

Project Report: Redistricting in Washington (Paper 1 of 3)

Brett Parker

I. Project Overview

This project consists of three papers, each of which considering congressional redistricting in one of three starkly different states: Washington, Oklahoma, and Mississippi. Each jurisdiction brings distinctive challenges. Washington has a reasonably sized non-white population, but it is split among several different racial and ethnic minorities.¹ Oklahoma is predominantly white, yet a substantial proportion of the state is an Indian reservation.² Meanwhile, Mississippi has enough Black voters to produce majorities in two districts—however, drawing two Section 2 districts would raise serious constitutional concerns. Working through the redistricting process in each state brings an opportunity to consider a variety of legal and pragmatic issues, including compliance with the Voting Rights Act (VRA), respecting state redistricting criteria, and drawing maps that adhere to “good government” principles.

This project is organized as follows. For each of the three states under consideration, I discuss at least two potential maps, at least one of which is a “good government” map. I articulate the principles prioritized, discuss demographic and geographic considerations, and consider splits of subdivisions and communities of interest. Next, I consider partisan and legal considerations, before comparing the map to the previous districts and the states newly drawn districts (if any). Each of these sections differs somewhat by state, and some subsections may be extremely short to avoid needless repetition. This paper focuses exclusively on redistricting in

¹ U.S. CENSUS BUREAU, QUICKFACTS WASHINGTON (last visited Nov. 23, 2021), <https://www.census.gov/quickfacts/WA>.

² Jack Healy & Adam Liptak, *Landmark Supreme Court Ruling Affirms Native American Rights in Oklahoma*, N.Y. TIMES (July 11, 2020), <https://www.nytimes.com/2020/07/09/us/supreme-court-oklahoma-mcgirt-creek-nation.html>.

Washington. The second paper in the series examines Oklahoma, and the final report concerns Mississippi.

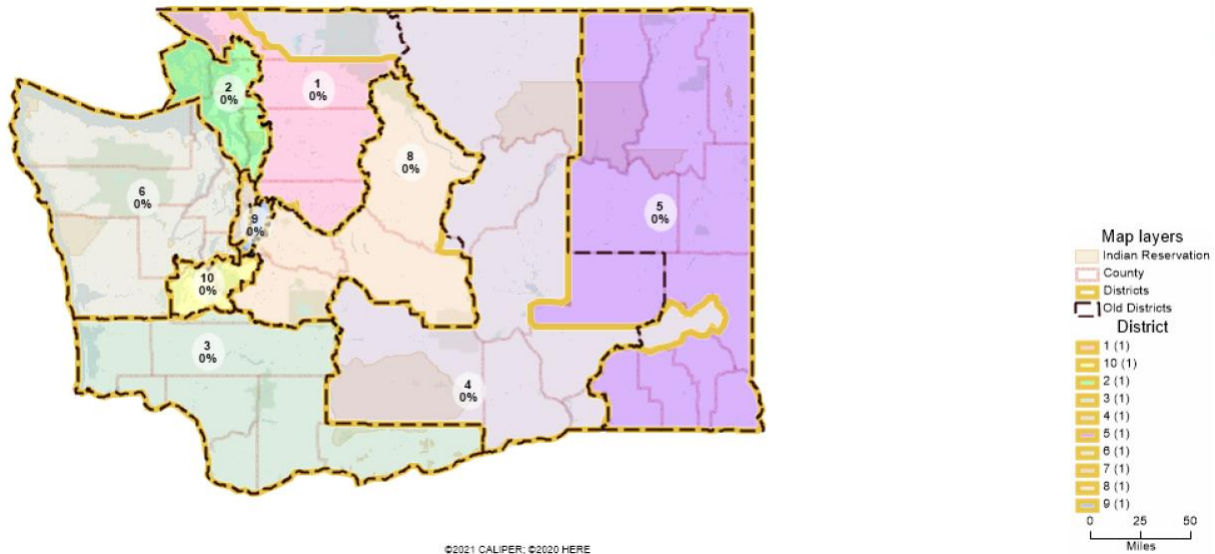
II. Redistricting in Washington State

The first state under consideration is Washington. Washington has a population of approximately 7.7 million people and is entitled to ten House members after the 2020 census (unchanged from the 2010 census).³ This report provides two maps for Washington: a “least change” map and a “good government” map. I discuss the least change map first.

A. Least Change Plan for Washington State

1. Maps

This section provides maps of both individual congressional districts and the state as a whole. In the first image, the black dotted lines represent the old district lines, while the filled areas (with yellow borders) depict the new districts. Appropriately for a least change map, the new lines largely resemble the old lines.

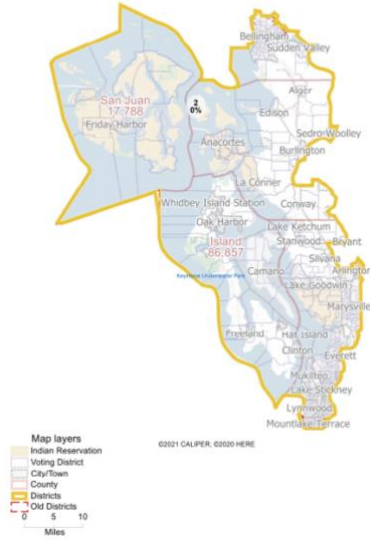


³ See U.S. CENSUS BUREAU, *supra* note 1.

District: 1



District: 2



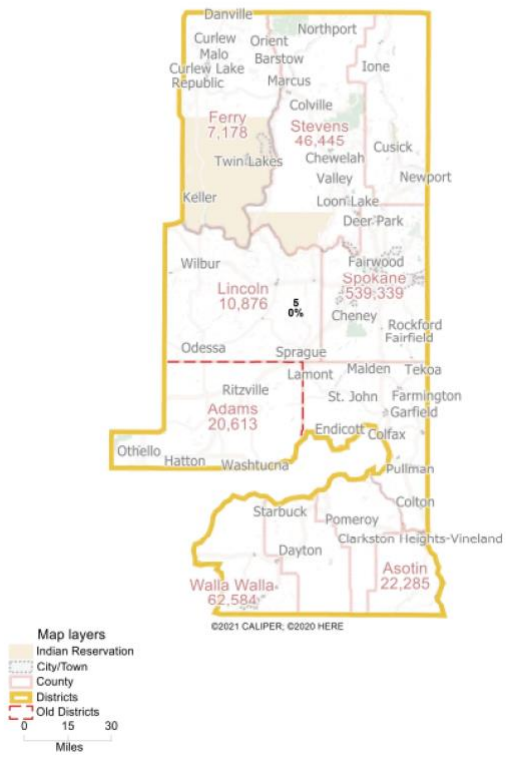
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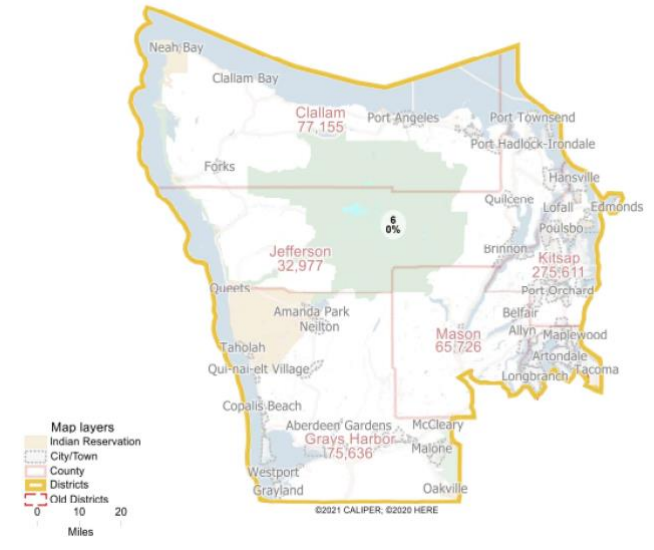
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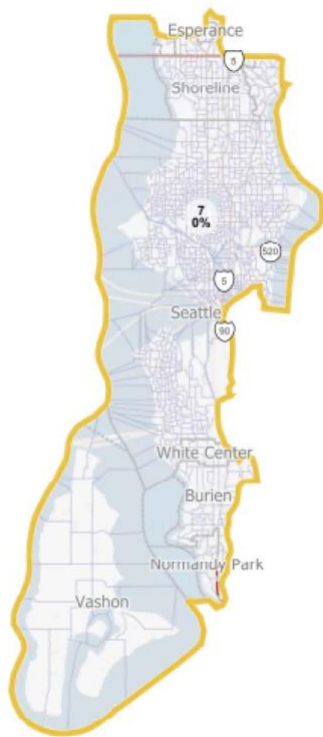
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District: 6



District: 7



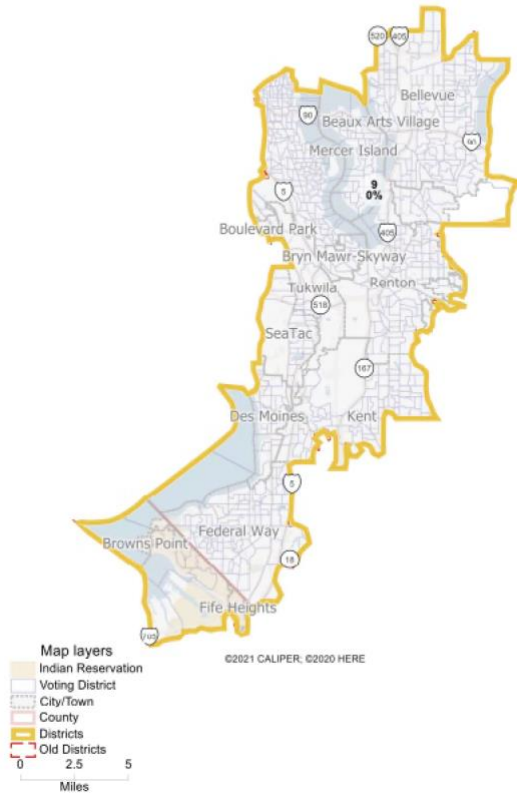
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District: 8

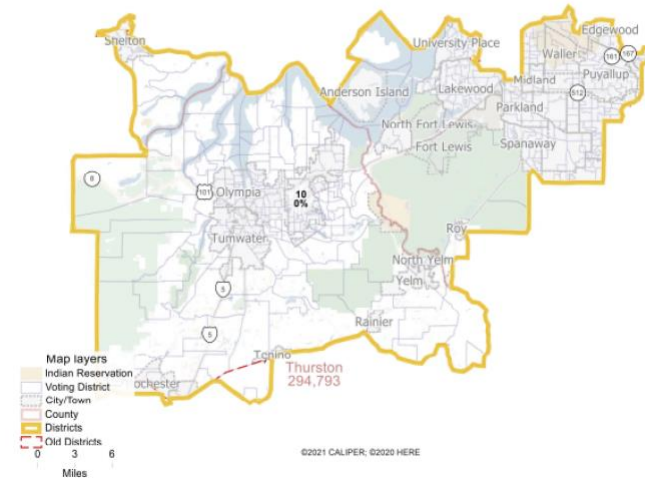


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District: 9



District: 10



2. Principles Prioritized

As mentioned above, this map prioritizes respect for preexisting district lines. It makes adjustments to comply with the constitutional principle of “one person, one vote” (discussed in more detail in Section II.A.8.iii), but otherwise adheres to preexisting district boundaries. Least change maps have a number of virtues. For example, they contribute to political stability. Incumbents who already know how to represent particular communities do not have to adjust to a completely new set of constituents; meanwhile, established interest groups do not have to reimagine their strategies to address new political circumstances. In addition, least change maps may not be as vulnerable to litigation. If the general contours of the existing map were not

successfully challenged in the previous decade, there is a reasonable probability they will survive future challenges.⁴ This trait may save the state a protracted and expensive court battle. None of these features mean that least change maps are always ideal—if the preexisting map contains significant political or racial inequities, a least change map will almost certainly reproduce the problem. Nevertheless, they may be an appropriate choice for some states under certain circumstances.

While this map primarily aims to preserve existing districts, it cannot be considered a “pure” least change map—it deviates somewhat in order to keep districts compact. The eastern half of the state contains the most obvious departures from the least change principle. The old CD4 shrank substantially compared to the rest of the state in terms of population and needs to expand. However, CD5 *also* needed more people, and could only expand into the Fourth. I accordingly moved Adams County into CD5 and expanded CD4 into the already split Whatcom County. Unfortunately, pushing CD4 into Whatcom narrowed the strip of land connecting the northwest part of CD1 to the southeastern portion. To prevent this land bridge from becoming unreasonably thin, I completed the expansion of CD4 by pushing into a sparsely populated area of Whitman County (in the southeast part of the district).

Other “least change” maps could certainly be drawn, but they would involve at least as many county splits and potentially more oddly shaped districts. The existing map also allows the lines in the western half of the state to remain largely unchanged. As I will discuss below, it also improves on the previous map by limiting political subdivision splits.

⁴ Barring, of course, a substantial increase in the non-white population in a particular area of the state.

3. Demographic Considerations

No non-white group in Washington has a sufficiently large and geographically compact population to obtain a majority-minority district on its own. However, in the Seattle area, the non-white population can collectively constitute more than 50 percent of the voting age population (VAP) in a district. The previous CD9 had a non-white majority—this map preserves the status quo. In the new CD9, 12.6 percent of the VAP is at least part Black; 2.56 percent is at least part Native American; 28.89 percent is at least part Asian American; and 11.58 percent is some part Hispanic. The VAP white population is 43.95 percent.

CD4 is the only other district where less than 63 percent of the VAP is non-white (57.16 percent white VAP). However, no other single racial or ethnic group comprises more than 34 percent of the population. With that in mind, there is no prospect of drawing a Section 2 district in the general area of CD4.

Other than to the extent necessary to assess VRA compliance, I generally did not consider race or other demographic criteria in drawing the new district lines. The goal was to deviate minimally from the existing district lines while still complying with state and federal redistricting law. The only departures from the “least change” principle were to improve compactness and limit subdivision splits.

4. Geographic Considerations and Compactness

This map largely preserves the preexisting distribution of geographical features. However, it does move Glacier Lake National Park from CD1 into CD4, which would move it from a Democrat-represented district into a Republican-represented district. Given that conservation is a major issue for incumbent CD1 Congresswoman Suzan DelBene, she likely

would object to losing this and other environmentally significant areas.⁵ Nevertheless, Congresswoman DelBene’s district has grown substantially in terms of population (gaining 19,212 people), so some of the less populated areas of her district need to be eliminated.

In terms of compactness, this map fares relatively well despite prioritizing the least change principle. The mean Reock score is 0.36, while the average Schwartzberg score is 1.98. By these statistical measures, the least compact districts are CD3 and CD4. However, neither district has a particularly ugly appearance. True, CD4 covers an extended geographical area. However, the eastern half of Washington is sparsely populated, meaning that CD4 was always likely to cover a significant amount of territory. Meanwhile, CD3 appears visually quite compact; it simply extends slightly to the east to capture an entire county. On the whole, none of these districts seem to offend general aesthetic sensibilities.

5. Political Subdivisions

Since this map focuses on maintaining the preexisting district lines to the greatest extent possible, it tolerates a significant number of subdivision splits. Of the state’s 39 counties, the map splits 11; likewise, it breaks up 33 of the states 7,401 voting districts. Each of the voting district splits involves only two congressional districts. However, the map often splits counties three ways or more. King County—home to Seattle—contains parts of four different districts, as do Snohomish and Pierce. Some county splits are inevitable in a state of Washington’s size. Nevertheless, as the “good government” map discussed below demonstrates, it would be relatively easy for Washington authorities to draw a plan with fewer county splits.

⁵ U.S. CONGRESSWOMAN SUZAN DELBENE, ENVIRONMENT (last visited Nov. 23, 2021), <https://delbene.house.gov/issues/issue/?IssueID=14888>.

6. Other Communities of Interest

While this least change plan limits county splits, it does increase the number of towns divided from 36 to 50. These divisions were in service of three goals: (1) preserving larger subdivisions (i.e., counties); (2) retaining most preexisting district lines despite shifting populations; and (3) improving compactness. Trying to meet all three goals simultaneously (particularly (2) and (3)) entailed sacrifices, and municipality divisions is among them. A plan that prioritizes different criteria could almost certainly improve on this map when it comes to preserving towns. It is worth noting, however, that this map does not otherwise substantially increase splits among communities of interests, as it largely maintains the existing district lines.

7. Partisan Considerations

I did not consider the partisan identification of voters in drawing these congressional lines, but it is nevertheless important to evaluate the partisanship of the resulting districts. The PlanScore.org evaluation of my map rates three districts (CD9, CD7, and CD2) as safely Democratic, while three others (CD3, CD4, and CD5) are firmly Republican. Three of the remaining districts lean Democratic and one slightly favors the GOP. This distribution of seats approximately matches the currently Washington congressional delegation, which is composed of seven Democrats and three Republicans. PlanScore.org predicts that Republicans would have a slight advantage in the newly redrawn CD8, but the predicted outcome is 51-49; accordingly, it is hardly surprising that a Democrat currently holds that district after a tight election.⁶

Given that Democrats typically capture around 60 percent of statewide votes in Washington, a six to four congressional split appears fair.⁷ The “efficiency gap” and “partisan

⁶ WASHINGTON ELECTION RESULTS, N.Y. TIMES (last visited Nov. 23, 2021), <https://www.nytimes.com/interactive/2020/11/03/us/elections/results-washington.html>.

⁷ *Id.*

gap” measures that PlanScore.org provides indicate the same. The efficiency gap is approximately 0.7 percent (close to the median), while the partisan bias measure is 5.0 percent. By the former metric, only 10 percent of historical plans are more balanced than this one; by the latter, 46 percent of plans are more balanced. To the extent that proportional partisan representation is a virtue in redistricting plans, this least change map succeeds.

District Map



District Data

District	Candidate Scenario	Pop. 2020	Hispanic CVAP 2019	Non-Hisp. Black CVAP 2019	Non-Hisp. Asian CVAP 2019	Non-Hisp. Native CVAP 2019	Chance of 1+ Flips [†]	Chance of Democratic Win	Predicted Vote Shares	Biden (D) 2020	Trump (R) 2020
1	Open Seat	770,529	5.7%	1.7%	8.5%	1.9%	No	92%	57% D / 43% R	253,071	159,636
2	Open Seat	770,528	6.4%	3.3%	8.1%	2.1%	No	97%	59% D / 41% R	260,325	146,320
3	Open Seat	770,528	5.1%	1.9%	3.6%	2.2%	No	7%	43% D / 57% R	198,018	213,662
4	Open Seat	770,528	21.7%	1.5%	1.8%	3.5%	No	<1%	35% D / 65% R	128,585	187,460
5	Open Seat	770,503	5.4%	1.9%	2.3%	2.6%	No	2%	40% D / 60% R	180,510	218,928
6	Open Seat	770,528	5.2%	4.2%	4.6%	3.2%	Yes	86%	55% D / 45% R	260,662	174,871
7	Open Seat	770,528	5.5%	4.6%	11.7%	1.4%	No	>99%	84% D / 16% R	395,280	53,502
8	Open Seat	770,528	6.4%	3.3%	8.0%	1.9%	Yes	39%	49% D / 51% R	216,991	187,757
9	Open Seat	770,528	6.6%	11.8%	21.2%	1.5%	No	>99%	70% D / 30% R	264,262	88,369
10	Open Seat	770,528	7.6%	7.2%	7.5%	2.3%	Yes	74%	53% D / 47% R	211,902	154,130

8. Legal Compliance

i. The U.S. Constitution

The U.S. Constitution generally requires near-perfect population equality in Congressional districts. The foundational case in this area is *Wesberry v. Sanders*, which required approximate population equality under Article I, Section 2 of the Constitution.⁸ Two subsequent cases further honed this requirement: *Karcher v. Daggett*⁹ and *Tennant v. Jefferson County*.¹⁰ The former required that states make a good faith effort to achieve perfect population equality, only allowing deviations for consistently applied, legitimate interests.¹¹ *Tennant* reinforced the possibility that a consistently applied, legitimate interest—such as preserving political subdivisions—could potentially justify narrow deviations from perfect equality, but also specified that the burden is on the state to justify those deviations.¹²

Other litigation has considered the population that must be equalized to comply with the one person, one vote principle. In *Burns v. Richardson*, the Court determined that equalizing the number of registered voters in a district complied with the constitutional requirement.¹³ However, *Evenwel v. Abbott* clarified that states were allowed to draw maps with the same number of residents (rather than voters).¹⁴

This map fulfills the requirements of one person, one vote by equalizing the number of residents in each district. All ten congressional districts deviate by less than one person from complete population equality (given that the population of Washington is not divisible by ten,

⁸ 376 U.S. 1, 3, 7–8 (1964).

⁹ 462 U.S. 725 (1983).

¹⁰ 567 U.S. 758 (2012).

¹¹ *Karcher*, 376 U.S. at 740-741.

¹² *Tennant*, 567 U.S. at 759.

¹³ 384 U.S. 73, 85–87 (1966).

¹⁴ 136 S. Ct. 1120, 1126–27 (2016).

perfect population equality is impossible). The least populated districts have a population of 770,528, while the most populated districts have a population of 770,529.

The U.S. Constitution also forbids racial gerrymandering (with a narrow exception for VRA compliance). Under *Shaw v. Reno*,¹⁵ if a plaintiff proves that race has dominated other redistricting criteria—such as compactness, contiguity, and respect for political subdivision lines—then the state must prove that the districts are narrowly tailored to comply with Section 2 of the VRA.¹⁶ Generally speaking, only oddly-shaped districts (or clear evidence of intent to racially gerrymander¹⁷) will give rise to a realistic *Shaw* claim.

This map is unquestionably valid under *Shaw v. Reno*. I did not consider race in drawing this map—CD9 remains majority-minority simply because it largely preserves the previous subdivision lines. Moreover, the districts are reasonably compact, and all are contiguous. In light of these considerations, no *Shaw* challenge would have a realistic chance of success.

ii. The VRA

This map presents an interesting VRA issue—whether the majority-minority CD9 is mandatory under Section 2 of the VRA, or merely permissible. There is currently a circuit split on the issue.¹⁸ The Fifth and Eleventh Circuits have allowed such aggregate claims,¹⁹ while the Sixth Circuit has rejected them.²⁰ The Second and Ninth Circuit have reviewed such suits without commenting on their permissibility.²¹ Since Washington is part of the Ninth Circuit, no

¹⁵ 509 U.S. 630 (1993).

¹⁶ *Bush v. Vera*, 517 U.S. 952, 977 (1996).

¹⁷ *Miller v. Johnson*, 515 U.S. 900, 907 (1995).

¹⁸ See Kevin Sette, Note, *Are Two Minorities Equal to One?: Minority Coalition Groups and Section 2 of the Voting Rights Act*, 88 *FORDHAM L. REV.* 2693, 2709 (2020).

¹⁹ *Concerned Citizens of Hardee Cty. v. Hardee Cty. Bd. of Comm'rs*, 906 F.2d 524, 526 (11th Cir. 1990); *League of United Latin American Citizens, Council No. 4386 v. Midland Independent School District*, 812 F.2d 1494 (5th Cir. 1987).

²⁰ *Nixon v. Kent County*, 76 F.3d 1381, 1388 (6th Cir. 1996).

²¹ *Bridgeport Coal. for Fair Representation v. City of Bridgeport*, 26 F.3d 280 (2d Cir. 1994); *Badillo v. City of Stockton*, 956 F.2d 884 (9th Cir. 1992).

case would squarely control whether this type of claim is cognizable. While the Supreme Court’s conclusion in *Bartlett v. Strickland*—that Section 2 does not require crossover districts—would seem to militate against minority groups bringing aggregate claims, it remains possible that the Ninth Circuit would recognize them.

In any case, it is unlikely that the Seattle-area minority voters could successfully bring a Section 2 suit even if aggregate claims were allowed. It would take the combined population of three minority groups (Blacks, Hispanics, and Asian Americans) to constitute a minority, and it seems improbable that this group could meet so-called “cultural compactness” requirement of *LULAC v. Perry*.²² Accordingly, Section 2 of the VRA probably does not require that CD9 be majority-minority (though again, such a district is clearly permissible).

iii. State Law

In Washington, both the state constitutional and statutory law establish redistricting criteria. The state constitution provides that

“each district shall contain contiguous territory, shall be compact and convenient, and shall be separated from adjoining districts by natural geographic barriers, artificial barriers, or political subdivision boundaries. The commission's plan shall not provide for a number of legislative districts different than that established by the legislature. The commission's plan shall not be drawn purposely to favor or discriminate against any political party or group.”²³

However, Westlaw only reveals one Washington case interpreting these requirements: *Kilbury v. Franklin County*.²⁴ In that case, the Washington Supreme Court considered the meaning compactness requirement. It concluded that compactness means “as regular in shape as possible.” More importantly, though, the court indicated that it would apply an “arbitrary and

²² See 548 U.S. 399, 434 (2006) (recognizing that “the disparate needs and interests of [different] populations” can defeat compactness).

²³ WASH. CONST. art. 2 § 43(5).

²⁴ 90 P.3d 1071 (Wash. 2004).

capricious” standard to asserted violations of that constitutional provision.²⁵ Given that this standard grants the redistricting body significant discretion in drawing the lines, it is unlikely that this map—based as it is on the preexisting lines—would fail constitutional review.

In addition to the state constitutional requirements, RCW 44.05.090 reinforces the requirements of compactness, contiguousness, and limiting political subdivision splits.²⁶ There are no existing cases that enforce these requirements, though. With this lack of precedent in mind, it is not clear that 44.05.090 places any meaningful restrictions on redistricting. As noted above, though, this least change map likely complies with 44.05.090 to a similar extent as the preexisting congressional districts.

9. My Proposed Plan vs. The Existing Plan

At various points so far, I have pointed out differences between this plan and the existing plan. In truth, though, this plan largely resembles the preexisting one; after all, it is a least change plan. Nevertheless, it is worth summarizing and explaining the differences between the two.

First, both CD4 and CD5 lost thousands of residents relative to the rest of the state since the last redistricting. As such, they needed to expand. CD5 does so by encroaching on territory previously located in CD4, while CD4 takes on land from the previous CD5 and CD1. In the rest of the state, the geographic boundaries barely shift. CD7, CD8, and CD9—all of which include part of King County—each became overpopulated and needed to shrink slightly. CD1 and CD10 were in the same boat. Ultimately, CD1 contracts the most geographically to accommodate CD4 and CD5. However, CD7 gives up a substantial chunk of its northwest corner (in Snohomish County) in order to repopulate CD6. The unfortunate consequence of doing so is that Puget

²⁵ *Id.* at 1075-76.

²⁶ Wash. Rev. Code § 44.05.090.

Sound cannot act as a natural boundary; the benefit is avoiding further county divisions.

Snohomish County is already divided (between CD2 and CD7), so expanding CD6 across that body of water ensure that no further counties are split.

A consequence of this plan's adherence to the least change principle is that it splits more political subdivisions than the existing districts. In order to keep the lines from shifting too significantly, it cuts out small swathes of populated areas. Accordingly, the map splits more counties, towns, and voting districts than the existing plan. The good government plan I discuss below remedies some of these issues, but at the cost of greater deviations from the existing lines.

10. The Proposed Plan v. The Commission Plan

The plan proposed by the Washington Redistricting Commission deviates substantially more from the preexisting districts than this least change plan.²⁷ The commission plan also expands CD5 by moving Adams County into the district. However, it expands CD4 in the south, rather than the north. As a result of doing so, CD3 has to expand more on its northern boundary. The commission plan also substantially alters the lines in the northwestern corner of the state. CD2 grows massively along its northeastern border, while CD1 shrinks to less than half of its previous geographic size.

Political speaking, the commission's plan also gives the Democratic Party a slight advantage as compared to this least change plan. My least change plan gives Democrats three safe districts—this plan gives them four, as well as two “lean” districts (my plan would offer them three). In addition, the Republicans drop from three safe districts to two in the commission's plan; CD8 remains effectively evenly split. Put otherwise, a Democratic partisan

²⁷ For pictures and descriptions of the commission plan, see WASHINGTON STATE REDISTRICTING COMMISSION, APPROVED CONGRESSIONAL DISTRICT MAP (Nov. 16, 2021), <https://www.redistricting.wa.gov/final-congressional-district-map>.

would likely have a marginal preference for the commission's plan, but most elections would produce the same partisan distribution under either map.

Finally in terms of compactness, the commission's proposal does approximately as well as my plan in most regards. It does, however, produce a relatively non-compact CD2, which has a long narrow finger sticking out of the southwest corner of the district. Meanwhile, my plan's least compact district is the sprawling CD4. That district protrudes out in its northwest and southeast corners of the state, though is not anywhere as narrow as the offending part of the commission's CD2.

On the whole, the commission's plan is fairly similar to mine. Likely the most substantial consequence of adopting the commission's plan instead of mine would be to slightly reduced political competition. My plan produces five districts with less than a fifteen-point partisan edge. The commission's map has only four.²⁸ Only three of my districts have a 20+ point partisan advantage, while five of the commission's district have that significant a skew.²⁹ As previously mentioned, these are marginal differences (most districts with fifteen-point margins will reliably perform for the favored party), but they could change the outcome of one of more elections over the course of a decade.

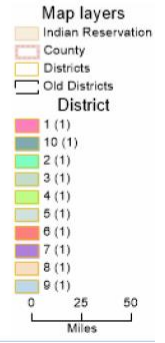
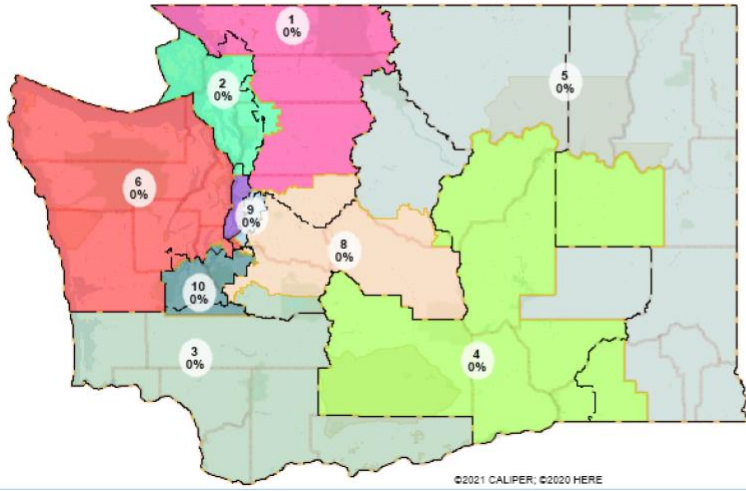
B. The Good Government Plan for Washington

1. Maps

This section provides maps of both individual congressional districts and the state as a whole. In the first image, the black dotted lines represent the old district lines, while the filled areas (with yellow borders) depict the new districts.

²⁸ FIVETHIRTYEIGHT, WHAT REDISTRICTING LOOKS LIKE IN EVERY STATE (Nov. 17, 2021), https://projects.fivethirtyeight.com/redistricting-2022-maps/washington/commission_final/

²⁹ *Id.*



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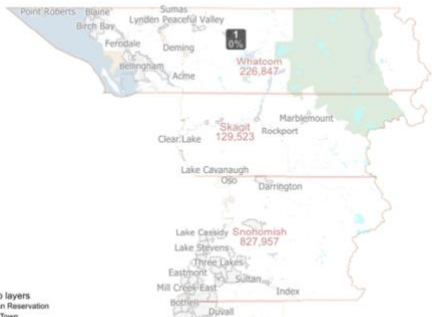
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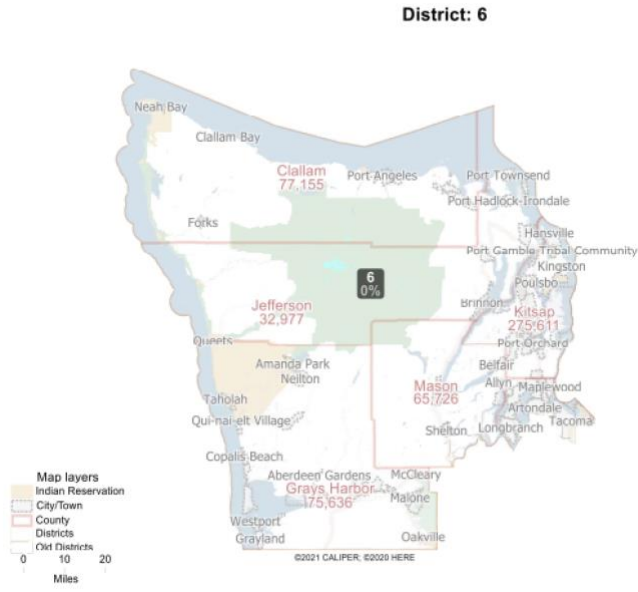
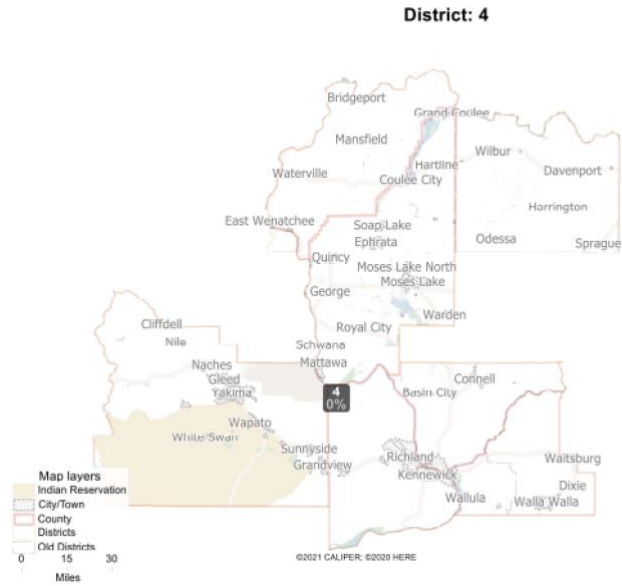
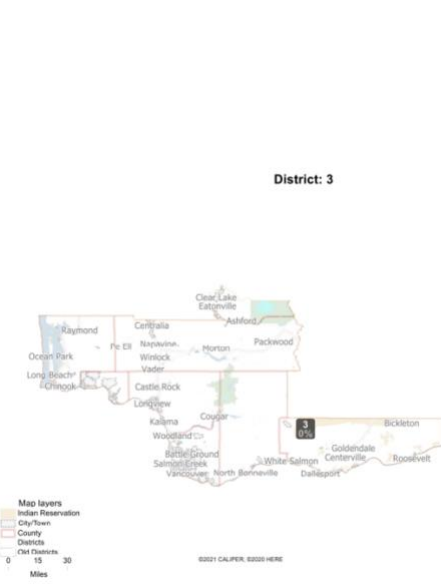


District: 1



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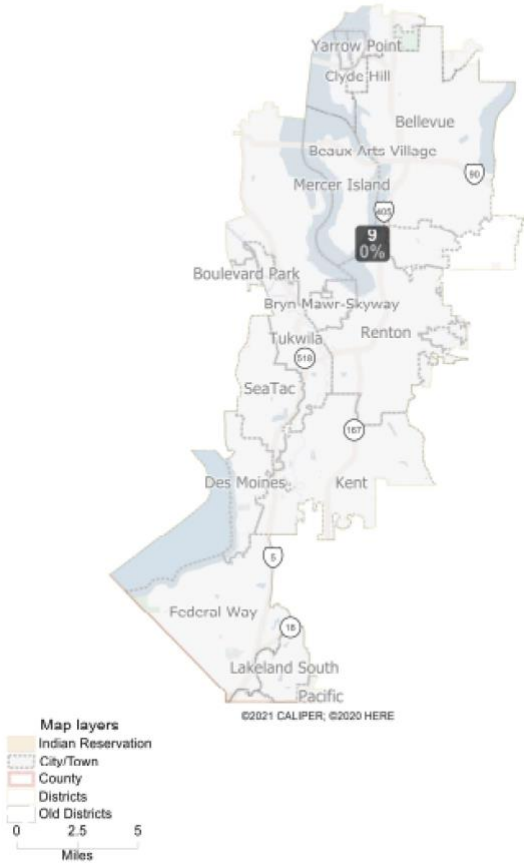
District: 7



District: 8



District: 9



District: 10



2. Principles Prioritized

This map prioritizes traditional “good government” principles: respect for political subdivisions, maximizing compactness, and maintaining continuity. Good government plans have much to recommend them. For instance, by preserving political subdivisions, they ease election administration and help preserve communities of interest. Likewise, by emphasizing compactness and contiguity, they limit opportunities for political gerrymandering. To be sure, it is still possible to create a substantial advantage for one party while drawing reasonably compact districts. However, it becomes significantly more difficult to produce the extreme

gerrymandering that characterized the Maryland and North Carolina maps during the previous cycle.³⁰ Finally, good government maps can potentially increase the public's trust in the redistricting process. The good government principles have no overt political bias, nor do they necessarily favor incumbents over potential challengers. Again, clever mapmakers can still undermine political fairness while appearing to adhere to good government principles,³¹ but this sort of covert operation is less likely to trigger public distrust of government.

Emphasizing compactness, subdivision preservation, and contiguity requires making significant changes to the existing lines. Population growth in the eastern half of the state meant that CD4 and CD5 needed to expand. However, rather keeping their previous shape—as my least change map does—I wrap CD5 around CD4. Doing so allows me to equalize population in CD4, CD5, and CD8 by dividing up Chelan County. Pierce County is a further victim of this effort to limit subdivision splits. Dividing it between CD3, CD6, CD8, and CD10 ensures that Mason remains intact. Ultimately, the changes also prevent Whatcom, Thurston, and Walla Walla from being divided. All but one of the counties split due to this new map was also split in the preexisting plan; this map thus reunites three previously divided counties.

The process of reuniting counties does not cost the map in terms of compactness. The mean Reock score moves merely from 0.38 to 0.39, while the mean Schwartzberg score rise 0.01 unit from 1.84 to 1.85. The most significant changes come in CD9 and CD5. CD9 becomes substantially more compact, jumping from 0.27 to 0.32 in terms of Reock and falling from 2.38 to 2.18 in terms of Schwartzberg. Meanwhile, CD5's Reock score falls from 0.39 to 0.36, while its Schwartzberg score increases to 2.03 from 1.51. On the whole, however, limiting subdivision splits does not have much impact on district compactness.

³⁰ *Rucho v. Common Cause*, 139 S. Ct. 2484, 2491–93 (2019).

³¹ *See, e.g.*, Section III.A.10 of this report.

3. Demographic Considerations

As was the case with the least change map, this map contains one majority-minority district and nine majority white districts. The any-part-white VAP in CD9 is only 44.3 percent—the largest minority group is Asian Americans, who comprise about 29 percent of the district VAP. The Black and Hispanic populations together compose another 25 percent, pushing the non-white VAP over 50 percent of the district. White voters make up more than 60 percent of the VAP in eight of the nine remaining districts. In CD4, white voters only compose about 57.6 percent of the VAP, but the next largest voting bloc, Hispanics, are nowhere close to being able to elect a candidate of their choice. They only have about 33.8 percent of the VAP.

4. Geographic Considerations and Compactness

I have already discussed the performance of this map in terms of statistical measures of compactness (*see* subpart II.B.2). On average, this map outpaces the least change plan by a small margin. The greatest advantage of this plan, however, is that it achieves this level of compactness while unifying previously split counties. From a purely visual perspective, the districts look reasonably shaped. CD4 and CD5 both cover large swaths of territory, but their shapes are dictated by county lines, rather than partisan or demographic considerations. Moreover, nowhere do the districts become unreasonably narrow. CD6 and CD8 do have some small, finger-like appendages, but these serve the sole purpose of equalizing population.

5. Political Subdivisions

This plan aims to preserve political subdivisions, so it is no surprise that it splits fewer counties and voting districts than my “least change” map. It splits only 6 of 33 counties and 24 of 7,410 voting districts. While it is conceptually possible to split a smaller number of counties, doing so would likely come at the cost of compactness. Since compactness is a traditional “good

government” metric, making this trade-off would not necessarily improve the maps fidelity to its governing principles.

6. Communities of Interest

One weakness of this plan is its treatment of communities of interest. It splits 43 cities/towns, a relatively large number given that Washington only has ten congressional districts. The plan prioritizes keeping counties and voting districts whole, which means I devoted less attention to ensuring towns stayed together. However, this plan does not perform substantially worse than the existing one, which splits 37 towns.

This plan does perform better than the existing districts with respect to one community of interest—Native Americans. Washington has a significant reservation in the northeastern corner of the state, a reservation that was previously split between CD5 and CD4.³² This map places the entirety of this reservation in CD5. This change does not significantly alter the distribution of Native Americans across districts, but it is more administratively convenient.

7. Partisan Considerations

As was the case with the “least change” map, I did not consider party ID or election results in drawing this map. Fortunately, following good government principles still produces a proportional—and fairly competitive—congressional district map. PlanScore.org rates this map as having a one percent inefficiency gap (favoring Democrats) and a 5.3 percent partisan bias (favoring the GOP). This plan is less skewed than the majority of plans previously enacted in Washington.

The map replicates the six-four split of the “least change” map. The two Seattle-area districts remain safely Democratic, as does the district northwest of the city. The three western

³² See GOVERNOR’S OFFICE OF INDIAN AFFAIRS, TRIBAL MAPS (last visited Nov. 23, 2021), <https://goia.wa.gov/resources/tribal-maps>.

most districts lean Democratic—each is projected to give the Democrat between 50 and 55 percent of the vote in a hypothetical open seat election. Three eastern districts would be easy Republican victories; the proposed eight district would be effectively a toss-up, but very slightly favors Republicans. In short, the map is quite politically representative.

District Map



District Data

District	Candidate Scenario	Pop. 2020	Hispanic CVAP 2019	Non-Hisp. Black CVAP 2019	Non-Hisp. Asian CVAP 2019	Non-Hisp. Native CVAP 2019	Chance of 1+ Flips†	Chance of Democratic Win	Predicted Vote Shares	Biden (D) 2020	Trump (R) 2020
1	Open Seat	770,528	5.4%	1.7%	7.9%	2.0%	No	93%	58% D / 42% R	270,172	153,950
2	Open Seat	770,528	6.7%	3.2%	8.0%	2.1%	Yes	84%	55% D / 45% R	246,800	157,131
3	Open Seat	770,528	5.0%	1.9%	3.6%	2.2%	No	12%	44% D / 56% R	198,174	214,803
4	Open Seat	770,528	21.9%	1.6%	1.8%	2.8%	No	2%	37% D / 63% R	128,989	186,494
5	Open Seat	770,528	5.1%	1.8%	2.3%	3.1%	No	6%	41% D / 59% R	182,172	220,035
6	Open Seat	770,528	5.4%	4.3%	4.7%	3.2%	Yes	76%	54% D / 46% R	253,167	174,632
7	Open Seat	770,528	5.5%	4.8%	11.9%	1.4%	No	>99%	80% D / 20% R	395,522	51,121
8	Open Seat	770,529	6.4%	3.4%	8.6%	1.9%	Yes	49%	50% D / 50% R	219,238	179,118
9	Open Seat	770,528	6.5%	11.6%	21.2%	1.4%	No	>99%	68% D / 32% R	262,135	91,088
10	Open Seat	770,528	7.6%	7.3%	7.4%	2.2%	Yes	68%	53% D / 47% R	213,246	156,272

8. Legal Compliance

i. The U.S. Constitution

This plan complies with the constitutional requirements of one person, one vote—every district has the same number of people (with the exception of CD8, which has one additional resident). In addition, none of these districts give rise to any *Shaw* questions.

ii. The VRA

The VRA analysis for this map is effectively the same as for the “least change” map discussed above. The majority-minority district in the Seattle area (CD9) is permissible but not required under Section 2 of the VRA.

iii. State Law

As I previously mentioned, the state law requirements do not appear to significantly restrict what districts can be drawn. To the extent that those criteria *are* binding, though, this map prioritizes them. The state constitution and statutory scheme both emphasize the good government principles this map instantiates. The districts are compact, contiguous, and aim to split as few political subdivisions as possible. Put otherwise, this map is the type state law envisions.

9. The Proposed Plan vs. The Existing Plan

Unlike the least change plan—which sought to change the existing lines as little as possible—this good government makes significant alternations to the existing district lines. CD5 wraps around CD5 and cuts into territory that was previously part of CD8. Meanwhile, CD8 shrinks to approximately half its previous size. CD3 (which previously protruding into Thurston County) now encompasses part of King County, which was already split three ways. CD2 more closely follows the county line on its southern and northern borders, while CD1 retreats

northward. On the whole, the map does retain the core of all preexisting districts, so incumbents would still represent similar constituencies. However, each representative would have to adjust to meaningful changes to their boundaries.

From a political perspective, the good government map would likely reproduce the partisan split that the existing map creates. Democrats would be heavily favored to win three districts (as they currently are); Republicans would easily capture three rural seats in the east and south; Democrats would have a modest advantage in three contests; and the race in CD8 would be a perpetual swing district. As this discussion makes clear, the current state of affairs effectively would not change if this map was adopted.

10. The Proposed Plan v. The Commission Plan

The proposed plan would produce a lower efficiency gap than the commission's plan (1.0 percent instead of 1.6 percent) and would create a larger number of marginally competitive districts (five districts with a partisan edge of less than 20 points as compared to three districts with that margin).³³ On the whole, though, the plans are extremely similar from the perspective of partisan advantage.

In terms of geography, the most significant differences between this good government map and the commission's proposal are in the eastern part of the state. This plan allows CD5 to cover a much larger geographic area, squishes CD4 downward, and shrinks CD8. Meanwhile, the commission plan *expands* CD8, leaves CD4 and CD5 largely unchanged, and contracts CD1 into a fraction of its former territory.

Finally, the commission's plan allows notable deviations from the one person, one vote principles. CD9 has 27 too many residents,³⁴ while my good government map achieves near-

³³ See FIVE THIRTY EIGHT, *supra* note 28.

³⁴ See WASHINGTON STATE REDISTRICTING COMMISSION, *supra* note 27.

perfect population equality. Only one district has any deviation, and even then, it has only one additional resident.