

# ***LULAC v. Perry* Remand Impact Analysis of the 12 Plans**



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# OVERVIEW OF THE PLANS

Plans Submitted by July 14, 2006				
Plan	Incumbents Impacted	Plan	Hispanic	H Oppty.
State of Texas	Doggett	1418C	6	0
LULAC A	Bonilla, Cuellar	1415C	6	1
LULAC B	Bonilla	1416C	6	1
American GI Forum (MALDEF)	Doggett	1417C	6	1
Owens 4 (Individual voter)	Bonilla	1402C	6	0
Owens 5 (Individual voter)	Bonilla	1403C	6	0
Overstreet (Black Democrats)	Bonilla	1421C	6	1
Jackson (Texas Cong. Dem)	Bonilla, Cuellar	1406C	6	0
Travis County Remedial 1	Bonilla, Cuellar	1414C	6	0
Travis County Remedial 2	Bonilla	1413C	6	0
Congressional Incumbents	None	1422C	6	0
Pate	Bonilla	1407C	6	0

## EXECUTIVE SUMMARY

A three-judge panel of federal judges from the US District Court of the Eastern District of Texas has the responsibility to comply with the US Supreme Court's June 28, 2006 ruling<sup>1</sup> that Texas must have six districts which would represent Latinos while at the same time giving deference to the plan enacted by the State in 2003 (1374C). The panel has scheduled an oral argument on August 3, 2006 and is expected to most likely make its own changes to one submitted and draw its own final plan in time for a new November 2006 election. Then the panel could nullify the March 2006 primary results of districts which are changed and order a Special Primary or Special General (either would be a free for all) scheduled for Election Day in November 2006. This would also be subject to the majority vote rule, which means that if no one gets 50% of the vote, a run-off of the top two vote-getters would be held in December. This was the policy which was adopted by a similar three-judge panel in 1996 following the Supreme Court decision of *Vera v. Bush* which mandated minor changes to a few Texas Congressional districts. Also, in such a race, unlike a special election which is not held on the same day as a general election, a candidate for another local, county or state office would not likely be allowed to run in both, as a candidate in Texas may not appear twice on the same ballot (unless also running for US President or Vice President).

Legal factors which the panel will consider include avoiding further dilution of minority votes in a district, keeping communities together, protecting incumbents

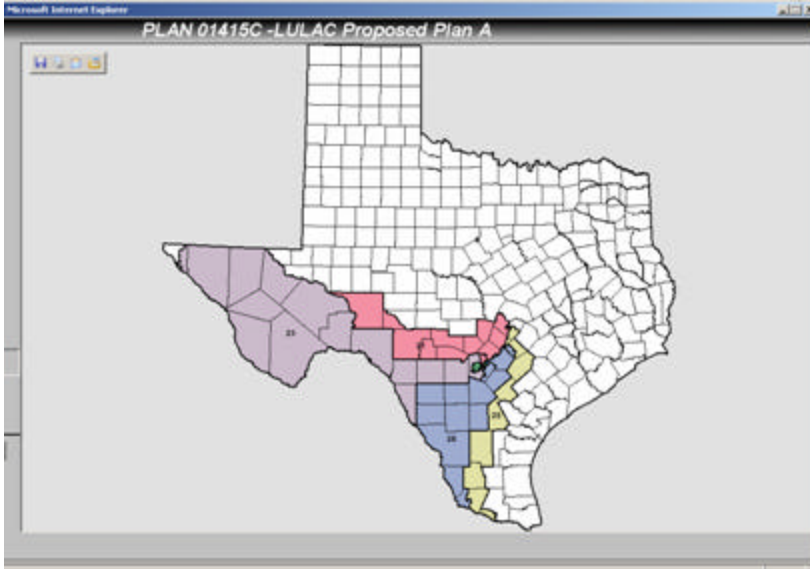
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<sup>1</sup> See *League of United Latin American Citizens v. Perry*, 548 U.S. \_\_\_\_ (2006).

and maximizing compactness. While the motivations by various parties will be made clear when they appear in Court, the likely impact of these plans is best seen in light of where the Court is likely to focus: plans submitted by LULAC—the winning Plaintiffs—and the State.

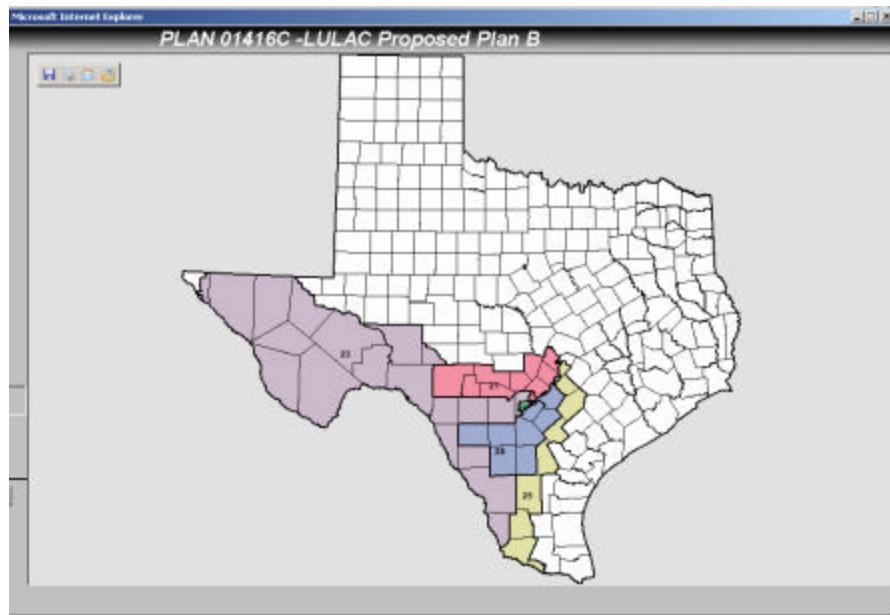
## LULAC

LULAC's is the foremost among the submitted plans that seeks to set a precedent for redrawing districts in 2011 by maximizing the number of Hispanic and/or Hispanic opportunity districts.<sup>2</sup>



While the Court panel may not be bound to make 6+1 Hispanic districts, it certainly should take notice through both of LULAC's plans that it is possible to create six safe Latino Democrat seats to comply with *LULAC v. Perry* plus an opportunity one for the future.

LULAC presents two plans, LULAC A and LULAC B. While it is unclear why two maps were submitted, each appears to comply with the Supreme Court by essentially: 1) changing District 23 into a solid Democratic Latino district

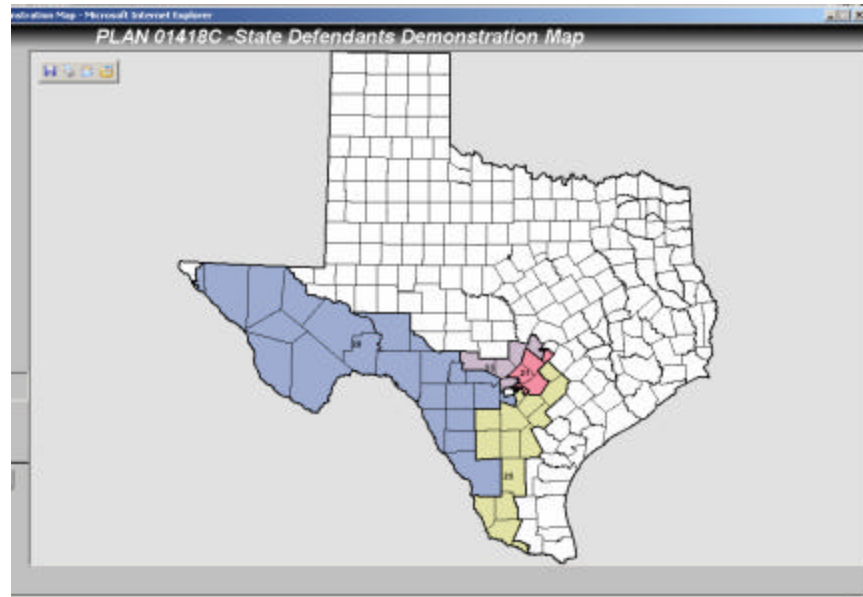


<sup>2</sup> A “Hispanic opportunity” district is one where the Hispanic voters would likely have a decisive say in the outcome and representation of the District.

and 2) creating a second solid Democratic Latino district alongside. The biggest concern for LULAC's plans are the fact that the population deviation is high and may give the Court panel a chance to change it based on that alone.

## State Plan

The State seeks to limit the ripple effect of mandated changes and only impacts four districts, although in a very significant way. Although the brief for the state mentions no incumbent is paired in the affected districts, the new District 21, held by Lamar



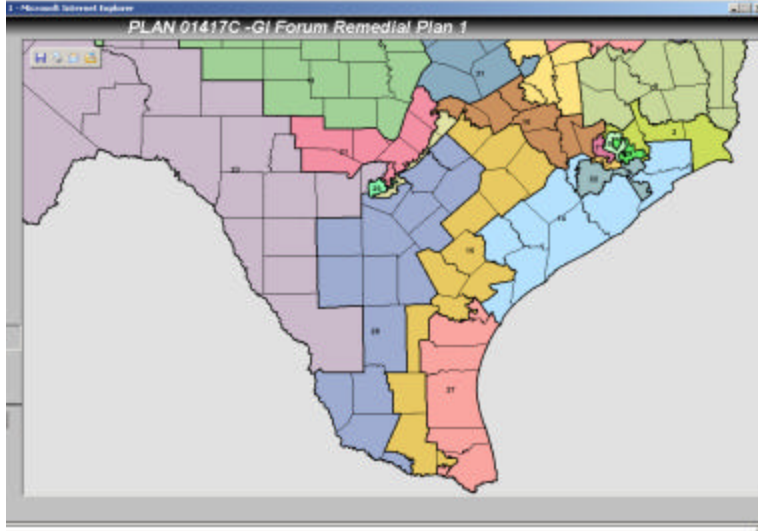
Smith (R-San Antonio) is drawn to extend to Austin and takes in the residence of Congressman Lloyd Doggett (D-San Antonio). Lloyd Doggett's district is effectively made into a solid Latino Democrat district anchored by Bexar and Hidalgo, completely out of Travis County. By doing this, the State plan effectively continues in the same direction as its original plan from 2003 of eliminating Anglo Democrats. But whereas Congressmen Martin Frost, Charles Stenholm, Nick Lampson, Jim Turner and Max Sandlin were replaced by Republicans, Doggett would face the same fate as Congressman Chris Bell, who was replaced by Black Democrat Al Green.

For this new district 25, the county with the most votes is Hidalgo. However, the cuts are identical to those in the current District 25, where even with almost 250,000 population, Hidalgo voters were unable to even dent Lloyd Doggett's vastly outnumbered Travis County population. Here, former Congressman Ciro Rodriguez could throw his hat in the ring as he has represented, since 1997, more than 260,000 people in the new district that fall within Atascosa, Bexar, Duval, Frio, LaSalle, McMullen, Wilson, Starr and Zapata Counties, outweighing the 247,000 in Hidalgo County which are spread out among three State Representatives in that County.

On District 28, the State plan pairs Congressmen Bonilla and Cuellar. However, the plan also makes District 23 compact and centered around North Bexar County and Hill Country enough for Bonilla to run from that district.

## American GI Forum

This plan by leading Hispanic advocacy group, represented by the Mexican-

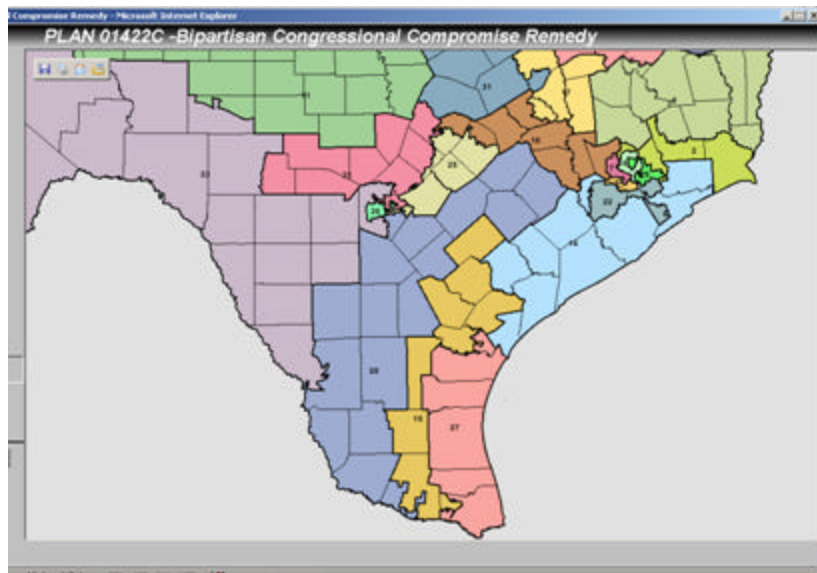


American Legal Defense Fund (MALDEF) also creates seven solid six Hispanic districts and one additional opportunity district by linking Lloyd Doggett's district into South San Antonio. Another plan, which is strikingly similar to one advanced before, did not have updated population analysis in order to analyze its impact.

## Incumbent Protection Plan by Congressmen Cuellar, Bonilla and Smith

While the motivation for this plan is clear even without a legal brief, it does raise

questions on whether the numbers of Latinos in the new District 23 would comply with the Supreme Court. The other problem with this plan might be the splitting of both Webb (into two districts) and Bexar (into five districts). Courts have tried to maintain compactness and avoid splitting communities unless

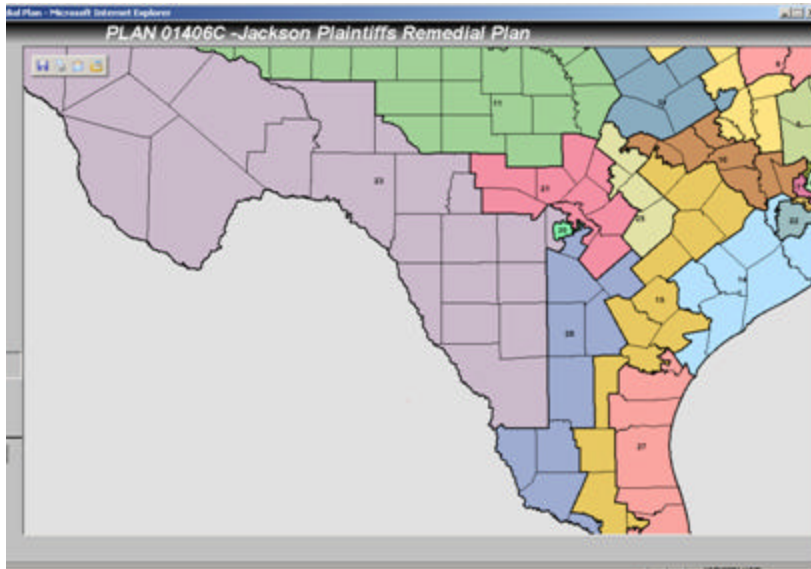


needed to prevent a dilution of minority voting rights in a district, not necessarily to protect individuals.

Furthermore, if the Court panel accepts this plan, this would give grounds for LULAC to file an immediate credible appeal on the issue of dilution of Latino votes in the new District 23.

## Jackson Plaintiffs (Texas Congressional Democrat Intervenor)

The plan advanced by the Texas Democrats also converts District 23 into a

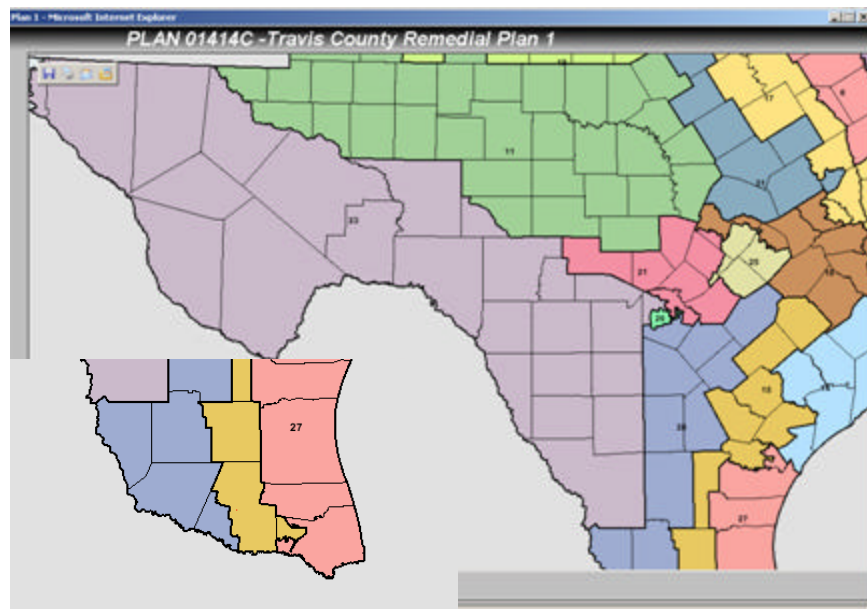


Latino Democratic district and eliminates what it previously referred to as the “racial gerrymander” of District 25. While the Supreme Court did not reject District 25 in *LULAC v. Perry*, it seems the Jackson plaintiffs’ logic is that the majority opinion raised enough concerns to merit changing it to a compact district

around Travis County, the state’s most liberal county, to elect a Democrat. Again, without the benefit of the brief it is hard to speculate more on the plan.

## Travis County Remedial Plans

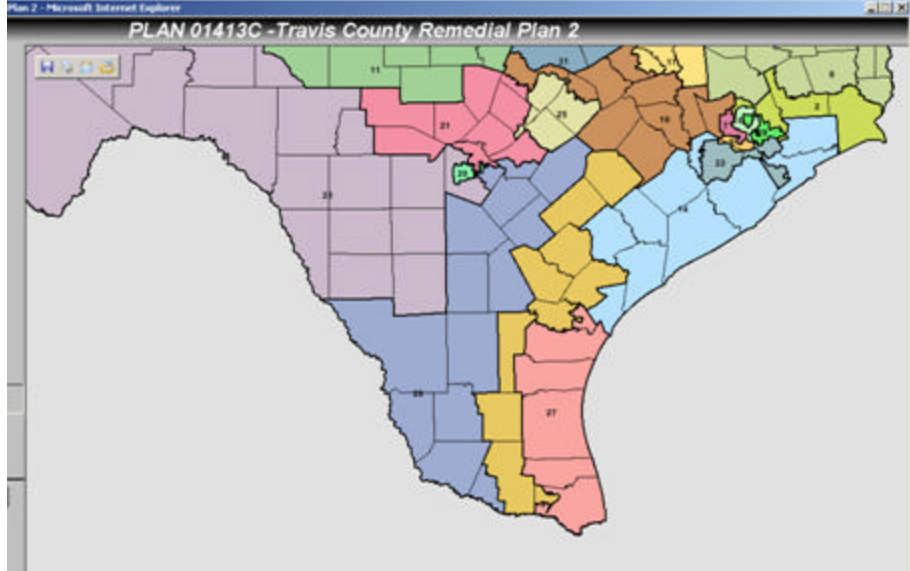
Advancing the community interest plan and seeking compactness, the Travis County remedial plans 1 and 2 both place Congressman Bonilla in a Democratic Latino district, in compliance with the *LULAC* decision. Another main argument in support of this



plan is that Travis County is the most Democratic County in Texas and should have Democratic representation in Congress, as the Texas Legislature has provided it, which the State plan seeks to take away. The Court panel could be

persuaded that compacting District 25 does not dilute existing minority voting strength, even though it does not provide a new Hispanic opportunity district as the State, LULAC, American GI Forum and other plans do.

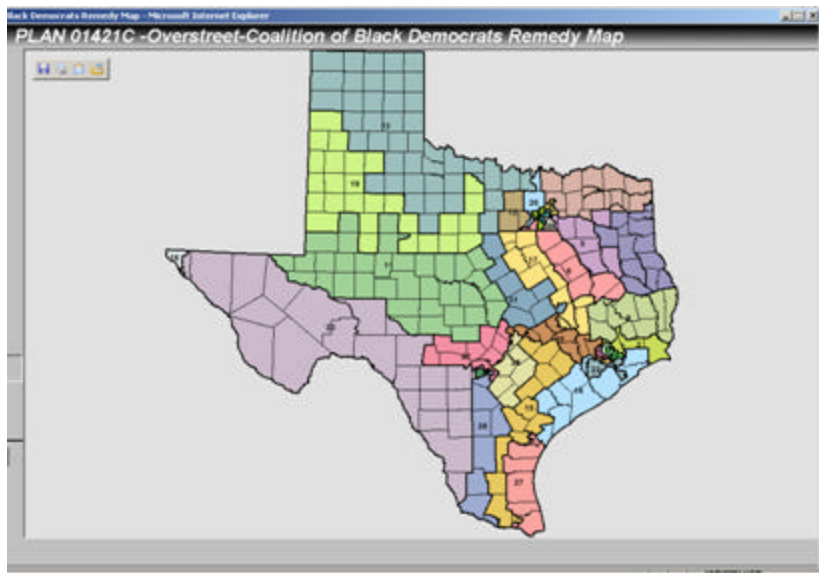
Politically, the motivation seems clear. In both plans, Congressman Bonilla is impacted negatively, as he is impacted by both LULAC plans. On the same lines, if a primary goal of the plan is to preserve Congressman Lloyd Doggett, or for that matter a Democrat in Travis County, this is largely accomplished by both LULAC plans, at least as long as Congressman



Doggett or an Austin Democrat can continue to fend off any challenge from the border area and South Texas portion of the LULAC version of this district.

### Overstreet-Coalition of Black Democrats

This plan also addresses the Supreme Court concerns by making District 23 into a Latino Democratic district. It also prevents the dilution of the African-American vote of East San Antonio, as done in most plans.

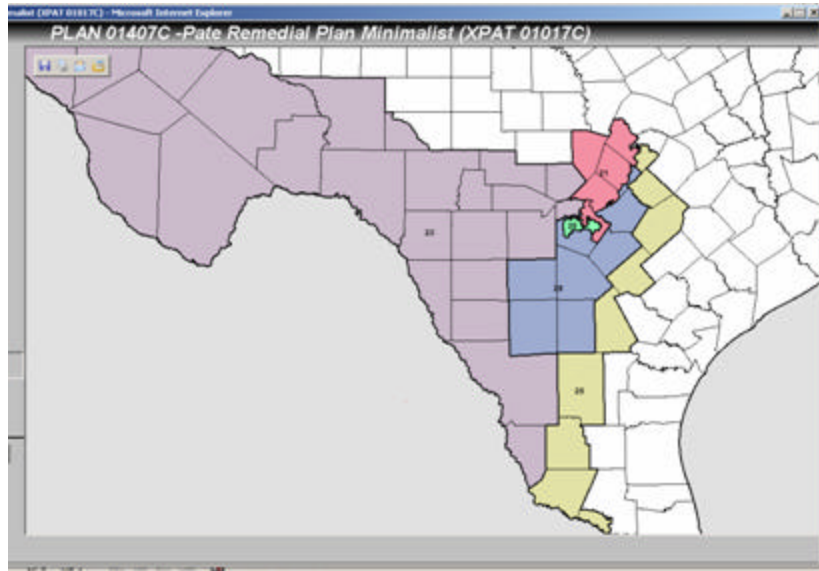


As a result it creates a new solid Hispanic district anchored in Hidalgo and the entire South Side of San Antonio, making it an ideal district for San Antonio as the Hispanic Southside and African-American Eastside are

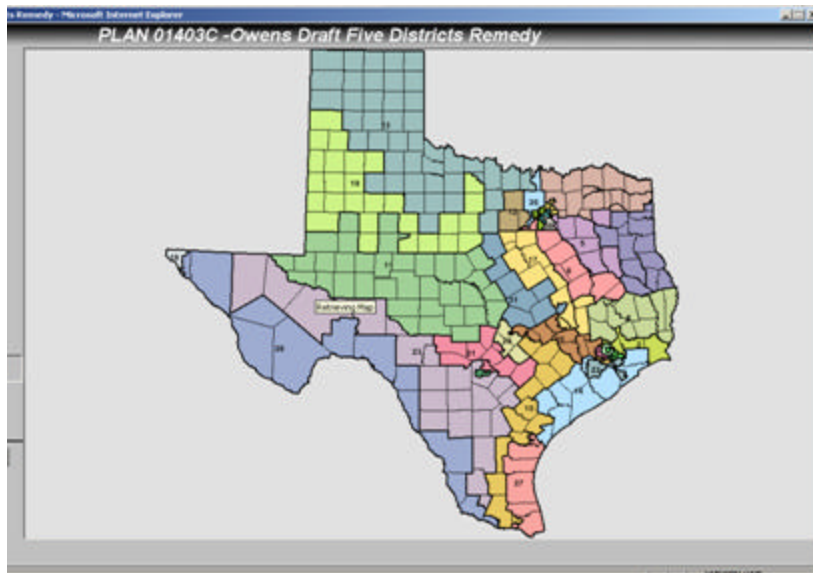
united as they have historically been since represented by the late Congressman Frank Tejeda. This makes the Bexar population alone exceed the Hidalgo County portion by 280,000 to 247,000 and a solid district for former Congressman Ciro Rodriguez against any local or South Texas opponents.

### Individual Plaintiff Efforts

The plans advanced by Owens and Pate make a series of changes which largely seek to keep communities together in compact districts or try to minimize changes from the Legislature. These Plaintiffs have been active throughout the 1990's as against gerrymanders. While none of their plans were adopted in the



past, they have been cited by various Courts, including the US Supreme Court. Without the benefit of their briefs or detailed election analysis, it is hard to gauge



which ones of these would impact Bonilla by allowing a strong challenge from a Latino Democrat, either Congressman Cuellar or Rodriguez. It is unclear what force these plans will have with the Court panel, except that Congressman Bonilla's district is made into a more Democratic Latino district as the means to address the

Supreme Court's directive to boost that constituency. Owens has another Four District Remedy which largely resembles the plan reprinted above.

## **OVERALL RESULT**

The stakes for the Republicans are minimally impacted. The status quo could be maintained with the exception that Congressman Lloyd Doggett would be replaced with a Hispanic Democrat from San Antonio or South Texas. However, based on a look at the majority of other plans, and principally the key Latino group plans, a likely worst-case scenario for the Republicans in this final chapter of Redistricting could be as follows: the Court could add enough Democratic Hispanics to District 23 along with a base for a strong challenge by former Congressman Ciro Rodriguez or Congressman Henry Cuellar to pick up District 23, with the other Democrat keeping or regaining District 28.

## **NATIONAL PICTURE**

The State could have been more partisan by not only seeking to foil Lloyd Doggett but also former Congressman Nick Lampson by making some changes in District 22 to allow a new primary with or without former Congressman Tom DeLay. While the Court panel is free to make any changes in August, the fact that neither of the leading parties in the litigation proposed any to District 22, the Republicans could still end up losing two Republican seats resulting in a 19-13 split, down from the current 21-11 domination of the state congressional delegation.