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A T T O R N E Y S A T L A W

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VIA E-MAIL

October 12, 2011

Thomas Sheets, Esq.
Alan Glover
Robert Erickson

*Re: New Plaintiff Map and CVAP Data in Guy, et al v. Miller Case No.
11-0C-00042-1B*

Dear Mr. Chairman and Members of the Panel:

I send this letter on behalf of Ron Steslow, Mark Hutchison, and myself.

First, During the October 11, 2011 public hearing in Carson City, you asked Mr. Ron Steslow, the redistricting technician that both Mr. Hutchison and I have used to draw maps and interpret data during this litigation, to offer an opinion on Plaintiffs' third congressional proposal; identified as Exhibit G to the Panel at yesterday's hearing. Mr. Steslow needed the data from Plaintiffs before he could do any analysis. Mr. Steslow informed you that he would review the data he received and provide a written analysis. Steslow received a file purporting to be the block equivalency data for the new proposal. Unfortunately, the data that Mr. Steslow received was incomplete or corrupted. The block IDs are missing the final 9 characters, which means that he could not load it into his system and analyze it. It was likely an oversight/accident on Plaintiff's part, and Mr. Steslow is trying to get the data now. But he will not be able to provide this Panel with an opinion until he gets the complete and non-corrupted data.

Second, during the hearing, this Panel, Mr. Hutchison, and I all asked Plaintiffs to provide what CVAP data they had. Last night we all received a letter in which Plaintiffs stated that Kathy Steinle of LCB had that data. Neither Mr. Hutchison nor I have had a chance to review this data (nor have our experts), but we would be remiss if we did not point out that this data set contains many, if not all, of the problems that we advanced in our briefing and arguments. We have just reviewed the ACS_B05003 Summary and Description (the "Summary") provided by LCB (attached to this letter as Exhibit 1). Here is a short summary of those shortcomings:

- The documentation correctly notes that the data come from a 5-year "moving estimate" from 2005-2009. This is a survey, not a head count, and an outdated one at that. This deficiency was highlighted and discussed at length by Steslow on Monday, October 10, at the Las Vegas hearing. In short, the

**EXHIBIT Q—Second Redistricting Hearing
Document consists of 5 pages.
Entire exhibit provided.
Hearing Date: 10-11-11**

data does *not* correspond to the official census data and by its nature will require significant guesswork to use it.

- The Summary says that the data is not published at the Block Group level and it has only been made available by the LCB at the Census Tract level (an even larger level of geography, leaving more uncertainty in the distribution to the 2010 census blocks) – even though the Bureau of the Census released it at the Block Group level.
- Even at that macro-level, the Summary indicates that the Census Tract geography that they deallocated from was from the 2000 Census and NOT the 2010 Census.
- The Summary notes there is "no margin of error available for the citizen voting age estimate..." even though the original data released from the Bureau of the Census included margins of error.
- Under the heading "Access and use limitations" the Summary highlights that "care must be used with this table."

Any suggestion by the Plaintiffs at the Tuesday Hearing in Carson City that this CVAP data for Nevada is "readily available" and "easy to access" is inherently misleading. Certainly the data is available, Steslow never claimed the information was not available, the only question was its reliability. The fact remains, and Plaintiffs do nothing to cure the fact, that the data is outdated, not related to the official 2010 census data, deallocated from the 2000 Census (i.e. before the majority of the population boom in Nevada) and would involve a significant amount of guesswork to even begin guessing what specific geographic areas the data applied too given that only the Tract Level data is available. Given the Plaintiffs' letter last light, we felt we had a duty to respond immediately.

We understand that the last thing this Panel needs is more arguments from counsel. You have a daunting task ahead of you, and we do not want to slow you down. Furthermore, the data speaks for itself. Mr. Hutchison and I stand firmly behind our united position that this CVAP information is simply unreliable.

Once Mr. Steslow has a chance to review and opine on the Plaintiffs' new maps we will provide it to you.

Thanks again for all of your hard work, dedication, and commitment.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Stewart", with a long horizontal flourish extending to the right.

Daniel H. Stewart

cc: Mark Hutchison
Kevin Hamilton
Matthew Griffin
Bradley Schrager
Kevin Benson
Denise Pifer

Encl.

EXHIBIT 1

ACS_B05003

File Geodatabase Table

Thumbnail Not Available

Tags

American Community Survey, citizen voting age estimates, Nevada, 2009 5-year estimates, census tract level, U.S. Census Bureau

Summary

This dataset was extracted from table B05003 of the American Community Survey, 2005-2009 5-Year Summary File. The file contains tract level estimates (no blockgroups are available for Nevada in this dataset). Data were obtained using the Summary File Excel Retrieval Tool and then processed for local use. There are 487 census tracts (year 2000 geography is used). Citizen voting age data were computed by simple subtraction of non-citizens from total population over age 18. The raw table provides breakouts of sex by age by citizenship. The non-citizen margin of error for total non-citizens is computed as a weighted average of the sex by age cohorts.

Description

These data represent a "moving estimate" based on 5 years of data. Care must be taken in reporting results and use in any application.

The field (column) names were constructed for use with specific applications. A data dictionary and other information are documented elsewhere in the metadata.

A few of the 487 tracts have no data reported for this table.

The non-citizen margin of error for total non-citizens is computed as a weighted average of the sex by age cohorts. The final margin of error is computed thus: $[\text{male non-citizen pop 18 and over} * \text{male non-citizen pop 18 margin of error} + \text{female non-citizen pop 18 and over} * \text{female non-citizen pop 18 margin of error}] / [\text{male non-citizen pop 18 and over} + \text{female non-citizen pop 18 and over}]$. This ensures that each cohort is proportionally balanced in the final average. No margin of error is available for the citizen voting age estimate, only the non-citizen cohorts. Margin of error is available for the total of all residents.

Field summary (described in detail elsewhere):

GEOID10 - The year 2000 composite census geo-identifier code, composite of State, County, and census tract.

T09POP - American Community Survey 2009, total estimated census tract population.

T09POPER - T09POP margin of error as reported in the ACS, 2005-2009 5-Year Summary File.

T09U18 - Total 2009 estimated census tract population under 18.

T09VA - Total 2009 estimated census tract voting age population (18 and over).

T09VAER - T09VA margin of error.

T09CITZN - Total 2009 estimated census tract citizen population.

T09NCTZN - Total 2009 estimated census tract non-citizen population.

CITVA09 - Estimated 2009 citizen voting age totals.

NCITVA09 - Estimated 2009 non-citizen voting age totals.

NCITVA09ER - NCITVA09 margin of error.

COUNTY - County FIPS code as a string.

TRACT - 2000 Census Tract number as a character string with leading zeroes, ex. 001714 for tract 17.14.

GEOID - Full ACS Census Geographic Identifier, ex. 14000US32003001714.

NAME - Census Bureau descriptive name of the census tract.

Credits

Nevada Legislative Counsel Bureau, 2011

Access and use limitations

Care must be used with this table.