The Voting Rights Implications of Changing the Election Cycle and Adopting Open Primaries and Top-Two General Elections

Report of Dr. Lisa Handley

Introduction

I have been retained by the 2025 New York City Charter Revision Commission to assist in ascertaining whether proposed amendments to the Charter would satisfy the requirements of the John R. Lewis Voting Rights Act of New York and thus be precleared by the New York Attorney General.

The proposed changes that I examine in this report are (1) a change from odd-year to even-year elections for city office, with the removal of the periodic two-year term and (2) the adoption of an open primary with ranked choice voting in which all registered voters can participate in place of closed Democratic and Republican primaries with ranked choice voting in which only registered Democrats and Republicans can participate. The two candidates with the most votes in the open primary would then proceed to a top-two general election rather than a major-party general election. I consider only the implications of these changes for possibility of the dilution of minority voting strength in New York City elections and not from any wider public policy perspective.

Executive Summary

When analyzing minority voting strength in New York City, it is not possible to refer to Black, Hispanic, and Asian communities as a cohesive group of minority voters. Asian voters do not support the same candidates as Black and Hispanic voters; this is true in general elections and it is true in Democratic primaries as well. Black and Hispanic voters, on the other hand, are always cohesive in support of the Democratic candidates in general elections and are cohesive more often than not in Democratic primaries. As a result, it is reasonable to consider Black and Hispanic voters in combination when determining whether the proposed changes would dilute minority voting strength.

- A shift from odd-year to even-year elections: Changing the election schedule from odd-years to presidential election years and eliminating the periodic two-year terms will not dilute the voting strength of minorities. Rather, it is likely to benefit all minority voters – Black, Hispanic, and Asian voters – by substantially increasing their turnout.
- A shift from closed primaries to open primaries with a top-two general election: Taken separately, under the current system and under an open-primary with top-two system, no minority group can elect a candidate of choice in a citywide race without the support of other racial groups.

o   <u>City Council elections</u>: The ability of minority voters to elect city councilmembers of their choice is unlikely to change in an open primary system with top-two, and an open primary system may have a small, beneficial effect on the ability of minority-preferred candidates to prevail.

o   <u>Borough President elections</u>: There is no reason to believe that the ability of minority voters to elect a candidate of their choice would change in an open primary with a top-two general election.

o   <u>Citywide elections</u>: Because White voters comprise a substantial plurality or a majority of the voters in citywide elections, they can elect their preferred candidate even if Black and Hispanic voters are cohesive in support of another candidate. But their ability to do so depends on factors such as how strongly White voters favor their preferred candidate, how cohesive Black and Hispanic voters are in support of their candidate of choice, and how many candidates move forward from the primary to the general election. These factors dictate the potential success of White-preferred or Black and Hispanic-preferred candidates under the current election system and they would remain true under an open primary, top-two general election system.

  ▪   <u>A shift from closed to open primaries</u>:

  •   Today, if Black and Hispanic voters are cohesive in citywide Democratic primaries, the candidates they support usually win, even if White voters do not support them. There is no reason to believe this will not continue to be true in an open primary. It is especially true that the candidate preferred by Black and Hispanic voters is likely to be selected in the open primary because two candidates, rather than one, will move forward into the top-two general election.

  •   Today, in a closed Democratic primary, if Black and Hispanic voters are not cohesive, it is possible that neither of their preferred candidates would proceed to a major-party general if White voters support a different candidate. However, in an open primary, it is likely that either the Black-preferred or the Hispanic-preferred candidate would secure a sufficient number of voters (especially

with ranked choice voting) to move forward into the top-two general election because two candidates, rather than one, proceed to the November election.

- A shift from a major-party general election to a top-two general election:
  - Because White voters make up a substantial or even a majority of the voters, citywide and in most of the boroughs, some support (albeit not majority support) from White voters is needed to elect candidates supported by Black and Hispanic voters in both a major-party and a top-two general election.
  - In a top-two general election that features a Democrat and a Republican, there is no reason to believe the dynamics would change. Voting is unlikely to be polarized and, if it is, some White crossover votes will be necessary to elect the candidates preferred by a cohesive bloc of Black and Hispanic voters.
  - In a top-two general election that features two Democrats, the following can be said about the differences between a top-two election and a major-party general election. First, a Democrat is assured of winning the election and Black and Hispanic voters overwhelmingly prefer Democrats. Second, if voting is not polarized, the candidate supported by all groups will easily be elected, as in a major-party general election. Third, if voting is racially polarized – and the possibility may be greater in a top-two race with two Democrats than in a major-party general election – Black and Hispanic cohesion and some White crossover would be required for the candidate preferred by Black and Hispanic voters to succeed. This is true in a major-party election as well – the difference is that the amount of White crossover voting and minority cohesion might be lower in a race with two Democrats compared to one with a Democrat and a Republican. Fourth, if Black and Hispanic voters are not cohesive at all – and support different

candidates – then the candidate supported by one of these groups, and the White voters, would win the seat.

- Finally, under the current general election system, it is possible for more than just two candidates to compete for office – an aspiring candidate can be the nominee of another recognized political party (such as the Conservative Party or Working Families Party) or secure a place on the ballot as an independent candidate. A third-party or independent candidate that garners support from some Black or Hispanic voters would decrease minority cohesion and make it more difficult for a Black or Hispanic-preferred candidate to win. A top-two general election, by requiring all candidates to compete in an open primary and winnowing down the number of candidates to two, may actually help Black and Hispanic voters elect their candidates of choice if these voters would not be cohesive in a multicandidate general election. A top-two general election, moreover, would ensure that the two candidates in the general election were selected through ranked choice voting.

Professional Background and Experience

I have over forty years of experience as a voting rights and redistricting expert. I have advised scores of jurisdictions and other clients on minority voting rights and redistricting-related issues. I have served as an expert in dozens of voting rights cases. My clients have included state and local jurisdictions, independent redistricting commissions (Arizona, Colorado, Michigan), the U.S. Department of Justice, national civil rights organizations, and such international organizations as the United Nations. In New York City specifically, I served as a consultant to the New York City Redistricting Commissions in 2003, 2012 and 2022. In addition, I was a consultant to the City Law Department, hired to analyze the potential impact on minority voters on proposed changes to the City Charter in 2008, 2010, and 2018.

I have been actively involved in researching, writing, and teaching on subjects relating to voting rights, including minority representation, electoral system design, and redistricting. I co-authored a book, *Minority Representation and the Quest for Voting Equality* (Cambridge

University Press, 1992), and co-edited a volume, *Redistricting in Comparative Perspective* (Oxford University Press, 2008), on these subjects. In addition, my research on these topics has appeared in peer-reviewed journals such as *Journal of Politics*, *Legislative Studies Quarterly*, *American Politics Quarterly*, *Journal of Law and Politics*, and *Law and Policy,* as well as law reviews (e.g., *North Carolina Law Review*) and a number of edited books. I hold a Ph.D. in political science from The George Washington University.

I have been a principal of Frontier International Electoral Consulting since co-founding the company in 1998. Frontier IEC specializes in providing electoral assistance in transitional democracies and post-conflict countries. In addition, I am a Visiting Research Academic at Oxford Brookes University in Oxford, United Kingdom.

Minority Groups in New York City

The courts and the U.S. Department of Justice have traditionally recognized the following minority groups as protected under Section 2 of the Voting Rights Act: Black, Hispanic, Asian, American Indian, and Alaska Native voters. Table 1, below, provides racial and Hispanic origin population for New York City according to the 2020 census. New York City has sizeable Black, Hispanic, and Asian populations. These are the three groups for which there is sufficient data to analyze the likely impact of the proposed changes to the Charter.

Table 1: New York City Population by Race and Hispanic Origin, 2020 Census[1]

	Total Population		Voting Age Population	
	Number	**Percent**	**Number**	**Percent**
Non-Hispanic White	2,719,856	30.9%	2,280,791	32.3%
Non-Hispanic Black	1,776,891	20.2%	1,420,017	20.1%
Non-Hispanic Asian	1,373,502	15.6%	1,128,231	16.0%
Hispanic	2,490,350	28.3%	1,905,404	27.0%
Some Other Race	143,632	1.6%	105,365	1.5%
Two or More Races	299,959	3.4%	224,240	3.2%
Total	8,804,190		7,064,048	

Methodology: Estimating Registration and Voting Patterns by Race

An analysis of voting patterns by race is required to (1) estimate registration and turnout rates by race; (2) determine if voting in recent New York City elections is racially polarized; and (3) ascertain whether the minority community votes cohesively. The voting patterns (including registration and turnout rates) of White, Black, Hispanic, and Asian voters must be estimated using statistical techniques because direct information about the race of the voters is not, of course, available on the ballots cast or in voter registration files.

To carry out an analysis of voting patterns by race, an aggregate level database must be constructed, usually employing election precincts or, as they are referred to in New York, election districts (EDs), as the unit of analysis. Information relating to the demographic composition and election results in the EDs is collected, combined, and statistically analyzed to determine if there is a relationship between the racial/ethnic composition of the EDs and partisan registration choices, turnout rates, and support for given candidates across the EDs.

Standard Statistical Techniques Three standard statistical techniques have been developed over time to estimate vote choices by race: homogeneous precinct analysis, ecological

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[1] The source for this information is the 2020 Census Redistricting Data (Public Law 94-171) as reported by the New York City Department of City Planning.

regression, and ecological inference.[2] Two of these analytic procedures – homogeneous precinct analysis and ecological regression – have been in existence since at least the 1980s and were employed by experts in the seminal voting rights case, *Thornburg v. Gingles*. These two techniques have the benefit of the Supreme Court's approval in that case and have been used in most subsequent voting rights cases in which the voting patterns of White and minority voters must be ascertained. The third technique, ecological inference, was developed after *Gingles* was decided and was designed, in part, to address some of the disadvantages associated with ecological regression analysis. Ecological inference analysis has been introduced and accepted in hundreds of court proceedings and is generally accepted by social scientists and the courts as the most accurate method for estimating voting patterns by race.

Homogeneous precinct analysis (HP) is the simplest technique. It involves comparing the turnout rates and percentage of votes received by each of the candidates in precincts or EDs that are racially or ethnically homogeneous. The general practice is to label a precinct or ED as homogeneous if at least 90 percent of the voters or voting age population is composed of a single race. In fact, the homogeneous results reported are not estimates – they are the actual precinct results. However, most voters in New York City do not reside in homogeneous EDs and voters who do reside in homogeneous EDs may not be representative of voters who live in more racially diverse EDs. For this reason, I refer to these percentages as estimates and they are used primarily as a quick check on the statistically derived estimates.

The second statistical technique employed, *ecological regression* (ER), uses information from all EDs, not simply the homogeneous ones, to derive estimates of the voting behavior of minorities and Whites. If there is a strong linear relationship across EDs between the percentage of minorities (or Whites) and the percentage of votes cast for a given candidate, this relationship can be used to estimate the percentage of minority (or White) voters supporting the candidate.

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[2] For a detailed explanation of homogeneous ED analysis and ecological regression see Bernard Grofman, Lisa Handley and Richard Niemi, *Minority Representation and the Quest for Voting Equality* (Cambridge University Press, 1992). See Gary King, *A Solution to the Ecological Inference Problem* (Princeton University Press, 1997) for a more detailed explanation of ecological inference.

The third technique, *ecological inference* (EI), was developed by Harvard Professor Gary King in the 1990s. This approach also uses information from all precincts or EDs but, unlike ecological regression, it does not rely on an assumption of linearity. Instead, it incorporates maximum likelihood statistics to produce estimates of voting patterns by race. In addition, it utilizes the method of bounds, which uses more of the available information from the precinct or ED returns than ecological regression.[3] Unlike ecological regression, which can produce percentage estimates of less than 0 or more than 100 percent, ecological inference was designed to produce only estimates that fall within the possible limits.

In conducting an analysis of voting patterns by race in New York City for this project (participation rates and voting patterns since 2016), I used a more recently developed version of ecological inference.[4] Unlike King's original EI methodology, the more recent approach permits the analysis of more than two racial/ethnic groups simultaneously and also produces estimates that take into account the differences in the turnout rates of the age-eligible White, Black, Hispanic, and Asian populations. This statistical technique is typically referred to as EI RxC.

Because some of the analysis incorporated in this report was conducted as long ago as 2005, earlier results are reported using only homogeneous precinct and ecological regression analysis (2005 and 2009). The analysis of the 2013 election was done using these techniques, as well as King's ecological inference analysis. All analyses conducted for this project – which includes all elections from 2016 onward – utilize EI RxC in addition to or in place of King's EI.

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[3] The following is an example of how the method of bounds works: if a given ED has 100 voters, of whom 75 are Black and 25 are White, and the Black candidate received 80 votes, then at least 55 of the Black voters voted for the Black candidate and at most all 75 did. (The method of bounds is less useful for calculating estimates for White voters, as anywhere between five of the White voters and all of the White voters could have voted for the candidate.)

[4] A Bayesian implementation procedure for considering more than two groups simultaneously when producing EI estimates was outlined by Ori Rosen, Wenxin Jiang, Gary King, and Martin Tanner in "Bayesian and Frequentist Inference for Ecological Inference: The RxC Case, *Statistical Neerlandica*, 55:134 (2001). Advances in computer technology allowed Lau and colleagues to create a software module (eiPack) that could carry out this procedure. This is the module I used to produce the EI RxC estimates I report. See Olivia Lau, Ryan Moore, and Michael Kelleran, "eiPack: Ecological Inference and Higher-Dimension Data Management," *R News*, volume 7, no. 2 (October 2007).

In each of the tables reporting the estimates I derived, I have bolded what I believe are the most accurate estimates given the alternatives on offer. While I believe the EI RxC estimates are generally the most accurate, this statistical technique was not available for elections analyzed between 2005 and 2013. The HP estimates are included only as a check on the statistically derived estimates as the number of homogenous EDs is very limited in New York City and the voting patterns in these EDs are often not reflective of the voting patterns of the group as a whole.

There were not a sufficient number of Black or Hispanic voters participating in Republican primaries to analyze any of these primary elections. In addition, a specific group sometimes was not large enough, especially at the city council district level, to produce accurate estimates using a given statistical technique. If that has occurred, the table entry is "-"; this will also be the entry if there are no racially homogenous EDs.

Data Used for Analysis To analyze voting patterns by race using aggregate level information, a database that combines election results with demographic information is required. This database is usually constructed using the smallest geographic unit for which election returns are available: the ED in New York. Because New York does not collect voter registration or turnout by race (as is the case in several southern states), voting age population is used for the demographic composition of the EDs.

Because of previous work I have done for New York City, I have estimates of voting pattens by race for citywide elections (Mayor, Comptroller, and Public Advocate) in 2005, 2009, and 2013 and I had the data to produce citywide estimates for these elections in 2017 and 2021.[5] However, in some years, not all election contests were analyzed. This was often because no minority candidate ran or the elections were not competitive. (In 2013 no general elections were analyzed, including the race for Public Advocate in which the Democrat running was Letitia James.)

In addition to the estimates of voting in citywide elections, I conducted a detailed analysis of voting patterns in the 2021 city council district elections for the New York City 2022

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[5] The analysis that I conducted of citywide elections in 2017 and 2021 for the New York City Redistricting Commission was done on a boroughwide basis. I reanalyzed the citywide elections for this project in order to produce citywide estimates comparable to the earlier estimates (2005, 2009, and 2013) that I have included in this report.

Redistricting Commission. The Democratic primary contests were particularly competitive and, perhaps because it was the first set of New York City primaries to use ranked choice voting,[6] the contests included a larger than usual number of candidates for city council. Because of the limited number of EDs in each council district, there were usually no homogeneous EDs, and the regression analysis often produced out of bounds (over 100% or less than 0%) estimates so I did not report either of these estimates. I did report estimates using both EI RxC (EI[1]) and King's EI (EI[2]). It was often not possible to produce valid EI[2] estimates for one or more groups, especially at the city council level. Producing Asian estimates even citywide was often problematic.

The analysis of the 2021 Democratic primaries, both at the citywide and city council district level, was complicated by the introduction of Ranked Choice Voting (RCV). Only the first choice rankings of the voters are reported at the ED level. Because ED level data is required to conduct a racial bloc voting analysis, especially at the council district level, the estimates reported in the tables reflect the first choice of voters.

The database required to produce estimates of turnout rates and party registration by race, as well as votes for statewide and federal office, for even years from 2016 to 2020 was obtained from the New York Legislative Task Force website.[7] The data used to estimate voting patterns in

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[6] In addition to the 2021 city council races, I also analyzed the 2017 city council races for the 2022 Redistricting Commission but I focus in this report on the 2021 city council contests as they employed ranked choice voting. The 2023 city elections have not been analyzed for several reasons. First, there was no citywide office on the ballot. Second, the city council elections were, for the most part, not competitive – incumbents ran in 49 of the city council elections and 47 retained their seats (one incumbent lost in the Democratic primary and one in the general election). Third, turnout was extremely low, no doubt in part because of the lack of competitive elections. Finally, the demographic data I have for the EDs (compiled by the 2022 Redistricting Commission) is no longer current enough to use for the 2023 elections. ED names and boundaries change over time, especially following redistricting. The ED boundaries in place for the 2021 elections were not identical to the boundaries in 2023.

[7] The Legislative Task Force compiled two databases that I merged for this analysis. The first is a file that contains demographic data (from the PL 94-171 census redistricting database) for all voting tabulation districts (VTDs) in New York. (VTDs are very similar but not identical to EDs). The second database includes election results for all NY VTDs for elections between 2016 and 2020. These files can be found at: https://latfor.state.ny.us/data/?sec=2020vote.

2017, 2018, 2021, and 2022 was prepared for the 2022 New York City Redistricting Commission.[8] Because ED names and boundaries change over time, the analysis of voter registration, turnout, and votes in the presidential election in 2024 was conducted using assembly districts as the observation unit.[9] Because there are far fewer assembly districts in New York City (65) compared to EDs (over 4,000), the 2024 estimates have much wider confidence intervals, that is, there are much tighter bands of certainty around the estimates for years earlier than 2024.

Voter Turnout in Odd-Year and Even-Year Elections

The percentage of registered voters who turn out to vote can be quite low – it varies by election type (primary versus general) and by election year, with turnout highest in general elections held in years when there is a contest for U.S. president on the ballot. From 2000 to 2024, the average percentage of New York City registered voters who turned out to vote in general elections is 41.5%. The percentage is 49.6% when only even-year general elections are considered and this percentage increases to 61.1% when only presidential years are included in the average. The average turnout in odd-year general elections, however, is only 26.5% (this average increases to 29.1% when the non-competitive city council election of 2023 is not included). Table A1 in the Appendix provides this information.[10] The difference in the turnout rates of minority voters in even

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[8] All primary and general election returns for 2017, 2021, and 2022 by ED were obtained from the New York City Board of Elections. The demographic composition of these EDs was derived from the 2020 PL94-171 census redistricting data. New York City Districting Commission staff performed the tasks of ascertaining the demographic composition of each of the EDs and matching this information to the ED election returns for all of the primary and general elections analyzed.

[9] Voter registration by party data for assembly districts is available online from the New York Board of Elections at https://elections.ny.gov/enrollment-assembly-district, the 2024 turnout data by assembly district was acquired from the New York City Board of Campaign Finance, and the demographic composition of each assembly district is available online from the New York Legislative Task Force at . https://latfor.state.ny.us/maps/?sec=2024_assembly.

[10] This information is found in the New York City Board of Elections Annual Reports.

and odd year elections is especially dramatic.[11] Table 2, below, reports estimated turnout rates for the age-eligible White, Black, Hispanic, and Asian populations in recent general elections.[12]

Table 2: Turnout Rates (Voters/VAP) by Race/Ethnicity in Recent General Elections

	White Turnout	Black Turnout	Hispanic Turnout	Asian Turnout
2024	58.6	42.0	25.1	20.0
2022	49.9	28.8	8.9	11.5
2020	62.8	50.8	32.5	28.3
2018	48.7	39.7	21.2	13.2
2016	56.1	46.7	32.3	22.1
2023	10.2	3.4	3.8	7.6
2021	32.1	20.1	6.3	7.9
2017	30.7	22.9	8.7	7.1

The average turnout rate of age-eligible Whites more than doubled between odd-year and presidential years (24.3% to 59.2%), but the increase in the turnout rates of the age-eligible minority population was greater than this. The average turnout rate of the age-eligible Black population tripled (15.5% to 46.5%), as did the average turnout rate of Asians (7.5% to 23.5%),

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[11] Part of the reason for the particularly low turnout rates of Hispanics and Asians is that a larger proportion of these two groups have non-citizens of voting age who are not eligible to vote.

[12] The analysis of turnout by race was conducted using voting age population (as this was the demographic information included in the database). The Election Law Clinic at Harvard Law School conducted a similar analysis using voter files and Bayesian-Inference Surname Geocoding (BISG) to produce estimates of turnout by registration. BISG uses voter surnames and addresses to predict the race/Hispanic origin of the voter. Because the denominator is registered voters rather than VAP, the estimated rates are higher for each group but the findings are the same: minority turnout was consistently lower in odd-year elections. (Memo from the Election Law Clinic at Harvard Law School to the Committee on Government Operations, State & Federal Legislation, The New York City Council, dated December 3, 2024.)

and the percentage of age-eligible Hispanics who voted was almost five times greater (6.3% to 30.0%) in recent presidential election years than in odd-year elections.

As Table 2 indicates, the turnout rates in 2023 were much lower than in other odd-year elections. This election included no citywide elections – it was for city council only. Council members were elected in 2021 for a two-year rather than a four-year term and incumbents ran in 49 of the council districts; 47 were re-elected. These non-competitive elections elicited little interest, with the exception of Asian voters, who turned out at a rate comparable to other odd-year election years.

Changing the election schedule from odd-years to presidential election years and eliminating the periodic two-year terms will not dilute minority voting strength. Rather, it is likely to benefit minority voters by substantially increasing their turnout.

Demographic Composition of the New York City Electorate

Estimates of voter registration for the 2024 general election indicate that a majority of White, Black, and Hispanic registered voters chose to register as Democrats. The size of the majority, however, varied substantially, with nearly 85% of Black registered voters and over 70% of Hispanics registered voters identifying as Democrats. Slightly over 60% of White voters registered as Democrats. A plurality of Asians identified as Democrats. These percentages are reported in Table 3, below.

Table 3: Party Affiliation of White, Black, Hispanic, and Asian Registered Voters in 2024

	White Registered Voters	Black Registered Voters	Hispanic Registered Voters	Asian Registered Voters	Total
Democratic Party	60.9%	84.8%	71.6%	41.0%	65.2%
Republican Party	16.2%	2.6%	5.3%	18.9%	10.7%
Other Parties	1.2%	1.1%	1.8%	3.6%	2.5%
Unaffiliated	21.7%	11.5%	21.3%	36.4%	21.6%

An important consequence of this difference in party affiliation by race/Hispanic origin is that the composition of the various political party registrants and unaffiliated registrants varies. Table 4, below, lists estimates of the demographic composition of the Democratic and Republican parties, all other parties combined, unaffiliated voters, and all registered voters as of the presidential election in 2024.

Table 4: Racial/Ethnic Composition of NYC Political Parties in 2024

	White	Black	Hispanic	Asian	Other	*Black + Hispanic*
Registered Democrats	34.6%	29.7%	25.8%	7.2%	2.7%	*55.5%*
Registered Republicans	55.9%	5.5%	11.7%	20.1%	6.8%	*17.1%*
Registered Other parties	17.6%	10.0%	16.5%	16.1%	39.7%	*26.5%*
Registered as Unaffiliated	37.3%	12.2%	23.1%	19.2%	8.1%	*35.3%*
All registered voters	37.0%	22.8%	23.5%	11.4%	5.3%	*46.3%*

In November 2024, White registrants comprised 34.6%, Black registrants 29.7%, and Hispanic registrants 25.8% of all registrants who registered as Democrats. According to the 2020 census, the White VAP was 32.3% of the total VAP, Black VAP was 20.1% of the total VAP, and Hispanic VAP was 27.0% of the total VAP. Hence Black and White voters are over-represented among those who registered as Democrats, and Hispanics are slightly under-represented.

Because Black and Hispanic voters are cohesive in support of the same candidates more often than not (and always in general elections), but Asian voters often do not support these candidates, it is misleading to discuss "minority" voting strength as if there was a united minority community. Instead, I will discuss minority voting strength in terms of Black and Hispanic voting strength, on the one hand, and Asian voting strength, on the other. When Black and Hispanic

registered voters are considered together, they comprise a majority (55.5%) of the eligible electorate in Democratic primaries.

In an open primary in which all registered voters could participate, eligible White registrants would comprise 37% of the potential voters, Black registrants 22.8%, Hispanics 23.5% and Asian registrants 11.4%. White voters would still constitute a plurality of the potential voters, but their percentage would increase from 34.6% to 37% in an open primary. Black and Hispanic eligible voters combined would comprise a majority of the potential voters (55.5%) in a closed Democratic primary but in open primary their percentage of eligible voters would decrease to 46.3%. The percentage of eligible Asian voters would increase in an open primary (11.4%) compared to a closed Democratic primary (7.2%) but would decrease compared to a closed Republican primary (20.1%).[13]

Registering to vote does not mean the registrant will actually cast a ballot in an election. In fact, the percentage of registered voters who turn out to vote can be quite low – it varies by election type (primary versus general) and by election year. Table 5, below, reports estimated turnout rates for the age-eligible White, Black, Hispanic, and Asian populations in recent Democratic primaries. Table 2, above, provides this information for general elections.

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[13] These November 2024 estimates are based on a database composed of 65 observations (NYC state assembly districts). I also did the analysis with a much larger database (approximately 4000 EDs) but it was for registered voters in 2020 rather than 2024. Democrats are now a smaller proportion of all registered voters and unaffiliated registered voters are now a larger portion of all registered voters. However, the findings were very similar: in 2020, Blacks and Hispanics combined made up 58.6% of the registered Democrats and 48.0% of all registered voters. See Table A2 in the Appendix.

Table 5: Turnout Rates (Voters/VAP) by Race/Ethnicity in Democratic Primaries[14]

	White Turnout	Black Turnout	Hispanic Turnout	Asian Turnout
2022	15.9	11.6	3.2	2.4
2020	20.4	18.5	7.3	2.6
2018	23.0	22.4	8.6	3.0
2021	26.8	20.0	6.0	6.8
2017	9.3	10.1	5.7	5.1

With only one exception (the 2017 Democratic primary), White voters turned out (White voters as a percentage of White VAP) at substantially higher rates than the Black, Hispanic, or Asian voters. All four groups turned out at much higher rates for general elections than for primary elections. Because the turnout rates of the age-eligible White population was usually higher than the turnout rates of the age-eligible minority population, White voters comprised a substantial proportion of the voters in most of the elections examined, as indicated in Table 6, below.[15]

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[14] There were no citywide Democratic primaries in 2023 or 2024. The 2022 and 2018 Democratic primaries are for statewide office (June 2022, September 2018). Although there was no citywide Democratic primary in 2020, there were Democratic primaries for congress and state assembly districts (June 2020) and this is the turnout reflected in the table.

[15] The White, Black, Hispanic, and Asian columns do not add to 100% because of "other" voters, that is, voters who indicated they were of some race other than the four listed, or marked more than one race on the census form.

Table 6: White and Minority Voters as a Percentage of All Voters

	White Voters	Black Voters	Hispanic Voters	Asian Voters	Black + Hispanic Voters
Democratic Primaries					
2022	56.2%	25.5%	9.5%	4.2%	35.0%
2020	43.7%	24.7%	13.1%	2.8%	37.7%
2018	48.2%	29.2%	15.0%	3.1%	44.2%
2021	53.0%	24.6%	9.9%	6.7%	34.5%
2017	33.0%	22.3%	16.9%	8.9%	39.2%
General Elections					
2024	49.3%	22.0%	17.6%	8.3%	39.6%
2022	59.2%	21.3%	8.8%	6.8%	30.1%
2020	44.4%	22.4%	19.2%	9.9%	41.5%
2018	47.7%	24.2%	17.4%	6.4%	41.6%
2016	43.5%	22.6%	20.9%	8.5%	43.5%
2021	58.3%	22.7%	9.6%	7.1%	32.3%
2017	53.5%	24.9%	12.7%	6.1%	37.5%

White voters were a majority of the voters in two of the five (40%) Democratic primaries and three of the seven (42.9%) of the general elections. Black voters generally made up between 22% to 25% of the voters, which is slightly higher than their percentage of the voting age population (20.1%) in New York City. Hispanic voters made up a much smaller proportion of the voters (less than 10%), especially relative to their percentage of the voting age population (27%). Black and Hispanic voters combined surpassed the number of White voters in only one election examined (the 2017 Democratic primary) and were approximately equal to the number of White voters in one general election, the presidential election in 2016.

Overall, on average White voters comprised a substantial plurality (46.8%) of the voters in Democratic primaries and a slight majority (50.8%) of the voters in general elections in recent New York city elections. Black and Hispanic voters on average constituted 38.1% of the voters in Democratic primaries and essentially the same percentage of the voters (38.0%) in general elections. Asian voters, like White voters, comprised a slightly higher proportion of the voters in general elections (7.6%) than in Democratic primaries (5.1%). The reason that Black and Hispanic voters in Democratic primaries and general elections is approximately the same (even though White voters make up a slightly higher percentage of the voters in general elections than Democratic primaries), is that the turnout rate for the White age-eligible population increases more than turnout rates for the Black and Hispanic age-eligible population between the Democratic primary and the general election. Black and Hispanic voters are unlikely to constitute even a plurality of the voters in any election in the near future, whether it is a closed Democratic primary, an open primary, or a general election.

Voting Patterns in General Elections

New York City voters are strong supporters of Democratic candidates in general elections. At least 70% of the voting electorate – and usually more than this – vote for the Democrat in state and federal elections. See Table A3 in the Appendix for the percentage of votes for Democratic and Republican candidates in recent elections. Citywide offices (mayor, comptroller, and public advocate) have been won by candidates affiliated with the Democratic Party in 13 of the 15 (86.7%) election contests since 2005. Democrats currently hold 45 of the 51 (88.2%) city council seats. Generally, Democratic candidates garner a majority of White, Black, Hispanic and Asian votes in general elections, but Black and Hispanic voters are especially strong and cohesive supporters of Democratic candidates in general elections.

Citywide General Elections, 2005 – 2021 Tables A4 through A7 in the Appendix report estimates of voting patterns by race and Hispanic origin for nine citywide general elections since 2005: the 2005 contests for mayor and comptroller; the 2009 contests for mayor, comptroller, and public advocate; the 2017 contests for mayor and public advocate; and the 2021 contest for mayor and public advocate.

Only three of these nine general election contests were racially polarized, with White (and Asian voters) supporting the Republican candidate and Black and Hispanic voters

supporting the Democratic candidate. In addition, the 2021 mayoral contest may have been polarized between White and Asian voters, although Asian voters were closely divided between the Democrat and the Republican candidates. (Black and Hispanic voters, like White voters, supported the Democratic candidate in the 2021 mayoral contest; Asian voters preferred the Republican candidate.)

In two of the contests in which Black and Hispanic voters supported different candidates than White voters, the candidate preferred by White voters won (mayoral candidate Michael Bloomberg in 2005 and 2009). In the other racially polarized citywide general election, the candidate preferred by Black and Hispanic voters, Bill de Blasio in 2017, prevailed, in large part because there was a great deal of White crossover support for him (although a majority or near majority supported the Republican candidate, de Blasio garnered close to 45% of the White vote).

Black and Hispanic voters constituted a cohesive bloc in support of the Democratic candidate in all nine general elections. However, Asian voters voted with Black and Hispanic voters only in those contests in which White voters also supported the same candidate as Black and Hispanic voters. In other words, Asian voters are more likely to support the same candidates as White voters than the candidates preferred by Black and Hispanic voters.

Overall, voting in citywide general elections was generally not racially polarized and the Democratic candidate easily won over the Republican candidate, with support from White, Black, Hispanic, and Asian voters. When White voters did not support the Democratic candidate, however, the candidate preferred by White voters (and Asian voters) won two contests (the mayoral races in 2005 and 2009) but lost one (the mayoral race in 2017).

City council general elections in 2021 There were 41 general elections across the 51 city council districts in 2021 – in ten districts the Democrat faced no challenger. In 27 of the 41 contested elections, the contest was not competitive – the winner received at least 65% of the vote, and usually substantially more than this. (In 26 of these contests, the winner was a Democrat; in one a Republican won.) These Democratic candidates most likely enjoyed the strong support of all groups residing in the district.

I analyzed the 14 general election city council contests that were competitive. Table A8 in the Appendix reports the results for these contests. Estimates for all four groups – White, Black, Hispanic, and Asian voters – could only be derived for five of the contests so the voting

patterns of White and minority voters are considered separately. In total, 11 of the 14 competitive general election contests for city council were racially polarized between White voters and at least one group of minority voters. There were seven contests in which estimates for both White and Black voters could be derived and all seven of these contests were polarized. Hispanic estimates could be derived for all 14 contests; in 10 of these contests (71.4%) Hispanic and White voters supported different candidate. Asian and White voters preferred different candidates in seven of the 13 contests (53.8%) for which Asian estimates could be produced. Black and Hispanic voters were cohesive in their support of the Democratic candidate in all five contests for which estimates for both groups could be derived.

In 11 of the 14 general elections analyzed, the candidate preferred by minority voters won. The exceptions were in Districts 19, 32, and 50 – districts in which the Republican candidate, supported only by White voters, was able to defeat the Democratic candidate. District 50 was majority White in voting age population but Districts 19 and 32 were only plurality White in voting age population by a very small percentage in 2021.

Overall, voting was not racially polarized in city council general elections – in a large majority of the districts, the Democratic candidate did not face strong competition from a Republican candidate. In the competitive city council elections analyzed, the council member ultimately elected to represent the district was generally the candidate of choice of the majority group in the population. If there was not a majority group in the district (as was the case in Districts 19 and 32), the results favored the White voting age plurality.

Statewide and presidential elections since 2016 As noted above, voters in New York City favor Democratic candidates in general elections. Republican candidates for statewide and federal office have garnered more votes in very recent New York City elections, however. Table A9 in the Appendix lists the estimates for recent statewide and federal elections.[16] As indicated by Table A9, the increase in support for Republican candidates does not appear to be the consequence of increasing votes from White voters. About two-thirds of White voters in New York City have consistently supported Democratic candidates in all of the recent statewide and federal elections analyzed. In addition, over 90% -- usually well over 90% – of Black voters

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[16] As noted above, the 2024 estimates are based on a smaller set of observations than the earlier estimates. As a consequence, they must be considered more cautiously.

supported Democratic candidates in these elections. Hispanic support for Democratic candidates for state and federal office, however, appears to be declining. In 2018 and 2020 over 90% of Hispanic voters supported the Democratic candidate but in 2022 the percentage decreased to about 79%, and in 2024 slightly less than 65% of Hispanic voters cast their ballot for Kamala Harris. Nevertheless, a sizeable majority of Hispanic voters still supported the Democratic candidates in these elections. That is not true of Asian voters. The majority of Asian voters now appear to support Republican candidates in statewide and federal elections: in 2016, 2018, and 2020 around 60% of Asian voters supported for the Democratic candidate; in 2022 this percentage dropped to about 40% and the estimate for 2024 is about 34%.

Voting patterns in these recent state and federal elections makes it clear that referring to Black, Hispanic, and Asian communities as a cohesive group of minority voters is not possible. Asian voters simply do not support the same candidates as Black and Hispanic voters; this is true in general elections and it is true in Democratic primaries as well. Black and Hispanic voters, on the other hand, are always cohesive in support of the Democratic candidates in general elections, especially elections for citywide office, and are cohesive more often than not in Democratic primaries.

Voting Patterns in Democratic Primaries for New York City Offices

Minority voters – in fact, all voters – are much more likely to vote in Democratic primaries than the few Republican primaries conducted in New York City. Voting in Democratic primaries is more racially polarized than it is general elections. And minority voters are less cohesive in Democratic primaries than in general elections. However, Black and Hispanic voters still preferred the same candidates in a majority of the primary election contests analyzed.

Citywide Democratic Primaries, 2005 - 2021 Tables A10 through A14 in the Appendix list the estimates for 16 citywide Democratic primaries between 2005 and 2021. Accurate estimates for Asian voters in primaries could only be derived for the 2021 Democratic primary. The 16 Democratic primaries for which estimates are reported include: the 2005 contests for mayor and public advocate; the 2009 primaries for mayor, comptroller, and public advocate, and the 2009 Democratic runoffs for comptroller and public advocate; the 2013 primaries for mayor, comptroller, and public advocate, and the 2013 Democratic runoff for public advocate; the 2017

contests for mayor and public advocate; and the 2021 contests for mayor, comptroller, and public advocate.

Ten of the 16 contests (62.5%) were racially polarized, with White voters supporting different candidates than Black or Hispanic voters.[17] In the majority of these ten contests (six of the ten), Black and Hispanic voters supported the same candidate and Whites preferred a different candidate. Black and Hispanic voters supported the same candidate in a total of 12 of the 16 Democratic election contests (75%), including the six contests in which all voters supported the same candidate. The following briefly discusses the seven racially polarized primaries and runoffs that included minority candidates.

2005 Mayoral Democratic Primary and General Election Hispanic candidate Fernando Ferrer was the first choice of Hispanic and Black voters, with Black candidate Virginia Fields the close second choice of Black voters in the primary. A sizeable majority of White voters favored White candidate Anthony Weiner, with White candidate Gifford Miller garnering the second highest percentage of White votes. Ferrer won the Democratic primary. In the general election, Ferrer lost to Michael Bloomberg despite his very strong support from Black and Hispanic voters. Bloomberg received over 83% of the White votes in the general election.

2009 Comptroller Primary, Runoff, and General Election In the 2009 Democratic primary, Asian candidate John Liu was the first choice of Black and Hispanic voters and received the overwhelming support of Asian voters. The first choice of White voters was White candidate David Yassky. Because no candidate received at least 40% of the vote, Liu and Yassky proceeded to a runoff. Once again Liu received the support of Black, Hispanic, and Asian voters, while White voters favored Yassky. Liu won the runoff. He went on to win the general election, with overwhelming support from Black, Hispanic, and Asian voters and a majority of the White votes.

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[17] The six Democratic primaries that were not polarized, that is, in which Whites, Blacks, and Hispanics all supported the same candidates were the 2009 mayoral race, and 2009 runoff for public advocate; the 2013 mayoral race; the 2017 primaries for mayor and public advocate; and the 2021 race for public advocate.

2013 Public Advocate Primary, Runoff, and General Election The 2013 Democratic primary for public advocate featured White, Black, Hispanic, and Asian candidates. The first choice of Hispanic voters was Hispanic candidate Catherine Guerriero, the first choice of Black voters was the Black candidate Letitia James, and the first choice of White voters was White candidate Daniel Squadron. James and Squadron proceeded to a runoff. James received very strong support from Black and Hispanic voters and was able to win the runoff despite a strong majority of White voters supporting Squadron. James went on to easily win (83.6%) the 2013 general election – a contest that did not include a Republican candidate.

2021 Mayoral Democratic primary and general election The 2021 Democratic primary, the first citywide primary to use ranked choice voting, included a remarkable 13 mayoral candidates. An analysis of the first choice candidates of White, Black, Hispanic, and Asian voters indicates that Black candidate Eric Adams was the first choice of Black voters (with Black voters casting over 70% of their first choice votes for Adams), as well as Hispanic voters (although not even a third of Hispanic voters chose Adams as their first choice).[18] The first choice of Asian voters was Asian candidate Andrew Yang. The first choice of White voters was White candidate Kathryn Garcia, with approximately 40% of White voters ranking her as their first choice. It took eight rounds of counting to produce the winner, Eric Adams. Adams won the general election with approximately 98% of Black votes, over 75% of the Hispanic votes, and about 55% of the White votes cast.

2021 Comptroller Democratic primary and general election Ten candidates ran in the 2021 Democratic primary for Comptroller. There were Black, Hispanic, and Asian candidates competing in this contest. The first choice of a majority of the White voters was White candidate Brad Lander. The first choice of a near majority of Hispanic voters was Hispanic candidate Michelle Caruso-Cabrera. A plurality of Black voters supported

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[18] Only the first choice rankings of the voters are reported at the ED level.

White candidate Corey Johnson. Asian voters did not coalesce around any of the candidates. The first choice of White voters, Brad Lander, ultimately garnered over 50% of the vote in the tenth round of counting. Lander went on to easily win the general election with majority support from White, Black, and Hispanic voters.

Overall, voting was racially polarized in citywide Democratic primaries more often than not. In the citywide Democratic contests that were racially polarized, the candidate preferred by cohesive Black and Hispanic voters, but not supported by White voters, won the primary or proceeded to the runoff (and won the runoff) in five of the six (83.3%) contests. In the four primaries that Black and Hispanic voters were not cohesive, the minority group that supported the same candidate as White voters won in two instances and the candidate preferred by Black voters proceeded to a runoff in a third. In the fourth contest, the 2021 Comptroller primary, White, Black, and Hispanic voters all supported different candidates and the first choice of White voters won the primary. If Black and Hispanic voters are cohesive in citywide Democratic primaries (as they are much of the time), the candidates they support usually win, even if White voters do not support them.

Democratic primaries for Borough President in 2021 I analyzed four of the five 2021 Democratic primaries for borough president for the 2022 Redistricting Commission.[19] The results are reported in Table A15 in the Appendix. All four of these elections were racially polarized and Black and Hispanic voters were not cohesive in at least three, and possible not in any of the four contests. In the race for Bronx borough president, Black voters supported Black candidate Vanessa Gibson, Hispanic voters supported Hispanic candidate Fernando Cabrera, and the White voters were divided across Cabrera, Gibson and the possible first choice of White voters, albeit by a very small margin, Nathalia Fernandez (another Hispanic candidate). Gibson won the primary in this majority Hispanic borough with few White voters. She went on to win the general election with over 80% of the vote with strong support from White, Black, and Hispanic voters.

The Brooklyn borough president race was polarized between Black and White voters, with Hispanic and White voters supporting Hispanic candidate Antonio Reynoso and Black

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[19] I did not analyze the Democratic primary for borough president of Staten Island as this contest did not include any minority candidates.

voters supporting one of the Black candidates, Robert Cornegy. The first choice of Asian voters was White candidate Jo Anne Simon. Reynoso won the primary in this plurality White borough and won the general election (73%) with support from White, Black, and Hispanic voters.

In the race for borough president in Manhattan, the first choice of White voters was White candidate Brad Hoylman, the first choice of Black voters was White candidate Mark Levine and the first choice of Hispanic voters was either Mark Levine or Hispanic candidate Guillermo Perez. Mark Levine won the primary and received the support of all four groups in the general election which he won with over 85% of the vote.

In the Queens borough race for president, Black voters strongly favored Black candidate Donovan Richards, while White, Asian, and possibly Hispanic voters supported White candidate Elizabeth Crowley. Richards won the primary. He then won the general with 67% of the vote and strong support from Black and Hispanic voters.

Despite racially polarized voting in all four contests, candidates supported by either Black or Hispanic voters won all of the elections for borough president. Vanessa Gibson, the first choice of Black voters, won the race for Bronx borough president; Antonio Reynoso, the first choice of Hispanic voters (and White voters) won the Brooklyn primary; Donovan Richards, the first choice of Black voters, won the race for Queens borough president; and Mark Levine, the first choice of Black voters, and possibly Hispanic voters, won the Manhattan borough presidency. Even when Black and Hispanic voters were not cohesive in the Democratic primary, one or other of these two groups were successful in sending their candidate of choice for borough president to the general election. And all four of the Democratic nominees easily won the seat with support from White, Black and Hispanic voters.

City Council Elections in 2021 The demographic composition of the 2021 council districts in 2021 meant it was often not possible to derive estimates of voter support for all four groups of interest (Black, White, Hispanic, and Asian voters) in the same contest – it was only possible to produce estimates for two or three groups most of the time. The estimates derived for these contests are reports in Table A16 in the Appendix.

There were 46 *Democratic primaries* conducted across the 51 council districts in 2021. There were only 17 council primaries in which estimates for all four groups could be derived. Fourteen of these contests were racially polarized between White voters and the voters of at least one minority group. Black, Hispanic, and Asian voters did not support the same candidate in any

of these 14 contests (although they obviously supported the same candidates in the three contests that were not polarized).

It was possible to derive estimates for White voters and at least one other minority group in 37 of the 46 primary contests. In 31 of these 37 contests (83.7%) White voters and at least one minority group supported different candidates. But when considered separately, White and Asian voters were the most polarized, supporting different candidates in 18 of the 28 Democratic primary contests (64.3%) for which estimates could be derived for both groups. The majority of contests (57.7%) for which estimates for Black and White voters could be derived were racially polarized between the two groups. Hispanic and White voters supported the same candidates more often than not (54.0%) when estimates could be produced for both groups.

There were 35 city council primaries in which estimates for both Black and Hispanic voters could be derived. Blacks and Hispanic were cohesive in support of the same candidates in the majority (19 out of 35, or 54.3%) of these council primaries.

The demographic composition of city council districts is the key to winning Democratic primaries for city council seats: the candidate supported by the group that comprised a majority or a near majority of the voting age population in the district was usually successful in city council Democratic primaries (and the subsequent general election, if there was one). In the ten districts with White VAPs of 50% or more, the candidate preferred by White voters won 100% of the 2021 Democratic primaries. In the ten districts that Black VAP equaled or exceed 50%, the candidate of choice of Black voters won 70% of the primaries – in the other three contests Black voters were not cohesive and there was no distinct candidate of choice. In the nine districts in which Hispanics of voting age were in a majority, the Hispanic-preferred candidate won eight of the primaries and in the ninth Hispanic voters were not cohesive and a candidate of choice was not evident. There was one district in which Asians were a majority of the voting age population and the candidate of choice of Asian voters won. In districts in which no group comprised a majority of the population, an alliance between two groups was usually required to win the primary. The most common winning alliances usually included White voters.

Voting Patterns by Race/Hispanic Origin, Open Primaries, and Top-Two General Elections

Black, Hispanic, and Asian voters do not constitute a cohesive group of "minority voters" and therefore cannot be considered as a single group when reviewing the implications of

replacing closed primaries with an open primary and a major-party general election with a top-two general election on minority voting strength. However, because Black and Hispanic voters are usually cohesive – they always support the same candidates in general elections and they more often than not vote for the same candidate in Democratic primaries – it is reasonable to consider these two groups in combination when determining whether the proposed changes would dilute minority voting strength.

Asian voters comprise only a small proportion of the electorate and succeed in electing their candidates of choice citywide only when these candidates are also supported by other voters or when they comprise a majority of the population in a district. It is unlikely that the proposed change will have much of an impact on Asian voting strength. However, it should be noted that because Asian voters are less likely to register as Democrats, they comprise a larger number of eligible voters – and possibly actual voters – in an open primary compared to a closed Democratic primary (but not a closed Republican primary).

Composition of the electorate Despite comprising only about a third of the voting age population in New York City, White voters made up a substantial plurality or even a majority of the voters in recent citywide elections.

White voters made up on average 46.8% of the voters in recent citywide Democratic primaries and 50.8% in recent general elections. The proportion of Black and Hispanic voters combined was essentially the same in recent citywide Democratic primaries (38.1%) and general elections (38.0%). White voters constituted a majority of the voters in two of the five recent citywide Democratic primaries (40%) and three of the seven recent citywide general elections (42.9%). Black and Hispanic voters combined exceeded White voters in only of one of the 11 citywide elections examined, the 2017 Democratic primary.

Although White voters made up a substantial plurality, if not a majority, of the voters in both closed Democratic primaries and general elections, Black and Hispanic registered voters comprise a majority (55.5%) of the eligible voters in a closed Democratic primary but make up only a substantial plurality (46.3%) of eligible voters overall. Black and Hispanic registered voters simply have not turned out at rates comparable to White registered voters.

Unless the turnout rates for the age-eligible Black and Hispanic population increases substantially, White voters are likely to continue to be a substantial plurality (or majority) of the

citywide voters in nearly all elections, whether the election is a closed Democratic primary, an open primary, a major-party general election or a top-two general election.

Minority cohesion All minority voters considered together (Black, Hispanic, and Asian voters) are not a cohesive voting bloc in New York City. However, Black and Hispanic voters have always been cohesive in support of Democratic candidates in the general elections examined, were cohesive in 75% of the citywide Democratic primaries analyzed, and were cohesive more often than not in the Democratic city council primaries analyzed. However, they were not cohesive in at least three of the four 2021 borough president primaries analyzed.

Hispanic support for Democratic candidates appears to be declining in very recent state and federal elections – although a sizeable majority of Hispanic voters still supported the Democratic candidate in these (2022, 2024) elections. There is no indication yet that Hispanic support for Democrats in citywide elections will decline. If it does, this would decrease the level of Black and Hispanic cohesion if Black support for Democratic candidates continues at its current high level.

Assuming no dramatic changes in voting patterns for city office, Black and Hispanic cohesion is not likely to decrease in an open primary compared to a closed Democratic primary. (While the number of candidates running is likely to increase, there is no reason to believe the number of Democratic candidates running will increase.) Black and Hispanic cohesion is even likely to increase if the open primary includes only one Democratic candidate.

Black and Hispanic voters are likely to be less cohesive in a top-two general election, however, if it offers two Democrats rather than a single Democratic candidate competing against a Republican candidate. This is because Black and Hispanic voters overall are less cohesive in Democratic primaries, with more than a single Democratic candidate. (Black and Hispanic voters were cohesive in support of the single Democrat in all of the general elections examined and were cohesive in 75% of the citywide Democratic primaries, a little over half of the city council and quite possibly none of the borough president primaries.)

However, under the current general election system, it is possible for more than just two candidates to compete for office – an aspiring candidate can be the nominee of another recognized political party (such as the Conservative Party or Working Families Party) or secure a place on the ballot as an independent candidate. Although many citywide general elections

have included minor-party and independent candidates and these candidates have not diminished Black and Hispanic cohesion to date, it is quite possible that an independent or minor-party candidate could do so in the future. A top-two general election, by requiring all candidates to compete in an open primary and winnowing down the number of candidates to two, may actually help Black and Hispanic voters elect their candidates of choice if these voters would not be cohesive in a multicandidate general election.

Racially polarized voting Although voting in general elections for city office is usually not polarized (with the majority of White, Black, Hispanic, and Asian voters supporting the Democratic candidate over the Republican candidate), voting in Democratic primaries is often racially polarized.

- Three of the nine (33.3%) citywide general elections examined were racially polarized, with White voters supporting different candidates than Black and Hispanic voters.
- Ten of the 16 (62.5%) citywide Democratic primaries were racially polarized with White voters preferring different candidates than either Black or Hispanic voters or both Black and Hispanic voters.
- Most of the city council contests and possibly all of the borough president elections were racially polarized in the Democratic primary but not in the general election.

There is no reason to believe that voting in an open primary would be any more racially polarized than voting in closed primaries. If the open primary included only one Democrat, there is reason to believe voting would be less polarized. However, voting in a top-two general election may be more polarized than in a major-party general election if the top two candidates are Democrats (over 60% of the citywide Democratic primaries were racially polarized and an even higher percentage of the borough president and city council primaries). If the top-two contest features a Democrat and a Republican, there is not likely to be any change in the degree of racial polarization. The degree of racial polarization – particularly the amount of White crossover vote a minority-preferred candidate might receive – has important implications for the ability of minority voters to elect their candidates of choice.

Ability of minority voters to elect their candidates of choice If voting is racially polarized, the ability of minority voters to elect their candidates of choice depends on several factors: the racial composition of the area (district, borough, or citywide), the degree of minority cohesion, and the amount of White crossover voting for the minority-preferred candidates.

 City council elections The best predictor of which group will be successful in electing their candidates of choice to city council is the racial/ethnic composition of the district. In the vast majority of election contests analyzed, Black, Hispanic, and Asian voters (as well as White voters) were able to elect their preferred candidates in Democratic primaries and general elections in districts in which they constituted a majority of the population.[20]

 This is unlikely to change if an open primary system is adopted: the candidates of choice of Black voters are likely to win in majority Black districts, the candidates of choice of Hispanic voters are likely to win in majority Hispanic districts, and the candidates of choice of Asian voters will win in majority Asian districts. A top-two general election may actually help minority voters elect their candidates of choice if these voters were not cohesive in the primary which is sometimes the case when there are a large number of candidates competing in the Democratic primary. For example, in a primary in which Black voters divided their votes between two candidates and White voters supported a third candidate, the top two candidates in the general election are likely to be (unless there are very few White voters) the candidate supported by White voters and one of the candidates supported by Black voters. This would provide Black voters with an opportunity to coalesce around a single candidate.

 Borough president primaries Voting in the 2021 races for borough president was racially polarized and Black and Hispanic voters were not cohesive in at least three of the four 2021 contests analyzed. The candidate of choice of either Black or Hispanic voters was elected in all four instances. In the Bronx, the very clear first choice of Black voters won in the third round of counting. In Queens, Richards, the strong first choice of Black voters also won in the third round of counting. In both instances, Black voters provided strong, cohesive support for their preferred candidates. The race in Brooklyn required 11 rounds of counts for a winner to emerge in this 12 candidate race. The candidate supported by a small plurality of Black voters was ultimately

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[20] Although the 2017 city council elections are not discussed here, this is also true for the 2017 city council elections. I analyzed these elections for the 2022 Redistricting Commission and the results of this analysis are included in my report to the Redistricting Commission.

defeated by the candidate supported by a stronger plurality of both White and Hispanic voters. Seven candidates competed for the Manhattan borough presidency and the winner emerged in the seventh round. The winner was supported by a plurality of Black voters; Hispanic and White voters spread their votes out more across the candidates and it was possible that a plurality of Hispanic voters also supported the winner.

Overall, in these closed Democratic primaries in which Black and Hispanic voters were not cohesive, Black or Hispanic voters were still able to elect their candidates of choice. Hispanic voters in Brooklyn, however, were successful because they supported the same candidate as White voters. There is no reason to believe that the dynamics of these contests would change in an open primary; it is likely that either the Black-preferred or the Hispanic-preferred candidate would secure a sufficient number of voters (especially with ranked choice voting) to proceed to a top-two general election.

Citywide primaries In the ten Democratic primaries that were racially polarized, Black and Hispanic voters were cohesive in six of these contests. The candidate preferred by these voters, but not supported by White voters, won the primary or proceeded to the runoff (and won the runoff) in five of these six (83.3%) contests. In the four primaries in which Black and Hispanic voters were not cohesive, the minority group that supported the same candidate as White voters was successful in electing their preferred candidate in two instances, the candidate preferred by Black voters proceeded to a runoff in the third, and in the fourth contest (the 2021 primary for Comptroller), White, Black, and Hispanic voters all supported different candidates and the first choice of White voters won the primary.

Overall, if Black and Hispanic voters are cohesive in citywide Democratic primaries, the candidates they support usually win, even if White voters do not support them. There is no reason to believe this will not continue to be true in an open primary. Even if Black and Hispanic voters make up a smaller proportion of the voters than is currently the case, the candidate they support is still likely to proceed to the top-two general election. This is especially true because two candidates, rather than one, will move into the general election.

In a closed Democratic primary, if Black and Hispanic voters are not cohesive, it is possible that neither of their preferred candidates would proceed to a major-party general if White voters support a different candidate. However, in an open primary, it is likely that either

the Black-preferred or the Hispanic-preferred candidate would secure a sufficient number of voters (especially with ranked choice voting) to move forward into the top-two general election.

> ***Citywide and borough-wide general elections*** Most citywide general elections featuring a single Democratic candidate and a single Republican candidate were not polarized and none of the four the borough president general elections examined were racially polarized. The candidates preferred by all voters, including Black and Hispanic voters, were easily elected when voting was not polarized. In the few citywide generals that were polarized, White voters were successful in electing their preferred candidate in two of these contests, despite cohesive Black and Hispanic support for the Democratic candidate. This was because White voters strongly favored the Republican candidate, providing very little crossover votes for the candidate preferred by Black and Hispanic voters (mayoral races in 2005 and 2009). However, a cohesive bloc of Black and Hispanic voters was able to elect their candidate of choice when White voters supplied a sufficient number of crossover votes for the Black/Hispanic-preferred Democratic candidate to win (mayoral race in 2017). Because White voters make up a substantial or even a majority of the voters citywide, some support (albeit not majority support) from White voters is needed to elect candidates supported by Black and Hispanic voters in both a major-party and a top-two general election. (However, because White voters do not comprise even a plurality of the voters in the Bronx, it has been easier to elect candidates preferred by Black or Hispanic voters in this borough. This would be true in top-two general election as well.)

> *In a top-two general election that features a Democrat and a Republican, there is no reason to believe the dynamics would differ from a major-party general election. Voting is unlikely to be polarized and, if it is, some White crossover votes will be necessary to elect the candidates preferred by a cohesive bloc of Black and Hispanic voters. It is reasonable to assume Black and Hispanic voters will be cohesive in this scenario as they were cohesive in support of the Democratic candidate in every general elections examined.*

> *If the top-two general election includes two Democrats, a Democrat would win regardless of the voting patterns of Black, Hispanic, and White voters. In major-party generals, Black and Hispanic voters strongly favor Democratic candidates. Even if Black and Hispanic voters supported a different Democratic candidate, or supported two different Democrats, than White voters in the primary, they have united in support of the Democrat running in the general.*

A top-two general election with only Democratic candidates would guarantee that a Democrat would win the office.

If voting is not polarized, the candidate supported by Black, Hispanic, and White voters will easily win in a top-two election. If Black and Hispanic voters supported a different candidate or different candidates than White voters and both candidates moved forward to the top-two general, the top-two election would bear more resemblance to the Democratic primaries analyzed, although there will be more voters and fewer candidates as most of the primaries analyzed included more than two candidates. Voting in Democratic primaries was more racially polarized (62.5% of citywide Democratic primaries and most of the city council contests were polarized compared to 33.3% of major-party citywide general elections and only a couple of city council contests) and Black and Hispanic voters were less cohesive (Black and Hispanic voters were cohesive in 100% of general elections, 75% of citywide Democratic primaries, and a little over 50% of city council contests) than they were in major-party general elections. On the other hand, there are typically more than two candidates running in Democratic primaries and more candidates often means less cohesive support.

If Black and Hispanic voters are cohesive, they are likely to be successful in electing their candidates of choice to citywide office when White voters supply a sufficient number of crossover votes. The amount of White crossover voting required to elect the candidate preferred by Black and Hispanic voters will vary depending on how cohesively Black and Hispanic voters support their preferred candidate. The amount of White support needed will be higher if Black and Hispanic support for their preferred candidate is somewhat less cohesive than is the case with a single Democrat (running in a major-party general). However, just as in a major-party general election, some amount of crossover voting is required even if Black and Hispanic voters are quite cohesive.

Overall, the following can be said about a top-two general election with two Democrats, as compared to a major-party general election. First, a Democrat is assured of winning the election and Black and Hispanic voters overwhelmingly prefer Democrats. Second, if voting is not polarized, the candidate supported by all groups will easily be elected, as in a major-party general election. Third, if voting is racially polarized – and the possibility may be greater in a top-two race with two Democrats than a major-party general election – Black and Hispanic cohesion and some White crossover would be required for the candidate preferred by Black and

Hispanic voters to succeed. The need for White crossover votes to elect Black and Hispanic-preferred candidates holds true in both major-party and top-two general elections – the difference is that the amount of White crossover voting and minority cohesion might be lower in a race with two Democrats compared to one with a Democrat and a Republican. Fourth, if Black and Hispanic voters are not cohesive at all – and support different candidates – then the candidate supported by one of these groups, and the White voters, would win the seat.

Finally, under the current general election system, it is possible for more than just two candidates to compete for office – an aspiring candidate can be the nominee of another recognized political party (such as the Conservative Party or Working Families Party) or secure a place on the ballot as an independent candidate. A third-party or independent candidate that garners support from some Black or Hispanic voters would decrease minority cohesion and make it more difficult for a Black or Hispanic-preferred candidate to win. A top-two general election, by requiring all candidates to compete in an open primary and winnowing down the number of candidates to two, may actually help Black and Hispanic voters elect their candidates of choice if these voters would not be cohesive in a multicandidate general election. A top-two general election, moreover, would ensure that the two candidates in the general election were selected through ranked choice voting.