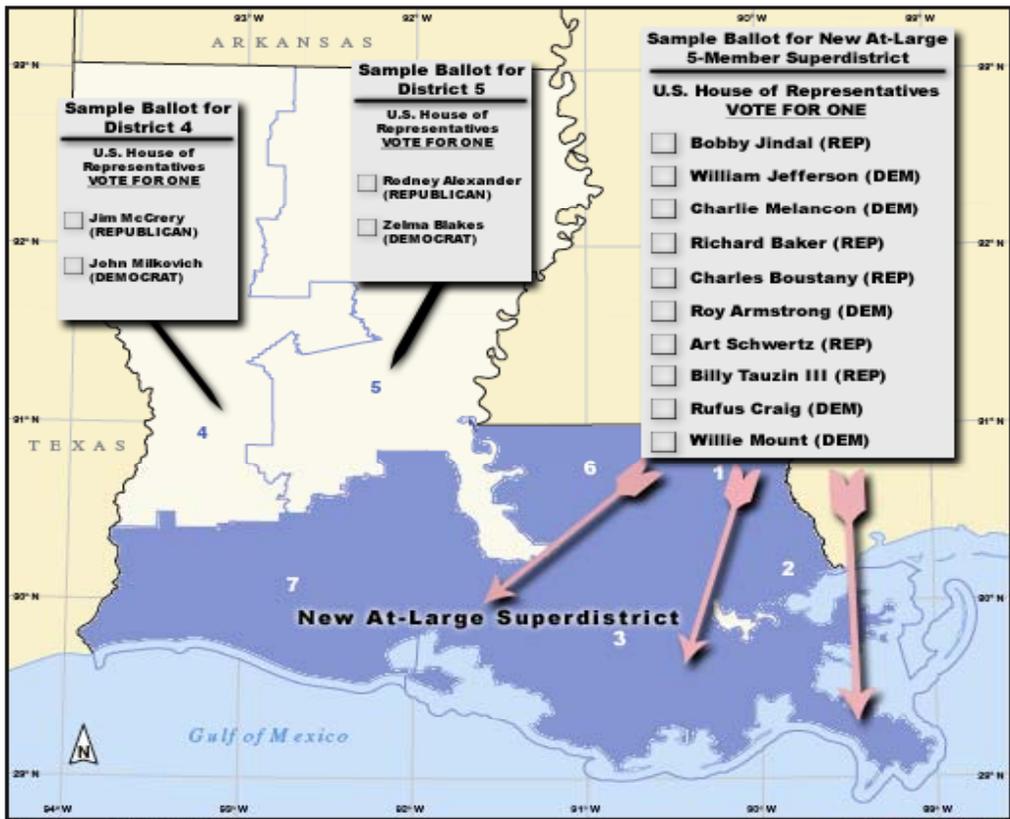


# A Solution to Louisiana's Post-Katrina Electoral Problems

## Responsiveness, Voting Rights and Continuity in Congressional Representation

Jack Santucci | Program for Representative Government  
 February 2, 2006 (revised February 21, 2006)

**Sample Ballots and District Boundaries for FairVote's Louisiana Superdistrict Plan**



108<sup>th</sup> Congress of the United States

USCENSUSBUREAU

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## INTRODUCTION

Flooding due to Hurricane Katrina resulted in property damage and mass population displacement. The result is a crisis of fair and responsive Congressional representation in southern Louisiana. The crisis has four potential dimensions.

### **Disproportionate Representation**

Districts of severely disparate populations violate the norm of equal population among districts, as envisioned by the Founding Fathers and established by the Supreme Court in the 1960s as an absolute standard for fairness in U.S. House elections.

### **Overload of Constituent Demands**

Mass relocation to the 6<sup>th</sup> district (particularly Baton Rouge) means demand for resources and constituent services increased by at least one-quarter virtually overnight.

### **Liability Under the 1965 *Voting Rights Act***

The Lower Ninth Ward, one of the most decimated areas, remains virtually depopulated, and a Brown University analysis released in January 2006 concluded as many as 80% of New Orleans' African Americans may never return to the city. This area makes up the bulk of the majority African American 2<sup>nd</sup> district, the only district electing an African American in a state where African Americans made up more than 32% of the population in 2000. With its population dispersed around the state and other states, African Americans face dilution of voting strength and may no longer be able to elect a candidate of choice. Louisiana may be sued. Data on the racial and partisan character of evacuees so far is available only for Orleans parish, but further studies – particularly of Jefferson parish – probably will confirm this fear.

### **Ruptured Representation**

Incumbents of both parties may leave Congress when Louisiana needs them most and needs the parties to work together, not play partisan games. Now is a time for continuity in experience and constituent rapport. The 3<sup>rd</sup> district may well change hands. The 6<sup>th</sup> district and even 2<sup>nd</sup> district may become very competitive.

One obvious solution is to redistrict. There are two related obstacles. First, the demands of time and resources make a mid-decade census essentially impossible. Second, any mid-decade census would be premature, as population movement will be unpredictable for years, depending on evacuees' varied economic resources. Another approach is to institute the well-tested one-vote system in a "superdistrict" where population inequality among districts is most pronounced and where many people are likely to be transient during the rest of the decade. Under the one-vote system, each voter would vote for one member – just as they do now – but each of the above problems would be relieved as voters could form de facto "districts of the mind." But Section 2c, passed in 1967, mandates US House members be elected in single-member districts.

<p><b>REMEDY:</b> That Congress temporarily suspends <i>2 USC Sec. 2c</i> so that Louisiana has the option to elect Representatives in a multi-member superdistrict using the well-tested one-vote system. FairVote proposes Louisiana merge the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 6<sup>th</sup> and 7<sup>th</sup> districts into one southern superdistrict with five members, where winning a seat would require about 17% of the vote.</p>
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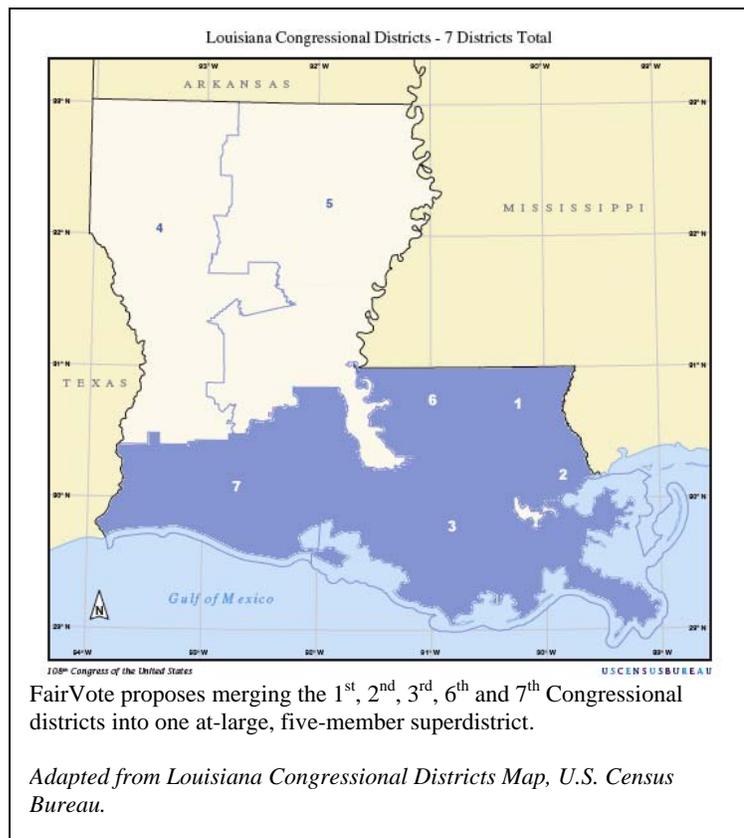
## METHOD OF PROJECTIONS AND SOURCES OF ERROR

At present, raw numbers of displaced are available for only six of 31 severely affected parishes.<sup>1</sup> This model accounts for 525,000 reported evacuees. The list FEMA provided to Louisiana's Secretary of State contained 936,000 names, some of which were duplicates.<sup>2</sup> Another estimate posits 1.5 million total evacuees.<sup>3</sup> Numbers for Jefferson, Washington and St. Tammany parishes, three of the hardest hit, still do not exist.<sup>4</sup> Whatever effect the data demonstrate, we can assume to be significantly more pronounced in reality.

To determine Hurricane Katrina's effect on voting populations, we have to answer two questions: how many evacuees were of voting age, and how much of the population displacement is permanent (i.e. can be subtracted from potential absentee voter rolls or must be added to voter rolls in the 6<sup>th</sup> district, which experienced a net gain<sup>5</sup>)?

To answer the first question, we take the percentage of voting age Louisianans for each parish<sup>6</sup> and assume it is constant among evacuees. Sources of potential error are that census figures are dated and that other demographic factors may have influenced the relative effect on age groups.

To answer the second question, we rely on a poll conducted among Katrina evacuees in Houston, Texas. 44 percent of respondents said they would not return to their homes.<sup>7</sup> Sources of potential error include misrepresentation of intent (i.e. the respondent did not plan to return then but may change his or her mind in two months or two years), that Houston could be especially attractive to evacuees (or the contrary), and that the information is somewhat dated.



<sup>1</sup> Communication with Louisiana Secretary of State's office, November 2005. Secretary of State Al Ater reported these to the state legislature in late October. Parishes are "severely affected" if they qualify for individual and public assistance; see Federal Emergency Management Administration, *FEMA-1603-DR Disaster Declaration as of 10/07/2005*.

<sup>2</sup> Millhollon, Michelle. "FEMA promises to hasten delivery of address list," *The Advocate*, 21 December 2005.

<sup>3</sup> Tizon, Tomas Alex. "Outcasts in their own state, Katrina evacuees settle in," *The Seattle Times*, 19 December 2005.

<sup>4</sup> Communication with Louisiana Secretary of State's office, November 2005.

<sup>5</sup> "Its Population Doubled, Baton Rouge Forced to Adjust," *Business Week*, 20 September 2005.

<sup>6</sup> 2000 U.S. Census.

<sup>7</sup> *Washington Post*/Kaiser Foundation/Harvard School of Public Health poll. See Moran, Richard and Lisa Rein. "Some of the Uprooted Won't Go Home Again," *The Washington Post*, 16 September 2005.

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Moreover, the number of permanently displaced probably is greater than 44 percent. First, the reported numbers of displaced were as of mid-October. A month and a half after the hurricane, these people still had not returned to their homes. Second, a more recent report predicts 80 percent permanent displacement among New Orleans African Americans.<sup>8</sup> As one state official said, “This was not your usual storm.”<sup>9</sup>

Because these ‘lowball’ numbers do not present the whole picture, this report also includes ‘highball’ population estimates that do not correct the reported displacement figures for potential absentee and returning voters. This “unusual” storm destroyed some 205,000 properties,<sup>10</sup> and, as of six weeks after the hurricane, half a million evacuees had not returned to their homes. According to the Secretary of State’s office, any realistic estimate of permanent displacement will more closely approximate the raw reported numbers. This paper provides both estimates to better inform the reader who, given the nature of available data, must make some assumptions about Katrina’s precise political effects.

We also want to discern Katrina’s effect on the racial and partisan balances of power in Louisiana’s delegation. In the absence of data about the character of evacuees, it is impossible to predict with certainty. But presidential results for 2004 provide an estimate of district partisanship unmediated by factors such as local prominence, incumbency and familiarity with constituents. Taken against results from the 2002 election in each ‘risky’ district, we can tell roughly from what groups each elected member’s support came. We use 2002 results where possible because they reflect mid-term election turnout and control for the effect of presidential preferences on votes for U.S. Representatives. Based on our analysis of district partisanship and previous congressional results, we can determine what minimum demographic change would be necessary to turn a district competitive. We assume a district with a ten percent partisanship margin (meaning leaning up to 5% in either party’s direction) to be reasonably competitive.

## **PROJECTIONS AND DISCUSSION OF PROBLEMS**

Based on what is known about displaced populations, two problems are identifiable with certainty. Two others require some conjecture.

### **Congressional Overload and Unresponsiveness**

District offices handle more than intakes of constituent opinion. Staffers are caseworkers who provide services: researching and providing information on government at all levels; handling requests for flags, tours and gallery tickets; and helping constituents navigate federal, state and local agencies. Under normal conditions, office staff is busy. Post-Katrina, the 6<sup>th</sup> district caseload will increase by at least one-quarter and perhaps double (see following two sections),<sup>11</sup> taxing present financial and human resources beyond their capacity.

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<sup>8</sup> Dao, James. “Study Says 80% of New Orleans Blacks May Not Return,” *New York Times*, 27 Jan 2005.

<sup>9</sup> Communication with Louisiana Secretary of State’s office, November 2005.

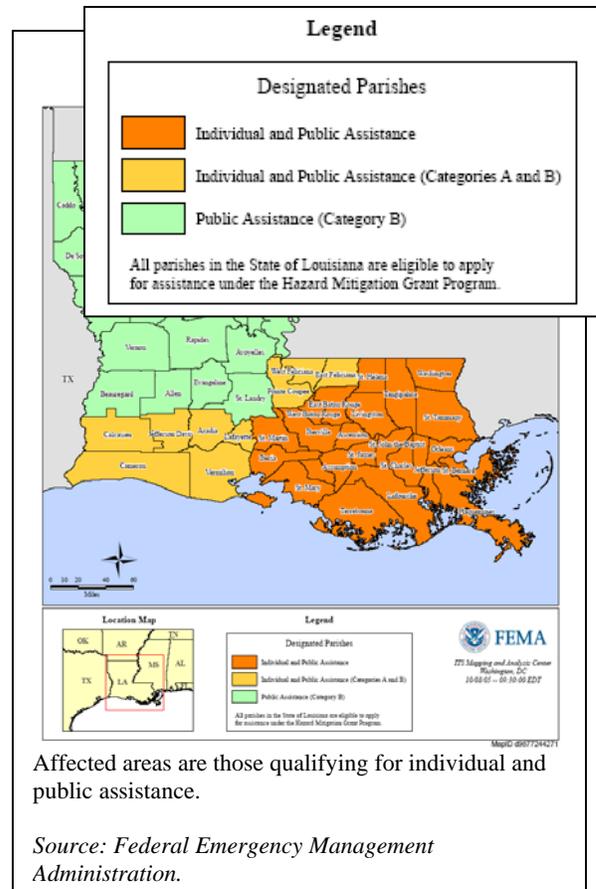
<sup>10</sup> Shields, Gerard. “No relief cash for Christmas,” *The Advocate*, December 2005.

<sup>11</sup> “Its Population Doubled, Baton Rouge Forced to Adjust,” *Business Week*, 20 Sep 2005. See also FairVote’s projection in this paper.

Under the superdistrict arrangement, each member would share the responsibility of servicing constituents with other members; no one representative would be burdened by excessive demands on their time. Constituents would likely go to the members they helped elect. The scheme would diffuse the casework burden that the 6<sup>th</sup> district now faces – and the decreased responsiveness that its residents face. For more information, see section 4.4.

### Violation of District Population Equality

The *Federalist Papers* argued for “proportional representation,” or equal population among districts.<sup>12</sup> The Warren Court specified the standard by which representation's fairness is judged. In the 1963 *Gray v. Sanders* decision, the Court concluded, “The conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing - one person, one vote.” It upheld this principle again in 1964 in *Reynolds v. Sims* and *Wesberry v. Sanders*. The 1983 *Karcher v. Daggett* decision explicitly mandated congressional districts of equal population. The term “one person, one vote” is somewhat of a misnomer, as equality of population only measures equality of constituent service demands, but still there are issues of fundamental fairness when the voting age population is vastly unequal, as caused by Hurricane Katrina.



Affected areas are those qualifying for individual and public assistance.

Source: Federal Emergency Management Administration.

### District Population Imbalance: The ‘Low’ Estimate

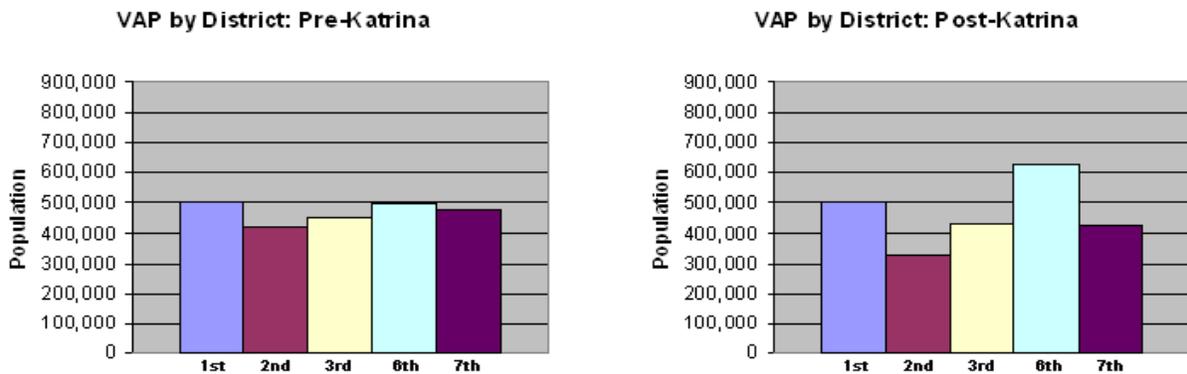
The following table summarizes FairVote’s projection of permanent voting age population displacement from each severely affected parish. Projections are based on numbers of displaced from the Louisiana Secretary of State and polling data that concludes 44 percent are permanent (see II). Note that no information is available for the 1<sup>st</sup> district and that projections for the 2<sup>nd</sup> district cannot account for many evacuees due to the absence of an estimate for Jefferson parish. Note further that the total number of evacuees is far higher than our estimate of permanently displaced voters. Most significant are, at least, a 23 percent decline in the 2<sup>nd</sup> district and swelling of one-quarter in the 6<sup>th</sup>.

VAP For Affected Districts: Before and After <sup>13</sup>			
District	Pre-Katrina	Post-Katrina	% change
1st*	500,467	500,467	0.00%
2nd	423,615	327,083	-22.79%
3rd	453,379	433,774	-4.32%
6th	499,419	628,550	25.86%
7th	477,846	425,167	-11.02%
*no data available			

<sup>12</sup> Madison, James. *The Federalist Papers*, No. 62.

<sup>13</sup> District populations pre-hurricane do not match because voting age populations are presented here. Likewise for bars in the pre-Katrina graph. Reasons for the disparity could be varied birth rates or non-citizen populations. For purposes of apportionment, “one person, one vote” means every resident of a district, not every voter. The focus is on an equality of constituent services, not equality of votes.

The following charts make the point visually. Before the storm, the greatest variance between any two districts was about 70,000 (due to a greater number of young people in the second district). In its aftermath, the variance at least doubles.



Each individual vote in the 6<sup>th</sup> district, where voting age population has grown by a quarter, will count 25 percent less. Each voter in the drained 2<sup>nd</sup>, 3<sup>rd</sup> and 7<sup>th</sup> districts will be able to affect outcomes that much more.

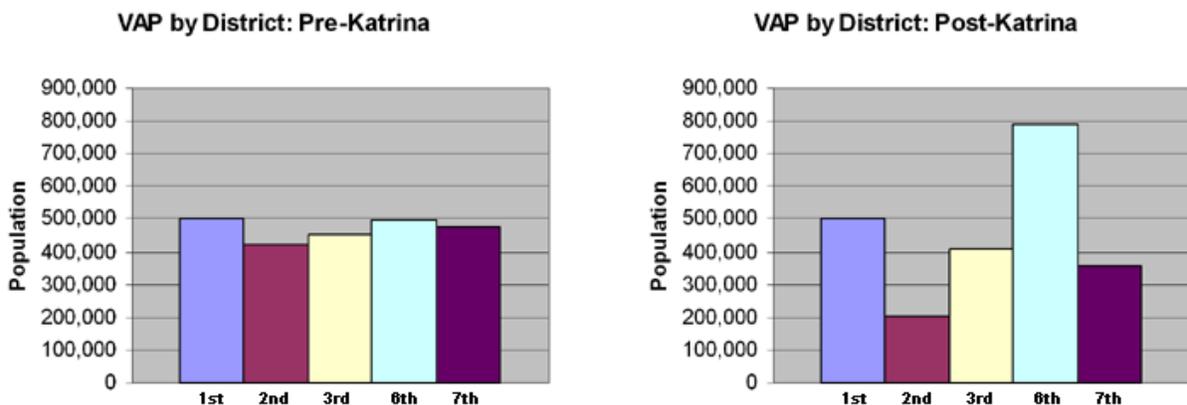
**District Population Imbalance: The ‘High’ Estimate**

Assuming reported figures already represent permanent displacement, the following table gives a higher estimate of the problem. In this case, the voting age population of the 6<sup>th</sup> district increases by almost three-fifths, not a quarter. Voting population in the 2<sup>nd</sup> is reduced by over 50 percent, not 20 percent. Even this high estimate does not tell the whole story about the 2<sup>nd</sup> district, where the Brown University study posits New Orleans lost over half its population with up to 80% of that city’s African American population never to return.<sup>15</sup>

VAP For Affected Districts: Before and After <sup>14</sup>			
District	Pre-Katrina	Post-Katrina	% change
1st*	500,467	500,467	0.00%
2nd	423,615	204,223	-51.79%
3rd	453,379	408,822	-9.83%
6th	499,419	792,899	58.76%
7th	477,846	358,122	-25.05%

\*no data available

The following tables make the point visually.



Note that neither estimate includes population displacement from Jefferson parish.

<sup>14</sup> See note 13 above.

<sup>15</sup> Dao, James. “Study Says 80% of New Orleans Blacks May Not Return,” *New York Times*, 27 Jan 2005.

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While the 2<sup>nd</sup> district suffers most population loss, each individual vote there carries significantly more weight than in any of the other affected districts – especially relative to the 6<sup>th</sup>, where each vote now carries almost half its former weight.

By combining the affected areas into a unitary electorate, the superdistrict remedy would restore equal weight to every voter's ballot.

### **Liability Under the *Voting Rights Act***

Data on the racial and partisan makeup of displaced are available only for Orleans parish. Evacuees were overwhelmingly Democratic and African American.<sup>16</sup> In surrounding areas, the trend probably is the same. In western parts of the state, it may be reversed. We sense intuitively that Katrina has implications for the racial balance of Congressional representation – that is, for compliance with the 1965 *Voting Rights Act*. Anecdotal evidence suggests the Lower Ninth Ward is a veritable ghost town kept empty by armed guards. In the words of one official, “It looks like a war zone down there.”<sup>17</sup> African Americans' voting strength in the 2<sup>nd</sup> district has been diluted. Jefferson parish, for which no data is available, straddles the 2<sup>nd</sup> and 3<sup>rd</sup> districts. Later reports will address this issue in greater depth as new data bring demographic realities into better resolution.

For now, we know that the voting age population of the 2<sup>nd</sup> district has fallen dramatically, with between 23 and 52 percent – or about 100,000 to 220,000 voters – never to return.<sup>18</sup> About 72 percent of those whose homes were flooded over six feet are African American.<sup>19</sup> Partisanship of these voters as measured by two-party share of the Presidential votes in 2004 and 2000 is about three-quarters Democratic (75 and 76%, respectively).<sup>20</sup> In the eyes of the law, the present apportionment now represents a dilution of minority voting strength.

The portion of Jefferson parish inside the 2<sup>nd</sup> district accounts for 68,349 of that district's 423,615 pre-Katrina voting age residents. 46,594 or 68 percent of Jefferson parish's 2<sup>nd</sup> district voting population was African American.<sup>21</sup> According to the low estimate, the Orleans parish voting age population fell by 27 percent. By the high estimate, it fell by about 48 percent. If these Orleans parish figures generalize to the corresponding part of Jefferson parish, the latter should represent 49,895 (low estimate) to 35,678 (high estimate) voting age residents in Katrina's aftermath, giving the 2<sup>nd</sup> district a total voting age population of 308,629 (258,734 voting age residents in Orleans parish plus 49,895 above) by the low estimate, 221,045 (185,367 Orleans voters plus 35,678 above<sup>22</sup>) by the high estimate. From Orleans parish, 161,018 are African American by the low estimate – 84,559 by the high estimate.

In a worst-case scenario, in which permanent displacement from Jefferson parish (2<sup>nd</sup> district portion) is entirely African American, that group's proportion of voters declines from 63 to 52 percent by the low estimate. By the high estimate, potential African American voters represent only 38 percent of the electorate in this scenario. This is a significant dilution of minority voting strength under the VRA. Obviously displacement from Jefferson parish is not 100 percent

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<sup>16</sup> GCR & Associates poll, 31 October 2005.

<sup>17</sup> Communication with Louisiana Secretary of State's office, November 2005.

<sup>18</sup> Based on data for Orleans parish alone; does not include Jefferson parish, for which numbers do not exist.

<sup>19</sup> GCR & Associates poll, 31 October 2005. Flooding of six feet and over is the most serious damage category measured by GCR & Associates.

<sup>20</sup> Barone, Michael and Richard E. Cohen. *The 2006 Almanac of American Politics*, National Journal Group, Washington, D.C., pp 736-752.

<sup>21</sup> 2000 U.S. Census.

<sup>22</sup> See FairVote spreadsheet at <http://www.fairvote.org/katrina/>.

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African American, but it disproportionately reduces that group's strength in the 2<sup>nd</sup> district, possibly eliminating its right to elect a candidate of choice. One Brown University study predicted 80 percent of New Orleans African Americans are gone for good, leaving the city white-majority.<sup>23</sup>

If race drives voting behavior in this district in 2006, the seat will have become competitive. The potential impact on Congressman Jefferson, likely to be the candidate of choice of African American voters, is compounded by the state's unique "Cajun primary," which could throw his election into a low turnout December runoff election against a white moderate candidate who might be able to win even if Jefferson were to win 90% of the African American vote.

By unifying the electorate under a one-vote system, currently dispersed racial minority populations can form 'districts of the mind.' For instance, displaced African American voters in Baton Rouge can continue to vote for their former 2<sup>nd</sup> district Representative. Their right to elect a candidate of choice under the *Voting Rights Act* will be preserved without a census and redistricting process.

### **Ruptured Representation**

Katrina also has implications for continuity in leadership and the balance of party power in southern Louisiana. The 3<sup>rd</sup> and 6<sup>th</sup> districts in particular draw attention. Voting age population in the 6<sup>th</sup> has grown by at least a quarter. Rep. Baker may well face a tough, partisan reelection campaign. While decrease in the 3<sup>rd</sup> is not so pronounced, Rep. Charlie Melancon won by only 569 votes at the last election. Given that Melancon's district already reflects a Republican partisanship, with George Bush having won 58% there in 2004, his seat is in jeopardy.

#### ***The 6<sup>th</sup> District***

Between 129,131 and 293,480 new voters may join the rolls in this district, raising the total voting age population from 499,129 to between 628,550 and 792,899. Two-party turnout in 2004 was 57.9 percent or 289,335 of voters. Assuming the same turnout in future elections, 74,767 to 169,924 new voters will go to the polls. Based on the 2004 district partisanship of 59 to 40 percent Republican to Democratic, if 46,514 of these vote Democrat, the district will reflect a partisanship of 55 to 45 percent. By the high estimate, if 90,932 of the new voters are Democratic, the district becomes competitive, particularly if the national tide is toward Democrats in 2006. That is, if 62 percent (low estimate) or 54 percent (high estimate) of incoming voters share Democratic sympathies, the 6<sup>th</sup> becomes competitive. And most refugees' points of origin are heavily Democratic – the Lower Ninth Ward and New Orleans more generally.<sup>24</sup>

#### ***The 3<sup>rd</sup> District***

This district faces the opposite scenario. Based on 2004 presidential numbers, the partisanship is 58% to 41% in favor of Republicans. Rep. Melancon, a Democrat, won the 2004 runoff against Billy Tauzin (R) with 569 votes<sup>25</sup> - presumably with support from moderate and swing Republicans. The 3<sup>rd</sup> faces a net loss of 21,605 voters by the low estimate, 44,557 voters by the high estimate, not including whatever refugees whose point of origin is Jefferson parish. Again,

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<sup>23</sup> Dao, James. "Study Says 80% of New Orleans Blacks May Not Return," *New York Times*, 27 Jan 2005.

<sup>24</sup> Barone, Michael and Richard E. Cohen. *The 2006 Almanac of American Politics*, National Journal Group, Washington, D.C., pp 736-752. See also FairVote's projection in this paper.

<sup>25</sup> In this case 2004 Congressional results are used because Melancon did not run in 2002.

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no data are available for this area. But even with nominally diminished numbers of Democratic and swing Republican supporters, a Republican may well win the next election even in a relatively good year for Democrats nationally.<sup>26</sup>

## **A ONE-VOTE SYSTEM FOR LOUISIANA**

Under this system, each voter casts one vote no matter how many seats are being filled. Candidates with the highest totals win seats. As a result, the majority of voters can control a majority of seats, but a substantial minority can win a fair share of representation.

### **One-vote and Superdistricts: Past and Present Use**

The one vote system is a well-tested method, both in local elections in the United States and for national elections overseas. The system and variations of it currently are used to elect five school boards, four county commissions and two city councils in North Carolina and 22 city council elections in Alabama. Variations of it are used in all Connecticut cities with at-large council elections, and most Pennsylvania county commission elections and for the at-large seats on the Philadelphia city council. Internationally, Japan used the one-vote system to elect its national legislature in most of the post-World War II era. Afghanistan used it in its legislative elections in the fall of 2005.

The superdistrict concept – one district that elects more than one member – has a long and relatively recent history in our Congressional elections. Most states elected Representatives in multi-seat districts in America’s initial congressional elections. When Congress banned multi-member elections in 1967, New Mexico and Hawaii still were electing Representatives in statewide at-large elections. A 1999 bill to allow multi-member elections had support from the Justice Department and from both Congressional Republicans and Democrats.

### **A Solution to Equal Population Issues**

With respect to equal population in districts (“one person, one vote,” in the words of the Court), the one-vote system can restore order at a time when the traditional remedy – census and redistricting – is neither practicable nor practical. Congress usually ensures parity of individual voters’ strength through sections (2a) and (2c) of Title 2, Chapter I of the *United States Code*. (2a) provides for districts of “equal proportion” to be drawn every ten years, following the decennial census. (2c), passed in 1967, requires each district elect a single member. The traditional remedy is not practicable because a mid-decade census will not happen, and population data is inconclusive. It is not practical because many voters will remain in transit for an unknown period. The one-vote system would let displaced voters continue to support their members pending resettlement and the 2010 census. It would let them seek constituent services from the same.

### **A Solution to Potential Voting Rights Issues**

With respect to voting rights and VRA, the one-vote system has been extremely effective in ensuring geographically dispersed groups can win fair representation. It has been used to settle over a dozen VRA lawsuits regarding minority vote dilution. The traditional solution under

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<sup>26</sup> Barone, Michael and Richard E. Cohen. *The 2006 Almanac of American Politics*, National Journal Group, Washington, D.C., pp 736-752. See also FairVote’s projection in this paper.

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winner-take-all systems has been to draw election districts in a way that turns an overall minority into a majority in one district. This method has limits: where the group is geographically dispersed, interspersed among other minority groups or subject to migration. Post-hurricane, each of these conditions applies to displaced voters in and from southern Louisiana. Under the one vote system, non-concentrated demographic groups can form ‘districts of the mind;’ voters can continue to elect candidates of choice without a demanding and divisive gerrymandering process.

## **Campaigns, Representation and Accountability Under One-vote**

### ***The Dynamics of One-vote***

Switching to a one-vote/superdistrict system essentially lowers the threshold for guaranteed victory.

Under winner-take-all, to be guaranteed victory, a candidate must enjoy the support of one more than 50 percent of voters. He or she must campaign to this end, often adopting nuanced positions to win over swing voters. He or she is accountable to this group, which will come to him or her with concerns and casework demands.

In a superdistrict, the victory threshold is reduced. This formula tells us what it is for any given superdistrict under the one-vote system:

$$\frac{1}{(\text{number of seats} + 1)} \times 100\% + \text{one more vote}$$

In the proposed scenario, each candidate would compete for, represent and respond to one more than roughly 17 percent of voters in southeast Louisiana. African American candidates could comfortably do so with African American voters, regardless of their location in the region. So it is also with Baker’s Republicans and Melancon’s Democrats.

### ***One-vote in Practice***

Each candidate needs support from 17 percent of the superdistrict’s voters to win.

Based on measures for the 2004 election, total partisanship for the superdistrict prior to Katrina was 777,187 Republican to 613,826 Democratic, or 56 to 44 percent. Total two-party turnout was 1,391,013.<sup>27</sup>

This region faces a known permanent voting age population loss of 168,816 (low estimate) to 383,673 (high).<sup>28</sup> Total turnout for the superdistrict in 2004 was 59.1 percent. If this proportion holds constant, there are 69,046 (low) to 156,922 (high) fewer actual voters in the region. Total two-party turnout for 2004 was 1,391,013 in a 55.9/44.1 percent Republican/Democrat split (777,387 to 613,826). New turnout will be 1,321,967 (low) to 1,234,091 (high). To win reelection to their three current seats under the superdistrict scheme, Republicans need at least a majority of 50.1 per cent. The two Democrats need at least 34 percent (see 4.4.1 above).

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<sup>27</sup> Barone, Michael and Richard E. Cohen. *The 2006 Almanac of American Politics*, National Journal Group, Washington, D.C., pp 736-752.

<sup>28</sup> See FairVote’s projection in 3.2. Total permanent voting age population loss is the sum of the differences between the columns where population was lost, minus the voting age population addition to the 6<sup>th</sup> district.

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Assuming every departing voter is a Democrat, district partisanship under the low displacement estimate would be 58.8 to 41.2 percent Republican to Democrat. Under the high estimate, it would be 63.0 to 37.0 percent. If the entire deleted voting population were Republican, the district partisanship would be 50.9 to 49.1 percent in favor of Republicans by the low estimate. By the high estimate, it would favor Republicans 50.3 to 49.7 percent. But since we know the loss is biased against Democrats, the three Republican incumbents and two Democrats likely retain enough support (greater than 51 percent) to keep their seats.

We can also make similar estimates for the racial compositions of the superdistrict voting age population. African Americans comprised 29.6% of the pre-Katrina superdistrict voting age population. Even if 90% of the departing voting age population were African American, the new district would be between 17.8% and 24.9% African American (based on high and low estimates for voting age population loss). That means that even if Rep. Jefferson were not to run, African American would have enough votes to elect a candidate of their choice, even if their numbers in New Orleans remain far below their numbers before the hurricane.

## **CONCLUSION**

### **Main Points**

This report makes five claims about a situation for which data remain limited.

We can conclude with certainty that southern Louisiana's congressional districts now have severely disparate populations. On one hand, this situation violates the "one person, one vote" precedent on apportionment. On another, members now face disparate levels of constituent demands. Numbers from 25 other affected parishes probably will confirm both points.

While it is impossible to predict election results with certainty, we can speculate that the incumbents representing the 3<sup>rd</sup> and 6<sup>th</sup> districts are in jeopardy and at the very least may get caught up in partisan infighting at a time when the state needs the parties to work together as much as possible. If 62 percent of the influx to Baton Rouge lean Democratic, Rep. Baker will face a competitive reelection campaign – a situation not unlikely given the Democratic districts from which most refugees came. Rep. Melancon faces more dire circumstances in the 3<sup>rd</sup>, where he relied on the support of all Democrats and some swing Republicans for a 569 vote win.

The majority African American 2<sup>nd</sup> district already faces a dilution of minority voting strength. It is within reason to assume African American voters have lost the capacity to elect a candidate of choice here, leading to an all-white congressional delegation in a state that likely remains at least a quarter African American. Louisiana risks a lawsuit under the *Voting Rights Act*.

Switching to a superdistrict using a one-vote system would remedy each problem, as dispersed populations could support and seek out their former members pending potential resettlement at an unknown time. It is too early to take a census and redistrict, due both to government timetables and the uncertain state of displaced populations. Today's reapportionment could be tomorrow's malapportionment.

### **Further Research**

Hurricane Katrina nonetheless created a state of chaos whose dimensions we cannot know without further research. What are the partisan and racial characters of evacuees? Where did

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they come from? Where are they now – in-state or out? How many have permanently resettled? How many will return and when? Poll research could answer these questions.

More basically, how many are displaced from each of the 25 non-reporting parishes?

With respect to voting rights, what has happened to majority African American districts that elect local bodies and state legislators? Four of nine state Senators and one-third of state Representatives are African American. What does an emptying of the Lower Ninth Ward mean for the composition of city government in New Orleans? 75 percent of the City Council is African American. The voting rights crisis is by no means isolated to Congressional representation, and the concept of the one-vote system may make even more sense for some of these elections.

*This report was produced with the assistance of Ryan Griffin, Research Fellow; David Moon, Program Director and Rob Richie, Executive Director.*

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# The Washington Post

## Louisiana's Electoral Disaster

By Rob Richie and Ryan O'Donnell

Published December 22nd 2005 in Washington Post

When Hurricane Katrina broke the levees in New Orleans, it did more than create a wave of evacuees fleeing the city. Democracy itself is now a disaster area. Louisiana Gov. Kathleen Blanco has postponed city elections indefinitely, thereby extending the term of the city's mayor by executive decree. Meanwhile, bureaucratic squabbling and flawed voting mechanics threaten to bar tens of thousands of people from future elections.

The governor's decision to postpone New Orleans's February voting is grounded in genuine problems with the city's ability to run elections. But presidential elections weren't delayed during the Civil War, and Iraq managed to run its elections in the midst of an insurgency. Postponing elections sets a dangerous precedent -- one that could justify a president's extending his or her term in the event of a terrorist attack or natural disaster.

With more national investment in our electoral infrastructure and smart planning, New Orleans could have held its elections on time. As it is, the city and state still may fail to run fair elections whenever they are held. But we're not seeing any commissions formed to study how Louisiana came to fail its voters by not adequately preparing its democracy infrastructure. This is no surprise, since most other states suffer from the same lack of preparedness.

The city's most obvious problems are establishing who can vote and making it easy for them to participate. New Orleans needs to get absentee ballots to its many registered voters who are displaced, but only the Federal Emergency Management Agency has a relatively comprehensive list of new addresses. Citing privacy concerns, FEMA refused to share that list and later decided it was too costly to notify people about their voting rights. Just this week, under threat of a lawsuit, it agreed to pass the list on to the state. Louisiana now plans to send notices about how to apply for a mail-in ballot to those already registered, but the onus remains on displaced residents to register and apply for a mail-in ballot.

This undemocratic bungle is a symptom of a larger national problem. Right now we manage our voter rolls poorly. Thousands of counties handle voter registration themselves, all separate and often unequal. The result is incomplete and error-ridden records, with nearly a third of eligible voters left off the rolls and many more registered twice or with old addresses. The Help America Vote Act of 2002 did not go nearly far enough in addressing this problem, and the recent calls by Jimmy Carter and James Baker for dramatically boosting voter registration have generally been ignored.

What we need is universal registration, overseen at the national level, as it is in nearly every other modern democracy. Voters should be registered no matter where they live, and the process should be automatic, administered by nonpartisan, truly independent officials. All eligible

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citizens should be entered into a nationwide voter database with complete and accurate records and safeguards to respect privacy concerns. If that were the case, FEMA would have made its records available to voter registration administrators, and it would have been far easier for displaced voters to participate by mail in a February election in New Orleans.

Absentee ballots in New Orleans should also be designed to accommodate its runoff elections. Like many cities, New Orleans uses runoffs whereby the top two finishers compete in a decisive second election if no one gets a majority of the vote. For absentee voters, this means that a whole new round of runoff ballots must be designed, mailed and returned -- quickly. In this expensive process, administrators have little time to mail out absentee ballots, and voters have little time to return them.

Louisiana has been a national leader in solving this problem for its military and overseas voters in congressional runoffs. Because there is seldom enough time to print new ballots, send them to far-flung locations such as Afghanistan or Iraq, and get them back in time for runoffs, Louisiana (and, as of next year, Arkansas) provides a ranked-choice ballot.

Recipients rank candidates by first choice, second and so on. If their top choice is eliminated and doesn't advance to the runoff, their vote counts for their highest-ranked candidate who is in the runoff. Hurricane refugees deserve a similar ballot to protect their right to vote.

As New Orleans rebuilds, involving all the people in the decisions of their government is of greatest importance. And nationally, we must act to ensure that democracy is never a victim of terrorism and natural disasters.

*Rob Richie is executive director of FairVote -- The Center for Voting and Democracy (<http://www.fairvote.org>). Ryan O'Donnell is its communications director.*



## Louisiana's Runoffs and the Effect on Displaced Hurricane Victims

**Brewing Election Problems:** In the aftermath of Hurricane Katrina, Louisiana voters and election administrators will face numerous challenges that threaten to undermine the state's democratic processes. One key issue is the fact that the state uses runoff elections for many offices. This two-round election system will create unique challenges for hurricane victims, many of whom will be voting absentee, even while they're on the move and unsure of where their permanent address will be. But there is a better way, already in use for Louisiana's overseas absentee votes.

**Issue Summary:** Louisiana uses the 'Cajun' primary system for state and federal offices: all voters select from all potential candidates of all parties in the primary election. If a candidate earns a majority of the total votes in that election, that candidate wins. If not, a runoff is held between the top two candidates. Election administrators face a daunting challenge: two elections in a short amount of time. They barely have time to declare the winners of the first election and determine what races will go to a final runoff before they must print the second round ballots with the federal primary and the state runoff. As a result, absentee voters often have too short a time to receive their ballot and mail it back in time to count. With thousands of hurricane victims living without a fixed address, this problem will likely be greatly exacerbated.

**Solution:** In an effort to ensure full participation from overseas absentee voters, Louisiana sent more than 10,000 ranked choice ballots to overseas voters in 2004, as they have done for many federal and state elections since the early 1990s. This allows absentee voters to rank candidates in order of preference and have their ballot counted in the runoff round for their top-ranked candidate in the runoff - meaning they have an effective vote without the state trying to send a second mailing. Given the recent displacement of hundreds of thousands of voters, this policy should be expanded to include all absentee voters, to ease absentee voting for hurricane victims. This population is likely to have addresses that might change between the first and second round elections, and anything we can do to mitigate electoral complications to encourage greater participation among displaced populations would help rebuild Louisiana's democracy.

Please see the attached sample ranked absentee ballot from 2001.

**For more information, visit:  
<http://www.fairvote.org/katrina>**

**2001 Sample Ballot for Louisiana's Ranked Choice Absentee Ballots**

**GENERAL ELECTION BALLOT - NOVEMBER 17, 2001**

4-401

**Assumption Parish**

Wds./Dist./Pcts.  
1-1, 1-2, 5-1 thru 6-2

**INSTRUCTIONS TO VOTER**

**Read the following  
before marking your ballot:**

Indicate your order of preference for each candidate for an office by placing number one (1) in the box opposite the name of the candidate who is your first choice, number two (2) in the box opposite the name of the candidate who is your second choice, and so on until you have numbered each candidate. Follow instructions furnished with this ballot. You must use a pencil containing black lead or a pen or ball point pen containing black, blue-black, or blue ink to mark your ballot.

**OFFICIAL BALLOT**

I hereby certify that this is the official ballot for the Election to be held on this date.



W. FOX McKEITHEN  
Secretary of State, State of Louisiana

**SPECIAL ELECTION(S)**

Associate Justice, Supreme Court, 6th Supreme Court District      One to be Elected

Mary Holard Becnel      Dem.

Paul deMahy      Rep.

David S. Gorbaly      Dem.

John L. Weimer      Dem.

**SPECIAL ELECTION(S)**

Justice of the Peace, 1st Justice of the Peace Ward      One to be Elected

Claiborne Alleman      Dem.

Bryan Baldwin      Dem.

Steve Falcon      Dem.