF	100.0%						

INS = insufficient number of voters to produce accurate estimates

APPENDIX B

Voting in Recent Democratic Primaries in Rochester Area of NY

Estimate of Voting Percentages by Race/ Ethnicity

Office & Candidate	Race	Percent of White votes		Percent of Black votes		Percent of Hispanic votes	
		EI	ER	EI	ER	EI	ER
2020 County Clerk							
Jamie Romeo	W	66.4	69.1	21.8	17.5	56.9	20.2
Jennifer Boutte	B	33.6	31.1	78.2	82.4	43.1	79.9
2020 US House District 25							
Joseph Morelle	W	58.8	54.1	69.6	78.8	80.4	100.0
Robin Wilt	B	41.2	45.9	30.4	21.8	19.7	0.0
2018 US House District 25							
Joseph Morelle	W	50.9	54.1	14.1	9.8	38.6	12.0
Adam McFadden	B	1.7	0.8	76.9	80.8	46.1	73.7
Robin Wilt	B	26.7	30.6	5.7	0.0	7.0	0.1
Rachel Barnhart	W	20.7	23.3	3.3	0.6	8.3	0.4
2021 Rochester Mayor							
Malik Evans	B	97.8	100.0	24.2	23.0	53.4	28.6
Lovely Warren	B	2.2	0.0	75.8	76.9	46.6	71.2
2017 Rochester Mayor							
Lovely Warren	B	22.8	18.9	95.3	97.9	84.5	87.3
James Sheppard	B	45.0	48.9	2.4	0.4	10.5	9.7
Rachel Barnhart	W	32.2	37.7	2.3	0.9	5.1	0.7
2013 Rochester Mayor							
Lovely Warren	B	14.0	13.3	92.1	93.3	89.1	99.2
Thomas Richards	W	86.0	86.6	7.9	6.4	10.9	0.9