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# Board of Supervisors Memorandum

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September 21, 2021

## Justice Court & Constable Reprecincting

### Background

On July 27 and July 30, I provided the Board with memorandums regarding the proposed elimination of Justice Precinct 5, which, if approved, would not go into effect until after the terms of the current Justice of the Peace and Constable for Precinct 5 end on December 31, 2022. Doing so also requires the reprecincting, or reassigning of the area that is currently Precinct 5 to adjacent precincts, and adjustments to other precinct boundaries, to be effective for the 2022 election cycle. The July 30 memorandum included an explanation of the process and three preliminary maps. After continued input from stakeholders, and updated demographic estimates from the 2020 Census, attached are two valid options, either of which would be fine (Attachment 1). In fact, the second option is based off of the first option, with minor changes to address input provided by the Constables.

For documentation purposes, below is a brief recap of the justification for this, the state and federal requirements, the process and stakeholder input, descriptions of the two options, and a recommendation to approve one of these options at the Board's September 21 meeting. The September 21 Board agenda item includes a publically advertised hearing. October 1 is the statutory deadline for the Elections Department to establish voter (election) precincts for the 2022 election cycle. Since voter precincts are used as the building blocks for reprecincting, these efforts have been coordinated and will be on the Board's agenda for the same meeting.

### Justification for the Elimination of a Justice of the Peace and Constable

As detailed in my [July 27 memorandum](#), we reviewed a variety of indicators of judicial workload for the eight Justices of the Peace (Judges) that are part of the Consolidated Justice Court. This included case filings, judicial productivity credits, time on the bench, time in the courthouse, and parking garage data. More recently, in response to a statement by Judge Taylor that the court was facing a growing backlog of cases, we also reviewed data provided by the Consolidated Justice Court Administrator for pending jury trials, evidentiary hearings and in-person bench trials. This data does not support Judge Taylor's assertion of a growing backlog. In fact, the clearance rate exceeds 100 percent in all but one category that was at 97 percent.

While individually these indicators may be imperfect, together they show what has been a concern of mine for a while – the Consolidated Justice Court Judges' workload is substantially lower than is necessary to justify eight full-time judges, as well as the additional paid and voluntary positions assigned to hear many of their cases. Furthermore, there is no evidence that the Court will be overwhelmed with a significant increase in filings post-pandemic. Eviction hearings will certainly increase, but the County has added a full-time

judge pro tem to hear eviction cases. In addition, recent actions by the State Legislature will reduce misdemeanor filings, further reducing the workload of the Judges.

A review of data for the Constables shows that the number of papers served has roughly stayed constant over the past several years. My main concern with the Constables has been the variable work load between Constables. While the elimination of the Constable for JP5 will undoubtedly increase the workload of the Constables, conversations are underway between the Constables and Assistant County Administrator Mark Napier with regard to several alternatives to more evenly distribute the workload. Furthermore, Mr. Napier's initial review of the data led him to conclude that the current structure of 10 constables is fiscally irresponsible and not supported by the workload.

Finally, concerning the elimination of JP 5, this is the only Justice Precinct within Consolidated Justice Court that can be eliminated at this time. Per State Statute, the Board can abolish and redistrict Justice Precincts, but abolishing a precinct does not take effect until the Justice of the Peace and Constable's term expires. JP 5 is the only precinct within the Consolidated Justice Court where the Justice of the Peace and Constable terms of office are aligned and expire in 2022, as shown in Table 1.

**Table 1**  
**Election Terms for Justice Precincts**  
**within Consolidated Justice Court**

<b>Justice Precinct</b>	<b>Justice of the Peace Election Year</b>	<b>Constable Election Year</b>
1	2022	2024
2	2024	2022
4	2024	2024
<b>5</b>	<b>2022</b>	<b>2022</b>
6	2024	2024
8	2022	2024
9	2024	2024
10	2024	2024

#### **State and Federal Requirements for Reprecincting Justice Precincts**

As stated in my [July 30<sup>th</sup> memorandum](#), A.R.S. §22-101 authorizes the Board of Supervisors to abolish and redistrict Justice Precincts. To be clear, the Board is not required to eliminate a Justice Court precinct. If that is the choice the Board makes, then eliminating a precinct does not take effect until the Justice of the Peace and Constable's term expires, which in this case is December 31, 2022. For the new Justice Precinct boundaries to be effective for the 2022 election cycle, it is recommended that the new boundaries be transmitted to

the Recorder by October 1, coinciding with the statutory deadline for Elections to transmit the revised voter precinct boundaries to the Recorder.

In addition to State law, the revised Justice Court precincts must comply with Section 2 of the Voting Rights Act. In short, Section 2 prohibits voting practices or procedures that discriminate on the basis of race, ethnicity, or membership in a language minority group, and, in particular, government action that would leave such groups in a lesser position than other members of the electorate to participate in the political process and to elect candidates of their choice. Attachment 2 details the guidance that was followed in evaluating the current Justice Precincts, the results of that evaluation, and the recommendations for maintaining compliance during reprecincting.

Justice Precincts 2, 4, and 9 include a minority population that is sufficiently large and geographically compact to constitute a majority of the voting-age population. However, a review of election outcomes in these precincts for Justice of the Peace and Constables since the last reprecincting in 2004, found that white candidates do not have a history of defeating Hispanic candidates (the largest minority) in these precincts, except for one primary race in 2008. Therefore, the simplest way to remain in compliance with the Voting Rights Act is to not make substantial changes to the boundaries of Justice Precincts 2, 4, and 9. Both map options limited changes to these majority-minority precincts.

While equal representation (the balancing of the estimated population amongst districts) is the basic principle of redistricting for Board of Supervisors, as well as state legislative and congressional districts, it is not a criterion used by other Arizona counties for Justice Precinct reprecincting; nor do we have definitive legal guidance as to whether it applies to Justice Precinct reprecincting. It can be argued that it is even less relevant to Pima County's Consolidated Justice Court, as elected Judges representing those precincts do not necessarily hear cases filed in their precinct. That said, equal representation is certainly a reasonable objective. Courts have found population deviations of up to 10 percent between districts meet the equal representation requirement for districts for which it applies. Both map options achieve this measure of equal representation for the Consolidated Justice Court precincts.

### **Process and Stakeholder Input**

Key stakeholders in this reprecincting process are the Consolidated Justice Court, Green Valley Justice Court, the Judges, the Constables and the Elections Department. In addition, former Justice of the Peace Paula Aboud actively participated and developed the Option 1 map. Ms. Aboud also submitted an extensive critique of the preliminary maps provided to the Board on July 30th. While the Presiding Constable and my staff developed two of the preliminary maps, both chose to work off of the Option 1 map as the base map when the 2020 Census population estimates became available. The Constables submitted changes to the Option 1 map, which then became the Option 2 map. Based on these two maps, my staff did not feel a third map was warranted. The resulting two maps were coordinated with

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the Elections Department to ensure that none of the revised Justice Precincts split voter precincts for which the Elections Department is proposing to consolidate. The Elections Department is also proposing minor adjustments to voter precincts that were found to have split properties. Whichever map option is approved by the Board, it will be adjusted slightly to match these line adjustments prior to being transmitted to the Recorder. These line adjustments are not significant enough to impact the corresponding data. All maps and corresponding data have also been provided to the Consolidated Justice Court Administrator and Green Valley Justice Court Administrator.

The Elections Department is also providing this memorandum to organizations that are typically asked to provide input on election-related changes, including:

- Pima County Republican Party Chair
- Pima County Democratic Party Chair
- Pima County Green Party Chair
- Pima County Libertarian Party Chair
- Chicanos por La Causa
- Pascua Yaqui Tribe
- Pima County Election Integrity Commission

Comments received will be provided to the Clerk of the Board to distribute to the Board and to post online with this agenda item.

This item will also be noticed on the Board's agenda as a public hearing, and the public hearing will be advertised in the Daily Territorial. Those interested in addressing the Board during the hearing should contact the Clerk of the Board at 520-724-8449 to register their request and obtain remote access information for the meeting that will be held virtually.

### **Map Options 1 and 2**

Attachment 1 includes the current Justice Precinct map, the Options 1 and 2 maps, and corresponding data for all three. The building blocks for these maps are the voter (election) precincts, meaning that each map moves certain voter precincts to and from existing Justice Precincts. The proposed Justice Precincts are shown in a solid color. The voter precincts that were moved are outlined in a heavy blue line.

Note that none of the maps impact JP3 Ajo Justice Court, as it is not part of the Consolidated Court. Attempts were made to develop a map that did not impact JP7 Green Valley Justice Court, as it is also not part of the Consolidated Justice Court. However, to comply with the Voting Rights Act, it became difficult to reallocate all of JP5 into the adjacent JP2, 8 and 1, without substantially impacting JP2, which is a majority-minority precinct. As a result, both map options include moving some of the voter precincts currently in JP5 to JP7 Green Valley. Without judicial productivity credit data for the individual Justice Precincts, and with incomplete data related to the number of papers served by the Green Valley Constable, staff

were unable to estimate how this will impact the workload of the Green Valley Justice Court and Constable. We will work with both to provide additional resources if necessary.

My staff reviewed both maps to determine if adjustments could be made to reduce the estimated increase in population and area covered by JP7 Green Valley. It does appear that the increase to JP7 could be reduced by an estimated 11,000 people in the area of Vail by moving two voter precincts in the Vail area (109 and 198) to JP8 for Option 1 and to JP1 for Option 2. To offset the impact of that change, two voter precincts in North East Tucson (131 and 181) could then be moved to JP1 for Option 1 and to JP8 for Option 2. If the estimated increase in population and area to be covered is a concern of the Green Valley Justice Court and the Constable for Green Valley, these minor adjustments can be made to either map while maintaining the driving principles for those maps.

It should be noted for both maps that voter precincts 90, 95, 49, and 176 make up the majority of Rita Ranch and were moved from JP5 to JP2. This is a good example of keeping a "community of interest" together, but may look unusual on both maps in the how they are connected to JP2. This is due to the shape of the voter precincts in this area.

It is also worth noting that there are large voter precincts in JP5 with very low population (i.e. voter precincts that include the Coronado National Forest and Saguaro National Park to the east, and the largely uninhabited Cienega Valley to the southeast.) Geographically, these appear to be significant changes, but the actual impact is small based on the low population.

The following are descriptions of map Options 1 and 2. Again, keep in mind that Option 2 is a modified version of Option 1 since Option 1 was used as the base map for Option 2.

#### Option 1

Driving principles for this map include equalizing population (representation) amongst the Consolidated Justice Court precincts, complying with the Voting Rights Act, maintaining the geographic integrity of the existing Justice Precincts and maintaining communities of interest.

JP3 Ajo and JP7 Green Valley are not part of the Consolidated Justice Court and were excluded from the effort to equalize the population. JP7's estimated population is increased from the current, but not to the point of being equal to the Consolidated Justice Court precincts. The difference between the highest populated Justice Precinct and lowest populated Justice Precinct is three percent, well within the 10 percent threshold if equal population is applied to reprecincting Justice Precincts. Again, it can be argued that this principle is even less relevant to the Consolidated Justice Court because cases filed in each Justice Precinct are not necessarily those heard by the Judges elected in those precincts.

Compliance with the Voting Rights Act was considered by minimizing changes to the three majority-minority Justice Precincts, JP2, 4, and 9.

Regarding the estimated impact to annual papers served by the Constables, JP6 (Constable Bernal) remained the highest (but similar count to current), JP9 (Constable Camacho) remained similar to current, and the others increased with the exception of JP8 (Constable Randall) which decreased slightly.

The number of registered voters remained similar to the current for all but JP8 and JP10, which increased significantly. The ratio of registered Democrats to Republicans remained similar to the current, with the exception of JP8.

## Option 2

For the development of Option 2, Presiding Constable Michael Stevenson submitted minor modifications to Option 1 based on the suggestions of some of the impacted Constables. Constable Bernal and Constable Camacho also provided individual input. There are 249 voter precincts across Pima County. Option 2 differs from Option 1 by 18 voter precincts.

Driving principles for this map include minimizing the costs associated with the proposed precinct changes based on the geography of the precincts that require coverage by each Constable, and the resources needed to serve rural areas (i.e. 4x4 vehicles and associated equipment). Other considerations include the potential to consolidate the Constables to improve workload equity regardless of Justice Precinct boundaries, the estimated populations per Justice Precinct, and minority makeup.

Option 2 also improves continuity of precinct boundaries with natural boundaries along the Rillito River, Tanque Verde Creek, and the Canada del Oro Wash.

The difference between the highest populated Justice Precinct and lowest populated Justice Precinct is just under 9 percent, which is within the recommended 10 percent if equal population applied to reprecincting Justice Precincts.

Changes were minimized to the three majority-minority Justice Precincts, JP2, 4 and 9, to comply with the Voting Rights Act.

Regarding the estimated impact to annual papers served by the Constables, for Option 2 JP6 (Constable Bernal) remained the highest (but similar count to current), JP9 (Constable Camacho) and JP8 (Constable Randall) remained similar to current, JP1 (Constable Dorer) decreased; and the others increased.

The number of registered voters remained similar to the current for all but JP8 and JP10, which increased significantly. The ratio of registered Democrats to Republicans remained similar to the current, with the exception of JP8; however, the change to JP8 is less than for Option 1.

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**Recommendation**

I recommend the Board of Supervisors eliminate Justice Precinct 5 and approve the proposed Justice Precinct boundaries as shown in Option 1 or Option 2. Both are valid options. Option 1 was developed by a former Justice of the Peace. Option 2 is simply a modified version of Option 1 to address minor modifications suggested by the Constables.

Sincerely,

A handwritten signature in black ink, appearing to read "C.H. Huckelberry". The signature is fluid and cursive, with the first name "C.H." and the last name "Huckelberry" clearly distinguishable.

C.H. Huckelberry  
County Administrator

CHH/nf – September 7, 2021

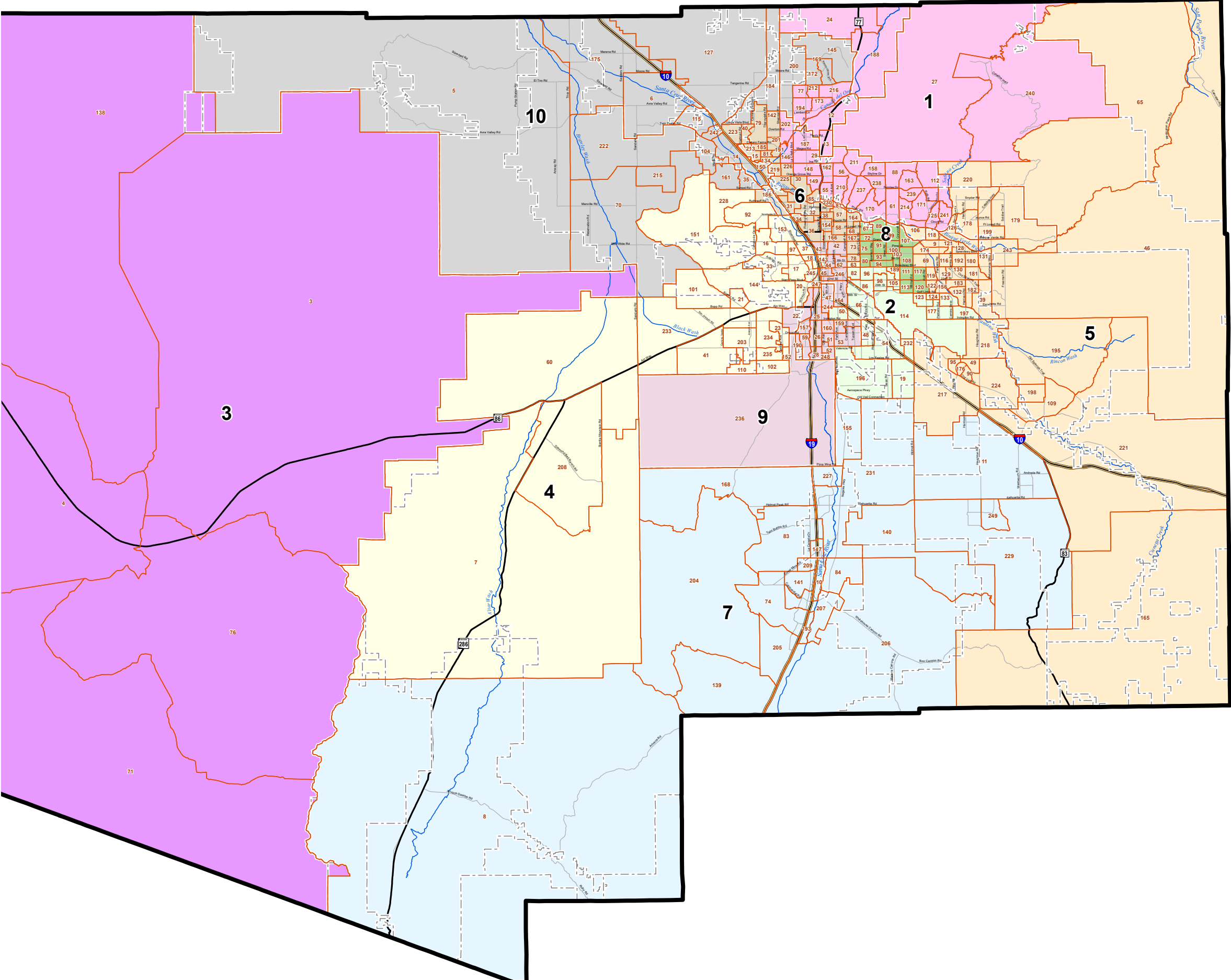
**Attachments**

c:     The Honorable Jeffery Bergin, Presiding Judge, Pima County Superior Court  
        The Honorable Michael Stevenson, Presiding Constable  
        The Honorable Gabriella Cazares-Kelly, Pima County Recorder  
        Jan Leshner, Chief Deputy County Administrator  
        Teresa Underwood, Court Administrator, Pima County Consolidated Justice Court  
        Roxanne Skinner, Ajo Justice Court Administrator  
        Brad Nelson, Elections Director  
        Nicole Fyffe, Executive Assistant to the County Administrator  
        Diana Durazo, Special Projects Manager, Pima County Administrator's Office  
        Lisa Royal, Executive Assistant to Deputy County Administrator

# ATTACHMENT 1



# Current Justice Precincts



# Voter Precinct

## Justice Precinct

- Precinct 1: Hon A Watters
- Precinct 2: Hon E Cornejo
- \*Precinct 3: Hon J Peck
- Precinct 4: Hon C Pesquiera
- Precinct 5: Hon D Taylor
- Precinct 6: Hon A Ball
- \*Precinct 7: Hon R Carroll
- Precinct 8: Hon S Bacal
- Precinct 9: Hon K Wilson
- Precinct 10: Hon V Roberts

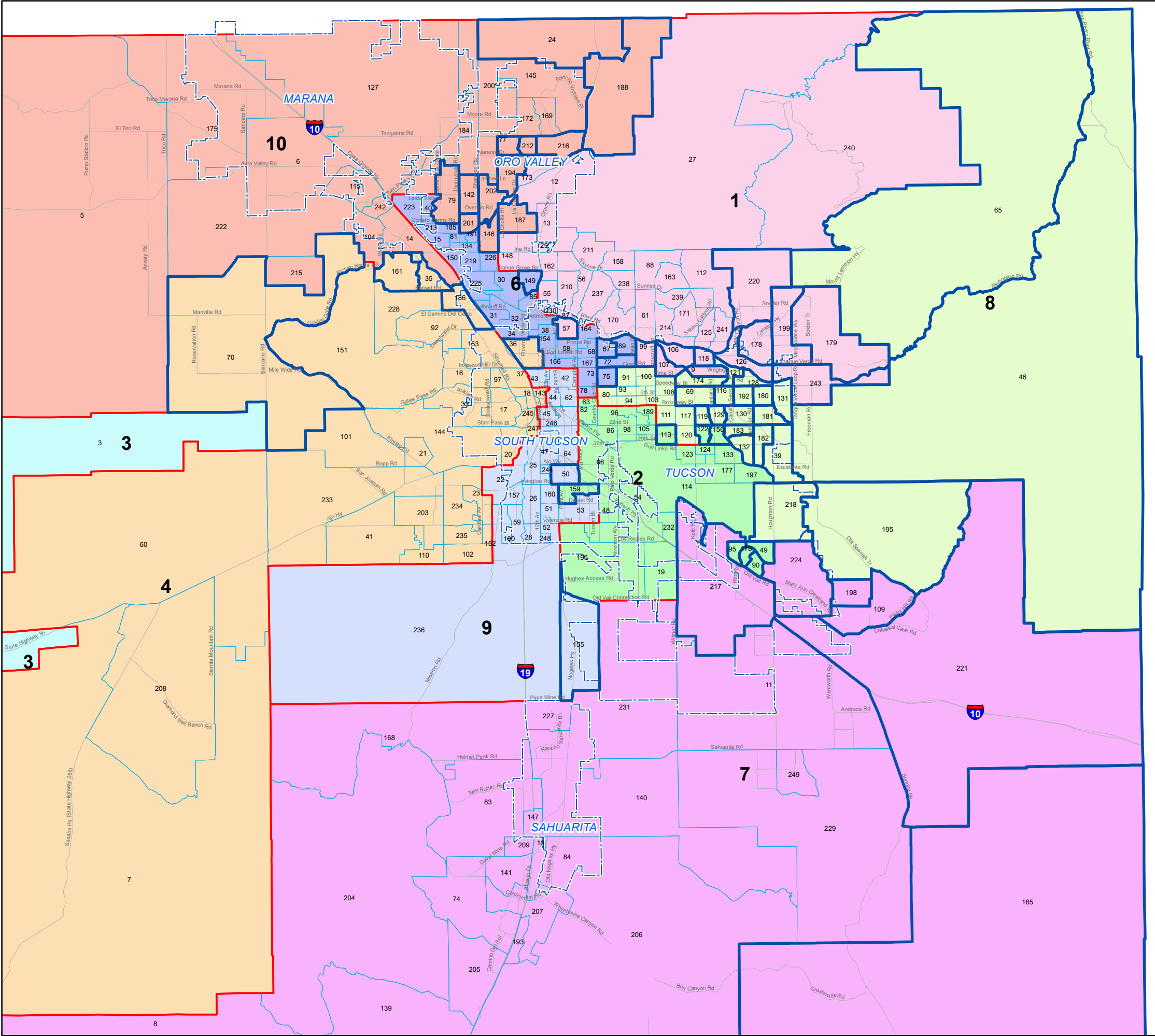
\* Precinct 3 (Ajo) and Precinct 7 (Green Valley) are not under Pima County Consolidated Tucson Justice Court



9/7/2021

# Pima County Justice Precincts

## Proposed Changes: Option 1



Precinct to be Moved From Current Justice Precinct

Administrative Boundary

Current Justice Precinct Boundary

Voter Precinct Boundary

Major Street

**Proposed Justice Precinct**

1

2

3

4

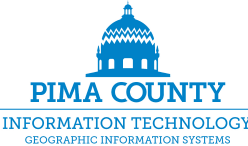
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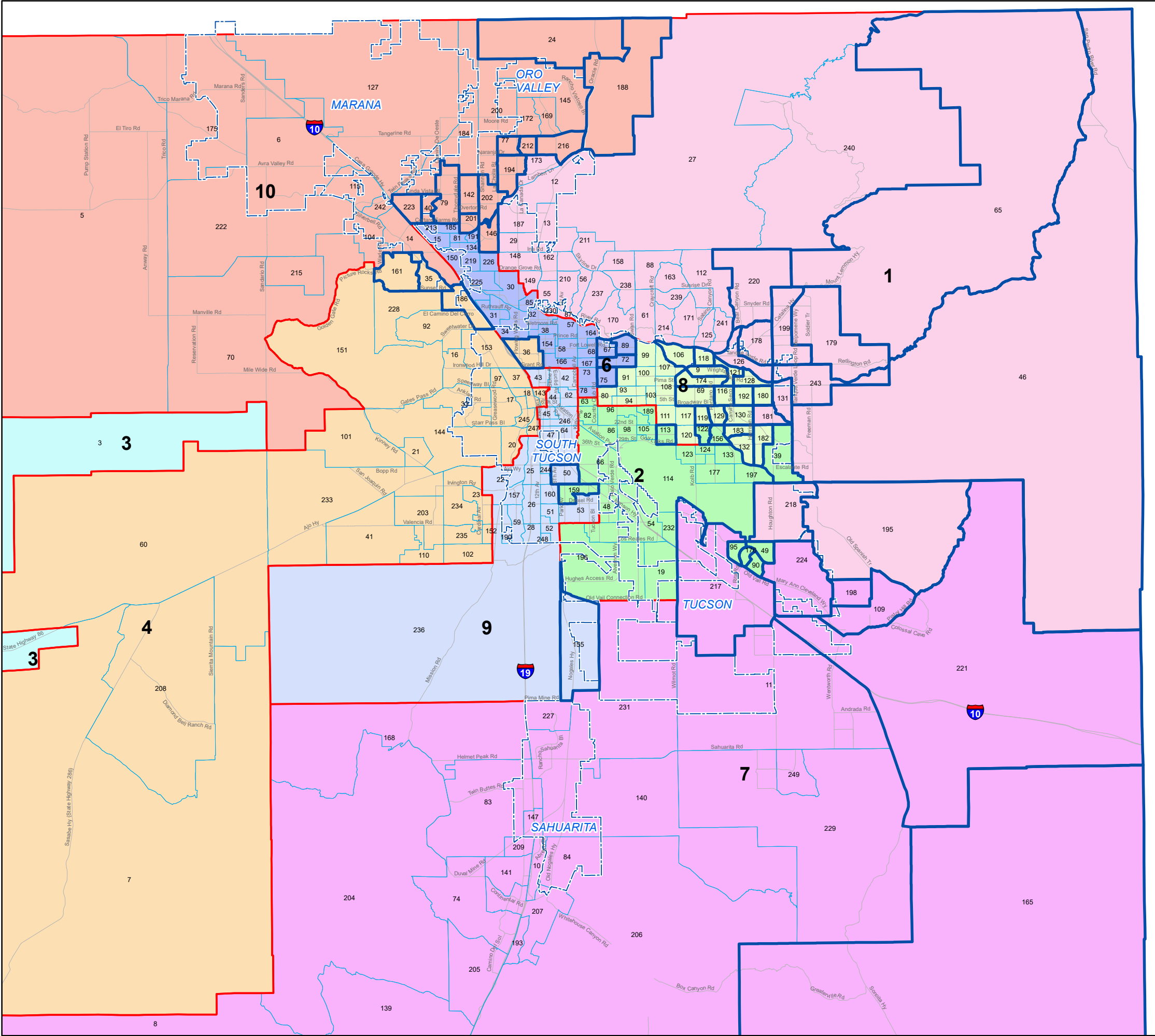
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# Pima County Justice Precincts

## Proposed Changes: Option 2



Precinct to be Moved From Current Justice Precinct

Administrative Boundary

Current Justice Precinct Boundary

Voter Precinct Boundary

Major Street

**Proposed Justice Precinct**

1

2

3

4

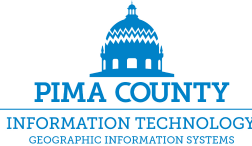
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7

8

9

10



CURRENT JUSTICE PRECINCT	JUSTICE OF THE PEACE	CONSTABLE	TOTAL POPULATION	2017-2020 AVG ANNUAL CONSTABLES PAPERS SERVED	POP AGE 18 PLUS	%18 PLUS	18 PLUS %MINORITY	18 PLUS %HISPANIC	18 PLUS %BLACK AA	18 PLUS %AM INDIAN	18 PLUS %ASIAN	18 PLUS %PACIFIC ISLNDR	REG VOTERS	REG VTRS AS % POP	%REG DEM	%REG REP	%REG ALLOTHERS
1	Adam Watters	John Dorer	120,814	508	102,378	84.7%	24.6%	13.9%	1.7%	0.6%	4.9%	0.1%	89,049	73.6%	37.2%	33.9%	28.9%
2	Erica Cornejo	Esther Gonzalez	103,137	1,160	78,273	75.9%	59.5%	45.0%	6.7%	2.7%	3.2%	0.3%	51,619	48.6%	45.2%	21.5%	33.3%
3 (Ajo)	John Thomas Peck	Jose Gonzales	9,626	NA	7,208	74.9%	77.7%	14.3%	0.5%	63.2%	0.8%	0.1%	5,137	46.1%	56.5%	13.5%	30.0%
4	Charlene Pesquiera	Oscar Vasquez	113,803	809	89,892	79.0%	62.7%	51.3%	3.0%	5.9%	2.0%	0.1%	67,965	56.6%	49.0%	20.4%	30.7%
5	Douglas Taylor	Marge Cummings	168,317	819	134,263	79.8%	31.1%	18.7%	4.2%	1.0%	3.3%	0.3%	112,600	66.8%	33.2%	36.2%	30.6%
6	Alexander Ball	Bennett Bernal	137,852	1,814	110,754	80.3%	42.7%	30.4%	3.4%	2.2%	3.9%	0.2%	77,594	54.0%	41.8%	26.1%	32.1%
7 (Green Valley)	Raymond Carroll	Thomas Schenek	89,018	336*	72,224	81.1%	32.8%	25.1%	2.9%	1.2%	1.3%	0.2%	57,063	66.6%	30.3%	38.4%	31.4%
8	Susan Bacal	Kristen Randall	83,338	1,164	69,019	82.8%	40.3%	25.2%	6.0%	2.1%	3.0%	0.4%	48,748	56.6%	48.6%	20.2%	31.1%
9	Kendrick Wilson	George Camacho	129,986	1,379	101,020	77.7%	72.9%	61.5%	3.1%	5.3%	2.8%	0.1%	57,530	41.7%	55.4%	11.5%	33.1%
10	Vince Roberts	Michael Stevenson	87,542	230	69,234	79.1%	26.4%	17.1%	1.9%	1.1%	3.3%	0.1%	60,985	71.0%	28.2%	40.7%	31.1%

\*Incomplete data

OPTION 1 JUSTICE PRECINCT	JUSTICE OF THE PEACE	CONSTABLE	TOTAL POPULATION	2017-2020 AVG ANNUAL CONSTABLES PAPERS SERVED	POP AGE 18 PLUS	%18 PLUS	18 PLUS %MINORITY	18 PLUS %HISPANIC	18 PLUS %BLACK AA	18 PLUS %AM INDIAN	18 PLUS %ASIAN	18 PLUS %PACIFIC ISLNDR	REG VOTERS	REG VTRS AS % POP	%REG DEM	%REG REP	%REG ALLOTHERS
1	Adam Watters	John Dorer	129,873	570	110,765	85.3%	25.4%	14.2%	2.2%	0.8%	4.7%	0.2%	94,144	72.5%	39.1%	32.3%	28.6%
2	Erica Cornejo	Esther Gonzalez	132,825	1,418	100,400	75.6%	57.8%	43.3%	6.5%	2.5%	3.2%	0.3%	67,912	51.1%	42.9%	23.5%	33.7%
3 (Ajo)	John Thomas Peck	Jose Gonzales	9,626	NA	7,208	74.9%	77.7%	14.3%	0.5%	63.2%	0.8%	0.1%	5,137	53.4%	56.5%	13.5%	30.0%
4	Charlene Pesquiera	Oscar Vasquez	130,813	1,166	103,512	79.1%	60.6%	49.4%	3.0%	5.5%	2.0%	0.1%	76,632	58.6%	47.5%	21.4%	31.1%
5	<del>Douglas Taylor</del>	<del>Marge Cummings</del>															
6	Alexander Ball	Bennett Bernal	131,437	1,830	106,221	80.8%	41.7%	28.6%	3.9%	2.2%	3.8%	0.3%	74,451	56.6%	44.1%	24.0%	31.8%
7 (Green Valley)	Raymond Carroll	Thomas Schenek	116,780	411*	92,806	79.5%	31.1%	22.1%	3.3%	1.1%	1.9%	0.2%	75,430	64.6%	28.7%	39.7%	31.6%
8	Susan Bacal	Kristen Randall	131,590	1,006	108,037	82.1%	34.5%	21.0%	5.0%	1.4%	3.3%	0.3%	84,813	64.5%	39.7%	29.9%	30.4%
9	Kendrick Wilson	George Camacho	129,092	1,366	100,501	77.9%	72.6%	61.4%	3.0%	5.3%	2.7%	0.1%	57,518	44.6%	55.4%	11.5%	33.1%
10	Vince Roberts	Michael Stevenson	131,397	451	104,815	79.8%	27.0%	17.6%	2.0%	1.0%	3.4%	0.1%	92,253	70.2%	29.5%	39.9%	30.6%

\*incomplete data

OPTION 2 JUSTICE PRECINCT	JUSTICE OF THE PEACE	CONSTABLE	TOTAL POPULATION	2017-2020 AVG ANNUAL CONSTABLES PAPERS SERVED	POP AGE 18 PLUS	%18 PLUS	18 PLUS %MINORITY	18 PLUS %HISPANIC	18 PLUS %BLACK AA	18 PLUS %AM INDIAN	18 PLUS %ASIAN	18 PLUS %PACIFIC ISLNDR	REG VOTERS	REG VTRS AS % POP	%REG DEM	%REG REP	%REG ALLOTHERS
1	Adam Watters	John Dorer	129,341	392	108,837	84.1%	23.6%	13.0%	1.8%	0.6%	4.6%	0.1%	96,970	75.0%	36.9%	34.7%	28.4%
2	Erica Cornejo	Esther Gonzalez	137,951	1,427	104,530	75.8%	56.6%	42.3%	6.4%	2.4%	3.2%	0.3%	71,566	51.9%	42.2%	24.3%	33.5%
3 (Ajo)	John Thomas Peck	Jose Gonzales	9,626	NA	7,208	74.9%	77.7%	14.3%	0.5%	63.2%	0.8%	0.1%	5,137	53.4%	56.5%	13.5%	30.0%
4	Charlene Pesquiera	Oscar Vasquez	127,113	1,143	100,471	79.0%	61.7%	50.4%	3.1%	5.6%	2.0%	0.1%	74,291	58.4%	48.1%	20.8%	31.1%
5	<del>Douglas Taylor</del>	<del>Marge Cummings</del>															
6	Alexander Ball	Bennett Bernal	128,996	1,863	105,055	81.4%	42.6%	29.1%	4.1%	2.3%	4.1%	0.3%	71,356	55.3%	45.4%	22.7%	31.9%
7 (Green Valley)	Raymond Carroll	Thomas Schenek	116,780	411*	92,806	79.5%	31.1%	22.1%	3.3%	1.1%	1.9%	0.2%	75,430	64.6%	28.7%	39.7%	31.6%
8	Susan Bacal	Kristen Randall	126,827	1,124	105,570	83.2%	34.8%	21.2%	5.1%	1.5%	3.1%	0.3%	80,414	63.4%	42.1%	27.6%	30.3%
9	Kendrick Wilson	George Camacho	129,092	1,366	100,501	77.9%	72.6%	61.4%	3.0%	5.3%	2.7%	0.1%	57,518	44.6%	55.4%	11.5%	33.1%
10	Vince Roberts	Michael Stevenson	137,707	494	109,287	79.4%	27.7%	18.1%	2.0%	1.1%	3.4%	0.1%	95,608	69.4%	29.4%	39.6%	30.9%

\*Incomplete data

# ATTACHMENT 2



## Race and Reprecincting

### Guidance and Analysis for Pima County Justice Court Reprecincting 2021

#### Background

Pima County's Justice Precinct reprecincting plan (map with new precinct boundaries) must comply with the Equal Protection Clause of the 14<sup>th</sup> Amendment of the Constitution, and Section 2 of the Voting Rights Act of 1965.

#### *Equal Protection Clause:*

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. (Constitutional principles of one person, one vote and non-discrimination).

#### *Voting Rights Act, Section 2:*

The Voting Rights Act is landmark civil rights legislation that protects the right of minority voters to participate in the electoral process. The Act's major provision concerning redistricting/represcincting is Section 2, which prohibits voting practices or procedures that discriminate on the basis of race, ethnicity or membership in a language minority group, and, in particular, government action that would leave such groups in a lesser position than other members of the electorate to participate in the political process and to elect candidates of their choice. Language minority groups are defined as American Indian, Asian American, Alaskan Natives or of Spanish heritage.

The Equal Protection Clause has been interpreted by the courts to mean that race should not be the predominant factor in redistricting (represcincting) unless there is a "compelling government interest." Avoiding a violation of Section 2 of the Voting Rights Act would be a compelling government interest. However, claims can arise when race predominates over other neutral redistricting criteria.

The most common legal claims regarding redistricting are claims of voter dilution – "The dispersal of [racial/ethnic minorities] into districts in which they constitute an ineffective minority of voters or from the concentration of [racial/ethnic minorities] into districts where they constitute an excessive majority" *Thornburg v Gingles*, 478U.S. 30, 46 n.11 (1986). These most often arise when minority voting power is diluted by the creation of insufficient "majority-minority districts".

To determine if a represcincting plan violates Section 2, the courts have required the use of a 3-part test (referred to as the *Gingles* analysis):

1. A "minority group" must be "sufficiently large and geographically compact to constitute a majority" in some reasonably configured district [precinct]...
2. The minority group must be "politically cohesive," ... and
3. A district's white majority must "vote [ ] sufficiently as a bloc" to usually "defeat the minority's preferred candidate."

If all three parts of this test are met for one or more precincts, then the represcincting plan could be in violation of Section 2, and may require the intentional drawing of a majority-minority precinct or precincts that are likely to be able to elect a preferred candidate.

## **Guidance to Staff for Pima Justice Court Reprecincting**

- A. Apply the *Gingles* analysis three-part test to the existing Justice Precinct boundaries (excluding Ajo Precinct 3 since that precinct will not change). If the three conditions are not met for the existing precinct boundaries, document, assume no violation, and then move forward with reprecincting.
- B. If during reprecincting substantial changes are made to the boundaries of existing precincts that have a sufficiently large and geographically compact majority-minority populations, apply the *Gingles* analysis to make sure a violation of Section 2 does not occur. If the test is met (meaning a violation), then the lines may need to be redrawn to avoid a violation, considering race along with the other reprecincting principles. Alternatively, if substantial changes are not made to the boundaries of existing precincts that have a sufficiently large and geographically compact majority-minority population, there is no need to run the *Gingles* analysis again on the new lines.

### **How to run the *Gingles* analysis and data recommended by the Courts:**

Years of redistricting litigation across the nation has resulted in a record of court decisions that provide guidance on the most relevant data to use when running this analysis.

Part 1 of test: Minority group must be sufficiently large and geographically compact to constitute a majority (more than 50%) of the voting age population of the district. Data: (1) Age 18 and over population per precinct by race and ethnicity (2) Visual density map by minority race and ethnicity (Age 18 and over) to evaluate geographic compactness.

Part 2 of test: Minority group must be “politically cohesive”. Data: Voter registration data by party and by race and ethnicity. Voter registration by race and ethnicity is not available in Arizona.

Part 3 of test: White majority must “vote [ ] sufficiently as a bloc” to usually “defeat the minority's preferred candidate.” Courts said the most relevant contests (races) are those for the same offices by the same electorate (interpreted to mean for contests that used the same precinct boundaries/contests since the boundaries last changed). Data: Only include those Justice Precincts that in Part 1 of the test were found to have sufficiently large and geographically compact minority groups that constitute a majority of the voting age population. Then for those, identify the winning candidate, for both primary and general elections, and the race and ethnicity of the candidates, for elections since the last reprecincting that took place in 2003. If it appears minority candidates often won these races, then the plan is unlikely to be in violation of Section 2 of the Voting Rights Act.

### **Results**

Justice Court Precincts 2, 4 and 9 appear to meet Part 1 of the test in that each has a sufficiently large and geographically compact majority-minority voting age population. See Table 1. Compactness maps are available upon request.

**Table 1**  
**Justice Court Precincts and Percent Minority Population**

<b>Justice Court Precinct</b>	<b>Total Population</b>	<b>Voting Age Population</b>	<b>Voting Age Pop % Minority</b>	<b>Voting Age Pop % Hispanic</b>
1	120,814	102,378	24.6%	13.9%
2	103,137	78,273	59.5%	45.0%
4	113,803	89,892	62.7%	51.3%
5	168,317	134,263	31.1%	18.7%
6	137,852	110,754	42.7%	30.4%
7 GV	89,018	72,224	32.8%	25.1%
8	83,338	69,019	40.3%	25.2%
9	129,986	101,020	72.9%	61.5%
10	87,542	69,234	26.4%	17.1%

However, Part 3 of the test is not met for these three precincts. White candidates do not have a history of defeating Hispanic candidates, except for one primary race in 2008 (see Table 2).

**Table 2**  
**Election Results by Race/Ethnicity**

<b>Office</b>	<b>Number of Races 2004-2020 (Primary &amp; General)</b>	<b>Number of Races with Hispanic Winning Candidates</b>
Justice of the Peace	30	28
Constable	30	16
<p>Note: Of the Constable races won by non-Hispanic White candidates, only once did a non- Hispanic White candidate win against a Hispanic candidate (2008 Primary). For the remainder of the races won by non-Hispanic White candidates, they ran unopposed. All candidates were either non-Hispanic White, or Hispanic, according to data received from Human Resources and the Constables office.</p>		

### **Conclusion**

JP 2, 4, and 9 include a minority population that is sufficiently large and geographically compact to constitute a majority of the voting age population. But a review of election outcomes in these precincts for Justice of the Peace and Constables since the last reprecincting in 2004 found that white candidates do not have a history of defeating Hispanic candidates (the largest minority) in these precincts, except for one primary race in 2008. Therefore, the simplest way to remain in compliance with the Voting Rights Act is to not make substantial changes to the boundaries of Justice Court precincts 2, 4, and 9.