

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

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ANNE POPE, et al.,	:
	:
Plaintiffs,	:
	:
-against-	:
	:
COUNTY OF ALBANY, et al.,	:
	:
Defendants.	:
	:
-----X	

No. 11-cv-0736 (LEK) (DRH)

DECLARATION OF WILLIAM S. COOPER

I, William S. Cooper, hereby declare the following:

1. I am a demographic and redistricting consultant in private practice. I give this declaration based upon personal knowledge.
2. For information on my extensive experience preparing and assessing proposed redistricting maps for Section 2 litigation, Section 5 comment letters, and for use in other efforts to promote compliance with the Voting Rights Act of 1965, see Exhibit 17.
3. In 2003, I was asked by the attorneys for the plaintiffs in Arbor Hill Concerned Citizens Neighborhood Association, et al. v. County of Albany, et al., No. 03-cv-502 (N.D.N.Y. 2004), to analyze demographic and socio-economic data from the 2000 Census for Albany County. They also asked me to analyze the plan enacted under the 2002 Local Law J for compliance with one-person, one-vote requirements. In that case, I submitted a declaration including my demographic and socio-economic findings, as well as my one-person, one-vote analysis.

4. The attorneys for Plaintiffs in this case asked me to analyze demographic and socio-economic data for Albany County, and to assess the redistricting plan adopted by Albany County (“Local Law C”) and the plan proposed by the Plaintiffs and created by Arbor Hill Environmental Justice (“AHEJ plan”), based on the 2010 Census.

Census 2010 Population Profile of Albany

5. According to the 2010 Census, Albany County has a population of 304,204, with a non-Hispanic black population of 36,396 (12.0%). The County’s Hispanic population numbers 14,917 (4.9%). Non-Hispanic Asian-Americans comprise the third largest minority group with a population of 14,500 (4.8%). The minority population in Albany County, including all persons who are either Hispanic or not single-race white, is 73,052 (24.0%). Attached hereto at Exhibit 1 is a true compilation of 2000 and 2010 U.S. Census data for Albany County and the City of Albany.

6. A shift of racial demographics between the 2000 and 2010 censuses took place in significant part in a geographically compact area located within the City of Albany (the “City”). The black and Hispanic population in Albany County is concentrated in the eastern portion of the City of Albany. According to the 2010 Census, there are 28,479 non-Hispanic blacks and 8,396 Hispanics in the City. Thus, 71.9% of the County’s non-Hispanic blacks and Hispanics reside in a geographically compact area, within the City of Albany.

7. The City of Albany has a total population of 97,856, with a minority population of 44,999 (46.0%), including all persons who are either Hispanic or not single-race white. Non-Hispanic blacks are 29.1% of the City’s population and Hispanics represent 8.6% of the City.

8. According to the 2010 U.S. Census, the non-Hispanic white population of the City is 52,857 or 54.0% of the City’s total population. According to the 2000 U.S. Census and 2010

U.S. Census, the non-Hispanic white population of the City decreased by 5,602 or 9.6% from the 2000 U.S. Census to the 2010 U.S. Census.

9. According to the 2010 U.S. Census, the non-Hispanic black population of the City is 28,479 or 29.1% of the City's total population. According to the 2000 U.S. Census and 2010 U.S. Census, the non-Hispanic black population of the City increased by 2,437 or 9.4% from the 2000 U.S. Census to the 2010 U.S. Census.

10. According to the 2010 U.S. Census, the Hispanic population of the City is 8,396 or 8.6% of the City's total population. According to the 2000 U.S. Census and 2010 U.S. Census, the Hispanic population of the City increased by 3,047 or 57.0% from the 2000 U.S. Census to the 2010 U.S. Census.

11. According to the 2010 U.S. Census, the minority population of the City is 44,999 or 46.0% of the City's total population. According to the 2000 U.S. Census and 2010 U.S. Census, the minority population of the City increased by 21.0% from the 2000 U.S. Census to the 2010 U.S. Census.

12. The chart below shows that the minority population in Albany County has grown steadily since 1980. In 1980, 8.9% of the County's population was either Hispanic or not single-race white. By 1990, the minority population had grown to 12.0%. By 2000, the minority population had grown to 18.2%. As noted, the 2010 Census reported a minority population of 24.0%—almost three times the proportion in 1980, double the proportion in 1990, and representing a 36.2% aggregate minority population increase since 2000. Since 2000, there has been a 15.5% increase in the black population and a 64.3% increase in the Hispanic population. During the same period, the non-Hispanic white population of the City decreased by 4.1%.

Hispanic Population and Race Distribution for Non-Hispanic Population

	1980 Number	Percent	1990 Number	Percent	2000 Number	Percent	2010 Number	Percent
Total Population	285,909	100.00%	292,594	100.00%	294,565	100.00%	304,204	100.00%
Total Hispanics	3,025	1.06%	5,311	1.82%	9,079	3.08%	14,917	4.90%
White*	260,859	91.24%	257,512	88.01%	240,913	81.79%	231,152	75.99%
Black*	18,540	6.48%	24,068	8.23%	31,514	10.70%	36,396	11.96%
American Indian and Eskimo*	327	0.11%	504	0.17%	487	0.17%	453	0.15%
Asian*	2,407	0.84%	4,869	1.66%	8,022	2.72%	14,500	4.77%
Hawaiian and Pacific Islander*	-	-	-	-	72	0.02%	88	0.03%
Other*	751	0.26%	330	0.11%	434	0.15%	569	0.19%
Two or More Races*	-	-	-	-	4,044	1.37%	6,129	2.01%

* Non-Hispanic only; in 1980 and 1990 "Asians" includes Hawaiians and Pacific Islanders.

Source: Census 2010 and online chart prepared by the Social Science Data Analysis Network (SSDAN) at http://www.censusscope.org/us/s36/c1/chart_race.html.

13. Consistent with a population base that is young and growing, minorities constitute a smaller percentage of the voting age population than the total population. According to the 2010 Census, the County has a total voting age population of 243,573, of whom 26,196 (10.8%) are non-Hispanic black. There are 10,024 (4.1%) voting-age Hispanics and 10,980 (4.5%) voting-age non-Hispanic Asian-Americans. The minority voting age population in Albany County, including all persons who are either Hispanic or not single-race white, is 51,226 (21.0%).

Socio-economic Profile of Albany County

14. I have prepared a set of charts based on the 2006-2008 American Community Survey 3-Year Estimates, comparing income, educational attainment and other factors among black, Hispanic, and non-Hispanic white residents of Albany County, New York. These charts are similar to socio-economic charts from the 1990 Census or 2000 Census that I prepared for use in most of the lawsuits noted in Exhibit 17. The charts are attached at Exhibits 2 and 3.

15. The charts are derived from the 2006-2008 American Community Survey 3-Year Estimates. The American Community Survey is an ongoing survey conducted by the U.S. Census

Bureau. In the charts, “African-American” refers to single-race African-Americans, including Hispanics. There is not a separate category for non-Hispanic African-Americans. “Latino” refers to persons who self-identify as Hispanic or Latino. Latinos may be of any race. “White” refers to non-Hispanic whites.

16. African-Americans and Latinos in Albany lag behind whites across most socio-economic measures. This disparity is summarized below and depicted with more detail in Exhibits 2 and 3.

(a) Education

- Of persons 25 years of age and over in Albany County, more than one-fourth of African-Americans, 18.7% have not finished high school. Latinos fare only slightly better, recording a 23.2% dropout rate. By contrast, 7.6 % of their white counterparts are without a high school diploma. See Exhibits 2 and 3, Page 22.

- At the other end of the educational scale, for ages 25 and over, 19.5% of African-Americans have a bachelor’s degree or higher – about one-half of the 38.3% rate achieved by whites. With respect to higher education, Latinos in Albany County fare somewhat better – 25.0% of the Latino population has a bachelor’s degree or higher. See Exhibits 2 and 3, Page 22.

(b) Employment

- The unemployment rate for the working age population (16-64) as a percent of the civilian labor force for African-Americans and Latinos is around double the rate for whites. At the time of the survey, 10.6% of such African-Americans and 7.6% of Latinos were unemployed, compared to a 4.7% rate for whites. See Exhibits 2 and 3, Page 54.

(c) Housing

- In Albany County, one-half (50.0%) (31.3% above poverty level and 18.7% below) of African-American family households are headed by single parent females with children under 18. The proportion of single parent female-headed Latino households is lower at 28.4% (16.1% above poverty level and 12.3% below), but still three times the 9.4% rate of white family households (7.5% above poverty level and 1.9% below). See Exhibits 2 and 3, Page 25.

- Almost three-quarters of African-American (71.7%) and two-thirds of Latino (63.7%) households rent their homes—around twice the 34.6% rate for white households in Albany County. See Exhibits 2 and 3, Page 57.)

(d) Income

- About 14% of African-American households have incomes of less than \$10,000, while 8.7% of Latino households are also struggling with incomes under \$10,000. By contrast, 5.5% of white households have incomes below \$10,000. See Exhibits 2 and 3, Page 30.

- African-American median family income is \$35,170—43% of the \$82,386 median income garnered by white families. Median family income for Latinos is \$51,234—62% of the white median family income. See Exhibits 2 and 3, Page 36.

- Per capita income levels reveal a similar disparity. Per capita income for African-Americans (\$17,243) and Latinos (\$15,817) is about half the \$33,887 per capita income for Albany County's white population. See Exhibits 2 and 3, Page 40.

- African-Americans and Latinos experience a poverty rate that is about four times the poverty rate for whites. There are 9,743 African-Americans (30.7%) and 2,396 Latinos (22.6%) living below the poverty line, while 19,282 whites (8.5%) are below the poverty line. See Exhibits 2 and 3, Page 28.

- Also, 39.9% of Albany County’s African-American children under age 18 are living below the poverty line, and 29.2% of Latino children under 18 are in poverty. This compares to a 7.6% poverty rate for white children under age 18. See Exhibit 1, Page 28.

- The median earnings level of African-Americans (\$24,788) and Latinos (\$19,051) working full-time year-round is 71.9% and 55.2%, respectively, of the \$34,483 median earnings for whites in Albany County. See Exhibits 2 and 3, Page 42.

- 25.1% of African-American households received food stamps in the last 12 months, compared to only 4.2% of white households. The figure was 17.9% for Latino households. See Exhibits 2 and 3, Page 49.

(e) Mobility/Access

- Whites in Albany County are 38% more likely to drive or carpool to work – 88.4% of whites in Albany County drive alone or carpool to work versus 64.0% of African Americans. Also, 86.4% of Latino households drive or carpool. See Exhibits 2 and 3, Page 15.

- Of the 8,393 persons over the age of 5 who speak another language (most of whom are Latino), 2,783 persons (33.2%) speak English “less than well.” See Exhibits 2 and 3, Page 23.

17. In sum, the charts and tables in Exhibits 2 and 3 reveal a significant disadvantage in the socio-economic wellbeing of Albany County’s minority community—represented by African-Americans and Latinos—compared to non-Hispanic whites. African-Americans and Latinos trail non-Hispanic whites with relentless consistency in the County.

18. Exhibits 2 and 3 also show that there is no appreciable difference in the overall socio-economic status of African-Americans and Latinos. African-Americans and Latinos in Albany County are cohesive from a socio-economic standpoint.

One Person, One Vote Analysis of the Plan in Place Prior to the Adoption of Local Law C

19. I use a geographic information system software package called *Maptitude for Redistricting*, developed by the Caliper Corporation, for my redistricting work. This software is used by local and state governing bodies across the country.

20. The Plaintiffs' attorneys provided me with a Census block allocation data file for the district plan for the Albany County Legislature that was in place prior to adoption of Local Law C.

21. I imported the data and recreated the plan boundaries at the Census block level using *Maptitude for Redistricting*. The block-level geographic boundary files are created from the U. S. Census 2010 TIGER (Topologically Integrated Geographic Encoding and Referencing) files. The block-level population data is based on the 2010 PL 94-171 data file. This dataset is the complete count population file designed by the Bureau of the Census for use in legislative redistricting. *The Mapitude for Redistricting* software processes the TIGER files to produce a map for display on a computer screen. The software also merges demographic data from the PL94-171 file to match the Census geography.

22. The Albany County Legislature has 39 districts. Based on a countywide population of 304,204, the ideal district size for the legislature is 7,800 persons (304,204 divided by 39).

23. According to my analysis, the legislative plan in place prior to the adoption of Local Law C—Local Law 2 of 2004—would violate one-person, one-vote requirements. The plan had an overall deviation of 25.39%—far beyond the 10% benchmark deviation commonly applied in redistricting. This overall deviation figure is derived by summing the percent deviation of the most populated district (District 35, +16.22%) with the absolute value of the percent deviation of the least populated district (District 37, -9.17%). Two other districts are

significantly overpopulated as well (District 22, +14.87%; District 13, +12.28%). Attached hereto at Exhibit 4 is a population summary report for Local Law 2 of 2004.

Arbor Hill Environment Justice Plan

24. I have developed thousands of redistricting plans and assisted hundreds of community groups in the redistricting process over the past 20 years. The technical redistricting work of the plan produced by Arbor Hill Environmental Justice (“AHEJ plan”) is on a par with, or better than, the typical government agency or redistricting consultant.

25. The AHEJ plan builds five majority-minority districts from a concentration of non-Hispanic blacks and Hispanics in the City of Albany. Attached hereto as Exhibit 5 is a map of the AHEJ plan, focused on the City of Albany. As noted above, 71.9% of the County's non-Hispanic blacks and Hispanics reside in the City of Albany, primarily in the east end of town.

26. The AHEJ plan creates five districts where blacks¹ and Hispanics together constitute a voting-age majority—Districts 1, 2, 3, 4, and 6. As shown in the table below, all five of the proposed districts have a combined black and Hispanic voting age population above 50%.² Attached hereto at Exhibit 6 is a population summary report for the AHEJ plan.

¹ Non-Hispanic Black as defined by the Department of Justice is single race non-Hispanic Black or African-American or a person of two races who is Non-Hispanic Black and White. This definition is in accordance with Department of Justice policy pursuant to Part II of OMB Bulletin 00-02. (Source: [Federal Register: January 18, 2001 (Volume 66, Number 12)] [Notices] [Page 5411-5414] [wais.access.gpo.gov] [DOCID:fr18ja01-171])

² Each of the five districts also has a non-Hispanic black voting-age majority without needing to combine minority groups. All five of the proposed districts have a non-Hispanic black voting age population above 50%.

Non-Hispanic-Black Voting Age Majority Districts under the AHEJ Plan

	Pop.	Dev.	% Dev.	18+ Pop	18+ NH DOJ	% 18+ NH DOJ Black	18+ Hispanic	% 18+ Hispanic	18+ DOJ Black & Hisp	% 18+ DOJ Black & Hisp	18+ Minority	% 18+ Minority
1	7,726	-74	-0.95%	5,526	2,883	52.17%	581	10.51%	3,464	62.69%	3,761	68.06%
2	7,805	5	0.06%	5,769	3,038	52.66%	450	7.80%	3,488	60.46%	3,719	64.47%
3	7,762	-38	-0.49%	5,553	2,925	52.67%	494	8.90%	3,419	61.57%	3,911	70.43%
4	7,760	-40	-0.51%	5,575	2,812	50.44%	643	11.53%	3,455	61.97%	3,864	69.31%
6	7,800	0	-0.00%	6,049	3,119	51.56%	578	9.56%	3,697	61.12%	4,105	67.86%

27. As shown in the tables above, the minority districts can be created with deviations of less than + or -1%—fewer than 75 persons above or below the ideal district size—as demonstrated by the AHEJ plan.

28. The AHEJ plan complies with one-person, one-vote requirements. The plan also complies with other key traditional redistricting criteria such as compactness, contiguity, and the non-dilution of minority voting strength. The plan avoids "packing" the minority community into four districts. Upon information and belief the plan also protects incumbents in that it does not place two incumbents in the same district.

29. The Local Law C plan, on the other hand, packs minorities into four majority districts, as shown in the table below. Attached hereto at Exhibit 7 is a map of the Local Law C plan, focused on the City of Albany. Attached hereto at Exhibit 8 is a population summary report of the Local Law C plan, focused on the City of Albany.

Districts 1-4 and 6 under the Local Law C Plan

	Pop.	Dev.	% Dev.	18+ Pop	18+ NH DOJ Black	% 18+ NH DOJ Black	18+ Hispanic	% 18+ Hispanic	18+ DOJ Black & Hisp	% 18+ DOJ Black & Hisp	18+ Minority	% 18+ Minority
1	8,030	230	2.95%	5,779	3,419	59.16%	662	11.46%	4,081	70.62%	4,282	74.10%
2	7,975	175	2.24%	6,082	3,369	55.39%	534	8.78%	3,903	61.17%	4,212	69.25%
3	7,444	-356	-4.56%	5,150	3,180	61.75%	454	8.82%	3,634	70.56%	3,819	74.16%
4	7,555	-245	-3.14%	5,333	2,938	55.09%	578	10.84%	3,516	65.93%	3,946	73.99%
6	8,182	382	4.90%	6,388	1,647	25.78%	505	7.91%	2,152	33.69%	2,753	43.10%

30. A plan with five minority-majority districts out of 39 represents just 12.8% of the seats on the Albany County Legislature—still four districts shy of the nine districts required to approach the 24.0% minority share of the countywide population. As noted above, the two largest minority populations in Albany County are non-Hispanic blacks (12.0%) and Hispanics (4.9%).

Illustrative Plans

31. I have developed an Illustrative Plan (“Illustrative Plan 1”) that merges the five majority-minority districts proposed under the AHEJ plan into the Local Law C Plan. The purpose of this plan is not to propose a specific remedy, but rather simply to show that it is possible to create a plan with one additional minority-majority district, without dramatic across-the-board changes to the Local Law C Plan. There are other configurations that would require even fewer changes.

32. Attached hereto as Exhibit 9 is Illustrative Plan 1. Attached hereto as Exhibit 10 is a population summary report with statistics for the districts in Illustrative Plan 1 located wholly or partly in the City of Albany. The plan has an overall deviation of 9.81%. Attached hereto as Exhibit 11 is a map showing the area shifted outside of Local Law C’s majority-minority districts under Illustrative Plan 1.

33. Illustrative Plan 1 requires modifications to five districts that border the five majority-minority districts under the AHEJ plan. Only ten districts therefore require

modification. Thus, 29 (74%, or nearly three-quarters) of the Local Law C districts would not change under this hypothetical plan.³

34. Under Illustrative Plan 1, a total of 25,601 persons of voting age would be shifted into a different district in the ten-district modified area of Local Law C. Excluding persons who reside in the four majority-minority districts under Local Law C, the number of voting age persons shifted under Illustrative Plan 1 drops to 15,146—of whom, 9,724 are non-Hispanic white. This represents 6.85% of all voting age persons who live outside of the area encompassed by the four Local Law C majority-minority districts and 5.22% of all voting age non-Hispanic whites.

35. Upon information and belief, no incumbents would be matched against one another in the altered districts.

36. The AHEJ plan creates five majority-minority districts, but it does not maximize the number of possible majority-minority districts. It is possible to create six majority-minority districts. Attached hereto as Exhibit 12 is a map showing an Illustrative Plan 2 that creates a sixth majority-minority district—District 7. Attached hereto as Exhibit 13 is a summary population report for Illustrative Plan 2. Because the districts in Local Law C with the greatest deviations are unchanged, the plan has an overall deviation of 9.81%. The table below shows summary data for the six majority-minority districts.

³One person would also be moved into District 11 for contiguity purposes. If District 11 was considered a “modified” district due to the shift of one person, there would be 28 unchanged Local Law C districts.

Six Voting Age Majority-Minority Districts under Illustrative Plan 2

	Pop.	Dev.	% Dev.	18+ Pop	18+ NH DOJ Black	% 18+ NH DOJ Black	18+ Hispanic	% 18+ Hispanic	18+ DOJ Black & Hisp	% 18+ DOJ Black & Hisp	18+ Minority	% 18+ Minority
1	7,556	-244	-3.13%	5,382	2,670	49.61%	577	10.72%	3,247	60.33%	3,542	65.81%
2	7,424	-376	-4.82%	5,513	2,816	51.08%	438	7.94%	3,254	59.02%	3,484	63.20%
3	7,578	-222	-2.85%	5,559	2,745	49.38%	446	8.02%	3,191	57.40%	3,680	66.20%
4	7,592	-208	-2.67%	5,755	2,833	49.23%	548	9.52%	3,381	58.75%	3,707	64.41%
6	7,695	-105	-1.35%	5,838	2,877	49.28%	663	11.36%	3,540	60.64%	3,980	68.17%
7	7,878	78	1.00%	6,243	1,975	31.64%	612	9.80%	2,587	41.44%	3,133	50.18%

37. A plan with six minority-majority districts out of 39 represents just 15.4% of the seats on the Albany County Legislature—still three districts shy of the nine districts required to approach the 24.0% minority share of the countywide population.

38. I also created an Illustrative Plan 3, which demonstrates the viability of creating five majority-minority districts with very little disruption of Local Law C districts. Illustrative Plan 3 does not have the near-perfect deviation achieved in the AHEJ plan, nor does it focus on protecting neighborhood alliances, but aside from the majority-minority districts, it only requires modification of three of the Local Law C districts. Attached hereto as Exhibit 14 is a map showing Illustrative Plan 3, creating a fifth majority-minority district while only impacting three additional districts. Attached hereto as Exhibit 15 is a summary population report for Illustrative Plan 3. Attached hereto as Exhibit 16 is a map showing the area shifted outside of Local Law C's majority-minority districts under Illustrative Plan 3. Because the districts in Local Law C with the greatest deviations are unchanged, the plan has an overall deviation of 9.81%. The table below shows summary data for the five minority-majority districts.

Five Voting Age Majority-Minority Districts under Illustrative Plan 3

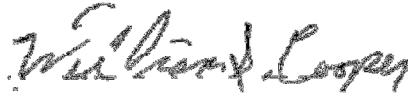
	Pop.	Dev.	% Dev.	18+ Pop	18+ DOJ NH	% 18+ NH DOJ Black	18+ Hispanic	% 18+ Hispanic	18+ DOJ Black & Hisp	% 18+ DOJ Black & Hisp	18+ Minority	% 18+ Minority
1	7,717	-83	-1.06%	5,839	2,987	51.16%	680	11.65%	3,667	62.80%	4,076	69.81%
2	7,477	-323	-4.14%	5,589	2,948	52.75%	408	7.30%	3,356	60.05%	3,585	64.14%
3	7,477	-232	-4.14%	5,096	3,187	62.54%	504	9.89%	3,691	72.43%	3,912	76.77%
4	7,795	-5	-.06%	5,694	2,916	51.21%	586	10.29%	3,502	61.50%	3,954	69.44%
6	7,502	-298	-3.82%	5,345	2,759	51.62%	562	10.51%	3,321	62.13%	3,617	67.67%

38. Under Illustrative Plan 3, a total of 14,905 persons of voting age would be shifted into a different district in the eight-district modified area of Local Law C. Excluding persons who reside in the four majority-minority districts under Local Law C, the number of voting age persons shifted under Illustrative Plan 3 drops to 8,752—of whom, 5,535 are non-Hispanic white. This represents 3.96% of all voting age persons who live outside of the area encompassed by the four Local Law C majority-minority districts and just 2.97% of all voting age non-Hispanic whites.

39. Upon information and belief, no incumbents would be matched against one another in the altered districts.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 14, 2011.

A handwritten signature in dark ink, appearing to read "William S. Cooper". The signature is written in a cursive, slightly slanted style.

William S. Cooper