

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
NORTHERN DIVISION

CAROLINE COUNTY BRANCH NAACP,
et al.,

Plaintiffs,

v.

TOWN OF FEDERALSBURG,
MARYLAND

Defendant.

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Civil Action No. 23-cv-00484-SAG

EXPERT DECLARATION AND REPORT OF DR. KASSRA A.R. OSKOOII

March 8, 2023

I. Executive Summary

1. I am an Associate Professor and Provost Teaching Fellow in the department of Political Science and International Relations at the University of Delaware. I have been engaged in this matter by counsel for the Caroline County Branch of the NAACP, the Caucus of African American Leaders, and the individual plaintiffs in this case to conduct a racially polarized voting (“RPV”) analysis related to their challenge to the Town of Federalsburg’s at-large, staggered-term election system.
2. I was retained to examine whether racially polarized voting exists on Maryland’s Eastern Shore, and specifically, whether the Black¹ population in Federalsburg, Caroline County and the surrounding area are politically cohesive, as well as whether the area’s white population votes sufficiently as a bloc to enable white voters to usually defeat Black-preferred candidates. The framework I used for examining racially polarized voting was established in the United States Supreme Court case *Thornburg v. Gingles*, 478 U.S. 30 (1986), numerous subsequent cases, and the factors set forth in the U.S. Senate Report accompanying 1982 amendments to the Voting Rights Act.
3. My opinions on white bloc voting and Black cohesion are based on a careful analysis of contested general and primary election results from 2012 to 2022. To examine the presence or absence of RPV, I rely on two well-established and rigorous statistical methods to estimate voting patterns by race: the Iterative Ecological Inference (“EI”) method and the EI Rows by Columns (“RxC”) method. The statistical methods I rely on to estimate vote choice by race

¹ The terms “Black” and “African-American” are used interchangeably for purposes of this report.

are agnostic as to *why* voters support or oppose different candidates; the analysis simply shows *which* candidates different groups of voters prefer.

4. In performing this analysis, I note that the data specific to the Town of Federalsburg and Caroline County are insufficient by themselves to assess racial voting patterns. That is, there exist only eight total election precincts in Caroline County, none of which is wholly contained within the Town of Federalsburg and all of which are heavily dominated by white majorities. More specifically, the Black Voting Age Population (VAP) is highly dispersed across the eight precincts, with the highest Black VAP in any precinct being ~28 percent, in just one precinct. The combination of very few total precincts² and lack of precinct-level variation means that the data are not very informative, making it particularly difficult to draw sufficiently reliable inferences about Black voter cohesion.
5. Data limitations, however, should not preclude racial and ethnic minorities from seeking redress if RPV denies them the opportunity to elect their candidates of choice. Under such circumstances, a sensible approach is to find the next best available data that could serve as a reasonable proxy for voting behavior in Federalsburg, Caroline County. To this end, I collected election and demographic data from precincts across the entire Maryland Eastern Shore, including those from Caroline County and Federalsburg. I opine that this approach has merit for the following reasons:
 - a. Maryland's Eastern Shore is generally recognized as a geographically and culturally distinct area of the State, with shared communities of interest, which have been recognized by the government and the courts.
 - b. For example, the nine Eastern Shore counties have long been unified in a single federal congressional district, in recognition of the strong commonalities among residents throughout the Eastern Shore.
 - c. I understand, as the Plaintiffs discuss at length in their Preliminary Injunction materials, that historically, the entire Eastern Shore region has been plagued by racial violence, discrimination and segregation different from other parts of Maryland, the legacy of which has persisted in the form of pervasive underrepresentation of Black elected officials across the Shore, and deep socioeconomic disparities among Black and white residents. As detailed in the report submitted with the Plaintiff's motion by William S. Cooper, the Plaintiffs' demographer in this case, these conditions exist both Shore-wide, and in Federalsburg specifically.
 - d. Courts in other voting rights cases involving jurisdictions on Maryland's Eastern Shore have looked to racial voting patterns from throughout the region to establish proof of racial cohesion and bloc voting, where data were limited. *See, e.g., Marylanders for Fair Representation v. Schaefer*, 849 F. Supp. 1022 (D. Md. 1994) (three-judge court) (relying upon distinct trends in Black and white voter preferences and election outcomes throughout the Shore to assess racial polarization in voting

² By way of comparison, in assessing levels of racially polarized voting in litigation challenging Baltimore County's adoption of a dilutive redistricting plan, there were more than 230 voting precincts for the County alone, with a wide range of demographic composition across the precincts.

specific to Wicomico and Dorchester Counties); *Cane v. Worcester County*, 840 F. Supp. 1081, 1088 (D. Md. 1994) (noting that because there existed only nine election precincts in Worcester County, all of which were majority white, County-specific data analysis was unreliable, requiring plaintiffs to look beyond endogenous data to assess racial polarization in voting.).

6. To conduct RPV analyses, I collected data from two official sources. I obtained election results by voting precincts from the Maryland State Board of Elections Data Files. Election data were then merged with Voting Age Population demographics by race/ethnicity to create a standard dataset for analyzing voting patterns. These Racial/Ethnic demographics data by voting precincts were obtained from the 2010 and 2020 U.S. Census Redistricting Dataset (P.L. 94-171).
7. Overall, the accumulated evidence I examined leads me to conclude the following:
 - a. By using two ecological inference methods, Iterative EI and RxC, which are the standard methods of measuring RPV, and applying these to past electoral results paired with VAP demographic data, I have identified definitive evidence of Racially Polarized Voting across Maryland's Eastern Shore.
 - b. Specifically, Black voters in Maryland's Eastern Shore vote cohesively such that a large majority of Black voters favor the same candidates in elections that were held across the Shore, such as the statewide gubernatorial and attorney general elections. This finding is particularly strong in elections contested between Black and white candidates.
 - c. White voters on the Eastern Shore also engage in bloc voting such that a large majority of white Shore voters favor their own set of candidates. The candidates favored by a large majority of the Eastern Shore's white voters are different than, and ran against, those favored by the Black Eastern Shore voters.
 - d. In each of the elections from 2012 to 2022 that cover the entire Eastern Shore, the results indicate that white voters bloc voted in sufficient numbers to defeat the Black-preferred candidate across the Eastern Shore and in Caroline County. Except for the 2018 comptroller statewide contest in which Peter Franchot beat Anjali Phukan by a wide margin (44.3 percentage points), this finding holds true over this full period both for general elections and in primary elections I examined; that is, not a single, Black-preferred candidate outside of this lone lopsided election received more votes than the white-preferred counterpart throughout the Eastern Shore or in Caroline County.³
 - e. Consequently, in 18 out of 19 election contests since 2012 the candidates favored by a large majority of Black Eastern Shore voters were defeated, depriving Black voters of the opportunity to elect their candidates of choice.

³ Statewide and County vote totals for each election and candidate can be viewed on Maryland's State Board of Elections website: <https://www.elections.maryland.gov/elections/2022/index.html>

- f. For the reasons I have outlined earlier, I believe that the RPV patterns found on the Eastern Shore are indicative of RPV patterns in Federalsburg, Caroline County. I draw this conclusion in light of a highly probative evidence of white bloc voting in the Town of Federalsburg: As I understand it – undisputed here by any party – not a single Black candidate has been elected to public office in Federalsburg throughout the Town’s history, despite efforts by Black candidates seeking such seats.

II. Background and Qualifications

8. I am an Associate Professor and Provost Teaching Fellow in the department of Political Science and International Relations at the University of Delaware, having joined the faculty in 2016. I am also an affiliated faculty member at the Center for Political Communication, Center for the Study of Diversity, and Race, Justice, Policy Research Initiative. My current Curriculum Vitae is appended to this declaration as **Exhibit A**.
9. My academic specializations include race and ethnicity politics, political behavior, political psychology, and political methodology. I teach courses on the Voting Rights Act, race and ethnicity in politics, and American political behavior. I received my Ph.D. in Political Science, specializing in American politics, minority and race politics and political methodology, from the University of Washington in Seattle, Washington in 2016. Prior to that, I received my master’s degree in political science at the University of Washington and received a political methodology field certificate from the Center for Statistics & the Social Sciences in 2013. I received my Bachelor of Arts in Political Science in 2008 at the University of Washington, with minors in Human Rights and Law, Societies, and Justice.
10. My research focuses on American political behavior, political methodology, minority politics, political psychology, political representation, voting rights, and redistricting.
11. I have published numerous peer-reviewed, social science articles in leading journals, including *Sociological Methods and Research*, *Political Behavior*, *Public Opinion Quarterly*, *Political Psychology*, *British Journal of Political Science*, *Electoral Studies*, *Perspectives on Politics*, *Urban Affairs Review*, *State Politics and Policy Quarterly*, *Journal of Race, Ethnicity, and Politics*, and *Journal of Public Policy*.
12. Of particular relevance to this report, I co-authored a 2022 paper in the journal *Sociological Methods and Research* titled “Estimating Candidate Support in Voting Rights Act Cases: Comparing Iterative EI & EI-RxC Methods.”⁴ I also co-developed a software package called “eiCompare,” which is a reproducible code that quantifies, compares, and represents racially polarized voting data. The publication describing this package was accepted in the *R Journal* in 2016, in a paper titled “eiCompare: Comparing Ecological Inference Estimates across EI and EI:RxC.”⁵ This package enables social scientists to use aggregate-level election data to predict individual-level voting behavior by racial or ethnic group affiliations, and to my

⁴ Available at <https://journals.sagepub.com/doi/full/10.1177/0049124119852394>.

⁵ Available at <https://journal.r-project.org/archive/2016/RJ-2016-035/RJ-2016-035.pdf>.

knowledge it has been cited in academic papers and in court filings.⁶ A full list of my peer-reviewed publications is included in my C.V., appended to this declaration as **Exhibit A**.

13. For over ten years, I have conducted racially polarized voting analyses in jurisdictions across the United States, including in California, Georgia, Florida, Kansas, Maryland, Texas, Wisconsin, and Washington. I was also retained as an expert consultant by the State of Maryland to advise them on their 2021 Congressional and Legislative redistricting plans as it relates to compliance with state and federal requirements.
14. I have been retained as an expert witness in redistricting and voting rights cases such as *Dickenson Bay Area NAACP Branch v. Galveston County, Texas*, 22-cv-117-JVB (S.D. Tex.) *Baltimore County Branch of the NAACP v. Baltimore County*, 21-cv-03232-LKG (D. Md.) and *Common Cause Florida v. Lee*, 4:22-cv-109-AW-MAF (N.D. Fla.); *Reyes v. Chilton*, 4:21-cv-05075-MKD (E.D. Wash.).
15. I am being compensated by plaintiffs at a rate of \$250 per hour for my report and \$350 per hour for any oral testimony in this case. My compensation is not in any way contingent on the content of my opinions or the outcome of this matter.

III. Racially Polarized Voting (“RPV”)

16. The analysis of RPV in this report is relevant to Plaintiffs’ allegations that the Town of Federalsburg’s longstanding at-large, staggered term election system violates Section 2 of the Voting Rights Act of 1965. As set forth in my 2022 paper “Estimating Candidate Support in Voting Rights Act Cases: Comparing Iterative EI and EI-RxC Methods”:

In *Thornburg v. Gingles*, 478 U.S. 30 [(1986)], the court established a legal framework to guide VRA challenges to legislative districts or at-large voting systems that have been accused of diluting minority voting opportunities. According to *Gingles*, there are three prongs that plaintiffs must establish through an analysis of voting data to make a successful claim: (1) the minority group is both geographically compact and large enough to create a single-member district, (2) the minority group tends to vote together and is politically cohesive, and (3) the nonminority (majority group) tends to vote in the opposite direction, such that it can usually block the minority groups’ preferred candidate (Ross 1993).

17. In general, RPV occurs when a minority racial group or groups favor candidates (termed “candidates of choice”) that are disfavored by the majority racial group. If a majority of voters from both the minority and majority racial groups vote for the same candidate in a contest, RPV is usually not present in that contest.
18. In situations where RPV is clearly present, majority voters, for example, white voters, may be able to consistently prevent minority voters, for instance, Black voters, from electing their

⁶ For example, the Southern District of New York accepted Dr. Matthew Barretto’s use of the eiCompare software in the matter *NAACP v. E. Ramapo Cent. Sch. Dist.*, 462 F. Supp. 3d 369, 383 (S.D.N.Y. 2020) (“Through a statistical package and method called eiCompare, Dr. Barreto then used both King’s EI and RxC to estimate voting preference by race and compared the results.”).

candidates of choice by voting as a bloc for candidates running in opposition to Black voters' preferred candidates.

IV. Data and Methodology

A. Election Data

19. For each voting precinct on the Eastern Shore⁷, I obtained election data from the Maryland State Board of Elections Data Files (<https://elections.maryland.gov>).⁸ I collected election returns for every single statewide general election contest (state or federal offices) from year 2012 to 2022. I selected these contests because they cover the entire Eastern Shore, enabling me to draw inferences about voting behavior across the entire region. In total, I collected election returns for 16 contested general elections, five of which feature Black candidates. Contested elections in this context are defined as elections in which at least two candidates run against each other. An election must be contested to use it to examine RPV patterns.
20. In addition to this, I collected election returns for three statewide Democratic primary elections featuring Black candidates.
21. **Table 1** provides the list of the general and primary elections that I analyzed for this Report. For each election in which not a single candidate outside of the top two received more than five percent of the statewide vote total, I focused only on the two top-vote-receiving candidates. I use an asterisk symbol (*) to identify the Black candidates across the slate of elections.
22. In addition to providing contest and candidate information, Table 1 also reports which candidate won the most votes in each contest statewide, on the Eastern Shore, and in Caroline County.

⁷ Eastern Shore Counties include: Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester.

⁸ For elections prior to 2020, the Maryland State Board of Elections is unable to assign early, provisional, and absentee votes to individual voting precincts. (For more details, see: https://elections.maryland.gov/elections/using_election_data_instructions.html).

23. **Table 1:** List of General and Primary Elections Analyzed

Year	Contest	Top Two Candidates		Statewide Winner	Eastern Shore Winner	Caroline County Winner
2022 General	U.S. Senate	Van Hollen	Chaffee	Van Hollen	Chaffee	Chaffee
	Governor/Lt. Governor	Moore/Miller*	Cox/Schifanelli	Moore/Miller	Cox/Schifanelli	Cox/Schifanelli
	Attorney General	Brown*	Peroutka	Brown	Peroutka	Peroutka
	Comptroller	Lierman	Glassman	Lierman	Glassman	Glassman
2020 General	President	Biden	Trump	Biden	Trump	Trump
2018 General	U.S. Senate	Cardin	Campbell	Cardin	Campbell	Campbell
	Governor/Lt. Governor	Jealous*	Hogan	Hogan	Hogan	Hogan
	Attorney General	Frosh	Wolf	Frosh	Wolf	Wolf
	Comptroller	Franchot	Phukan	Franchot	Franchot	Franchot
2016 General	President	Clinton	Trump	Clinton	Trump	Trump
	U.S. Senate	Van Hollen	Szeliga	Van Hollen	Szeliga	Szeliga
2014 General	Governor/Lt. Governor	Brown*	Hogan	Hogan	Hogan	Hogan
	Attorney General	Frosh	Pritzker	Frosh	Pritzker	Pritzker
	Comptroller	Franchot	Campbell	Franchot	Campbell	Campbell
2012 General	President	Obama*	Romney	Obama	Romney	Romney
	U.S. Senate	Cardin	Bongino	Cardin	Bongino	Bongino
2022 Primary	Governor/Lt. Governor	Moore/Miller*	Franchot/Walker	Moore/Miller	Franchot/Walker	Franchot/Walker
	Attorney General	Brown*	O'Malley	Brown	O'Malley	O'Malley
2016 Primary	U.S. Senate	Edwards*	Van Hollen	Van Hollen	Van Hollen	Van Hollen

24. The list of 16 general elections and three primary elections from 2012 – 2022 I rely on is sufficient for me to draw reliable conclusions about racial polarization among Eastern Shore voters. I did not examine elections from before 2012 for the following reasons: (i) the more recent elections are the most probative of current and future voting patterns, (ii) a composite of 19 elections is an adequate data set particularly when, as on the Eastern Shore, the RPV results are highly consistent since 2012.

B. Racial Data

25. For demographic data, I obtained Voting Age Population (VAP) demographics by race/ethnicity from the 2010 and 2020 U.S. Census Redistricting Dataset (P.L. 94-171).⁹

26. Next, I joined the election data with the VAP data by voting precincts and created the following variables: percent votes received by each candidate, total votes received between the candidates, and percent white, Black, and other VAP.¹⁰

⁹ This is available at: <https://www.census.gov/programs-surveys/decennial-census/about/rdo/summary-files.html>

¹⁰ Election data from 2014-2022 were merged with the 2020 Voting Age Population demographics by race/ethnicity, whereas 2012 election data was merged with the 2010 Voting Age Population demographics by race/ethnicity.

C. RPV Methodology

27. Several methods are available to assess the *Gingles* preconditions of white bloc voting and Black voter cohesion.¹¹ Of these, social scientists and voting rights experts most often rely on Ecological Inference (EI)¹², which has been deemed the “...benchmark method courts rely upon to evaluate RPV patterns in voting rights lawsuits.”¹³
28. Two variations of EI have emerged to estimate individual-level voting behavior using aggregate-level data.¹⁴ The first is often referred to as King’s Iterative EI,¹⁵ and often preferred when there are two racial groups and two candidates. The second—and more computationally intensive method—is called EI Rows by Columns (RxC),¹⁶ which allows multiple rows (candidates) and multiple columns (racial groups) to be estimated simultaneously in one model (rather than iteratively). Both versions of EI operate similarly in that the following voting precinct-level data is required to estimate vote choice by racial or ethnic groups: (1) the percentage of each racial and ethnic group under consideration; (2) the percentage of votes received by each candidate; and (3) the total votes cast between the candidates at each precinct. A comprehensive assessment of the two methods using precinct-level data ranging from two candidates and two racial groups to multiple candidates and up

¹¹ Clarke, B. and Reagan, R.T., 2002. *Redistricting Litigation: An Overview of Legal, Statistical, and Case-management Issues*. Federal Judicial Center.

¹² “Ecological inference is the process of using aggregate (i.e., “ecological”) data to infer discrete individual-level relationships of interest when individual-level data are not available. Ecological inferences are required in political science research when individual-level surveys are unavailable (e.g., local or comparative electoral politics), unreliable (racial politics), insufficient (political geography), or infeasible (political history). They are also required in public policy (e.g., for applying the Voting Rights Act) and other academic disciplines ranging from epidemiology and marketing to sociology and quantitative history.” (page 2) King, G. and Roberts, M., 2012. EI: a (n R) program for ecological inference. *Harvard University*.

¹³ Barreto, M., Collingwood, L., Garcia-Rios, S. and Oskooii, K.A., 2022. Estimating candidate support in Voting Rights Act cases: Comparing iterative EI and EI-R× C methods. *Sociological Methods & Research*, 51(1), pp.271-304. [quote from page 6]

¹⁴ “...Where survey research or other means of individual-level data collection are infeasible, ecological inference is best and often the only hope of making progress. Ecological inference is the process of extracting clues about individual behavior from information reported at the group or aggregate level.” [Page 1] King, G., Tanner, M.A. and Rosen, O. eds., 2004. *Ecological inference: New methodological strategies*. Cambridge University Press; *see also*, Rosen, O., Jiang, W., King, G. and Tanner, M.A., 2001. Bayesian and frequentist inference for ecological inference: The R× C case. *Statistica Neerlandica*, 55(2), pp.134-156.

¹⁵ King, G., 2013. A solution to the ecological inference problem. In *A Solution to the Ecological Inference Problem*. Princeton University Press.

¹⁶ Rosen, O., Jiang, W., King, G. and Tanner, M.A., 2001. Bayesian and frequentist inference for ecological inference: The R× C case. *Statistica Neerlandica*, 55(2), pp.134-156.

to four racial groups has found that they produce substantively similar RPV results across a range of elections.¹⁷

29. In this Report, I use both methods to estimate RPV patterns. Specifically, I rely on the “eiCompare” R software package,¹⁸ which includes the necessary functions to estimate vote choice by race with both iterative EI and RxC.

V. Analysis of Racially Polarized Voting Patterns

30. This section reports all the ecological inference analysis results to determine whether there is racially polarized voting on the Eastern Shore such that Black voters are cohesive (in that a majority or plurality of Black voters vote for the same candidates) and white voters vote as a bloc in opposition to Black candidates of choice. To follow the *Gingles* framework, I performed this analysis across the Eastern Shore for both groups.

A. Eastern Shore Racially Polarized Voting Patterns

31. **Table 2** reports the general election vote estimates by race produced by both the EI and the RxC methods.
32. The left side of the table lists the year in which the elections were held, the name of each contest, and the associated candidate names. The right side of the table then reports Black and white vote estimates for both the iterative EI and RxC models.¹⁹
33. The results show that both methods produce very similar vote choice estimates, and that there is no substantive difference between the two estimation techniques. That is, one will not reach different conclusions about RPV patterns when comparing the iterative EI to RxC estimates. Therefore, I will focus on the iterative EI estimates listed first in Table 2 when discussing vote choice estimates by race.

¹⁷ Barreto, M., Collingwood, L., Garcia-Rios, S. and Oskooii, K.A., 2022. Estimating candidate support in Voting Rights Act Cases: Comparing iterative EI and EI-RxC Methods. *Sociological Methods & Research*, 51(1), pp.271-304.

¹⁸ Collingwood, L., Oskooii, K., Garcia-Rios, S. and Barreto, M., 2016. eiCompare: Comparing Ecological Inference Estimates across EI and EI: RxC. *R J.*, 8(2), p.92.

¹⁹ In **Exhibit B**, I report 95% Confidence intervals (CIs) around the iterative EI and RxC point estimates. Confidence intervals provide information about a range in which the expected value lies within a certain degree of probability. Scientific studies often report 90% or 95% CIs, with some studies, depending on the context, reporting 67% CIs or lower. CIs are sensitive to the sample size and the standard deviation of the study groups. If the sample size is small and dispersion is high, the CIs become wider. Jurisdictions (e.g., towns, cities, school districts, counties, regions) have different racial group concentrations and sizes across different voting precincts. Therefore, analysts should not apply overly strict or rigid guidelines. CIs are just one piece of information that may aid analysts in examining overall RPV patterns.

34. **Table 2:** Iterative EI and RxC Ecological Inference Estimates by Race, 2012-2022 General Election Contests

Ecological Inference Estimates (General Elections)			Black - EI	White - EI	Black - RxC	White - RxC
2022	Attorney General	Peroutka	9.7	71.2	13.0	70.1
		Brown*	90.3	28.8	87.0	29.9
	Comptroller	Glassman	9.0	74.1	12.7	72.9
		Lierman	91.1	25.9	87.3	27.1
	Governor / Lt. Governor	Cox / Schifanelli	9.7	69.0	13.0	67.6
		Moore / Miller*	90.6	30.9	87.0	32.4
	U.S. Senate	Chaffee	8.9	70.0	13.4	68.5
		Van Hollen	91.1	30.0	86.6	31.5
2020	President	Biden	94.6	27.4	92.7	28.1
		Trump	5.6	72.6	7.3	72.0
2018	Attorney General	Wolf	6.0	76.6	8.4	76.0
		Frosh	94.0	23.4	91.6	24.0
	Comptroller	Phukan	3.8	57.2	7.3	55.4
		Franchot	96.0	42.8	92.7	44.6
	Governor / Lt. Governor	Hogan	11.8	93.5	15.6	93.0
		Jealous*	88.1	6.5	84.4	7.0
U.S. Senate	Campbell	5.1	71.9	6.7	71.1	
	Cardin	94.8	28.1	93.3	28.9	
2016	President	Clinton	94.5	17.3	93.4	17.5
		Trump	5.7	82.7	6.6	82.5
	U.S. Senate	Van Hollen	95.5	19.5	94.0	19.9
Szeliga		4.4	80.4	6.0	80.1	
2014	Attorney General	Frosh	92.4	22.8	88.7	24.0
		Pritzker	7.5	77.3	11.3	76.0
	Comptroller	Campbell	8.6	63.5	11.0	61.5
		Franchot	91.6	36.5	89.0	38.5
	Governor / Lt. Governor	Brown*	90.3	10.3	88.3	11.3
Hogan		9.8	89.7	11.7	88.7	
2012	President	Romney	4.9	71.6	6.3	70.8
		Obama*	95.1	28.4	93.7	29.2
	U.S. Senate	Sobhani	6.7	23.1	6.9	21.8
		Bongino	3.5	52.4	4.6	51.9
		Cardin	92.5	24.1	88.5	26.3

35. Beginning with the first election listed in Table 2, I find clear evidence of RPV patterns. In the 2022 election for the Maryland Attorney General, white candidate Michael Peroutka received an estimated 71.2% of the Eastern Shore's white vote, while only receiving 9.7% of the Black vote. In contrast, Black candidate Anthony Brown received an estimated 28.8% of the white vote, while receiving 90.3% of the Black vote. Notably, Mr. Brown comfortably won the election statewide, while losing on the Eastern Shore and in Caroline County.
36. The general election results from last year's gubernatorial election show a very similar pattern. In the 2022 contest for Governor, white candidate Daniel Cox received an estimated 69.0% of the white Eastern Shore vote, while only receiving 9.7% of the Black vote. Mr. Cox's competition, Black candidate Wes Moore, who won the election statewide, lost the overwhelming majority of white vote on the Eastern Shore, where he received only 30.9% of the white vote, but 90.6% of the Black vote.
37. This clear pattern of RPV on the Eastern Shore exists in every single contest throughout the decade – all the way back to the 2012 U.S. Presidential election. For instance, in the 2018 election for Governor, Black candidate Ben Jealous received an estimated 88.1% of the Black vote, while only receiving 6.5% of the white vote. In comparison, an estimated 93.5% of Eastern Shore whites voted cohesively for white candidate Larry Hogan, who won in the Eastern Shore and in Caroline County. I find nearly identical RPV patterns in the 2014 Gubernatorial election, where Mr. Brown clearly won the Black vote (90.3%), but lost on the Eastern Shore to Mr. Hogan, who received an estimated 89.7% of the white vote.
38. And in 2012, incumbent President Barack Obama won 95.1% of the Black Eastern Shore vote, but only 28.4 percent of the corresponding white vote. In contrast, his white challenger, Mitt Romney, won 71.6% of the white vote, but just 4.9% of the Black vote. Again, Mr. Obama won the statewide vote in Maryland, but received fewer votes than Mr. Romney on the Eastern Shore and in Caroline County.
39. In sum, both the iterative EI and RxC estimates reported in **Table 2** indicate that Black voters throughout Maryland's Eastern Shore vote cohesively to support their candidates of choice, while the Eastern Shore's white voters likewise vote as bloc to disfavor the candidate of choice of Black voters and support their own (different) candidate of choice. Furthermore, there is not a single instance across both methods and election contests throughout the last decade where a Black candidate received more than 1/3 of the white vote on the Eastern Shore, even if those candidates won the statewide vote by comfortable margins.
40. Moving to the primary elections in **Table 3**, I find that Black voters on the Eastern Shore are politically cohesive and that they prefer different candidates than white voters prefer.

41. **Table 3:** EI and RxC Ecological Inference Estimates by Race, Democratic Primary Election Contests

Ecological Inference Estimates (Primary Elections)			Black - EI	White - EI	Black - RxC	White - RxC
2022	Attorney General	O'Malley	16.2	70.0	19.5	68.0
		Brown*	83.4	30.0	80.5	32.0
	Governor / Lt. Governor	Franchot / Walker	32.4	36.3	32.5	37.5
		Moore / Miller*	38.7	20.0	36.0	21.3
		Perez / Sneed	1.9	27.1	4.6	25.3
2016	U.S. Senate	Edwards*	86.6	23.3	83.1	23.9
		Van Hollen	13.0	76.6	16.9	76.1

42. In the 2022 Democratic primary election for the Attorney General, an estimated 83.4% of Black voters chose the Black candidate, Anthony Brown. In contrast, only 30% of white voters voted for Mr. Brown. The preferred candidate of white voters was candidate Katie O'Malley, who received more votes than Mr. Brown on the Eastern Shore and in Caroline County.
43. In the multi-candidate Democratic primary for Governor, where each of the three candidate pairs received more than twenty percent of the total statewide vote, a plurality of Black voters preferred the Black candidate, Wes Moore, who received the plurality of the total statewide vote, but did not get the plurality of votes on the Eastern Shore and in Caroline County. Instead, Peter Franchot, who received the plurality of votes on the Eastern shore and in Caroline County, was the preferred candidate of a plurality of white voters. Therefore, even in a multi-candidate primary election, white and Black voters showed divergent candidate preferences, and the candidate that Black voters preferred did not garner the plurality of votes on the Eastern Shore and in Caroline County.
44. RPV is also present in the 2016 Democratic contest for U.S. Senate, where the Black Candidate, Donna Edwards, lost to white Democrat, Chris Van Hollen. In this election, Donna Edwards received an estimated 86.6% of the Black vote, whereas Chris Van Hollen received an estimated 76.6% of the white vote.
45. The fact—not contested by any party—that Federalsburg has never elected a single Black candidate to local office further suggests that the RPV and white bloc voting found on the Eastern Shore likely exists in Federalsburg and is sufficient to defeat Black candidates (those preferred by Black voters) at the municipal level. Although data at the local level is insufficient to conduct reliable statistical analyses, election results reported for Federalsburg and testimony from the Plaintiffs submitted with their motion papers show that when Black candidates have run for Town office in Federalsburg, they have lost. Most recently, this

occurred in 2017, when the two Black candidates, Plaintiff Roberta Butler and Angel Greene, ran for the two open Council seats in Federalsburg and lost to their white opponents.²⁰

VI. Conclusions

46. I performed methodologically sound analyses and considered the issues presented from multiple angles, which led me to determine that racially polarized voting does exist on the Eastern Shore of Maryland. Specifically, Black voters on the Shore vote cohesively for their candidates of choice, and white voters vote as a bloc to elect their own, distinct, candidates of choice. As I have outlined in this report, I believe that the RPV patterns found on the Eastern Shore are indicative of RPV patterns in Federalsburg, especially since not a single Black candidate has ever won local office. Therefore, under the existing at-large, staggered-term election system, white voters can vote as a bloc to prevent Black preferred candidates from getting elected. Based on the information, data, and evidence that I considered, I do not expect this to change unless the election structure is reformed.
47. The findings and conclusions in this report are based upon information that has been made available to me or known by me to date. I reserve the right to modify, update or supplement my report and analysis as additional information is made available to me.

To the best of my knowledge, the foregoing report and its exhibits include all of the opinions I have formed to date that, if called upon to testify, I would provide in this matter. I have also included in the text, footnotes, and exhibits, all of the basis and reasons for these opinions, as well as all of the data, facts, assumptions, and authorities considered in forming them.



Kassra A.R. Oskooii

Exhibit A

Oskooii CV

Exhibit B

²⁰ The Town does not provide election returns on its website, but results for this election are available from contemporaneous news reports, at this link:
https://www.myeasternshorem.com/times_record/news/mayor-two-councilmembers-sworn-in/article_243da184-6302-5ad5-8b95-2bd6ac0233c2.html

Those results are as follows: David Morean –79; Scott Phillips – 70; Angel Greene – 44; Roberta Butler – 33

Table A: EI Iterative Confidence Intervals by Candidates and Racial Groups

			[LOWER] EI Iterative Black	[UPPER] EI Iterative Black	[LOWER] EI Iterative White	[UPPER] EI Iterative White
2022	Attorney General	Peroutka	6.8	12.6	70.3	71.9
		Brown	87.5	92.6	27.7	29.4
	Comptroller	Glassman	6.4	11.5	73.5	74.6
		Lierman	88.8	93.6	25.0	26.6
	Governor / Lt. Governor	Cox / Schifanelli	7.5	12.4	68.0	70.0
		Moore / Miller	88.2	93.9	30.0	31.7
U.S. Senate	Chaffee	6.3	11.5	69.1	71.0	
	Van Hollen	88.4	93.0	28.9	30.9	
2022 Primary	Attorney General	O'Malley	13.3	19.5	68.5	71.0
		Brown	80.8	86.7	29.0	31.1
	Governor / Lt. Governor	Franchot / Walker	29.5	35.4	35.6	37.4
		Moore / Miller	34.8	42.4	18.9	21.4
		Perez / Sneed	1.4	2.6	26.5	27.6
Other	26.2	33.1	14.8	16.8		
2020	President	Biden	93.2	96.1	26.8	28.0
		Trump	4.1	7.4	71.9	73.0
2018	Attorney General	Wolf	4.9	7.8	76.1	77.1
		Frosh	92.2	95.4	22.8	23.9
	Comptroller	Phukan	2.1	5.0	56.7	57.8
		Franchot	94.5	97.8	42.2	43.4
	Governor / Lt. Governor	Hogan	9.4	14.2	92.9	94.0
		Jealous	86.1	90.7	5.8	7.2
U.S. Senate	Campbell	3.8	6.9	71.4	72.4	
	Cardin	93.3	96.0	27.5	28.9	
2016	President	Clinton	92.7	95.9	16.8	18.0
		Trump	4.1	7.5	82.0	83.2
	U.S. Senate	Van Hollen	94.0	96.8	18.9	20.2
		Szeliga	3.3	5.7	79.8	81.0
2016 Primary	U.S. Senate	Edwards	82.7	89.1	22.2	24.4
		Van Hollen	10.5	15.8	75.7	77.7
2014	Attorney General	Frosh	90.3	94.4	21.8	23.7
		Pritzker	5.4	9.1	76.3	78.2
	Comptroller	Campbell	6.1	11.7	62.3	64.6
		Franchot	88.7	94.0	35.2	37.6
	Governor / Lt. Governor	Brown	88.2	92.5	9.7	11.2
Hogan		7.6	12.6	88.6	90.2	
2012	President	Romney	3.5	6.0	71.2	71.9
		Obama	93.8	96.4	28.1	28.8
	U.S. Senate	Sobhani	5.0	8.4	22.7	23.4
		Bongino	2.6	4.7	52.1	52.8
		Cardin	90.3	94.2	23.5	24.8

Table B: RxC Confidence Intervals by Candidates and Racial Groups

			[LOWER] RxC Black	[UPPER] RxC Black	[LOWER] RxC White	[UPPER] RxC White
2022	Attorney General	Peroutka	8.4	18.3	68.0	71.8
		Brown	81.7	91.6	28.2	32.0
	Comptroller	Glassman	8.1	18.2	70.5	74.7
		Lierman	81.8	91.9	25.4	29.5
	Governor / Lt. Governor	Cox / Schifanelli	7.5	20.1	65.1	69.4
		Moore / Miller	79.9	92.5	30.6	34.9
	U.S. Senate	Chaffee	8.6	19.6	66.3	70.3
Van Hollen		80.4	91.4	29.7	33.7	
2022 Primary	Attorney General	O'Malley	12.9	26.8	64.6	70.8
		Brown	73.2	87.1	29.2	35.4
	Governor / Lt. Governor	Franchot / Walker	26.3	39.0	35.2	39.5
		Moore / Miller	30.0	41.8	19.3	23.2
		Perez / Sneed	2.2	8.0	23.5	27.0
		Other	21.7	32.4	13.9	17.9
2020	President	Biden	88.4	95.6	27.0	29.4
		Trump	4.4	11.6	70.6	73.0
2018	Attorney General	Wolf	5.0	12.6	74.4	77.2
		Frosh	87.4	95.0	22.8	25.6
	Comptroller	Phukan	4.4	11.3	53.6	56.8
		Franchot	88.7	95.6	43.2	46.4
	Governor / Lt. Governor	Hogan	10.5	21.9	91.3	94.3
		Jealous	78.1	89.5	5.7	8.7
	U.S. Senate	Campbell	4.2	10.2	69.6	72.2
Cardin		89.8	95.8	27.9	30.4	
2016	President	Clinton	89.9	95.9	16.6	18.8
		Trump	4.1	10.1	81.2	83.4
	U.S. Senate	Van Hollen	90.3	96.4	18.8	21.1
		Szeliga	3.5	9.7	78.9	81.2
2016 Primary	U.S. Senate	Edwards	76.7	89.4	21.4	27.4
		Van Hollen	10.6	23.3	72.6	78.6
2014	Attorney General	Frosh	83.4	93.1	22.3	26.0
		Pritzker	6.9	16.6	74.0	77.7
	Comptroller	Campbell	6.3	16.8	58.6	64.0
		Franchot	83.2	93.7	36.0	41.4
	Governor / Lt. Governor	Brown	83.2	92.6	9.8	13.1
		Hogan	7.4	16.8	86.9	90.2
2012	President	Romney	3.7	10.0	69.6	71.6
		Obama	90.0	96.3	28.4	30.4
	U.S. Senate	Sobhani	4.1	10.8	20.5	23.0
		Bongino	2.3	7.7	51.0	52.7
		Cardin	84.0	92.0	25.0	27.7