

**From:** [Dulce Arredondo](#)  
**To:** [MC Planning](#)  
**Subject:** Public Comment on the Supervisorial Redistricting Process  
**Date:** Monday, November 1, 2021 6:09:05 PM

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Dear Members of the Madera County Board of Supervisors:

The California Fair Maps Act requires that public testimony must be heard and considered, therefore, I want to state my opinion to ensure fair representation in Madera County.

The Fair Map Act creates a new set of mandatory criteria that must guide the drawing of district lines. A map drawn that gathers together communities of interest with similar values, backgrounds and characteristics. Is my understanding that the County wishes to minimize changes to existing districts, with only minor changes to balance population and to assign split Census blocks to one district but this approach is contrary to new State Elections law and is likely illegal.

I truly believe that in order to ensure fair representation in Madera County, the Board of Supervisors must start with a blank slate, maximizing public participation, and adopting a map that ensures fair representation for our community. Keeping in mind that how these districts are drawn will impact our lives, Madera residents, for the next ten years, I strongly recommend that this new approach is taken since the old way of doing things to maintain the status quo is no longer acceptable. I ask that you approach this process with the intend of the law and that you give the public an opportunity to participate.

Sincerely,

*Dulce Arredondo*

Dulce Arredondo  
Madera County Resident

## Samuel Rashe

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**From:** Faustina <faustina@netptc.net>  
**Sent:** Thursday, October 21, 2021 6:54 AM  
**To:** MC Planning  
**Subject:** Redistricting

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Please do not eliminate District 4.  
Please leave district 5 in Madera county only.  
Thank you

Faustina

## Samuel Rashe

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**From:** mypruitt@aol.com  
**Sent:** Wednesday, December 1, 2021 8:58 AM  
**To:** Samuel Rashe  
**Subject:** Redistricting Plan

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I spoke to you at the meeting yesterday (11-30-21) about my concerns of the area above Olive and Gateway Drive and east of FWY 99. It is about a three block area. Moving it away from District 3 does not benefit my community. Based on comments yesterday, services are more likely to decrease instead of increasing. I am against connecting to more rural areas.

Please share my concerns with appropriate parties. Thank you.

Marilyn Pruitt

**From:** [vincent.montemayor](#)  
**To:** [MC Planning](#)  
**Subject:** Redistrict  
**Date:** Monday, November 1, 2021 5:15:20 PM

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Good evening I'm emailing to encourage redistricting of Madera County as I and may others think it would better serve the People of Madera County

## Samuel Rashe

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**From:** Kathy Eisele <k.eisele@me.com>  
**Sent:** Saturday, December 4, 2021 6:00 PM  
**To:** MC Planning  
**Subject:** New BOS District Map

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I am Kathy Eisele a resident of District #3.

I am urging the Madera BOS to vote for Map #11. It not only meets the guidelines as presented by the 2020 Census, it will be accepted by my District 3 community.

## Samuel Rashe

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**From:** Kelly Rausch <kellyerauschk@gmail.com>  
**Sent:** Tuesday, December 7, 2021 6:53 AM  
**To:** MC Planning  
**Subject:** Redistricting Maps

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To Whom it May Concern,

I'm writing to comment on the drafts for the Supervisorial Redistricting Map. Today, as you decide which map is in the truest interest of Madera County, I hope you have considered the community drafted maps at length. I believe maps number 11 & 12 reflect the best interests of the county's population at large. It represents' our largely hispanic population more fairly, all the while, protecting the unique interests of the different outlying rural communities. Thank you for your time and consideration.

Best Regards,  
Kelly Rausch

## Samuel Rashe

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**From:** Susan Rowe <srowe@sti.net>  
**Sent:** Tuesday, December 7, 2021 10:11 AM  
**To:** MC Planning; Samuel Rashe  
**Subject:** Public Comment for MCBOS Hearing #6

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Recommendation for MC BOS redistricting Draft Map #11.

Draft Map #11

<https://www.maderacounty.com/home/showpublisheddocument/28739/637726745571230000>

**Samuel Rashe**

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**From:** Pengalo <pengalo@aol.com>  
**Sent:** Tuesday, December 7, 2021 10:19 AM  
**To:** MC Planning  
**Subject:** Redistricting map input for the board meeting of 12/7/2021

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Dear Members of the Madera County Board of Supervisors and Staff-

My name is Peter Leinau, I am a resident of Oakhurst in Supervisor District 5. I regret that I am unable to attend the meeting today.

Of the proposed maps available on the Madera County Website, I am strongly favorable toward map 11.

It keeps together in District 5 our mountain communities of common interest (YLP, Coarsegold, Oakhurst, Raymond, and surrounding ranch lands) and meets the criteria of creating districts substantially equal in population with a variance from smallest to largest of 0.52%.

While I appreciate that the Planning Department is recommending Map 6 with its admirably low .03% variance from lowest to highest population district, I feel that map 6 accomplishes this by bringing district 5 too far north- west into the Chowchilla ranch lands that really are in their community of interest, as well as creating a patchwork of district-5 district-2 along the west side of highway 41 between Avenue 12 and Highway 145- sacrificing continuity of communities of common interest in order to optimize the evening of population and, in my opinion, going a bit too far to achieve it.

I understand that there will always be some compromise in the redistricting process, and I believe map11 strikes the best balance in that regard- balancing the integrity of communities of interest while still achieving a very respectable variance of only 0.52% from lowest to highest.

I ask that Map 11 will become our adopted map in this redistricting cycle  
Thank you for considering my perspective.

Peter Leinau  
[Redacted]  
[Redacted]



**From:** Baldwin Moy <baldwin.moy@maderacollege.edu>

**Sent:** Tuesday, December 7, 2021 11:12 AM

**To:** Jamie Bax <Jamie.Bax@maderacounty.com>

**Subject:** Fw: Redistricting hearing

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Dear Chairperson Poythress and Members of the Board of Supervisors:

Madera Coalition had previously submitted two redistricting maps for consideration. It is our considered opinion that our second map is the most appropriate map for adoption. This is based on our organization's intimate knowledge of the various communities of interest juxtaposed with their overlapping political interests, support and dependency. Moreover, it takes into account the trending growth in Madera County in the next ten years. Accordingly, we are respectfully requesting that the Board of Supervisors adopt our second option as the its choice. However, we recognize that there are competing maps being considered and each have its pros and cons. If the Board of Supervisors rejects the maps submitted by us, we would support Map 6 that has been prepared by the County.

Thank you for your kind courtesy and cooperation in this matter.

Very truly yours, Zainab Quaiser

Please leave your comments or suggestions:

Robertstone stay in  
District ①

Your Name (optional):

Daniel Susno

Please leave your comments or suggestions:

Please leave your comments or suggestions:

After reviewing the maps  
I like Figure #4  
It seems to keep  
Madera Acres with a like  
minded population with  
similar issues

Your Contact Information (optional):

Please leave your comments or suggestions:

map #6

Cinder Falls

Please leave your comments or suggestions:

Figure 4 -  
Fireball has nothing  
in common with  
Closegold & Okwakree.  
NO

Your Contact Information (optional):

Fabiana M. Spinelli

Please leave your comments or suggestions:

Would like the west side  
of the city to stay in  
District 3 w/ Bob P.

Your Contact Information (optional):



Northern  
California

October 25, 2021

*Sent via e-mail*

Madera County Board of Supervisors  
c/o Karen Scrivner  
Chief Clerk  
200 West 4th Street  
Madera, CA 93637  
[BOS@maderacounty.com](mailto:BOS@maderacounty.com)

**Re: Public Comment on the Supervisorial Redistricting Process**

Dear Members of the Madera County Board of Supervisors:

The American Civil Liberties Union Foundation of Northern California (“ACLU”) writes regarding Madera County’s ongoing redistricting process. We highlight below certain procedural and substantive legal requirements regarding redistricting and raise several concerns about the Board’s current process. We also attach as **Exhibit 1** a short document with recommendations on best practices for outreach and education. We urge the Board to strictly adhere to, if not go well above, minimum state and federal requirements for the redistricting process to maximize public participation, increase transparency, and adopt a map that ensures fair representation for all Madera County communities.

**I. Redistricting Process Requirements**

The Fair and Inclusive Redistricting for Municipalities and Political Subdivisions (FAIR MAPS) Act (hereinafter, the “Fair Maps Act” or “Act”)<sup>1</sup> provides detailed procedural requirements that the Board must follow before adopting a final district map by December 15, 2021. Among other things, the Fair Maps Act mandates a thorough public education and outreach program because the Act recognizes that to draw equitable maps, line drawers must collect detailed testimony about communities of interest from as many residents as possible.<sup>2</sup> While we appreciate the County’s efforts to maintain a redistricting webpage and hold the minimum number of public hearings, the County must comply with all procedural requirements

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<sup>1</sup> The supervisorial districts provisions of the Fair Maps Act are codified in sections 21500 to 21509 of the California Elections Code.

<sup>2</sup> Cal. Elec. Code § 21508(a).

**American Civil Liberties Foundation of Northern California**

EXECUTIVE DIRECTOR Abdi Soltani • BOARD CHAIR Farah Brelvi

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in the Act. The County should also consider implementing the best practices outlined in this letter to ensure a fair and transparent process.

First, the County is required to “encourage residents, including those in underrepresented communities and non-English speaking communities, to participate in the redistricting public review process.”<sup>3</sup> Among other things, the County must make a “good faith effort” to provide redistricting information to “good government, civil rights, civic engagement, and community groups or organizations that are active in the county, including those active in language minority communities, and those that have requested to be notified concerning county redistricting” and to “media organizations that provide county news coverage, including media organizations that serve language minority communities.”<sup>4</sup> Although the Act clearly contemplates affirmative outreach efforts, the County seems to be taking a passive approach by waiting for the public to request redistricting information rather than affirmatively reaching out to communities.<sup>5</sup> Indeed, as noted by members of the public at the October 20, 2021 hearing, many county residents appear unaware of the County’s redistricting process.<sup>6</sup> This suggests that the County’s current outreach efforts are not effective. This is particularly concerning given the substantial cultural, ethnic, and linguistic diversity of Madera County residents and the County’s current intent to conduct the minimum of four public hearings required by the Act.<sup>7</sup> Accordingly, the Board should engage in ongoing, robust affirmative outreach efforts for the remainder of the redistricting process.

Second, we thank the Board for heeding the calls of members of the public at the October 20, 2021 hearing and scheduling two additional public workshops beyond the legal minimum.<sup>8</sup> But in light of the minimal public involvement thus far, we urge the Board both to schedule more opportunities for public input and to extend the County’s plan to select a final map by November 16, 2021.<sup>9</sup> This deadline is self-imposed. Under the Act, the County must adopt a final supervisorial district map by December 15, 2021.<sup>10</sup> The Board need not, therefore, artificially compress the public’s opportunities to engage with the redistricting process or undermine its ability to draw and adopt equitable maps.

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.* §§ 21508(a)(1)–(2).

<sup>5</sup> See Agenda Item 7(a), Doc. ID No. 7731 at 55:34–55:47, Regular Meeting of the Madera County Board of Supervisors (Sept. 7, 2021), <https://bit.ly/3phoqbE> (hereinafter “September 7, 2021 Hearing”) (County staff noting that the County has not “gotten any outreach yet” and has “not been approached by any specific group yet”).

<sup>6</sup> See Agenda Item 7(a), Doc. ID No. 7856 at 1:21:35–1:24:41, 1:24:55–1:26:15, 1:26:50–1:27:58, Regular Meeting of the Madera County Board of Supervisors (Oct. 19, 2021), <https://bit.ly/3B1OpWw> (hereinafter “October 19, 2021 Hearing”) (three members of public expressing concern over lack of public participation in redistricting process thus far).

<sup>7</sup> See County of Madera, *2021 Madera County Redistricting In-progress: Anticipated Public Outreach Meetings*, <https://bit.ly/3nfsE0Q> (last accessed Oct. 25, 2021).

<sup>8</sup> See *supra* notes 6 (public comments) & 7 (public hearings schedule); see also Cal. Elec. Code § 21507.1(a) (requiring, at a minimum, four public hearings).

<sup>9</sup> See *supra* note 7.

<sup>10</sup> Cal. Elec. Code § 21501(a)(2).

Third, the Act requires the County to accompany each draft map with “information on the total population, citizen voting age population, and racial and ethnic characteristics of the citizen voting age population of each proposed supervisorial district.”<sup>11</sup> The County’s three draft supervisorial maps include tables with total population data for the entire County and for each proposed district, but omit the required citizen voting age population (“CVAP”) data and the racial and ethnic characteristics of the CVAP of each proposed district.<sup>12</sup> The absence of the required CVAP data, including CVAP data broken down by racial and ethnic characteristics, makes it difficult for the Board and the public to assess whether the draft maps include districts that might comply with Section 2 of the Voting Rights Act, addressed in more detail below.

We request that County staff immediately re-release the draft maps with the data required by the Act, including racial and ethnic CVAP data as percentages of each draft district. We further request that the County provide a breakdown, by district, of select socioeconomic data from the American Community Survey and other voter data broken down by race and ethnicity, including voter registration and voter turnout data. This information will help the Board and the public understand the effectiveness of each district and whether the draft districts comply with the substantive requirements of federal and state law, addressed next.

## II. Supervisorial District Map Requirements

In addition to the procedural requirements and best practices described above, the Board and County Staff must also keep in mind the following substantive requirements when preparing the redistricting plan and drafting and considering maps:

1. The final map must have districts that are substantially equal in population.<sup>13</sup>
2. The final map must comply with the United States and California Constitutions as well as Section 2 of the Voting Rights Act of 1965.<sup>14</sup> This may require the County to include majority-minority districts where Latinx voters have an opportunity to elect candidates of their choice.
3. The County must follow the required redistricting criteria laid out in the Fair Maps Act in this order of priority: contiguity; maintain neighborhoods and communities of interest; maintain cities and census designated places; follow natural and artificial boundaries; and compactness.<sup>15</sup>
4. The County may not adopt a map that favors or discriminates against a political party,<sup>16</sup> and cannot consider relationships with political parties, incumbents, or political candidates when assessing communities of interest.<sup>17</sup>

Two of these requirements warrant further comment.

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<sup>11</sup> *Id.* § 21508(d)(2).

<sup>12</sup> See County of Madera, *2021 Madera County Redistricting In-progress: Draft Maps*, <https://bit.ly/3nfsE0Q> (last accessed Oct. 25, 2021).

<sup>13</sup> Cal. Elec. Code § 21500(a).

<sup>14</sup> *Id.* § 21500(b); 52 U.S.C. § 10301.

<sup>15</sup> Cal. Elec. Code § 21500(c).

<sup>16</sup> *Id.* § 21500(d).

<sup>17</sup> *Id.* § 21500(c)(2).

First, at the October 12, 2021 Board of Supervisors meeting, Supervisor Gonzalez asked whether there is “anything in the law that talks about voting population.”<sup>18</sup> Staff responded generally that the “main characteristic” to be taken into account was “total population.”<sup>19</sup> Staff continued that “we can take a look at the voting age population” but “you can’t necessarily use that voting age population to determine what your district maps are.”<sup>20</sup>

This exchange suggests an incomplete understanding of federal and state redistricting requirements. While federal and state law require line drawers to balance total population, they also require line drawers to consider citizen voting age population. Like all legislative bodies across the country, the County must comply with Section 2 of the Voting Rights Act to ensure that the final district map does not dilute the voting power of any protected communities. And it is well-established that “CVAP is the appropriate measure to use in determining whether an additional effective majority-minority district can be created” under Section 2.<sup>21</sup> Based on the October 12, 2021 exchange and the subsequent omission from the draft maps of the required CVAP data—including the racial and ethnic breakdown of that data, it is unclear what, if any, analyses staff conducted or plan to conduct to ensure that the final supervisorial map complies with the Voting Rights Act.

Recent demographics suggest it is possible to draw multiple districts with greater than 50% Latinx CVAP.<sup>22</sup> It is incumbent on the Board and County staff to work closely with counsel and consultants to avoid potential Voting Rights Act litigation and explore the need to create and/or maintain Section 2 compliant districts where Latinx voters have a real opportunity to elect candidates of their choice.

Second, staff have repeatedly recommended using the same line-drawing methodology as the Board used in 2010 to draw the existing supervisorial districts and to maintain those lines as much as possible except to balance population and rectify split census blocks.<sup>23</sup> Staff have also

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<sup>18</sup> See Agenda Item 8(a), Doc. ID No. 7833 at 1:28:10–1:28:21, Regular Meeting of the Madera County Board of Supervisors (Oct. 12, 2021), <https://bit.ly/2Z9UL9N> (hereinafter “October 12, 2021 Hearing”) (“Regarding the criteria, is there anything in the law that talks about voting population?”).

<sup>19</sup> See *id.* at 1:28:22–1:29:00.

<sup>20</sup> *Id.*

<sup>21</sup> *Luna v. County of Kern*, 291 F. Supp. 3d 1088, 1107 (E.D. Cal. 2018) (internal quotations, citation omitted).

<sup>22</sup> See 2019 American Community Survey 5-Year Data (Latinx population represents 42.7% of Madera County’s CVAP).

<sup>23</sup> See October 12, 2021 Hearing at 1:04:11; *A Deeper Look into the Supervisorial Redistricting Effect and Comparative Analysis of 2010 and 2020 Census Data* at 8, PowerPoint Regarding Agenda Item 8(a), Doc. ID No. 7833 Presented at the Regular Meeting of the Madera County Board of Supervisors (Oct. 12, 2021), <https://bit.ly/2Z9UL9N> (hereinafter “October 12, 2021 Presentation”) (PowerPoint accessible via hyperlink in Agenda appearing under video player) (staff recommending using 2010 supervisorial district boundaries as “precedent” or “starting point” for this redistricting cycle because the Board “previously approved” redistricting methodology used during last decennial redistricting); Agenda Item Submittal for Agenda Item 8(a), Doc. ID No. 7833 at 6–7, Regular Meeting of the Madera County Board of Supervisors (Oct. 12, 2021), <https://bit.ly/3b6GLji> (hereinafter “October 12, 2021 Staff Report”) (report accessible via hyperlink in Agenda appearing under video player) (same).

implied that the Act's criteria are not mandatory,<sup>24</sup> need not be considered in a particular order,<sup>25</sup> and may be given equal or even less weight than non-statutory redistricting principles.<sup>26</sup> These recommendations and comments are extremely concerning because they reflect a fundamental misunderstanding of the substantive legal requirements line drawers must satisfy.

As a threshold matter, the recommendation to maintain district lines as much as possible except to balance population would defeat the central purpose of the redistricting process: to periodically redraw district boundaries to provide residents with fair representation. Equality of population is not important for its own sake. Rather, it serves the larger goal of decennial redistricting: "achieving fair and effective representation for all citizens."<sup>27</sup> The purpose of periodic redistricting is to "maintain[ ] a reasonably current scheme of legislative representation" that reflects not just "population shifts and growths," but also any changes over time in other demographic trends.<sup>28</sup>

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<sup>24</sup> For example, during the October 19, 2021 presentation, County staff explained that they created the draft maps based on "insight regarding Countywide development patterns," "anticipated future developable areas," and an "analysis of the Countywide population . . . in order to reduce the deviation between the most and least populated Districts." *A Review of the Draft Supervisorial District Revisions and Population Differences Using 2020 Census Data* at 9, PowerPoint Regarding Agenda Item 7(a), Doc. ID No. 7856 Presented at the Regular Meeting of the Madera County Board of Supervisors (Oct. 19, 2021), <https://bit.ly/3B1OpWw> (hereinafter "October 19, 2021 Presentation") (PowerPoint accessible via hyperlink in Agenda appearing under video player); October 19, 2021 Hearing at 1:09:32–1:09:57 (same). This list does not, of course, include any of the Act's mandatory criteria. *See also, e.g.*, October 12, 2021 Hearing at 1:19:57–1:20:35 (County staff indicating that the Fair Maps Act criteria "could be" considered"); October 12, 2021 Staff Report at 5–6 (listing "commonly held standards," including but not limited to the Fair Map Act criteria, "that can be used as criteria for guiding potential boundary adjustments").

<sup>25</sup> For example, in the October 12, 2021 presentation, County staff recommended "rectifying new census blocks that are bifurcated by the existing district boundaries" without any mention of the other Fair Maps Act mandatory ranked criteria, including higher-ranked criteria like contiguity and maintaining communities of interest. *See* October 12, 2021 Presentation at 8; *see also id.* at 7 (listing out of order some but not all Fair Maps Act criteria); Agenda Item Submittal for Agenda Item 7(a), Doc. ID No. 7856 at 2, Regular Meeting of the Madera County Board of Supervisors (Oct. 19, 2021), <https://bit.ly/3B1OpWw> (hereinafter "October 19, 2021 Staff Report") (report accessible via hyperlink in Agenda appearing under video player) (emphasizing correcting census blocks without reference to other Fair Maps Act criteria).

<sup>26</sup> For example, in the report submitted for the September 7, 2021 Board of Supervisors meeting, County staff suggested that "State and federal requirements must be considered *along with* traditional considerations for local preference, including" non-statutory criteria like "Preserving the core of existing district[s]." Agenda Item Submittal for Agenda Item 7(a), Doc. ID No. 7731 at 2, Regular Meeting of the Madera County Board of Supervisors (Sept. 7, 2021), <https://bit.ly/3phoqbE> (hereinafter "September 7, 2021 Staff Report") (report accessible via hyperlink in Agenda appearing under video player) (emphasis added); *see also* October 12, 2021 Presentation at 7 (listing without distinction mandatory ranked criteria under the Fair Maps Act in conjunction with other redistricting criteria, like "Respect Incumbency").

<sup>27</sup> *Reynolds v. Sims*, 377 U.S. 533, 565–66 (1964); *id.* at 560–61 (noting that "the fundamental principle of representative government in this country" mandates "equal representation for equal numbers of people").

<sup>28</sup> *See id.* at 583–84.



Line drawers use a series of tools in addition to equality of population to draft maps that “observe and advance neutral democratic values.”<sup>29</sup> The Fair Maps Act reflects the California Legislature’s determination of which tools and criteria best advance these values. And by making certain traditional redistricting criteria mandatory, the California Legislature took the firm position that counties may not simply tweak lines every ten years to address malapportionment. Thus, in light of the intervening passage of the Act and contrary to staff recommendations, the Board should not follow the “previously approved Redistricting methodology” used to draft the current supervisorial districts because those lines were drawn under an entirely different legal scheme. Before, the Board was only required to ensure equality of population and avoid dilution; it could place as much weight as it wanted on other redistricting principles. Now, in addition to maintaining substantially equal population and avoiding the potential vote dilution described above, the County must also follow the Act’s criteria.

The County must follow these criteria in their ordered ranking. This means, for example, that the County must strive to maintain geographic contiguity (ranked first) and the integrity of neighborhoods and communities of interest (ranked second) before attempting to maintain census designated places or cities (ranked third).<sup>30</sup> We are concerned that County staff are placing undue emphasis on rectifying split census blocks and failing to prioritize gathering the information necessary, including public input, to maintain the integrity of neighborhoods and communities of interest.<sup>31</sup>

What is more, prioritizing *other* redistricting criteria over the ranked criteria could risk violating the Fair Maps Act. We are concerned that some of the County’s redistricting materials lump together “Other Criteria for Redistricting Plans,” without distinguishing between the mandatory federal and state law requirements and non-statutory principles, like respecting incumbency and preserving the core of existing districts.<sup>32</sup> Compounding our concern, some of these non-statutory principles conflict with the spirit if not the letter of the Fair Maps Act, which expressly prohibits many of the practices that animate these principles. For example, the Act precludes the County from adopting a map “for the purpose of favoring or discriminating against a political party.”<sup>33</sup> The Act is also clear that “[c]ommunities of interest do *not* include relationships with political parties, *incumbents*, or political candidates.”<sup>34</sup>

We urge the Board to do what is right, prioritize the mandatory criteria in the correct order, and disregard these other redistricting principles, particularly because the Fair Maps Act and the Voting Rights Act may require the Board to start from a blank slate and adopt a dramatically different map than it did during the last redistricting. Engaging in a good faith effort to adopt a fair and equitable map that complies with federal and state law will require extensive public testimony, an understanding of historical discrimination in the County, and demographic and statistical analyses. This only further highlights the need for the County to

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<sup>29</sup> See *Bethune-Hill v. Va. State Bd. of Elec.*, 141 F. Supp. 3d 505, 534–35 (E.D. Va. 2015), *affirmed in part, vacated in part*, 137 S. Ct. 788 (2017).

<sup>30</sup> See Cal. Elec. Code §§ 21500(c)(1), (c)(2), (c)(3).

<sup>31</sup> See *supra* note 25.

<sup>32</sup> See *supra* note 26.

<sup>33</sup> Cal. Elec. Code § 21500(d).

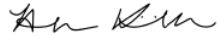
<sup>34</sup> *Id.* § 21500(c)(2) (emphasis added).

extend its self-imposed deadline of November 16, 2021, re-release the draft maps with the required data, and schedule additional public hearings and workshops as soon as possible.

\* \* \*

We look forward to working with you to make this a fair, open, and transparent process. If you have any questions, please feel free to contact us at [hkieschnick@aclunc.org](mailto:hkieschnick@aclunc.org).

Sincerely,



Hannah Kieschnick  
Staff Attorney  
ACLU Foundation of Northern California

cc: Madera County Community and Economic Development – Planning Division  
200 West 4th Street  
Suite 3100  
Madera, CA 93637  
[MC\\_Planning@maderacounty.com](mailto:MC_Planning@maderacounty.com)

# EXHIBIT 1

# Engaging Your Constituents in the LOCAL REDISTRICTING PROCESS

This year, your jurisdiction will begin the process of redrawing district lines ahead of the 2022 elections. State law mandates that counties and cities conduct robust public education and outreach. The following are best practices to help facilitate the community engagement process.

## ENCOURAGING CONSTITUENT PARTICIPATION IN THE REDISTRICTING PROCESS\*

*Your jurisdiction is tasked with encouraging residents, including those in underrepresented communities and non-English speaking communities, to participate in the redistricting process.<sup>i</sup> To do this, you must conduct public outreach to local media, good government, civil rights, civic engagement, and community groups or organizations that are active in your jurisdiction, including those serving different language communities, the disability community, and other historically underrepresented communities.<sup>ii</sup>*

### USE TARGETED RECRUITMENT STRATEGIES

- Partner with organizations that were involved with the 2020 Census count in your community, faith-based networks, and community organizations that work with different language communities.
- Reach out to other agencies and departments within your local government and ask them to share information with residents they come in contact with.
- Reach out to other jurisdictions redistricting in your geographical area to help educate and notify residents about getting involved.
- Use ethnic media to promote participating in the redistricting process within different language communities.
- Don't forget about youth! Reach out to high school leadership programs and youth-serving organizations to encourage them to get involved.
- Conduct outreach at virtual and in-person cultural events, community centers, schools, and places of worship.

### CONSIDER DEDICATING A POINT PERSON FOR COMMUNITY OUTREACH

- Consider dedicating one or more staff members or consultants to be point people for outreach. The public should be able to contact them if they have questions about the redistricting process or have outreach and community education suggestions.

## CREATING AND MAINTAINING A REDISTRICTING WEBPAGE\*

*Your jurisdiction must create a dedicated redistricting webpage.<sup>iii</sup> The webpage must include an explanation of the redistricting process in all required languages.<sup>iv</sup> It must also include or link to procedures for the public to testify during a hearing or submit written testimony in all required languages; a calendar of all public hearings and workshop dates and locations; the notice and agenda for each public hearing and workshop; a recording or written summary of each public hearing or workshop; draft maps; and the final adopted map. This webpage will be a critical source of information for your constituents.*

### TAKE ADVANTAGE OF RESOURCES CREATED BY THE SECRETARY OF STATE

- The Secretary of State created templates explaining the redistricting process and made them available in ten languages. You can find the templates [here](#).

### ENSURE THAT TRANSLATED MATERIALS ARE EASY TO FIND

- Arrange your webpage so that translated materials are easy to find.

- Instead of listing available languages in English, list them in their respective language. For example, instead of listing “Spanish” list “Español.”

#### CREATE AND TRANSLATE ADDITIONAL MATERIALS

- Create and translate additional materials, including the procedures for testifying during a public hearing and submitting written testimony.

#### CREATE ENGLISH-LANGUAGE MATERIALS WITH AN EYE TOWARDS TRANSLATION

- Use plain English when creating materials so that they can be more easily translated.

#### CONSIDER PROVIDING TRANSLATION IN ADDITIONAL LANGUAGES

- Translate materials in additional languages, such as those covered by the state elections code, to better reach your constituents.

### CREATING AN INCLUSIVE PUBLIC HEARING & PUBLIC INPUT PROCESS\*

*Before adopting a final map, your jurisdiction must hold at least four public hearings to receive input regarding line drawing.<sup>v</sup> This includes at least one hearing before and at least two hearings after drawing your first draft map.<sup>vi</sup> The fourth required hearing and additional hearings can be held before or after the draft map is drawn.<sup>vii</sup> Your jurisdiction must make available to the public either a recording or written summary of each public comment and council deliberation made at each public hearing or workshop.<sup>viii</sup>*

#### PROVIDE ADDITIONAL OPPORTUNITIES FOR INPUT

- Your jurisdiction should strive to offer more than four hearings, advertise them widely, and make the hearings as accessible as possible.
- Hold hearings in different geographic areas and at different times to improve accessibility for all constituents.
- Make all public hearings and workshops, including in-person hearings and workshops, available over a video platform.
- Consider providing additional days than what is required for constituents to evaluate draft maps and provide feedback.
- Provide a public mapping tool to make the process more accessible.

#### BUILD TRANSPARENCY AND ACCOUNTABILITY INTO THE REDISTRICTING PROCESS

- Following each round of community input and feedback, consider posting all submitted testimony on your webpage, and if received in enough time, include the submitted public comment(s) in the agenda packet for the hearing.

#### COORDINATE WITH OTHER JURISDICTIONS IN YOUR REGION

- Coordinate with other jurisdictions in your region about redistricting-related hearing and workshop dates to minimize conflicts.
- Avoid scheduling hearings that conflict with the California Citizens Redistricting Commission hearings in your region.

#### ENSURE LANGUAGE AND DISABILITY ACCESS

- Consider providing live interpretation and translation in all required languages regardless of whether an advance request was made.
- Include American Sign Language (ASL) interpretation and closed captioning for individuals who are Deaf or hard of hearing.

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- <sup>i</sup> Cal. Elec. Code § 21508(a) (counties); *id.* § 21608(a) (general law cities); *id.* § 21628(a) (charter cities).
- <sup>ii</sup> Cal. Elec. Code § 21508(a)(1)-(2) (counties); *id.* § 21608(a)(1)-(2) (general law cities); *id.* § 21628(a)(1)-(2) (charter cities).
- <sup>iii</sup> Cal. Elec. Code § 21508(g) (counties); *id.* § 21608(g) (general law cities); *id.* § 21628(g) (charter cities).
- <sup>iv</sup> Cal. Elec. Code § 21508(g)-(h) (counties) (Required languages include “any language in which ballots are required to be provided in the county pursuant to Section 203 of the federal Voting Rights Act...”); *id.* § 21608(g)-(h) (general law cities); *id.* § 21628(g)-(h) (charter cities). Note, the Secretary of State’s Office will be releasing a list of required languages by city [here](#).
- <sup>v</sup> Cal. Elec. Code § 21507.1(a) (counties); *id.* § 21607.1(a) (general law cities); *id.* § 21627.1(a) (charter cities).
- <sup>vi</sup> Cal. Elec. Code § 21507.1(a)(1)-(2) (counties); *id.* § 21607.1(a)(1)-(2) (general law cities); *id.* § 21627.1(a)(1)-(2) (charter cities).
- <sup>vii</sup> See generally Cal. Elec. Code § 21507.1(a) (counties); *id.* § 21607.1(a) (general law cities); *id.* § 21627.1(a) (charter cities).
- <sup>viii</sup> Cal. Elec. Code § 21508(f) (counties); *id.* § 21608(f) (general law cities); *id.* § 21628(f) (charter cities).

\* For a complete set of legal requirements, please review the relevant code section.



December 1, 2021

Madera County Board of Supervisors  
200 West 4th Street  
Madera, CA 93637

**Re: Racially Polarized Voting in Madera County and Implications for Redistricting**

Dear Supervisors:

Our organizations care deeply about ensuring local redistricting processes that prioritize community voices, build public trust, and result in maps that allow for fair representation over the next decade. To that end, we are writing to inform you that our analysis of Madera County voting patterns shows strong evidence of racially polarized voting in Madera County and indicates that all three prongs of the test provided by the U.S. Supreme Court's decision in *Gingles v. Thornburg*<sup>1</sup> are satisfied in the County.

Given that the County's citizen voting age population (CVAP) is 42.1% Latino, the federal Voting Rights Act of 1965's provisions that guarantee district maps not dilute the voting power of protected communities<sup>2</sup> thus require that your district map include at least two supervisorial districts that are Latino ability-to-elect districts.

Our analysis includes examination of Madera County voting patterns in seven exogenous general elections over the last decade in which Latino candidates ran against white candidates. In over 70% of those elections, we found high levels of racial polarization in voting, with two-thirds or more of Latino voters supporting one candidate and two-thirds or more of white voters supporting another candidate in most elections analyzed.

In 80% of general elections analyzed with racial polarization between Latino voters and non-Hispanic white voters, the candidate preferred by white voters received the most votes and the Latino candidate of choice received fewer votes. In only one general election analyzed where

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<sup>1</sup> 478 U.S. 30, 50-51 (1986).

<sup>2</sup> 52 U.S.C. § 10301.

there was racial polarization did the candidate preferred by Latino voters win the most votes in the County.

Given this evidence, the County must adopt a final district map that provides Latino voters with the opportunity to elect candidates of choice. The failure to draw at least two Latino ability-to-elect districts in Madera County Board of Supervisors elections would likely expose the County to liability under Section 2 of the Voting Rights Act.

We have provided our full analysis of the applicability of the *Gingles* prongs in Madera County as an appendix.

Thank you and best wishes,

Pablo Rodriguez  
Executive Director, Communities for a New California

Deep Singh  
Executive Director, Jakara Movement

Jonathan Mehta Stein  
Executive Director, California Common Cause



# Racially Polarized Voting in Madera County, California and Implications for 2022 Redistricting

By Dr. Christian Grose

Executive Summary: • Statistical analyses of racially polarized voting in Madera County, California are conducted in advance of redistricting. Other analyses regarding statistical evidence to assess the need for Madera County to comply with Section 2 of the Voting Rights Act are also conducted. To empirically measure whether a jurisdiction must comply with Section 2 of the Voting Right Act, three *Gingles* prongs must be met. These three prongs have been in place since the Supreme Court decision *Thornburg v. Gingles*. There is evidence for all three *Gingles* prongs in Madera County.

• *Evidence for Gingles prong 1: Madera County has a sufficiently large Latino citizen-voting-age population.* Madera County is racially and ethnically diverse. In the 2020 census, the two largest groups were non-Hispanic whites and Latinos. The non-Hispanic white citizen-voting-age population (CVAP) is 47.9% and the Latino CVAP is 42.1%. The non-Hispanic white voting-age population (VAP) is 35.9% and the Latino VAP is 53.9%. In the case of Latino voters, the VAP and CVAP imply that at least two Latino-ability-to-elect districts could be drawn for the Madera County Board of Supervisors. There are five supervisor districts in the county, and thus at least 40% to 60% of them (2 to 3 districts) could be drawn to be Latino ability-to-elect districts. Thus, the first *Gingles* condition is met for the drawing of Latino ability to elect districts.

• *Evidence for Gingles prong 2: Madera County has extensive evidence of racially polarized voting between Latino voters and non-Hispanic white voters.* I examine 7 exogenous general elections over the last decade in Madera County that had a Latino candidate running against a white candidate. These elections with Latino candidates running against non-Latino candidates are probative for assessing racially polarized voting. In almost all elections (71%/5 of 7), there was racial polarization. In fact, levels of racial polarization were very high with two-thirds or more of Latino voters supporting one candidate and two-thirds or more of white voters supporting another candidate in most elections analyzed.

• *Evidence for Gingles prong 3: In Madera County, non-Hispanic white voters frequently vote cohesively as a bloc to stop the ability for Latino voters to elect candidates of choice.* In 80% of general elections analyzed with racial polarization between Latino voters and non-Hispanic white voters, the candidate preferred by white voters received the most votes and the Latino candidate of choice received fewer votes. In only 1 general election analyzed where there was racial polarization did the candidate preferred by Latino voters win the most votes in the county. Given that Latinos are the majority VAP in the county and are near parity with white voters in CVAP in the county, the ability for non-Hispanic white voters to defeat Latino candidates of choice is even more concerning from a voting rights perspective.

• *The empirical evidence demonstrates that all three Gingles prongs are met in Madera County and this has implications for the county's redistricting in 2022.* The county must redraw lines to create districts that provide Latino voters with the opportunity to elect candidates of choice. The failure to draw at least two Latino-ability to elect districts in Madera County Board of Supervisors elections would thus likely be in violation of Section 2 of the Voting Rights Act.

## Introduction

When counties and states conduct redistricting, it is critically important to examine whether the jurisdictions show empirical evidence of racial polarization between voters of color and white voters. For voters of color who are a sufficiently large group in a jurisdiction, Section 2 of the Voting Rights Act requires that voters of color have the opportunity to elect candidates of choice if there is evidence of racial polarization and white bloc voting that stops minority candidates of choice from winning.



This report examines whether Madera County, California – which is located just north of Fresno and is pictured in red in the map on the right – has racially polarized voting between Latino and non-Hispanic white voters. This report finds extensive evidence of racial polarization in Madera County between Latino voters and non-Hispanic white voters. In addition, white voters’ preferred candidates frequently receive the most votes in the county and Latino voters’ preferred candidates do not.

In the remainder of this report, I define and explain what racially polarized voting is and how it relates to enforcement of Section 2 of the Voting Rights Act around the redistricting process. In this report, I then describe and conduct statistical analyses of racially polarized voting in general elections in Madera County. I then present statistical evidence of racial polarization by examining seven highly probative elections over the last decade in the county. Finally, I present empirical evidence showing that white candidates of choice regularly defeat Latino candidates of choice in the county; and conclude that redistricters in Madera County must therefore draw district(s) to provide an opportunity for Latino voters to elect candidates of choice.

### Racially polarized voting, Latino candidates of choice, and Section 2 of the Voting Rights Act

Racially polarized voting analyses are statistical analyses conducted to determine if there is racially polarized voting in a county or jurisdiction. *Racially polarized voting* (RPV) is defined as when a majority of one racial or ethnic group of voters supports one candidate; and the majority of another racial or ethnic group of voters supports a different candidate. The candidate preferred by a majority of Latino voters is called the *Latino candidate of choice*. The candidate preferred by a majority of non-Hispanic white voters is called the *white candidate of choice*.

If the Latino candidate of choice receives majority support from both Latino and non-Hispanic white voters, then there is no evidence of racial polarization. However, if the Latino candidate of choice is supported by a majority of Latino voters but is not supported by a majority of non-Hispanic white voters, then this would be empirical evidence of racially polarized voting. Racially polarized voting may occur for a variety of reasons, and does not require discriminatory intent. If there is racially polarized voting and other conditions are met, federal law requires that Latino-ability-to-elect districts must be drawn in counties that have sufficiently large Latino populations. A *Latino-ability-to-elect district* is a district in which there is large enough Latino voting-age population or citizen voting-age population where Latino candidates are likely to win elections in the district. While strict proportionality is not required by Section 2 of the Voting Rights Act, typically the proportion of supervisorial districts with the ability to elect Latino candidates of choice is similar to the proportion of the Latino voting-age population (VAP) or citizen voting-age population (CVAP). Thus, if a jurisdiction is approximately 20% Latino CVAP, then Section 2 would imply that approximately 20% of the seats in the jurisdiction would need to be Latino-ability-to-elect districts.

The Voting Rights Act and Section 2 exist to curb vote dilution that harms the opportunity for voters of color to cast an effective ballot in places where there is racially polarized voting and

racial/ethnic groups prefer different candidates. The result of Section 2 enforcement is often to require additional district(s) where voters of color have an opportunity to elect candidates of choice. In practice, for example, this might mean that a 5-member Board of Supervisors that previously elected 5 candidates preferred by a majority of white voters would instead be reconfigured to have 1 or 2 districts where a racial minority group would have an opportunity to elect candidates of choice; and the remaining 3 or 4 districts would still likely elect candidates of choice preferred by white voters.

### **Three conditions determine if Madera County must draw Latino-ability-to-elect districts**

When does a county or jurisdiction need to engage in redistricting that provides an opportunity for voters of color to elect a candidate of choice? Section 2 of the federal Voting Rights Act requires that districts be drawn to provide for the ability for voters of color to elect a candidate of choice if three conditions are met. These three conditions were established in the Supreme Court case *Thornburg v. Gingles*, and thus are called the *Gingles* conditions. These three conditions have been followed in enforcement of Section 2 of the Voting Rights Act ever since the *Gingles* case. These three *Gingles* conditions are: (1) is the racial minority group sufficiently large and compact so that 50% +1 districts could be drawn for the group? (2) Is there racially polarized voting in the jurisdiction? And (3) do the candidates preferred by voters of color, in the presence of racially polarized voting, regularly lose due to white voters cohesively choosing to block candidates preferred by Latino voters? If all three conditions are met, then it is required under Section 2 of the Voting Rights Act for districts to be redrawn so that voters of color in the jurisdiction are able to elect a candidate of choice in a district or districts.

Section 2 of the Voting Rights Act must be followed in Madera County, as the three *Gingles* conditions are met. In Madera County: (1) the Latino voting-age population is sufficiently large so as to be able to constitute a majority in multiple supervisorial districts; (2) there is evidence of racially polarized voting in the county between Latino voters and non-Hispanic white voters; and (3) the candidates preferred by Latino voters regularly lose countywide due to white voters voting cohesively to stop the election of Latino voters' preferred candidates. This will be demonstrated in statistical analyses below. This and additional analyses should be undertaken by the body charged with redrawing lines in Madera County.

Importantly, regarding the first condition, the ability to draw a 50% +1 district does not imply that 50.01% Latino citizen-voting-age population (CVAP) is the number by which a Latino opportunity district should be drawn. In highly racially polarized environments, racial polarization and ability-to-elect analyses may suggest that districts should be drawn to be higher than 50% Latino CVAP to be effective Latino opportunity districts. In other contexts, in which there may be coalition voting between Latino voters and other voters of color, Latino ability-to-elect districts may be somewhat lower than 50% Latino CVAP – yet will be greater than 50% total voters of color. In other contexts, if there is some white crossover voting – even in the presence of extensive racial polarization – it may be possible to have high plurality Latino CVAP districts that are not quite 50% Latino CVAP and for the Latino candidate of choice to still have an opportunity to be elected.

When drawing new district boundaries, it is thus critically important that a jurisdiction use probative exogenous election data and conduct a functional analysis of newly drawn districts to determine if proposed Section 2-VRA districts have an ability to elect Latino candidates of choice. An arbitrary racial cutoff for a district of 50% + 1 is not the metric, based on recent Supreme Court jurisprudence (e.g., *Cooper v. Harris*, *Bethune-Hill v. Virginia Board of Elections*, *Alabama Legislative Caucus v. Alabama*). In highly racially polarized environments, such as the San Joaquin Valley and the Central Valley of California, districts may need to be higher than 50% Latino to be effective Latino opportunity districts. Given the evidence presented in this report, Madera County should conduct a Latino candidate of choice

ability to elect analysis of any redistricting draft maps it considers or passes. Such a Latino-ability-to-elect analysis of proposed district maps will help determine if the districts have been drawn to provide the opportunity to elect Latino candidates of choice or whether the districts have been drawn in ways so as to dilute Latino voting power in ways that are prohibited by Section 2 of the Voting Rights Act.

### **Latino voters are sufficiently large to constitute supervisorial districts in Madera County**

Madera County’s two primary racial/ethnic groups are non-Hispanic whites and Latinos. In terms of voting-age population, non-Hispanic whites are 35.9% of Madera County.<sup>1</sup> The Latino voting-age population is 53.9%.<sup>2</sup> No other racial/ethnic group has a VAP of more than 3%. The non-Hispanic white citizen-voting-age population (CVAP) is 47.9% and the Latino CVAP is 42.1%.<sup>3</sup> In terms of CVAP, non-Hispanic white voters are a plurality group and Latino voters are significantly sizable minority group. In terms of VAP, Latino voters are the largest group, followed by non-Hispanic white voters.

In the case of Latino voters, the VAP and CVAP imply that at least two and potentially three Latino-ability-to-elect districts could be drawn for the Madera County Board of Supervisors. Given that the majority VAP in the county is Latino, three Latino-ability-to-elect districts are likely able to be drawn. On the other hand, given that just over 40% of the CVAP in the county is Latino, then perhaps two Latino-ability-to-elect districts can be drawn. There are five supervisor districts in the county, and thus at least 40% to 60% of them (2 to 3 districts) could be drawn to be Latino ability-to-elect districts. The first *Gingles* condition is easily met for the drawing of Latino ability to elect districts.

### **Is there racially polarized voting in Madera County? Yes**

I also examined whether racially polarized voting exists in Madera County. Statistical methods utilized to estimate racial polarization are those standard in the field of political science and in litigation over voting rights.<sup>4</sup> To analyze racially polarized voting in local elections, I would need access to precinct-level election data, shapefiles across the last decade for precincts and supervisor districts, and racial and ethnic data that is mapped onto such precincts. The Madera County body charged with redistricting should conduct such racially polarized voting analysis prior to completing their redistricting

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<sup>1</sup> Throughout the report, I refer to “non-Hispanic white” voters. This is because the U.S. census asks both a race question (in which white is an option but Hispanic/Latino is not) and then asks a separate question asking if a person identifies as Hispanic or Latino. White voters are measured only as those who identify as both white and not Hispanic/Latino for the purposes of statistical estimation of the racially polarized voting analyses.

<sup>2</sup> These data are from the 2020 census, and are available at this link for Madera County:  
<https://data.census.gov/cedsci/table?q=madera%20county&d=DEC%20Redistricting%20Data%20%28PL%2094-171%29&tid=DECENNIALPL2020.P4&hidePreview=true>

<sup>3</sup> The CVAP data are based on the 2015-19 American Community survey released by the U.S. Census Bureau. For whites, they include those who identify as not Hispanic and white alone on the race question. For Asian Americans, these only include those who answer not Hispanic and Asian alone. For the Latino CVAP data, this includes only those who state they are Hispanic or Latino.

<sup>4</sup> Racially polarized voting (RPV) analyses were conducted using the statistical method of ecological regression (ER), one of the key methods accepted by the courts since *Thornburg v. Gingles* for assessing racial polarization in voting. I downloaded and merged two files (SOV and VOTE) from the California Statewide database and cleaned the precinct-level data in order to estimate the RPV statistical models. The RPV can also be estimated via the King ecological inference method, and in contexts as polarized as this county, the King method frequently yields substantively similar results to the ER method. The California Statewide database identifies Latino voters using surname matching and Asian American voters using surname matching. Non-Hispanic white voters are measured based on all other voters in the county who do not have Latino or Asian surname matches.

on supervisor elections. However, given the absence of available local data paired with race/ethnic data, I instead utilized the California Statewide Database. This data source provides data on exogenous statewide elections for office (but not local elections). Exogenous elections are defined as elections that are typically for statewide office and not for the elections for which the districts are being redrawn. These exogenous elections should be examined only within the county of interest, and I only examine these exogenous election results within Madera County. Further, exogenous election data have been utilized both by jurisdictions conducting racially polarized voting analyses as well as by the courts in litigation over redistricting and voting rights. As noted earlier, jurisdictions who are found to have racially polarized voting should utilize these exogenous elections to analyze the ability to elect candidates of choice in newly drawn districts. Thus, the California Statewide database is an excellent data source for assessing whether racially polarized voting exists in Madera County.

To assess if Latino voters and non-Hispanic white voters choose different candidates in elections in Madera County, I analyze all 2014 and 2018 exogenous general elections held in the county that feature Latino candidates running against candidates from other racial or ethnic backgrounds. Elections featuring a Latino candidate versus a non-Latino candidate are particularly probative for assessing if racial polarization exists in a jurisdiction. There are 7 total exogenous elections that featured a Latino candidate running against a non-Latino candidate in 2014 and in 2018; and I estimate statistical models of racially polarized voting in all 7 of them in Madera County. Racially polarized voting is established by examining multiple elections within the same geographic area. If multiple elections show a pattern of Latino candidates receiving a majority of Latino voter support in a county, but white candidates receiving a majority of non-Hispanic white voter support, then this would be consistent and strong evidence of racially polarized voting. Thus, I examine all elections with a Latino candidate running against a non-Latino candidate for statewide office in California in 2014 and 2018 general elections. These elections also happen to be all exogenous general elections since 2012 where a Latino candidate faced off against a white candidate. Importantly, though, I only look at the voting patterns and elections results *within Madera County*. Thus, we can learn if racial polarization exists in Madera County.

In Table 1, I present results from racially polarized voting analyses in the 2018 Secretary of State general election, but limited to voters in Madera County. This election is particularly probative for assessing racial polarization between Latino and non-Hispanic white voters in Madera County because it features a Latino candidate who ran against a non-Hispanic white candidate. As the table demonstrates, upwards of 95% of Madera County’s Latino voters supported Alex Padilla in 2018, and only 18% of non-Hispanic white voters supported Padilla. Latino voters overwhelmingly supported Padilla cohesively, and thus Padilla is the Latino candidate of choice in Madera County. Because such a large percentage of white voters supported Meuser (82%), he is the candidate of choice of white voters in Madera County. This is evidence of extreme polarization. Further, because white voters are the largest group in the county and they voted cohesively for the same candidate, the white candidate of choice was able to defeat the Latino candidate of choice in terms of total votes in the general election at the county level. The white candidate of choice won 56% to 42%.

Table 1: Racially polarized voting in Madera County, 2018, exogenous election 1

	Latino voter support %	Non-Hispanic white voter support %
Alex Padilla*	>95%	18%
Mark Meuser	<5%	82%

\*Padilla is the Latino candidate of choice in Madera County. The white candidate of choice (Meuser) won more votes in the county in this 2018 election for Secretary of State.

Next I examine the exogenous general election for lieutenant governor in 2018, and the results of the racially polarized voting analyses are displayed in Table 2. This election also featured a Latino candidate who was the candidate preferred by Latino voters. Ed Hernandez received 69% support from

Latino voters, while his opponent was preferred overwhelmingly by non-Hispanic white voters (71%). This is another data point suggesting that there is racial polarization between Latino and non-Hispanic white voters in Madera County.<sup>5</sup> In this election, the candidate preferred by Latino voters received more votes countywide than did the candidate preferred by non-Hispanic white voters. Hernandez, the Latino candidate of choice, won the county by about 3 percentage points over the white candidate of choice.

Table 2: Racially polarized voting in Madera County, 2018, exogenous election 2

	Latino voter support %	Non-Hispanic white voter support %
Ed Hernandez*	66%	29%
Eleni Kounalakis	34%	71%

\*Hernandez is the Latino candidate of choice in Madera County. The Latino candidate of choice (Hernandez) won more votes in the county in this 2018 election for lieutenant governor (by just less than 4 percentage points).

In Table 3 below, I examine support by racial/ethnic group in another election between a Latino candidate of choice and a non-Hispanic white candidate in Madera County. This election is the 2018 Attorney General election, but examining just voting patterns in Madera County. As found in the previous two elections examined, there is substantial evidence of extreme racial polarization in voting between Latinos and non-Hispanic whites in Madera County. The RPV analyses reveal that more than 95% of Latino voters are estimated to support the Latino candidate of choice, while only 17% of non-Hispanic white voters did. With these levels of extreme polarization, in any white-majority electorate, the white candidate of choice is likely to win. In this election, the candidate preferred by a large majority of white voters defeated the candidate preferred by Latino voters at the county level.

Table 3: Racially polarized voting in Madera County, 2018, exogenous election 3

	Latino voter support %	Non-Hispanic white voter support %
Xavier Becerra*	>95%	17%
Steven Bailey	<5%	83%

\*Becerra is the Latino candidate of choice in Madera County. The white candidate of choice (Bailey) won more votes in the county in this 2018 election for attorney general.

There is clearly a pattern of racial polarization in Madera County. However, to be as thorough as possible, I want to continue to analyze other exogenous elections in the county featuring Latino candidates running against non-Latino candidates, as these are the most probative elections for assessing racially polarized voting. In Table 4, I examine the patterns estimated in the statistical models for Insurance Commissioner in 2018. In this election, as seen in the others previously discussed, there is again a pattern of extreme racial polarization. Latino voters overwhelmingly supported the Latino candidate of choice (Lara) with an estimated 92% of the vote. In contrast, only 12% of non-Hispanic white voters supported Lara, the Latino candidate of choice and 88% of non-Hispanic white voters supported his opponent, the white candidate of choice (Poizner). This high level of polarization meant that Poizner, the white candidate of choice, defeated Lara, the Latino candidate of choice, in terms of the total number of votes in Madera County. The white candidate of choice won 58% to 35% for the Latino candidate of choice.

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<sup>5</sup> Further, this election is probative as it features a Latino candidate running against a non-Latino candidate and both are of the same party. Thus, racial polarization is strong in Madera County even when there is a nonpartisan election and no party cue exists for voters. Research on racially polarized voting in political science generally finds these elections to be particularly probative for studying elections with candidates of different ethnic backgrounds (see, for instance, Sara Sadhwani et al., 2018, “Candidate Ethnicity and Latino Voting in Co-Partisan Elections,” *California Journal of Politics and Policy*).

Table 4: Racially polarized voting in Madera County, 2018, exogenous election 4

	Latino voter support %	Non-Hispanic white voter support %
Ricardo Lara*	92%	12%
Steve Poizner	8%	88%

\*Lara is the Latino candidate of choice in Madera County. The white candidate of choice (Poizner) won more votes in the county in this 2018 election for insurance commissioner.

Next I examine another exogenous election between a Latino candidate of choice and a non-Latino candidate in Madera County. Table 5 displays the voting patterns by race/ethnicity among voters in Madera County for the 2018 U.S. Senate election. This race featured Kevin de León running against Dianne Feinstein. Neither Latino voters nor non-Hispanic white voters were particularly cohesive in this election in Madera County, and thus this election is against the patterns of extensive polarization observed in the exogenous elections in Tables 1 through 4. Non-Hispanic white voters mostly split their support with a slight majority of white voters supporting de León (52% for de León and 48% for Feinstein among whites). Similarly, 46% of Latino voters supported de León and 54% of Latino voters supported Feinstein. Technically, a majority of Latinos was estimated to favor a different candidate than a majority of non-Hispanic whites. But while there is marginal polarization, in this election both Latino and white voters split their votes somewhat evenly between the two candidates. The candidate preferred by white voters, de León, won the county by about 15 percentage points.

Table 5: Racially polarized voting in Madera County, 2018, exogenous election 5

	Latino voter support %	Non-Hispanic white voter support %
Kevin de León	46%	52%
Dianne Feinstein*	54%	48%

\*Feinstein is the Latino candidate of choice in Madera County. The Latino candidate of choice (Feinstein) lost more votes in the county in this 2018 election for U.S. Senate.

Finally, the last election examined in 2018 in Madera County featured Tony Thurmond, who identifies as both Latino and African American; and Marshall Tuck, who identifies as non-Hispanic white. This election was for Superintendent of Public Instruction and it was a nonpartisan election. In this election among Madera County voters, Table 6 shows that Tuck was the candidate of choice of Latino voters (55% support among Latino voters) and Tuck was also the candidate of choice among non-Hispanic white voters (75% support among non-Hispanic whites). There was thus no racial polarization in this election as both racial/ethnic groups supported the same candidate.

Table 6: Racially polarized voting in Madera County, 2018, exogenous election 6

	Latino voter support %	Non-Hispanic white voter support %
Tony Thurmond (Latino)	45%	25%
Marshall Tuck (white)	55%	75%

\*Tuck is the candidate preferred by a majority of Latino voters and a majority of non-Hispanic white voters. This candidate won the county in 2018.

The final election examined is the only exogenous election in 2014 that featured a Latino candidate running against a non-Latino candidate. This election is for Secretary of State, when Alex Padilla, who was the Latino candidate of choice, ran against Pete Peterson. Padilla won statewide, though Peterson received the most votes in Madera County. The results of the racially polarized voting analyses for Madera County voters are displayed in Table 7. As Table 7 reveals, Latino voters cohesively supported Latino candidate of choice Padilla at a rate of 92% in Madera County. In contrast non-Hispanic white voters overwhelmingly supported Pete Peterson (83% white voter support in Madera County for Peterson). Again, this is strong evidence of racial polarization among Latino and non-Hispanic white

voters. Further, the white candidate of choice easily received more votes than the Latino candidate of choice in the county overall in 2014 (66% to 34% total).

Table 7: Racially polarized voting in Madera County, 2014, exogenous election 7

	Latino voter support %	Non-Hispanic white voter support %
Alex Padilla*	92%	17%
Pete Peterson	8%	83%

\*Alex Padilla is the Latino candidate of choice. The white candidate of choice (Peterson) won more votes in the county in this 2014 election for Secretary of State.

### Summary of results of racially polarized voting analyses

Having gone through the results of each of these seven exogenous elections in Madera County, a clear pattern emerges. In most of these exogenous elections in Madera County, a majority of non-Hispanic white voters supported a different candidate than did a majority of Latino voters. In six of these seven elections in Madera County, Latino and non-Hispanic white voters were polarized and majorities of each group voted for different candidates. In one election, there was no evidence of racial polarization; and in another there was marginal polarization but generally less cohesion demonstrated by both Latino and non-Hispanic white voters.

However, in 5 out of 7 elections examined (71%), there was extreme racial polarization between Latino voters and non-Hispanic white voters in exogenous elections. In these 71% of elections, typically two-thirds or more of Latino voters supported the Latino candidate of choice and more than two-thirds of non-Hispanic white voters voted against the Latino candidate of choice. There is extensive empirical evidence of racial polarization in voting patterns between Latino voters and white voters in Madera County.

### Do Latino voters regularly end up on the losing side of elections due to white bloc voting? Yes

The final prong in the *Gingles* criteria is whether voters of color are regularly supporting candidates who frequently lose to candidates who are supported cohesively by non-Hispanic white voters. I already established that Latino voters are, in percentage terms large enough to create at least two supervisor districts that are likely to be 50% + 1 Latino given that Latino CVAP and VAP are both a significant share of the county. I also demonstrated that Latino voters and non-Hispanic white voters are extremely polarized in their voting in most exogenous elections in Madera County.

In addition to measuring racial polarization, it is important to assess if Latino candidates of choice favored by Latino voters regularly lose. This is the third *Gingles* criterion, and it is demonstrated in Madera County. In five of the seven elections analyzed (71%) that featured a Latino candidate running against a non-Latino candidate in 2014 and 2018, the Latino candidate of choice was defeated by the candidate supported by non-Hispanic white voters.

Table 8 summarizes the findings regarding racial polarization (*Gingles* prong 2) and the frequency by which non-Hispanic white voters defeat candidates preferred by Latino voters (*Gingles* prong 3). The first column of Table 8 summarizes evidence that *Gingles* prong 2 is relevant in Madera County. Thinking back to all seven exogenous elections, only two elections did not feature white voters cohesively supporting one candidate (the de León /Feinstein election; and the Thurmond/Tuck election). Thus, 5 of 7 – or 71% of all exogenous elections – displayed high levels of racial polarization.

Then in Table 8, in the next two columns, is evidence that *Gingles* prong 3 is also relevant in Madera County. Of all seven elections analyzed, the white candidate of choice won in 86%. Only



considering the five elections in which extensive racial polarization was found, white candidates of choice electorally outperformed the Latino candidate of choice in 4 of 5 of those elections in Madera County. Thus, 80% of elections with extensive racial polarization saw the Latino candidate of choice receive fewer votes in the county compared to white candidates of choice.

Table 8: Madera County has RPV that leads to the defeat of Latino candidates of choice (*Gingles* prongs)

% of probative exogenous elections with high levels of racially polarized voting between Latino & white voters	% of white candidates of choice who win elections	% of white candidates of choice who win election in the presence of cohesive white bloc voting
71%	86%	80%

Mathematically, Table 8 reveals that in the presence of high racial polarization, the racial group with the highest percentage of CVAP in the county will elect candidates preferred by the plurality racial group (non-Hispanic whites) most frequently.

### Conclusion

The empirical evidence presented is straightforward and clear. Madera County must comply with Section 2 of the Voting Rights Act. The county shows extensive empirical evidence of racially polarized voting between Latino voters and non-Hispanic white voters, and this racial polarization leads to candidates preferred by non-Hispanic white voters winning more votes countywide in nearly every election analyzed. Combined with the size of the Latino voting-age population and citizen voting-age population in Madera County, this is empirical evidence that all three *Gingles* prongs are met. The county must redraw lines to create districts that provide Latino voters with the opportunity to elect candidates of choice. The failure to draw at least two Latino-ability to elect districts in Madera County Board of Supervisors elections would thus likely be in violation of Section 2 of the Voting Rights Act.

## About the Author

**Dr. Christian Grose** is Professor of Political Science and Public Policy at the University of Southern California. He is the Academic Director of the USC Schwarzenegger Institute for State and Global Policy. He received his Ph.D. from the University of Rochester and his B.A. from Duke University. He is the author of more than 40 articles and chapters about American politics; legislative politics; race and ethnicity; Latino politics; Black politics; voting rights; and statistical methodology. These articles have been published in peer-reviewed journals such as the *American Political Science Review*, the *American Journal of Political Science*, and the *Journal of Politics*. His award-winning book *Congress in Black and White*, analyzes the role of race and ethnicity in the redistricting process. His research has been funded by the Russell Sage Foundation, the Leonardo DiCaprio Foundation, the MIT Election Data Science Center, and others. Grose directs USC's Fair Maps and Political Reform Lab, which produces nonpartisan research about redistricting, the top-two primary, and independent commissions. He has worked as an expert witness and consultant on numerous voting rights cases, and has extensive experience analyzing racially polarized voting and minority ability-to-elect districts. He has experience working with bipartisan and nonpartisan groups such as commissions.



Madera County hosted several workshops regarding the 2021 Supervisorial Redistricting Process. During the workshop those who attended in person or via the internet. Below is a synopsis of comments that were made during those workshops:

- Maps proposed by County preserve the status quo
- Dividing City of Madera dilutes it
- Minor tweaks favor the incumbents
- Simply balancing violates the law
- The new law means you need to start with a new slate
- Valley Lake Ranchos is being split by Districts and should be kept together.
- Two commenters preferred maps 6, 11, and 12
- Maps proposed by the County do not offer enough change and preserves the status quo.

