

Dear All:

Below see a comparison of Black Voting Age Population (BVAP). The BVAP numbers below are important because they put in context the historical understanding that because Majority Minority Districts (MMDs) traditionally have lower voter turnout than Non-MMDs, it is important that they in fact be Majorities (50% +). In the column to the far right below, 2003 BVAP it can be seen that all of the MMDs were DOJ BVAP above 50%, likewise in the first column below 2015 MMD BVAP, all of the MMDs are above 50%. In the CURRENT BVAP COLUMN it can be seen that Districts 1 and 6 have fallen below 50% and are therefore technically Plurality Districts rather than MMDs. Districts 1 and 6 falling to 45.9% is not a problem because there has not been a major infusion of White voters injected into the Districts, (in other words because of the ratio of similitude the cohort remains stable). The problem of Mini-White Voting Blocks is the major topic of the email below.

The MMD SUBCOM. PROPOSAL that was voted on at the November 16, 2022 meeting recommends 5 MMDs, three of which have BVAP below 50%. When such factors as the low voter turnout in MMDs; the historically low Census count in 2020 due to Covid and Trump Administration dilution; the inclusion of incarcerated individuals and the inclusion of individuals who are over 18 but not citizens, are taken into consideration, the Commission's consideration of a 7 MMD Local Law is out of the question. There may be a slight increase in the Black and Hispanic Voting Age Populations (VAP) overall county wide, but ; whether they are compact and cohesive is another question. The MMD voted down the 6 District proposal; see MMD SUBCOMM 6 DIST (REJECT) proposal below, which would dilute all the present MMDs and would increase the number of White voters in the MMDs.

While the December 12, 2022 deadline for the Commission to submit a Local Law proposal to the Legislature is very close, there is still time for members of the leadership of the Legislature and their lawyers to meet with members of the ACRC and the MMD Subcommittee with their lawyer and mapper. It would be irresponsible to not have a direct exchange of information that would lead to the creation of an optimal Local Law; because we are trying to avoid the false criticism that the Legislature is exerting undue influence on the Commission. The major goal of the Redistricting effort is to come up with a Local Law that maximizes the largest number of viable MMDs that meet all the legal and practical requirements. The sooner we meet the better. This is a complex process that cannot be implemented by backing into it with our eyes closed and wishing for luck.

2015 MMD BVAP DIST.(REJECT)	CURRENT BVAP 2003 BVAP	MMD SUBCOM. PROPOSAL	MMD SUBCOMM 6
1.) 52.37%	1.) 45.9%	1.) 45.6%	1.) 44.7%
2.) 58.49%	2.) 51.4%	2.) 51.8%	2.)
47.2%	2.) 54.03%		
3.) 51.42%	3.) 52.2%	3.) 52.2%	3.)
46.4%	3.) 53.91%		
4.) 51.51%	4.) 52.52%	4.) 49.5%	4.)
46.7%	4.) 51.22%		
6.) 50.56%	6.) 45.9%	6.) 46.2%	6.)
44.5%	5.)57.72%*		
			7.) 43.2%

Sincerely,
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Dear MMD Subcommittee Members and ACRC Members::

The link above is from the MMD Subcommittee Meeting that was held on 7:00 pm November 15, 2022. I would recommend that you look at my email below and then watch or rewatch the meeting in the link above so you can see the clarifications I am making below in context.. NOTE: if some of the numbers in this email are misaligned the totals are correct.

It was my intention in the Nov. 13 email below to help clarify some of the misconceptions that the MMD Subcommittee Members and Albany County Redistricting Commission (ACRC) Members (hereafter the Commission) had. Based on the discussion in the November 15, 2022 meeting in the link at the top of this email, I failed miserably.

This email is yet another attempt to clear up confusion in an effort to come up with a viable Redistricting Local Law that will meet and exceed legal requirements and withstand a legal challenge.

The members in the meeting seemed confused about whether or not I wanted members of the Legislature to meet with members of the Commission. In the Nov. 13 email below I state:

After a joint meeting of Commission members and Legislative leadership it could be useful to have a meeting with the Legislators and the public, however, such a meeting would be much less effective if Commission members do not understand what they are overlooking and are not given a clear understanding of the Legislature's legitimate merit based concerns; as opposed to the belief of Commission members that the Legislative recommendations are simply self-serving and without merit.

I can only surmise that the combination of the intense detail in the Nov. 13 email and the fact that some facts run contrary to the bubble the Commission has been in for the past year, confounded them.

In the Nov. 13 email below I made the following point:

Based on information and belief Asians in Albany County tend to vote like Whites.

Based on the Pope v County of Albany (hereafter Pope) it was determined that Hispanics in the MMDs tended to vote like Blacks.

The net affect of this proposal would inject a de facto White Voting Block of 792 voters that could prevent District 2 from being a viable Crossover District because of the high voting rate of the 792 Whites from the present District 5 and the low voter turnout of District 2, which is for now an MMD.

WHITE + ASIAN
792 + 79 = 871

BLACK + HISPANIC
174 + 102 = 276

What I was trying to do is point out that contrary to Professor Wice's assumption, the Legislature was not proposing to add more Blacks to District 1 and District 6 to bring the Black Voting Age Population (BVAP) from 48% to above 50%; but rather that the Commission in their 7 District MMD proposal, that the Legislature voted down; were actually injecting Mini-White Voting Blocks into the present Districts 2 and 3. In addition I was also making the point that just as Hispanics in the MMDs in Albany tended to vote like

Blacks so to Asians in Albany tended to vote like Whites. The point was that notwithstanding the inability to know precisely the race or ethnicity of voters, that the combination of Whites and Asians represented a dilution of the Black and Hispanic voting Block. Much to my surprise the expert mapper got the opposite interpretation. They thought I was trying to add Blacks, Hispanics and Asians to form a "Super Minority Block" {emphasis my own}. Professor Wice opined that Asians were not considered in their analysis; however, since Asians will actually vote they will have some impact. This is particularly relevant since in my sample of Census Blocks in the proposed District 3 there were 337 Asians and only 300 Blacks.

However, the more complete analysis of Census Blocks in the MMD mapping expert's PowerPoint the full Census Block data reveals that the problem of the Mini-White Voting Block is much worse than my sample.

The Complete Census Block Numbers for the portion of Menands in the present District 14 that was proposed to be combined to create a new District 3, shows that there are 1,599 Whites, 580 Blacks, 495 Asians and 143 Hispanics. $1599/580 = 2.76689$; in other words there are over two and a half times more Whites than Blacks in this portion of District 14. Since the Voting Rights Act was passed to deal with the problem of White Voting Blocks preventing protected classes from electing the candidates of their choice it is not practicable to create a Crossover District let alone an MMD with these numbers.

But I was dumbfounded when I heard the expert mappers explanation for injecting 7 City blocks from the present District 5 into District 2 to create a new District 2. It was stated that this was done, "to add to the population of the District". the 7 City blocks broke down as 792 Whites (66.7%) and 162 Blacks (13.7%). The Chair of the MMD Subcommittee observed that when you are creating 7 MMDs you will lose some BVAP. The point that seems to be lost is you cannot force the creation of 7 MMDs when the numbers do not actually exist to create a viable MMD when the cohesiveness does not exist.

It appears that the Commission was following requests for the creation of 7 MMDs even though the data does not support this. How can you get a Crossover District or MMD with 66.7% vs 13.7% when you are lowering the number of Black voters and adding a Mini -White Voting Block with a higher turnout ?

Dr. Handley keeps insisting on her effectiveness analysis and ignored my point about the efficacy of MMD Representatives being reelected by their constituents an average of 3 times and the constituents voting for the 2018 Lt. Governor and Attorney General candidates based on the recommendations of the MMD Reps, showing the cohesiveness of the MMDs and demonstrating more probative value than a one time Statewide election.

I state:

While the effectiveness determination that Dr. Lisa Handley makes is based on the 2018 Lt. Governor and Attorney General races and has probative value; the actual voting in the MMDs must have greater probative value. In looking at the representatives in the present MMDs; the Rep in District 1 is the former President of the Albany Common Council (City Council) and the former Chair of the Albany County Democratic Committee; the Rep in District 2 has been elected three times; the Rep in District 3 has been elected 4 times; the Rep in District 4 has been elected four times; the Rep in District 6 has been elected twice. It simply cannot be the case that the Representatives in the present MMDs who were elected an average of three times are not a better representation of the cohesiveness on the MMDs than one election cycle in 2018. In addition something that no one in the Commission could be expected to know; is that the 2018 vote for Statewide offices from the MMDs was based on the recommendations of the Reps in the MMDs. So in District 2 the Rep campaigned for both Laticia James and Jumaane Williams and the constituents followed the recommendation. In District 3 the Rep recommended two White Democrats and the voters followed the recommendation ; the same thing happened in District 4. In District 6 as in District 2 there was strong campaigning for Jumaane Williams but a White Democrat was supported by the Rep for Attorney General and the voters followed. In 2018 the Rep at that time also had their constituents follow their recommendation. So as regards the effectiveness issue it is difficult to argue that MMD Reps elected on average three times and whose constituents follow their recommendations for what Statewide candidates to support, do not document the strongest evidence of

viable MMDs.

To be clear I am asking that a representative group of Legislators and their Legal staff meet with a representative group of MMD Subcommittee Members and ACRC Members and their Lawyer and mapper asap. Since the information in this email has been sent in over half a dozen previous emails including the Nov. 13 email below it is clear that simply submitting written comments is not effective because of the bubble the Commission has been in for over a year at a cost of over \$400,000.

I could be wrong but based on the MMD Subcommittee Meeting on November 15, 2022 the Commission Members seem to be exhausted and confused.

Since the Legislature voted down the 7 District MMD proposal because there is simply not enough cohesiveness to justify 7MMDs; when even going into Menands in District 14 which is over 70% White; Dr, Handley somehow still thinks there are viable Crossover Districts with BVAP as low as just over 39% and just over 38%. with massive infusions of White Voters and a decrease of Black voters. No MMD election from 2011 to the present has had an over 20% total voter turnout and on average the total turnout is closer to between 10 and 13%. There is no magic that will change this.

So the MMD Subcommittee has voted down a possible viable 6 MMD proposal because of their flawed analysis of the 2018 election. Instead they are recommending a 5 District MMD proposal. The problem with this once again is that based on the present data notwithstanding the over reliance on the 2018 election sophistry, the fact base now mirrors to closely the fact base of the 2015 Pope decision for which the County was successfully sued. in 2015 there were 4 MMDs and the litigants were able to create a viable 5th MMD with over 50% BVAP. Now we have 5 MMDs two of which are approximately 48% Crossover Districts. Clearly it is possible to create 5 MMDS with over 50% BVAP MMDs and as difficult as it is to create 6 MMDs with over 50% BVAP it might be acceptable to create 6 MMDS slightly below 50% BVAP as long as there is not the injection of Mini - White Voting Blocks into the MMDs.

The Legislature needs to see fully interactive maps, not pdfs with no ability to enlarge and have a clear view of the street level detail. There should be the ability to come up with a viable solution but we need to meet very soon and communicate directly; the Legislature with the Commission.

Please take the time to carefully read this email. I look forward to meeting with you in the next few days.

Sincerely,
Merton D. Simpson
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(518) 253-3536
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Dear MMD Subcommittee Members and ACRC Members:

As advised in the MMD Subcommittee Meeting November 12, 2022 I am submitting some draft comments I prepared for the Legislature to address a number of issues that have come up in several ACRC and MMD Subcommittee Meetings. In order to illustrate that the points I made are consistent and reflect the recent Commission Meetings of November 9th, 10th and 12th, I am submitting the same draft that was given to the Legislature on November 9, 2022..

For clarity I would like to address some points that have been made in recent meetings.

I believe it was the November 9, 2022 Meeting that Pat Sibilia expressed confusion as to what was meant by using the Census Block Tool. In the email below information from the Census Block Tool shows that the Commission's recommendation, that was voted down by the Legislature, there is a 7 City Block area, in the Commission's District 8 (which is the present District 5) which was injected into District 2 has 792 White voters but only 174 Black voters. Also in the proposed District 3, from the proposal the Legislature voted down shows that the major Census Blocks in the present District 14 which was combined with the weaker part of the present District 3, to create a newly proposed District 3, that was part of a 7 MMD recommendation; shows that there are 805 White voters but only 300 Black voters.

Professor Wice continually says that taking the present MMDs and restoring them to 50% of more Black Voting Age Population (BVAP) or enhancing the existing MMDs above 50% BVAP could subject the county to a Section 2 Voting Right Act violation. However, as is stated in the Draft email below it is the Legislature's strong belief that the present or a slightly enhanced BVAP in the original 2015 MMDs is not defensible because it would so closely mirror the fact base in the Pope case which the County lost. The observation that there are a number of new housing units that are upscale and expensive and not reflected in the 2020 Census; but will definitely have an impact on the 2023 elections, could have implications for exploring a 5 MMD option. This a very real but difficult to process consideration. However, perhaps of greater importance is the fact that the County is not arguing for increasing the BVAP in the present MMDs, but rather the fact that the Commission's rejected proposal is adding de facto Min- White voting blocks into Districts 2 and 3 at the same time that they are significantly LOWERING the BVAP; this is highly problematic. The question has been raised as to whether the County is aware that Districts 1 and 6 have dropped from over 50% BVAP to 48% BVAP, ostensibly Plurality Districts(according to the numbers in the Maptitude data in the rejected map.) The fact that Districts 1 and 6 have 48% BVAP is not problematic because even though there is a slight lower BVAP the bulk of the voters that remain are the same. The problem again is that the Commission's proposal actually lowers the BVAP while simultaneously increasing the actual number of White voters from districts with much higher voter turnouts than MMDs and who have little or no history of voting for Black candidates for County Legislative Districts. According to the data in the rejected Commission Map Districts 2,3,and 4 have 54% BVAP.

While the effectiveness determination that Dr. Lisa Handley makes is based on the 2018 Lt. Governor and Attorney General races and has probative value; the actual voting in the MMDs must have greater probative value. In looking at the representatives in the present MMDs; the Rep in the first MMD is the former President of the Albany Common Council (City Council) and the former Chair of the Albany County Democratic Committee; the Rep in District 2 has been elected three times; the Rep in District 3 has been elected 4 times; the Rep in District 4 has been elected four times; the Rep in District 6 has been elected twice. It simply can not be the case that the Representatives in the present MMDs who were elected an average of three times are not a better representation of the cohesiveness on the MMDs than one election cycle in 2018. In addition something that no one in the Commission could be expected to know; is that the 2018 vote for Statewide offices from the MMDs was based on the recommendations of the Reps in the MMDs. So in District 2 the Rep campaigned for both Laticia James and Jumaane Williams and the constituents followed the recommendation. In District 3 the Rep recommended two White Democrats and the voters followed the recommendation ; the same thing happened in District 4. In District 6 as in District 2 there was strong campaigning for Jumaane Williams but a White Democrat was supported by the Rep for Attorney General and the voters followed. In 2018 the Rep at that time also had their constituents follow their recommendation. So as regards the effectiveness issue it is difficult to argue

that MMD Reps elected on average three times and whose constituents follow their recommendations for what Statewide candidates to support, do not document the strongest evidence of viable MMDs.

Dr. Handley has stated that the Rep from District 2 has not had an opponent. In fact what has occurred is that the opponent in 2015 did not live in the district and could not get enough valid signatures and in 2019 this same opponent could not get enough signatures to get on the ballot (see attached NOV 12 BUST EX CANDIDA; NOV 12 SAM COLEMAN FACES RE; and NOV 12 PROBATION SINKS CAND).

Dr. Handley also wondered if the Legislators knew that the election of the Rep. in District 6 was in fact the preferred candidate since he was White. Professor Wice opined that the MMD Reps might believe that it is problematic that a White Rep was chosen in District 6. The fact of the matter is that the Rep in District 6 is a highly respected member of the Legislative Black Caucus (LBC) and is recognized by his peers as one of the most effective and productive members of the Legislature.

Professor Wice has stated that the MMD Reps want a guarantee and a SafetyNet, this is inaccurate; what is required is that the MMDs not be weakened by injecting a Mini-White voting block into the MMDs. What has to be recognized is that the 50% BVAP is a "floor and not a ceiling" and that the 50% BVAP is a necessary but not sufficient criterion upon which to base a determination of effectiveness. The bulk of this email documents the significance of the gap in efficacy between the Voting Age Population (VAP) and the actual voter turnout.

Since the information in this email is based on data that the ACRC and MMDSubcommittee (the Commission) have developed, e.g. the rejected map, the Census Blocks and factual information presented by the Legislature, e.g. the actual voter turnout, the original 2015 MMDs; it would be helpful if a detailed response to the information in this email could be submitted to me on behalf of the Legislature by close of business Wednesday November 16, 2022; because the December 12, 2022 deadline for the Commission's submission to the Legislature is rapidly approaching.

If there are any questions about information in this email please call Merton D. Simpson at (518) 253-3536.

Please advise.

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Respectfully Submitted,
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[Albany County NY Redistricting Plan Options \(arcgis.com\)](#) [this is the proposal voted Down by the Legislature]

[Revised Legislative Districts - Laws & Maps | Albany County, NY](#)

[Albany County NY Redistricting Plan Options \(arcgis.com\)](#)

<https://app.albanycounty.com/boe/electionresults/>

Local Law 8 for 2019 page 10 Section L states in part, " The Legislature may provide feedback and recommendations to the Commission in order to assist the Commission in providing an updated redistricting report."

The purpose of this communication is to clarify some of the Legislature's major concerns that caused the Commissions redistricting proposal to be voted down.

Among the Holdings of the Court in the Pope v County of Albany Decision was, that, " The totality of circumstances demonstrated that county's redistricting plan diluted voting strength of black voters in county...", [hereafter "Pope"; see attached JUN 28 Pope v County of Alb...pdf (439 KB)].

On page 6 of Pope the importance of Thornburg v Gingles was highlighted for Section 2 Voting Rights Act Claims.

[Thornburg v. Gingles - Wikipedia](#)

Under the *Gingles* test, plaintiffs must show the existence of three preconditions:

1. The racial or language minority group "sufficiently large and geographically compact to constitute a majority in a [single-member district](#)";
2. The minority group is "politically cohesive" (meaning its members tend to vote similarly); and
3. The "majority votes sufficiently as a bloc to enable it ... usually to defeat the minority's preferred candidate."[\[19\]](#):50–51

The first precondition is known as the "compactness" requirement and concerns whether a [majority-minority district](#) can be created.[\[20\]](#) The second and third preconditions are collectively known as the "racially polarized voting" or "racial bloc voting" requirement, and they concern whether the voting patterns of the different racial groups are different from each other. If a plaintiff proves these preconditions exist, then the plaintiff must additionally show, using the remaining Senate Factors and other evidence, that under the "totality of the circumstances", the jurisdiction's redistricting plan or use of at-large or multimember elections diminishes the ability of the minority group to elect candidates of its choice.[\[8\]](#): 344–345

[MMD Subcommittee Mapping Selection - YouTube](#)

In the link to the meeting above at 24:01 into the meeting Dr. Handley points out that Texas got into legal trouble because they attempted to maintain a Hispanic Majority District by moving out the people who did not vote and replacing them with people who did. The point to be made is that Voting Age Population by itself is not as important as effectiveness. However, an effectiveness determination that is made based on the 2018 Lt. Governor and Attorney General elections in 2018 without looking at the extremely low actual voter turnout is incomplete.

In several of the ACRC and MMD Subcommittee Meetings it has been observed that to take the present MMDs some of which have fallen below 50% Black Voting Age Population (BVAP) and trying to restore them to 50% or above VAP could be considered by the court to be illegal Packing. However, the Legislature feels that it would be difficult to limit the redistricting decision to the present 5 MMDs; because it is probably not defensible since the present facts closely mirror the facts for which the County was sued in Pope. One problem is that the Commission's Redistricting proposal does not add Blacks to increase the BVAP but rather adds a de facto White Voting Block into Districts 2 and 3; and in an effort to create 7 MMDs creates two Districts with slightly over 39% BVAP Districts 5 and 7 and two Districts with slightly over 38% BVAP Districts 1 and 6.

The Commission correctly observes that two of the present MMDs have fallen below 50% BVAP Districts 1 and 6. Districts 2,3,and 4 are at 54% BVAP. The reason why Districts 1 and 6 can still be considered viable Crossover Districts is that up until now there has not been a large injection of White voters into these Districts. This would be changed if the Commission's last proposal was implemented. Part of the problem is not considering that the actual voter turnout in the MMDs is much lower than 20% of the Voting Age Population (VAP) even though the VAP could be over 50%. It is simply not viable to combine a Non-MMD with a large number of High Voter Turnout Whites, with a Low Voter Turnout MMD and Still maintain an MMD.

Page 25 of the Pope Decision under Section 5. Effects of Past Discrimination it states, "In addition, witnesses testified that minority voters in Albany County tend to have lower voter rates than white voters."

Although the NYS John Lewis Voting Rights Act does not take effect until next year, the fact that the rate at which protected class members vote can be considered reinforces the idea that it makes sense to factor in the actual voter turnout in any determination of effectiveness.

NOV 8 John R. Lewis Voting Rights Act of New York (3).pdf

Pages 4 and 5 state:

53 3. In determining whether, under the totality of the circumstances, a violation of subdivision one or two of this section has occurred, factors that may be considered shall include, but not be limited to: (a) the extent to which members of a protected class in the state or political subdivision vote at lower rates than other members of the electorate.

In an effort to create 7 MMDs the Commission took the largest part of the present District 3, with the greatest concentration of voters and the highest Black and Hispanic voter turnout and used it to create a new District 7 MMD. The least populated part of the present District 3 was combined with close to half of Menands in the present District 14.

A look at the Census Block tool of the ACRC and MMD Subcommittee's Last Map submission is illustrative..

The major sections of the present District 14 that are added to the present District 3 show the following numbers:

BLOCK CK HISPANIC	WHITE	ASIAN	BLA
360010136023000	111	44	6
360010136023004	223	75	21
360010136022018	152	25	2
360010136023003	17	33	5
360010136022010	85	63	7
360010136022004		198	23
8 7			
360010136023001		19	74
30 10			

TOTAL **805 337**
300 58

There are more White Voters than Asian, Black and Hispanic voters combined. There are also more Asian VAP voters than BVAP although many of the Asians are not eligible to vote.

In the Commission's proposed District 8 (which is the present District 5) there are 7 city blocks added to the present District 2 that are each Census Blocks because of their dense population.

The Census Block tool shows the numbers below:

BLOCK		WHITE	ASIAN	BLACK	HISPANIC
STATE, DOVE, CHESTNUT, LARK	134	20	41	23	
STATE, S SWAN, CHESTNUT, DOVE	90	18	26	9	
CHESTNUT, DOVE, LANCASTER, LARK	155	6	25	12	
CHESTNUT, S SWAN, LANCASTER, DOVE	141	17	14	19	
LANCASTER, DOVE, JAY, LARK	104	9	42	15	
LANCASTER, S SWAN, JAY, DOVE	102	3	12	17	
JAY, S SWAN, DOVE			66	6	14 7
TOTAL				792	79
174 102					

Based on information and belief Asians in Albany County tend to vote like Whites.

Based on Pope it was determined that Hispanics in the MMDs tended to vote like Blacks.

The net affect of this proposal would inject a de facto White Voting Block of 792 voters that could prevent District 2 from being a viable Crossover District because of the high voting rate of the 792 Whites from the present District 5 and the low voter turnout of District 2, which is for now an MMD.

WHITE + ASIAN
792 + 79 = 871

BLACK + HISPANIC
174 + 102 = 276

To put the situation in perspective it is useful to consider the demographics of Albany. A brief look at the map of the existing MMDs is instructive, (See attached Apr 12-5MMDs). All of the present MMDs are physically connected. Albany is 533 square miles. The present MMDs exist in an area of approximately 10 square miles. The issues of compactness, and contiguity are not on the table. It is because the MMDs exist in such a small area that the creation of new MMDs is challenging. From 2011 until today new MMDs and Wards were created by reconfiguring the geography of the areas within the 10 square mile radius. By necessity the MMDs have divided neighborhoods but in reality all of the MMDs have the same issues and concerns; for practical purposes the MMDs are one big community of interest with virtually similar if not identical problems and concerns.

Albany NY has become a national poster child for urban blight. and has been studied by major Universities and research organizations.

[On 'Jeopardy,' the answer is Albany if the question is blight \(timesunion.com\)](http://timesunion.com)

[Why Albany's Black neighborhoods are its most economically challenged \(timesunion.com\)](http://timesunion.com)

In determining the effectiveness of any proposed redistricting plan the statistical concept of Restriction of Range is important. For example the increase from 0 to 1 is a 100% increase an increase from 1 to 2 is a 50% increase; in other words while the % increase can appear considerable the practical significance is de minimis. The Restriction of Range has implications for important correlation and variance applications.

There is no doubt that Dr. Lisa Handley is one of the foremost experts on redistricting. Dr. Handly has used some of the same statistical techniques that Dr. Baodong Liu used as the lead consultant on the winning side of the Pope Decision including, Ecological Regression, and Ecological Inference. However, Dr Liu had a much more robust data set and a much longer time period for longitudinal analysis, with greater resources.

In the conclusion to her Report on page 14 Dr. Handly states:

This recompilation can only be done with elections that cover a broad enough area to encompass all of the draft districts, hence only countywide or statewide elections can be used for this exercise. The two statewide Democratic primaries I analyzed were racially polarized in Albany County. However, despite winning the county legislative contests, the Black-preferred candidates in these two statewide Democratic primaries did not win all five of the Black districts in the plan currently in place. (Appendix B provides the results of the recompiled election results for these two contests.) This means caution must be exercised if recompiled election results for these primaries are used to make a decision about the opportunity proposed districts provide Black voters. And of course, the lack of evidence about the voting patterns of other minority voters such as Hispanics and Asian means no conclusions can be drawn about whether proposed districts will elect the candidates of choice of Hispanic or Asian voters.

In the determination of effectiveness the importance of the actual voter turnout and the relationship between the Black and White VAP can not be overstated.

In the 11/03/2015 General Election District 1 had the highest voter turnout. The DOJ Black Voting Age Population (BVAP) was 52.37% the DOJ BLACK + HISP VAP was 62.69% but the ACTUAL VOTER TURNOUT was only 701 VOTERS or (13%) [701 /5454= 13%]

As can be seen by the information below, ALBANY COUNTY GENERAL ELECTION 11/03/15 THE PRESENT BVAP in District 1 is 48% and this is not a problem as long as a large number of White Voters are not injected into the District.. The other 2015 ACTUAL TURNOUTS were extremely low District 2 (7%); District 3 (12%); District 4 (5%) and District 6 (10%)'

The numbers above must be juxtaposed to the numbers in the Commission Proposal. As has been stated before the VAP is not to be considered in isolation, it must be evaluated from the perspective of effectiveness. However, the VAP is a "floor not a ceiling" it is necessary but not sufficient. When the 2015 BVAP is lowered from 53.37% to 38.97% this has to directly affect the number of Black voters available and must have the affect of lowering the already low VOTER TURNOUT.. The 2015 DOJ BLACK + HISP VAP of 62.69% being lowered to 55.41% has to have negative practical significance.

Of particular concern is that District 6 which had a 2015 DOJ BVAP OF 50,55% and a % DOJ_BLACK+HISP VAP of 61.95%; under the Commission's Recommendation would be reduced to a DOJ BVAP of 38.98% but a White VAP of 41.50% and a HISP+NHB% VAP of 49.17%. With a larger White VAP than BVAP how could District 6 be considered a viable Crossover District when the larger 2015 protected class VAP produced only a 10% VOTER TURNOUT of a mere 554 voters, with a total VAP of 5,614 voters ?

The numbers below show the dilution.

ALBANY COUNTY GENERAL ELECTION 11/03/15				
% DOJ_BLACK+HISP	# VAP	BLACK + HISP	ACTUAL VOTER	TURNOUT
SUBCOMM	HISP+NHB%	2022 MMD	BVAP	
1) 62.69%	(3,419)		13%	
(701)	[55.41%]			48%
2) 67.98%	(3,685)		7%	
(365)	[56.68%]			54%
3) 58.93%	(3,258)		12%	
(662)	[48.85%]			54%
4) 61.92%	(3,333)		5%	
(278)	[56,37%]			54%
6) 61,95%	(3,477)		10%	
(554)	[52,40%]			48%

The attached SEP 8 MMD Subcommittee Report, shows a lowering of the VAP that is of great concern. When there is an over reliance on Voting Age Population (VAP) and the appropriate weight is not given to the practical impact of the actual voting record, it may not be practicable to develop 7 MMDs even 6 MMDs is a major challenge and could easily be developed in a way that would have the net affect of having 3 MMDs or 3 Crossover Districts; instead of 5 or 6..

The numbers above under the heading ALBANY COUNT GENERAL ELECTION 11/03/15 illustrate the issue. For example the First Legislative District 1) in the numbers above as determined in the previous litigation "POPE" the combined Department Of Justice (DOJ) Black and Hispanic VAP was 62.69% or 3,419 voters; but the actual votes cast, not just for Blacks and Hispanics but for all voters was only 701 people or 13% of the VAP. (See the attachment Apr 12-5 MMDs pdf (167 KB) to get the Total VAP for the MMDs above).

So the MMD Redistricting Subcommittee recommends a combined Hispanic and Black VAP of only 55.41 % this is troubling. A cursory review of the actual vote in the Majority Minority Districts (MMD) from 2011 to today shows that the total turnout in MMDs is rarely above 20% and in most cases is much less than 20%. :(SEE the top link on ALBANY COUNTY ELECTION RESULTS; the attached SEP 8 MMD Subcommittee Report; 39 WITH 5 COURT ORDER, and Apr 12 - 5 MMDs).

A longitudinal analysis of the ACYUAL VOTER TURNOUT is compelling,

In the November 3, 2019 General Election the unopposed winner in the 3rd District MMD got a TOTAL VOTER TURNOUT (hereafter turnout) of 611 votes. In this same election cycle the unopposed winner in the 14th District got 1,380 votes with an additional 24 Write Ins. While it is normally more probative to look at the Primary results it is significant that there is an over 2 to 1 difference between the turnout in District 14 and District 3 with the ostensible merger of the two districts to create a reconstituted District 3.

Further down the unopposed winner of District 5 got a turnout of 939 votes.

The unopposed winner (hereafter UP) of the District 6 MMD got a turnout of 535 votes.

Winner of the 7th District got 316 votes and their opponent got 113 votes for a grand total of 429 votes. This is the District that was proposed by the Commission to get almost half of the present 3rd District in order to create a new MMD. It is still the best option for a new 6th MMD.

UP District 8 - 1,157 votes

UP District 9- 1,663 votes

UP District 10- 1,601 votes

UP District 11- 1,710 votes

UP District 12- 445 votes

Winner District 13 got 894 votes opponent 134 votes

UP District15- 1,126 votes

UP District 16- 1,178 votes

Winner District 17 got 732 votes opponent 323 votes

Winner District 18 got 1,505 votes opponent 477 votes

The pattern above has been replicated for the most part in almost every election from 2011 to today.

The link directly below has the results of every election from 2011 to today
[Albany County Election Results](#)

See a representative sample of the actual voting results near the bottom of this text.

In summary, from 2011 until now there has not been a significant problem for Blacks and Hispanics to elect the candidates of their choice because even when MMDs fell below 50% VAP there was no injection of White Voters into the MMDs to create de facto White Voting Blocks.

Prior to the present Redistricting Commission there was no attempt to create an MMD outside the inner city of Albany. People move from the City of Albany to Menands for a reason. It is very analogous to moving from Brooklyn to Queens in New York City. In many sections of Brooklyn there are many Brownstones multiple housing units and condos that people rent for over \$1 million; in Queens there are many home owners who have mortgages of \$1 million. While the cost of housing in Albany is much lower than housing in New York City the mindset is similar with a large number of renters in Albany and a large number of home owners in the Village of Menands which is part of the Town of Colonie. When the lines on a map change, it does not change the interpersonal relationships of people. It is a question of cohort analysis. People in Menands are more likely to vote for people they know rather than people of color in the City of Albany that they don't know. District 14 at present is over 70% White. The residents of Center Square who are among the most elite and affluent voters in the City of Albany are much more likely to vote for neighbors they know and have relationships with than people of color from Albany's inner city.

There has been no deviation from the low voter turnout in MMDs and many of the Non-MMDs have double or triple the voter turnout of White voters who have no history of inclination to vote Legislators of color.

7 MMDs can not be created just because people believe it would be desirable if the numbers of viable voters do not exist.

There is no rational basis to postulate some alchemy that will take an MMD that has never had a total voter turnout of over 800 voters, merge it with a part of a White District that has individual White candidates that get 1,300 votes or more unopposed and believe you can maintain a Crossover District. To believe otherwise is a Fallacy of Misplaced Concreteness.

Again at the bottom of this text are a sample of actual voter turnouts. However, the pattern is constant in terms of the voter turnout, the MMDs have never deviated upwards.

It is vital that members of the Legislature and Legislative Legal staff meet with members of the MMD Subcommittee and the ACRC (see the link below from the 11/3/2022 ACRC Meeting).

[ACRC Meeting County Office Building, Room 930 - YouTube](#)

After a joint meeting of Commission members and Legislative leadership it could be useful to have a meeting with the Legislators and the public, however, such a meeting would be much less effective if Commission members do not understand what they are overlooking and are not given a clear understanding of the Legislature's legitimate merit based concerns; as opposed to the belief of Commission members that the Legislative recommendations are simply self-serving and without merit.

**NOVEMBER 3, 2019 GENERAL
ELECTION**

COUNTY LEGISLATOR COUNTY LEG 3

Wanda F. Willingham (DEM)	530	86.74
Wanda F. Willingham (WOR)	50	8.18
Wanda F. Willingham (IND)	18	2.95
WRITE-IN.	13	2.13
***** Totals by Candidate *****		
Wanda F. Willingham	598	97.87
WRITE-IN.	13	2.13

Over Votes0	
Under Votes	16	

COUNTY LEGISLATOR COUNTY LEG 14

(VOTE FOR) 1

(WITH 7 OF 7 EDs COUNTED)

Alison C. McLean Lane (DEM)	1,096
78.06	
Alison C. McLean Lane (WOR)	120
8.55	
Alison C. McLean Lane (IND)	164
11.68	
WRITE-IN.	24
1.71	
***** Totals by Candidate *****	
Alison C. McLean Lane	1,380
98.29	
WRITE-IN.	24
1.71	

Over Votes	0
Under Votes	488

NOVEMBER 3, 2019 GENERAL ELECTION

	VOTES	PERCENT
VOTES PERCENT		
Under Votes	91	

COUNTY LEGISLATOR COUNTY LEG 9

(VOTE FOR) 1		
COUNTY LEGISLATOR COUNTY LEG 5		
(WITH 10 OF 10 EDs COUNTED)		
(VOTE FOR) 1		
Andrew C. Joyce (DEM)	1,441	85.77
(WITH 14 OF 14 EDs COUNTED)		
Andrew C. Joyce (WOR)	222	13.21
Matthew T. Peter (DEM)	733	78.06
WRITE-IN.	17	1.01
Matthew T. Peter (WOR)	178	18.96
***** Totals by Candidate *****		
WRITE-IN.	28	2.98
Andrew C. Joyce	1,663	98.99
***** Totals by Candidate *****		
WRITE-IN.	17	1.01
Matthew T. Peter	911	97.02

WRITE-IN.	28	2.98
Over Votes	0	

Under Votes	350	
Over Votes	0	
Under Votes	136	

COUNTY LEGISLATOR COUNTY LEG 10

(VOTE FOR) 1		
COUNTY LEGISLATOR COUNTY LEG 6		
(WITH 12 OF 12 EDs COUNTED)		
(VOTE FOR) 1		
Gary W. Domalewicz (DEM)	1,601	96.80
(WITH 11 OF 11 EDs COUNTED)		
WRITE-IN.	53	3.20
Sam Fein (DEM).	524	97.94
Over Votes	0	
WRITE-IN.	11	2.06
Under Votes	462	
Over Votes	1	
Under Votes	107	

COUNTY LEGISLATOR COUNTY LEG 11

(VOTE FOR) 1

COUNTY LEGISLATOR COUNTY LEG 7

(WITH 11 OF 11 EDs COUNTED)

(VOTE FOR) 1

Frank J. Commisso (DEM) 1,506 87.10

(WITH 10 OF 10 EDs COUNTED)

Frank J. Commisso (CON) 120 6.94

Beroro T. Efekoro (DEM) 294 68.37

Frank J. Commisso (IND) 84 4.86

Douglas A. Bullock (WOR) 113 26.28

WRITE-IN 19 1.10

Beroro T. Efekoro (IND) 22 5.12

***** Totals by Candidate *****

WRITE-IN 1 .23

Frank J. Commisso 1,710 98.90

***** Totals by Candidate *****

WRITE-IN 19 1.10

Beroro T. Efekoro 316 73.49

Douglas A. Bullock 113 26.28

Over Votes 0

WRITE-IN 1 .23

Under Votes 283

Over Votes 0

Under Votes 36

COUNTY LEGISLATOR COUNTY LEG 12

(VOTE FOR) 1

(WITH 8 OF 8 EDs COUNTED)

COUNTY LEGISLATOR COUNTY LEG 8

William M. Clay (DEM) 411 91.95

(VOTE FOR) 1

William M. Clay (IND) 34 7.61

(WITH 9 OF 9 EDs COUNTED)

WRITE-IN 2 .45

Lynne Lekakis (DEM) 934 80.10

***** Totals by Candidate *****

Lynne Lekakis (WOR) 223 19.13

William M. Clay 445 99.55

WRITE-IN 9 .77

WRITE-IN 2 .45

***** Totals by Candidate *****

Lynne Lekakis 1,157 99.23

Over Votes 0

WRITE-IN 9 .77

Under Votes 68

Over Votes 0

Under Votes 182

SUMMARY REPORT

RUN DATE:11/27/19 11:54 AM

VOTES PERCENT

COUNTY LEGISLATOR COUNTY LEG 13

COUNTY LEGISLATOR COUNTY LEG 17

(VOTE FOR) 1

(VOTE FOR) 1

(WITH 10 OF 10 EDs COUNTED)

(WITH 9 OF 9 EDs COUNTED)

Raymond F. Joyce (DEM)	746	72.43
Bill L. Ricard (DEM).	732	69.32
Timothy A. Looker (REP).	102	9.90
Cassandra A. Horn (REP).	232	21.97
Timothy A. Looker (CON).	32	3.11
Cassandra A. Horn (CON).	57	5.40
Raymond F. Joyce (WOR)	119	11.55
Cassandra A. Horn (IND).	34	3.22
Raymond F. Joyce (IND)	29	2.82
WRITE-IN.	1	.09
WRITE-IN.	2	.19

***** Totals by Candidate *****

***** Totals by Candidate *****

Bill L. Ricard.	732	69.32
Raymond F. Joyce	894	86.80
Cassandra A. Horn.	323	30.59
Timothy A. Looker.	134	13.01
WRITE-IN.	1	.09
WRITE-IN.	2	.19

Over Votes	0	
Over Votes		1
Under Votes	103	
Under Votes		73

COUNTY LEGISLATOR COUNTY LEG 18

COUNTY LEGISLATOR COUNTY LEG 14

(VOTE FOR) 1

(VOTE FOR) 1

(WITH 15 OF 15 EDs COUNTED)

(WITH 7 OF 7 EDs COUNTED)

Gil Ethier (DEM)	1,375	69.23
Alison C. McLean Lane (DEM)	1,096	78.06
Petros Papanicolaou (REP)	477	24.02
Alison C. McLean Lane (WOR)	120	8.55
Gil Ethier (CON)	82	4.13
Alison C. McLean Lane (IND)	164	11.68
Gil Ethier (IND)	48	2.42
WRITE-IN.	24	1.71
WRITE-IN.	4	.20

***** Totals by Candidate *****

***** Totals by Candidate *****

Alison C. McLean Lane	1,380	98.29
Gil Ethier	1,505	75.78
WRITE-IN.	24	1.71
Petros Papanicolaou	477	24.02

WRITE-IN.	4	.20
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Over Votes 0

 Under Votes 488
 Over Votes 4
 Under Votes 101

COUNTY LEGISLATOR COUNTY LEG 15

(VOTE FOR) 1
 COUNTY LEGISLATOR COUNTY LEG 19
 (WITH 8 OF 8 EDs COUNTED)

(VOTE FOR) 1
 Robert J. Beston (DEM) 909 80.16
 (WITH 6 OF 6 EDs COUNTED)
 Robert J. Beston (CON) 149 13.14
 Todd A. Drake (REP) 1,100 57.38
 Robert J. Beston (IND) 68 6.00
 Todd A. Drake (CON) 163 8.50
 WRITE-IN. 8 .71
 Timothy D. Nichols (WOR) 500 26.08
 ***** Totals by Candidate *****
 Todd A. Drake (IND) 152 7.93
 Robert J. Beston 1,126 99.29
 WRITE-IN. 2 .10
 WRITE-IN. 8 .71
 ***** Totals by Candidate *****

 Todd A. Drake 1,415 73.81
 Over Votes 0
 Timothy D. Nichols 500 26.08
 Under Votes 209
 WRITE-IN. 2 .10

Over Votes 0
 COUNTY LEGISLATOR COUNTY LEG 16
 Under Votes 507
 (VOTE FOR) 1
 (WITH 12 OF 12 EDs COUNTED)
 Sean E. Ward (DEM) 1,086 91.34
 COUNTY LEGISLATOR COUNTY LEG 20
 Sean E. Ward (IND) 92 7.74
 (VOTE FOR) 1
 WRITE-IN. 11 .93
 (WITH 6 OF 6 EDs COUNTED)
 ***** Totals by Candidate *****
 David B. Mayo (DEM) 1,118 81.49
 Sean E. Ward 1,178 99.07
 David B. Mayo (IND) 251 18.29
 WRITE-IN. 11 .93
 WRITE-IN. 3 .22

 ***** Totals by Candidate *****
 Over Votes 0
 David B. Mayo 1,369 99.78

Under Votes	269	
WRITE-IN.	3	.22

(CONTINUED NEXT PAGE)
SUMMARY REPORT
RUN DATE:11/27/19 11:54 AM

VOTES PERCENT	VOTES PERCENT
Over Votes	0
Under Votes	521