

MINUTES

Of The

WILLIAMSON COUNTY COMMISSIONERS' COURT MEETING

April 16, 2001

THE STATE OF TEXAS)(

COUNTY OF WILLIAMSON)(

BE IT REMEMBERED that at 10:15 a.m. on April 16, 2001, a SPECIAL SESSION of the Commissioners' Court of Williamson County, Texas, was held with the following members being present, to-wit:

JOHN C. DOERFLER, County Judge
MICHAEL L. HEILIGENSTEIN, Commissioner, Precinct 1
GREGORY W. BOATRIGHT, Commissioner, Precinct 2
DAVID HAYS, Commissioner, Precinct 3
FRANKIE LIMMER, Commissioner, Precinct 4
NANCY E. RISTER, County Clerk

AGENDA ITEM 1

Hear presentation by legal counsel of initial assessment regarding need to redistrict on 2000 Census data.

Penny Redington and Sydney Falk of Bickerstaff, Heath, Smiley, Pollan, Kever & McDaniel, L.L.P. gave a presentation on the redistricting process.

< Attachment >

Bickerstaff, Heath, Smiley, Pollan, Kever & McDaniel, L.L.P.

1700 Frost Bank Plaza

816 Congress Avenue

Austin, Texas 78701-2443

(512)472-8021

Fax (512)320-5638

www.bickerstaff.com

April 12, 2001

The Honorable John C. Doerfler
Williamson County Judge
710 Main Street
Georgetown, TX 78626

The Honorable Mike Heiligenstein
Commissioner, Precinct 1
400 West Main, #218
Georgetown, TX 78664

The Honorable David Hays
Commissioner, Precinct 3
3161 SE Inner Loop, Suite C
Georgetown, TX 78626

The Honorable Greg Boatright
Commissioner, Precinct 2
350 Discovery Blvd., Suite 201
Cedar Park, TX 78613

The Honorable Frankie Limmer
Commissioner, Precinct 4
412 Vance
Taylor, TX 78574

RE: Initial Assessment considering 2000 Census data

Dear Judge and Commissioners:

This is the Initial Assessment letter for Williamson County. In it, we present the recently released 2000 Census population and demographic data for the County and, in particular, the commissioner precincts. As we discuss below, according to the 2000 Census data, the County's commissioner precincts are sufficiently out of population balance that you should redistrict.

There are four basic legal principles that govern the redistricting process: (i) the "one person-one vote" (equal population) principle; (ii) Section 5 of the Voting Rights Act, requiring preclearance and applying a "retrogression" standard to minority group populations in specific districts; (iii) the non-discrimination standard of Section 2 of the Voting Rights Act; and (iv) the *Shaw v. Reno* limitations on the use of race as a factor in redistricting. These principles are discussed in detail in Attachment C to this letter, which we urge you to read and review carefully.

The "One Person - One Vote" Requirement: Why You Should Redistrict

The "one person-one vote" requirement of the United States Constitution requires that members of an elected body be drawn from districts of substantially equal population and applies to commissioners courts. Exact equality of population is not required, but a "total maximum deviation" of no more than ten percent in *total population* between the most

populated and the least populated commissioner precincts should be achieved based on the most recent census.

The population and demographics of all of the commissioner precincts are presented in the Initial Assessment Population Tables (Attachment A).

These tables show that the total population of Williamson County on April 1, 2000, was 249,967 persons. This represents an increase in population from 139,551 persons on April 1, 1990, or approximately 79.12 percent. The ideal commissioner precinct should now contain 62,492 persons (total population ÷ 4 precincts).

Commissioner Precinct 3 has the largest population, which is approximately 11.95 percent above the size of the ideal precinct. Precinct 1 has the smallest population, which is approximately 14.85 percent below the size of the ideal precinct. The total maximum deviation between the four existing commissioner precincts for Williamson County is 26.80 percent. This total maximum deviation exceeds the standard of 10 percent that historically has been recognized by the courts as the maximum permissible deviation. Accordingly, Williamson County should redistrict to bring its commissioner precincts within the 10 percent range permitted by law.

Preclearance under Section 5 of the Voting Rights Act: The County's retrogression benchmark plan

In determining if a plan is retrogressive under Section 5 of the Voting Rights Act (see Attachment C for a discussion of retrogression and Section 5 requirements), the Department of Justice ("DOJ") will compare the newly adopted plan to the current plan considered in the context of the 2000 Census data. This is the retrogression "benchmark" and is shown in Attachment A, the Initial Assessment Population Tables. DOJ will review any changes made to the existing plan by comparing minority voting strength under the proposed new plan as a whole to that under the benchmark plan considered as a whole.

The data in the Initial Assessment Population Tables in Attachment A, as well as the data in the maps in Attachment B which show the geographic distribution of the primary minority groups, will also be important in assessing the potential for Voting Rights Act Section 2 liability. (See Attachment C for a discussion of Section 2.)

County election (voting) precincts

Chapter 42 imposes certain requirements on county election precincts. Election precincts may not contain territory from more than one commissioner precinct, justice precinct, congressional district, state representative district, state senatorial district, ward line of a city of population 10,000 or more (whether denoted as a "ward" or otherwise), or State Board of Education district. Election Code § 42.005. This requirement prevails over the minimum and maximum registered voter requirements of Section 42.006. Election Code § 42.005(b).

Finally, election precincts generally may not contain territory that is incorporated in a city of population 10,000 or more and unincorporated territory. Election Code § 42.007.

As we draw new commissioner and voting precincts, the County will need to be aware of these requirements.

Justice and Constable precincts

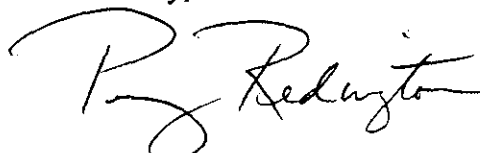
Williamson County's justice and constable precincts are coterminous with its commissioner precincts. They are shown in one of the maps in Attachment B.

Justice and constable precincts are not subject to the one person-one vote equal population requirement, but are nonetheless subject to Section 5 of the Voting Rights Act. (See Attachment C for a discussion of Section 5 requirements). Any changes to these precincts must therefore be precleared, and DOJ will apply the same retrogression analysis as for commissioner precincts.

Once redistricting criteria are adopted, and the Court gives instructions about how it would like plans to be developed considering this Initial Assessment and the applicable legal standards, we can begin to develop plans for your consideration.

We hope this Initial Assessment discussion has been helpful to you and that it will guide the Williamson County Commissioners Court as it executes the redistricting process. If at any time you have questions concerning any aspect of that process, please feel free to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Penny Redington", with a large, stylized initial "P" and "R".

Penny Redington

PR:CMH:la

Encl.

ATTACHMENT A
INITIAL ASSESSMENT POPULATION TABLES

04/16/2001

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Williamson County Commissioner Precincts

- Preliminary Demographic Report -

2000 Census Total and Voting Age Population

District	Persons	Deviation	Hispanic % of Total Population	Non-Hispanic Anglo % of Total Population	Non-Hispanic Black % of Total Population	Non-Hispanic Asian % of Total Population	Non-Hispanic Other % of Total Population
1	53,211	-14.85%	21.09%	67.48%	5.41%	4.21%	1.81%
2	65,237	4.39%	13.31%	79.57%	2.95%	2.25%	1.92%
3	69,959	11.95%	12.40%	80.92%	2.85%	2.49%	1.34%
4	61,560	-1.49%	23.41%	64.04%	9.17%	1.68%	1.70%
Totals	249,967		17.20%	73.55%	4.98%	2.59%	1.68%

Ideal Size = $249,967/4 = 62,492$ per district.

Total Maximum Deviation = $[11.95\% - (-14.85\%)] = 26.80\%$

District	Total VAP*		Hispanic % of Total VAP	Non-Hispanic Anglo % of Total VAP	Non-Hispanic Black % of Total VAP	Non-Hispanic Asian % of Total VAP	Non-Hispanic Other % of Total VAP
1	38,031		19.17%	70.10%	5.01%	4.26%	1.45%
2	44,506		11.76%	81.47%	2.79%	2.43%	1.56%
3	49,885		10.57%	83.28%	2.70%	2.38%	1.07%
4	42,643		20.80%	67.28%	8.89%	1.70%	1.33%
Totals	175,065		15.23%	76.06%	4.73%	2.63%	1.34%

*Voting Age Population

Please note that there are some 2000 census blocks that are split by the Comm. Ct. boundary lines. These blocks have been allocated based upon the largest portion of a block in a district remaining in that district.

Williamson County Commissioner Precincts

- Initial Assessment -

2000 Census Total and Voting Age Population

District	Persons	Ideal Size	Deviation	Hispanic	% of Total Hispanic Population	Anglo	% of Total Anglo Population	Black	% of Total Black Population	American Indian	% of Total American Indian Population	Asian	% of Total Asian Population	Hawaiian- Pacific Islander	% of Total Hawaiian- Pacific Islander Population	Other	% of Total Other Population	Two or More	% of Total Two or More Population
1	53,211	62,492	-14.85%	11,222	21.09%	39,909	67.48%	2,878	5.41%	182	0.34%	2,240	4.21%	24	0.05%	51	0.10%	705	1.32%
2	65,237	62,492	4.39%	8,694	13.31%	51,906	78.57%	1,925	2.95%	224	0.34%	1,469	2.25%	53	0.08%	91	0.14%	885	1.36%
3	69,059	62,492	11.85%	8,674	12.40%	56,611	80.82%	1,895	2.85%	159	0.23%	1,740	2.48%	36	0.05%	40	0.06%	704	1.01%
4	61,500	62,492	-1.49%	14,410	23.41%	39,421	64.04%	5,046	8.17%	194	0.32%	1,034	1.68%	48	0.08%	48	0.08%	759	1.23%
Totals	249,967			42,990	17.20%	183,847	73.55%	12,444	4.98%	759	0.30%	6,483	2.59%	161	0.06%	230	0.09%	3,053	1.22%

Ideal Size = 249,967/4 = 62,492 per district.

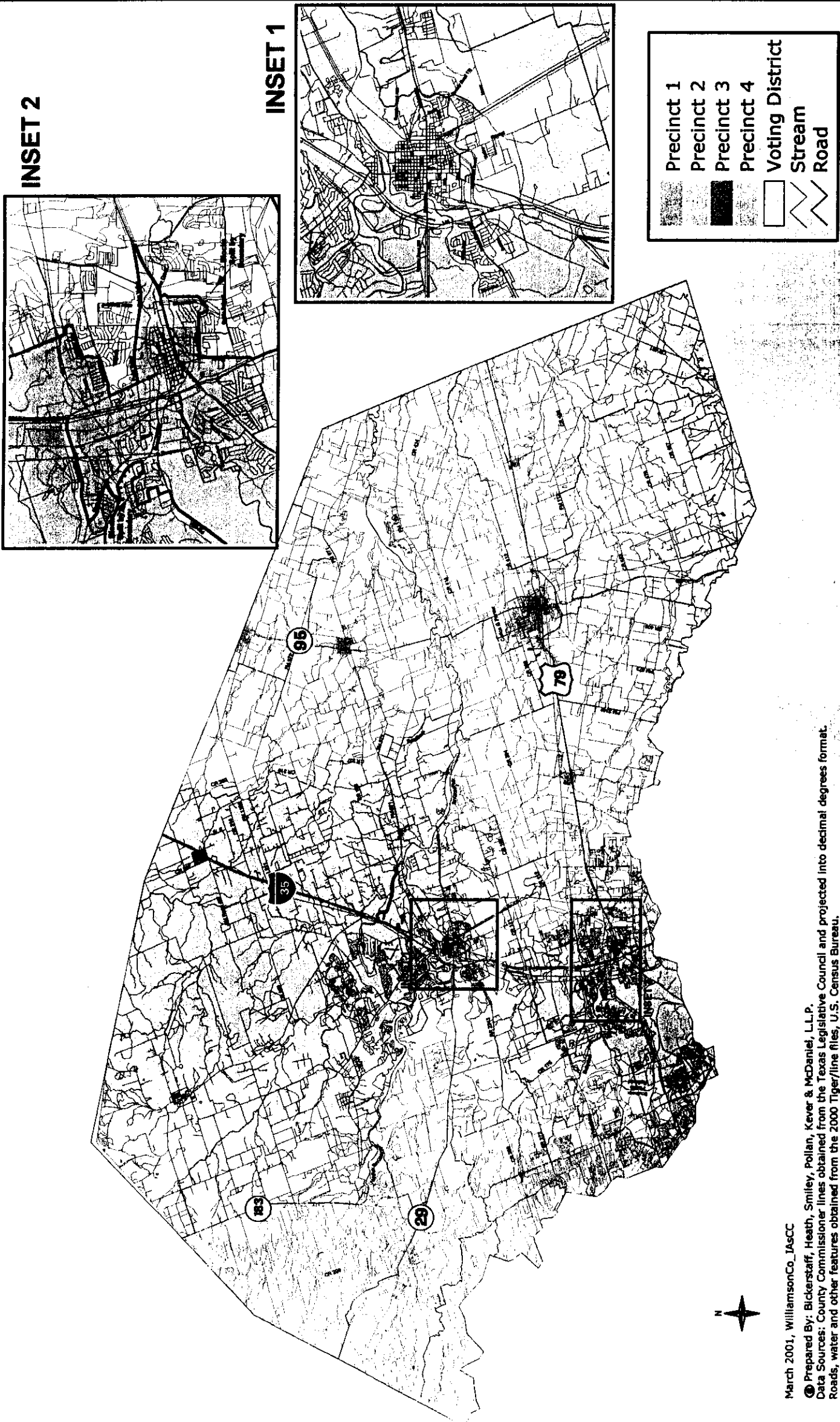
District	Total VAP	Hispanic VAP	% of Total Hispanic VAP	Anglo VAP	% of Total Anglo VAP	Black VAP	% of Total Black VAP	American Indian VAP	% of Total American Indian VAP	Asian VAP	% of Total Asian VAP	Hawaiian- Pacific Islander VAP	% of Total Hawaiian- Pacific Islander VAP	Other VAP	% of Total Other VAP	Two or More VAP	% of Total Two or More VAP
1	38,031	7,291	19.17%	26,661	70.10%	1,904	5.01%	133	0.35%	1,622	4.26%	16	0.04%	23	0.06%	381	1.00%
2	44,508	5,232	11.76%	36,259	81.47%	1,241	2.79%	164	0.37%	1,090	2.43%	35	0.08%	42	0.09%	453	1.02%
3	49,865	5,274	10.57%	41,545	83.28%	1,347	2.70%	121	0.24%	1,187	2.38%	27	0.05%	17	0.03%	367	0.74%
4	42,843	8,868	20.80%	26,692	67.28%	3,782	8.89%	143	0.34%	723	1.70%	35	0.08%	24	0.06%	366	0.86%
Totals	175,065	26,665	15.23%	133,157	76.06%	8,284	4.73%	561	0.32%	4,612	2.63%	113	0.06%	106	0.06%	1,567	0.90%

Voting Age Population

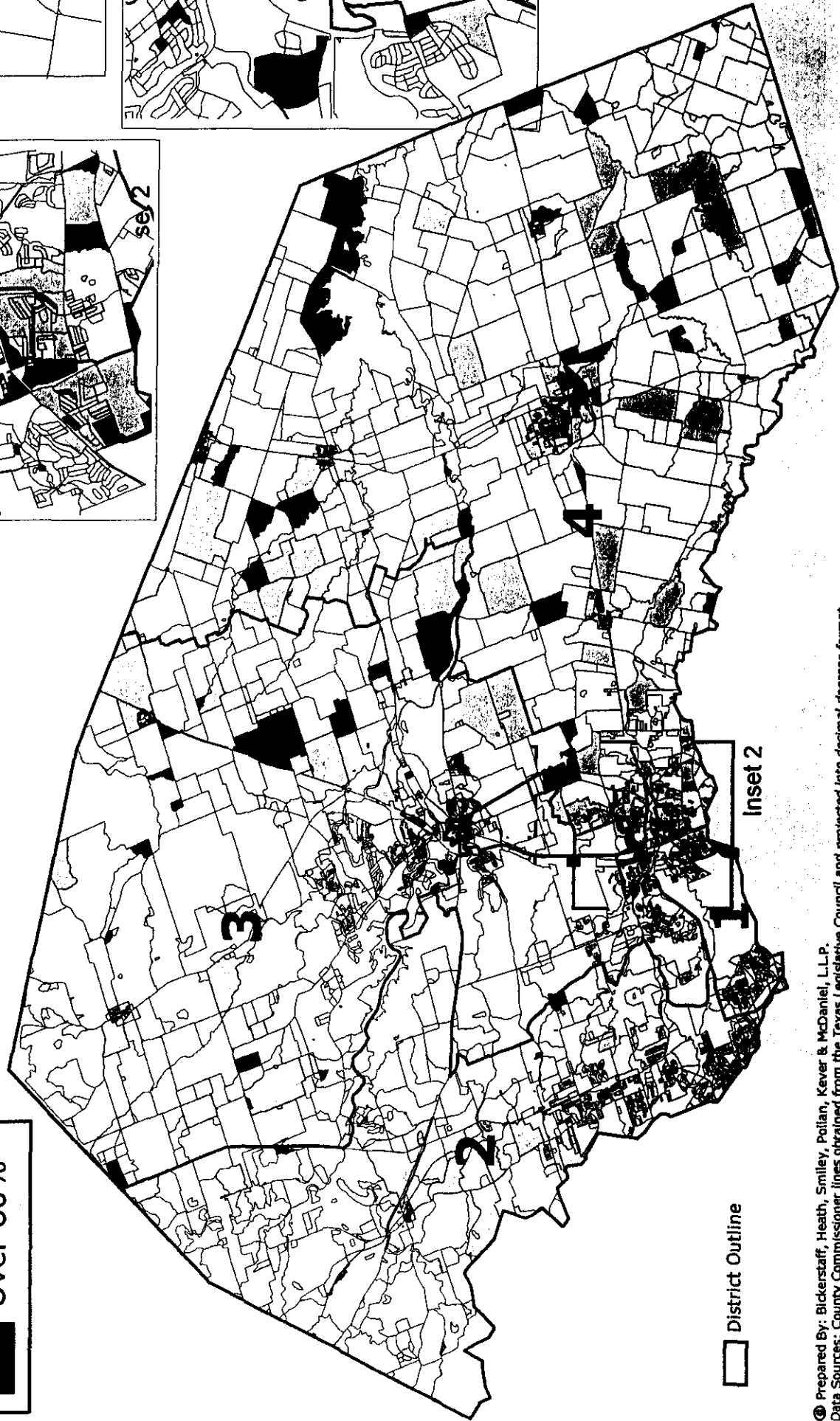
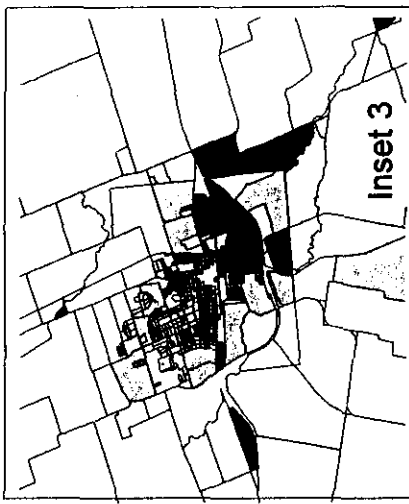
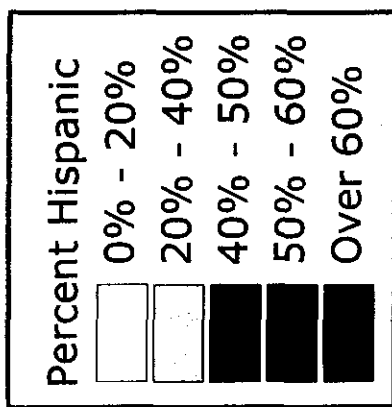
ATTACHMENT B

MAPS

Williamson County 1991 Commissioner Court Precincts

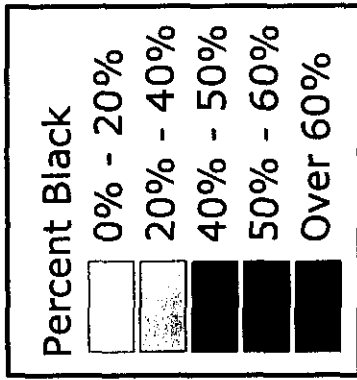


Williamson County 1991 Commissioner Court Precincts Percent Hispanic By 2000 Census Block

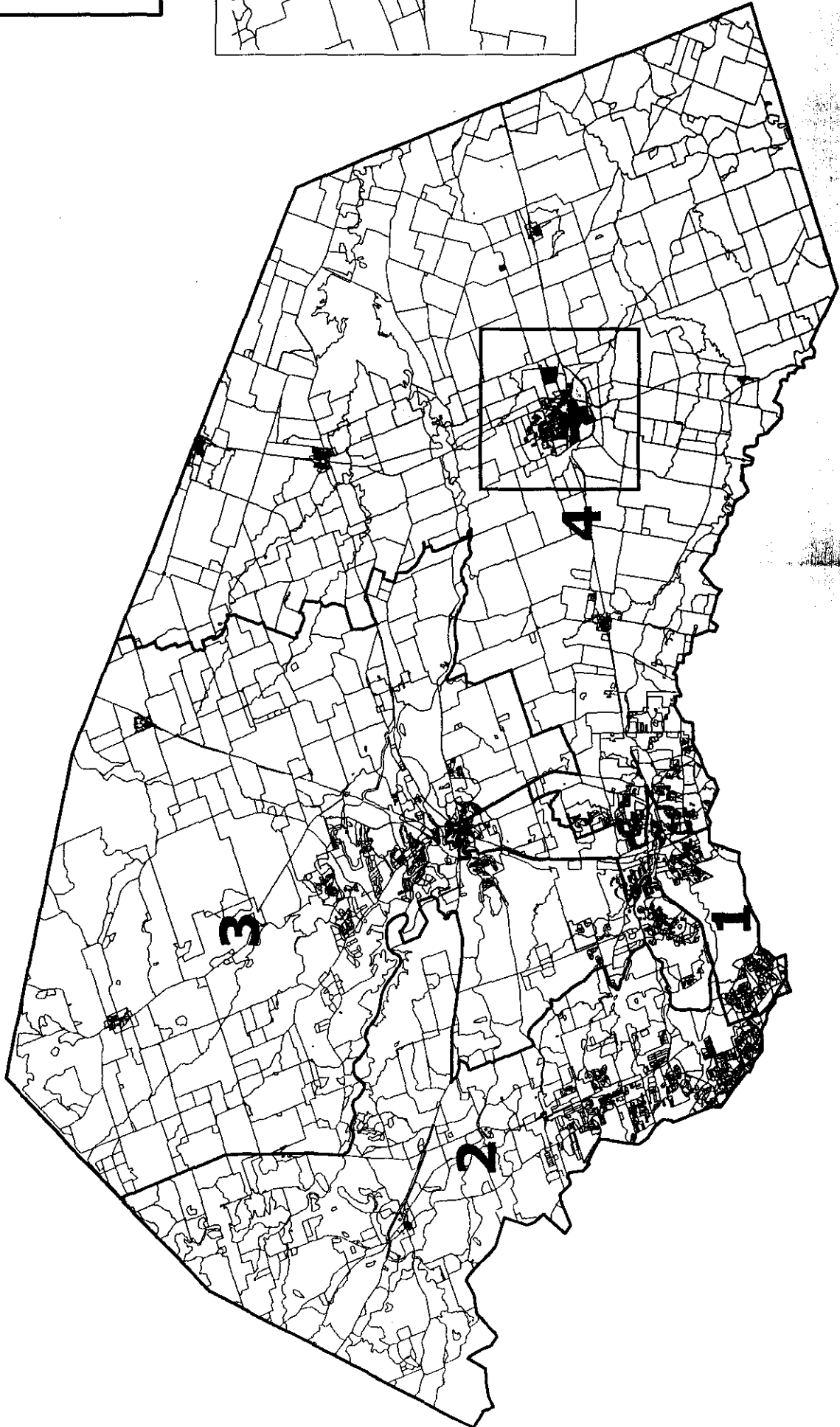


District Outline

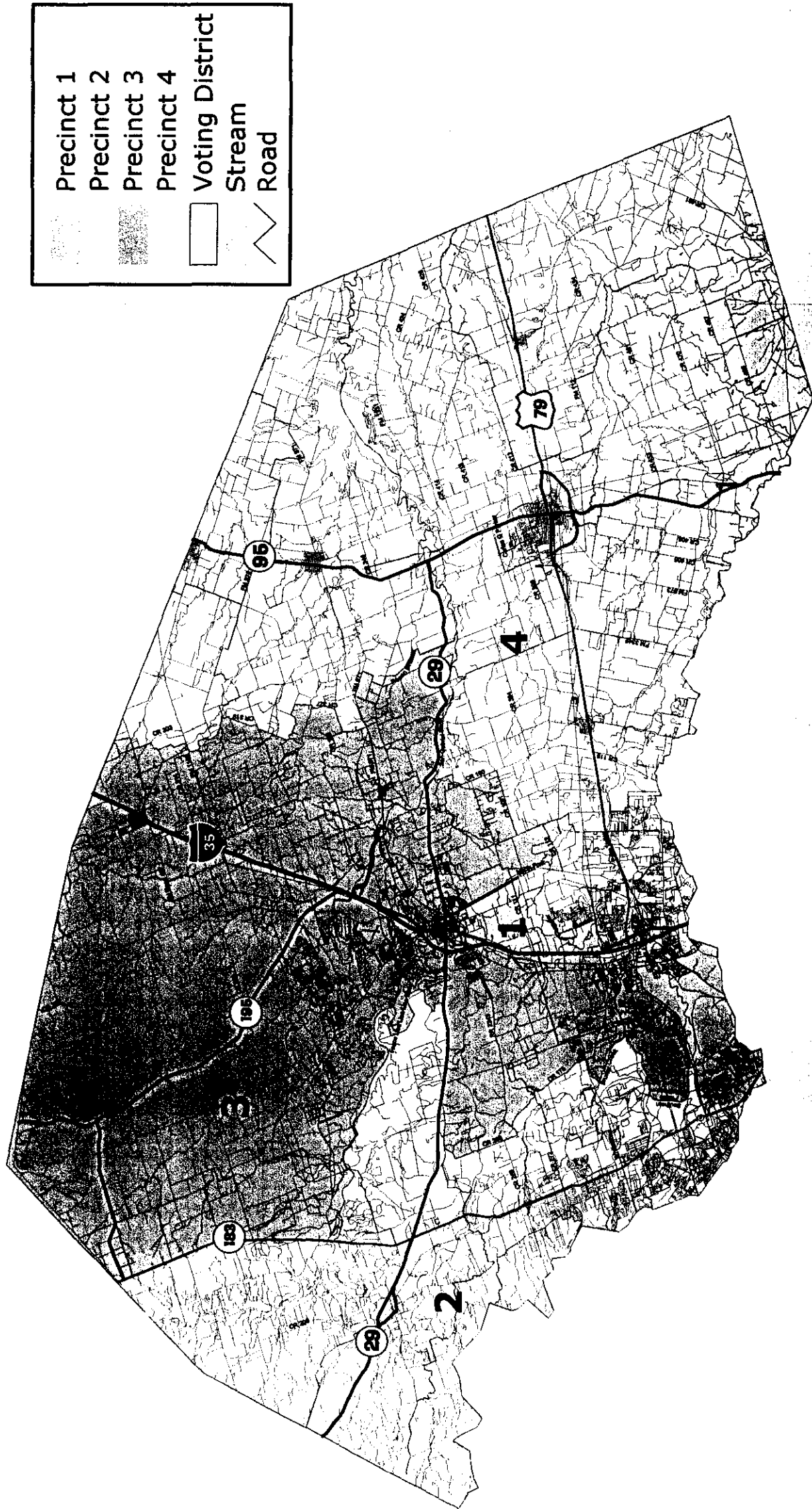
Williamson County 1991 Commissioner Court Precincts Percent Black By 2000 Census Block



District Outline



Williamson County Current Justice of the Peace Precincts



ATTACHMENT C
LEGAL PRINCIPLES

LEGAL PRINCIPLES GOVERNING THE REDISTRICTING PROCESS

There are four basic legal principles that govern the redistricting process: (i) the "one person-one vote" (equal population) principle; (ii) Section 5 of the Voting Rights Act, requiring preclearance and applying a "retrogression" standard to minority group populations in specific districts; (iii) the non-discrimination standard of Section 2 of the Voting Rights Act; and (iv) the *Shaw v. Reno* limitations on the use of race as a factor in redistricting.

The terminology of redistricting is very specialized and includes terms that may not be familiar, so we have included as Attachment D to this Initial Assessment letter a brief glossary of many of the commonly-used redistricting terms.

The "One Person – One Vote" Requirement: Why You Redistrict

The "one person-one vote" requirement of the United States Constitution requires that members of an elected body be drawn from districts of substantially equal population. This requirement applies to the single-member districts of "legislative" bodies such as commissioners courts and other entities with single-member districts such as school boards or city councils.

Exact equality of population is not required for local political subdivisions. However, they should strive to create districts that have a total population deviation of no more than 10 percent between their most populated district and the least populated district. This 10 percent deviation is usually referred to as the "total maximum deviation." It is measured against the "ideal" or target population for the governmental entity based on the most recent census.

A governing body is therefore required to determine whether the populations of its single-member districts (including county commissioners' precincts) are within this 10 percent balance based on 2000 Census population data. If the population deviation among the districts exceeds the permissible 10 percent total maximum deviation, the entity must redistrict, that is, redraw the boundaries of the individual districts so that the total populations of all the new districts are within the permissible 10 percent limit. A hypothetical example of how deviation is calculated is given in Attachment D.

The Department of Justice (DOJ) is the federal agency charged with reviewing and approving changes in election law, such as redistricting, under Section 5 of the Voting Rights Act. DOJ will use the Census Bureau's recently released population data for the 2000 Census in its analysis of redistricting plans – the so-called "PL 94-171" data. Although several types of population data are provided in the PL 94-171 files, redistricting typically is based upon total population.

Official census data should be used unless the governmental entity can show that better data exists. The court cases that have dealt with the question have made it clear that the showing required to justify use of data other than census data is a very high one, impossibly high at a time so close to the release of new census data. As a practical matter,

therefore, we recommend that entities use the 2000 Census data in their redistricting processes. We have based the Initial Assessment on PL 94-171 total population data; the relevant data are summarized in Attachment A.

In the redistricting process, each governmental entity will use a broad spectrum of demographic and administrative information to accomplish the rebalancing of population required by the one person-one vote principle. The charts provided with this report not only show the total population of the entity but also give breakdowns of population by various racial and ethnic categories for the entity as a whole and also for each single-member district.

Census geography

These single-member population data are themselves derived from population data based on smaller geographical units. The Census Bureau divides geography into much smaller units called "census blocks." In urban areas, these correspond roughly to city blocks. In more rural areas, census blocks may be quite large. Census blocks are also aggregated into larger sets called "voting tabulation districts" or "VTDs" which often correspond to county election precincts.

For reasons concerning reducing the potential for *Shaw v. Reno*-type liability, discussed below, we recommend using VTDs as the redistricting building blocks where and to the extent feasible. In largely rural counties this may not be feasible.

Census racial and ethnic categories

For the 2000 Census, the Census Bureau recognized 126 racial and ethnic categories and collected and reported data based on all of them. Many of these categories include very few persons, however, and will not therefore have a significant impact on the redistricting process. The charts that accompany this report include only eight racial and ethnic categories that were consolidated from the larger set. All of the population of the entity is represented in these charts. These eight categories are the ones most likely to be important in the redistricting process.

The 2000 Census listed six racial categories. Individuals were able to choose a single race or any combination of races that might apply. Thus, there are potentially 63 different racial combinations that might occur. Additionally, the Census asks persons to designate whether they are or are not Hispanic. When the Hispanic status response is overlaid on the different possible racial responses, there are 126 possible different combinations. The Census tabulates each one separately.

If this information is to be usable, it must be combined into a smaller number of categories (of course, having the same overall population total). For purposes of determining the preclearance retrogression benchmark, discussed below, DOJ indicated in a guidance document issued on January 18, 2001 that it would use the following rules for determining Hispanic and race population numbers from the 2000 Census data, for purposes of performing the retrogression analysis:

- persons who selected "Hispanic" are categorized as Hispanic, no matter what race or races they have designated; all others will be classified as non-Hispanic of one or more races; *e.g.*, Hispanic-White and Hispanic-African-American are both classified as Hispanic;
- persons who did not select "Hispanic" and who designated a single race will be classified as members of that race; *e.g.*, White, African-American, Asian, etc.
- persons who did not select "Hispanic" and who designated themselves as belonging to a single minority race and as White will be classified as members of the minority race; *e.g.*, Asian+White will be classified as Asian; and
- persons who did not select "Hispanic" and who designated themselves as belonging to more than one minority race will be classified as "other multiple race;" *e.g.*, White+Asian+Hawaiian or African-American+Asian. This category is expected to be small.

We will also consider data called "voting age population" (or "VAP") data. It is similarly classified in eight racial and ethnic categories. This information is provided for the limited purpose of addressing some of the specific legal inquiries under the Voting Rights Act that are discussed below. Voting age population is the Census Bureau's count of persons who identified themselves as being eighteen years of age or older at the time the census was taken (*i.e.*, as of April 1, 2000).

In addition to this population and demographic data, the entity will have access to additional information that may bear on the redistricting process, such as county road miles, facility locations, registered voter information, incumbent residence addresses, etc.

Section 5 Of The Voting Rights Act – Preclearance

Preclearance required

Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c, requires all "covered jurisdictions" identified in the applicable Department of Justice (DOJ) regulations to "preclear" any changes to voting standards, practices, or procedures before they may become legally effective. Texas is a "covered jurisdiction," so all local governments in the state, as well as the State itself, are required to preclear any voting change, including their redistricting plan. This includes changes to any single-member district lines (including county commissioner precinct lines). Section 5 applies not only to changes in single-member district lines but also to changes in election precincts and in the location of polling places. Counties should note that Section 5 applies not only to commissioners' precincts, but also to JP and Constable precincts, even though these latter are not subject to the one person-one vote requirement (since these are not "representative," *i.e.*, "legislative" officials).

Preclearance may be accomplished in either of two ways: by submitting the redistricting plan to DOJ for its examination and preclearance, or by obtaining a declaratory judgment from a special three-judge federal district court in the District of Columbia. Submission to DOJ is by far the most common, and usually substantially faster and less expensive, method chosen for obtaining preclearance.

"Retrogression" as the preclearance standard

The legal standard applied to a preclearance review under Section 5 is whether the new plan has the purpose or the effect of denying or abridging the right to vote on account of race or color. This Section 5 standard has been called the "retrogression" standard. In effect, it considers whether a minority group has been made worse off by a proposed change in voting standards, practices or procedures, such as a redistricting plan.

The Supreme Court has made clear in *Miller v. Johnson* (one of the *Shaw v. Reno* line of cases) that DOJ is not to apply other standards in addition to this retrogression standard in determining whether to preclear new districting plans, as DOJ did in the 1991 round of redistricting. The inquiry to be conducted by DOJ is thus only whether the new plan has the purpose or effect of causing retrogression with respect to a minority group.

DOJ's retrogression benchmark

To determine if retrogression exists, it is necessary to compare a proposed plan against a benchmark. Typically, that benchmark is the local subdivision's *prior* district boundary plan, but considered using the *new* 2000 Census population and demographic data. DOJ will compare the proposed new redistricting plan as a whole to the benchmark plan as a whole in conducting its retrogression analysis.

Voting age population data ("VAP") is the Census Bureau's count of persons who identified themselves as being eighteen years of age or older at the time the census was taken (*i.e.*, as of April 1, 2000). Since the retrogression inquiry focuses on whether a minority group's overall voting strength has been reduced, and VAP is a more direct measure of voting strength than total population, VAP should be considered in the retrogression analysis, not just total population. (Citizen voting age population ("CVAP") data is not available at this time.)

In combination with a balanced consideration of the other applicable redistricting criteria, the entity's governing body will need to consider the effects of any changes to the benchmark measures that its proposed plan produces.

In adjusting the boundaries of districts, the burden will be on the governmental entity to show DOJ that a less retrogressive plan could not reasonably have been drawn. 66 Fed. Reg. 5413. That should be a goal of the redistricting process, while still considering the other redistricting criteria that are adopted.

Section 2 Of The Voting Rights Act – No Discrimination Against Minority Groups

Section 2 of the Voting Rights Act forbids a voting standard, practice or procedure from having the effect of reducing the opportunity of members of a covered minority to participate in the political process and to elect representatives of their choice. In practical terms, this non-discrimination provision prohibits districting practices that, among other things, result in “packing” minorities into a single district in an effort to limit their voting strength. Also, “fracturing” or “cracking” minority populations into small groups in a number of districts, so that their overall voting strength is diminished, can be discrimination under Section 2. There is no magic number that designates the threshold of packing or cracking. Each plan must be judged on a case-by-case basis.

Although the Supreme Court has recently made clear that the Department of Justice may not consider Section 2 standards in determining whether to preclear a redistricting plan under Section 5, that does not mean that the governmental body should ignore Section 2 requirements. They apply to the redistricting plan regardless of whether DOJ may legally consider them in the preclearance analysis. Failure to consider them adequately could risk litigation brought by a member of a protected minority group, or even by DOJ. There is some possibility that the inability of DOJ to include Section 2 non-discrimination standards as a preclearance requirement in this 2001 round of redistricting could result in DOJ bringing more Section 2 cases than it did after the 1991 round of redistricting.

The Supreme Court has defined the minimum requirements for a minority plaintiff to bring a Section 2 lawsuit. There is a three-pronged legal test the minority plaintiff must satisfy: a showing that (1) the minority group’s voting age population is numerically large enough and geographically compact enough so that a district with a numerical majority of the minority group can be drawn (a “majority minority district”); (2) the minority group is politically cohesive, that is, it usually votes and acts politically in concert on major issues; and (3) there is “polarized voting” such that the Anglo majority usually votes to defeat candidates of the minority group’s preference. *Thornburg v. Gingles*, 478 U.S. 30 (1986). In the federal appellate Fifth Circuit, which includes Texas, the minority population to be considered is *citizen* voting age population. In certain cases, a minority group may assert that Section 2 requires that the governmental body draw a new majority minority district. The governing body must be sensitive to these Section 2 standards as it redistricts.

In considering changes to existing boundaries, a governmental entity must be aware of the location of protected minority populations within its single-member districts for the purpose of ensuring that changes are not made that may be asserted to have resulted in “packing,” or in “fracturing” or “cracking” the minority population for purposes or having effects that are unlawful under Section 2. The thematic maps included in Attachment B depict the locations of Hispanic and African-American population concentrations by census block; they are useful in addressing this issue. Voting age population (VAP) data is useful in measuring potential electoral strength of minority groups in individual districts.

**Shaw v. Reno Standards – Avoid Using Race
as the Predominant Redistricting Factor**

In 1991, local government redistricting had to satisfy both the Section 5 non-retrogression standard and the Section 2 non-discrimination standard, but the *Shaw v. Reno* standard had not yet come into play. In this current round of redistricting, local governments have a harder task than they did in 1991. The *Shaw* standard applies now as well as the Section 2 and Section 5 standards. While satisfying Section 5 and Section 2 standards require a local government to explicitly consider race to comply with these standards, *Shaw* places strict limits on the manner and degree in which race may be a factor. In effect, therefore, local governments must walk a legal tightrope, where the competing legal standards must all be met.

In the *Shaw v. Reno* line of cases that began in 1993, the Supreme Court applied the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution to redistricting plans. Where racial considerations predominate in the redistricting process to the subordination of traditional (non-race-based) factors, the use of race-based factors is subject to the "strict scrutiny" test. To pass this test requires that there be a showing that (1) the race-based factors were used in furtherance of a "compelling state interest" and (2) their application be "narrowly tailored," that is, they must be used only to the minimum extent necessary to accomplish the compelling state interest.

A majority of the United States Supreme Court has indicated that compliance with Section 2 of the Voting Rights Act is a "compelling state interest." While the Court has not expressly addressed the question in any case to date, it is reasonable to assume that it would find that satisfying Section 5 of the Voting Rights Act would also be a compelling state interest for strict scrutiny purposes so long as the efforts to comply with Section 5 are consistent with the Court's narrow, retrogression-based interpretation of Section 5.

Thus, the following principles emerge in the post-*Shaw* environment to guide the redistricting process:

- race may be considered;
- but race may not be the predominant factor in the redistricting process to the subordination of traditional redistricting principles;
- bizarrely shaped districts are not unconstitutional per se, but the bizarre shape may be evidence that race was the predominant consideration in the redistricting process;
- if race is the predominant consideration, the plan may still be constitutional if it is "narrowly tailored" to address compelling governmental interest such as compliance with the Voting Rights Act; and
- if a plan is narrowly tailored, it will use race no more than is necessary to address the compelling governmental interest.

The better course, if possible under the circumstances, is that racial considerations not predominate to the subordination of traditional redistricting criteria, so that the difficult strict scrutiny test is avoided.

Adherence to the *Shaw v. Reno* standards will be an important consideration during the redistricting process. One way to minimize the potential for *Shaw v. Reno* liability is to adopt redistricting criteria that include traditional redistricting principles and that do not elevate race-based factors to predominance.

Adoption of Redistricting Criteria

Adoption of appropriate redistricting criteria – and adherence to them during the redistricting process – is potentially critical to the ultimate defensibility of an adopted redistricting plan. Traditional redistricting criteria that the governing body might wish to consider adopting include, for example:

- use of identifiable boundaries
- using whole voting precincts, where possible and feasible; or, where not feasible, being sure that the plan lends itself to the creation of reasonable and efficient voting precincts
- maintaining communities of interest (e.g., traditional neighborhoods)
- basing the new plan on existing districts;
- adopting districts of approximately equal size;
- drawing districts that are compact and contiguous;
- keeping existing representatives in their districts; and
- narrow tailoring to comply with the Voting Rights Act.

There may be other criteria that are appropriate for an individual entity's situation, but all criteria adopted should be carefully considered and then be followed to the greatest degree possible. A copy of a sample criteria adoption resolution is provided as Attachment F. You may wish to include additional criteria, or determine that one or more on that list are not appropriate. We will discuss with you appropriate criteria for your situation.

Requirements for Plans Submitted by the Public

You should also consider imposing the following requirements on any plans proposed by the public for your consideration: (1) Any plan submitted for consideration must be a complete plan, that is, it must be a plan that includes configurations for all commissioner precincts (or other precincts, as applicable) and not just a selected one or several. This is important because, although it may be possible to draw a particular precinct in a particular way if it is considered only by itself, that configuration may have unacceptable consequences *on other precincts and make it difficult or impossible for an overall plan to comply with the applicable legal standards.* (2) Any plan submitted for consideration must follow the adopted redistricting criteria.

ATTACHMENT D

GLOSSARY

GLOSSARY

Census blocks, census block groups, census VTDs, census tracts – Geographic areas of various sizes recommended by the states and used by the Census Bureau for the collection and presentation of data.

Citizen voting age population (CVAP) - Persons 18 and above who are citizens. This is a better measure of voting strength than VAP; however, the relevant citizenship data will not be available in time for this redistricting cycle.

Compactness - Having the minimum distance between all parts of a constituency.

Contiguity - All parts of a district being connected at some point with the rest of the district.

Cracking - The fragmentation of a minority group among different districts so that it is a majority in none. Also known as "fracturing."

Fracturing - See "cracking."

Homogeneous district – A voting district with at least 90 percent population being of one minority group or of Anglo population.

Ideal population – The population that an ideal sized district would have for a given jurisdiction. Numerically, the ideal size is calculated by dividing the total population of the political subdivision by the number of seats in the legislative body.

Majority minority district- Term used by the courts for seats where an ethnic minority constitutes a numerical majority of the population.

One person-one vote – U.S. Constitutional standard articulated by the U.S. Supreme Court requiring that all legislative districts should be approximately equal in size.

Packing – A term used when one particular minority group is consolidated into one or a small number of districts, thus reducing its electoral influence in surrounding districts.

Partisan gerrymandering – The deliberate drawing of district boundaries to secure an advantage for one political party.

PL 94-171 – The Public Law that requires the Census Bureau to release population data for redistricting. The data must be released by April 1, 2001, is reported at the block level, and contains information on:

- Total population
- Voting age population
- By Race
- By Hispanic origin

Racial gerrymandering – The deliberate drawing of district boundaries to secure an advantage for one race.

Section 2 of the Voting Rights Act – The part of the federal Voting Rights Act that protects racial and language minorities from discrimination in voting practices by a state or other political subdivision.

Section 5 of the Voting Rights Act – The part of the federal Voting Rights Act that requires certain states and localities (called “covered jurisdictions”) to preclear all election law changes with the U.S. Department of Justice (“DOJ”) or the federal district court for the District of Columbia before those laws may take effect.

Shaw v. Reno -- The first in a line of federal court cases in which the U.S. Supreme Court held that the use of race as a dominant factor in redistricting was subject to a “strict scrutiny” test under the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution. This case and the line of Supreme Court cases that follow it establish that race should not be used as a predominant redistricting consideration, but if it is, it must be used only to further a “compelling state interest” recognized by the courts and even then must be used only as minimally necessary to give effect to that compelling state interest (“narrow tailoring”)

Spanish surnamed registered voters (SSRV) – The Texas Secretary of State publishes voter registration numbers that show the percentage of registered voters who have Spanish surnames. It is helpful to measure Hispanic potential voting strength, although it is not exact. It is available only at the county voting precinct level.

Total population – The total number of persons in a geographic area. Total population is generally the measure used to determine if districts are balanced for one person-one vote purposes.

Voting age population (VAP) - The number of persons aged 18 and above. DOJ requires this to be shown in section 5 submissions. It is used to measure potential voting strength. For example, a district may have 50 percent Hispanic total population but only 45 percent Hispanic voting age population.

Voter tabulation district (VTD) – A voting precinct drawn using census geography. In most instances, especially in urban areas, VTDs and voting precincts will be the same. In rural areas, it is more likely they will not be identical.

ATTACHMENT E

HYPOTHETICAL POPULATION DEVIATION CALCULATION

Hypothetical Population Deviation Calculation

Consider a hypothetical political subdivision with four districts and a total population of 40,000. The "ideal district" for this political subdivision would have a population of 10,000 (total population / number of districts). This is the target population for each district. The deviation of each district is measured against this ideal size.

Suppose the latest population data reveals that the largest district, District A, has 11,000 inhabitants. The deviation of District A from the ideal is thus 1000 persons, or 10 percent. Suppose also that the smallest district, District D, has 8000 inhabitants; it is underpopulated by 2000 persons compared to the ideal size. It thus has a deviation of -20 percent compared to the ideal size. The *maximum total deviation* is thus 30 percent. Since this is greater than the 10 percent range typically allowed by the courts for one person-one vote purposes, this hypothetical subdivision must redistrict in order to bring its maximum total deviation to within the legally permissible limits.

The following table illustrates this analysis:

<u>District</u>	<u>Ideal district</u>	<u>District total pop.</u>	<u>Difference</u>	<u>Deviation</u>
A	10,000	11,000	1000	+ 10.0 percent
B	10,000	10,750	750	+ 7.5 percent
C	10,000	10,250	250	+ 2.5 percent
D	10,000	8,000	- 2000	- 20.0 percent
Totals:	40,000	40,000	net= 0	net= 0 percent

Total maximum deviation = difference between most populous and least populous districts
= 10 percent + 20 percent = 30 percent.

ATTACHMENT F

ILLUSTRATIVE REDISTRICTING CRITERIA RESOLUTION

ILLUSTRATIVE REDISTRICTING CRITERIA RESOLUTION

(Here is an example of what the body of a resolution or ordinance adopting redistricting criteria might contain, but not including the footnotes. They are only included here by way of explanation to you of some of the criteria.)

The governmental body will observe the following criteria, to the greatest extent possible, when drawing district boundaries:

1. Where possible, easily identifiable geographic boundaries should be followed.
2. Communities of interest should be maintained in a single district, where possible, and attempts should be made to avoid splitting neighborhoods.
3. To the extent possible, districts should be composed of whole voting precincts. Where this is not possible or practicable, districts should be drawn in a way that permits the creation of practical voting precincts and that ensures that adequate facilities for polling places exist in each voting precinct.
4. Although it is recognized that existing districts will have to be altered to reflect new population distribution, any districting plan should, to the extent possible, be based on existing districts.
5. Districts must be configured so that they are relatively equal in total population according to the 2000 federal census. In no event should the total deviation between the largest and the smallest district exceed ten percent.
6. The districts should be compact and composed of contiguous territory. Compactness may contain a functional,¹ as well as a geographical dimension.
7. Consideration may be given to the preservation of incumbent-constituency relations by recognition of the residence of incumbents and their history in representing certain areas.

¹ Functional compactness is a sometimes controversial notion that has appeared in some cases. Basically, the concept is that compactness is not simply a matter of geography but can include considerations such as (1) the availability of transportation and communication, (2) the existence of common social and economic interests, (3) the ability of the districts to relate to each other, and (4) the existence of shared interests. We do not anticipate that we will rely heavily on functional compactness, but there may be instances in which it comes into play. For example, we might be able to draw a very geographically compact district by including land on both sides of a river. If, however, the nearest bridge is several miles away, our geographically compact district may not be functionally compact. Saying that compactness has a functional dimension gives us flexibility to address this type of situation.

8. The plan should be narrowly tailored to avoid retrogression² in the position of racial minorities and language minorities as defined in the Voting Rights Act with respect to their effective exercise of the electoral franchise.
9. The plan should not fragment³ a geographically compact minority community or pack⁴ minority voters in the presence of polarized voting so as to create liability under section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

The governmental body will review all plans in light of these criteria and will evaluate how well each plan conforms to the criteria.

Any plan submitted to the governmental body by a citizen for its consideration should be a complete plan—*i.e.*, it should show the full number of trustee districts and should redistrict the entire political subdivision. The governmental body may decline to consider any plan that is not a complete plan.

All plans submitted by citizens, as well as plans submitted by staff, consultants, and members of the governmental body should conform to these criteria.

² Retrogression is the standard used by the Department of Justice and the courts to determine if a plan can be precleared under section 5 of the Voting Rights Act. Basically, a redistricting plan is retrogressive if "its net effect would be to reduce minority voters' 'effective exercise of the electoral franchise' when compared to the benchmark plan." 66 FED. REG. 5412, 5413 (Jan. 18, 2001) (Department of Justice, Guidance Concerning Redistricting and Retrogression Under Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c; Notice), quoting *Beer v. United States*, 425 U.S. 130, 141 (1976). The benchmark against which retrogression is measured is the last legally enforceable redistricting plan—typically the plan that was drawn under the prior decade's census and is now being replaced.

³ Fragmenting or fracturing occurs when a geographically compact area of minority voters is split into two or more districts when, if the area had been put in a single district, minority voters would have had greater voting strength.

⁴ Packing refers to concentrating excessively large numbers of minority voters in a single district. For example, if a district is drawn to be 90 percent African-American, that group's influence may be limited to that single district when, if it had been split, the group might have had an opportunity to elect candidates of their choice in two districts.

ATTACHMENT G
COUNTY ELECTION PRECINCTS

The State of Texas
Office of the Secretary of State
Voter Registration Statistical Report
January 4, 2001

COUNTY WILLIAMSON

PRECINCT	VOTERS	MALES	FEMALES	% OF MALES	% OF FEMALES	SPANISH MALES	SPANISH FEMALES	% OF SPANISH MALES	% OF SPANISH FEMALES	NO GENDER	SUSPENSE VOTERS
119	2,907	1,146	1,267	39.42%	43.58%	135	186	4.64%	6.40%	122	494
122	2,276	953	1,038	41.87%	45.61%	47	55	2.07%	2.42%	72	285
135	2,460	919	1,045	37.36%	42.48%	173	234	7.03%	9.51%	144	496
137	1,076	472	495	43.87%	46.00%	23	34	2.14%	3.16%	49	109
138	2,478	1,095	1,093	44.19%	44.11%	64	70	2.58%	2.82%	84	290
142	1,448	483	665	33.36%	45.93%	193	248	13.33%	17.13%	75	300
146	5,279	2,173	2,316	41.16%	43.87%	188	183	3.56%	3.47%	285	790
147	1,397	614	643	43.95%	46.03%	40	44	2.86%	3.15%	55	140
149	1,534	575	665	37.48%	43.35%	85	119	5.54%	7.76%	82	294
150	2,367	811	957	34.26%	40.43%	181	217	7.65%	9.17%	196	599
151	2,066	878	958	42.50%	46.37%	48	62	2.32%	3.00%	135	230
152	2,228	934	960	41.92%	43.09%	93	96	4.17%	4.31%	191	334
162	3,311	1,331	1,514	40.20%	45.73%	95	111	2.87%	3.35%	221	466
168	455	188	201	41.32%	44.18%	18	20	3.96%	4.40%	12	66
172	1,227	488	549	39.77%	44.74%	78	96	6.36%	7.82%	49	190

COUNTY	WILLIAMSON											
	PRECINCT	VOTERS	MALES	FEMALES	% OF MALES	% OF FEMALES	SPANISH MALES	SPANISH FEMALES	% OF SPANISH MALES	% OF SPANISH FEMALES	NO GENDER	SUSPENSE VOTERS
	203	1,130	455	541	40.27%	47.88%	60	81	5.31%	7.17%	46	134
	204	1,291	523	583	40.51%	45.16%	25	32	1.94%	2.48%	40	185
	206	1,621	654	749	40.35%	46.21%	31	49	1.91%	3.02%	56	218
	207	1,662	697	700	41.94%	42.12%	22	37	1.32%	2.23%	72	265
	216	2,100	882	947	42.00%	45.10%	67	80	3.19%	3.81%	127	271
	217	1,807	781	851	43.22%	47.09%	47	61	2.60%	3.38%	93	175
	218	1,812	774	833	42.72%	45.97%	75	80	4.14%	4.42%	108	205
	239	1,667	706	768	42.35%	46.07%	75	73	4.50%	4.38%	125	193
	244	676	294	301	43.49%	44.53%	3	8	0.44%	1.18%	16	81
	253	5,212	2,176	2,387	41.75%	45.80%	216	280	4.14%	5.37%	104	649
	254	2,691	1,165	1,227	43.29%	45.60%	78	96	2.90%	3.57%	95	299
	258	363	149	155	41.05%	42.70%	4	8	1.10%	2.20%	9	59
	259	998	405	457	40.58%	45.79%	34	50	3.41%	5.01%	27	136
	264	1,837	798	837	43.44%	45.56%	41	55	2.23%	2.99%	57	202
	265	525	238	239	45.33%	45.52%	3	9	0.57%	1.71%	25	48
	266	967	394	469	40.74%	48.50%	33	43	3.41%	4.45%	44	104
	273	2,635	1,096	1,207	41.59%	45.81%	70	102	2.66%	3.87%	121	332
	274	1,402	617	647	44.01%	46.15%	52	49	3.71%	3.50%	97	138
	275	1,250	494	542	39.52%	43.36%	39	42	3.12%	3.36%	179	214
	276	2,376	970	1,072	40.82%	45.12%	70	80	2.95%	3.37%	78	334

COUNTY WILLIAMSON

PRECINCT	VOTERS	MALES	FEMALES	% OF MALES	% OF FEMALES	SPANISH MALES	SPANISH FEMALES	% OF SPANISH MALES	% OF SPANISH FEMALES	NO GENDER	SUSPENSE VOTERS
277	3,776	1,588	1,717	42.06%	45.47%	120	130	3.18%	3.44%	86	471
278	1,823	767	853	42.07%	46.79%	69	71	3.78%	3.89%	85	203
283	1,834	710	764	38.71%	41.66%	58	81	3.16%	4.42%	80	360
301	2,449	885	1,075	36.14%	43.90%	71	85	2.90%	3.47%	122	489
302	847	362	369	42.74%	43.57%	3	5	0.35%	0.59%	20	116
305	1,024	370	399	36.13%	38.96%	6	13	0.59%	1.27%	17	255
308	786	297	322	37.79%	40.97%	20	29	2.54%	3.69%	27	167
309	1,532	630	648	41.12%	42.30%	37	42	2.42%	2.74%	37	254
310	1,721	647	758	37.59%	44.04%	37	53	2.15%	3.08%	64	316
311	531	203	214	38.23%	40.30%	22	26	4.14%	4.90%	14	114
312	1,006	390	439	38.77%	43.64%	24	39	2.39%	3.88%	29	177
314	2,744	935	1,201	34.07%	43.77%	111	146	4.05%	5.32%	124	608
330	939	379	404	40.36%	43.02%	27	34	2.88%	3.62%	22	156
331	5,037	2,068	2,212	41.06%	43.92%	139	157	2.76%	3.12%	128	757
332	1,483	643	638	43.36%	43.02%	19	18	1.28%	1.21%	44	202
340	2,342	1,023	1,075	43.68%	45.90%	55	59	2.35%	2.52%	68	244
343	2,036	799	900	39.24%	44.20%	25	30	1.23%	1.47%	63	337
345	1,724	632	731	36.66%	42.40%	51	51	2.96%	2.96%	66	361
348	2,209	952	966	43.10%	43.73%	46	57	2.08%	2.58%	48	291
357	842	281	398	33.37%	47.27%	33	50	3.92%	5.94%	38	163

COUNTY WILLIAMSON

PRECINCT	VOTERS	MALES	FEMALES	% OF MALES	% OF FEMALES	SPANISH MALES	SPANISH FEMALES	% OF SPANISH MALES	% OF SPANISH FEMALES	NO GENDER	SUSPENSE VOTERS
360	4,177	1,674	1,829	40.08%	43.79%	130	152	3.11%	3.64%	100	674
361	456	182	197	39.91%	43.20%	11	12	2.41%	2.63%	23	77
367	231	89	108	38.53%	46.75%	7	8	3.03%	3.46%	10	34
369	1,153	412	453	35.73%	39.29%	35	36	3.04%	3.12%	32	288
370	1,080	416	486	38.52%	45.00%	51	52	4.72%	4.81%	52	178
371	2,083	830	961	39.85%	46.14%	29	36	1.39%	1.73%	64	292
379	2,437	1,000	985	41.03%	40.42%	46	46	1.89%	1.89%	82	452
381	4,092	1,313	1,601	32.09%	39.13%	17	29	0.42%	0.71%	35	1,178
382	824	292	316	35.44%	38.35%	18	19	2.18%	2.31%	26	216
413	514	205	199	39.88%	38.72%	15	14	2.92%	2.72%	11	110
415	1,385	572	622	41.30%	44.91%	46	58	3.32%	4.19%	53	191
420	1,690	672	708	39.76%	41.89%	65	71	3.85%	4.20%	39	310
421	1,617	617	702	38.16%	43.41%	102	134	6.31%	8.29%	55	298
423	1,810	701	792	38.73%	43.76%	66	91	3.65%	5.03%	121	317
424	4,044	1,591	1,657	39.34%	40.97%	84	111	2.08%	2.74%	71	796
425	606	250	296	41.25%	48.84%	56	51	9.24%	8.42%	32	60
426	605	244	263	40.33%	43.47%	21	25	3.47%	4.13%	22	98
427	1,806	706	842	39.09%	46.62%	78	105	4.32%	5.81%	47	258
428	1,934	734	867	37.95%	44.83%	92	95	4.76%	4.91%	65	333
429	1,698	599	691	35.28%	40.69%	181	210	10.66%	12.37%	85	408

COUNTY WILLIAMSON

PRECINCT	VOTERS	MALES	FEMALES	% OF MALES	% OF FEMALES	SPANISH MALES	SPANISH FEMALES	% OF SPANISH MALES	% OF SPANISH FEMALES	NO GENDER	SUSPENSE VOTERS
433	766	308	314	40.21%	40.99%	18	15	2.35%	1.96%	23	144
434	1,122	422	520	37.61%	46.35%	35	47	3.12%	4.19%	77	180
436	2,739	996	1,090	36.36%	39.80%	147	181	5.37%	6.61%	179	653
441	119	44	52	36.97%	43.70%	1	3	0.84%	2.52%	2	23
455	1,673	613	746	36.64%	44.59%	74	112	4.42%	6.69%	77	314
456	979	329	456	33.61%	46.58%	98	147	10.01%	15.02%	40	194
463	2,797	955	1,119	34.14%	40.01%	127	168	4.54%	6.01%	68	723
480	3,446	1,323	1,419	38.39%	41.18%	169	201	4.90%	5.83%	117	704
484	3,294	1,240	1,373	37.64%	41.68%	149	193	4.52%	5.86%	216	681
999	1	0	0	0.00%	0.00%	0	0	0.00%	0.00%	0	1
Total	154,394	61,218	67,625	39.65%	43.80%	5,447	6,688	3.53%	4.33%	6,297	25,551

WILLIAMSON COUNTY
Election Precincts With
Greater Than 4000 or
Fewer Than 100 Registered Voters

Precinct No.	Total Precinct Voters	Total Suspense Voters	Net Precinct Voters
146	5,279	790	4,489
253	5,212	649	4,563
331	5,037	757	4,280
999	1	1	0

AGENDA ITEM 2

Discussion of initial assessment, and possible action to adopt a resolution or order to redistrict as necessary.

Moved: **Judge Doerfler**

Seconded: **Commissioner Boatright**

Motion: To adopt a resolution/order to redistrict as necessary.

Vote: **5 - 0**

AGENDA ITEM 3

Discussion and possible action to adopt criteria to govern development of redistricting plans.

Moved: **Judge Doerfler**

Seconded: **Commissioner Hays**

Motion: To adopt criteria to govern development of redistricting plans.

Vote: **5 - 0**

< Attachment >