



October 12, 2020

Franklin County Commission  
Franklin County Courthouse  
1016 N. 4th Ave  
Pasco, WA 99301  
VIA U.S. Mail and  
Electronic Mail: [kmilham@co.franklin.wa.us](mailto:kmilham@co.franklin.wa.us)

Re: Violation of the Washington Voting Rights Act of 2018

Dear Franklin County, Washington County Commissioners:

We write to provide written notice pursuant to the Washington Voting Rights Act of 2018 (WVRA; the Act), of our clients' intent to challenge Franklin County's electoral system under the Act.<sup>1</sup> The undersigned, along with co-counsel, represent citizens of Franklin County, Washington, in collaboration with the University of California, Los Angeles Voting Rights Project (UCLA VRP) and the League of United Latin American Citizens (LULAC). The evidence we have developed, and would present in court, demonstrates that Franklin County's electoral system dilutes the votes of Latino/a citizens in Franklin County and thereby presents an effective barrier for Latinos to have an equal opportunity to elect candidates of their choice, violating the WVRA and the Washington State Constitution.<sup>2</sup>

Franklin County's electoral scheme violates the WVRA in two ways. First, the County's electoral scheme, which uses district-based voting for the primary election, but at-large voting for the general election, is an electoral method that impairs Latinos' ability to have an equal opportunity to elect candidates of their choice. This electoral method is akin to having Franklin County voters vote for a state representative in the primary then allowing the entirety of Washington to vote for Franklin County's state representative in the general election. Second, Franklin County's commission district lines crack the Latino population of the City of Pasco and divides the Latino population into three districts in order to impair their ability to elect candidate for their choice.

Franklin County has a total population of 95,222 and a Latino population of 51,001 which comprises more than half (53.6%) of the total county's population.<sup>3</sup> Among the overall citizen voting age population (CVAP), over one-third (34.4%) are Latino.<sup>4</sup> In the last twenty years, like other surrounding counties in the state, Franklin County has experienced large demographic

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<sup>1</sup> WASH. REV. CODE § 29A.92.060 (2019).

<sup>2</sup> See e.g. *Id.*

<sup>3</sup> U.S. Census Data Website:

<https://data.census.gov/cedsci/table?q=franklin%20county%20washington%20hispanic&tid=ACSDT1Y2019.B03002&hidePreview=false>

<sup>4</sup> U.S. Census Bureau, 2018 American Community Survey.

changes fueled by the growth of the Latino community.<sup>5</sup> The growth in the CVAP has been driven by U.S. born Hispanics turning 18 and becoming eligible to vote. The Latino population is largely concentrated within select areas of Franklin County. Today, three of the incorporated cities within the Franklin County have sizable Latino citizen voting age populations—accounting for almost one quarter to more than one third of the total CVAP in those cities.<sup>6</sup> Yet because of the county’s discriminatory electoral scheme, Latino citizens have been unable to elect candidates of choice over years of elections.<sup>7</sup> Indeed, a Latino candidate of choice has not been elected to the Franklin County Commission in the past 20 years.

The large and growing Latino population in the Franklin County area have placed jurisdictions within and near Franklin County under minority voter scrutiny for violations of the Washington State Voting Rights Act and Federal Voting Rights Act of 1965. Following a 2016 lawsuit by voters against the City of Pasco, the largest city in Franklin County, for violating the Federal Voting Rights Act,<sup>8</sup> a court found that the city’s at-large city election system diluted the electoral power of Pasco Latino voters.<sup>9</sup> In response to that lawsuit, the city replaced its at-large system with a hybrid district-based system.<sup>10</sup> Despite the forced changes to Pasco’s discriminatory electoral system, the Latino voting power in Franklin County, as a whole, continues to be diluted.

Yakima County has been served a notice letter under the Washington Voting Rights Act for their election scheme that is similar to Franklin. In July, voters filed a lawsuit against Yakima County alleging that the county’s at-large system for electing county commissioners dilutes the electoral power of Latino voters, thus denying them equal opportunity to elect candidates of their choice.<sup>11</sup> Franklin County’s total Latino population is higher than in Yakima County and it has never elected a Latino preferred candidate to serve on the Franklin County commission. Our research indicates that Franklin County’s at-large election method dilutes the influence of Latino voters—a protected class—and deprives them of their right to elect a candidate of their choice.

### **Franklin County’s Current Election System Violates the WVRA**

The Washington Voting Rights Act was enacted by the state legislature in 2018 to give local governments the opportunity to remedy discriminatory electoral schemes “so that minority groups have an equal opportunity to elect candidates of their choice or influence the outcome of an election.”<sup>12</sup> The WVRA requires that district maps afford minority voters an equal

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<sup>5</sup> E.g., John Stucke, *2010 Census: Spokane Still No. 2; Valley Makes Top 10*, Spokesman-Rev. (Feb. 24, 2011), <https://www.spokesman.com/stories/2011/feb/24/2010-census-spokane-still-no-2-spokane-valley/>.

<sup>6</sup> The City of Pasco has a Latino CVAP of 35.59%, the City of Mesa has a Latino CVAP of 32.09%, and the City of Connell has a Latino CVAP of 22.32%. U.S. Census Bureau, 2018 American Community Survey 5-Year Estimates. “Trends and experts” have forecasted that Pasco’s Latino CVAP “is likely to exceed 40% by 2021.” Memorandum Opinion and Order at 7, *Glatt v. City of Pasco*, No. 4:16-cv-05108 (E.D. Wash. Jan. 27, 2017), ECF No. 40.

<sup>7</sup> See Lilly Fowler, *WA to Protect Against Voting Discrimination With New Law*, CROSSCUT (March 6, 2018), <https://crosscut.com/2018/03/washington-voting-rights-act-legislature-discrimination-law-jay-inslee> (displaying a chart showing that Latinos made up only 2.7% of all office holders in Franklin County in 2016).

<sup>8</sup> 52 U.S.C. § 10301 (2018).

<sup>9</sup> See Memorandum Opinion and Order, *supra* note 5, at 2.

<sup>10</sup> Of the seven Pasco City Council seats, six seats are district-based while one continues to be at-large.

<sup>11</sup> Complaint at 8, *Aguilar v. Yakima County*, No. 20-2-00180-19 (Wa. Super. Ct. July 13, 2020).

<sup>12</sup> WASH. REV. CODE § 29A.92.005 (2019).



opportunity to elect their preferred candidates.<sup>13</sup> The law further prohibits the dilution of protected classes' influence over elections through the use at-large electoral schemes (as opposed to district-based schemes).<sup>14</sup> At-large election systems are conducive to diluting minority voting rights<sup>15</sup> because "where minority and majority voters consistently prefer different candidates, the majority, by virtue of its numerical superiority, will regularly defeat the choices of minority voters."<sup>16</sup> Vote dilution is shown through racial polarized voting, in which the majority class of voters will vote for one candidate, whereas the minority class will vote for their preferred candidate in stark polarization.<sup>17</sup> Where there is racially polarized voting in a political subdivision and the votes of a protected class are diluted, that subdivision is in violation of the WVRA.

Although Franklin County's partisan elected commissioners must be nominated in primary elections by the voters in the district in which they reside, all three commissioners are elected at-large by voters throughout the entire county during the general election.<sup>18</sup> The county is divided into three commissioner districts: District 1, a small district centered within the city of Pasco, and Districts 2 and 3, much larger districts which include parts of Pasco and extend into the northern parts of the county.<sup>19</sup> Elections are held every two years, with Districts 1 and 2 voted on during presidential election years and District 3 voted on during midterm election years. Despite Latinos living throughout the County, with a heavy concentration in the City of Pasco, as a result of the County's discriminatory electoral scheme, there are no Latino preferred candidates currently serving on the Franklin County Board of Commissioners, nor has there ever been one elected to serve on the commission.<sup>20</sup>

Our investigation shows the Franklin County Commission's electoral scheme dilutes Franklin Latinos' right to vote in violation of the WVRA and Federal Voting Rights Act. The at-large general elections for commissioners prevent Latinos from electing a candidate of choice to the Franklin County Commission. Franklin County's Latino population votes cohesively and accounts for more than a third of a county with three commissioners. Yet Latinos have been

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<sup>13</sup> *Id.* § 29A.92.020 (2019).

<sup>14</sup> *See id.* § 29A.92.030 (2019).

<sup>15</sup> *See Thornburg v. Gingles*, 478 U.S. 30, 47 (1986).

<sup>16</sup> *Id.* at 48.

<sup>17</sup> *See* WASH. REV. CODE § 29A.92.010(3) (2019).

<sup>18</sup> *See* FRANKLIN CTY COMM'R'S OFFICE, <https://www.co.franklin.wa.us/commissioners/index.php> (last visited July 17, 2020); *see also* WASH. REV. CODE § 29A.52.112(2) (mandating that for partisan offices the top two vote-getters in the primary election will advance to the general election).

<sup>19</sup> District 2 covers the northeast part of the county and includes the cities of Connell, Kahlotus, and Mesa, Washington. District 3 covers the northwest part of the county, including Basin City, Washington; *see also Franklin County Commissioners District Map*, FRANKLIN CTY COMM'R'S OFFICE, [http://www.co.franklin.wa.us/commissioners/forms/COMMISSIONER\\_DISTRICTS-COUNTY.pdf](http://www.co.franklin.wa.us/commissioners/forms/COMMISSIONER_DISTRICTS-COUNTY.pdf) (last visited July 19, 2020).

<sup>20</sup> *See Elected Officials List*, FRANKLIN CTY AUDITOR'S OFFICE <http://www.co.franklin.wa.us/auditor/myuploads/file/elections/research/franklin-county-elected-officials2019.pdf> (last visited July 17, 2020) (going as far back as 1984).

unable to elect a candidate of choice under the county’s at-large elections because they constitute less than a majority and vote differently from the white population.

One only needs to look at the county’s largest city, Pasco, to see how the same at-large system has been deployed to dilute the power of Latino voters to elect their candidates of choice. In nearly every election cycle since 1990 a Latino ran for a city council position, however, not one won a contested city council election under the at-large system.<sup>21</sup> In ordering the city to switch from at-large to a hybrid district based election system, the court found that racially polarized voting existed in Pasco’s city council elections.<sup>22</sup>

The discriminatory three-district plan the County utilizes to nominate candidates in the primary also places the County in violation of the WVRA. Franklin County has diluted the Latino community’s votes by cracking the population into different districts. Though the majority of Pasco, which has a majority Latino population, is located in District 1, the city, including eastern Pasco, is split into Commissioner Districts 2 and 3. As Commissioner Brad Peck noted at the February 4, 2020 commissioner meeting, the “homogenous” eastern part of Pasco—“the predominantly Latino east Pasco”<sup>23</sup>—has historically been “carved up into pieces to make the other districts balanced.”<sup>24</sup> Cracking the eastern Pasco Latino community between electoral districts impedes its ability to rally behind a candidate of choice in the primary, there may not even be a Latino candidate of choice in the general election. Likewise, if this map were used in the general election, it would likely prevent Latinos from electing a candidate of choice to the Commission. The choice to divide this predominately Latino city between electoral districts demonstrates a conscious choice to crack the Latino population in such a way as to prevent Latinos from having the opportunity to elect their candidates of choice.

When the voting system is not discriminatory, Franklin County Latinos do coalesce around candidates of choice. Following the City of Pasco’s 2017 change to a hybrid district-based system, Latinos now occupy three out of seven city council seats, including two out of the three Latino majority-minority districts. Two of these council members have also taken on the role of Pasco’s mayor and mayor pro tem.<sup>25</sup> The fact that no Latino candidate of choice was able to win a contested Pasco city council election until the system changed shows the significant dilutive effect of at-large election systems on Latino voters in Franklin County, including the County Commission’s own system.

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<sup>21</sup> Complaint at 7, *Glatt v. City of Pasco*, No. 4:16-cv-05108 (Jan. 27, 2017), ECF No. 1.

<sup>22</sup> See Memorandum Opinion and Order, *supra* note 5, at 32 (“Racially polarized bloc voting existed in five [City Council contests from 2005, 2009, and 2015], where Hispanic candidates received support from an estimated 58.3% to 86% of Latino voters compared to only 7.1% to 39.5% of non-Latino voters.”). Latinos had to be appointed to council member positions. Complaint, *supra* note 22, at 7. Even then, one lost their subsequent election and the other ran unopposed. *Id.*

<sup>23</sup> Memorandum Opinion and Order, *supra* note 5, at 36.

<sup>24</sup> Franklin County Commission recordings available on the Franklin County Commission webpage, <https://www.co.franklin.wa.us/commissioners/recordings.php>.

<sup>25</sup> Ashley Nanfria, *Pasco’s New Mayor and Mayor Pro-tem Make History*, NBC RIGHT NOW (Jan. 7, 2020), [https://www.nbcrightnow.com/news/pascos-new-mayor-and-mayor-pro-tem-make-history/article\\_9c5d87d8-31b5-11ea-b811-b757cad7999d.html](https://www.nbcrightnow.com/news/pascos-new-mayor-and-mayor-pro-tem-make-history/article_9c5d87d8-31b5-11ea-b811-b757cad7999d.html)



## Other Factors That Implicate Franklin County is Violating the WVRA

Under both the Washington Voting Rights Act and Federal Voting Rights Act, the existence of historic and present racial discrimination in the jurisdiction further support a finding that challenged voting methods are discriminatory. In making this determination, courts consider a variety of factors including:

the history of discrimination, the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at large elections, . . . the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, and the use of overt or subtle racial appeals in political campaigns are.<sup>26</sup>

Franklin County has a history of ethnic and racial tension between the county’s white and Latino communities.<sup>27</sup> In fact, according to historians, East Pasco was once the only part of the city open to minorities and even in East Pasco there were efforts by white residents to target and remove non-Whites from the city entirely.<sup>28</sup> This historic discrimination has had long lasting effects on Latinos and other minorities in Franklin County. “Race and poverty . . . coalesced to create patterns that endured [in Pasco] for generations.”<sup>29</sup>

Racial tensions between white and Latino communities in the county persist even today. On February 10, 2015 local Pasco police, itself not racially reflective of the community, shot seventeen times and killed Antonio Zambrano-Montes after he was allegedly throwing rocks at cars.<sup>30</sup> Weeks of demonstrations calling for justice and more scrutiny over Pasco’s policing of the Latino community followed.<sup>31</sup> Even county officials have publicly declared racially insensitive viewpoints: In 2016, a Franklin County official shared an image of a white farmer with the caption, “When is white history month?” and on the corner of the image a white raised fist used by white supremacists with the words “100% White, 100% Proud.”<sup>32</sup>

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<sup>26</sup> WASH. REV. CODE § 29A.92.030(6).

<sup>27</sup> See Kate Brown, *Only Part of the Story Is Being Told About the Police Shooting in Pasco*, TIME (Mar. 3, 2015), <https://time.com/3729247/police-shooting-pasco-history/>.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Tyrone Beason, *Family of a Mexican Farmworker Fatally Shot by Police in Pasco Receives a \$750,000 Settlement*, SEATTLE TIMES (Dec. 20, 2018), <https://www.seattletimes.com/pacific-nw-magazine/a-settlement-is-reached-in-lawsuit-over-the-2015-death-of-mexican-farmworker-antonio-zambrano-montes/>.

<sup>31</sup> *Id.*

<sup>32</sup> Jake Dorsey, *Franklin County Coroner Posted a ‘White Power’ Meme. Some Say his Apology isn’t Enough*, YAKIMA HERALD (Mar. 15, 2018), [https://www.yakimaherald.com/news/local/franklin-county-coroner-posted-a-white-power-meme-some-say-his-apology-isn-t-enough/article\\_3b232aa8-2871-11e8-8f6b-03319b4b7e81.html](https://www.yakimaherald.com/news/local/franklin-county-coroner-posted-a-white-power-meme-some-say-his-apology-isn-t-enough/article_3b232aa8-2871-11e8-8f6b-03319b4b7e81.html)

Franklin County officials have also expressed anti-immigrant sentiment against the county’s immigrant population—an overwhelming majority of which is Latino.<sup>33</sup> When current county commissioner, Clint Didier, was asked about immigration while running for his seat he stated he wanted to secure borders and that until then, “[w]e work with ICE.”<sup>34</sup> Law enforcement officials have also sought ways to collaborate with immigration enforcement officials, including receiving Spanish language training from U.S. Border Patrol agents, which has undermined trust between them and the overwhelming Latino immigrant community.<sup>35</sup>

Not surprisingly, Franklin County Latino voters endure the widespread effects of past and present discrimination in areas such as education, employment, and health, which impacts their ability to engage in the local political process. U.S. Census statistics reveal a number of discrepancies between the white and Latino communities in the county. Latino residents in Franklin are much less likely to have a high school diploma than white Franklin residents.<sup>36</sup> Similarly, only 7.1% of Latinos in Franklin have a bachelor’s degree or higher, compared to 29.9% of whites.<sup>37</sup> While 7.5% of Franklin’s white population lives below the poverty line, more than one out of five Latinos in the County live below the poverty line.<sup>38</sup> The disparities between the white population and the Latino community in Franklin County are also pervasive with respect to job earnings<sup>39</sup> and access to health care.<sup>40</sup> White Franklin County residents also earn substantially more at their jobs on average than do Latino residents.<sup>41</sup>

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<sup>33</sup> Latino residents make up 89.8% of the immigrant population in Franklin County. U.S. Census Bureau, 2018: American Community Survey 5-Year Estimates Subject Table, <https://bit.ly/2E416bO> (last visited July 19, 2020).

<sup>34</sup> Wendy Culverwell, *Franklin County Face-off Debates Pot Ban, TRAC Future, Immigrant Crackdown*, TRI-CITY HERALD (July 21, 2018), <https://www.tri-cityherald.com/news/local/article214985235.html>.

<sup>35</sup> *Pasco Police Got Free Spanish Training. This Latino Group Wants The Chief Fired Over It*, NEWS BREAK (July 1, 2018), <https://www.newsbreak.com/news/0DFLlaxg/pasco-police-got-free-spanish-training-this-latino-group-wants-the-chief-fired-over-it?s=oldSite>

<sup>36</sup> While 93% of white residents have high school diplomas, only 49.8% of Latino residents have one. U.S. Census Bureau, Educational Attainment, 2018: American Community Survey 1-Year Estimate, Franklin County, Washington, <https://bit.ly/3fMVAbx> (last visited July 19, 2020).

<sup>37</sup> *Id.*

<sup>38</sup> U.S. Census Bureau, Poverty Status in the Past 12 Months, 2018: American Community Survey 5-Year Estimates Subject Tables, Franklin County, Washington, <https://bit.ly/30zSstj> (last visited July 19, 2020).

<sup>39</sup> While the median income for white residents was \$77,937, the median income for Latino residents was \$50,675. U.S. Census Bureau, Median Income In The Past 12 Months (In 2018 Inflation-Adjusted Dollars), 2018: American Community Survey 5-Year Estimates Subject Tables, Franklin County, Washington, <https://bit.ly/3fRTPtC> (last visited on July 19, 2020).

<sup>40</sup> In 2018 while only 237 white residents under 19 years old and 1,971 over 19 years old lacked access to health insurance, 1,041 Latino residents under 19 years old and 9,413 over 19 years old in the county lacked access to such coverage. U.S. Census Bureau, Health Insurance Coverage Status By Age, 2018: American Community Survey 5-Year Estimates Detailed Tables, Franklin County, Washington (comparing “White Alone, Not Hispanic or Latino” with “Hispanic or Latino tables”).

<sup>41</sup> While the median income for white residents was \$77,937, the median income for Latino residents was \$50,675. U.S. Census Bureau, Median Income In The Past 12 Months (In 2018 Inflation-Adjusted Dollars), 2018: American Community Survey 5-Year Estimates Subject Tables, Franklin County, Washington, <https://bit.ly/3fRTPtC> (last visited on July 19, 2020).

## **Racially Polarized Voting in Franklin County**

In a political subdivision, when the right to vote of a protected class is diluted, as Franklin County's Latino population is, and racially polarized voting exists, that subdivision is in violation of the WVRA.<sup>42</sup> The experts at UCLA VRP have performed racially polarized voting (RPV) analyses and have determined that racially polarized voting exists in Franklin County elections. Simply put, white, non-Hispanic voters and Latino voters demonstrate consistent patterns of voting for different candidates. Candidates who win a majority of the vote in high-density Latino voting precincts receive very low support in high-density white precincts. This pattern is consistent across different elections, across the county, and across years.

To illustrate the presence of RPV, we examined five Franklin County Commission elections between 2008 and 2020 to determine whether high percentage non-Latino precincts vote differently than high percentage Latino precincts. The Franklin County Commission is made up of three commissioners that run within geographic-based districts during the primary election; then, the general election is held at-large countywide. Since 2008, no Latino candidate has been elected to the County Commission even though Latinos have run. In 2020, Ana Ruiz Peralta ran in District 2 and advanced to the general election. Within District 2, Peralta was the preferred candidate in high-density Latino precincts, such as Pct 004 where she won 75% of the vote, Pct 006 (68% won), Pct 009 (67%), Pct 002 (65%), Pct 005 (64%). By contrast, Peralta lost the vote in majority-white voting precincts such as Pct 100 where only 8% voted for Peralta, Pct 101 (9% voted for Peralta) Pct 096 (10%), Pct 095 (13%), Pct 092 (17%). The difference in candidate preference between Latino and white voting precincts is quite large, statistically significant, and a text-book example of racially polarized voting.

Racially polarized voting was also observed in the 2018 County Commission election between Clint Didier and Zahra Roach. Roach, was the candidate of choice in majority-Latino voting precincts, winning 82% in Pct 004, 77% in Pct 006 and Pct 012 and gaining majority support in nearly every high-density Latino precinct. In contrast, Didier, who won countywide, received his highest support in majority-white precincts, winning over 90% of the vote in multiple majority-white voting precincts. Looking countywide, the 2018 general election demonstrates extremely strong evidence of racially polarized voting.

Similar patterns emerge over time with high-density Latino precincts reporting vote results which are the polar opposite of high-density white precincts, the definition of racially polarized voting. In 2012, Al Yenney lost countywide in the November general election but he won a

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<sup>42</sup> See WASH. REV. CODE § 29A.92.

majority of the vote in Latino precincts and lost badly in precincts with much smaller Latino populations. Likewise, in 2008, Neva Corkrum lost the countywide election in November, but won a clear majority of the vote in high-density Latino voting precincts, winning as much as 74% of the vote in majority-Latino precincts, but losing badly, with less than 20% of the vote in majority-white precincts.

The same patterns emerge across elections in Franklin County for other local, legislative, and statewide offices. There is no doubt that a clear and consistent pattern of racially polarized voting exists in Franklin County in which Latino voters are cohesive in their candidate preference, but countywide at-large elections block them from ever being able to get a preferred candidate elected.

This precinct analysis of voter trends reveals that Latino-preferred candidates are losing county elections because of minority vote dilution as a result of county's at-large election system. More sophisticated ecological inference analyses confirm these results. While minority-preferred candidates receive the most votes in high percentage Latino precincts, they are obstructed from winning the general election because of the increased participation of majority-white precincts that vote differently.

### **Franklin County's Continued Refusal to Follow the WVRA**

Washington counties have a responsibility "to periodically redistrict [their] governmental unit[s], based on population information from the most recent federal decennial census."<sup>43</sup> Districts in these plans must be as "compact as possible" and the data used for these plans must not be utilized "for purposes of favoring or disfavoring any racial group or political party."<sup>44</sup> Where feasible district boundaries in these plans have to "coincide with existing recognized natural boundaries" and "preserve existing communities of related and mutual interest,"<sup>45</sup> like Franklin County's Latino community. Under these guidelines, a commissioner district that respects the almost one third of Franklin County citizens who are Latino could be plainly drawn and would give Latinos a reasonable opportunity to elect at least one county commissioner in the three districts.

Yet, the county's current district map and the initial 2020 redistricting plan fail to take into account the growth of the Latino community, especially in Pasco, or to create a majority-minority district or an opportunity district for Latino citizens. Commissioner meetings on the county's 2020 redistricting proposals<sup>46</sup> throughout January and February noted the potential consequences of its plan being subjected to litigation for violation of the WVRA because of this

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<sup>43</sup> WASH. REV. CODE § 29A.76.010 (2019).

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> See Franklin County Commission recordings available on the Franklin County Commission webpage, <https://www.co.franklin.wa.us/commissioners/recordings.php>; see also Franklin County Redistricting Proposal Public Hearing Notice (Mar. 17, 2020), <http://www.co.franklin.wa.us/redistricting.php>.





failure.<sup>47</sup> Nevertheless, two of the three commissioners expressed an unwillingness to incorporate the feedback of Latino community representatives into a final redistricting proposal.<sup>48</sup> Now, the county has postponed its redistricting process due to COVID-19.<sup>49</sup> Instead of finding an alternative way to engage the public amidst the pandemic, the commission has chosen to further delay redistricting until the completion of the 2020 Census.<sup>50</sup> The commission's inaction on a new redistricting plan leaves intact the current district map and continues the County's tradition<sup>51</sup> of dividing a politically cohesive Latino community into districts that fail to offer Latino voters an equal opportunity to elect a candidate of their choice. The county goes into the 2020 elections and into the foreseeable future knowing it electorally disempowers Latino voters in violation of the WVRA.

### **Proposed Remedies**

In the spirit of collaboration and pursuant to the terms of the WVRA, we request the following changes: (1) remove the at-large voting system for the county commissioner districts during general elections and replace this voting system with a solely district-based voting scheme; (2) redraw the district map in furtherance of creating a majority-Latino district centered around the City of Pasco to be used in primary and general elections; and (3) ensure that elections for any commissioner district occurs on the same day as the election for electors for President.

### **Next Steps**

Be advised that under the WVRA, you have 180 days to consider and take action in response to this letter. If we are not satisfied with your response, or do not receive a response, we will proceed with our client's claims and remedies under the Act and any other applicable laws.

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<sup>47</sup> See Veronica Barriga, *Franklin County Commissioners Meet to Discuss Redistricting Amid Complaints From Voting Rights Advocates*, NBC RIGHT NOW (Feb. 26, 2020), <https://bit.ly/3hhVjxy>

<sup>48</sup> At the February 18, 2020 commissioner meeting, Commissioner Koch stated he was not going "to go for [Proposals] 3 or 4," proposals that County Administrator Keith Johnson stated were created as a result of meeting with a representative of the Latino community. Franklin County Commission recordings available on the Franklin County Commission webpage, <https://www.co.franklin.wa.us/commissioners/recordings.php>. Commissioner Clint Didier stated that Proposal 1, the original redistricting proposal, was the best one to get to equal population, *id.*, even though it is only one of many other criteria in the redistricting process. See WASH. REV. CODE § 29A.76.010 (2019). This is also despite the fact that the county's "chief civil deputy" reviewed Proposals 3 and 4 and felt they were a better representation "of a district boundary line that could be defensible against a proposed challenge under the voting rights act." *Id.*

<sup>49</sup> March 24, 2020 Franklin County Commission Meeting Agenda and Minutes, <https://www.co.franklin.wa.us/commissioners/pdf/minutes/2020/20200324%20%20Commissioner%20Meeting%20Agenda%20and%20Minutes.pdf>.

<sup>50</sup> *Id.*

<sup>51</sup> At the February 4, 2020 commissioner meeting Commissioner Didier stated he did not "think a threat of a lawsuit [should] completely upend the way the county has been drawn up for the history of the county and its been drawn up this direction for a reason and I think that we need to try to keep up our historical guidelines as much possible intact." Franklin County Commission recordings available on the Franklin County Commission webpage, <https://www.co.franklin.wa.us/commissioners/recordings.php>.

This letter is sent on behalf of our clients Gabriel Portugal, Brandon Paul Morales, and Jose Trinidad Corral. Their contact information is provided below and we ask that you redact this information when you make your public posting, as required by law.<sup>52</sup> Also, kindly address any communications regarding this matter to my attention, at the contact information hereon.

Gabriel Portugal  
[REDACTED]

Brandon Paul Morales  
[REDACTED]

Jose Trinidad Corral  
[REDACTED]

Thank you for your careful consideration of the issues raised herein. If you would like to schedule a conference to discuss these issues or arrange our help in remedying the issues we raise, we are available to you for that purpose.

Sincerely,



Chad W. Dunn  
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Luis Roberto Vera, Jr.  
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On behalf of voters: Gabriel Portugal, Brandon Paul Morales, and Jose Trinidad Corral as well as the League of United Latin American Citizens

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<sup>52</sup> Wash. Rev. Code § 29A.92.060(2).