

January 19, 2022

Sent via email

Senate and House Governmental Affairs Committees
Louisiana State Senate
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Re: Louisiana Supreme Court Redistricting

Dear Chair Stefanski, Chair Hewitt, and Other Members of the House and Senate Governmental Affairs Committee:

The NAACP Legal Defense and Educational Fund, Inc. (“LDF”) writes to submit two illustrative district maps for the Louisiana Supreme Court for your consideration. These proposals include: (i) a district map with seven single-member districts (“SMDs”) with two districts in which a majority of the voters are Black (“majority-Black districts”); and (ii) a district map with nine SMDs with three majority-Black districts (for consideration if the size of the Court is expanded to nine members).

I. Background: *Chisom* Consent Decree and the Supreme Court District Map

In 1992, the Eastern District of Louisiana entered a Consent Decree in the *Chisom* litigation resolving claims that the multimember district system for electing justices of the Louisiana Supreme Court in the First Supreme Court District diluted Black voting strength in violation of the “results” test of Section 2 of the Voting Rights Act (“Section 2”).¹ The Consent Decree required the State to “provide for a single-member district that is majority black in voting age population that includes Orleans Parish in its entirety.”²

¹ See *Consent Judgment*, No. 86-cv-4075, Dkt. 119 (Aug. 21, 1992). LDF served as co-counsel on behalf of Plaintiffs in that litigation.

² *Id.* at ¶ C(8).

During the 1997 legislative session, the legislature enacted a Supreme Court District map with seven SMDs that was not in strict conformity with the Consent Decree because the majority-Black district in the proposed map contained only part of Orleans Parish. However, the parties in the *Chisom* case consented to this alternate approach and jointly moved to amend the Consent Judgment, which was approved by the federal court in 2000.³ That map has remained in effect ever since and the Consent Decree remains in place today.⁴

In order to ensure compliance with Section 2 and the *Chisom* Consent Decree, any map that you adopt should be drawn to ensure that Black voters have an equal opportunity participate in the political process and elect candidates of their choice.

II. Proposed Louisiana Supreme Court District Maps

If the Legislature considers adopting a new Supreme Court district map with seven SMDs, the map should include **two** majority-Black districts to ensure compliance with Section 2. We have prepared an illustrative map that would satisfy this requirement in **Appendix 1**. This illustrative map is just one of many configurations that would satisfy your obligations under Section 2 by providing two majority-Black districts in a Supreme Court map with seven SMDs.⁵

We also understand that the Legislature may consider proposals to expand the size of the Supreme Court to nine members elected from SMDs.⁶ If

³ See *Order Amended Consent Judgment*, No. 86-cv-4075, Dkt. 135 (Jan. 3, 2000).

⁴ Pending before the court is a motion to dissolve the Consent Decree filed by Louisiana Attorney General Jeff Landry on December 2, 2021. See *First Motion to Dissolve Consent Decree by State of Louisiana*, No. 86-cv-4075, Dkt. 257 (Dec. 2, 2021).

⁵ The question of whether the State is required under Section 2 to draw a second majority-Black district in a map with seven SMDs is currently being considered by a federal court. The plaintiffs allege that the current Louisiana Supreme Court district map violates the results test of Section 2 because it fails to provide a second majority-Black district. See *Allen v. Louisiana*, 14 F.4th 366 (5th Cir. 2021). The State's motion to dismiss was denied, and the Fifth Circuit affirmed the denial of the State's motion to dismiss on September 17, 2021.

⁶ In the 2021 Regular Legislative Session, the legislature considered various proposals to expand the size of the Supreme Court from seven to nine members elected from , including SB 163, which passed the Senate but failed to garner the required two-third vote in the House. See SB163, available at <https://legis.la.gov/Legis/BillInfo.aspx?i=240332>.

the Legislature considers adopting a new Supreme Court district map with nine SMDs, the map should include **three** majority-Black districts to ensure compliance with Section 2.⁷ We have prepared an illustrative map that would satisfy this requirement in **Appendix 2**. This illustrative map is just one of many configurations that would satisfy your obligations under Section 2 by providing three majority-Black districts in a Supreme Court map with nine SMDs.

We have also submitted comma-delimited block equivalency files for the maps proposed in the appendices to this letter.

Please feel free to contact Michael Pernick at (917) 790-3597 or by email at mpernick@naacpldf.org with any questions or to discuss these issues in more detail.

Sincerely,

/s/ Michael Pernick

Michael Pernick

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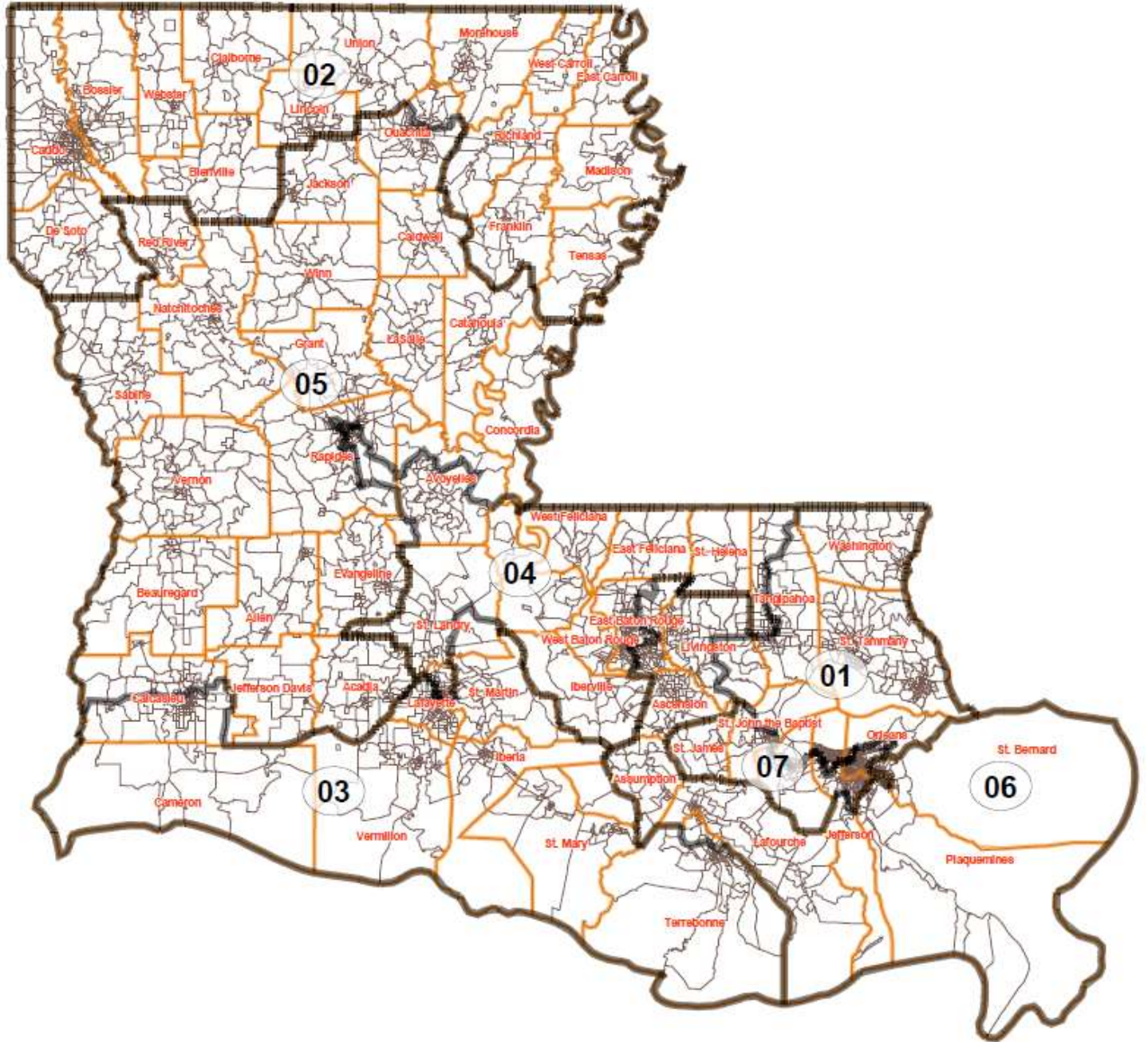
⁷ LDF submitted a letter to the House and Governmental Affairs Committee supporting an expansion to nine members elected from SMDs because it would enable the drawing of three majority-Black districts. See *Written Testimony of LDF in Support of an Expansion of the Louisiana Supreme Court* (May 17, 2021), available at <https://www.naacpldf.org/news/ldf-submits-written-testimony-in-support-of-an-expansion-of-the-louisiana-supreme-court/>,

NAACP Legal Defense and Educational Fund, Inc. (“LDF”)

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in education, economic justice, political participation, and criminal justice. Throughout its history, LDF has worked to enforce and promote laws and policies that increase access to the electoral process and prohibit voter discrimination, intimidation, and suppression. LDF has been fully separate from the National Association for the Advancement of Colored People (“NAACP”) since 1957, though LDF was originally founded by the NAACP and shares its commitment to equal rights.

APPENDIX 1

Illustrative Supreme Court district map with seven SMDs and two majority-Black districts

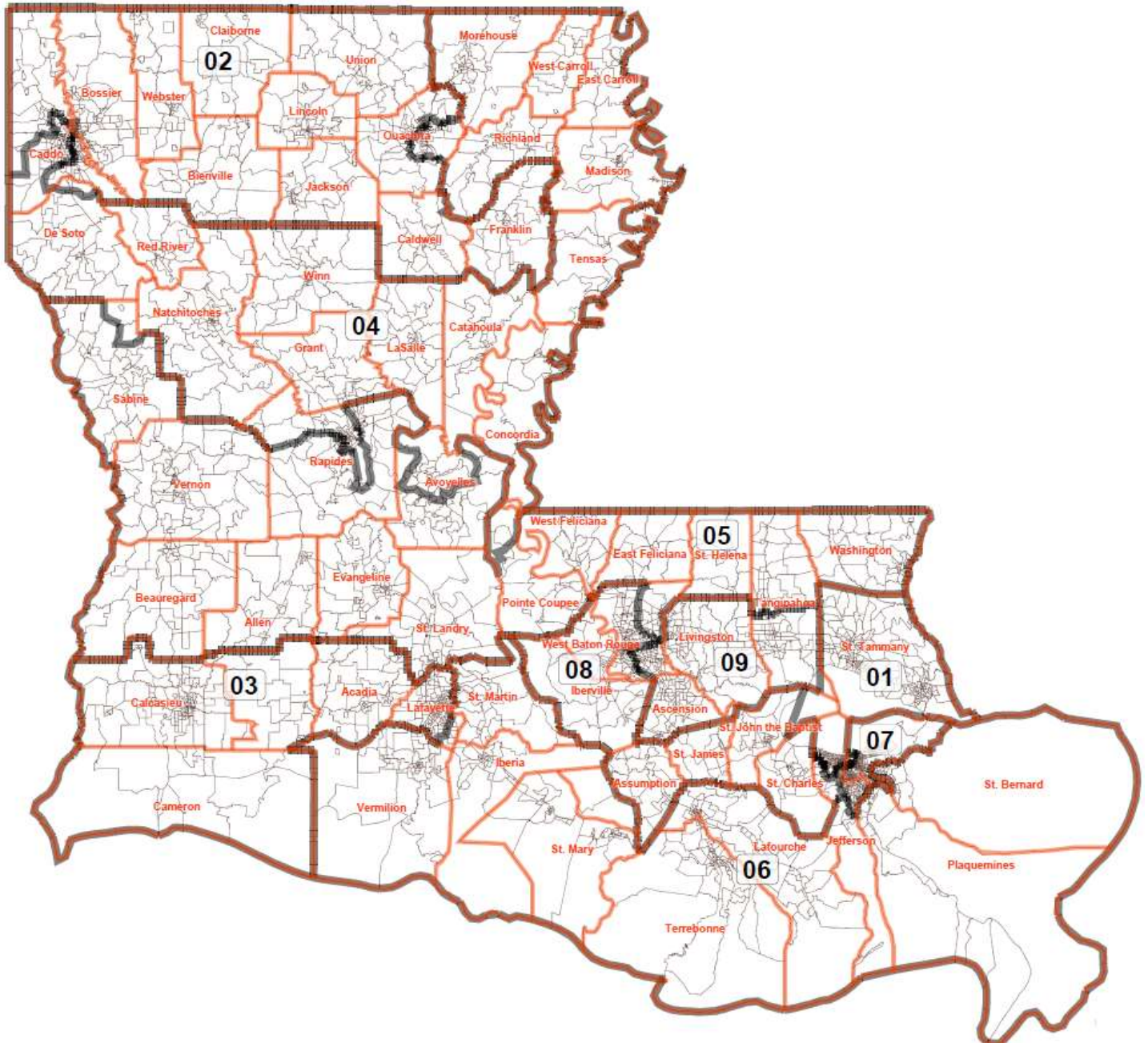


APPENDIX 1-a

District	Total Pop	Deviation	% Deviation	Black Pop	% Black Pop	Black VAP	% Black VAP
01	665,941	547	0.08%	94,276	14.16%	71,199	13.76%
02	666,080	686	0.10%	264,106	39.65%	196,159	38.39%
03	667,097	1,703	0.26%	161,293	24.18%	116,640	23.08%
04	664,925	(469)	-0.07%	349,647	52.58%	261,064	50.89%
05	670,966	5,572	0.84%	149,798	22.33%	108,719	21.36%
06	662,500	(2,894)	-0.43%	130,806	19.74%	93,643	18.78%
07	660,248	(5,146)	-0.77%	344,396	52.16%	268,345	51.98%

APPENDIX 2

Illustrative Supreme Court district map with nine SMDs and three majority-Black districts



APPENDIX 2-a

District	Total Pop	Deviation	% Deviation	Black Pop	% Black Pop	Black VAP	% Black VAP
01	513,775	(3,754)	-0.73%	63,181	12.30%	48,816	12.17%
02	503,781	(13,748)	-2.66%	122,070	24.23%	91,241	23.50%
03	532,836	15,307	2.96%	133,156	24.99%	96,968	24.04%
04	503,960	(13,569)	-2.62%	266,607	52.90%	195,556	50.94%
05	522,621	5,092	0.98%	133,678	25.58%	98,656	24.73%
06	534,542	17,013	3.29%	122,434	22.90%	87,539	21.78%
07	516,879	(650)	-0.13%	273,014	52.82%	214,646	52.65%
08	508,480	(9,049)	-1.75%	266,153	52.34%	200,979	51.22%
09	520,883	3,354	0.65%	114,029	21.89%	81,368	20.71%