

For the Michigan Independent Citizens Redistricting Commission (MICRC)
The History of Discrimination in the State of Michigan and its
Influence on Voting

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This memorandum presents an introductory overview and summarizes various barriers faced by minority groups in Michigan regarding their voting rights and the overall history of discrimination in this state. This memorandum is not all inclusive and is provided as background information for redistricting.

Under the Voting Rights Act (“VRA”), there is a “permanent nationwide prohibition on voting practices that discriminate on the bases of race, color, or membership in a language minority group.”² Section 2 of the VRA, specifically, is broadly construed. VRA §2 prohibits practices or standards that “result in citizens being denied equal access to the political process on account of race, color, or membership in a language minority group.”³

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² DEPARTMENT OF JUSTICE, GUIDANCE UNDER SECTION 2 OF THE VOTING RIGHTS ACT, 52 U.S.C. 10301, FOR REDISTRICTING AND METHODS OF ELECTING GOVERNMENT BODIES (2021).

³ *Id.*

Under *Thornburg v. Gingles*, which the U.S. Supreme Court considers “our seminal §2 vote-dilution case,” there are three preconditions that need to be established to prove vote dilution in redistricting.⁴ These preconditions generally require that (1) the minority group is large and compact enough to be a majority in a single-member district, (2) there is significant political cohesiveness within the minority group, and (3) the current majority group is able to vote as a bloc to usually defeat the current minority’s preferred candidate.⁵ If these preconditions are met, then a court will evaluate the alleged violation in a holistic manner incorporating certain factors called the Senate Factors.

The factors are:

1. the extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process;
2. the extent to which voting in the elections of the state or political subdivision is racially polarized;
3. the extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group;
4. if there is a candidate slating process, whether the members of the minority group have been denied access to that process;
5. the extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process;
6. whether political campaigns have been characterized by overt or subtle racial appeals;

⁴ *Id.*

⁵ *Id.*

7. the extent to which members of the minority group have been elected to public office in the jurisdiction;
8. whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group; and
9. whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice or procedure is tenuous.⁶

The Senate Factors and the federal courts indicate that only one of these factors need exist for an electoral device or redistricting plan to be considered as discriminatory when all three *Gingles* preconditions are also satisfied. This list is not exhaustive, allowing courts to consider additional evidence at their discretion.⁷

A recent example of *Gingles* being applied in Michigan is the case of *United States of America v. Eastpointe*. In *Eastpointe*, the court found that the city's at large election system was potentially diluting the vote of Black citizens, thus running afoul of Section 2 of the VRA.⁸ The court looked at the history of discrimination in Eastpointe extensively.⁹ Aside from deliberating whether the three preconditions were met, the court also considered how the Black community in the area voted and whether the community was ever successful in electing their preferred

⁶ *Id.*

⁷ *Badillo v. City of Stockton*, 956 F.2d 884 (9th Cir. 1992), *Nixon v. Kent County*, 76 F.3d 1381 (6th Cir. 1996) (en banc), and Mulroy, Steven J., *The Way Out: A Legal Standard for Imposing Alternative Electoral Systems as Voting Rights Remedies*, HARV. CIVIL RIGHTS-CIVIL LIBERTIES L. REV. (1998).

⁸ *United States v. Eastpointe*, 378 F. Supp. 3d. 589 (2019).

⁹ See generally, *Id.*

candidates.¹⁰ Ultimately the court considered both the *Gingles* preconditions test and several of the Senate Factors in its decision.¹¹

Pursuant to the VRA and *Gingles*, Dr. Lisa Handley conducted a racially polarized voting analysis for the Michigan Independent Citizens Redistricting Commission in which she concluded that racial bloc voting exists in Michigan.¹² Applying *Gingles* and the Senate factors, we have prepared this memorandum to address the history of discrimination in Michigan.

I. Slavery and Historic Discrimination in Michigan

Michigan is viewed as a Northern abolitionist state that was not affected by the Jim Crow laws seen in the deep South. However, some of Detroit's first families were slaveholders.¹³ From 1760 to 1815, Indigenous people and Black people were enslaved and considered property in Detroit.¹⁴ A 1782 census showed 78 male and 101 female slaves living in the Michigan Territory.¹⁵ In 1805, only 15 African Americans lived in Detroit, but it is unknown how many were enslaved people. Many if not most of the enslaved people living in Michigan may have fled to British Canada after the Revolutionary War and the subsequent Treaty of Paris. The 1830 census reveals that 32 enslaved people lived in the Michigan Territory. Slavery persisted in Michigan but

¹⁰ *Id.* at 589-594.

¹¹ *See generally, Id.*

¹² Michigan Independent Citizen Redistricting Commission, *Lisa Handley Presentation: Determining if a Redistricting Plan Complies with the Voting Rights Act* (September 2, 2021, <https://www.michigan.gov/micrc/0,10083,7-418-106525---,00.html>).

¹³ Mandira Banerjee, *Detroit's Dark Secret: Slavery*, MICHIGAN TODAY (Feb. 19, 2018), <https://michigantoday.umich.edu/2018/02/19/detroits-dark-secret-slavery/>.

¹⁴ *Id.*

¹⁵ <http://absolutemichigan.com/michigan/slavery-in-the-northwest-territory/>

gradually declined until statehood was granted and slavery abolished in the new state on January 26, 1837.

Slavery in the Detroit area began under French control of the region as the fur trade flourished in the 18th century. Merchants wanted an inexpensive labor force for their burgeoning business and eventually “trading in the pelts of beavers and trading in the bodies of persons became contiguous endeavors in Detroit, forming an intersecting market in skins that takes on the cast of the macabre.”¹⁶ Slavery continued under subsequent British control of the Great Lakes. In the late 18th century, French and British settlers already living in the Michigan Territory when it was acquired by the United States were allowed to keep their slaves even though the federal government banned slavery in the unincorporated territory.¹⁷

After statehood, slavery’s legacy remained. For example, the state’s initial constitution prevented Black people from voting or serving on a jury, as was true in some other states in the 19th century.¹⁸ The Michigan legislature banned *de jure* segregation after the Civil War, but Detroit did not follow the statewide call and instead determined that schools in the city would be segregated by race.¹⁹

During & after the 20th Century’s Great Migration, many Black migrants to Michigan from the South faced intense racial discrimination in employment. Higher-paying jobs in the industrial

¹⁶ *Id.*

¹⁷ <https://www.michiganradio.org/arts-culture/2017-12-08/detroits-forgotten-history-of-slavery-detailed-in-new-book>

¹⁸ Chris Jaehnig, *African American Michigan: The Reconstruction Era*, *THE DAILY MINING GAZETTE* (May 9, 2020), <https://www.mininggazette.com/news/features/2020/05/african-american-michigan-the-reconstruction-era/>.

¹⁹ *Id.*

sector were primarily held by White Detroiters, while Black Detroiters typically held lower-paying ones. This continued through the post-World War II era – Jobs in Detroit’s police force, fire department, and other city departments were primarily held by whites.²⁰

By the early 20th century, Detroit had become a stronghold of the Ku Klux Klan (KKK). In the 1920s, there reportedly were more Klansmen living in Michigan than in any state in the country. Roughly half of Michigan Klansmen lived in metro Detroit.²¹ Even after the later dissolution of the KKK, a splinter vigilante group called the Black Legion continued to exist into the 1930s in Detroit. An estimated one third of the Black Legion’s members (approximately 5,000-10,000 people) operated in Detroit and targeted the city’s black population in the ‘30s.²²

“By the 1940s Detroit already had a long history of racial conflict. Race riots had occurred in 1863 and as recently as 1941. By the 1920s the city had become a stronghold of the Ku Klux Klan.... The industrial plants provided jobs but not housing.... As a result, the city's 200,000 black residents were cramped into 60 square blocks on the East Side and forced to live under deplorable sanitary conditions.

In 1943 the National Association for the Advancement of Colored People held an emergency war conference in Detroit and accused the nation of its hypocritical commitment to personal freedoms abroad and discrimination and segregation at home.”

On the evening of June 20, 1943, several racial incidents occurred on Belle Isle, including multiple fights between teenagers of both races. As violent confrontations continued into the next day, silence reigned over the city as 6,000 U.S. Army troops were stationed throughout Detroit in an ultimately successful effort to quell the violence. Twenty-five Black people and nine White people were killed in the violence that began on Belle Isle. The number injured approached 700 while the property damage, including looted merchandise, destroyed stores, and burned automobiles, totaled approximately \$2 million.

²⁰ SUGRUE, THOMAS J., “*THE ORIGINS OF THE URBAN CRISIS : RACE AND INEQUALITY IN POSTWAR DETROIT* : PRINCETON, NJ, PRINCETON UNIVERSITY PRESS, 2005

²¹ <https://www.hourdetroit.com/community/the-dark-days-of-the-black-legion/>,

What became known as the “12th Street Riot” occurred in 1967, initially as a confrontation between Black Detroiters and the largely White Detroit police force. In response, President Johnson deployed federal troops. The violence resulted in 43 dead, 467 injured, and more than 2,000 buildings destroyed. The “Riot” occurred mostly in Black communities. As a result, thousands of small businesses relocated out of Detroit and the affected area remained in a state of disrepair for decades.²³

Aforementioned 20th century racial disparities in employment led to unequal housing opportunities in Detroit. Housing options available to Black Detroiters were extremely limited throughout most of the 20th century. Black Detroiters were often left with unsanitary and eventually unsafe areas as their few housing options. Banks and federal housing groups frequently denied black home-owners’ loans, gave them unfairly inflated interest rates, and denied them the chance to improve their housing conditions. According to Author Thomas Sugrue, “you cannot underestimate the intensity [of] segregation in housing and the role that it played in dividing metropolitan Detroit by race.”²⁴

Detroit and its suburbs continued the segregation of public schools into the 1970s. On August 18th 1970, the NAACP filed a lawsuit against Michigan state officials and the governor, accusing them of maintaining racial segregation in education. Part of the lawsuit also alleged a direct relationship between unfair housing practices and educational segregation. The composition

²³ Sidney Fine, *Violence in the Model City: The Cavanaugh Administration, Race Relations, and the Detroit Riot of 1967* (1989)

²⁴ SUGRUE, THOMAS J., “*THE ORIGINS OF THE URBAN CRISIS : RACE AND INEQUALITY IN POSTWAR DETROIT* : PRINCETON, NJ, PRINCETON UNIVERSITY PRESS, 2005

of students in schools adhered closely to segregated neighborhoods. The U.S. Supreme Court eventually ruled 5-4 against the NAACP's allegations of racial discrimination in education.²⁵

Throughout the early to late 20th century, Detroit remained highly segregated by race.²⁶ In addition, realtors often did not show houses in predominantly White neighborhoods to Black people while educational and financial racial discrimination and racially motivated violence persisted.²⁷

Grand Rapids was another area of high racial tension and inequality during Michigan's Jim Crow era.²⁸ A small but prominent middle class African-American community made its home in Grand Rapids after World War I. However, Black people in the city were denied equal rights of access to and use of many public places. Such discriminatory practices were known nationally as "Jim Crow." Despite state laws against racial discrimination, Grand Rapids decided to go its own way and implemented local *de jure* and *de facto* racial discrimination.²⁹ Black people came to Grand Rapids wanting equality but instead experienced racism.³⁰ In one telling event, KKK members marched through the streets of Grand Rapids without wearing their hoods on July 4, 1925

²⁵ *Milliken v. Bradley*: The Northern Battle for Desegregation: The State Bar of Michigan: <http://www.michbar.org/file/journal/pdf/pdf4article1911.pdf>

²⁶ *Historian: Divide Between "White Detroit" and "Black Detroit" Led to City's 1967 Rebellion*, MICHIGAN TODAY (July 17, 2017), <https://www.michiganradio.org/families-community/2017-07-17/historian-divide-between-white-detroit-and-black-detroit-led-to-citys-1967-rebellion>.

²⁷ *Id.*

²⁸ Chris Jaehnig, *African American Michigan: The People v. Jim Crow*, THE DAILY MINING GAZETTE (May 16, 2020), <https://www.mininggazette.com/news/features/2020/05/african-american-michigan-the-people-v-jim-crow/>.

²⁹ *Id.*

³⁰ *A History of the Civil Rights Movement in Grand Rapids, Michigan* (last visited Sept. 26, 2020), <https://www.arcgis.com/apps/MapJournal/index.html?appid=0642f76537354f3982b58f09ed514932>.

in a show of defiance and demonstration of their local power.³¹ In Grand Rapids, business owners refused to serve Black patrons. Even though the city was known for furniture manufacturing, Black people were routinely denied these skilled-labor jobs.³² Instead, they often worked lower paid, service jobs like busboy or other waitstaff.³³ Black citizens tried to counteract the discrimination, ultimately without full success, by forming the Grand Rapids Study Club, which focused on education, social and moral support, and a safe space for women of color.³⁴

An 1885 Michigan statute made “discrimination in public places illegal,” but it was not enforced until 1925 when Emmett Bolden asked for seating on the main floor of Keith's Theatre in Grand Rapids.³⁵ The theater refused his seating request, instead directing him to its segregated balcony. Keith’s Theater was blatant in its racism, with its balcony where the theater segregated Black people known as “N***** Heavens.”³⁶ Mr. Bolden sued the theater for discrimination. The Michigan Supreme Court overturned a lower court decision in favor of Keith's Theatre. Chief Justice Nelson Sharpe ruled that “the public safety and general welfare of our people demand that, when the public are invited to attend places of public accommodation, amusement, and recreation, there shall be no discrimination among those permitted to enter because of race, creed, or color. (The Civil Rights Statute) is bottomed upon the broad ground of the equality of all (persons) before the law.” Even though the state Supreme Court found that the theater’s behavior was against the

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Supra* note 22.

³⁶ *Id.*

law, the court nevertheless limited how and when the 1885 non-discrimination statute would apply.³⁷

There was racial discrimination in affordable housing, education, and politics as well.³⁸ For example, in 1908, the Grand Rapids Medical College began refusing re-admittance of students of color it had once accepted. A lawsuit followed and the court ruled in favor of the students: “All citizens according to the court’s findings are entitled to the privilege of education... and the drawing of the color line is an unjust discrimination.” After the decision, several white students protested and walked out of class, declaiming “This is a white man’s school,” and “Lynch ’em if they don’t keep out.” White students placed an effigy of an African American in the school’s lobby and paraded the effigy through the streets. In response, the college barred the two Black students who had sued the school. The college claimed that as a private institution, they could “discriminate as they pleased.” The ruling in favor of the Black students was eventually overturned by the state Supreme Court in favor of the college.³⁹

While the state Supreme Court made progress towards *de jure* racial equality in Michigan, the court still limited the non-discrimination statute to governmental discrimination only and upheld racial covenants in housing and other matters the court deemed to be private.⁴⁰

In another pivotal case, *Meisner*, the defendant bought the Bois Blanc Island and chartered a boat from Detroit to the island for his patrons to enjoy recreational activities.⁴¹ However, the defendant, a private citizen, was allowed to deny patronage, including denials based on race, at his

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Jim Crow Laws: Massachusetts, Michigan, Minnesota and Mississippi, AMERICANS ALL*, <https://americansall.org/legacy-story-group/jim-crow-laws-massachusetts-michigan-minnesota-and-mississippi>.

⁴¹ Case Law Access Project, *Meisner v. Detroit, Belle Isle & Windsor Ferry Co.*, 154 Mich. 545 (1908), <https://cite.case.law/mich/154/545/>.

sole discretion.⁴² The plaintiff was denied passage on the boat on multiple occasions because he had previously “created [unspecific] disturbances.”⁴³ Ultimately, the Michigan Supreme Court found that, “theaters, circuses, racetracks, private parks, and the like were private enterprises,” and could engage in discriminatory activity.⁴⁴

After the Keith’s Theater case, the state Supreme Court pivoted to holding that discrimination in public places was prohibited.⁴⁵ In *Bolden*, the state Supreme Court found that the state’s civil rights statute §15570 not only applied to criminal charges explicitly stated in the statute, but also allowed individuals to bring civil actions against a violator.⁴⁶ The case helped to end “customary segregation” or *de facto* segregation in Michigan.⁴⁷

In terms of voting, Indigenous people were afforded the right to vote in Michigan with the passage of the Snyder Act in 1924.⁴⁸ In 1867 Michigan legislators intended to give Black people the right to vote. However, although the 1867 constitutional convention supported Black suffrage, Michigan voters rejected such suffrage changes to the state constitution.⁴⁹ A majority at the convention decided not to make Black suffrage its own separate provision, a decision which

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Supra* note 22.

⁴⁵ *Id.*

⁴⁶ *Bolden v. Operating Corporation*, 239 Mich. 318, 323 (1927).

⁴⁷ *Supra* note 22.

⁴⁸ *Voting Rights for Native Americans*, LIBRARY OF CONGRESS, <https://www.loc.gov/classroom-materials/elections/right-to-vote/voting-rights-for-native-americans/#:~:text=Nast.,rights%20granted%20by%20this%20amendment>.

⁴⁹ *Supra* note 15.

contributed to the defeat of voting rights for Black Michiganders.⁵⁰ It would not be until 1869 that Black people would have the right to vote in Michigan.⁵¹

Today, Michigan is experiencing an increase in incidents of intolerance, ranking in the top 20 of all 50 states for Asian American and Pacific Islander (AAPI) hate incidents.⁵² Nationally, there has been a recent rise in anti-Asian sentiment, specifically against Chinese people due in part to China being blamed for the Coronavirus-19 pandemic.⁵³ Further, there has been a general upward trend in racial harassment and White Supremacist activity in the state.⁵⁴ In 2019, the FBI reported 434 hate crimes in Michigan with 313 of the crimes being racially motivated.⁵⁵

II. Discriminatory Housing Practices and Voting Impacts

A. Racially Restrictive Covenants Survive Though They are Legally Unenforceable

Racially restrictive covenants, prohibiting home sales to Black people for example, though illegal, still influence housing patterns. Indeed, in a series of court cases from 1925⁵⁶ through 1963, the Michigan Supreme Court held that “racial covenants” were not illegal under Michigan or federal civil rights laws. While the court ruled in favor of Black people who were denied access to

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Russell Jeung et. al, *Stop AAPI Hate National Report*, (March 31, 2021), <https://stopaapihate.org/wp-content/uploads/2021/05/Stop-AAPI-Hate-Report-National-210506.pdf>.

⁵³ Malachi Barrett, *Racial Harassment, White Supremacist Propaganda on the Rise in Michigan*, MICHIGAN LIVE (May 7, 2021), <https://www.mlive.com/politics/2021/05/racial-harassment-white-supremacist-propaganda-on-the-rise-in-michigan.html>.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Parmalee v. Morris—Michigan*, 1925 (188 N.W. 330).

theaters and other public accommodations, the court repeatedly made clear that it would not give civil rights precedence over private property rights, until the court reversed itself in 1963 in the case of *McKibbin v. Corporation & Securities Commission*, (119 N.W.2d 557, 1963).

Although such covenants are legally unenforceable today, their lingering presence in deeds can still result in segregation.⁵⁷ For example, many houses in Ann Arbor suburbs still have racially restrictive covenants in their deeds.⁵⁸ These covenants often state that “no part of such land shall be occupied by persons not of the Caucasian race except as guests or servants,” and are usually found under the homeowner obligations detailed in closing documents.⁵⁹ When Professor Michael Steinberg bought his house in the 1980s, he also had this racially restrictive covenant and tried to have it removed but was told that the removal process would be long and that it “would not be worth it.”⁶⁰

These covenants have an impact on housing segregation as a stark reminder of pervasive, historical housing discrimination. For example, according to Kiera O’Connor, who is helping develop community education programs around these covenants:

You know you’re buying this wonderful house and you’re so excited...and then you see this [covenant] and you just don’t really feel welcome in the community. And it’s just, it’s really just imagining how uncomfortable that would be. And also,

⁵⁷ Shannon Stocking, *U-M Research Raises Awareness of Racially Restrictive Covenants in Ann Arbor Housing*, THE MICHIGAN DAILY (2021), <https://www.michigandaily.com/ann-arbor/u-m-professors-reveal-racially-restrictive-covenants-ann-arbor-housing/>.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

these restrictive covenants have kind of created Ypsilanti in a way, because they drove people of color out of Ann Arbor.⁶¹

B. Redlining Still Affects Community Demographics

Redlining is the historical practice of denying Black people low interest loans and mortgages that are routinely granted to White people based on where they lived.⁶² The practice made it inordinately difficult or practically impossible to have home ownership in communities where much of the population was Black.⁶³ Though the practice is now illegal, areas where redlining occurred remain highly segregated today.⁶⁴ Redlining has led to disparities in wealth among Black and White Americans.⁶⁵ Data and studies reveal that people of color are still denied mortgages that are routinely given to White people in similar circumstances.⁶⁶ The legacy of redlining, residential, and housing discrimination continue today.

The wall in Watson's backyard was built by white real estate developers who struggled to secure financing for their white neighborhood until they cut it off from a Black one. It is one of a number of segregation walls built in the mid-20th century for this purpose and one of a few still standing.

⁶¹ *Id.*

⁶² *History of Housing Discrimination Against African Americans in Detroit* (last visited Sept. 26, 2021),

<https://www.naacpldf.org/files/our-work/Detroit%20Housing%20Discrimination.pdf>.

⁶³ Kelsey Yandura, *Redlining was Banned Over 50 Years Ago. It Still Makes Voting Difficult for Black Americans Today*, SUPERMAJORITY NEWS (Oct. 6, 2020), <https://supermajority.com/2020/10/redlining-was-banned-over-50-years-ago-it-still-makes-voting-difficult-for-black-americans-today/>.

⁶⁴ *Id.*

⁶⁵ Andre Perry and David Harshbarger, *America's Formally Redlined Neighborhoods Have Changed, and So Must Solutions to Rectify Them*, BROOKINGS (Oct. 14, 2019), <https://www.brookings.edu/research/americas-formerly-redlines-areas-changed-so-must-solutions/>.

⁶⁶ Lindsey Smith et. al., *Data Analysis: "Modern-Day Redlining" Happening in Detroit and Lansing*, NPR (Feb. 15, 2018), <https://www.michiganradio.org/news/2018-02-15/data-analysis-modern-day-redlining-happening-in-detroit-and-lansing>.

The divider — called the “Birwood Wall,” the “Eight Mile Wall” or the “Wailing Wall” — can’t be blamed for inventing segregation. But the barrier, and the policies that led to its existence, would have far-reaching repercussions for the people, both Black and white, who lived in its shadow.⁶⁷

With the sale of a parcel of land to Grosse Pointe Park, that city and the city of Detroit are working out a deal to remove a physical barrier that separates the two cities.

The barrier at the intersection of Kercheval Ave. and Alter Road is symbolic according to Detroit and removing it would end long-simmering racial tensions between the wealthier and majority white city of Grosse Pointe Park and majority black Detroit.⁶⁸

In addition to the consequences of redlining, in Detroit, unlawful foreclosures have arisen as its ostensible successor.⁶⁹ Detroit has one of the “highest rates of property tax foreclosures in the nation.”⁷⁰ In 2010, property tax assessments were 10 times higher than the legal limit and this practice is disproportionately applied when assessing lower-valued homes.⁷¹ Often foreclosed houses and properties end up being sold to White-owned corporations or White families.⁷²

⁶⁷ Built to keep Black from White: NBC News: <https://www.nbcnews.com/specials/detroit-segregation-wall/>

And see:

⁶⁸ WXYZ, 2019: <https://www.wxyz.com/news/detroit-is-demanding-grosse-pointe-park-remove-physical-barrier-with-sale-of-land> AND SEE: 'DETROITERS STAY OUT': RACIAL BLOCKADES DIVIDE A CITY AND ITS SURBURBS: THE GUARDIAN: <https://www.theguardian.com/us-news/2015/feb/03/detroit-apartheid-city-surburbs-grosse-pointe>

⁶⁹ Steven Shelton, *How Redlining Produced Poverty in Detroit*, TELEGRAM NEWSPAPER (Sept. 26, 2019), <https://www.telegramnews.net/story/2019/09/26/news/how-redlining-produced-poverty-in-detroit/750.html>.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

The 2020 census shows movement of Black people from Detroit to suburbs like Eastpointe.⁷³ The 2020 census further reveals that 25% of children in Eastpointe are White but only 13% attend the public school in their district.⁷⁴ There is also a misconception that such flight leads to a reduction in property value, which can then motivate others to leave, but the property value in areas that have diversified have remained stable.⁷⁵

C. Disparities and Poverty Can Adversely Affect Voting

Generally, those with lower socioeconomic status tend to vote less frequently.⁷⁶ Owning property in the United States is one of the primary ways to accumulate wealth such that denying property ownership can continue the cycle of poverty.⁷⁷ Banks and other lenders may engage in the practice of reverse redlining.⁷⁸ Reverse redlining is defined as “targeting residents within certain geographic boundaries, often based on income, race, or ethnicity, and giving those targeted borrowers credit on unfair terms.”⁷⁹ [internal quotes omitted]. Such behavior was seen in Detroit

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Supra* note 7 at 591.

⁷⁷ Caroline LLanes, *Detroit Ranked as One of the Most Segregated Cities in the Country*, MICHIGAN RADIO NPR (June 21, 2021), <https://www.michiganradio.org/post/detroit-ranked-one-most-segregated-cities-country>.

⁷⁸ Khristopher J. Brooks, *Redlining’s Legacy: Maps are Gone, but the Problem Hasn’t Disappeared*, CBS NEWS (June 12, 2020), <https://www.cbsnews.com/news/redlining-what-is-history-mike-bloomberg-comments/>.

⁷⁹ Asma Husain, *Reverse Redlining and the Destruction of Minority Wealth*, MICH. J. L. & RACE (Nov. 2, 2016), <https://mjrl.org/2016/11/02/reverse-redlining-and-the-destruction-of-minority-wealth/>.

prior to the 2008 housing crash. Commentators and experts opine that the city has yet to recover from these lending practices.⁸⁰

The persistent segregation that remains today due in large part to redlining results in lower local government resources for voting.⁸¹ Redlining has led to disparities in wealth among Black and White Americans.⁸² Places that have larger communities of color and/or have lower income generally experience longer polling wait times during elections.⁸³ Around 90% of voters of color had increased vote times compared to their White counterparts.⁸⁴

Voting in elections can be expensive for some. Voting requires time, skills, information, a certain level of health, and access to transportation, among others. Thus, even getting to the polling place might be difficult for those with lower income.⁸⁵ In Detroit, about one-third of people living in the city do not have a car.⁸⁶ Many Detroiters have expressed concerns about reliable public transportation to polling locations.⁸⁷ Further, the state Supreme Court recently held that

⁸⁰ *Supra* note 87.

⁸¹ *Supra* note 63.

⁸² *Supra* note 65.

⁸³ Justine Coleman, *Minority, Low-Income Districts Saw Longer Wait Times to Vote in 2018: Study*, THE HILL (Nov. 4, 2019), <https://thehill.com/blogs/blog-briefing-room/news/468943-minority-low-income-districts-saw-longer-wait-times-to-vote-in>.

⁸⁴ *Id.*

⁸⁵ Matt Stevens, *Poorer Americans Have Much Lower Voting Rates in National Elections than the Nonpoor, A Study Finds*, NEW YORK TIMES (Aug. 11, 2020), <https://www.nytimes.com/2020/08/11/us/politics/poorer-americans-have-much-lower-voting-rates-in-national-elections-than-the-nonpoor-a-study-finds.html>.

⁸⁶ Monica Williams, *Need a Ride to the Polls? Amid a Court Ban, Detroiters Giving Free Lifts*, BRIDGE DETROIT (Oct. 28, 2020), <https://www.bridgedetroit.com/need-a-ride-to-the-polls-amid-a-court-ban-detroiters-giving-free-lifts/>.

⁸⁷ *Id.*

ridesharing services like Lyft or Uber cannot provide a discounted rate to transport people to polling places, thus reducing public transportation options to facilitate voting.⁸⁸

D. Housing and the Coronavirus-19 Pandemic's Disparate Impacts

Segregation in housing and income inequality have played a role in the rates of coronavirus cases among minority populations.⁸⁹ Such disparities are especially apparent in metropolitan areas. Cities where Black and Hispanic populations are more segregated from the White population had higher rates of death due to COVID.⁹⁰ Coronavirus rates can also be impacted by implicit racial bias in healthcare.⁹¹ Michigan implemented a coronavirus task force on racial disparities and the resultant report found that the rate of cases of the virus among the Black population was 40% higher than among the White population.⁹²

The rates of death due to the coronavirus are three times higher among the Black population in comparison to the White population in Michigan.⁹³ Michigan has an above average mortality

⁸⁸ *Id.*

⁸⁹ Jared Wadley, *Segregation, Income Disparity Fueled High COVID-19 Numbers*, MICHIGAN NEWS Feb. 18, 2021), <https://news.umich.edu/segregation-income-disparity-fueled-high-covid-19-numbers/>.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² Michigan Department of Health and Human Services, *Michigan Coronavirus Racial Disparities Task Force Interim Report*, 4 (Nov. 2020), https://www.michigan.gov/documents/coronavirus/Interim_Report_Final_719168_7.pdf.

⁹³ *Id.*

rate for Black Americans due to the virus.⁹⁴ COVID case rates have also been higher among the state's Hispanic population at 70% compared to the White population.⁹⁵

III . Michigan Today

Detroit remains the most segregated city in the United States with Detroit and the surrounding areas of Warren and Livonia being the fourth most segregated metropolitan area in the United States.⁹⁶ Detroit and other similarly situated places, such as Flint, have also historically experienced disinvestment.⁹⁷

As the auto industry in Detroit grew through the early to mid-20th century, many Black Americans who lived in the city experienced income growth that enabled them to move into the majority White, middle-class, suburban neighborhoods.⁹⁸ However, many White Americans in those neighborhoods were staunchly against this change.⁹⁹ For instance, Grosse Pointe had a point system in the 1950s that measured how “ethnic” a potential homeowner was along with a ban on selling homes to Black and Jewish people.¹⁰⁰ Both Dearborn and Warren are areas where Black

⁹⁴ Rashawn Ray et. al., *Examining and Addressing COVID-19 Racial Disparities in Detroit*, BROOKINGS (Mar. 2, 2021), <https://www.brookings.edu/research/examining-and-addressing-covid-19-racial-disparities-in-detroit/>.

⁹⁵ *Supra* note 106 at 5.

⁹⁶ *Supra* note 86.

⁹⁷ *Id.*

⁹⁸ Gordon Trowbridge and Oralandar Brand-Williams, *Cost of Segregation: Policies of Exclusion Created Boundaries Between Black, White Suburbs*, DETROIT NEWS (Apr. 15, 2020), <https://www.detroitnews.com/story/news/special-reports/2020/04/15/segregation-policies-create-boundaries-between-white-black-suburbs/5142654002/>.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

people have historically been denied housing.¹⁰¹ One of Dearborn’s past mayors, Orville Hubbard, aimed to keep Dearborn “clean” and made it clear that “[Black people] can’t get in here.”¹⁰² However, a street and a senior center are named after Orville Hubbard, the city made his birthday a holiday, and there was a statute of him in front of City Hall until its removal in June 2020.¹⁰³

A. Michigan’s Emergency Manager Laws and Their Impact on Voting

Michigan’s Emergency Manager Law, Public Act 436 allows the state government to replace all locally elected officials in cities and school boards where there is a finding that the area is financially distressed.¹⁰⁴ In such situations, the community affected does not have the ability to elect their local representatives.¹⁰⁵ The electoral power instead goes to state-appointed “emergency managers” who have historically been appointed more frequently in communities of color.¹⁰⁶ Such managers had effective political control over Detroit, Flint, Highland Park, Benton Harbor, and

¹⁰¹ *Id.* and Niraj Warikoo, *Statue of Former Dearborn Mayor Orville Hubbard Taken Down*, DETROIT FREE PRESS (June 5, 2020), <https://www.freep.com/story/news/local/michigan/wayne/2020/06/05/statue-dearborn-mayor-orville-hubbard-removed/3161044001/>.

¹⁰² *Supra* note 118.

¹⁰³ *Id.*

¹⁰⁴ *Michigan Residents Ask Supreme Court to Review Law that Led to Flint Water Crisis*, CENTER FOR CONSTITUTIONAL RIGHTS (March 31, 2017), <https://ccrjustice.org/home/press-center/press-releases/michigan-residents-ask-supreme-court-review-law-led-flint-water>.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

Pontiac for 18 years.¹⁰⁷ These cities each have a predominately Black population.¹⁰⁸ In 2018, Emergency Managers were removed from those cities and school districts.¹⁰⁹

The Flint Water Crisis resulted from a cost cutting measure taken by the emergency manager and against the advice of the EPA in 2014.¹¹⁰ Because the water was now being drawn from the Flint River, which is the waste disposal site for local industries, rather than from Detroit's treated water plant, it has high levels of lead, legionnaires disease bacteria, and total trihalomethanes, which are cancer-causing chemicals.¹¹¹ The lead levels are particularly harmful to children and the health effects from consuming the water are long lasting.¹¹²

Studies have shown, generally, that those who are chronically sick are less likely to vote.¹¹³ It is unclear what the exact relationship is between health and voting but "people who had poor self-rated health, no insurance, disabilities, and less emotional support were also less likely to vote

¹⁰⁷ Paul Egan, *Michigan Without State-Appointed Emergency Managers for First Time in 18 Years*, DETROIT FREE PRESS (June 27, 2018), <https://www.freep.com/story/news/local/michigan/2018/06/27/michigan-without-emergency-managers-first-time-18-years/737821002/>.

¹⁰⁸ Julie Mack, *See List of Michigan Cities with Most African American Residents, and Geographic Shifts Since 1970*, MICHIGAN LIVE (June 23, 2020), <https://www.mlive.com/public-interest/2020/06/see-list-of-michigan-cities-with-most-african-american-residents-and-geographic-shifts-since-1970.html>.

¹⁰⁹ *Supra* note 138.

¹¹⁰ ACLU 2016 IMPACT REPORT, https://www.aclu.org/sites/default/files/field_document/2016_impact_report.pdf.

¹¹¹ Melissa Denchak, *Flint Water Crisis: Everything You Need to Know*, NRDC (Nov. 8, 2018), <https://www.nrdc.org/stories/flint-water-crisis-everything-you-need-know>.

¹¹² *Id.*

¹¹³ Chloe Reichel, *How Health Affects Voter Turnout: A Research Roundup*, JOURNALIST'S RESOURCE (Oct. 29, 2018), <https://journalistsresource.org/politics-and-government/voter-turnout-health-research/>.

than the general population.”¹¹⁴ Experts have concluded that the likelihood of voting can be reduced when an individual suffers from chronic, debilitating illness.¹¹⁵

B. Educational Disparities in Michigan

There are significant barriers faced by Indigenous families and their children. In Michigan, there are 12 federally recognized tribes and four state recognized tribes, which when taken together means that there are about 100,000 Indigenous people living in Michigan.¹¹⁶ Thus, Michigan ranks among the top ten states with the largest Indigenous populations.¹¹⁷

In exit poll surveys, Indigenous people are often not recognized as a distinct group and are instead within the catch all group of “others.”¹¹⁸ Many are also stopped from voting due to the address listed on their ID because they are likely to have a P.O box listed if they live on a reservation.¹¹⁹ Poll workers are not given clear instructions on the various forms of a valid address and because of this, many Indigenous people can be turned away from voting.¹²⁰ The polling places that normally serve Indigenous people can be far away from reservations, can require

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ Meghanlata Gupta, *Debunking 10 Misconceptions About Michigan’s Native Americans*, BRIDGE MICHIGAN (June 24, 2020), <https://www.bridgemi.com/guest-commentary/opinion-debunking-10-misconceptions-about-michigans-native-americans>.

¹¹⁷ *Id.*

¹¹⁸ *Often Overlooked Native American Voters Poised to Become Powerful Voting Bloc in Michigan*, MICHIGAN RADIO NPR (Nov. 11, 2020), <https://www.michiganradio.org/post/often-overlooked-native-american-voters-poised-become-powerful-voting-bloc-michigan>.

¹¹⁹ *Id.*

¹²⁰ *Id.*

traversing inadequate roads, and typically lack funding and equipment.¹²¹ Even registering to vote can be challenging because many reservations do not have adequate broadband access, thus making it difficult to access the internet.¹²²

There is also a clear divergence in the percentages of bachelor's degrees earned by Indigenous people, African Americans, and Hispanic individuals in Michigan when compared to Caucasian and Asian individuals. In the total Michigan population, only 14% of Indigenous people have their bachelor's degree; 18% of Black people have their bachelor's degree; and 20% of Hispanic people have their Bachelor's degree.¹²³ These percentages are quite low when compared to the percentages of Bachelor's degrees held by White people, 31%, and Asians, 66%.¹²⁴

There are disparities in resources available to lower income, urban public schools, many of which are predominantly Black.¹²⁵ This is partially because funding for schools does not consider the additional costs associated with teaching in low-income communities.¹²⁶ On average,

¹²¹ Native American Rights Fund, *Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters*(2020), https://www.narf.org/wordpress/wp-content/uploads/2020/05/NARF_2020FieldHearingReport_SummaryDocument.pdf and Native American Rights Fund, *Barriers to Casting a Ballot* (2020), https://vote.narf.org/wp-content/uploads/2020/06/obstacles_ballot_summary.pdf.

¹²² Native American Rights Fund, *Vote By Mail in Native American Communities* (2020), https://vote.narf.org/wp-content/uploads/2020/06/obstacles_votebymail_summary.pdf.

¹²³ Alex Rossman, *Michigan Has Stark Racial Disparities in Educational Attainment, Ranks Third Worst in Nation for Number of Bachelor Degrees Earned By Black Students*, MICHIGAN LEAGUE FOR PUBLIC POLICY (May, 29, 2020), <https://mlpp.org/michigan-has-stark-racial-disparities-in-educational-attainment-ranks-third-worst-in-nation-for-number-of-bachelor-degrees-earned-by-black-students/>.

¹²⁴ *Id.*

¹²⁵ Peter Ruark, *Expanding the Dream: Helping Michigan Reach Racial Equity in Bachelor's Degree Completion*, MICHIGAN LEAGUE FOR PUBLIC POLICY (May 29, 2020), <https://mlpp.org/expanding-the-dream-helping-michigan-reach-racial-equity-in-bachelors-degree-completion/>.

¹²⁶ *Id.*

providing education to a grade school child costs around \$9,590 annually but these costs can be higher for students who live in poverty.¹²⁷ Schools located in wealthier areas can buffer their expenses with revenue from property taxes in the area.¹²⁸ Low-income schools do not have this buffer.¹²⁹ Teacher turnover in low-income schools or schools with larger populations of color is high.¹³⁰ It is common for a low-income school to train a teacher and for that teacher to take a job at a higher-income school that could offer a higher salary.¹³¹ There are also issues of low literacy rates in low-income schools especially those located in communities of color.¹³² In Muskegon Heights, for example, only 6% of students were proficient in English as of 2018.¹³³

Black people may have relatively lower rates of bachelor's degrees due to poverty.¹³⁴ Michigan has high college tuition costs, and the amount of financial aid has not kept pace with increases in tuition.¹³⁵ Simply put, college education is expensive. Over the years, Michigan state government grants on average approximately \$5,466 in student aid to White students while

¹²⁷ Michigan Association of School Boards, *Cost of Educating a Child* (last visited Sept. 26, 2021), <https://www.masb.org/SFRC>.

¹²⁸ Lily Altavena, *Report: High Poverty Districts Bear the Brunt of the Teacher Turnover in Michigan*, DETROIT FREE PRESS (May 18, 2021), <https://www.freep.com/story/news/education/2021/05/18/edtrust-report-teacher-turnover/5128745001/>.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² Melissa Frick, *High-Poverty Michigan School Districts Awarded \$3M to Help Improve Reading, Writing Skills*, MLIVE (Mar. 10, 2021), <https://www.mlive.com/news/2021/03/high-poverty-michigan-school-districts-awarded-3m-to-help-improve-reading-writing-skills.html>.

¹³³ *Id.*

¹³⁴ *Supra* note 163.

¹³⁵ *Id.*

granting about \$4,461 in student aid to students of color.¹³⁶ The total average of student aid provided in Michigan is the 12th lowest in the nation.¹³⁷ In 2018, Michigan used 4.1% of its total budget on higher education, which is significantly lower than the national average of 10.1%.¹³⁸

The disparities in higher education attainment also vary by location. Cities that have a predominantly Black population have even lower levels of Bachelor's degrees.¹³⁹ Places like Benton Harbor, Muskegon, and Saginaw can have as few as 10% of residents with Bachelor's degrees.¹⁴⁰ Generally, Michigan is found to be the third worst in the nation for its percentage of Bachelor's degrees earned by Black students in comparison to the total Black population in Michigan.¹⁴¹ Specifically, only 6.8% of Black students in the state earned a Bachelor's degree, which is less than the national average of 17.1%.¹⁴²

IV. Voting in Michigan: VRA Section 5 Coverage and Language Barriers

In 1976, the U.S. Attorney General and Census Director added Michigan to the list of only 14 states, and the only Midwestern State, to be covered by Section 5 of the Voting Rights Act, which required advance approval or preclearance from the Department of Justice or the U.S. District Court for the District of Columbia before any "change affecting voting" could be

¹³⁶ Allison Donahue, *Study: Low-income, Students of Color Squeezed in Michigan's College Affordability Crisis*, MICHIGAN ADVANCE (Sept. 7, 2019), <https://michiganadvance.com/2019/09/07/study-low-income-students-of-color-squeezed-in-michigans-college-affordability-crisis/>.

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Supra* note 160.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴²¹⁴² *Id.*

implemented. In 2007, the Department of Justice used Section 5 to prevent the State of Michigan from closing a Secretary of State branch office in Buena Vista Township, deciding that the State could not prove that the closure did not discriminate against minorities and could not prove that the closure “neither has the purpose nor will have the effect of effect of denying or abridging the right to vote on account of race.”¹⁴³

Michigan’s Section 5 coverage applied to Clyde Township in Allegan County and Buena Vista Township in Saginaw County as a result of the townships not providing election materials in Spanish pursuant to the Voting Rights Act.^{144, 145}

In 2020, the Secretary of State for Michigan started the Language Access Task Force that aimed to translate voter information into various languages.¹⁴⁶ The voter information translated is on the state government’s website, however, this translation effort does not include absentee or in-

¹⁴³ December 26, 2007 Section 5 objection letter from DOJ to State of Michigan: https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/l_071226.pdf

¹⁴⁴ FEDERAL REGISTER, VOL. 41, NO. 158— FRIDAY, AUGUST 13, 1976

¹⁴⁵ On June 25, 2013, the United States Supreme Court held that it is unconstitutional to use the coverage formula in Section 4(b) of the Voting Rights Act to determine which jurisdictions are subject to the preclearance requirement of Section 5 of the Voting Rights Act, *Shelby County v. Holder*, 133 S. Ct. 2612 (2013). The Supreme Court did not rule on the constitutionality of Section 5 itself. The effect of the *Shelby County* decision is that the jurisdictions identified by the coverage formula in Section 4(b) no longer need to seek preclearance for the new voting changes, unless they are covered by a separate court order entered under Section 3(c) of the Voting Rights Act. (USDOJ)

¹⁴⁶ Malak Silmi, *Michigan Secretary of State Rolls Out Voter Information in 10 Languages*, DETROIT FREE PRESS (Oct. 10, 2020), <https://www.freep.com/story/news/politics/elections/2020/10/10/michigan-voter-information-translations-arabic-bengali-korean-spanish-tagalog/5916704002/>. The languages now provided are Arabic, Bengali, Burmese, Hindi, Korean, Mandarin, Spanish, Tagalog, Thai, and Urdu. *Id.*

person ballots.¹⁴⁷ About 10% of Detroiters speak a different language than English at home and Hamtramck has around 67% of individuals speaking a different language at home.¹⁴⁸

About 38.1% of individuals in Michigan who were born outside the United State are Limited English Proficient (“LEP”), among the highest rates in the United States, while 0.6% of individuals who were born anywhere in the United States are LEP.¹⁴⁹ The 2020 census data for Wayne County show that the LEP percentages in Michigan range from 3.5% to 13.1%.¹⁵⁰ However, some census tracts that are located in Hamtramck and Dearborn show that limited English proficiency among the population is 32.5% or higher.¹⁵¹

Some LEP voters may prefer in-person translation while voting rather than seeking out information online, especially when the online translation is done poorly.¹⁵² Further, though a voter can ask individuals not associated with a candidate or their labor union to assist them while voting, poll workers get inconsistent guidance on the matter.¹⁵³ Thus, poll workers have turned

¹⁴⁷ *Id.*

¹⁴⁸ Maggie McMillin, *Michigan Made it Easier than Ever for Non-English Speakers to Vote This Year. But the Work’s Not Done*, DETOUR DETROIT (Nov. 9, 2020), <https://detourdetroit.com/michigan-voting-other-languages-access/>.

¹⁴⁹ Migration Policy, *State Immigration Data Profiles: Michigan* (last visited Sept. 26, 2021), <https://www.migrationpolicy.org/data/state-profiles/state/language/MI>.

¹⁵⁰ United States Census, *People that Speak English Less than “Very Well” in the United States* (Apr. 8, 2020), <https://www.census.gov/library/visualizations/interactive/people-that-speak-english-less-than-very-well.html>.

¹⁵¹ *Id.*

¹⁵² *Supra* note 193.

¹⁵³ *Id.*

away individuals who are accompanied to the polls by a voting individual to help them understand the ballot.¹⁵⁴

The federal government sued Hamtramck for discriminatory election practices in 2003 for the city's conduct in a 1999 local election.¹⁵⁵ At the time, Hamtramck allowed challenges to an individual's voter registration under Michigan Law.¹⁵⁶ The "Citizens for a Better Hamtramck" were able to register as polling place challengers claiming that their aim was to keep the election "pure."¹⁵⁷ This group of challengers brought citizenship challenges only against people of color and those with Arab sounding names.¹⁵⁸ No White voter's citizenship was challenged during this election.¹⁵⁹ When complaints were made to the elections office, city officials did not address the issue.¹⁶⁰ Some Arab citizens decided not to vote in that election citing this racial intimidation and harassment.¹⁶¹ The United States brought suit to enforce the non-discriminatory requirements of the Voting Rights Act and U.S. Constitution.

As part of the 2003 consent decree settling the United States' lawsuit, Hamtramck was ordered to cease discrimination against voters based on race or color as prohibited by federal law, ordered to train election officials and polling place challengers about non-discrimination in

¹⁵⁴ *Id.*

¹⁵⁵ *United States v. Hamtramck*, No. 0073541 at 1 (Mich. Sept. 3, 2003) (First Amended Consent Order and Decree).

¹⁵⁶ *Id.*

¹⁵⁷ *United States v. Hamtramck*, No. 00-73541 at 2 (Mich.) (Complaint).

¹⁵⁸ *Id.* at 3.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.* at 4.

¹⁶¹ *Id.* at 2.

elections, ordered to provide both Bengali and Arabic interpreters at the polls, voting information and ballots in both languages, and notices in the major newspapers for both communities about the consent order.¹⁶² In 2021, Hamtramck was again in violation of the VRA because the city did not provide Bengali interpreters nor voting information and ballots in Bengali.¹⁶³ The most recent consent order states that the city must provide these resources, with the court order effective until July 13, 2025.¹⁶⁴ In other Michigan jurisdictions such as Dearborn, where nearly half the population is Arabic speaking, there have also been issues of not providing citizens with translated materials or providing sample ballots that are translated only three days before an election.¹⁶⁵

¹⁶² *Supra* note 200 at 9.

¹⁶³ *U.S. District Court for the Eastern District of Michigan Enters Consent Decree and Order in Voting Rights Act Lawsuit—Hamtramck’s Bengali Language Election Program Ordered for Four Years*, ASIAN AMERICAN LEGAL DEFENSE & EDU. FUND (July 13, 2021), <https://www.aaldef.org/press-release/u.s.district-court-for-the-eastern-district-of-michigan-signs-and-enters-consent-decree-and-order-in-voting-rights-act-lawsuit-hamtramck-s-bengali-language-election-program-ordered-for-four-years/>.

¹⁶⁴ *Id.*

¹⁶⁵ Beenish Ahmed, *Dearborn Needs Arabic-Language Election Materials, Arab-American Advocates Say*, NPR (July 29, 2021), <https://www.michiganradio.org/post/dearborn-needs-arabic-language-election-materials-arab-american-advocates-say>.

Conclusion

Minority groups in Michigan face several barriers to voting. *Gingles* and the Senate Factors provide guidance on what the state can consider when evaluating election and voting barriers. The U.S. Supreme Court has ruled that such considerations can include income, education, and health inequalities along with the presence of significant segregation in an area. This memorandum has attempted to address the various issues raised by the U.S. Supreme Court under *Gingles* and the Senate Factors while also providing the context of historical discrimination in Michigan dating to its time as a slave holding territory in the 18th century.