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Virginia Beach's Local Election System

Engagement Outcomes and Recommendations



UNIVERSITY
of VIRGINIA

Weldon Cooper Center
for Public Service

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EXECUTIVE SUMMARY

In early 2023, the City of Virginia Beach asked the Weldon Cooper Center for Public Service to serve as an objective third party to: one, solicit residents' feedback on the 10-1 single-member district elections, and two, carry out an independent legal and social science research review regarding election systems more generally, to inform Virginia Beach's plan of action. To carry out this work, the Cooper Center partnered with the State and Local Government Policy Clinic at UVA's School of Law as well as community facilitators and an additional legal scholar (names and biographies below). Together, this team conducted a scientific probability-based city-wide survey, facilitated a series of public community input sessions, and carried out an expert review of federal and state law on election system options. To help ensure participation, the City of Virginia Beach carried out an advertising campaign using local and regional traditional and social media outlets for several weeks before and during the survey and community sessions.

SURVEYS

The survey was administered from April 4 to June 2, 2023, via postal mail and web, with a total of 2,112 Virginia Beach residents participating. Results indicated that participants felt the new voting system generated positive experiences and matched their expectations, and that voters had slightly greater familiarity with the new system than the previous. Further, more respondents felt that the new system better represented their interests than did the previous system. Finally, while there was more support (63%) than opposition (37%) to the City including a referendum on the 2023 ballot to further explore local election system options, there was significantly greater support (81%) for keeping the 10-1 system in place in Virginia Beach. There were no statistically significant differences in levels of support by local district, gender, race, income, or education level. However, gaps in familiarity with the 10-1 system for a portion of residents point to the need for additional ongoing education efforts by the City.

COMMUNITY SESSIONS

The Virginia Institute of Government team facilitated 10 in-person and two virtual community input sessions, one within each council district. The community input sessions demonstrated overwhelming support for the 10-1 system. Recurrent themes included the system's evident ability to increase the diversity on City Council; likely expansion of the pool of candidates running for Council; an expectation that the 10-1 system will lead to more responsiveness from City officials to localized, district-specific concerns and priorities; and a belief that it engenders greater accountability for elected officials to their constituents.

RESEARCH

Part of the mandate from Virginia Beach was that the Cooper Center consider the legal and historical context of these electoral system decisions and help the City as a body understand what options it has. As part of this review, the team from UVA Law considered and explained the following questions and topics:

- How districts are drawn
- How do districts affect the composition of city councils?
- How do districts affect the responsiveness of city councils?
- How do districts affect voter engagement?
- How are votes counted?
- How do voting methods affect the composition of city councils?
- How do voting methods improve the responsiveness of city councils?
- How do voting methods affect voter engagement?
- Racial Gerrymandering in both Federal and Virginia Law
- The Virginia Voting Rights Act
- Virginia Statute Related to Voting
- Virginia Beach Referendum on Election Process

In sum, the legal background and social science research shows that how electoral districts are drawn can greatly influence both who runs and ultimately who is elected to local office, with single-member districts (as in the case of the 10-1 system) likely to improve representation of elected officials from historically underrepresented backgrounds.

CONCLUSIONS

Across the multiple phases of research conducted for this project, the findings align to support retaining the 10-1 system first implemented in 2022 in Virginia Beach. This is in line with the opinions of the majority of residents, demonstrated in both the survey and community input sessions; it is consistent with what research indicates is an effective, representative electoral system; and it is compliant under both federal and state election law.

INTRODUCTION

An ideal local government aspires to represent all of its people in decision making. Courts, political scientists, and legal scholars tend to examine representation as it relates to two key questions: (1) *Does the local government look like the community it serves?* and (2) *Does the local government produce policy that responds to the needs of all residents?*

Given the *Holloway* ruling, the resulting changes to the local election system in Virginia Beach, and the relatively new Voting Rights Act of Virginia, the City of Virginia Beach is grappling with important choices about the future of its electoral system, including the mechanics of how districts are drawn and how votes are counted. Accordingly, the City sought an objective third party to provide an analysis and set of independent conclusions for the Council to consider when making a decision about how best to proceed. The City selected the University of Virginia's Weldon Cooper Center for Public Service to carry out a robust community engagement initiative and to perform an independent legal and social science research review regarding local election systems. To complete this work, the Weldon Cooper Center partnered with faculty at the University of Virginia School of Law, including Professor Bertrall Ross, an expert on election law, and Professor Andrew Block, the Director of the State and Local Government Policy Clinic, who in turn, enlisted the help of law students with various aspects of the research. Together, this team conducted a scientific probability-based city-wide survey, facilitated a series of public community input sessions, and carried out an expert review of federal and state law on election system options. Finally, Cynthia Hudson, J.D., reviewed Virginia Beach's charter to provide guidance on requirements and timing for a possible referendum should the City pursue that option.

This report provides the results of that research. Further, this report was prepared to inform both the City Council and City staff and the residents of Virginia Beach of the findings from this work. Before presenting the results, the following introduces the key personnel leading this research, a summary of the methodological approaches employed, and a brief historical background of Virginia Beach's election system.

KEY PROJECT PERSONNEL

Andrew Block, J.D.

Andrew Block is an associate Professor of Law and the Director of the State and Local Government Policy Clinic at the University of Virginia School of Law. He previously served as Director of the Virginia Department of Juvenile Justice from 2014 to 2019, where he led major reforms and improvements in the department, including a focus on racial justice and equity. In 2019 Block was appointed vice-chair of Governor Ralph Northam's Commission to Examine Racial Inequity in Virginia Law. Block is a graduate of Yale University and Northwestern Law School.

Kara Fitzgibbon, PhD

Dr. Fitzgibbon is the Director of the Center for Survey Research (CSR) at the University of Virginia's Weldon Cooper Center for Public Service. With a commitment to public service and community-

engaged research, CSR combines expert faculty, experienced staff, and advanced technical facilities to bring the best tools of quantitative and qualitative social science to the service of local government, state agencies, and non-profits. Dr. Fitzgibbon received her Ph.D. in Sociology from the University of Virginia with specialized training in survey methods; she also holds a Master's degree from UVA and her Bachelor's from Washington and Lee University.

Charles W. Hartgrove, ICMA-CM

Mr. Hartgrove is the Director of the Virginia Institute of Government (VIG) at the University of Virginia's Weldon Cooper Center for Public Service. Prior to joining the Cooper Center in 2019, Hartgrove served as the chief deputy commissioner of the Virginia Department of Taxation. Hartgrove has worked as a senior executive for Virginia local governments for over twenty years. He served as the deputy city manager of Lynchburg and as the town manager of Ashland (Hanover County), Middleburg (Loudoun County), and Gate City (Scott County). Hartgrove earned a Bachelor's degree in government from the University of Virginia's College at Wise. He also received a Master of Public Administration and a Post-Baccalaureate graduate certificate in public management from Virginia Commonwealth University. He also is an International City/County Management Association Credentialed Manager (ICMA-CM).

Cynthia Hudson, J.D.

Cynthia Hudson is owner and managing attorney for Eppes-Hudson Law, PLLC, specializing in municipal law, government affairs consulting and employment law. An expert local and state government practitioner and litigator, Hudson was appointed Chief Deputy Attorney General of Virginia in 2014. In 2019 Hudson was appointed chair of Governor Ralph Northam's Commission to Examine Racial Inequity in Virginia Law. Prior to her role as Chief Deputy Attorney General, Hudson served as City Attorney for the City of Hampton and Hampton Deputy City Attorney. Hudson received her undergraduate degree in mass communications from Virginia Commonwealth University, and her law degree from William & Mary. She has served as Chair of the Virginia State Bar Section on Local Government and President of the Local Government Attorneys of Virginia. Hudson was an Adjunct Professor in State and Local Government law at the William & Mary Law School and also taught courses on state and local government law at the Marshall-Wythe School of Law.

Bertrall Ross, J.D.

Bertrall Ross is the Justice Thurgood Marshall Distinguished Professor of Law at the University of Virginia School of Law, where he serves as the Director of the Karsh Center for Law and Democracy. He teaches and writes in the areas of constitutional law, constitutional theory, election law, administrative law and statutory interpretation. Ross' research is driven by a concern about democratic responsiveness and accountability, as well as the inclusion of marginalized communities in administrative and political processes. Ross earned his undergraduate degree in international affairs and history from the University of Colorado, Boulder; his graduate degrees from the London School of Economics and Princeton University's School of Public and International Affairs; and his law degree from Yale Law School. Ross currently serves on the Administrative

Conference of the United States and the Presidential Commission on the Supreme Court.

RESEARCH APPROACH

Surveys

Under the direction of Dr. Fitzgibbon, the Center for Survey Research (CSR) developed and administered a mixed-probability, multi-mode survey of Virginia Beach residents to systematically capture representative community input. Following a mail-forward, delayed-web design, CSR sent a series of postal mailings and survey packets to a stratified, address-based (ABS) probability sample of approximately 4,500 households, who ultimately had the option to complete the survey by paper or web. The probability-based responses from this ABS sample provide the basis for statistical inference of survey results to all Virginia Beach residents. Additionally, CSR hosted an “open-source” survey available to any resident not selected for the ABS sample. The open-source survey was primarily accessed online, though CSR coordinated with the City’s Communications Department to provide paper questionnaires on request, which CSR entered into the open-source survey system. This dual-frame mixed probability design enabled statistically generalizable survey results in combination with maximized outreach and engagement for any City resident interested in providing feedback. The survey was available in English, Spanish, and Tagalog.

Community Input Sessions

The Virginia Institute of Government team facilitated 10 in-person and two virtual community input sessions between March 25 and April 3, one within each council district. Jane Dittmar led the facilitation team, and she was joined by Carolyn Mitchell Dillard, Alysse Dowdy, and Charniele Herring, with support from City staff. Approximately 708 attendees used one of three options to provide input: in-person, live stream during an in-person session, or commenting during a completely virtual meeting. Sessions were held at various times of day on different days of the week, and there was no bar to attending multiple meetings. While there was a three-minute speaking limit, participants could speak as many times as they wished.

Legal and Policy Research

With the help of a number of law students, the legal and policy research led by Professors Bertrall Ross and Andrew Block from UVA’s School of Law reviewed and analyzed both federal and state (Virginia) constitutions, statutes, and court decisions. Concurrently, the team reviewed the social science literature on the effects of each district composition and vote counting methods with respect to (1) the composition of the elected body, (2) responsiveness of the body to residents, and (3) voter engagement. In addition, Cynthia Hudson reviewed Virginia Beach’s charter to provide guidance on requirements and timing for a possible referendum, compliant with Virginia Code, should the City pursue that option.

Below is a brief overview on the history of Virginia Beach's electoral system.

VIRGINIA BEACH HISTORICAL BACKGROUND

From its merger with Princess Anne County in 1963 to 2021, Virginia Beach used a relatively novel electoral system: all eleven city council members were elected at-large, but seven members needed to live in specific residential districts.ⁱ This system was created as a political compromise to enhance the representation of the rural former county without violating laws guaranteeing equal size of electoral districts. During this nearly 60 year period, only six people of color were elected to Virginia Beach City Council.ⁱⁱ In 2021, the combined minority population in Virginia Beach reached 33% after steady growth over decades.ⁱⁱⁱ

For multiple decades, coalitions of racial minorities have lobbied for Virginia Beach to adopt single-member districts, claiming the at-large system worked to dilute minority voting power.^{iv} These efforts culminated in *Holloway v. City of Virginia Beach*, in which a federal court held that Virginia Beach's system violated the Voting Rights Act.^v Virginia Beach was ordered by the Court to adopt a new 10-1 single-member district system, which was implemented in early 2022 and first utilized in the 2022 local election. However, between the time the lawsuit began and when the verdict was issued, Virginia outlawed the use of local election systems in which candidates have district residency requirements but are elected in an at-large system.^{vi} As a result of the new law, which effectively outlawed the challenged election system in Virginia Beach, the Fourth Circuit found that the legal case was moot and remanded the case back to the district court for further proceedings in the event that Virginia Beach opted to change its system in a way that invited legal challenge.^{vii}

In November 2022, under the 10-1 single-member district system, voters elected three new Black Council members, making for the most racially diverse City Council in Virginia Beach's history. This one election cycle under the 10-1 system elected half as many Black Council members to serve Virginia Beach as have been elected in the previous 60 years combined.^{viii}

The following findings from the community survey, the community input sessions, the social science research, and the legal review are offered to inform the City's decision on their electoral system going forward.

COMMUNITY SURVEY

The Center for Survey Research conducted the Virginia Beach Community Input Election Survey during the spring of 2023 to capture residents' recent voting experiences, assess familiarity and satisfaction with the two most recent local election systems, identify support or opposition to different aspects of election systems, and determine residents' preference for the local election system going forward.

A total of 2,112 Virginia Beach residents participated in the survey; 623 of these completions were probability-based and 1,489 were non-probability. To support community-wide participation and maintain statistical integrity, a mixed-probability design was utilized. Surveying a probability sample better ensures that results are representative of the study population and they enable the survey results to be statistically generalized. A non-probability sample offers the opportunity for any and all interested residents to offer their views, but those who choose to participate may not be representative of the community taken as a whole. Across these samples, the survey was able to capture the wide range of experiences and opinions of Virginia Beach residents.

Because of the scientific methods used to recruit the probability sample, probability-based responses may be used to draw statistical inference to the study population. Specifically, survey results among the probability respondents can be generalized to all Virginia Beach residents with a margin of error of +/- 4.3 percentage points at the 95% confidence level. For this reason, reported results are based only on responses from the probability sample, unless otherwise noted.

Appendix A presents the responses to each survey question among the probability sample. The complete set of responses to each survey question across each the probability and non-probability sample is available in Appendix B. Appendix C provides comparisons of the probability responses to each survey question by a series of select demographic characteristics. Appendix D provides the open-ended responses provided by both probability and non-probability respondents. Finally, Appendix E provides the detailed survey methodology and a copy of the survey questionnaire.

SURVEY RESULTS

Experience with 2022 Election

The November 2022 election was the first election cycle in which the 10-1 system took effect for Virginia Beach. Following that election, the City had heard some anecdotal, mixed feedback from residents on their experience voting under the most recent system. Among survey respondents, 93% reported having voted in the 2022 election. In general, respondents reported little surprise by the available ballot and had generally positive experiences voting in that election. More specifically, 93% of respondents reported that the ballot matched their expectations of the local races and candidates for which they could vote. Nine out of ten respondents reported a positive voting experience; just 1% reported having a negative experience.

Familiarity with Recent Local Election Systems

The City first implemented the 10-1 election system in January 2022. The survey sought to capture the extent of respondents' familiarity with the 10-1 system and their satisfaction with it. Before posing these questions to respondents, the questionnaire provided the following description of the 10-1 system:

Description of 10-1 Election System in Virginia Beach:

Under the most recent election system, which has been in effect since early 2022, Virginia Beach is drawn into 10 districts, each with approximately the same number of voting-age residents. In three of those districts, racial minority residents make up the majority of the voting-age population (VAP).

Under this system, also referred to as the 10-1 election system, voters within each district elect a single candidate from their district to serve as a City Council member. The City Council is made up of the 10 district representatives as well as the mayor. The mayor is elected city-wide (or "at large") by all voters in the city.

When asked how familiar they are with the 10-1 system prior to taking the survey, a combined 30% of respondents report being either very or extremely familiar. An additional 48% report being slightly to moderately familiar. Twenty-two percent are not at all familiar with the 10-1 system. When asked where they get their information on the election system, the local TV news and newspapers are the most widely cited sources.

Within the questionnaire, respondents were also provided a map of Virginia Beach with the 10 districts labeled. Two-thirds of respondents (66%) report correctly knowing which district their residence is in; whereas 24% report that they do *not* know which district they are in and an additional 10% are unsure if they know of the correct district, suggesting additional informational efforts circulating the 10-1 district map may be helpful.

The prior election system (7-3-1) had been in place since 1996. As it did for the most recent system, the survey also sought to capture respondents' familiarity and satisfaction with this prior system. Accordingly, the questionnaire provided respondents with the following description of the 7-3-1 system:

Description of 7-3-1 Election System in Virginia Beach:

Prior to the 10-1 system used in the 2022 election, Virginia Beach was drawn into 7 districts and followed a 7-3-1 hybrid system, with an 11-member City Council. Under this system, all City Council members and the mayor were elected by all voters in the city. For 7 of the City Council seats, the elected City Council member had to reside in the district they represented. For 3 of the City Council seats, the City Council member could reside anywhere in the city. The mayor could reside anywhere in the city.

A system with residence-based district seats elected city-wide (“at-large”), like the 7-3-1 system described above, is no longer legally allowed due to changes in Virginia law.

A combined 31% of respondents report being either very or extremely familiar with the 7-3-1 system, an additional 38% report being slightly to moderately familiar, and 32% report being not at all familiar with the system. So while respondents’ levels of high familiarity are comparable between the two systems, an even larger portion of respondents reported being not at all familiar with the prior 7-3-1 system, relative to the 10-1 system. Less familiarity with the 7-3-1 system may suggest that the City’s efforts to spread awareness among residents were effective at increasing the baseline of residents’ familiarity with the recent local election system. However, given one in five respondents still report being not at all familiar with the 10-1 system, informational efforts should continue.

Satisfaction with Recent Local Election Systems

As one set of measures for resident sentiments on the local election systems, the survey asked respondents how well they feel a given system yields a City Council that represents each their personal interests and their neighborhood’s interests.

With the 10-1 system, a combined 78% of respondents feel their personal interests are either moderately well, very well, or extremely well represented. Five percent of respondents feel their interests are not at all represented on the City Council under this system. These numbers are similar for how well respondents feel their neighborhood’s interests are represented on City Council under the 10-1 system.

This same set of questions was asked of respondents with respect to the prior 7-3-1 system. Relative to the 10-1 system, respondents report slightly less positive views of the prior system, with 65% reporting the 7-3-1 system represents their interests at least moderately well and 12% reporting the prior system did not at all represent their interests. Distribution of sentiments is similar for representation of neighborhood interests as well.

In terms of residents’ views on the current drawing of the 10 districts, there is greater approval than there is disapproval. Forty-two percent approve of the 10 districts as they are drawn; 14% disapprove and 44% neither approve nor disapprove.

When asked how satisfied they are with the 10-1 election system, a combined 77% report some level of satisfaction (with 57% either moderately or very satisfied); 23% reporting being either moderately or very dissatisfied. With respect to the previous 7-3-1 system, 67% report some level of satisfaction (46% either moderately or very satisfied), and 23% report being either moderately or very dissatisfied. So while the majority of residents report satisfaction with each system, the 10-1 system has a greater portion of residents with high levels of satisfaction and fewer residents with high levels of dissatisfaction.

Respondents were given the space to explain why they were satisfied or dissatisfied with either the 10-1 or 7-3-1 system. Among the comments in support of the 10-1 system, one of the recurrent sentiments is appreciation for the localized focus brought about by this single-member district system. As one respondent explains, *"each district has concerns and interests specific to its context, demographics, etc. and should be able to elect someone to represent those interests. [...] Their input and interests should be represented not by my interests and needs, but by theirs."* With council members elected only by residents in the districts they represent, some respondents believe that their representatives will be more committed to the unique local challenges and priorities of their respective areas. Illustrating this point, one respondent explains:

The current system is much more fair to the electorate with essentially large neighborhoods voting for a representative from their area to serve on City Council. This allows for a more representative City Council and ensures each locality has their interests heard. I am much more satisfied with this system than the old system in which every voter was able to vote for every candidate running for a city council district. I should not be able to vote for the City Council members for districts I did not live in, and other VB voters who do not live in my district should not vote for the representative of my district. The 10-1 system allows for a more diverse City Council that represents the entire City."

Respondents in support of the 10-1 system also feel this system facilitates the candidacy and election of individuals from more diverse backgrounds and with new perspectives. Further, they feel the 10-1 system provides greater voting power to each resident. In their own words, one respondent asserts, *"this system allows less well-funded candidates to compete. It allows everyone voting to have a voice. Without this, whatever voting block is in the majority will choose all the candidates."*

Another argument expressed for the City using the 10-1 system going forward has more to do with process and timing than the system itself. These comments emphasized that the system is still relatively new and that the community will need time to see it implemented over several election cycles in order to see its effect. These respondents would prefer to give the 10-1 system time before attempting to change the system without yet knowing if the system is broken. As one respondent states: *"I believe we need to give this system a chance. One election without all council people elected this way will not be proof that it works or doesn't."* Another respondent encouraged

using the 10-1 system for the time being so that Council and the City can focus attention toward other community priorities rather than alternative election systems: *"I think VB needs to give the new 10-1 system a chance. Stop spending time and money now to question it or consider change. Start working with what you have for a few years to see if it makes a difference."*

Among critiques of the 10-1 system in the open-ended comments, the most prominent complaint was a desire for more at-large seats or other mechanisms that enable broader representation and allow citizens to have a voice in the composition of the entire Council. Just as some respondents commended the single-member district system for bringing a localized focus to Council, others feel that localized focus ignores the extent to which residents are affected by and engage with districts beyond just where they reside. One respondent explains:

"The city of Virginia Beach is large, diverse and mobile. Her people travel daily from one district to another and what happens in the City affects us all, not just a District. I should have a say in what happens on the Oceanfront as well as the farmland and business community in my city [...]."

These respondents feel the City Council should be accountable to all residents, not just those in their districts, and they feel an at-large voting system better supports that outcome. Succinctly put, one respondent expresses the concern that under the 10-1 system, *"9 of 10 members do not care about my district."*

A portion of comments also express reservations or uncertainty due to a perceived lack of information. In particular, those respondents note a need for additional context and understanding regarding how the district lines were drawn. These respondents feel transparency on the process of how the districts were established is crucial to ensuring fairness and prevent gerrymandering or manipulation of boundaries that could undermine representation. Illustrating this point, one respondent states:

"I feel that I wasn't made aware of the district system. I feel gerrymandering is the most anti-democratic problem in this country. So, I would like to have known more about the districts and how the lines were drawn [...]."

As an overall measure of sentiment, respondents were asked to directly compare the 10-1 election system to the prior 7-3-1 system with respect to which system better represents their interests. Specifically, respondents were asked to select the statement that best captures their opinion among: *"The 10-1 system represents my interests better than the previous 7-3-1 system," "The 10-1 system represents my interests worse than the previous 7-3-1 system,"* and *"The 10-1 system represents my interests about the same as the previous 7-3-1 system."* The most widely selected sentiment is that the 10-1 system represents interests better than the previous system did; this was selected by 44% of respondents. Thirty-seven percent of respondents feel the 10-1 system represents their interest about the same as the prior system. The least selected sentiment is that

the 10-1 system represents their interest worse than the previous system; this was selected by 19% of respondents.

There are no statistically significant differences in response to this question by local district, gender, race, or income, as seen in Appendix C. When comparing response by respondent's education level, there are statistically significant differences; though for all education groups, the statement "the 10-1 system represents my interests worse," remains the *least* selected answer choice. For respondents with either Associates degrees or Bachelor's degrees, there are approximately equal proportions who report "the 10-1 system better represents my interests" as report "the 10-1 system represents my interests about the same as the previous 7-3-1" system." For respondents with up to a high school degree, 40% feel the 10-1 system represents their interests about the same, followed by 34% who think the 10-1 system better represents their interest and 25% who feel the 10-1 system represents their interests worse. Finally, among respondents with a graduate degree, over half (56%) feel the 10-1 system better represents their interests, and an additional 26% of this group feel the 10-1 system represents their interests about the same (18% feel it represents their interests worse).

Election System and Voting Preferences

Expanding beyond the two most recent local election systems, respondents were also asked to consider their support or opposition to various specific aspects of an election system.

First, respondents were asked the extent to which they support or oppose increasing the number of council seats in Virginia Beach. Slightly more than one-third (37%) of respondents report some level of support (ranging from slightly support to strongly support) for increasing the number of the council seats; however, nearly as many respondents (33%) report opposition to this idea. Thirty percent either have no opinion or are unsure of their opinion on the topic. When presented with the option of increasing, decreasing, or keeping the same number of districts, far and away, the preference was to keep the number of districts the same (selected by 69% of those with a preference, compared to 24% wanting to increase and 7% wanting to decrease the number).

As already observed in the open-ended comments, city-wide (or 'at large') vs. single-member district voting is top of mind for many residents. On this topic, respondents were asked a series of questions to gauge how much they supported or opposed city-wide voting under various scenarios. When asked their preference for how the City Council member representing their district is elected, 86% support their district's City Council member only being elected by voters who also live in their district; 8% oppose. When instead phrased as to whether or not the respondent supported their district's City Council member being elected by all voters city-wide, 30% support that approach, 64% oppose.

When it comes to a system in which all City Council members are elected city-wide, twice as many respondents oppose (62%) rather than support (29%) that system. However, respondents are more

evenly split on their support/opposition to a system in which some, but not all, City Council members are elected city-wide: 45% support; 41% oppose.

Nationally, ranked choice voting is still relatively uncommon in practice, and at the time of the survey, had never been used in Virginia. However, Arlington County will be the first Virginia locality to implement ranked choice voting when they use this system in their Democratic Primary on June 20th, 2023. Survey respondents were asked their level of familiarity with ranked choice voting. One in five (20%) report being either very or extremely familiar; another one in five (21%) report being moderately familiar. On the other end of the spectrum, two out of five respondents (42%) report being not at all familiar with this system.

Approximately one-quarter (26%) of respondents support the idea of using ranked choice voting in Virginia Beach, while almost two-quarters (46%) oppose the idea. Twenty-eight percent of respondents have no opinion or are unsure of their opinion. Given the lack of familiarity with this voting system, additional analyses were run to compare support/opposition to ranked choice voting by level of familiarity with the system. Familiarity appears to drive support for ranked choice voting, with generally high support among those more familiar with ranked choice voting and high opposition among those less familiar.

Community Preference for Next Steps in Virginia Beach

In service of providing the City with input from residents as they consider possible next steps for the local election system, respondents were directly asked the extent to which they support or oppose keeping the 10-1 election system and having a referendum on the 2023 ballot.

Regarding the City including a referendum on the 2023 ballot to explore other election system options, a combined 63% of respondents express some level of support, with 20% who strongly support the referendum, 24% moderately support, and 19% slightly support. For those who oppose a referendum, 19% strongly oppose, 11% moderately oppose and 7% slightly oppose.

In response to a separate question, four out of five respondents (81%) support keeping the 10-1 election system used in the 2022 election. Specifically, 37% strongly support keeping the system, an additional 32% moderately support, and 12% slightly support. For those that oppose keeping the 10-1 system, 9% strongly oppose, 5% moderately oppose and an additional 5% slightly oppose.

There are no statistically significant differences in response to either of these questions by local district, gender, race, income, or education level.

COMMUNITY INPUT SESSIONS

The Virginia Institute of Government team facilitated 10 in-person and two virtual community input sessions between March 25 and April 3, one within each council district. A full schedule is available in Appendix F. Jane Dittmar led the facilitation team, and she was joined by Carolyn Mitchell Dillard, Alyse Dowdy, and Charniele Herring, with support from City staff.

The majority of the 708 participants were in favor of the 10-1 system, with a total of 168 comments offered up in support of maintaining it. Key themes included the following:

- This system has improved the diversity of City Council;
- A district system leads to more responsiveness from City officials to localized, neighborhood level concerns;
- Defined districts make running for public office more accessible because a district requires less campaign spending than running in a city-wide race;
- District system improves accountability of elected officials to residents;
- There is a concern that candidates elected in an at-large system will cater to real estate developers and other powerful, well-resourced interests.

However, a minority of speakers offered critiques of the district system. This included concerns about parents whose students attend schools outside their home districts, resulting in decreased emphasis on voting since the School Board elections follow the same district structure as the City Council elections; concerns about gerrymandering and district lines, including how districts were drawn; a loss of voting power, since citizens could no longer vote for multiple candidates; and losing the option of circumventing an unresponsive councilor by going to another one, which was possible in the at-large system.

Most attendees believed the City Council had a binary choice: go back to at-large or stay with the 10-1 district system. Because of this belief, there was confusion about why a legal team was researching options. Some speakers shared that they had never attended a City Council meeting, and this was their very first time sharing their thoughts about a city policy. These participants seemed genuinely appreciative of being able to attend a listening session.

Additional information on the community listening sessions, including a tabulation of comment themes, is presented in Appendix F.

SOCIAL SCIENCE RESEARCH

To better understand the impacts of different choices that Virginia Beach might make, we examined existing social science research on different districting and vote counting methods. In this section, we provide a brief overview of our findings. We start by defining the two main forms of districting methods, single-member and multi-member districts, and evaluate their relationship to three key considerations: (1) city council composition, (2) responsiveness to citizens, and (3) voter engagement. Then, we outline a trio of relevant vote counting methods – plurality voting, ranked choice voting, and single transferable voting – and compare the effectiveness of each counting method using the same three evaluative factors.

While the research findings are not always conclusive, and certainly have some nuance, we find that single-member districts, such as the one now in place in Virginia Beach, are better equipped to produce elected bodies that are likely to be racially diverse in their composition, and that preferential voting (ranked choice voting for single-member districts and single transferable voting for multi-member districts) does best in all three areas of evaluation when compared to the most prevalent form of vote counting: plurality voting.

At a minimum, we thought it would be useful to offer these outcomes – council composition, council responsiveness, and voter engagement – as useful considerations for Council as it determines which local election system to use going forward.

HOW ARE DISTRICTS DRAWN?

Electoral districts are generally drawn in two ways: single-member districts and multi-member districts. As its name implies, a **single-member district (SMD)** is an electoral district with one representative in a legislative body, much like Virginia Beach’s most recent 10-1 system. Also known as a “ward” system, SMD involves dividing a geographic area into individual voting districts, in which voters in each district are limited to only voting for their own district and each district is represented by a single elected official. By contrast, a **multi-member district (MMD)** is where voters in a particular district elect multiple representatives to a governing body. These are sometimes referred to as “at-large” districts. While the term “at-large” usually refers to an MMD, it is possible to have a single representative elected “at-large” for an entire locality. In such a case, if that representative is the only representative elected in this fashion, then the representative would be elected in an “at-large” SMD. Virginia Beach’s former 7-3-1 system was essentially an MMD because councilors were elected in citywide races (although residential district requirements for seven of the seats somewhat resembled the ward characteristics of SMDs).

While SMDs are often used in state and federal elections, they are utilized less frequently at the local level. In one 2018 survey of 3,855 American municipalities, about 18% reported that all of their local government council members were elected entirely through wards or SMDs.^{ix} Instead, the vast majority — 68%— of surveyed municipalities reported that their council members were elected through “at-large” (i.e., multi-member) districts.^x Additionally, about 14% of municipalities

reported using a combination of at-large and ward/district electoral methods.^{xi} Of those with a mixed-method, municipalities reported that, on average, about two of their council members were elected at-large, and about five were elected through wards/SMDs.^{xii} Despite the predominance of MMDs, the same survey suggests that it is more common for a locality to consider proposals for switching from at-large elections to ward/SMD elections than vice versa (from ward/SMD elections to at-large elections).^{xiii}

How do Districts Affect the Composition of City Councils?

Research shows that electoral districts can shape who is being elected to local office. This was particularly relevant to the *Holloway* case, in which the plaintiffs alleged that the prior electoral system diluted the voting strength of minority voters and prevented minority voters from electing representatives of their choice.

Scholarship has repeatedly found evidence for two key findings about the composition of elected bodies:

- Single-member districts tend to improve representation in the membership of governing bodies in terms of seeing more historically underrepresented racial minority groups elected to office,^{xiv} and
- The representation of women (in terms of whether they are elected to office) is enhanced through multi-member districts.^{xv}

However, differences in underlying methodologies of the studies cited make it difficult to directly compare the strength of a system's effect on the representation of women to that of racial minorities. Additionally, there are important differences within groups.^{xvi} For example, one study found that a district system significantly increases the probability of a city council having a Black male member but does not significantly affect the probability of a council having a Black woman.^{xvii} But in general, single-member districts can be expected to increase representation for a population when its members are (a) geographically concentrated, (b) constitute a majority of the district (but not necessarily the majority of the entire population of the city), and (c) vote as a bloc for candidates who are also members of their population.^{xviii}

How do Districts Affect the Responsiveness of City Councils?

Existing research does not prove a clear connection between how districts are drawn and the responsiveness of local officials. The findings are mixed, at best.^{xix}

Despite the lack of consensus in current research, the responsiveness of local officials to the needs of all citizens has been shown to matter to courts when electoral systems are challenged. In the *Holloway* case, the district court reviewed how responsive the City of Virginia Beach had been to the needs of its minority residents. This analysis considered, among other things, (1) contracts

between the City and minority-owned businesses, (2) inadequate provision of water and sewer services for the historically Black neighborhood of Burton Station, and (3) City hiring practices. The court concluded that the City “has been unresponsive to the needs of the Minority Community.”^{xx}

How do Districts Affect Voter Engagement?

Scholarly research presents unclear findings on the extent to which district design impacts measures of voter engagement, such as voter turnout.^{xxi}

It seems that voter turnout has less to do with individual electoral systems, and more to do with socioeconomic factors, political factors, and general city demographics. Such factors include the number of times citizens are asked to vote, generational change, political mobilization, and political knowledge.^{xxii} Additionally, “[m]oving local elections to coincide with the dates of national elections would have by far the largest impact on voter turnout.”^{xxiii}

HOW ARE VOTES COUNTED?

In order for the City Council to best represent the people of Virginia Beach, it is important to consider the impact that different vote counting methods might have on the composition and the responsiveness of City Council.

Plurality voting is generally considered the simplest way to count votes; for a candidate to win, she must receive more votes than any other candidate, regardless of having 50% or more of the overall votes.^{xxiv}

Unlike the plurality system, *ranked choice voting* allows voters to rank the candidates in their single-member district, and a single winning party or candidate must receive more than 50% of the votes.^{xxv}

Single transferable voting is a form of balloting in which voters in a multi-member district rank the candidates according to their preference, and a winning threshold, or quota, is established to determine the minimum number of votes a candidate needs in order to win a seat^{xxvi} Each voting system varies in effectiveness with how well it (i) ensures the council members look like the community they represent, (ii) produces policy that aligns with the interests of the community, and (iii) increases the public’s sense of happiness with city council and the voting process.

How do Voting Methods Affect the Composition of City Councils?

Out of the three main voting methods referenced above, single transferable voting is proven to be the most effective at creating elected officials representative of the demography of the electoral district.^{xxvii} More specifically, this form of vote counting improves the representation of women and racial minorities so long as there is a large number of members elected in each district and groups/parties vote as blocs.^{xxviii}

Research that we found on ranked choice voting showed mixed results. While it does not do as well as single transferable voting, it did show an increase in candidates of color in initial elections.^{xxix} However, those increases appeared to return to normal levels in subsequent elections.^{xxx}

How do Voting Methods Improve the Responsiveness of City Councils?

The second evaluative factor, the effectiveness of ensuring city council produces policy that aligns with the interests of the community it represents, is not as studied in the sociopolitical literature as the first factor. However, single transferable voting and ranked choice voting may do better than plurality voting to increase voters' sense of fairness and satisfaction with democracy, which could also indirectly mean elected officials are producing policy that aligns with the interests of the community.^{xxxi} Although the improvements are modest, ranked choice voting in particular has been linked to improvement in local officials' decisions regarding police spending and intergovernmental revenue policy that better reflect the community's wants and needs.^{xxxii} No literature was found specifically pertaining to the effectiveness of plurality voting with the second factor.

How do Voting Methods Affect Voter Engagement?

Much like the second factor, the third evaluative factor comparing the voting methods' ability to improve voters' attitudes towards city council and the voting process is also not as researched as the first factor. Nonetheless, single transferable voting "greatly and empirically increases the efficacy of votes ... by ensuring that the vast majority of voters place a desired candidate into office."^{xxxiii} This, in turn, increases voter satisfaction with both the election process and the elected candidates.^{xxxiv} According to another study, while not increasing voting rates overall, ranked choice voting increased young voter engagement due to increased campaign contact and mobilization, as compared to plurality voting.^{xxxv}

LEGAL CONSIDERATIONS

With the preceding background in mind, we now turn to the relevant legal authorities that should guide any decision on the local election system in Virginia Beach. We first discuss the relevant Federal Law, and then turn to important Virginia legal requirements.

We have written this review with a non-lawyer audience in mind, and do not intend for this explanation to serve as a substitute for legal advice from the Virginia Beach City Attorney.

FEDERAL LAW

Federal voting law comes from two primary sources: the U.S. Constitution and the Voting Rights Act of 1965. Taken together, these sources of law give three general requirements a voting system must uphold:

1. Voting districts must be approximately equal in size so that residents of one district have no more voting power than another.
2. A local electoral system must not dilute the representation of minorities using overly large districts; and
3. Those who create voting district lines must not intentionally consider race in drawing a district boundary that results in lower voting power for a particular race.

Equal District Size

The Supreme Court has held that the Constitution contains a “one man, one vote” principle.^{xxxvi} This principle requires that voters have roughly the same amount of electoral power from district to district, which in turn means districts must be roughly equal in population. In practice, perfectly equal population sizes are impossible, and courts recognize certain factors—such as keeping natural boundaries intact, grouping neighborhoods together, and historic practice—as relevant considerations when drawing districts that aren’t exactly equal.^{xxxvii} Courts have nonetheless indicated a strong preference that districts not vary more than 10% in size from one another, and that larger variances feature compelling considerations rationalizing the variance.^{xxxviii}

Dilution

The Voting Rights Act prohibits diluting the voting power of minorities by “submerging” minority communities’ votes in overly large districts or at-large elections.^{xxxix} This kind of dilution violates the Act regardless of whether it is intentional or not.^{xl}

To determine if there has been a violation, courts first ask a series of three questions, commonly called the “Gingles” factors, referring to a Supreme Court case of the same name.^{xli} If the answer to each question is “yes,” then a court may find that the voting system violates the Voting Rights Act.^{xlii} The three questions are as follows:

1. Is the minority group large enough and geographically compact such that they can constitute a majority in a single-member district?
2. Is the group politically cohesive?
3. Can a white majority usually defeat the minority candidate by voting as a bloc?

If all three of these factors are met, the court finally considers whether the minority can nonetheless leverage electoral power proportional to their population size: if they can excise proportional power, then the court will not find a violation of the Voting Rights Act.^{xliii}

Finally, the court must consider the totality of circumstances in the area affected by the system using seven specific factors that look at historic and recent social outcomes of potential voting discrimination. Locations with a history of discrimination struggle under this step of the analysis. Based largely on the history referenced above, the court in *Holloway* found that Virginia Beach failed all seven.^{xliv}

Racial Gerrymandering

The 14th Amendment of the Constitution prohibits explicit consideration of race as the primary factor in drawing district lines. Unlike for dilution, these claims require intent, and challengers must show that race was the predominant factor in drawing the district line in a gerrymandering case.^{xlv} A variety of factors, including the use of irregularly shaped districts,^{xlvi} dumping minority voters without regard for cultural compactness,^{xlvii} splitting communities of interest, and aiming to hit specific racial targets can provide evidence of intent to use race as a predominant factor.^{xlviii}

If a challenge shows that race was the predominant factor, the government has two possible defenses. First, it can argue that the lines were drawn according to politics rather than race.^{xlix} Second, it can argue they had a compelling interest in accounting for race and that the use of race was narrowly tailored.^l Complying with the Voting Rights Act and combatting voter dilution of minority groups can be a compelling interest,^{li} but the use of race must nonetheless be narrowly tailored.^{lii} This means traditional considerations, such as compactness, geographical integrity, incumbent protection, or others must also be clearly used in drawing districts—strange-looking and irregular districts create an appearance of poor tailoring.^{liii}

VIRGINIA LAW

The Virginia Constitution, the new Virginia Voting Rights Act, and other statutes, also provide important sources of law on electoral systems. These sources of law largely mirror federal

processes, but differ in a few key ways. Namely, the Virginia Voting Rights Act requires a special approval process for changes in local voting processes or districts. Additionally, Virginia law outlines the specific voting mechanisms that local governments may use in the state.

The Constitution of Virginia

Article II of the Constitution of Virginia provides a range of protections and requirements for both voters and state and local election officials and systems, protections and requirements which the General Assembly and local government bodies then implement via statute and ordinance.

The Virginia Voting Rights Act

The recently passed Virginia Voting Rights Act features much of the same language as the federal Voting Rights Act, and allows voters to bring claims in the same way as discussed above under “Dilution.” However, it allows voters to do so in *state* court and allows the Virginia Attorney General’s Office to enforce the Act.^{liv}

Additionally, the Act creates a process known as preclearance whenever a locality wishes to change its electoral process. The first preclearance option is to publish the proposed change and then offer the public 30 days to provide comment. If the government body makes changes in response to this feedback, it must publish those changes and allow comment for an additional fifteen days. The body must then publish the final proposal for an additional thirty days. The second option is to directly present any proposed changes to the Office of the Virginia Attorney General for approval. This second option bypasses both public commentary and the 30-day waiting period.^{lv}

Statutes Governing Electoral Systems

Virginia allows cities to elect council members in different ways: at-large, from single-member districts, from multi-member districts, or from any combination of at-large, single member, or multimember districts.^{lvi} However, cities may not require candidates to live in specific districts while also having those same candidates run at-large (as was done in Virginia Beach prior to 2021).^{lvii} Additionally, echoing language used in the Voting Rights Act, Virginia law views at-large elections with skepticism.^{lviii} Cities using any system other than entirely at-large elections must reassess their district boundaries every ten years.^{lix} Cities are required to use electronic tabulation systems for votes but may use paper ballots in a number of circumstances.^{lx} The State Board of Elections approves all voting equipment and software.^{lxi}

Cities can choose between either a plurality winner-takes-all election or a ranked choice vote. Cities use plurality vote counting by default; if they desire to use ranked choice voting, they must vote to opt in.^{lxii} No local elections in Virginia have yet used ranked choice voting, though at least one county will in the next election cycle.^{lxiii} As with other voting concerns, the State Board of Elections promulgates regulations on the procedures, equipment, and software involved in ranked choice voting.^{lxiv}

REFERENDUM TO AMEND CHARTER ON COUNCIL ELECTION PROCESS

If the City decides to seek voters' input on the choice of council election system, it may seek an advisory referendum pursuant to general state law to inform a decision whether to request the General Assembly to amend its charter.

This City charter presently provides only for the prior election system (the pre- 10-1 system implemented in 2022). The charter may only be changed by processes set forth in Virginia Code Sections 15.2-201 or 202^{lxv}. Section 15.2-201 provides for a referendum election on a proposed charter amendment. That referendum election must be conducted as provided under general election law set forth in Virginia Code Sections 24.2-681, *et seq.*

In particular, Virginia Code Section 24.2-684 which governs all referendum elections, provides that a referendum election may only be held pursuant to circuit court order. The statute requires that the court order be entered in a "reasonable period of time" following the court's receipt of the referendum request if the court finds the referendum election request "in order". The election date is set in the court order.

The election timing requirements the court must consider in setting a date are governed by Virginia Code §§ 24.2-682 regarding "special elections"^{lxvi} and 24.2-684 regarding referendum elections in particular. Importantly, the *date set by the court for the [referendum] election must be at least 81 days later than the date of entry of the court order for the election.* (See Section 24.2-682(B)). Further, the election date must be a Tuesday and must not be one within the 55 days before a scheduled general or primary election. Also, while the referendum election *may not* be held on the same day as a primary election, it *may* be held on the same day as any general election. Given this array of timing requirements and limitations, a court order for a referendum election to be held this year on the Tuesday, November 7 general election date must be *entered* no later than August 17 to ensure that it has been entered at least 81 days prior to the November general election date. As the City cannot, of course, dictate the date the court would enter an order, it must be prepared to act on a resolution and file a proper referendum request as soon as possible to allow the court the "reasonable time" provided to it by the law within which to consider and act upon the request by mid-August at the latest.

To maximize the prospect that the Court will find any referendum request "in order", the City must also take care to ensure that its resolution and related request to the court for a referendum comply with the statutory requirements for a referendum ballot question. Specifically, the question to appear on the ballot must be stated in "plain English"^{lxvii} and must also be answerable "Yes" or "No" by the voter, without qualification.

The City must advertise the language or an "informative summary" of the proposed charter amendment in a newspaper of general circulation in the City at least ten days prior to the election. The material must not advocate a position on the question. The City may also distribute a neutral explanation for the referendum question at polling places on the day of the election. Carefully

LEGAL CONSIDERATIONS

prepared explanatory material will likely be of particular value regarding any referendum sought on a question of a voter-preferred City Council election process(es).

If a majority of the voters voting in the referendum election are in favor of a charter amendment establishing a particular election system, the City must send two certified copies of the election results to a member(s) of the General Assembly in the City's legislative delegation for introduction of a bill to amend the City charter in the very next General Assembly session. If no such bill is introduced, the referendum election results are void for charter amendment purposes. If an amending bill is introduced but fails (or is "passed by indefinitely") without being carried over to the next session, the charter amendment must be sought by resubmission to the voters in a referendum election, or by an alternative public hearing process set forth at Virginia Code Section 15.2-202.

CONCLUSIONS

The primary objective of this effort is to provide the City of Virginia Beach with robust community input and an independent, third-party review of the legal and social scientific background regarding the local election system. Across each of the multiple phases of research conducted for this project, the findings align to support retaining the 10-1 system first implemented in 2022. This system is supported by the majority of residents, demonstrated in the feedback received through both the survey and community input sessions; it is consistent with what research indicates is an effective, representative electoral system; and it is compliant under both federal and state election law. Below is a brief summary of the specific findings from each individual stage of the project.

The community survey responses provided several key findings. Residents who voted in the local 2022 election overwhelmingly had a positive experience and were not surprised by the candidates and races on their ballot. In terms of familiarity with the 10-1 election system, residents are generally more familiar than not with the most recent election system; these rates of familiarity are comparable to what they are for the previous 7-3-1 system. Though, roughly one in five respondents reports not being familiar at all with the 10-1 system. While 66% of respondents are aware of what their current local election district is, 24% are not aware and an additional 10% are not sure if they know the correct district. These gaps in familiarity with the 10-1 system for a portion of residents point to a need for additional and ongoing education efforts on the part of the City.

While the majority of respondents report satisfaction with each the 10-1 and 7-3-1 election systems, levels of satisfaction are higher with the 10-1 system. And when asked to directly compare the 10-1 system to the prior 7-3-1 system with respect to which system better represents their interests, over twice as many respondents report the 10-1 system does a better job representing their interests than the 7-3-1 system (44% compared to 19% who feel the previous system better represents their interests).

Finally, while there was more support (63%) than opposition (37%) to the City including a referendum on the 2023 ballot to further explore local election system options, there was still significantly greater support (81%) for keeping the 10-1 system in place in Virginia Beach. There are no statistically significant differences in levels of support by local district, race, income, or education level.

The community input sessions demonstrated overwhelming support for the 10-1 system. The recurrent themes in support of the 10-1 system surrounded the system's evident ability of increasing the diversity on City Council as well as likely expansion of candidates running for Council, an expectation this system will lead to more responsiveness from City Officials to localized, district-specific concerns and priorities, and a belief this system engenders greater accountability of elected officials to their constituents. Of those who voiced critique of the 10-1 system, they preferred to have at least some City Council seats based on city-wide selection, feeling that the new single-member district system dilutes their vote in only allowing the residents to elect the Council member representing their district. Additionally, dissatisfaction and confusion was

CONCLUSIONS

expressed surrounding the way in which the districts were drawn, suggesting additional informational materials on the redistricting from the City may be helpful to residents.

The legal background and social science research show that how electoral districts are drawn can influence both who runs for and ultimately who wins election for local office. Single-member districts tend to improve the representation of historically underrepresented racial minority groups within elected offices; however, the representation of women is typically enhanced through multi-member districts.

Finally, an examination of both state and federal law finds strong support for Virginia Beach's current system, both in terms of structure and outcome. And while the current system appears popular with Virginia Beach residents, and the social science literature is not conclusive, given the potential benefits, the City may, in addition, want to consider adopting a ranked-choice voting system at some point in the future. At a minimum, it will be worth following the impact of Arlington County's shift to this approach.

ⁱ Holloway v. City of Va. Beach, 531 F. Supp. 3d 1015, 1030 (E.D. Va. 2021).

ⁱⁱ *Id.*

ⁱⁱⁱ *Id.* at 1031.

^{iv} *Id.* at 1101-02.

^v See generally Holloway v. City of Va. Beach, 531 F. Supp. 3d 1015 (E.D. Va. 2021).

^{vi} VA. CODE § 15.2-1400(F) (“Notwithstanding any other provision of law, general or special, in a locality that imposes district-based or ward-based residency requirements for members of the governing body, the member elected from each district or ward shall be elected by the qualified voters of that district or ward and not by the locality at large.”)

^{vii} Holloway v. City of Va. Beach, 42 F.4th 266, 270 (4th Cir. 2022).

^{viii} City Council Members, CITY OF VA. BEACH, <https://www.vbgov.com/government/departments/city-clerk/city-council/Pages/city-council-members.aspx> (last visited Apr. 13, 2023).

^{ix} International City/County Management Association, 2018 Municipal Form of Government Survey: Summary of Survey Results 10 (2019), <https://icma.org/2018-municipal-fog-survey>.

^x *Id.*

^{xi} *Id.*

^{xii} *Id.* at 11.

^{xiii} *Id.* at 3.

^{xiv} See, e.g., Jerry L. Polinard, Robert D. Wrinkle & Tomás Longoria, *The Impact of District Elections on the Mexican American Community: The Electoral Perspective*, 72 Social Science Quarterly 608 (1991) (finding, based on a longitudinal study of 10 Texas cities, that a switch from at-large to district elections led to more Mexican American candidates seeking office and more Mexican American candidates winning); Theodore S. Arrington & Thomas Gill Watts, *The Election of Blacks to School Boards in North Carolina*, 44 Western Political Quarterly 1099, 1105 (1991) (finding, based on a study of North Carolina school board elections, that district elections improve descriptive representation of Black voters compared to at-large elections); Susan Welch, *The Impact of At- Large Elections on the Representation of Blacks and Hispanics*, 52 Journal of Politics 1050, 1072 (1990) (finding that (1) while at-large systems have improved in their ability to represent Black voters since the 1970s, Black voters are “most equitably represented by district elections, at least up to the point where they are majorities or near majorities in cities,” and (2) the linkages between electoral structures and Black descriptive representation do not apply in the same fashion to Latino voters, such that “[o]verall, district elections do not promote more equitable representation for Hispanics,” whose benefits from districts depends on residential segregation, population proportion, and region); Federico Ricca & Francesco Trebbi, Working Paper 29738: *Minority Underrepresentation in U.S. Cities* at 3 (National Bureau of Economic Research, 2022), <http://www.nber.org/papers/w29738> (finding higher estimated underrepresentation for minority voters in at-large systems compared to single-member district systems).

But it’s critical to note that a single-member district system is *not* a complete cure for the underrepresentation of people of color. As Federico Ricca and Francesco Trebbi have explained, SMDs can be used in certain instances to bolster underrepresentation. For example, as a city’s non-white population grows and approaches becoming a majority, the existing white majority may prefer an SMD system to an at-large system because it could prevent the majority non-white population from electing the entire city council. *Id.* at 3, 14-15. In a recent study, they found that “At-Large systems are more likely to be used in municipalities in which minorities are approximately 25% of the population, large enough to potentially win in a SMD, but not enough to threaten the White majority in At-Large elections, and less and

less likely to be chosen as the Minority population grows." *Id.* at 3. See also Charles S. Bullock & Susan A MacManus, *Testing Assumption of the Totality-of-the-Circumstances Test: An Analysis of the Impact of Structures on Black Descriptive Representation*, 21 *American Politics Quarterly* 290, 303 (1993) (finding that single-member district elections are more favorable to Black candidates in the South, but that more broadly, "electoral districting has little impact on Black [city] council membership.").

^{xv} See, e.g., Jackie Kaminsky & Timothy J. White, *Electoral Systems and Women's Representation in Australia*, 45 *Commonwealth & Comparative Politics*, 185 (2007) (finding that in the context of Australian Parliament elections, more women are elected through multi-member districts utilizing single transferable vote systems compared to single-member districts); James D. King, *Single-Member Districts and the Representation of Women in American State Legislatures: The Effects of Electoral System Change*, 2 *State Politics & Policy Quarterly* 161 (2002) (finding, based on a study of state legislative districts, that transitioning from multi-member districts to single-member districts decreases women's representation); Richard E. Matland & Deborah Dwight Brown, *District Magnitude's Effect on Female Representation in U. S. State Legislatures*, 17 *Legislative Studies Quarterly*, 469 (1992) (finding evidence that district magnitude — the number of seats in a district — is linked to women's representation and offering theoretical explanations for why women benefit from multi-member districts). *But see* Susan Welch & Donley T. Studlar, *Multi-Member Districts and the Representation of Women: Evidence from Britain and the United States*, 52 *Journal of Politics* 391, 408 (1990) (finding that, "on the whole, the structural variable of multi-member districts makes only a small and inconsistent difference to the electability of women in local elections in Britain and state elections in the United States.").

^{xvi} For example, research has presented mixed findings for how electoral districts impact women of color. See Jessica Trounstone & Melody E. Valdini, *The Context Matters: The Effect of Single-Member versus At-Large Districts on City Council Diversity*, 52 *American Journal of Political Science* 554 (2008) (finding, based on analysis of data from over 7,000 cities and interviews with local legislators (1) that district systems can increase diversity on city councils when a group is concentrated and makes up a substantial portion of the population and (2) that the use of at-large or district systems impacts descriptive representation for African-American men and white women councilors, but does not impact proportions of Black women or Latina councilors); Katie E. O. Swain & Pei-te Lien, *Structural and Contextual Factors Regarding the Accessibility of Elective Office for Women of Color at the Local Level*, 38 *Journal of Women, Politics & Policy* 128 (2017) (identifying multi-member districts as a significant variable predicting the probability of women of color being elected to public office).

^{xvii} Trounstone & Melody Valdini, *supra* note xxiv, at 561-62.

^{xviii} *Id.* at 556.

^{xix} See, e.g., Laura I. Langbein, Philip Crewson & Charles Niel Brasher, *Rethinking Ward and at-Large Elections in Cities: Total Spending, the Number of Locations of Selected City Services, and Policy Types*, 88 *Public Choice* 275, 289 (1996) (arguing that elected officials from SMDs are more responsive to geographically concentrated constituents, particularly low-income residents and racial minorities); Chris Tausanovitch & Christopher Warshaw, *Representation in Municipal Government*, 108 *American Political Science Review* 605, 619-20 (2014) (suggesting there is no difference between cities with SMDs compared to at-large multi-member districts in terms of how responsive a locality is to its citizens' policy preferences); Christine Kelleher Palus, *Responsiveness in American Local Governments*, 42 *State and Local Government Review* 133, 144 (2010) (noting in her study of ideology of residents and government spending decisions that the presence of "reformed structures" — which, in her study, include at-large election systems — does not affect the nature of government policy in a statistically significant manner); Zoltan L. Hajnal & Jessica Trounstone, *Who or What Governs?: The Effects of Economics, Politics, Institutions, and Needs on Local Spending*, 38 *American Politics Research* 1130, 1151 (2010) (finding that despite claims of urban scholars that at-large elections reduce local governmental responsiveness to minority and lower-class interests and favor middle-class white interests, an analysis of local government spending

patterns shows no significant effects of at-large election structures on local developmental spending, which would be favored by more middle-class white voters). Of course, measuring “responsiveness” is a difficult task, and some of these mixed findings may be the result of different methodologies for studying this aspect of governance.

^{xx} *Holloway v. City of Virginia Beach*, No. 2:18-cv-69, Memorandum Opinion and Order, 122-31 (E.D.V.A. March 31, 2021).

^{xxi} For example, one study of California cities found that those with district elections experienced lower turnout of the voting-age population than those with at-large elections. Zoltan L. Hajnal & Paul G. Lewis, *Municipal Institutions and Voter Turnout in Local Elections*, 38 *Urban Affairs Review* 645 (2003). But this finding, the authors wrote, was “not easily explainable” because of other research suggesting that district elections improve voter efficacy and highlight localized issues, which would be expected to lead to higher turnout. “We suspect that the negative relationship found in California is at least partially tied to the fact that district elections have often been instituted in cities where there has been a history of disenfranchisement of minorities and immigrant groups,” they wrote. “Thus, district elections are a response to low turnout rather than a cause of low turnout.” *Id.* at 659.

But other research notes that there are mixed findings about how district systems affect voter turnout and calls into question whether a relationship even exists. *See, e.g.*, Curtis Wood, *Voter Turnout in City Elections*, 38 *Urban Affairs Review*, 209, 213-14 (2002) (reviewing literature on the relationship of district elections and voter turnout). In his study of 57 cities with populations of between 25,000 and 1 million, Wood did not find a statistically significant correlation between voter turnout and the method of electing city council members. *Id.* at 226-27.

^{xxii} *See* Agnieszka Kwiatkowska & Mikolaj Czesnik, *Electoral System, Political Knowledge and Voter Turnout – Complex Liaisons*, *Polish Sociological Review*, 2020, at 425-444, <https://www.jstor.org/stable/27093079> (finding “the joint impact of the electoral system and political knowledge on turnout was mixed... recognizing candidates on electoral lists was more strongly correlated with turnout than correctly identifying the electoral system.”); Courtney L. Juelich & Joseph A. Coll, *Ranked Choice Voting and Youth Voter Turnout: The Roles of Campaign Civility and Candidate Contact*, 9 *Politics and Governance*, June 15, 2021.

^{xxiii} Hajnal & Lewis, *supra* note xxix, at 645.

^{xxiv} *Plurality and majority systems*, *Britannica*, <https://www.britannica.com/topic/election-political-science/Plurality-and-majority-systems> (last visited Feb. 22, 2023).

^{xxv} *Id.*

^{xxvi} *Electoral Systems*, ACE Electoral Knowledge Network, <https://aceproject.org/ace-en/topics/es/esd/esd02/esd02d/esd02d01> (last visited Feb. 22, 2023).

^{xxvii} *Id.*

^{xxviii} *See, e.g.*, Joseph F. Zimmerman, *Alternative Voting Systems for Representative Democracy*, 27 *PS: Political Science and Politics* 674, 676-77 (1994) (arguing that a single-transferable vote system “provides such broad representation with great accuracy — provided there are a large number of members elected in each district, and groups and parties vote as blocs — without creating other problems, including the possibility of a minority party or group electing a majority party of the candidates.”); Douglas J. Amy, *The forgotten history of the single transferable vote in the United States*, 34 *Journal of Representative Democracy* 13 (1996); Kaminsky & White, *supra* note xxiii; Dana R. Carstarphen, *The Single Transferable Vote: Achieving the Goals of Section 2 without Sacrificing the Integration Ideal*, 9 *Yale Law & Policy Review* 405, 425-26 (1991).

^{xxix} Jonathan Colner, “The Short-Term Impact of Ranked Choice Voting on Candidate Entry and Descriptive Representation,” <https://www.newamerica.org/political-reform/reports/rcv-impact-on-candidate-entry-and-representation/>.

^{xxx} *Id.*

^{xxxi} David M. Farrell & Ian McCallister, Working Paper: *Voter Satisfaction and Electoral Systems: Does Preferential Voting in Candidate-Centered Systems Make A Difference?* (University of California, Irvine, 2004), <https://escholarship.org/uc/item/4c51z9mt>.

^{xxxii} Arjun Vishwanath, "The Missing Link: RCV and Substantive Representation in Local Politics," *New American*, <https://www.newamerica.org/political-reform/reports/evaluating-the-effects-of-ranked-choice-voting/the-missing-link-rcv-and-substantive-representation-in-local-politics-arjun-vishwanath/>.

^{xxxiii} Charles E. Campbell, III, *What is Old is New Again: Single Transferable Vote is an Old Solution to a Persistent Problem*, 9 WIDENER J.L. ECON. & RACE 27, 42 (2018).

^{xxxiv} *Id.*

^{xxxv} Courtney L. Juelich & Joseph A. Coll, *Ranked Choice Voting and Youth Voter Turnout: The Roles of Campaign Civility and Candidate Contact*, 9 *Politics and Governance*, June 15, 2021, <https://www.cogitatiopress.com/politicsandgovernance/article/view/3914>.

^{xxxvi} *Reynolds v. Simms*, 337 U.S. 533 (1964); *Baker v. Carr*, 369 U.S. 186 (1962); *Wesberry v. Sanders*, 376 U.S. 1 (1964); *Gray v. Sanders*, 372 U.S. 368 (1963).

^{xxxvii} *Swann v. Adams*, 385 U.S. 440, 444 (1967).

^{xxxviii} *Connor v. Finch*, 431 U.S. 418 (1977); *Gaffney v. Cumming*, 412 U.S. 735 (1973); *White v. Regester*, 412 U.S. 755 (1973).

^{xxxix} Voting Rights Act of 1965 § 2, 42 U.S.C. §1973; *Thornburg v. Gingles*, 478 U.S. 30 (1986).

^{xl} *Compare* Voting Rights Act of 1965 § 2, 42 U.S.C. §1973 (1974). Previously, the Voting Rights Act required intent, but Congress removed this requirement in 1982.

^{xli} *Thornburg v. Gingles*, 478 U.S. 30, 58 (1986).

^{xlii} *Id.*

^{xliiii} *Johnson v. De Grandy*, 512 U.S. 997 (1994).

^{xliv} *See generally* *Holloway v. City of Va. Beach*, 531 F. Supp. 3d 1015 (E.D. Va. 2021).

^{xlv} *Miller v. Johnson*, 515 U.S. 900 (1995).

^{xlvi} *Shaw v. Reno*, 509 U.S. 630 (1993).

^{xlvii} *Miller v. Johnson*, 515 U.S. 900 (1995).

^{xlviii} *Bethune-Hill v. Va. State Bd. Of Elections*, 137 S. Ct. 788 (2017); *Cooper v. Harris*, 136 S. Ct. 2512 (2017); *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254 (2015).

^{xlix} *Easley v. Cromartie*, 532 U.S. 234 (2001); *Cooper v. Harris*, 136 S. Ct. 2512 (2017).

^l *Bush v. Vera*, 517 U.S. 952 (1996).

^{li} *Id.* at 977 ("... we assume with deciding that compliance with the results test [of Section 2 of the Voting Rights Act] . . . can be a compelling state interest.").

^{lii} *Id.* ("We also affirm that the "narrow tailoring" requirement . . . allows the States a limited degree of leeway in furthering such interests.").

^{liii} *See generally* *Bush v. Vera*, 517 U.S. 952 (1996).

^{liv} *See* <https://lis.virginia.gov/cgi-bin/legp604.exe?212+ful+CHAP0528>

^{lv} VA. Code § 24.2-129.

^{lvi} VA. CODE § 24.2-304.1.

^{lvii} VA. CODE § 24.2-222.

^{lviii} VA. CODE § 24.2-130.

^{lix} VA. CODE § 24.2-304.1.

^{lx} VA. CODE § 24.2-626(a); VA. CODE § 24.2-646.1.

^{lxi} VA. CODE § 24.2-626(a).

^{lxii} VA. CODE § 24.2-673.1(b).

^{lxiii} ARLINGTON COUNTY, VIRGINIA, ESTABLISHMENT OF RANKED CHOICE VOTING AS THE ELECTION METHOD FOR THE JUNE 2023

COUNTY BOARD PRIMARY ELECTION 1 (2022),

https://arlington.granicus.com/MetaViewer.php?view_id=2&clip_id=4171&meta_id=214976.

^{lxiv} VA. CODE § 24.2-673.1(c).

^{lxv} Section 24.2-202 allows for charter amendment following a public hearing process in lieu of an election. It is understood that the City has inquired specifically about a referendum process.

^{lxvi} See Va. Code § 24.2-101 defining “special election” as “any election that is held pursuant to law to fill a vacancy in office or to hold a referendum.”

^{lxvii} The “plain English” requirement for the ballot question means that it is written “in nontechnical, readily understandable language using words of common everyday usage” without legal terms and specialized phrases or terms of art used only in a particular field or profession. (See Virginia Code § 24.2-687.)