

Voting Rights Act Issues in Political Redistricting¹

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We recently assisted with the political redistricting of a variety of jurisdictions. Many of these were in Monterey County, California.² The county's uneven geographical distribution of persons ineligible or disinclined to vote created uncertainty about how to meet the Voting Rights Act requirement that districts be constructed to enable minority group members to elect representatives of their choice. We developed ways of dealing with these difficulties, but found that we also needed to deal with conflicts between the Voting Rights Act and the "one person, one vote" requirement that election districts be nearly equal in population.

A question that is fundamental to assessing Voting Rights Act compliance concerns the extent to which population numbers relate to electoral power. Clark and Morrison (1992) have asked "how a minority group's numerical presence in a jurisdiction translates into a political presence" among voters. In Monterey County, certain groups are numerically present but politically *absent*. The voting age population (persons aged 18 and over) is much larger than the population of those eligible to vote (citizens aged 18 and over, not incarcerated for a felony) because of the low citizenship rates of some minority groups and the presence of a significant number of incarcerated felons. Furthermore, many who are eligible to vote, especially military personnel associated with Fort Ord, have not voted in the past. Complying with the Voting Rights Act's requirements to assure "political presence" of minorities in certain election districts is more complex than simply assuring that minority districts have a predetermined minority population percentage.

¹ Prepared for presentation at the 1993 Population Association of America annual meeting in the Demography, Politics and the Law session.

² See Gobalet and Lapkoff, 1991, and Gobalet, 1992, for discussions of some of these projects and related issues.

Low citizenship rates for some minority groups therefore create special quantitative problems for demographers constructing election districts, as do the large nonvoting populations. In Monterey County, there are low and geographically uneven rates of Hispanic citizenship,³ a large prison with nonvoting inmates, and a large, politically inactive military population. The non citizens, members of the military, and inmates are counted for purposes of achieving population equality of election districts, but it is not necessarily appropriate to count them when assessing Section 2 Voting Rights Act compliance.

Monterey County Characteristics

Monterey County is a large, diverse county about 100 miles south of San Francisco and 300 miles north of Los Angeles. Agriculture is the leading economic activity of the Salinas River Valley and the northern part of the county, and growers ship huge quantities of lettuce, broccoli, strawberries, and other row crops. Large numbers of farm workers, including many Mexican citizens, are employed by growers. There are cattle ranching, viticulture, and some oil production in the southern part of the Valley. The Big Sur coast has long been a sanctuary for counterculture members and environmentalists. The Monterey Peninsula and the Carmel Valley have many wealthy residents, with tourism an important source of revenue.

Fort Ord and smaller military enclaves in the Monterey-Seaside-Marina area held more than ten percent of the county's 1990 population, and many associated with the military establishments were members of minority groups. The city of Salinas, the county's largest, experienced rapid population growth during the 1980s, especially of Hispanics. The county also has large, nearly unpopulated, areas in the east, southeast, and in the Santa Lucia mountains that separate the Salinas River Valley from the coast.

The county's 1990 Census population was 355,660. It was 52 percent non-Hispanic White, 34 percent Hispanic, seven percent Asian/Pacific Islander, six percent African American, and one percent Native American (see Table 1). The ethnic mix varied from one age group to another. Although Hispanics were only 34 percent of the total population, they had the largest share (46 percent) of the population under age 18. The population aged 18 and over was only 29 percent Hispanic, a result of Hispanics' higher fertility and younger age distribution.

Hispanic citizenship rates were very low and geographically uneven. Only 52 percent of adult Hispanics and 69 percent of adult Asian/Pacific Islanders were citizens, so Hispanic and Asian/Pacific Islander shares of the voting age citizen population were relatively small. Hispanics were only 18 percent of citizens

³ In some areas, Asian/Pacific Islander citizenship rates were also rather low.

aged 18 and over. Asian/Pacific Islanders were seven percent of the total and adult populations, but only six percent of adult citizens (see Table 1).

Table 1: Monterey County Population, 1990 Census

| | Total | Hispanic | Non-Hispanic | | | | |
|----------------|---------|----------|--------------|-----|-------|-----|-------|
| | | | White | API | Black | IEA | Other |
| Total | 355,660 | 34 % | 52 % | 7 % | 6 % | 1 % | 0 % |
| Persons Aged < | 97,951 | 46 % | 40 % | 7 % | 6 % | 1 % | 0 % |
| Persons Aged | 257,709 | 29 % | 57 % | 7 % | 6 % | 1 % | 0 % |
| Citizens Aged | 212,734 | 18 % | 68 % | 6 % | 7 % | 1 % | 0 % |

Black = Black or African American

API = Asian/Pacific Islander

IEA = American Indian/Native American, Eskimo, Aleut

Sources: PL 94-171 data release and a special tabulation by the Census Bureau.

The Voting Rights Act

Section 2 of the Voting Rights Act of 1965, as amended and as interpreted by the courts, requires that election district boundaries be drawn to provide members of geographically compact, politically cohesive, protected minority groups the opportunity to elect representatives of their choice. Boundaries should neither divide ("crack") nor excessively concentrate ("pack") members of these groups.⁴

Unfortunately, Congress and the courts have not provided useful quantitative guidelines for forming minority districts. In *Ketchum v. Byrne*, 740 F.2d 1398 (1984), the court held that an "effective" majority of Blacks could be achieved in Chicago with a 65 percent Black share of the total population. Five percentage

⁴ Monterey County is also required to submit all proposed changes in election procedures to the U.S. Department of Justice for preclearance under Section 5 of the Voting Rights Act. All districting plans are scrutinized for Voting Rights Act compliance.

points above a population majority were added for Blacks' younger age distribution, five percent for low voter registration, and five percent for low voter turnout. According to Fontana (1989), "The 65 percent figure is not scientifically calculated, but it is a serendipitous figure which has received acceptance among courts and the Justice Department...."

In another case, *James v. City of Sarasota*, 611 F.Supp. 25 (M.D. Fla 1985), a court held that each of two districts that were only 43 percent Black had enough population, given high Black voter turnout rates, to have an effective Black majority. It seems obvious that conditions in each jurisdiction should be examined to determine the minority percentage needed for an effective majority. Of particular importance in Monterey County are the variations in ethnic groups' citizenship rates.

Demographers involved in redistricting may need to suggest how to meet Voting Rights Act requirements. Because the courts have provided only sketchy guidelines, we have had to decide how to devise districting plans that could actually give political power to minority group members. We found that residents of a jurisdiction, including members of task forces set up to recommend districting plans to the decision makers, sometimes could suggest what might be a sufficiently concentrated minority group district.⁵ Nevertheless, we have been asked repeatedly to provide guidance about how Voting Rights Act requirements can be met.

Citizenship Issues

A question confronting the demographer in constructing election districts in Monterey County is: what is the appropriate minority percentage in election districts that are designed to comply with Voting Rights Act requirements? It would be misleading to represent the entire Hispanic or Asian/Pacific Islander voting age population as eligible to vote, since non citizenship is so common.

The results of a 1990 Census special tabulation showed that Hispanic adult citizenship rates were low. In some parts of Salinas, for example, Hispanic citizenship rates were so low that total population shares in excess of the 65 percent suggested in *Ketchum v. Byrne* were needed to assure a Hispanic voting majority. It may be necessary for some election districts to have a total population that is more than 75 percent Hispanic to assure Voting Rights Act compliance. In the cities of Seaside and Marina, the Hispanic and Asian/Pacific Islander citizenship rates were so low that it was difficult to design districts that gave a potential voting majority to all protected minorities combined.

⁵ Precinct work made some task force members very familiar with neighborhood ethnic and citizenship patterns.

Hispanic citizenship rates vary geographically. In some Census tracts, the citizenship rate for Hispanics aged 18 and over was less than 40 percent; in others, it was nearly 100 percent. The Salinas area map on page 6 shows these uneven rates. Adjacent Census tracts have adult Latino⁶ citizenship rates of 32 percent (Tract 10) and 82 percent (Tract 11). Similar patterns exist elsewhere in the county. On the Monterey peninsula, 94 percent of adult Latinos in Tract 134 (Del Rey Oaks) were citizens and in the neighboring Tract 136 (in Seaside), the rate was only 31 percent.

One plan developed for a Salinas school district illustrates the importance of accounting for citizenship rates when evaluating minority group power in districts (Table 2). In this plan, Latinos were 67 percent of the total population in Trustee Area X and 61 percent of the population in Trustee Area Y. It would appear that Latinos in Trustee Area X had more potential political power than those in Area Y. The statistics for the adult population show a similar pattern. However, the Latino percentage of voting age citizens was almost identical in the two districts.

Non Hispanic Whites were 23 percent of Trustee Area X's total population and 43 percent of adult citizens, and 29 percent of Area Y's total population and 45 percent of adult citizens. Non citizenship of Latinos in Salinas creates a profound difference between population percentages and percentages of those eligible to vote.⁷

⁶ "Latinos" are those who identified themselves as Hispanic on the Census, minus Hispanic Asian/Pacific Islanders (many of whom are Filipino) and minus Hispanic Blacks (many of whom are from the Caribbean). Hispanic Asian/Pacific Islanders and Blacks are included with Non Hispanic Asian/Pacific Islanders and Blacks. The Latino category is suitable for use in Monterey County to approximate the Mexican American population that comprises the largest minority group protected under the Voting Rights Act.

⁷ In the districting plan covered in Table 2, the estimated number of persons eligible to vote in both Trustee Areas X and Y was less than half the number eligible to vote in a third trustee area, "Area Z." In Trustee Area Z, 77 percent of the citizens aged 18 and over are non-Hispanic White. Persons campaigning for office in Area Z might have to spend more money and effort to reach a larger number of potential voters, and would have more politically active constituents to serve if elected.

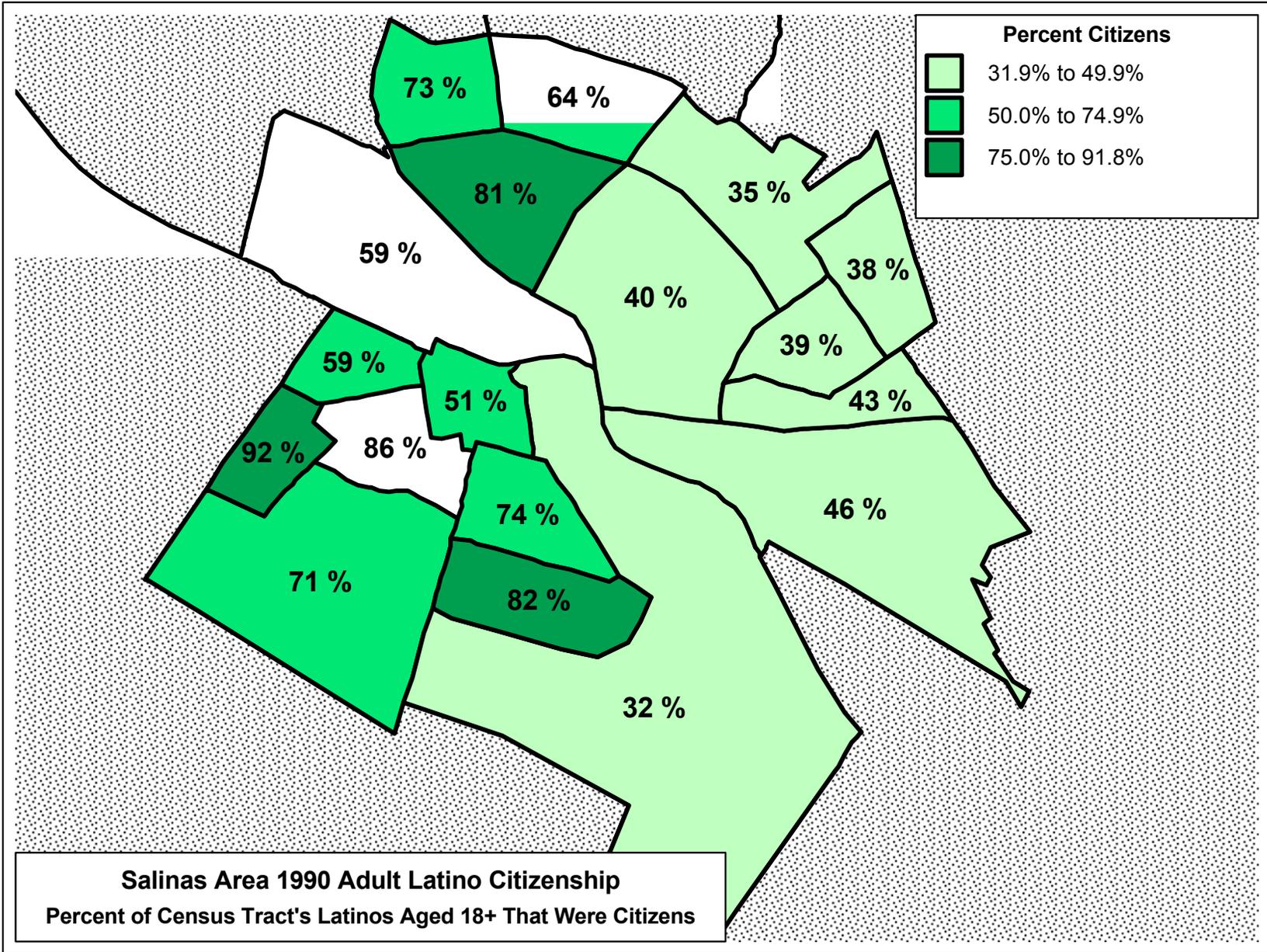
Table 2: A Salinas School District Plan for Trustee Areas

| | <u>Trustee Area X</u> | | <u>Trustee Area Y</u> | |
|-------------------|-----------------------|---------------------|-----------------------|---------------------|
| | Latinos | Non Hispanic Whites | Latinos | Non Hispanic Whites |
| All Ages | 67 % | 23 % | 61 % | 29 % |
| Aged 18 + | 61 % | 28 % | 56 % | 34 % |
| Citizens Aged 18+ | 45 % | 43 % | 44 % | 45 % |

Table 3: Two Election Districts in Two Monterey County Districting Plans

| | Percent Latino | | | |
|--------------|-------------------|---------------|-------------------|---------------|
| | <u>District 1</u> | | <u>District 2</u> | |
| | <u>Plan A</u> | <u>Plan B</u> | <u>Plan A</u> | <u>Plan B</u> |
| All Ages | 66.1% | 65.2% | 51.1% | 49.9% |
| Population | 60.4% | 59.5% | 45.3% | 45.4% |
| Citizens 18+ | 41.9% | 42.2% | 29.1% | 29.4% |

The geographical variation in citizenship rates can lead to inaccurate conclusions if plans are evaluated without citizenship data. It is possible to choose a districting plan on the basis of total population or voting age population ethnic distribution figures that does not maximize minority group voting strength. In Table 3, data for two actual districting plans are shown. If one does not take citizenship into account, Plan A would appear to give greater Latino power than Plan B in both Districts 1 and 2. After citizenship rates are taken into account, it becomes clear that Plan B provides slightly greater Latino influence in both districts. Neither plan has a district with a Latino majority of voting age citizens.



Comparison of 1980 and 1990 Citizenship Rates

Citizenship information is not provided in the PL 94-171 redistricting data released early in the year following a decennial Census. This information is needed to determine the number of those eligible to vote when evaluating plans like those discussed above. It was late 1992 before it was possible to obtain from the Census Bureau a special tabulation of Monterey County 1990 citizenship by race/ethnicity.⁸ Therefore, nearly all redistricting in that county was done without important data.

We did have the results of a special tabulation of the 1980 Census showing citizenship by race/ethnicity (with very low rates in some areas), but lacked information about how valid these data were in 1990.⁹ In 1980, the Hispanic population aged 8 to 17 had a much higher citizenship rate than the population aged 18 and older. This led to the expectation that citizenship rates might increase as members of the younger group reached voting age. However, the results of the 1990 Census special tabulation showed that adult citizenship rates had actually fallen for Hispanics, and, to a lesser extent, for Asian/Pacific Islanders. Only 52 percent of the county's adult Hispanics were citizens in 1990, down from 58 percent in 1980. Evidently, immigration of non citizens into Monterey County offset the aging of the younger citizen population (see Table 4).

Table 4: Monterey County Hispanic Citizenship in 1980 and 1990

| Age Group | Total | Citizens | Non Citizens | Citizenship Rate |
|----------------------------|---------|----------|-----------------|---------------------|
| Total Population | | | | |
| 1980 | 74,623 | 50,539 | 24,084 | 67.7% |
| 1990 | 116,431 | 75,281 | 41,150 | 64.7% |
| Population Aged 18+ | | | | |
| 1980 | 44,204 | 25,818 | 18,386 | 58.4% |
| 1990 | 71,928 | 37,131 | 34,979 | 51.6% |

Source: Special tabulations of the 1980 and 1990 Censuses.

⁸ Citizenship information comes from the long form of the Census, and is processed and released later than many other data items.

⁹ Incomplete data from the Immigration and Naturalization Service indicated that few Monterey County Hispanics became citizens during the 1980s.

Figure 1 shows the relationship between the 1980 and 1990 rates of Hispanic citizenship in Monterey County Census tracts.¹⁰ The diagonal line represents no change in rates between 1980 and 1990. Tracts in which citizenship rates dropped are below the diagonal line, and tracts in which rates increased are above the diagonal. The correlation between 1980 and 1990 Hispanic citizenship rates was .67. This suggests that using 1980 citizenship rates to guide redistricting in the early 1990s could have been useful. However, it would be much better to have citizenship data released with the PL 94-171 data. Population change in an area can make citizenship rates change greatly during a decade, and citizenship data are extremely useful.

Military Personnel

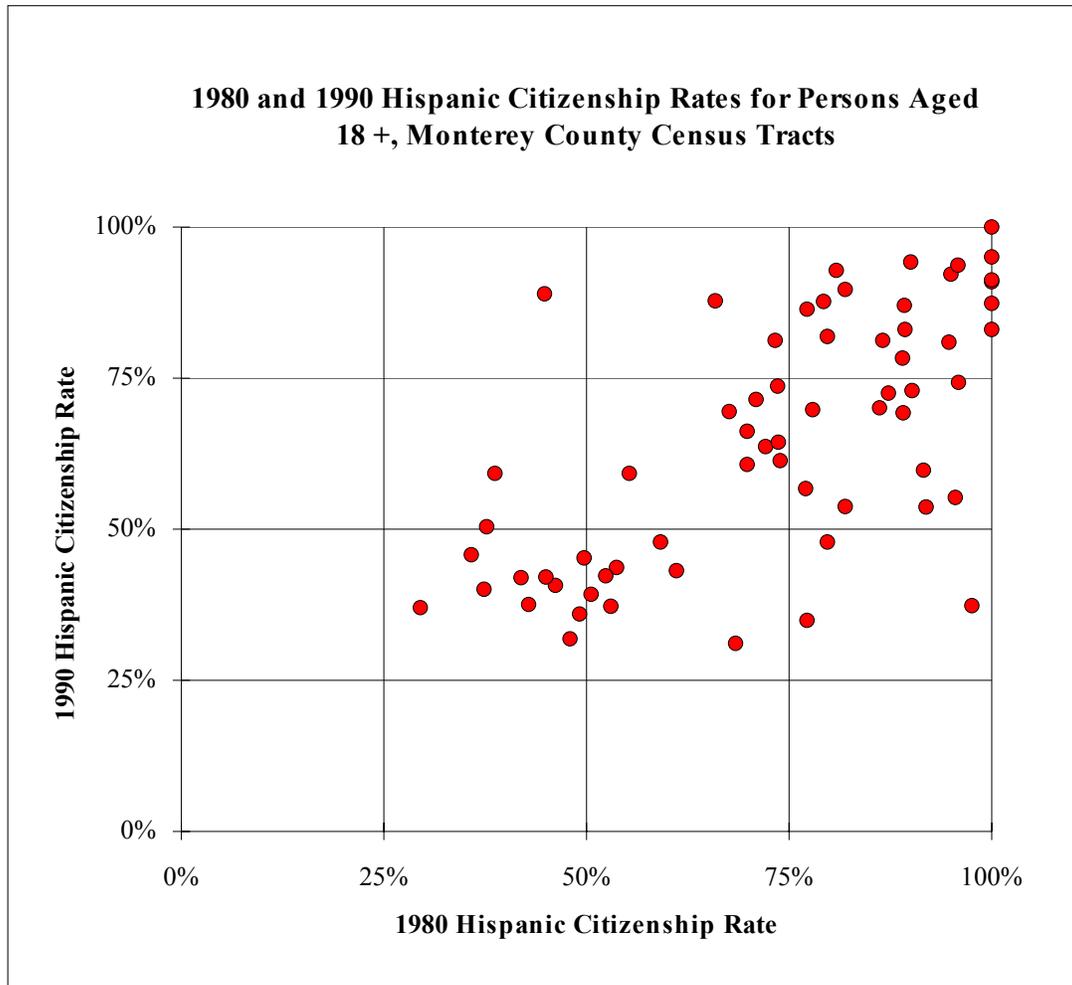
In 1990, more than ten percent of the county's population¹¹ was associated with the Fort Ord military complex (Fort Ord Military Reservation, Presidio of Monterey, and Fort Hunter Liggett), scheduled to be downsized during the 1990s. Military personnel included a substantial number of minority group members, geographically concentrated at Fort Ord (between the Monterey Peninsula and Salinas, the county's largest city). Less than 20 percent of Fort Ord residents eligible to vote were registered in Monterey County in 1990 compared with more than 70 percent in the rest of Monterey County.¹² In the November 1990 election, only three percent of adult citizens in Fort Ord voted, compared with 43 percent in the rest of the county.

¹⁰ Tracts whose boundaries changed during the decade were omitted from this analysis.

¹¹ The figure includes military personnel, civilian employees, and dependents.

¹² Monterey County Registrar of Voters.

Figure 1: Change in Hispanic Citizenship, 1980 - 1990



The presence of a very large nonvoting population made Fort Ord an attractive addition to any election district.¹³ Historically, politicians may not have felt they needed to campaign or pay special attention to the population of that area. The Fort's minority group concentrations also made the area attractive for those interested in creating minority political districts: the Fort's population (with relatively large numbers of minority group members) could be used to help create one or more minority districts. There were debates between those interested in using an undivided Fort Ord for Voting Rights Act compliance and those with other political interests.

¹³ However, it is difficult to divide Fort Ord between election districts because the entire Fort is a single Census tract divided into only three populated blocks (with populations of 15,533, 9,452, and 3,582). There is no basis provided by the Census for subdividing the population in these blocks.

Announcement of Fort Ord downsizing, made in October 1991, complicated the debates because of the effect of depopulation on election districts' sizes. It was argued that dividing the Fort between two or more election districts would minimize impact of depopulation and keep district populations more equal.

The planned depopulation of Fort Ord prompted anguished speculation and attempts to plan repopulation of vacated Army housing. Public discussion of all districting projects after downsizing was announced included people insisting that the changes be taken into account when devising plans. However, there was too little information about future land use for this to be possible.

Prison Inmates

Another example of a numerically present, politically absent group in Monterey County is the inmate population at the Soledad Correctional Facility and Gabilan Conservation Corps quarters, about 20 miles south of Salinas, which had more than 6,200 inmates in 1990. Mostly convicted felons, the inmates are not permitted to vote, but are counted for purposes of complying with the one person, one vote standard in political redistricting.

In one redistricting project, it was useful to divide prison inmates between two election districts to avoid dividing the small city of Soledad. We provided decision makers with figures showing adjustments of estimates of the eligible voter population that took the nonvoting status of inmates into account. The inmate population was used to provide numbers in two trustee areas, but the inmates were not included in the ethnic statistics indicating Voting Right Act compliance. Estimated Hispanic percentages in the election districts increased as a result, since the inmate population was less Hispanic than the population of the surrounding area.

Data Presentation Issues

To inform clients about one person, one vote and Voting Rights Act compliance of various districting plans, we found it necessary to present demographic statistics tailored to specific uses. Statistics on total population must be provided to show one person, one vote compliance. It can also be useful to present ethnic composition statistics for more limited subsets of the population. Only persons aged 18 and over are eligible to vote. Incarcerated felons obviously should not be counted among possible voters. Citizenship rates should be used, when available, to supplement data in areas known to have recently arrived Hispanic and Asian/Pacific Islander populations. In areas like Monterey County where extremely low percentages of military personnel register and vote, alternative statistics that exclude this

population can be provided to give a more realistic picture of the ethnic mix of registered voters. Table 5 is a sample of specialized data presentation, designed to give an accurate idea of actual voting potential.

Conflicts Between One Person, One Vote and the Voting Rights Act

Difficulties in simultaneously complying with the one person, one vote requirement and the Voting Rights Act developed during some of our projects. One person, one vote (a constitutional requirement), should take legal precedence over Voting Rights Act requirements (which are statutory). However, conflicts between the two requirements generally were resolved in ways that favored the Voting Rights Act.

In most plans developed for Monterey County jurisdictions, the "Latino districts" had the smallest total populations. Those wishing to maximize Latino voting power pressed for small districts, perhaps so Latino influence could be felt in as many districts as possible. If the one person, one vote requirement was to be met in a districting plan with a tolerable population deviation, the non-Latino voting districts needed to be almost equal in population. This made it very difficult to design non-Latino voting districts that kept neighborhoods intact and used boundaries like major roads and major topographical features.

Districting and redistricting plans developed for Monterey County jurisdictions inevitably featured some election districts with relatively large numbers of voters, others with much smaller numbers of voters. Because Latino citizenship rates were low, districts with a Latino population majority tended to have especially small numbers of voters. This is a (probably) unanticipated and currently tolerated consequence of the Voting Rights Act. Districting to empower minorities protected by the Act would have this effect in area that have minorities with younger age distributions, low citizenship rates, and low registration and turnout rates. See Clark, Morrison, and Abrahamse, 1990, and Morrison and Clark, 1991, for additional examples of this phenomenon. So far as we know, courts have not found this to be a violation of the one person, one vote requirement.

**Table 5: Monterey County Districting Plan
Demographic Statistics**

| | District 1 | District 2 | District 3 | | District 4 | | District 5 | TOTAL |
|-------------------------------------|------------|------------|----------------------------|----------------------------|-----------------------|-----------------------|------------|---------|
| Total Population | 75,338 | 70,696 | 68,335 | | 68,715 | | 72,576 | 355,660 |
| | | | Including Fort & Prison | Excluding Fort & Prison | Including Fort Ord | Excluding Fort Ord | | |
| % Latino | 31.1% | 65.2% | 49.9% | 61.8% | 12.2% | 12.8% | 5.1% | 32.5% |
| % White (NH) | 57.8% | 24.1% | 35.8% | 32.9% | 53.4% | 52.0% | 88.8% | 52.3% |
| % API | 7.6% | 7.3% | 4.1% | 3.5% | 16.1% | 18.9% | 4.3% | 7.8% |
| % Black | 2.5% | 2.6% | 9.1% | 1.0% | 17.4% | 15.5% | 1.3% | 6.4% |
| % IEA (NH) | 0.8% | 0.5% | 0.6% | 0.6% | 0.7% | 0.6% | 0.4% | 0.6% |
| % Other (NH) | 0.2% | 0.3% | 0.5% | 0.3% | 0.2% | 0.2% | 0.1% | 0.3% |
| Population 18 + | 53,930 | 45,535 | 47,002 | | 51,302 | | 59,941 | 257,709 |
| | | | Including Fort & Prison | Excluding Fort & Prison | Including Fort Ord | Excluding Fort Ord | | |
| % Latino | 27.2% | 59.5% | 45.4% | 56.8% | 11.1% | 11.6% | 4.8% | 27.8% |
| % White (NH) | 61.7% | 29.0% | 39.1% | 37.6% | 56.4% | 55.5% | 89.3% | 57.1% |
| % API | 7.8% | 8.0% | 4.0% | 3.8% | 15.2% | 17.9% | 4.2% | 7.8% |
| % Black | 2.4% | 2.6% | 10.3% | 1.0% | 16.5% | 14.2% | 1.3% | 6.4% |
| % IEA (NH) | 0.8% | 0.6% | 0.6% | 0.6% | 0.7% | 0.6% | 0.4% | 0.6% |
| % Other (NH) | 0.2% | 0.2% | 0.6% | 0.3% | 0.2% | 0.1% | 0.1% | 0.2% |
| Citizens 18+ (Estimated) | 46,040 | 29,553 | 34,594 | | 44,677 | | 56,885 | 211,749 |
| | | | Including Fort & Prison | Excluding Fort & Prison | Including Fort Ord | Excluding Fort Ord | | |
| % Latino | 17.8% | 42.2% | 29.4% | 38.8% | 8.0% | 7.7% | 3.9% | 17.3% |
| % White (NH) | 71.1% | 43.6% | 51.9% | 54.7% | 61.7% | 62.0% | 91.1% | 67.5% |
| % API | 7.3% | 8.9% | 3.8% | 4.0% | 10.7% | 12.8% | 3.2% | 6.6% |
| % Black | 2.7% | 4.0% | 13.8% | 1.5% | 18.7% | 16.6% | 1.3% | 7.7% |
| % IEA (NH) | 1.0% | 1.0% | 0.8% | 0.9% | 0.8% | 0.7% | 0.4% | 0.8% |
| % Other (NH) | 0.2% | 0.3% | 0.3% | 0.2% | 0.2% | 0.2% | 0.1% | 0.2% |

Total Population 355,660
Ideal District Size 71,132
Largest District 75,338
Smallest District 68,335
Percent Deviation 9.8%

NOTE: Latino percentages do not include Hispanic Blacks and Hispanic APIs. A district's percent Hispanic is approximately one point higher than its percent Latino.

NH = Non-Hispanic; IEA = Native American, Eskimo or Aleut; API = Asian or Pacific Islander
Columns may not appear to total 100 percent because of rounding.

We encountered another sort of conflict between the one person, one vote requirement and the Voting Rights Act as a result of the decision to close Fort Ord. It was expected that by the mid-1990s, most of the population associated with the installation would leave the county. To minimize the impact of the population loss on a redistricting plan's one person, one vote compliance, Fort Ord could be divided among voting districts. However, if all of the politically inert Fort Ord population were included in a minority election district, the minority groups' voting power would be enhanced. These possibilities were discussed, and were resolved in various ways.

Recommendations

We urge others involved in redistricting to use all available data and all appropriate analyses. Voting Rights Act and one person, one vote compliance can be measured in various ways, so it is essential to use the data and methods best suited to a particular situation. In places like Monterey County, data on citizenship by ethnicity are extremely useful.

Because citizenship rates are so important for evaluating minority group political power, we urge the Census Bureau to release citizenship rate data with the PL 94-171 Redistricting Data Release after the year 2000 Census. If this is not possible, citizenship data by race/ethnicity for states like California and Texas should be processed much more rapidly, and should be widely available, not just from costly special tabulations by the Bureau.

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