

EMPOWERMENT OF AMERICAN INDIANS AND
THE EFFECT ON POLITICAL PARTICIPATION

by

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ABSTRACT

Previous studies of minority political behavior have demonstrated that empowerment, as measured by the election of a minority person to public office, has positive effects on participation among the members of the minority community. Although the empowerment theory has yet to be applied to American Indians, it shows much promise in explaining participation rates among this minority group because of the theory's emphasis on political context and attitudinal factors. This dissertation explored the role of empowerment on American Indian participation, first by comparing turnout prior to empowerment to turnout post empowerment in three counties in the West: San Juan County, Utah; Big Horn County, Montana; and Roosevelt County, Montana.

The findings indicate that turnout among Indians after empowerment, as defined by an Indian holding elected office, was higher than turnout prior to empowerment because of the positive effect of empowerment on perceptions and attitudes among American Indians. The election of an Indian to county office was a major contextual change in each of the three counties, and the change had a positive impact on voter participation among Indians by influencing perceptions of government and attitudes of American Indians. Furthermore, the positive effect of empowerment on American Indian voters is both immediate and long-lasting. The positive effect on American Indian political behavior is evident immediately after empowerment, that is, Indians vote at higher rates in the first election following empowerment than prior to empowerment.

Turnout continues to increase over time for American Indians, in contrast to non-Indian populations, indicating the long-lasting, positive effects of empowerment on Indian political behavior.

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CHAPTER 1

INTRODUCTION

Facilitated by the creation of majority-minority voting districts under the 1965 Voting Rights Act (hereafter referred to as Act or Voting Rights Act), American Indians (hereafter referred to as Indians or American Indians) have made significant inroads to public office in recent years. Previous research on Indian voting rights found that they now hold public office in more than a dozen jurisdictions that switched from at-large to single-member districts as a result of voting rights litigation (McCool, Olson, and Robinson 2007). While this may seem to be a small number, the gains are substantial. In fifteen jurisdictions examined in previous research, only one American Indian had ever been elected under an at-large voting system. When those fifteen jurisdictions switched from at-large electoral systems to single-member systems, Indians were elected in thirteen of the fifteen jurisdictions. The actual number of elected Indian officials in these jurisdictions shows the impressive nature of voting rights litigation and single-member district systems. In the fifteen jurisdictions, seventy-five positions are now elected through single-member districts; American Indians hold twenty-one of these seventy-five positions.

Voting rights advocates and political scientists have long expected minority office holding to “usher a small-scale revolution in electoral politics” (Gay 2001, 589). Studies have also indicated such a revolution has occurred for African Americans and Latinos

(see Bobo and Gilliam 1990; Gay 2001; Gilliam and Kaufmann 1998). To elaborate, as minorities make gains in public office, a positive effect is seen on participation for the minority group. This effect occurs indirectly by increasing political trust, efficacy, and knowledge among the minority group (Kaufmann 2003).¹ The research in this area has developed into what is termed *empowerment theory*. Empowerment theory is a social-psychological theory of group behavior, it requires group cohesiveness, and it argues that group members are likely to experience a psychological response to their in-group empowerment (Kaufmann 2003). In general, empowerment theory argues that as a group achieves significant representation and influence in political decision making, group members will experience increased levels of political trust, efficacy, and knowledge that in turn positively affect participation rates.

Empowerment theory has yet to be applied to American Indians, but it holds much promise in explaining participation rates among this minority group because of the theory's emphasis on contextual and individual level factors. The combination of these factors is a needed theoretical development in explaining the complexity of political behavior as earlier studies have failed to account for the low rates of participation among Indians. Previous studies of American Indian political participation have found that participation rates among this group are lower than for all other racial groups, even when

¹*Political empowerment*, also referred to as *political incorporation* by Browning, Marshall, and Tabb (1984), is defined in this study as the "extent to which a group has achieved significant representation and influence in political decision making" (Bobo and Gilliam 1990, 378). In the case of American Indians, so few American Indians have been elected to public office that the election of a single Indian in a community may meet the standard of "significant." *Efficacy* is defined by Campbell, Gurin, and Miller (1954) as "the feeling that individual political action does have, or can have, an impact on the political process, i.e., that it is worthwhile to perform one's civic duties" (187). Political trust is an evaluative or an affective judgment of government; a lack of trust is political cynicism (Miller 1974).

controlling for socioeconomic status (Peterson 1997). The finding is significant, as socioeconomic status is the best predictor of participation rates in general, and yet, socioeconomic status fails to account for the low rates of participation among American Indians (Peterson 1997; Rosenstone and Hansen 2002; Verba and Nie 1972; Wolfinger and Rosenstone 1980).

The findings of this study indicate the significant and positive role of empowerment on American Indian participation in elections both immediately after empowerment as well as over time. Findings indicate that the positive effect of empowerment on political behavior is both immediate and long lasting. All three counties in this study underwent significant changes in their electoral structure following voting rights litigation; the litigation resulted in a change from at-large elections to single-member elections for county commission seats. Indian candidates were successfully elected from the majority Indian districts in each of the three counties once the single-member electoral system was instituted. These electoral victories are significant events for both American Indians and Whites living in these communities in large part because no Indian had ever held any county elected office prior to these structural changes.

As predicted by the empowerment theory, American Indian participation in elections increased significantly after the election of an Indian (i.e., after empowerment). The comparison of turnout prior to empowerment with turnout after empowerment shows the large increase in voter turnout among American Indians in these three counties. During the same period, turnout among Whites remains steady or declines immediately after empowerment. The data also show the long-lasting effect of empowerment on American Indian turnout. For example, in San Juan County, located in the southeastern

corner of Utah, turnout on the reservation over the thirty-year period from 1978 to 2008 increased 301%. Similar positive results occurred in Big Horn County, Montana, and to a lesser extent in Roosevelt County, Montana. The positive effect of empowerment on attitudes among American Indians is credited with this marked increase in turnout. American Indians living in the three counties began to feel that their vote mattered and that they could have an impact on the results of the election. It is also indicated that American Indian voters were able to identify with the American Indian commissioner in their community. Further, Indians living in these counties began to perceive county government differently.

The full impact of the Voting Rights Act is becoming increasingly apparent. Earlier works indicate the positive results reached through litigation to ensure the rights of American Indians to vote and to have a fair opportunity to elect candidates of their choice. The successful election of Indian candidates has also brought about positive shifts to laws, policies, and services provided by counties to their Indian residents. The reach of the Act goes even further. The changes that have been implemented through the Voting Rights Act, especially adjustments to electoral structures, have resulted in the successful election of Indian candidates. Adjustments to electoral structures have also had a fundamental impact on the perceptions and the willingness of Indians to participate in the democratic process.

CHAPTER 2

THE RIGHT TO VOTE FOR AMERICAN INDIANS

The history of voting rights for American Indians is complex, primarily due to the unique legal status of this minority group that dates back to the founding of the nation.¹ The U.S. Constitution references American Indians in two articles, but these sections provide little clarification as to their relationship with the new U.S. government. In Article 1, Section 2, “Indians not taxed” are excluded for purposes of apportionment for congressional districts.² Article 1, Section 8, assigns Congress the power “to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.”³ Framers of the new U.S. government struggled with the exact legal status of American Indians, a struggle that continues well into the twenty-first century.⁴

¹Lawrence Baca (2010), an expert on Indian law and policy recently wrote: “Modern Indian policy is captive to its history. Its present cannot escape its past. The underpinnings of the contemporary dynamic between the States, the Tribes and the Federal Government are rooted in the founding of a national government.”

²U.S. Constitution, art. 1, sec. 2, Paragraph 3.

³U.S. Constitution, art. 1, sec. 8, clause 3. The Commerce Clause delineates three sovereigns, states, foreign nations, and Indian Tribes. The Supreme Court’s interpretation of the Commerce Clause framed the modern Tribal-State-Federal sovereignty dynamic according to Lawrence Baca (forthcoming).

⁴For example, Lawrence Baca (2010) wrote the following: “From negotiation by the sword and cannon to treaties of peace and land session in the earliest days, through isolation on reservations in the 1800s, followed by the assimilationist and termination policies of the 1950s, there has been inconsistency in federal Indian policy. . . . The beginning of modern Indian policy is tied to the repudiation of the termination period and the development of the

History of Voting Rights for American Indians

The earliest period of U.S. history in relation to American Indian tribes was well described by Canby (2009) as consolidation by the federal government of control over Indian affairs. Congress established the foundation for consolidated control over Indian affairs through a series of acts, known as Trade and Intercourse Acts, passed between 1790 and 1834. “The central policy embodied in the Acts was one of separating Indian and non-Indians and subjecting nearly all interaction between the two groups to federal control” rather than to state control (Canby 2009, 14). Congressional action was only one factor in establishing federal control over Indian affairs, as the Supreme Court (hereafter referred to as Supreme Court or Court) soon weighed in on the topic, solidifying federal power over Indian affairs.

The Marshall Trilogy

The Supreme Court first engaged in defining the relationship between American Indians and the United States during the 1800s. A set of three cases, known as the “Marshall Trilogy,” illustrates the difficulty in establishing the legal status of American Indians.⁵ The first of the Marshall cases was *Johnson v. M’Intosh* (1823).⁶ The central issue in *M’Intosh* is the Doctrine of Discovery, the agreement among European nations

concept of tribal self determination. Every administration since 1960 has supported the concept of a government-to-government relationship between the Tribes and the Federal Government and the principle of self-governance for Tribes and the modern statutes reflect this shift.”

⁵The Marshall Trilogy is a set of three cases that defined tribal sovereignty. These cases are *Johnson v. M’Intosh* (1823), *Cherokee Nation v. Georgia* (1831), and *Worcester v. Georgia* (1832).

⁶21 U.S. 543.

that once a European power claimed “discovery” of a particular tract of land, the rights of the Indians to transfer their land were limited to a transfer to the “discovering Nation.”⁷

On the discovery of this immense continent, the great nations of Europe were eager to appropriate to themselves so much of it as they could respectively acquire. Its vast extent offered an ample field to the ambition and enterprise of all; and the character and religion of its inhabitants afforded an apology for considering them as a people over whom the superior genius of Europe might claim an ascendancy. The potentates of the old world found no difficulty in convincing themselves that they made ample compensation to the inhabitants of the new, by bestowing on them civilization and Christianity, in exchange for unlimited independence. But, as they were all in pursuit of nearly the same object, it was necessary, in order to avoid conflicting settlements, and consequent war with each other, to establish a principle, which all should acknowledge as the law by which the right of acquisition, which they all asserted, should be regulated as between themselves. This principle was, that discovery gave title to the government by whose subjects, or by whose authority, it was made, against all other European governments, which title might be consummated by possession. (*Johnson v. M’Intosh* 1823, 572-73)

The United States, then, have unequivocally acceded to that great and broad rule by which its civilized inhabitants now hold this country. They hold, and assert in themselves, the title by which it was acquired. They maintain, as all others have maintained, that discovery gave an exclusive right to extinguish the Indian title of occupancy, either by purchase or by conquest; and gave also a right to such a degree of sovereignty, as the circumstances of the people would allow them to exercise. (*Johnson v. M’Intosh* 1823, 587)

The agreement served a dual purpose. It prevented the potentates of Europe from warring with each other over the right to possess the lands of the various Indian tribes. The agreement also functioned as a restriction on the rights of the Indians themselves to sell to the individual of their choosing. The issue before the Court then was whether land transfers from a tribe to a non-Indian were superior to land transfers made by a foreign

⁷Vine Deloria, Jr. (1984) wrote the following: “Every legal doctrine that today separates and distinguishes American Indians from other Americans traces its conceptual roots back to the Doctrine of Discovery and the subsequent moral and legal rights and responsibilities of the United States with respect to Indians” (2).

power laying claim to the same property under the Doctrine of Discovery. The Supreme Court determined that Indians retain the right of occupancy that was extinguishable only by discovering European sovereigns.

When the conquest is complete, and the conquered inhabitants can be blended with the conquerors, or safely governed as a distinct people, public opinion, which not even the conqueror can disregard, imposes these restraints upon him; and he cannot neglect them without injury to his fame, and hazard to his power.

But the tribes of Indians inhabiting this country were fierce savages, whose occupation was war, and whose subsistence was drawn chiefly from the forest. To leave them in possession of their country, was to leave the country a wilderness; to govern them as a distinct people, was impossible, because they were as brave and as high spirited as they were fierce, and were ready to repel by arms every attempt on their independence.

What was the inevitable consequence of this state of things? The Europeans were under the necessity either of abandoning the country, and relinquishing their pompous claims to it, or of enforcing those claims by the sword, and by the adoption of principles adapted to the condition of a people with whom it was impossible to mix, and who could not be governed as a distinct society, or of remaining in their neighbourhood, and exposing themselves and their families to the perpetual hazard of being massacred.

Frequent and bloody wars, in which the Whites were not always the aggressors, unavoidably ensued. European policy, numbers, and skill, prevailed. As the White population advanced, that of the Indians necessarily receded. The country in the immediate neighbourhood of agriculturists became unfit for them. The game fled into thicker and more unbroken forests, and the Indians followed. The soil, to which the crown originally claimed title, being no longer occupied by its ancient inhabitants, was parcelled out according to the will of the sovereign power, and taken possession of by persons who claimed immediately from the crown, or mediately, through its grantees or deputies.

That law which regulates, and ought to regulate in general, the relations between the conqueror and conquered, was incapable of application to a people under such circumstances. The resort to some new and different rule, better adapted to the actual state of things, was unavoidable. Every rule which can be suggested will be found to be attended with great difficulty.

However extravagant the pretension of converting the discovery of an inhabited country into conquest may appear; if the principle has been asserted in the first instance, and afterwards sustained; if a country has been acquired and held under it; if the property of the great mass of the

community originates in it, it becomes the law of the land, and cannot be questioned. So, too, with respect to the concomitant principle, that the Indian inhabitants are to be considered merely as occupants, to be protected, indeed, while in peace, in the possession of their lands, but to be deemed incapable of transferring the absolute title to others. However this restriction may be opposed to natural right, and to the usages of civilized nations, yet, if it be indispensable to that system under which the country has been settled, and be adapted to the actual condition of the two people, it may, perhaps, be supported by reason, and certainly cannot be rejected by Courts of justice. (*Johnson v. M'Intosh* 1823, 589-92)

The second of the cases, *Cherokee Nation v. Georgia* (1831), involved two important components. The primary question before the Court was whether the Cherokee Nation was, constitutionally speaking, a foreign nation that could file suit under the Supreme Court's original jurisdiction. The second issue of the case revolves around the sovereignty of Indian nations and the role of state governments in relation to tribes.

Georgia had divided up the Cherokee territory, invalidated all Cherokee laws, and made criminal any attempts of the Cherokee to act as a government (Canby 2009). The Cherokee nation sought an injunction to prevent Georgia from enforcing state laws on the Cherokee tribal territory.

At the time of the case, the Supreme Court had original jurisdiction over cases filed against the State of the Union by a foreign nation (Article III, Section 2);⁸ thus, in *Cherokee Nation v. Georgia*, the Court initially had to determine whether the Cherokee nation was a foreign state in the sense of the U.S. Constitution.

⁸U.S. Constitution, art. 3, sec. 2: "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction,—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under the Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects."

Before we can look into the merits of the case, a preliminary inquiry presents itself. Has this court jurisdiction of the cause?

The third article of the constitution describes the extent of the judicial power. The second section closes an enumeration of the cases to which it is extended, with “controversies between a state or the citizens thereof, and foreign states, citizens, or subjects.” A subsequent clause of the same section gives the supreme court original jurisdiction in all cases in which a state shall be a party. The party defendant may then unquestionably be sued in this Court. May the plaintiff sue in it? Is the Cherokee nation a foreign state in the sense in which that term is used in the constitution?

The counsel have shown conclusively that they are not a state of the union, and have insisted that, individually, they are aliens, not owing allegiance to the United States. An aggregate of aliens composing a state must, they say, be a foreign state. Each individual being foreign, the whole must be foreign. (*Cherokee Nation v. Georgia* 1831, 15-16)

In finding that Indian tribes are not foreign nations, the Court describes them as domestic dependent nations and wards of the government:

Though the Indians are acknowledged to have an unquestionable, and, heretofore unquestioned right to the lands they occupy, until that right shall be extinguished by a voluntary cession to our government, yet it may well be doubted whether those tribes which reside within the acknowledged boundaries of the United States can, with strict accuracy, be denominated foreign nations. They may, more correctly, perhaps, be denominated domestic dependent nations. They occupy a territory to which we assert a title independent of their will, which must take effect in point of possession when their right of possession ceases. Meanwhile they are in a state of pupilage. Their relation to the United States resembles that of a ward to his guardian. (*Cherokee Nation v. Georgia* 1831, 17)

In ruling that it lacks jurisdiction, the Court never reaches the question of its own power over the state of Georgia:

The court has bestowed its best attention on this question, and, after mature deliberation, the majority is of opinion that an Indian tribe or nation within the United States is not a foreign state in the sense of the constitution, and cannot maintain an action in the courts of the United States.

A serious additional objection exists to the jurisdiction of the court. Is the matter of the bill the proper subject for judicial inquiry and decision? It seeks to restrain a state from the forcible exercise of legislative power over a neighbouring people, asserting their independence; their right to which the state denies. On several of the

matters alleged in the bill, for example on the laws making it criminal to exercise the usual powers of self government in their own country by the Cherokee nation, this court cannot interpose; at least in the form in which those matters are presented.

That part of the bill which respects the land occupied by the Indians, and prays the aid of the court to protect their possession, may be more doubtful. The mere question of right might perhaps be decided by this court in a proper case with proper parties. But the court is asked to do more than decide on the title. The bill requires us to control the legislature of Georgia, and to restrain the exertion of its physical force. The propriety of such an interposition by the court may be well questioned. It savours too much of the exercise of political power to be within the proper province of the judicial department. But the opinion on the point respecting parties makes it unnecessary to decide this question.

If it be true that the Cherokee nation have rights, this is not the tribunal in which those rights are to be asserted. If it be true that wrongs have been inflicted, and that still greater are to be apprehended, this is not the tribunal which can redress the past or prevent the future. (*Cherokee Nation v. Georgia* 1831, 20)

The following term, the Court again addressed the issue of state jurisdiction over a tribe in *Worcester v. Georgia* (1832). Samuel Worcester, along with others, all of whom were residents of the state of Vermont, had been arrested for preaching among the Cherokee without a state license and in violation of Georgia state law. Georgia law required non-Indians residing on Indian territory to obtain a license from the state government.

The Court ruled that it did have jurisdiction in the case. Further, the Marshall Court established the limitation of the power of states to interfere with the activities of a tribe within the tribes' own lands.

The Cherokee nation, then, is a distinct community occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force, and which the citizens of Georgia have no right to enter, but with the assent of the Cherokees themselves, or in conformity with treaties, and with the acts of congress. The whole intercourse between the United States and this nation is, by our constitution and laws, vested in the government of the United States.

The act of the state of Georgia, under which the plaintiff in error was prosecuted, is consequently void, and the judgment a nullity. Can this court revise, and reverse it?

If the objection to the system of legislation, lately adopted by the legislature of Georgia, in relation to the Cherokee nation, was confined to its extra-territorial operation, the objection, though complete, so far as respected mere right, would give this court no power over the subject. But it goes much further. If the review which has been taken be correct, and we think it is, the acts of Georgia are repugnant to the constitution, laws, and treaties of the United States.

They interfere forcibly with the relations established between the United States and the Cherokee nation, the regulation of which, according to the settled principles of our constitution, are committed exclusively to the government of the union.

They are in direct hostility with treaties, repeated in a succession of years, which mark out the boundary that separates the Cherokee country from Georgia; guaranty to them all the land within their boundary; solemnly pledge the faith of the United States to restrain their citizens from trespassing on it; and recognize the pre-existing power of the nation to govern itself.

They are in equal hostility with the acts of congress for regulating this intercourse, and giving effect to the treaties. (*Worcester v. Georgia* 1832, 561-62)

The Marshall Trilogy established tribes as distinct, independent communities and is “the foundation of jurisdictional law excluding the states from power over Indian affairs” (Canby 2009, 18). The trilogy also solidified congressional power over Indian tribes exclusive of the States.

Citizenship for American Indians

In 1866, Congress was intent on establishing civil rights for freed slaves but, at the same time, was struggling with how to define the status of American Indians. The following two pieces of legislation are important to note: the Civil Rights Act of 1866 and the Fourteenth Amendment. In April 1866, Congress passed the Civil Rights Act.⁹

⁹The Civil Rights Act was passed by Congress in March 1866; however, it was vetoed by President Johnson. Congress passed the Civil Rights Act over his veto in April 1866.

The Civil Rights Act states the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

While the Civil Rights Act of 1866 provided citizenship to all persons born in the United States and afforded them all the benefits and rights of citizenship, it excluded American Indians “not taxed” from these benefits. “In large part the Amendment was designed to ensure the constitutionality of the [Civil Rights] Act” (Cohen and Varat 1997, 22). The Fourteenth Amendment used similar language to further guarantee and protect the rights of freed slaves as citizens of the United States.¹⁰ It reads as follows:

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

¹⁰The Fourteenth Amendment passed on June 13, 1866. By March 1877, it was ratified by twenty states, rejected by eleven. “Also in March Congress passed over the President’s veto a bill setting the conditions under which the Rebel States would be entitled to representation in Congress. One of those conditions for readmission was that the state should have ratified the Fourteenth Amendment and that the Amendment should have become part of the Constitution. By July 1868, nine more states had ratified, including seven of the southern states seeking readmission pursuant to the 1867 statute, and the Amendment was declared adopted on July 28” (Cohen and Varat 1997, 24).

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

The debate within Congress with regard to whether to include “Indians not taxed” was part of a larger argument over the nation’s Indian policy. Senator Doolittle argued for the inclusion of the phrase “Indians not taxed” in the Fourteenth Amendment on two grounds. First, Indians were an inferior race; and second, if Indians gained the right to vote, they would be the political majority in many areas of the country (see McCool, Olson, and Robinson 2007). The Doolittle argument persevered, and the phrase “Indians not taxed” was included in the Fourteenth Amendment, deliberately denying citizenship and the rights and privileges it affords to American Indians.

In the late nineteenth century, a voting rights case came before the Supreme Court, which addressed the citizenship issue for Indians. *Elk v. Wilkins* (1894) was not only a test of citizenship but it was also a test of the application of the Fourteenth Amendment to American Indians. John Elk, an Indian, was living in Omaha, Nebraska, and was subject to state and federal taxation. He attempted to vote in Nebraska but was denied the right. The Supreme Court found that he did not have the right to vote because he was not a citizen. The Court disregarded the fact that he had severed tribal ties, focusing on the two means towards citizenship: (a) birth and (b) naturalization. In its decision, the Court found that simply being born within the boundaries of the United States did not automatically grant citizenship to Indians:

Indians born within the territorial limits of the United States, members of, and owing immediate allegiance to, one of the Indian tribes

(an alien, though dependent, power), although in a geographical sense born in the United States, are no more “born in the United States and subject to the jurisdiction thereof,” within the meaning of the first section of the Fourteenth Amendment, than the children of subjects of any foreign government born within the domain of that government, or the children born within the United States, of ambassadors or other public ministers of foreign nations.

This view is confirmed by the second section of the Fourteenth Amendment, which provides that “representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.” Slavery having been abolished, and the persons formerly held as slaves made citizens, this clause fixing the apportionment of representatives has abrogated so much of the corresponding clause of the original Constitution as counted only three-fifths of such persons. But Indians not taxed are still excluded from the count, for the reason that they are not citizens. Their absolute exclusion from the basis of representation, in which all other persons are now included, is wholly inconsistent with their being considered citizens.

So the further provision of the second section for a proportionate reduction of the basis of the representation of any State in which the right to vote for presidential electors, representatives in Congress, or executive or judicial officers or members of the legislature of a State, is denied, except for participation in rebellion or other crime, to “any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States,” cannot apply to a denial of the elective franchise to Indians not taxed, who form no part of the people entitled to representation.

It is also worthy of remark, that the language used, about the same time, by the very Congress which framed the Fourteenth Amendment, in the first section of the Civil Rights Act of April 9, 1866, declaring who shall be citizens of the United States, is “all persons born in the United States, and not subject to any foreign power, excluding Indians not taxed.” 14 Stat. 27; Rev. Stat. § 1992.

Such Indians, then, not being citizens by birth, can only become citizens in the second way mentioned in the Fourteenth Amendment, by being “naturalized in the United States,” by or under some treaty or statute. (*Elk v. Wilkins* 1894, 102-03)

The Court also ruled that abandoning one’s tribal ties does not automatically confer citizenship to Indians. Rather, citizenship, if not granted by birth, must be granted by the nation through a naturalization process:

The national legislation has tended more and more towards the education and civilization of the Indians, and fitting them to be citizens.

But the question whether any Indian tribes, or any members thereof, have become so far advanced in civilization, that they should be let out of the state of pupilage, and admitted to the privileges and responsibilities of citizenship, is a question to be decided by the nation whose wards they are and whose citizens they seek to become, and not by each Indian for himself. (*Elk v. Wilkins* 1894, 106-07)

The Court's determination that Elk was not a citizen of the United States under the Fourteenth Amendment led to the conclusion that the Fifteenth Amendment did not apply to Elk: "The plaintiff, not being a citizen of the United States under the Fourteenth Amendment of the U.S. Constitution, has been deprived of no right secured by the Fifteenth Amendment, and cannot maintain this action" (*Elk v. Wilkins* 1894, 109). The reasoning behind the Court's decision was used far into the next century as a means to prevent other Indians from voting.

Beginning in the mid-1800s, the federal government began using naturalization and citizenship as mechanisms to assimilate Indians into White culture, gain Indian lands, and terminate tribal governments. This was one approach to Indian policy; the other approach "was basically genocide, replete with statements that all Indians should be exterminated forthwith" (McCool, Olson, and Robinson 2007, 5).

As part of the process to assimilate Indians, the U.S. government began granting citizenship through a variety of means, including through treaties, allotments, military service, and special acts of Congress. For example, the Oklahoma Enabling Act, creating the state of Oklahoma, granted citizenship to Indians living in the territory; in 1919, following World War I, Indians who had served in the military and who were honorably discharged could become citizens (McCool, Olson, and Robinson 2007). Between 1854 and 1924, Indians were naturalized under treaties, statutes, and the allotment system of the General Allotment Act of 1887 (Dawes Act) whereby Indians would leave the reservation and sever tribal ties.¹¹ By 1924, prior to passage of the Indian Citizenship

¹¹The General Allotment Act, also known as the Dawes Act, divided reservation lands into individual land holdings for tribal members. The plots were held in trust by the government for twenty-five years. The federal government sold off the remaining lands to the public.

Act, nearly two thirds of all Indians were citizens (Wolfley 1991, 175-76). The issue of citizenship for American Indians was resolved, in a legal sense, in 1924, with passage of the Indian Citizenship Act.¹² By the act of June 2, 1924, Congress conferred citizenship upon all noncitizen Indians born within the territorial limits of the United States:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all noncitizen Indians born within the territorial limits of the United States be, and they are hereby, declared to be citizens of the United States: Provided, That the granting of such citizenship shall not in any manner impair or otherwise affect the right of any Indian to tribal or other property.

Although the Indian Citizenship Act resolved the issues of citizenship, various interpretations were made of the Indian Citizenship Act's effect on suffrage. During congressional debate, this issue was directly addressed. Congressman Garret of Tennessee asked of his colleague, Congressman Snyder, whether the Indian Citizenship Act would affect state suffrage laws, to which he was reassured that the Indian Citizenship Act was not intended to "have any effect upon the suffrage qualifications in any state." In 1928, the Department of Interior issued the following contrary opinion on voting:

Two thirds of the Indians of the United States had acquired citizenship in one way or another prior to 1924. That year Congress passed a law which gave citizenship to all native-born Indians. The franchise was so newly granted that no great use was made of it in the election of 1924. The election of this year is the first general election at which American Indians will have a fair chance to exercise that franchise.

However, one of the most basic rights of any citizen, the right to vote, eluded American Indians well after passage of the Indian Citizenship Act, even though it was

¹²43 Stat. 253, ante, 420; passed June 2, 1924.

guaranteed by the Fifteenth Amendment.¹³ The Fifteenth Amendment reads as follows: “The right of citizens of the United States to vote shall not be denied or abridged by the United States by any State on account of race, color, or previous condition of servitude.”

As late as 1940, nine states (i.e., Arizona, Colorado, Idaho, Maine, Mississippi, New Mexico, North Carolina, Utah, and Washington) refused to allow Indians the right to vote (Peterson 1957, 12; Council of State Governments 1940, 3).¹⁴ States and local governments relied on the following five methods to prevent Indians from going to the polls: (a) residency, (b) self-termination, (c) guardianship, (d) taxation, and (e) literacy.¹⁵ Despite passage of the Indian Citizenship Act (1924) and the guarantee of state citizenship through the Fourteenth Amendment for all citizens of the United States, some states relied on the argument that Indians, living on reservations, were not residents of their states in order to prohibit voting by Indians.¹⁶ The Utah code stated that:

any person living upon any Indian or military reservation shall not be a resident of Utah, within the meaning of this chapter, unless such person had acquired a residence in some county prior to taking up his residence

¹³The Fifteenth Amendment was passed by Congress on February 26, 1869; it was ratified on February 2, 1870.

¹⁴In addition, there has been resistance to Indians holding elected office in the states and local jurisdictions. Much of the resistance revolves around the issue of Indians living on reservations not paying taxes or subject to laws of the community. In 1973, the Supreme Court of Arizona rejected arguments that an Indian officeholder should be disqualified because he or she was not subject to state taxes (*Shirley v. Superior Court*, 1973, 109 Ariz. 510).

¹⁵The following categories explain laws in only the seven states that were identified as having laws that prohibit Indians from voting in 1938. There are many examples of states that prohibited Indians from voting during earlier time periods, but they revised their laws prior to 1938.

¹⁶See, for example, *Trujillo v. Garley* (1948), *Allen v. Merrell* (1956), *Montoya v. Bolack* (1962), and *Shirley v. Superior Court* (1973).

upon such Indian or military reservation. (An Act Providing for Elections 1897, 172; Revised Statutes of Utah 1898, 1907, 1917, 1933)

This exact language remained until the Utah Legislature amended the code in 1957, effectively excluding American Indians from the political process until that year. Utah has the unique distinction of being the last state to remove the ban.¹⁷

Self-termination, abandoning tribal ties, was another requirement used by some states to allow Indians to vote. This argument is closely linked to the residency requirement discussed above. Some states placed the requirement in their constitutions and state laws. For example, North Dakota's state constitution restricted voting to "civilized persons of Indian descent who shall have severed their tribal relations two years next preceding such election" (Article V, Section 121). The provision was not changed until 1958 when voters in the state removed the provision by a vote of 99,749 to 25,269.¹⁸ In Utah, the State Supreme Court relied upon the argument of both residency

¹⁷Other states used this justification, including New Mexico.

¹⁸Article V, Section 121 contained the following provision: "Every male person of the age of twenty-one years and upwards belonging to either of the following classes, who shall have resided in the state one year, in the county six months and in the precinct ninety days next preceding any election, shall be deemed a qualified elector at such election: First. Citizens of the United States. Second. Persons of foreign birth who shall have declared their intention to become citizens, one year and not more than six years prior to such election, conformably to the naturalization laws of the United States. Third. Civilized persons of Indian descent who shall have severed their tribal relations two years next preceding such election." In 1898, the North Dakota Constitution was renumbered, and Sections 121 to 129 of Article 5 of the original constitution became Article 2 in the revised constitution; however, the section on Indian voting rights was not changed at that time. This provision was not changed until the Primary Election held June 24, 1958, with a vote of 99,749 yes and 25,269 against. Legislation enacted in Session Laws of 1955, Chapter 402 allowed for this election. The law currently states: "Every person of the age of twenty-one or upwards who is a citizen of the United States and who shall have resided in the state one year and in the county ninety days and in the precinct thirty days next preceding an election shall be a qualified elector at such an election. Provided that where a qualified elector moves from one precinct to another within the state he shall be entitled to vote in the precinct from which he moved until he establishes residence in the precinct to which he moves."

and self-termination to uphold the prohibition on Indian voting (*Allen v. Merrell* 1956).¹⁹ Since statehood, Utah had prohibited Indians who resided on a reservation from voting (An Act Providing for Elections 1897, 172; Revised Statutes of Utah 1898, 1907, 1917, 1933).

In 1940, Joseph Chez, the attorney general for Utah, issued an opinion, indicating that “the statute was no longer applicable because of the changed attitudes toward occupants of Indian lands and that therefore the voting franchise should be granted to citizens residing thereon” (Opinion of the Attorney General of Utah, October 25, 1940). Indians residing on the Uintah and Ouray Reservations in Duchesne County voted from that time until 1956 when a second, and contradictory, opinion was issued by a new attorney general, E. R. Callister. The second opinion upheld the statute prohibiting Indians living on reservations from voting: “Indians who live on the reservation are not entitled to vote in Utah. . . . Indians living off the reservation may, of course, register and vote in the voting district in which they reside, the same as any other citizen” (Opinion of the Attorney General of Utah, March 23, 1956). In 1956, Allen, an American Indian living on the Uintah Reservation, applied for an absentee ballot that was refused based upon the second attorney general’s opinion (Allen 1956). Mr. Allen challenged the denial in the Utah Supreme Court; however, the court relied on three arguments in its ruling against Mr. Allen (Allen 1956; *Allen v. Merrell* 1956). First, reservation Indians are members of tribes “which have a considerable degree of sovereignty independent of state government.” Second, the federal government remains largely responsible for the welfare and maintains a high degree of “control over” reservation Indians. Last, Indians living on

¹⁹Some earlier challenges to the self-termination argument include *Opsahl v. Johnson* (1917) and *Swift v. Leach* (1920).

reservations are “much less concerned with paying taxes and otherwise being involved with state government and its local units, and are much less interested in it than are citizens generally” (*Allen v. Merrell* 1956, 492). The case was appealed to the U.S. Supreme Court; however, the case became moot in 1957 when the Utah Legislature amended the statute by removing all language that prohibited Indians from voting (*Allen v. Merrell* 1957).

The “notion that Indians under guardianship by virtue of the fact that Indian lands were under federal trusteeship” was another means to prohibit Indians from going to the polls (Peterson 1956, 121). Several lawsuits challenged these state laws, including *Harrison v. Laveen* (1948).²⁰

As late as 1940, six states (i.e., Idaho, Maine, Mississippi, New Mexico, Rhode Island, and Washington) prohibited “Indians not taxed” from voting (Cohen 1942, 158; Council of State Governments 1940).²¹ The rationale for the prohibition is that one should not have “representation without taxation,” a spin on the revolutionary slogan “no taxation without representation.” Several lawsuits challenged these laws throughout the western states.²²

Literacy tests were commonly used to prohibit minorities from voting. These tests were used throughout the United States. In the southern states, literacy tests were predominant in order to prevent Blacks from voting. Although less recognized as a tool to

²⁰An earlier case challenging guardianship is *Porter v. Hall* (1928).

²¹According to the Council of State Governments (1940), Rhode Island law stated that “Narragansett Indians are excluded from suffrage.”

²²See, for example, *Trujillo v. Garley* (1948), *Harrison v. Laveen* (1948), *Shirley v. Superior Court* (1973), and *Prince v. Board of Education* (1975).

keep Indians from the polls, literacy tests were used in several states with large Indian populations. A 1940 report from the Council of State Governments noted that nineteen states prohibited illiterate people from voting (see Table 2.1). The impact of a literacy test was profound for Blacks in the South, but it was not limited to this region or racial group. A handful of states had large populations of American Indians. In particular, Arizona, at the time, had a large number and a large percentage (11%) of American Indians in its population.

Passage of the Voting Right Act in 1965 temporarily ended the use of literacy tests. With passage of the 1970 amendment, the use of literacy tests was permanently banned nationwide. The 1975 amendment added additional protection to non-English readers and speakers, requiring language assistants for minority language voters.²³

Several legal strategies were used to prohibit Indians from voting. It was not until passage of the Voting Rights Act that these legal barriers were removed. Wolfley (1991) accurately noted the following:

The Indians' struggle to participate in the democratic process has a unique and complex history which mirrors their long, cyclic relationship with the federal government. Indeed, the history of Indian disenfranchisement reflects a panalogy of shifting majority attitudes, policies, and laws towards Indians. (167)

Voting Rights Act of 1965

Overview of the Voting Rights Act

The Voting Rights Act was signed into law August 6, 1965, after “Congress determined that existing federal anti-discrimination laws were not sufficient to overcome resistance by state officials to enforcement of the 15th Amendment” (U.S. Department of

²³Voting Rights Act of 1965 and subsequent amendments in 1970 and 1975.

Table 2.1. States With Literacy Requirements for Voting, 1940

State	Population of American Indians	% of Population That Was American Indian
Alabama	464	Less than 1%
Arizona	55,076	11%
California	18,675	Less than 1%
Connecticut	201	Less than 1%
Delaware	14	Less than 1%
Georgia	106	Less than 1%
Louisiana	1,801	Less than 1%
Maine	1,251	Less than 1%
Massachusetts	769	Less than 1%
Mississippi	2,134	Less than 1%
Nw Hampshire	50	Less than 1%
New York	8,651	Less than 1%
North Carolina	22,546	Less than 1%
Oklahoma	63,125	3%
Oregon	4,504	Less than 1%
South Carolina	1,234	Less than 1%
Virginia	198	Less than 1%
Washington	11,394	Less than 1%
Wyoming	2,340	Less than 1%

Source: The Council of State Governments (1940) provided the states with literacy tests. Population data came from the U.S. Department of Commerce, U.S. Census Bureau, Sixteenth Census Reports, Population, Vol. II, 21. The U.S. Census Bureau estimated that the total population was 131,669,275. The American Indian population was estimated to be 333,969 or .3% of the U.S. population.

Justice 2002). The prior method of addressing voting discrimination, litigation on a case-by-case basis, was not an effective remedy for ending discrimination (Davidson 1992; McCrary 2003; McDonald 1989). “Even those judges who sought to eliminate discriminatory barriers found that every time the courts struck down one procedure, Southern local officials or state legislators devised newer, more subtle ways of minimizing Black voter registration” (McCrary 2003, 685). The congressional hearings revealed that the efforts of the U.S. Department of Justice to eliminate discriminatory election practices by litigation on a case-by-case basis had been unsuccessful in opening up the registration process. “As soon as one discriminatory practice or procedure was proven to be unconstitutional and enjoined, a new one would be substituted in its place and litigation would have to commence anew” (U.S. Department of Justice 2002). President Johnson and members of Congress intentionally designed the Voting Rights Act to increase the power of the U.S. Department of Justice and to force certain states and local jurisdictions, with a history of voting discrimination, to justify changes to voting laws, thus ending the case-by-case process.

The 1965 law initially suspended literacy tests and other voter qualifying devices in certain covered jurisdictions, authorized federal supervision of voter registration and new voting laws in covered jurisdictions, and created a triggering formula to bring states and local jurisdictions under the law. The original trigger formula states that if a state or local jurisdiction has a literacy test or similar voter qualification device in effect on November 1, 1964, and if less than 50% of the voting-age residents are registered to vote on November 1, 1964, or actually voted in the 1964 presidential election, then the jurisdiction would be under federal supervision.

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Several components of the Voting Rights Act deserve extra attention. Section 2 is a key provision of the law that prohibits voting practices or procedures that discriminate on the basis of race, color, or membership in one of the language minority groups protected by the Voting Rights Act.²⁴ Section 2, unlike some provisions of the Voting Rights Act, is permanent and does not have an expiration date nor does it require renewal. Most cases arising under Section 2 involve challenges to at-large election systems. Of the seventy-four American Indian voting rights cases identified by McCool, Olson, and Robinson (2007), twenty-six of the cases are challenges to at-large election systems, more than any other type of voting rights case. Section 3 of the Voting Rights Act details remedies the courts can impose if they find a jurisdiction in violation of Section 2.

²⁴Section 203 of the Voting Rights Act targets those language minorities who have suffered a history of exclusion from the political process (i.e., Spanish, Asian, Native American, and Alaskan Native). The Census Bureau identifies specific language groups for specific jurisdictions. In some jurisdictions, two or more language minority groups are present in numbers sufficient to trigger the Section 203 requirements (http://www.usdoj.gov/crt/voting/sec_203/203_brochure.php).

Sections 4, 5, 6, 7, 8, and 9 were initially temporary provisions and not applicable nationwide. Section 4 establishes the formula for coverage of a jurisdiction. Section 4 also provides the mechanism for removing a jurisdiction from coverage under these temporary provisions.

Of particular importance to Indian voting rights is Section 5. Under Section 5, any change with respect to voting in certain states and subdivisions of states must receive approval either from the U.S. District Court for the District of Columbia or from the attorney general.²⁵ This requirement was enacted with the original legislation in 1965. The covered jurisdictions were identified by a formula in Section 4 of the Voting Rights Act. The jurisdictions originally covered by Section 5 were the following: Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina, Virginia, and political subdivisions (mostly counties) in Arizona, Hawaii, Idaho, and North Carolina (Davidson 1992, 118; U.S. Department of Justice 2008).

Section 5 has been renewed several times (i.e., 1970, 1975, 1982, and 2006). In 1975, Congress, in addition to renewing Section 5, changed the coverage formula in Section 4 to include language minority groups. In 2006, Congress extended Section 5 for an additional twenty-five years.²⁶ Currently, the following nine states are covered in their entirety under Section 5: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi,

²⁵Section 5 is a temporary provision of the Voting Rights Act, and it was included in the original legislation passed in 1965. It was renewed several times. In 1970, it was renewed for five more years, with a new coverage formula; in 1975, it was renewed for seven more years, with an additional formula to protect language minorities; in 1982, it was renewed for twenty-five years, and it did not include a new formula; and in 2006, it was renewed again for an additional twenty-five years.

²⁶The title of the 2006 voting rights bill is the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act.

South Carolina, Texas, and Virginia. The following seven additional states have counties or cities/towns that are covered by the law: California, Florida, New York, North Carolina, South Dakota, Michigan, and New Hampshire (see Appendix B). Jurisdictions covered under Section 5 must preclear any change in voting practice or procedure and prove that the change does not have a discriminatory purpose or effect.

Sections 6, 7, and 8 authorize the U.S. attorney general to appoint federal examiners and observers in covered jurisdictions. Section 10 authorizes the U.S. attorney general to bring litigation challenging a voting practice or procedure that violates the Voting Rights Act. Section 11 provides criminal penalties for those who intimidate voters or impede the vote counting in federal elections. Section 12 authorizes the U.S. attorney general to bring civil actions; it also provides penalties to protect ballots and voting records for one year after an election. Section 13 provides the conditions for terminating federal oversight. Section 14 establishes a broad definition of vote and voting.

The Voting Rights Act has been amended several times since initial passage: first in 1970; then in 1975, 1982, and 1992; and most recently in 2006. The following section provides a chronological review of the major Supreme Court rulings and the congressional action to amend the Voting Rights Act, sometimes in direct response to Court decisions.

The Voting Rights Act and Supreme Court Rulings

The constitutionality of the Voting Rights Act was challenged shortly after its passage. In *South Carolina v. Katzenbach* (383 U.S. 301, 1966) the Supreme Court upheld the Voting Rights Act, ruling that “Congress had found that case-by-case litigation was inadequate to combat widespread and persistent discrimination in voting

because of the inordinate amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits.”

Although the constitutionality of its basic provisions were upheld in *South Carolina v. Katzenbach*, specific issues with the Voting Rights Act came up in the legal system, one of the primary ones being Section 2 as it relates to minority vote dilution. One of the first Supreme Court cases addressing minority vote dilution was *White v. Regester* in 1973 (412 U.S. 755). In *White*, “The Court revisited the issue of vote dilution and, for the first time, invalidated a multimember legislative redistricting plan on the grounds that it discriminated against minorities in violation of the Fourteenth Amendment” (McDonald 1995, 276).²⁷ At issue in the case was a multimember district in Texas. Plaintiffs claimed that the system resulted in the defeat of minority candidates. The plaintiffs provided evidence of the history of discrimination, cultural and language barriers, depressed voter registration, racial-slating process, and racial-campaign tactics. The Court focused not on the motivation behind the law but on its consequences, depriving minorities of equal access to the election process and the totality of circumstances (Parker 1983).

In *Zimmer v. McKeithen* (485 F.2d 1297, 1973) the Fifth Court of Appeals (comprising at that time the states of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas) formalized the totality of circumstances approach (McDonald 1995, 277). At

²⁷The Court had previously ruled on vote dilution in *Reynolds v. Sims* (1964), *Fortson v. Dorsey* (1965), and *Whitcomb v. Chavis* (1971). In *Reynolds*, the Court ruled that the right to vote can be abridged unconstitutionally by a dilution of one’s voting strength as well as by outright denial of the ballot. In *Fortson*, the Court recognized that particular apportionment schemes may undervalue the votes of disfavored groups but declined to hold multimember districts as unconstitutional. In *Whitcomb*, the Court held that the fact the minorities were disproportionately underrepresented did not prove a constitutional violation unless they had been denied equal access to the political process by the electoral system (Parker 1983).

issue was an at-large voting system in Louisiana. The Court found that a constitutional violation could be shown either by a racially motivated gerrymander or by a plan that “designedly or otherwise . . . would operate to minimize or cancel out” minority voting strength (*Zimmer v. McKeithen* 1973).

The court of appeals identified four primary factors probative of vote dilution: 1) lack of access to candidate slating; 2) unresponsiveness; 3) a tenuous state policy underlying the challenged practice; and 4) the existence of past discrimination that precluded effective minority political participation. Vote dilution could be shown by proof of an aggregate of Zimmer factors, but no particular factor or number of factors had to be proven. (McDonald 1995, 277)

In both *White* and *Zimmer*, the Court found that at-large systems were not per se unconstitutional, but at-large systems were struck down when based on the totality of the circumstances. It could be proven that minority voters were denied an equal opportunity to participate in the electoral process (Parker 1983). The effects standard established in *White* and *Zimmer* became the applicable standard in vote dilution cases. However, the Court abruptly shifted position in 1980 in *Mobile v. Bolden*, which will be addressed later.

In 1975, Congress extended for an additional seven years the temporary provisions of the Act. In addition to the seven-year extension, two critical elements were added. The law made the temporary ban on literacy tests permanent and the law was expanded to provide new coverage for language minority voters. *Language minorities* are defined as persons of Spanish heritage, American Indians, Asian Americans, and Alaskan Natives who live in jurisdictions where (a) the U.S. Census Bureau determined that more than 5% of voting-age citizens were of a single language minority, (b) election materials

had been printed only in English for the 1972 presidential election, and (c) less than 50% of voting-age citizens had registered or voted in the 1972 presidential election.

The 1975 amendment also included the addition of Section 203, which was designed to increase election turnout among language minorities by requiring certain jurisdictions to provide voting materials and oral assistance to language minority voters. Covered language minorities were limited to American Indians, Asian Americans, Alaskan Natives, and Spanish-heritage citizens—the minority groups Congress found to have faced barriers in the political process. A jurisdiction is covered under Section 203 in which the number of U.S. citizens of voting age is a single-language group within the jurisdiction. The number of U.S. citizens of voting age (a) is more than 10,000; or (b) is more than 5% of all voting-age citizens; or (c) is on an Indian reservation and exceeds 5% of all reservation residents; or (d) has a illiteracy rate as a group higher than the national illiteracy rate.

If a jurisdiction is subject to Section 203, it must provide “any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, [and] it shall provide them in the language of the applicable language minority group as well as in English,” or if the language is unwritten, as for some American Indians and Alaskan natives, oral assistance and publicity are required (Voting Rights Act). Currently, eighty local jurisdictions, in seventeen states, are required to provide minority language assistance to American Indian voters under Section 203 (see Appendix C). Additional jurisdictions are covered under the law for minority language voters other than American Indians.

In 1980, the Supreme Court “dramatically altered the legal standard for proving unlawful dilution of minority voting strength” in *Mobile v. Bolden* (Parker 1983, 729). In *Mobile*, the Court required that plaintiffs must show that the voting system or procedure was established or was being maintained with a racially discriminatory purpose (McDonald 1995, 278-79). The *Zimmer* factors, as earlier established by the Court as a standard for examining vote discrimination claims, were deemed insufficient by the Court in its ruling. The earlier standard established in *White v. Regester* (412 U.S. 755, 1973), that vote dilution was to be judged on an effects standard (i.e., the system or procedure has the effect of discrimination), was superseded by the *Mobile* decision. The new standard, established by the *Mobile* ruling, required that any claim of vote dilution was to include proof of racially discriminatory purpose or intent.

In response to the Supreme Court’s decision in *Mobile v. Bolden* (446 U.S. 55, 1980), Congress amended Section 2 in 1982 to prohibit vote dilution without requiring proof of discriminatory purpose.

In the view of many observers, the *Mobile* decision was inconsistent with the intent of Congress when it adopted and expanded the Voting Rights Act in 1965, 1970, and 1975. A substantial majority in both houses revised Section 2 of the Voting Rights Act in 1982 to outlaw election methods that result in diluting minority voting strength, without requiring proof of discriminatory intent. In creating a new statutory means of attacking minority vote dilution, Congress cited the “totality of circumstances” test of *White* and *Zimmer* as the evidentiary standard to be used in applying the Section 2 results test. (McCrary 2003, 698)

Both the House and Senate reports indicate that a purpose of the Section 2 amendment incorporating the “results” test was to restate the original legislative intent of Congress that a Section 2 violation could be made out by showing a discriminatory effect or result. An important piece of evidence for the 1965 congressional deliberations was the response of Attorney General Nicholas Katzenbach to a question from Senator Hiram Fong during the Senate committee hearings. Asked about the scope of the section, Katzenbach responded that Section 2’s prohibitions included “any

kind of practice . . . if its purpose or effect was to deny or abridge the right to vote on account of race or color.” (Parker 1983, 726)

The amendment passed by “huge veto-proof majorities in both houses of Congress” (Davidson 1992, 40).

The first review of the amended Voting Rights Act by the Supreme Court was *Thornburg v. Gingles* (478 U.S. 30). The Supreme Court’s ruling brought “both simplicity and predictability to vote dilution challenges” (McDonald 1995, 282). The majority of the Court held that in order for a Section 2 violation to be established in a challenge to multimember districts, the following three components must be met: (a) The minority population must be “sufficiently large and geographically compact” to constitute a majority in one or more districts; (b) the minority population must be “politically cohesive”; and (c) the majority population must vote as a bloc usually to defeat the minority’s preferred candidate.

If the minority population is not large enough and compact, they are unable to claim that at-large electoral structures or practices dilute their ability to elect a candidate of their choice. “Unless minority voters possess the potential to elect representatives in the absence of the challenged structure or practice, they cannot claim to have been injured by the structure or practice” (*Thornburg v. Gingles* 1986, 50). If the minority group is not politically cohesive, it “cannot be said that the selection of a multimember electoral structure thwarts distinctive minority group interest” (*Thornburg v. Gingles* 1986 in 13 ILR 2211). Once these three preconditions are met, the Court then determines on the “totality of circumstances” whether the minority population has been denied an equal opportunity to elect representatives of their choice. The courts have relied upon the legislative history of the 1982 Amendment to assist in this determination (*Buckanaga v.*

Sisseton School District, 1986; *Windy Boy v. Big Horn County, MT*, 1986; *Cuthair v. Montezuma-Cortez, Colorado School District*, 1998). As stated in the Senate Judiciary Committee majority report (1982 U.S. Code Cong. & Ad. News 177), the factors are as follows:

1. The extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process.
2. The extent to which voting in the elections of the state or political subdivision is racially polarized.
3. The extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, antishot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group.
4. If there is a candidate's slating process, whether the members of the minority group have been denied access to that process.
5. The extent to which the members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment, and health, which hinders their ability to participate effectively in the political process.
6. Whether the political campaigns have been characterized by overt or subtle racial appeals.
7. The extent to which members of a minority group have been elected to public office in the jurisdiction.
8. Whether there is a significant lack of responsiveness on the part of election officials to the particularized needs of the member of the minority group.
9. Whether the policy underlying the state or political subdivisions' use of such voting qualifications, prerequisites to voting, standards, practice or procedure is tenuous. (206-07)

These factors are a clear standard for states and local jurisdictions to follow in redistricting processes and to act as a simplified standard for the courts in determining vote dilution.

In 1992, Congress passed the Voting Rights Language Assistance Act, an amendment to the Voting Rights Act, which requires election information in the language of any language minority group in a county if 10,000 or more such speakers are also of

limited English proficiency, which is defined as those who do not speak or understand English adequately enough to participate in the electoral process. In addition, the Act was amended in 1992 to require counties to provide minority language assistance if 5% of a reservation's population is eligible for assistance regardless of its proportion of the county population.

More recently, in 2006, Congress amended the Act in response to its findings that although much progress had been made to ensure the voting rights of a minority, "Vestiges of discrimination in voting continue to exist" (Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights and Reauthorization and Amendments Act of 2006).

The record compiled by Congress demonstrates that, without the continuation of the Voting Rights Act of 1965 protections, racial and language minority citizens will be deprived of the opportunity to exercise their right to vote, or will have their votes diluted, undermining the significant gains made by minorities in the last 40 years. (Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights and Reauthorization and Amendments Act of 2006)

The Act extended the temporary provisions for an additional twenty-five years. In addition to the extension, Congress restored the broader definition of purposeful discrimination and the emphasis on a minority community's ability to elect candidates of their choice, rejecting the Supreme Court's holdings in *Reno v. Bossier Parish* (2000) and *Georgia v. Ashcroft* (2003).

The effectiveness of the Voting Rights Act of 1965 has been significantly weakened by the United States Supreme Court decisions in *Reno v. Bossier Parish II* and *Georgia v. Ashcroft*, which have misconstrued Congress' original intent in enacting the Voting Rights Act of 1965 and narrowed the protections afforded by Section 5 of such Act. (Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights and Reauthorization and Amendments Act of 2006)

The Act also allows the prevailing party in a voting rights lawsuit to recover expert witness fees and attorney fees.

Today, the Act is a complex law with both permanent provisions that apply nationwide and special provisions, most of which are temporary, that apply only in “jurisdictions with aggravated histories of discrimination” (American Civil Liberties Union 2009, 11). The permanent provisions include the following: (a) a nationwide ban on the use of any test or device for voting, (b) a nationwide ban on any voting practice or procedure that results in a denial or abridgement of the right to vote on account of race, (c) a nationwide guarantee of the right of a voter to receive assistance in voting, and (d) a nationwide civil and criminal penalty for those who interfere with the right to vote or commit voter fraud. The temporary provisions, including Section 5 and Section 203, were renewed in 2006. These provisions will expire in 2031 unless Congress extends these temporary sections.

Voting Rights Cases in Indian Country

Seventy-six voting rights cases were brought by or on behalf of American Indians between 1965 and 2010.²⁸ The cases fall into six major categories, ranging from Section 203 enforcement to challenges to redistricting (see Table 2.2). The most prevalent of all the cases, relying upon Section 2 of the Voting Rights Act, are those challenging at-large systems. Twenty-six of the cases are challenges to at-large election systems.

The seventy-six identified cases have occurred in just fifteen states, most of which are in the western part of the United States (see Table 2.3). New Mexico and South

²⁸These cases were filed under the Voting Rights Act, the Fourteenth Amendment, the Fifteenth Amendment, or all three. A complete list of cases is in Appendix A.

Table 2.2. American Indian Voting Rights Cases by Type, 1965 to 2010

Type of Case	Number of Cases
Denial of access to ballot	7
Discriminatory administration of election procedures	14
Enforcement of Section 203	8
Challenges to at-large elections	26
Disputes over redistricting	16
Disputes over Section 5 preclearance	10
Bailout actions	5
Other (Section 203 interpretation)	1
Total	76

Dakota hold the distinction of having the most American Indian Voting Rights Act cases in their respective states: nineteen each. Several states have had just a single Indian Voting Rights Act lawsuit within their boundaries. These states include Colorado, Maine, Nevada, North Carolina, and Wyoming.

Indian parties have been highly successful in voting rights litigation. In only five cases have the claims of Indians been rejected. Those cases are *Apache County v. U.S.* (1966), *Grinnell v. Sinner* (1992), *Old Person v. Brown* (2002), *Frank v. Forest County* (2003), and *Cottier v. City of Martin* (2010). In *Apache County*, the U.S. District Court of the District of Columbia denied intervention by Navajos and permitted Arizona and three counties to bail out of coverage. The other three cases addressed Section 2 of the Voting Rights Act. The *Grinnell* case was a challenge to at-large elections for state legislatures in North Dakota. The U.S. District Court of North Dakota dismissed the case for failure to meet the first Gingles test: The minority population must be “sufficiently large and geographically compact” to constitute a majority in one or more districts. The plaintiffs in

Table 2.3. American Indian Voting Rights Cases by State, 1965 to 2010

State	Number of cases
Arizona	11
Colorado	1
Maine	1
Minnesota	2
Montana	9
Nebraska	2
Nevada	1
New Mexico	19
North Carolina	1
North Dakota	3
Oklahoma	2
South Dakota	19
Utah	2
Wisconsin	2
Wyoming	1
Total	76

the *Old Person* case challenged the redistricting plans for Montana's state house and senate on the grounds that the plan diluted Indian voting strength in violation of Section 2. The Ninth Circuit Court vacated the finding of no dilution; however, on remand, the District Court of Montana again found no vote dilution. In *Frank v. Forest County*, the U.S. District Court of Eastern Wisconsin ruled that deviation in the size of districts is acceptable when district populations are so small. The Court also found that the plaintiffs failed to meet the second Gingles test, which requires political cohesion of the minority group. At issue in the *Cottier* case is the City of Martin's Ordinance 122, which established boundaries for three voting wards within the city. The plaintiffs claimed the

boundaries diluted the votes of Indians in each ward, thereby violating Section 2 of the Voting Rights Act. The plaintiffs also alleged that the City of Martin enacted and maintained Ordinance 122 with a racially discriminatory purpose, thereby violating Section 2 and the Fourteenth and Fifteenth Amendments. The case was originally brought before the courts in 2002. In 2010, the 8th Circuit Court of Appeals dismissed the lawsuit brought by Indian voters against the City of Martin. The majority opinion concluded that the plaintiffs, two American Indian voters, had failed to meet the third Gingles criteria: that White voters usually defeat the Indian-preferred candidates in city elections (*Cottier v. Martin* 2010).

The Impact of the Voting Rights Act on American Indians

The Voting Rights Act of 1965 and subsequent amendments unquestionably changed the nature of the U.S. political system. In the years since passage, more minorities are registering, voting, running for office, and winning.

No widespread analysis has been completed on the impact of the Voting Rights Act on American Indian registration and turnout; however, analysis of a limited number of jurisdictions that have been involved in voting rights litigation suggest an increase in registration and turnout. McDonald (1989) found that even though systematic surveys do not exist, scattered evidence suggests an increase in registration among American Indians in Arizona, Colorado, New Mexico, and Utah. A previous study found that in two jurisdictions (i.e., San Juan County, Utah, and New Mexico) bilingual language assistance programs have resulted in an increase in registration and turnout (McCool, Olson, and Robinson 2007, 155-58).

One of the most significant changes resulting from voting rights litigation is the change in voting structures, particularly at-large electoral systems that can cause vote dilution. At-large electoral systems hinder the ability of minorities to elect candidates of their choice and diminish the success of minority candidates (Davidson and Korbel 1984; Engstrom and McDonald 1981; Grofman and Davidson 1994; Karnig 1976; McCool, Olson, and Robinson 2007; Robinson and Dye 1978; Taebel 1978).²⁹ Dramatic gains have been made in office holding for American Indians once at-large systems are dismantled (McCool, Olson, and Robinson 2007). A previous study examined nineteen jurisdictions that replaced their at-large systems with another electoral system (i.e., single-member districts, mixed system, or cumulative system) as a result of lawsuits filed under the Voting Rights Act. In these nineteen jurisdictions, only six American Indians had ever been elected in the at-large system. When the at-large structure was replaced with single-member districts, Indian candidates were successful. As of 2007, twenty-five Indians held office in fifteen of the jurisdictions that switched from an at-large system. In those jurisdictions, only one Indian had ever been elected under the old system. Indian candidates are less successful when cumulative voting systems or mixed electoral systems are implemented in place of at-large systems (McCool, Olson, and Robinson 2007).

Previous studies have shown that minority officeholders are associated with substantial shifts in “responsiveness to minority interests and the inclusion of minorities in decision making” (McDonald 1989, 1277). My work indicates that the election of Indians to public office has also had a positive impact on services, Indians’ access to

²⁹A handful of studies have failed to show the detrimental effects of at-large elections on minority candidates (e.g., Cole 1974, 1976; MacManus 1978; and Welch and Karnig 1978).

government, and Indians' perception of government. However, Indian- elected officials are divided as to their impact on laws and regulations in their jurisdictions (McCool, Olson, and Robinson 2007). This finding is not surprising considering that Indians are often still in the minority in public office and can be easily outnumbered when voting. For example, in most of the case studies, Indians were often only one of a multimember county commission, limiting their ability to effect laws and policies.

The impact of the Voting Rights Act on American Indians has been positive by many measures. More Indians are able to register and vote and to have a meaningful vote; that is, they are able to elect candidates of their choice. More Indians are successful as candidates, winning elected office at the local level often when no Indian had previously held public office in the community. It appears that this success has led to positive effects on services, access to government, and the perception of government among American Indians.

CHAPTER 3

UNDERSTANDING POLITICAL PARTICIPATION

In the past several decades, a substantial amount of research has been conducted on political participation in the United States. As political scientists have sought to identify factors that influence an individual's decision to participate in the political process, the socioeconomic model has effectively explained political participation. However, while in general this model works well, it does not adequately explain participation for minority groups, including American Indians. In developing a more complete understanding of participation among American Indians, it might be useful to rely upon a theory that accounts for contextual factors such as the empowerment theory rather than to exclusively rely upon individual level factors. The use of the empowerment theory has yielded positive results in explaining the turnout of African Americans, another minority group for which the socioeconomic model has not adequately worked.

Studies of political participation typically emphasize individual characteristics or resources, with particular emphasis placed upon individual socioeconomic status. An extensive body of research indicates a strong and positive correlation between socioeconomic status and political participation (Rosenstone and Hansen 2002; Verba and Nie 1972; Wolfinger and Rosenstone 1980). In addition to socioeconomic status, scholars have also studied the relationship between other individual characteristics such as race, gender, and age, along with attitudinal variables such as efficacy and trust on

political behavior. These studies have reaffirmed strong relationships between individual characteristics and participation. “These scholars argue, in effect, that the decision to participate is primarily an internal process, a function of ability, knowledge, and interests, and is largely unresponsive to social and political cues” (Gay 2001, 590). Yet, these models of participation, which focus on individual characteristics, do not provide an adequate basis for explaining turnout among American Indians. The limited number of studies on Indians has found that even when controlling for socioeconomic status, Indians vote at lower rates than all other racial and ethnic groups (Peterson 1997).

Little research beyond these socioeconomic studies has been conducted on Indians. Yet, opportunities are there to better understand participation and voter turnout among this population by relying upon other models that consider more than individual level variables and include the social and political context. In the last fifteen years, scholarship in the area of minority political participation has developed by more fully incorporating contextual factors into the study of participation of other racial groups. Of specific importance to this study is the effect of the political environment (or political context) on participation (Bobo and Gilliam 1990; Gilliam and Kaufmann 1998; Kaufmann 1999). This line of scholarship has been useful in expanding an understanding of participation, especially among minority populations for whom the traditional model of socioeconomic status falls short. Of particular note is empowerment theory, which explores the relationship between participation rates and minority elected officials.

Empowerment theory is a social-psychological theory of group behavior. It requires group cohesiveness, and it argues that group members are likely to experience a psychological response to their in-group empowerment (Kaufman 2003). Empowerment

theory argues that as a group achieves significant representation and influence in political decision making, group members will experience increased levels of political trust, efficacy, and knowledge that in turn will positively affect participation rates. Political empowerment, also referred to as *political incorporation* by Browning, Marshall, and Tabb (1984), is defined in this study as the “extent to which a group has achieved significant representation and influence in political decision making” (Bobo and Gilliam 1990, 378).

Empowerment theory has been applied to African American and Hispanic voters, yielding significant findings. Bobo and Gilliam (1990) found that African Americans in high-empowerment areas, as measured by African Americans holding mayoral office, are more active than African Americans in low-empowerment areas. Empowerment has positive effects on trust and efficacious orientation toward politics (Bobo and Gilliam 1990). According to Gay (2001), there is “mounting evidence of a relationship between minority officeholding and political behavior” (590). Although empowerment theory has not yet been applied to American Indians, it holds much promise in explaining the participation of this racial group.

The Traditional Model and Individual Characteristics

Individual Characteristics: Socioeconomic Status

For more than seventy years, scholars have been examining the American voter. An important, large-scale study of the effects of socioeconomic status was completed by Verba and Nie in 1972.¹ They found that high socioeconomic status has positive effects

¹Socioeconomic status, which typically includes education, income, and occupation, is the traditional variable used to explain turnout. *The People's Choice* (Lazarsfeld, Berelson, and

on the development of knowledge, skills, and civic attitudes; these in turn are strongly related to voting (Verba and Nie 1972). One limitation of this early study is that the research did not “disentangle the role of education, occupation, and income” (134) but used a simple combined socioeconomic status variable. Subsequent studies have determined that these three variables (i.e., income, education, and occupation) are not equally related to turnout (Wolfinger and Rosenstone 1980). Education, of the three, is most strongly related to who votes. In fact, education has a “very powerful independent effect on voting” (Wolfinger and Rosenstone 1980, 23). As education levels increase, so does participation in elections as well as in other forms of political participation such as volunteering for candidates or political parties, persuading others to vote, donating, writing elected officials, signing petitions, and attending political meetings (Rosenstone and Hansen 2002). Education affects participation in three distinct ways. First, education increases cognitive ability, which is necessary for understanding the complexities of policies, campaigns, and other political information. Second, education imparts experience with bureaucracy, which assists individuals with registration and voting. Finally, education builds characteristics, including efficacy and interest in politics that encourage participation (Wolfinger and Rosenstone 1980). Rosenstone and Hansen (2002) confirmed these findings: Those individuals with more education are more likely to vote than those with less education.

Initial research indicated that income has a modest effect on voting when education and occupation are controlled (Wolfinger and Rosenstone 1980). Wolfinger and Rosenstone determined that once an individual attains a modest standard of living,

Gaudet 1948) was an early study addressing the influence of individual characteristics on voting in America.

additional income does not affect whether one votes. Recent studies have contradicted these early conclusions. Rosenstone and Hansen found that income does affect one's level of participation in politics, including voting. Those with an income above \$50,000 participate at a much higher level than those with an income below \$20,000 (Verba, Scholzman, Brady, and Nie 1993). Further examination supports the finding that those who are very poor participate much less. Verba et al. (1993) examined the participation rates for those receiving means-based benefits compared with those receiving nonmeans-based benefits. The findings indicate that those who received food stamps, Medicaid, housing subsidies, and aid to families with dependent children were much less likely to participate than those who receive nonmeans-based benefits such as student loans, Social Security, and Medicare. These findings applied to various forms of political participation, including voting, serving on a board, working on a campaign, and donating (Verba, Scholzman, Brady, and Nie 1993). Again, income came in a distant second to education (Rosenstone and Hansen 2002).

Occupation, the third socioeconomic status variable, also has a modest effect on turnout. Studies concluded that the characteristics of the job rather than the status of the job are more important in effecting turnout. Jobs that involve bureaucratic skills, politics, or government work assist individuals in developing the skills necessary to vote as well as heightening their interest in politics that is evident in the turnout rates for different occupations (Wolfinger and Rosenstone 1980). Recent studies did not address the effect of occupation on turnout (Rosenstone and Hansen 2002).

Individual Characteristics: Race

The discipline of political science has paid attention to the political behavior of Whites and to some extent persons of color for more than thirty years. However, most research in the field that addresses the political participation of persons of color is limited to studies of African American participation and, to a small extent, the political participation of Asian Americans and Hispanics and very little political participation to American Indians (see Bobo and Gilliman 1990; Lien 2000; Tate 1991).

In general, non-Whites, including Hispanics, Asian Americans, African Americans, and American Indians, vote less than Whites. Among these four groups, Asian Americans, Hispanics, and American Indians vote even less than African Americans and Whites (Lien 2000, 207). However, studies have found differing relationships between voting and race when socioeconomic status is controlled. For example, African Americans participate in politics at higher rates than Whites when controlling for socioeconomic status (Wolfinger and Rosenstone 1980; Tate 1991). Research also indicates that Asian Americans and Hispanics vote less than Whites, even after controlling for socioeconomic status. Specifically, Asian Americans are 23% less likely to vote than Whites when controlling for socioeconomic status (Lien 2000). Studies also indicate that Hispanic voter turnout is not well explained by the socioeconomic model. Garcia (2003) found that higher education results in higher turnout in Hispanic voters. However, income and occupation do not seem to have a significant effect on turnout for this group. Higher income and occupational status do not have the same positive effect for Hispanics as they do for non-Hispanics (Garcia 2003). Although these populations are studied in-depth, nationally, and over long periods of time,

American Indians are severely understudied in political science (Prindeville and Gomez 1999).

Scholars who study American Indian participation have noted that there is a dearth of information about the politics of American Indians. With few notable exceptions mainstream political scientists have generally failed to examine either the diversity of tribal governments operating across the United States or the character of Indian politics on or off Indian lands. (Prindeville and Gomez 1999, 19; see also Wilkins 2002)

Many reasons likely contribute to the lack of research with regard to this minority population. First, surveys do not always count Native Americans as their own category; rather, they are combined with other persons of color in the “other” category (McCool 1985, 118; Phelps 1991). Even the Current Population Survey did not count Native Americans as a separate category until 1990 (Lien 2000; Peterson 1997). Second, small studies tend to focus on single tribes or small geographic areas. In addition, both large surveys and small studies may be limited by the fact that many Indians live in remote areas where language and cultural barriers exist (McCool 1985).

Scholars have been constrained by these limitations; thus, what is known about Indian participation compared with what is known about the participation of other minority groups is limited. To begin, Indian participation rates are lower than participation rates among non-Indians, even when socioeconomic status is controlled (Lien 2000; Peterson 1997). Peterson (1997) published one of just a handful of existing articles on Native Americans and voter turnout in nontribal elections. He examined the role of race, income, age, gender, and education on turnout. Peterson’s quantitative study attempted to overcome data limitations by focusing upon individual-level data, two election cycles, and American Indians from seven states rather than from a single tribe. Again, the results of Peterson’s research indicated that socioeconomic factors do

influence whether a person votes. However, the most significant finding was that Native Americans still vote at lower levels than non-Native Americans when controlling for socioeconomic status.

Peterson (1997), relying on archival data from the 1990 and 1992 Current Population Surveys available from the U.S. Census Bureau, developed a dataset that included 674 American Indians from seven states, each with a large Indian population—an adequate size for conducting statistical analysis. The dependent variable in Peterson’s analysis was whether an individual voted in the election. The independent variables were race (Native American or non-Native American), income, gender, education level, and year of the election (1990 or 1992). As noted earlier, income and education are the best predictors of voter turnout and were used in this study to determine the effect each has on Indian voting rates.

Initially, Peterson (1997) conducted a bivariate analysis to determine whether race influences voting. The analysis included a cross-tabulation and a *t* test, both of which indicate a significant relationship between race and voting in the population. Peterson noted that there is “a clear relationship between whether someone votes and whether they are Native American” (324). The bivariate analysis does consider causal factors other than race; therefore, Peterson appropriately continued his study with a multivariate logistic regression. This technique allows the researcher to control for the effect of numerous causal variables on the dependent variable: voting.

It is clear from Table 3.1, derived from Peterson’s (1997) work, that socioeconomic factors such as education and income play a role in whether an individual votes. Table 3.1 shows the regression coefficients and the significance levels for each

Table 3.1. Logistic Regression Results of Peterson's Study, Combined 1990 and 1992

Data

Variable	Logistic Regression Coefficients	Significance	% Change
Race (Indian = 1, non-Indian = 0)	-0.07168	0.001	-51%
Gender	-0.0094	0.755	xxx
Education	0.1233	0.001	13%
Income	0.0556	0.001	6%
Age	0.0321	0.001	3%
North Dakota	0.2258	0.001	25%
South Dakota	0.2687	0.001	31%
New Mexico	0.0699	0.323	xxx
Montana	0.5038	0.001	66%
Oklahoma	0.0321	0.643	xxx
Florida	-0.8517	0.005	-15%
Year	0.0523	0.001	5%

Note: The coefficient is the partial logistic regression coefficient.

Source: Peterson 1997.

independent variable. Peterson also included a column labeled “% change,” which indicates the change in the likelihood of the dependent variable (voting), with a one-unit change in each of the independent variables (controlling for the effects of the other independent variables). For example, if an individual was Native American, then he or she was 51% less likely to vote than a non-Native American. Each increase of \$3,000 in family income raised the likelihood of voting by 6%, and for each year of education received, he or she was 13% more likely to vote. Based upon the logistic regression results for the combined 1990 and 1992 data, education and income influenced voter

turnout for all individuals. It is also clear that some variables, including gender and being a resident of New Mexico and Oklahoma, play no significant role in whether an individual votes.

The results of Peterson's (1997) research indicated that socioeconomic factors such as income and education influence whether a person votes. However, what is most interesting in Peterson's report is that when controlling for socioeconomic status Native Americans still vote at lower levels than non-Native Americans. Unfortunately, it is not clear from Peterson's results the precise role income and education have on Native American turnout. Peterson noted that the results demonstrate that Native Americans do not vote at the same levels as other groups when controlling for socioeconomic factors. Peterson (1997) acknowledged the following:

Overall, the results demonstrate the socioeconomic theory of voter turnout does not accurately explain Native American voting patterns in either election. While it is not clear what makes the Native American voters different from other groups, it is clear that a difference does exist. (324-25)

Peterson stated that the lower rate "might be caused by cultural factors, a lack of political knowledge, tribal identities overriding national political identities, or any other of a myriad of possible explanations" (326). Another limitation of the study that deserves note is the fact that this study did not identify whether any differences exist among reservations, tribes, or clans.

Little research beyond socioeconomic models has been conducted to explain the voting behavior of Indians (O'Brien 1989; Prindeville and Gomez 1999). However, one important finding that has been established is the role of tribal culture on participation. It would be erroneous to assume a pan-Indian identity; differences between tribes matter

(Bataille and Sands 1984; Klein and Ackerman 1995; Niethammer 1977). Prindeville and Gomez (1999) found that particular tribal culture and traditions do discourage, prohibit, or both women from running for or holding political office (27). They discovered that a majority of Pueblo tribes in New Mexico are more “traditional” than other Indian nations. These traditions have hindered women’s political participation in tribal and nontribal politics (Prindeville and Gomez 1999, 27-28). In summary, a limited amount of knowledge exists about Indian participation rates. Further, most of the scholarship has relied upon socioeconomic status as the primary model. This model does not adequately explain Indian participation rates.

Individual Characteristics: Attitudinal Factors

Research has also demonstrated the link between attitudinal factors and political participation. Although several attitudinal factors have been shown to affect participation rates, this section focuses specifically upon trust and efficacy, as these seem to have a significant role in reducing turnout among minority populations.

Political trust is an evaluative or an affective judgment of government, a lack of trust in political cynicism (Miller 1974). To begin, mistrust and dissatisfaction with government and politics have been found to undermine the desire to vote (Patterson 2002, 82-83), which may have implications for American Indian participation rates. Historical conflicts between American Indians and Whites are well documented and include legal and illegal barriers that prevented Indians from participating in the political process (Peterson 1957; Phelps 1991; Svingen 1987; Wolfley 1990). The centuries of barriers created “a pattern of separation that has become firmly entrenched” (Svingen 1987, 278). Other scholars have implied that historical as well as current conflicts with local, state,

and federal government have created an atmosphere of distrust among the Indian people (Peterson 1997). The long-lasting effects of such discrimination could be a cause for lower participation rates among American Indians.

A second attitudinal factor that relates to political participation is efficacy. Two types of efficacy, internal and external efficacy, deserve further explanation. Internal efficacy is often described as a feeling of personal political effectiveness (Miller 1980). Internal efficacy could also be defined as the feeling that individual political action does have, or can have, an impact on the political process (i.e., it is worthwhile to perform one's civic duties; Campbell, Gurin, and Miller 1954, 187). Tate (1991) provided an example of internal efficacy at work. She found that the Ronald Reagan Administration had created

a political climate in which blacks felt that the political stakes involved in 1984 were perhaps greater than in previous elections. Similarly, [Jesse] Jackson's candidacy may have had an additional affect on black participation. . . . Without Jackson's candidacy, fewer churches in the Black community might have gotten involved. (1172)

Those two factors had positive effects on internal efficacy; thus, a higher participation rate by Blacks was seen that year. External political efficacy is related to an individual's beliefs about government responsiveness. The "declining beliefs about government responsiveness, that is, lowered feelings of 'external' political efficacy" may be one cause of the decline in electoral participation in the United States (Abramson and Aldrich 1982, 502).

Individual Characteristics: Knowledge

Finally, the relationship between knowledge and political participation is worth noting. The question of how politically informed the American public is has been studied for decades. Delli Carpini and Keeter (1996) found that Americans are not as uninformed as some previous studies have suggested (69). They noted that Americans are about as informed as they were fifty years ago and that they are slightly more knowledgeable in some areas (Delli Carpini and Keeter 1996, 116-17). They also delineated between the informed and the less informed, finding that men are more politically informed than women, Whites are more informed than Blacks, younger people are less informed than older generations, and economically disadvantaged individuals are less informed than wealthy individuals. Delli Carpini and Keeter offered some explanation. They noted that the following three factors have a great effect on political learning: (a) structures (formal education, income, and occupation); (b) knowledge; and (c) and behavior (Delli Carpini and Keeter 1996, 180). The best predictor of political knowledge is a formal education (Delli Carpini and Keeter 1996, 188), in particular a college education (Delli Carpini and Keeter 1996, 192). Thus, those who are disadvantaged (women, poor, and minorities) are at a disadvantage to gain political knowledge.

Although the individual level factors discussed above provide some understanding of Indian voting behavior, it is clear that limitations can be found in the research findings. Equally important, it is necessary to move beyond these individual factors and to explore the ways in which contextual factors may impact voting behavior for this minority population. The following section focuses upon a promising line of

scholarship, empowerment theory, that has successfully shown the impact of the context on political behavior for other minority groups.

Empowerment Theory

A scholar recently noted the importance of examining the “whole person” when studying political participation among minorities (Garcia Bedolla 2005). As noted above, low participation rates among minorities, including American Indians, has not been well explained by socioeconomic status or by other individual level variables. It is important to examine the whole individual by examining not only the individual level variables but also the context. One such theory that has been successfully applied to minority populations to better understand their participation rates in the political system is empowerment theory. The theory moves beyond the traditional models of participation by considering the importance of a person’s political context as a potential influence on individual participation rather than focusing exclusively on individual level variables.

Empowerment theory is a social-psychological theory of group behavior. At its core, empowerment theory is based upon the premise that as a group achieves significant representation and influence in political decision making, group members will experience increased levels of political trust, knowledge, and efficacy that in turn will positively affect participation rates (Bobo and Gilliam 1990; Browning, Marshall, and Tabb 1984).² The theory has yet to be applied to American Indians, yet it holds much promise in explaining voting rates among this group.

²In the case of American Indians, so few have been elected to office that the election of a single Indian may meet the standard of “significant.”

Previous studies have demonstrated the positive relationship between political representation and participation rates among other minority groups (see Bobo and Gilliam 1990; Browning, Marshall, and Tabb 1986; Kauffmann 2003). “Visible descriptive representation sends a message of inclusion to group members and has been shown to heighten individual levels of political engagement within empowered groups” (Kaufmann 2003, 109). It is likely that when ethnic minorities can identify with their representative, they become less alienated and more involved in the political system (Browning, Marshall, and Tabb 1986).

In the Bobo and Gilliam (1990) study, the role of empowerment was explored as measured by Black control of the mayor’s office on Black participation. Two major findings encouraged them to approach the study using the empowerment theory. First, Blacks participate at higher levels than Whites when socioeconomic status is considered (Millbrath and Goel, 1977; Olsen 1970; Verba and Nie 1972). Second, a strong sense of ethnic community or group consciousness is seen as a “stimulus to heightened Black participation” (Bobo and Gilliam 1990, 377; see also Guterbock and London 1983; Shingles 1981; Verba and Nie 1972).

Bobo and Gilliam (1990) argued that other theories, which relied upon individual level variables such as socioeconomic status, were inadequate at explaining this discrepancy in participation rates. Previous studies have found that Black participation is higher than White participation when controlling for socioeconomic status. In addition to socioeconomic status, two other theories had been used to better explain Black participation: (a) the compensatory theory and (b) the ethnic community approach. However, these theories were rejected by Bobo and Gilliam based on the fact that while

these theories worked well to explain Black political behavior “at a time when Blacks were struggling for basic inclusion in U.S. society and politics,” that political context is no longer relevant (378). They argued that a political empowerment or a political incorporation theory would work best at explaining participation among Blacks for two primary reasons. First, they argued that people participate because the perceived benefits of doing so outweigh the costs (see, for example, Wolfinger and Rosenstone 1980). Second, the context influences this cost-benefit analysis. Individuals receive cues from the political context such as cues from political figures indicating the likelihood of policy responsiveness. Essentially, they argued that people see the value of participation.

The study by Bobo and Gilliam (1990) relied upon data from the 1987 General Social Survey, which included an oversample of 544 Blacks. The dependent variables included various aspects of political participation, not just voting, such as campaigning, having membership in a group, and contacting elected officials. The independent variable was the level of empowerment. If the city in which the individual lived had a Black mayor, it was considered a high empowerment area. If there was no Black mayor, it was considered a low empowerment area.

Bobo and Gilliam (1990) showed that African Americans in high empowerment areas are significantly more active than African Americans in low-empowerment areas. African Americans are also more active than Whites in areas where Black empowerment is high (Bobo and Gilliam 1990, 382). The results in Table 3.2 show that Blacks in high empowerment areas are significantly more active (32.65) than Blacks in low empowerment areas. Blacks in low empowerment areas are significantly less active than Whites in low empowerment areas (-33.96). The bottom half of Table 3.2 shows the

Table 3.2. Black Political Empowerment, Race, and Participation

Race	Mean Participation Score, Level of Black Empowerment		
	Low	High	Difference
Summary Participation Index			
Blacks	-29.26 (358)	3.39 (182)	-32.65***
Whites	4.70 (1,047)	-8.64 (170)	13.34
Difference	-33.96***	12.03	
Adjusted Summary Participation Index			
Blacks	-2.05 (294)	17.90 (159)	-19.95*
Whites	1.19 (930)	-12.45 (152)	13.64
Difference	-3.34	30.35**	

* $p < .05$. ** $p < .01$. *** $p < .001$

Source: Bobo and Gilliam 1990, 383.

activity level after adjustments are made for socioeconomic status, age, and gender. The findings indicate that Blacks in high empowerment areas are more active than comparable Whites.

Additional studies on empowerment have reached similar conclusions. In Gay's (2001) study of the effect of Black congressional representation on political participation, she found that the election of Blacks to Congress can increase political engagement among African Americans. In Bedolla's (2005) study of Latino voters, she found that the presence of Latino-elected officials did not seem to have an effect on their participation rates or attitudes. She determined that, like many Americans, Latinos in her study knew little about their representatives and were largely unaware that their representatives were Latino (Bedolla 2005, 25). This finding shows that descriptive representation cannot have a positive effect of political attitudes and participation rates if constituents are unaware of their representative's racial or ethnic status.

Applying the Empowerment Theory to American Indians

Although most studies of empowerment have addressed African Americans and to some extent Hispanic voters, this theory of participation could be applied to other minority populations, including American Indians. For the empowerment theory to be properly applied to American Indians, it is essential that several criteria be met. First, the American Indian population must achieve significant representation in the political process. Second, there must be awareness of the racial background of their elected officials. Third, there must be group cohesiveness within the Indian population. Certainly, it is easy to measure change in representation and to mark the point at which American Indians in each of the cases studied gained “significant” representation. It is also fair to state that American Indians are well aware of their racial status and that of their elected officials, especially in rural communities with reservations.

While it is easy to measure the first two criteria, it is more difficult to address criteria for the application of the empowerment theory to a group: group cohesiveness.³ To begin, it is useful to answer the question of who is Indian, as this is central to any discussion of American Indian politics (see Wilkins 2002). Cohen’s (1943) definition of *Indian* is the most widely accepted legal definition, as follows:

The term “Indian” may be used in an ethnological or in a legal sense. Ethnologically, the Indian race may be distinguished from the Caucasian, Negro, Mongolian, and other races. If a person is three-fourths Caucasian and one-fourth Indian, it is absurd, from the ethnological standpoint, to assign him [or her] to the Indian race. Yet legally such a person may be an Indian. From a legal standpoint, then, the biological question of race is generally pertinent, but not conclusive. Legal status depends not only upon biological, but also upon social factors, such as the relation of the individual concerned to a White or Indian community. . . .

³In each of the cases studied, a clear point is made at which Indians achieved significant representation at the county level.

Recognizing the possible diversity of definitions of “Indianhood,” we may nevertheless find some practical value in a definition of “Indian” as a person meeting two qualifications: (a) That some of his [or her] ancestors lived in America before its discovery by the White race, and (b) That the individual is considered “Indian” by the community in which he [or she] lives. (2)

Although it is relatively easy to legally define who is an Indian, it is difficult to show group cohesiveness among American Indians throughout the United States due to tribes having different languages, religions, and customs (see Deloria 1984). This lack of Indian cohesiveness throughout the United States extends into the political realm. For example, Deloria (1984) noted that the National Indian Youth Council and the National Congress of American Indians had difficulty rallying the tribes beyond a certain point of political participation (236). Yet, general impressions of Indian political ideology and political behavior throughout the tribes are available. In terms of party identification, American Indians tend to see themselves as Democrats (43%). Approximately 38% identify as Independents and 20% identify as Republicans. In addition, Indians tend to view themselves as moderates (45%) or conservatives (40%), whereas approximately 25% view themselves as liberals. These results remained fairly stable from 1974 to 1994 (Hoffman 1998). These results also provide some, although limited, evidence of cohesiveness across tribes.

However, this study did not examine the cohesiveness of American Indians throughout the United States; rather, the study focused on three counties with tribal reservations. Therefore, group cohesiveness needs to exist, to some extent, among tribal members within each of the counties, not throughout the United States. Although factions may be within tribes, consistency remains in tribal culture, as evident in tribal traditions, customs, and languages. In Big Horn County, Montana, one of the counties studied here,

two reservations, with large populations of American Indians, are located within the county; this resulted in some difficulty in assessing cohesiveness of the tribal members from the two tribes. Yet, evidence from the litigation in this voting rights case indicated that Indians tend to vote for Indians and Whites tend to vote for Whites (see *Windy Boy v. Big Horn County* 1986). These voting data provide some evidence of Indian cohesiveness, thus meeting necessary criteria for applying the empowerment theory to these three counties.

The traditional models used to study U.S. voters, in particular those that rely upon socioeconomic variables, have failed to adequately explain the lower rates of participation for Indians. Other studies that have relied on individual level variables such as age and gender have also been inadequate. It is evident that to better understand participation among this group, scholars must move beyond these individual level variables and explore the relationship between context and participation. Empowerment theory has been usefully applied to other racial groups for whom the traditional model also fell short, as it accounts for the contextual changes and the impact of these changes on trust, perception of government, and efficacy. Application of this theory to Indian populations in several jurisdictions throughout the western United States may give scholars a better understanding of why Indians vote.

CHAPTER 4

METHODS

The research question for this study was the following: Does empowerment have positive effects on American Indian electoral participation? This dissertation explored the role of empowerment on American Indian participation relying on both quantitative and qualitative methods. The study began by comparing turnout prior to empowerment with turnout after empowerment. Turnout data were collected from three counties that were involved in Section 2 Voting Rights Act cases that required the counties to change from at-large elections to single-member district elections for electing county commissioners. In each of the three counties, no American Indian had been elected under the at-large system. Following the electoral structure change to single-member districts, Indians were successfully elected from the majority Indian district in each of the counties. Based upon empowerment theory, the hypothesis for this study was that turnout among Indians after empowerment (as defined by an Indian holding elected office) will be higher than turnout prior to empowerment in each of the three counties. Following the quantitative analysis, qualitative interviews were conducted to confirm the relationship between empowerment and turnout.

This study was designed to establish the relationship between empowerment and turnout using election turnout data. There must be a positive association between the two; that is, after American Indians become “empowered” by the election of Indian

representatives, there should be an increase in electoral turnout. Further, there should not be an increase in turnout among non-Indians.

This section of the study was longitudinal and comparative, examining turnout over time and among districts and voting precincts to determine if turnout increases after empowerment. The study examined turnout in the first election after empowerment to determine the immediate effect of empowerment on Indian voting behavior. In addition, turnout over the long term was examined to determine whether the effect of empowerment is long lasting. Turnout data were gathered for at least two elections prior to empowerment, as measured by the election of an Indian to the county commission, through the 2008 election. The dependent variable for this study was voting; it was measured by examining the voting turnout in county commission elections. The independent variable was political empowerment. Political empowerment was operationalized as at least one Indian on the county commission.

Three counties, also referred to here as jurisdictions because of their political and governmental boundaries, were selected for this study. These three counties were selected because they met several criteria. First, each county was involved in Section 2 Voting Rights Act litigation on behalf of American Indians, and each county had been required to change from at-large to single-member district systems as a result of the litigation.¹

¹Section 2 of the Voting Rights Act prohibits vote dilution. “Vote dilution has been described as a ‘process whereby election laws or practices, either singly or in concert, combine with systematic bloc voting among an identifiable group to diminish the voting strength of at least one other group’” (McDonald 1989, 1256). The most preeminent form of vote dilution is at-large voting under which all residents of the jurisdiction (i.e., town, city, and county) vote for all members of the governmental body. “The majority, if it votes as a bloc, can choose all the officeholders, thereby denying a discrete minority an effective opportunity to elect any representatives of its choice” (McDonald 1989, 1257). Single-member systems can be an effective solution to vote dilution because minorities tend to be

Following the litigation, the counties changed the electoral structure from an at-large system to a single-member district system. In each of the jurisdictions, at least one of the single-member districts was majority Indian; thus, that district had the potential to elect an Indian to public office. Second, the jurisdictions had to have large Indian populations. Third, the counties had to have a history of not electing Indians to public office. The three counties selected for the study were the following: (a) San Juan County, Utah; (b) Big Horn County, Montana; and (c) Roosevelt County, Montana. The jurisdictions selected for this study are described briefly below.

San Juan County, Utah

In 1983, the U.S. Department of Justice filed a Section 2 case against San Juan County, Utah (*U.S. v. San Juan County*, UT C-83-1286W). The county relied upon an at-large system for electing county commissioners. No Indian had ever been elected under that system, although several had run. In 1984, the county agreed to implement a single-member district system. The first election under the new system was in 1986, resulting in Mark Maryboy, the first Indian, to be elected to the commission. Since 1986, one of the three commissioners has been American Indian. Kenneth Maryboy currently (2010) represents the majority Indian district.

Big Horn County, Montana

In 1983, the county was sued for violating Section 2 of the Voting Rights Act (*Windy Boy v. Big Horn County* 647 F. Supp. 1002). In 1986, Big Horn County,

residentially segregated; therefore, they “often represent a majority of the prospective voters in one or two election districts or wards and thus have the potential for electing one or two candidates of their choice” (McCrary 2003, 669).

Montana, under court order, changed its electoral system from an at-large system to a single-member system for electing its three-person commission. Under the at-large system, no American Indian had ever been elected to public office in the county. Since the structural change, Indians have been elected to the commission as well as to other county offices. In fact, in 1986, John Doyle, Jr. was the first American Indian elected to the three-person commission (McCool, Olson, and Robinson 2007, 160). As of 2010, two of the three county commissioners are American Indian, John Doyle and John Pretty-on-Top.

Roosevelt County, Montana

In 1999, the U.S. Department of Justice filed a voting rights case against Roosevelt County, Montana, alleging that the use of the at-large system in electing commissioners violated Section 2 of the Voting Rights Act. The county commission was composed of three members who qualified to run for office from one of three residential districts but who were elected at-large by all voters in the county. The commissioners served six-year terms, and the terms were staggered so that only one position was open every two years (*U.S. v. Roosevelt County, MT*, 1999, Complaint). Under the at-large system, no Indian had ever been elected. However, in 1999, Gary McDonald, an enrolled member of the Chippewa Tribe of Belcourt, North Dakota, was appointed to the commission. The county and the U.S. Department of Justice entered into a consent agreement, with the county replacing its at-large system with a single-member district system. The first election with the new system was in 2000. Gary McDonald won the election for the commission and continues to serve today.

The data for this study were election turnout data, which are publicly available data from county clerks' offices. Data were collected for two elections preceding the change from at-large to single-member systems through 2008. Analysis of the data for the study proceeded as follows: First, all election data were recorded for each county for each election. Second, turnout data were calculated for multiple elections prior to empowerment and for all elections since empowerment through 2008.

The data for each county were analyzed in several steps to determine if empowerment has positive effects on the voting behavior of American Indians. First, data for the entire county were examined over time to determine how turnout had changed over the period of the study. In the second step, a comparison of voter turnout between the Indian commissioners' precincts with the White commissioners' precincts was completed, allowing for a comparison of turnout in the various precincts to determine the effect of empowerment of voters by commission district. This comparison allowed for a determination to be made as to whether voters in the three county commission districts were affected by empowerment. In this step, both the immediate effect of empowerment on turnout (i.e., how turnout increased in the election after the election of an Indian was sworn into office) as well as the long-term effect of empowerment on turnout were examined.

Because significant populations of Indians live in the non-Indian commissioner districts, the first set of analysis did not completely separate Indian from non-Indian voters; therefore, it was not a clean comparison. To better distinguish Indian voters from non-Indian voters and to determine the effect of empowerment on these groups, additional analysis was conducted. The next step was to compare Indian precincts (those

that are on reservation, including precincts that are partially and completely on reservation) with non-Indian precincts (those that are off reservation). This step allowed for a finer distinction to be made between Indian and non-Indian voters. An additional analysis was completed to further distinguish Indian from non-Indian voters. This analysis examined the turnout for the “reservation” precincts, which are those that are completely on the reservation, with non-Indian precincts, which are those precincts that are completely off or partially off reservation. Again, both the immediate effect of empowerment on turnout (i.e., how turnout increased in the election after the election of an Indian was sworn into office) and the long-term effect of empowerment on turnout were part of the analysis.

These analyses allowed for a determination of whether turnout among American Indians increased since the election of an Indian to the county commission and whether empowerment has positive effects on Indian voting behavior. Election turnout was compared to determine whether turnout increased or decreased at similar rates within each jurisdiction for the selected period. The theory predicts that turnout in the majority Indian commission districts and the precincts that are on the reservation would increase once an Indian is elected to office. In addition, turnout in the nonmajority Indian commission districts and the precincts that are not on the reservation would see no significant increase in turnout once an Indian is elected to the commission. If the empowerment theory is correct, the election of an Indian to public office will have a positive effect upon turnout among Indians after the election of an Indian official but will have no effect upon non-Indians.

Following analysis of the election turnout data, interviews were conducted with nine political elites to better understand the effect of empowerment on turnout in these four jurisdictions. The interviews provided additional information as to whether empowerment is a plausible way to understand any increase in turnout among American Indians. Data for this section consist of semistructured interviews with political elites living in the three identified jurisdictions. Semistructured interviews consist of a number of predetermined questions that are “typically asked of each interviewee in a systematic and consistent order, but the interviewer is allowed freedom to digress” from these questions and explore other issues (Berg 2004, 81). Interviews were one-on-one, by phone, and digitally audiorecorded. The interviewer asked the predetermined questions and followed up with additional questions.

Elite interviews were conducted with American Indians and Whites considered to be influential, prominent, and well-informed people in the community.² The elite selected for this study included elected American Indians, some of whom were the first American Indians elected in their jurisdiction, politically active American Indians, and White elected officials. A list of elites, comprised of current county clerks, county commissioners, employees of the county clerk’s office, and politically active individuals in the three communities was created. All were contacted by phone or e-mail and asked to participate in the study. Multiple attempts were made to contact all elites; however, some elites did not return messages or e-mails. Elite interviews provided me with an overall view of the communities because the individuals were more familiar with the histories of

²Elite interviewing “focuses on a particular type of interviewee. ‘Elite’ individuals are those considered to be influential, prominent, and/or well-informed people in an organization or community; they are selected for interviews on the basis of their expertise in areas relevant to the research” (Marshall and Rossman 1999, 113).

the communities, the policies of the local governments, and legal structures (lawsuits) as well as the participation rates in the communities. These individuals have a unique understanding of the political context. In particular, the Indian elected officials best know the effect of their own election on participation among American Indians in their community.

In case the individual was unclear about the question or the response was vague, probe questions were asked. In addition to these questions, additional follow-up questions were asked, as listed below:

Question 1: What effect, if any, has the election of an Indian had on Indian participation in your county? Probe: Do you believe that the election of an Indian to the county commission has caused more Indians to register? Vote? Why?

Question 2: In your experience in county government, have you seen any changes in how Indians regard county government after the election of an Indian to the county commission? Probe: Do you believe Indians feel more trusting of government since an Indian is now on the county commission? Probe: Do you believe Indians feel that government is more responsive since an Indian is now on the county commission? Probe: Do you believe Indians feel that their vote matters since an Indian is now on the county commission? Again, the purpose of the interviews was to provide additional information from political elites to confirm the interpretation of the turnout data.

Qualitative research differs significantly from quantitative research in the form of validity and reliability. This section explains the steps taken to ensure that the qualitative data are valid and reliable. Validity and reliability can be dealt with through attention to the study's conceptualization; the way in which the data were collected, analyzed, and

interpreted; and the way the findings were presented (Merriam 2001, 199-200). A research study is internally valid when the findings of a study are congruent with reality. Merriman suggested the following six strategies to enhance internal validity in qualitative research: (a) triangulation, (b) member checks, (c) long-term observation, (d) peer examination, (e) participatory or collaborative research, and (f) clarification of the researcher's biases to help ensure validity.

This study relied on several of these strategies to ensure internal validity. The first study is triangulation. Triangulation is a "process of using multiple perceptions to clarify meaning, verifying the repeatability of an observation or interpretation" (Stake 2003, 148). Merriam (2001) suggested that researchers who use triangulation rely upon multiple investigators, multiple sources of data, or multiple methods to confirm findings. The current study relied upon multiple interviews from both Whites and American Indian political elites as a way to confirm findings. Member checks (i.e., discussing with the interviewees the tentative interpretations and asking the interviewees if the results or conclusions are plausible) were also used to ensure internal validity.

External validity is concerned with the generalizability of the study. In quantitative methods, external validity is ensured by drawing a random sample from the population, for example. The issue for this qualitative study is whether a single case can be generalized to the population. Merriam (2001) noted that qualitative researchers approach the issue of external validity in one of two ways. First, researchers assume that the results of qualitative studies cannot be generalized; thus, this is a limitation of a methodological approach. Researchers may also use many cases to enhance generalizability in the traditional sense (Merriam 2001, 208). The current study enhanced

external validity by using rich, thick descriptions: typicality or modal categorization that allows for comparisons. The current investigation was a multisite study.

“Reliability refers to the extent to which research findings can be replicated” (Merriman 2001, 205). This concept is problematic in the social sciences because human behavior is never static (Merriman 2001, 205). Reliability is typically a concern for quantitative researchers who wish to isolate causal relationships. The assumption of reliability is that a study is reliable if a study can be replicated and can produce the same results. Lincoln and Guba (quoted in Merriman 2001, 206) suggest thinking about “dependability” and “consistency” such that the researcher asks if the results are consistent with the data. Several techniques can be used to ensure dependability. First, the investigators should explain assumptions and theories behind the study, explain the basis for selecting participants, and describe the context from which data were collected. Second, the researcher can use triangulation. Last, the researcher should create an audit trail by describing in detail how data were collected, how categories were derived, and how decisions were made (Merriman 2001, 206-07). These measures were taken to help ensure reliability.

Limitations of This Study

This study has several limitations. First, a limited number of jurisdictions fully met the selection criteria, limiting the generalizability of the study. Second, the study does not directly account for tribal cultural differences. Persons of color such as American Indians, Asian Americans, and Hispanics cannot be thought of as pan-ethnic. Differences in subgroups matter. For example, Cuban Americans vote as often or more often than Whites, whereas other Hispanic groups vote less frequently than Whites.

Asians of Filipino and Vietnamese origin are more likely to vote than other Asians (Lien 2000, 216-17). The same concept applies to American Indians; differences between tribes matter (Bataille and Sands 1984; Klein and Ackerman 1995; Niethammer 1977). Others have described the considerable variation among American Indian cultures (see Bataille and Sands 1984; Klein and Ackerman 1995; Niethammer 1977; Deloria 1984). These distinct differences between tribal cultures might affect voter turnout levels. For example, as noted earlier, Prindeville and Gomez (1999) found that particular tribal cultures and traditions discourage, prohibit, or both women from running for or holding political office (Prindeville and Gomez 1999, 27). They discovered that a majority of Pueblo tribes in New Mexico are more “traditional” than other Indian nations; this has hindered women’s political participation in both tribal and nontribal politics (Prindeville and Gomez 1999, 27-28). Other studies have found that “Indian political life is not the same everywhere, nor even among culturally similar tribes and bands” (Miller 1995, 25). One of the elites interviewed for this study noted the significant difference she saw between the participation of Crow and Cheyenne tribal members in Big Horn County, Montana. She believed that the Crow people were much more politically active in both tribal politics/elections and nontribal politics/elections than are the Cheyenne people in the county. Although the current study did not consider tribal differences, empowerment theory makes the same prediction for all regardless of tribe. Therefore, turnout should increase in all three jurisdictions after the election of an American Indian.

Ethical and Political Considerations Related to Methods

Two types of ethical categories can help guide a researcher to conduct ethical work. The first category is procedural ethics. Procedural ethics require a researcher to

consider issues of consent, deception, harm, privacy, and confidentiality (Punch 1994, 89). However, procedural ethics provide little guidance for dealing with ethical issues that develop in the field (Guillemin and Gillam 2004). For guidance on “ethics in practice,” researchers need to be willing to “acknowledge the ethical dimension of research practice, his or her ability to actually recognize this ethical dimension when it comes into play, and his or her ability to think through ethical issues and respond appropriately” (Guillemin and Gillam 2004, 269).

The first step of procedural ethics involved consent for conducting the study. For this study, approval was required from two entities. The first approval came from the Institutional Review Board at the University of Utah to conduct the elite interviews. The purpose of receiving approval from an institutional review board is to ensure that the researcher had considered the well-being of the participant (Wax 1991). The researcher must understand what potential harms (i.e., psychological, physical, or political) may result because of the participant engaging in the study. A second source of consent was required (i.e., consent from the individuals participating in the study). It was imperative that each participant was fully aware of the researcher’s role, activities, purpose, and potential uses of the data (Marshall and Rossman 1999, 85). Each participant was read, over the phone, an approved Institutional Review Board consent statement. The statement included information about the project, potential harms and benefits of participating in the project, and information on how to contact the researcher and the University of Utah’s Institutional Review Board. The interview participants were not required to sign the consent form. This modification was approved by the Institutional Review Board. Each participant was mailed his or her consent statement following the interview.

Other procedural concerns existed, including privacy and confidentiality (Punch 1994, 92). Each participant was guaranteed confidentiality. To help ensure confidentiality, several steps were taken. Paper files relating to the interviews were kept in a locked cabinet in my office. All computer files were kept on a password locked computer in my office. A related concern was anonymity for the interviewees. I did not attribute any statement directly to an individual, and I did my best to maintain anonymity of the responses.

Scholars have argued that ethical considerations go beyond the procedural ethics outlined above (Deloria 1991; Guillemin and Gillam 2004; Wax 1991). Wax argued that the bioethics model is deficient because it does not inquire about the goals, values, and interests of research participants. I suggest that incorporating a model in which the researcher is interested and concerned about the goals, values, and interests as well as the well-being of participants is necessary to conduct ethical research. Feminist scholarship emphasizes such relationships between the participant and the researcher. This perspective, or approach, provides a useful guideline, emphasizing the identity of participants, trust, empathy, and nonexploitive relationships. Guillemin and Gillam suggested one additional consideration: The researcher should consider not just “do no harm” but potential benefits the research can provide (Guillemin and Gillam 2004, 272). Both the feminist perspective and the advice of Guillemin and Gillam provided an important guide for conducting this project. In addition, reflexive research was one way to maintain, on a day-to-day basis, concern about this aspect of ethics for my research. Engaging in reflexivity means that “the ‘researcher should constantly take stock of their [sic] actions and their [sic] role in the research process and subject these to the same

critical scrutiny as the rest of their data” (Mason 1996, quoted in Guillemin and Gillam 2004, 274).

Deloria (1991) outlined several additional considerations for conducting research in American Indian communities. First, researchers should distinguish between serious research and popular writing. Second, researchers should find ways in which Indians and scholars gain more leverage over funding and research agendas for American Indians. Third, useless or repetitive research should be eliminated. Research on American Indians should focus upon the needs of the Indian community. Fourth, researchers should seek ways to link American Indians and Indian communities with the larger academic world. Sixth, researchers must brace for how their findings will be used (Deloria 1991). Finally, researchers should establish guidelines so that their knowledge about Indian communities is not perceived as establishing them as the authority and so that they do not defy the community’s wishes and identity.

CHAPTER 5

SAN JUAN COUNTY, UTAH

The most frequently occurring Voting Rights Act cases that have occurred in Indian country are Section 2 cases that challenged at-large electoral systems. This chapter examines San Juan County, Utah, the location of one of the earliest Section 2 Voting Rights Act cases in Indian country. The first section of the chapter provides an historical background, including laws, other relevant legal proceedings, a brief demographic analysis that explores the changes in the county's population over the period of this study, an explanation of the voting rights case, and the results of the case. The second section examines the findings of the research, which indicate that, as predicted by the hypothesis, voter turnout among American Indians increases after empowerment, as measured by the election of an Indian to the San Juan County Commission.

San Juan County, Utah, Background

San Juan County is located in the southeast corner of the state of Utah. It is one of the largest counties, geographically, in the entire nation, and covers 7,820 square miles. Two reservations are in the county: a) the Navajo Reservation and b) the White Mesa Ute Reservation. Because this case study examines voting prior to and after the

voting rights lawsuit in 1983, the background section provides demographic information from 1980 to 2008.

According to the 1980 Census, the entire county population included 12,256 people. Forty-six percent of the population were American Indian and 52% of the population were White. The U.S. Census Bureau estimates that 15,055 people lived in San Juan County in 2008, which is an increase of 2,802 people or 23% since 1980 (see Table 5.1).

Most of the population growth for San Juan County has occurred in the American Indian population. The American Indian population increased from 5,622 people in 1980 to 8,175 people in 2008, which is an increase of 2,553 people or 45% between 1980 and 2008. The percentage of Indians of the whole population has also increased. Indians in 1980 comprised 46% of the population in San Juan County. By 2008, Indians comprised 54% of the population. The White population decreased from 6,375 people in 1980 to 6,248 people in 2008, which is a decrease of 127 people or 2%. The percentage of Whites of the whole population has also decreased in San Juan County. In 1980, Whites comprised 52% of the population; however, by 2008, Whites comprised 42% of the population.

At the time of the case, the economic situation for the Navajo people in San Juan County was dire. In 1980, 58% of the Navajo people in San Juan County fell below the poverty level compared with only 12.5% of the White population (U.S. Census 1980, Table 10, 81; U.S. Census 1980, Table P-5). The median income of Whites (\$16,858) was more than double that of Indians (\$8,406) (U.S. Census 1980, Table P-5).

Table 5.1: Population Trends for San Juan County, Utah, 1980-2008

Population	1980	1990	2000	2008
Total	12,253	12,621	14,413	15,055
	6,375	5,479	5,876	6,248
White	(52%)	(43.4%)	(40.8%)	(41.5%)
American Indian	5,622	6,850	8,026	8,175
	(45.9%)	54.3%	(55.7%)	(54.3%)
	256	292	511	632
Other	(2%)	(2.3%)	(3.5%)	(4.2%)

Note: Racial data was not available for the 2008 Population Estimate.

Source: U.S. Census Bureau, 2008 Population Estimates, 2000 Census, 1990 Census, 1980 Census.

The Navajo people living on the reservation fell even further below the poverty line. The median income for Navajo families living on the Utah portion of the reservation was \$7,307 in 1979 (U.S. Census 1980, Table 10, 81). The unemployment rate for Navajos on the reservation was extremely high, reaching 24% (U.S. Census 1980, Table 10, 81).

Evidence also suggests disparities between Whites and Navajos in health care, housing, and education. No health-care facility existed on the Utah portion of the reservation until the 1960s (McPherson 1995). In 1970, 33% of deaths among Utah Navajos were preventable compared with 18% of deaths statewide (Bork 1973). The high rate of preventable deaths was probably due to geographic isolation, polluted and inadequate water supplies, lack of sanitation facilities, and poor nutrition (Bork 1973). In terms of housing conditions, 65% of homes on the Navajo reservation lacked complete plumbing, more than 60% were without a refrigerator, and 82% lacked a central heating system. More than half of the homes had no electric lighting, 64% had an outhouse or privy, and nearly all homes (94%) lacked a telephone.

Inequity within the San Juan County public school district is also evident in the historical record. Attempts to integrate the schools in the 1930s met fierce opposition

(Block 1983). Dropout rates for Indian children were significantly higher than for Whites in the twentieth century. In 1970, 28% of Navajo boys and 31% of Navajo girls terminated their education in elementary school (Bork 1973). Students endured bus rides of up to 166 miles each day to attend public schools in San Juan County, resulting in a 1974 lawsuit (*Sinajini v. Board of Education of the San Juan School District*, 1975). Findings were also reported of inequitable curriculum and extracurricular activities in the San Juan District (*Sinajini v. Board of Education of the San Juan School District*, 1975). The lack of education was evident in the high rates of English-language illiteracy among Navajos. In 1980, a large portion of the Navajo population was unable to speak, write, or read the English language and instead spoke the Navajo language (*U.S. v. San Juan County, Utah*, 1983b, Agreed Settlement and Order, January 11, 1984).

The overall climate, both the political and social climate, was hostile to American Indians in San Juan County at the time of the voting rights cases in the early 1980s. A few examples illustrate the level of racism faced by American Indians in the county. Restaurant signs read, “No Dogs or Indians Allowed.” The Blanding City Cemetery was segregated into the 1970s and political campaigns were said to have racial undercurrents (Swenson 2004).

History of Voting Discrimination in San Juan County, Utah

Historically, the county and the state of Utah at large have been involved in several voting rights lawsuits. A Utah law passed shortly after statehood prohibited Indians who resided on the reservation from voting (An Act Providing for Elections 1897, 172). The Utah code stated that “any person living upon any Indian or military reservation shall not be a resident of Utah, within the meaning of this chapter, unless such

person had acquired a residence in some county prior to taking up his [or her] residence upon such Indian or military reservation” (Revised Statutes of Utah 1898, 1907, 1917, 1933).¹ The justification used for the prohibition was simple: Indians were not considered residents if they lived on the reservation. The justification was one of many used in the United States at the time; other states had legal strategies that used issues of taxation, guardianship, literacy, and self-termination.

A substantial change to voting rights in Utah was made in 1940 when Joseph Chez, the Attorney General for the State of Utah, issued an opinion indicating that the statute barring Indians from voting was no longer applicable. The Attorney General stated that because “the attitude of the Government towards Indians themselves with relation to voting privileges has changed materially since the Utah statute in question was created” Indians, both those living on and off reservation, should be allowed to vote (Opinion of the Attorney General of Utah, October 25, 1940).

American Indians residing on the Uintah and Ouray Reservation in Duchense County were permitted to vote from 1940 until 1956, when a second and a contradictory opinion was issued (Allen 1956).² In 1956, Attorney General E. R. Callister issued an opinion reversing the 1940 opinion. Callister’s opinion simply stated that the “Indians who live on the reservations are not entitled to vote in Utah... Indians living off the reservation may, of course, register and vote in the voting district in which they reside,

¹ This exact language remained until the Utah Legislature amended the code in 1957. Utah has the unique distinction of being the last state to remove the ban to prohibit Indians from voting based upon residency.

² Author found no information about whether Indians in San Juan County, Utah, were allowed to vote between 1940 and 1956.

the same as any other citizen” (Opinion of the Attorney General of Utah, March 23, 1956).

That same year, Preston Allen, an American Indian living on the Uintah and Ouray Reservation, challenged the Utah law as violating his Fourteenth and Fifteenth Amendments of the U.S. Constitution. The Utah Supreme Court ruled against Allen, distinguishing reservation Indians from other citizens (Allen 1956; *Allen v. Merrell* 1956). The court relied upon three arguments for upholding the statute: a) reservation Indians are members of tribes “which have a considerable degree of sovereignty independent of state government”; b) the federal government remains largely responsible for the welfare of Indians on the reservations and maintains a high degree of “control over them”; and c) reservation Indians are “much less concerned with paying taxes and otherwise being involved with state government and its local units, and are much less interested in it than are citizens generally” (*Allen v. Merrell* 1956, 492). The case was appealed to the U.S. Supreme Court; however, before the Court could act, the Utah Legislature removed the prohibitory language from the state code and the case became moot (*Allen v. Merrell* 1956, 1957).

Another voting rights case, specific to San Juan County, is important to note. In 1972 two Navajo Indians living in the county filed to run for the county commission. After filing their declaration forms, they were informed by the county clerk that they needed fifty signatures to affirm their candidacy. However, the clerk failed to inform them that the signatures had to be notarized. The two candidates returned the forms, with the nonnotarized signatures, in five days after the filing deadline. The clerk refused to place the two candidates on the ballot. The two men filed suit in federal court on the

grounds that the statute created an arbitrary and unreasonable barrier to political participation. The Federal District Court for Utah found that the county clerk had violated the Fourteenth Amendment (*Yanito v. Barber* 1972). The ruling noted that the plaintiffs were “unfairly treated,” as they made numerous attempts to file their candidacy correctly but were not fully informed of all the requirements by the county officers. The two candidates were placed on the November ballot; however, neither candidate was elected.³

Voting Rights Act Case in San Juan County, Utah

The Department of Justice was involved in numerous voting rights cases in the southwest in the 1970s and 1980s.⁴ While working in the region, attorneys for the Justice Department became aware of possible voting rights violations in San Juan County, Utah, and began an investigation. In fall 1983, the Justice Department filed two voting rights cases against San Juan County, Utah. The Justice Department claimed that the at-large system used to elect county commissioners caused “irreparable injury” by diluting the votes of Indians and denying them an equal opportunity to participate in county elections and to elect candidates of their choice (*U.S. v. San Juan County, Utah*, 1983a, C-83-1286W Complaint, November 22, 1983). In the second case, the Justice Department claimed that the county violated Section 203 of the Voting Rights Act by failing to provide an effective number of bilingual interpreters, failing to ensure effective

³ A more in-depth explanation of voting rights in Utah and San Juan County can be found in *Native Vote* by McCool, Olson, and Robinson (2007).

⁴ Department of Justice attorneys were working in San Juan County, New Mexico in the late 1970s and early 1980s on a voting rights case. San Juan County, Utah and San Juan County, New Mexico, are adjacent to each other; in fact, both counties are part of the four corners region.

translation of the ballot into the Navajo language, and failing to post notices of the polling places in the Navajo language. The complaint also alleged that San Juan County failed to provide effective oral instructions, assistance, information in the Navajo language concerning the voter registration process, candidate nominations, filing procedures for candidates, absentee voting process, registration forms, registration and voting notices, and voter purging processes (*U.S. v. San Juan County, Utah*, 1983b, Complaint, November 22, 1983).⁵

The primary case relevant to this study is the Section 2 Voting Rights Act case filed by the U.S. Department of Justice against San Juan County. The complaint alleged that the at-large system for electing commissioners was a violation of Section 2 of the Voting Rights Act. The three-person commission had never included an American Indian, although several Indians had run for the office in 1972, 1976, and 1980 and despite the large percentage of the population that was comprised of American Indians. In 1980, the entire population was 12,256 people; Indians comprised approximately 5,600 people (46% of the population). Yet, Indians had never won a county commission seat in San Juan County because of the at-large system.

⁵ The Department of Justice filed a Section 203 cases against San Juan County, at the same time as filing the Section 2 case, implicating the county for failing to provide bilingual assistance to Indian voters (C-83-1287). The Section 203 case was settled on January 11, 1984. The County agreed to provide bilingual assistance and materials for American Indian voters. As part of the settlement the County established a bilingual voter registration program, and hired a Navajo as the bilingual coordinator (*US v. San Juan County, Utah*, 1983b, Agreed Settlement and Order, January 11, 1984). It is important to note that at the time of the case a large portion of the Navajo population, living in San Juan County, was unable to speak, write, or read the English language and instead spoke Navajo (*US v. San Juan County, Utah*, 1983b, Agreed Settlement and Order, January 11, 1984).

The Justice Department and San Juan County settled the case in 1984 (*U.S. v. San Juan County, Utah*, Agreed Settlement and Order, April 4, 1984). The at-large system was replaced with a single member system in 1984. Three commission districts were drawn, each with a relatively equal population. Two of the districts are predominantly White. District 1 includes the northern portion of the county and a small section of the Navajo Reservation. District 2 is almost entirely outside of the Navajo reservation but includes the small Ute Reservation of White Mesa. District 3 is predominantly Native American (Indian majority). It lies in the southeastern portion of the county and is almost entirely within the Navajo Reservation. The first election under the single-member system was held in 1986 for District 3, the Indian-majority district, at which time Mark Maryboy was elected as the first Navajo commissioner in San Juan County, Utah. Since Maryboy's retirement in 2002, the seat has been held by Manuel Morgan (elected in 2002) and Kenneth Maryboy (elected in 2006), both of whom are also American Indian.

Findings for San Juan County, Utah: Election Turnout Data

According to the empowerment theory, as a minority group becomes empowered, the group will become more politically active. This level of activity increases as a result of increased levels of knowledge and efficacy. In applying this theory to the San Juan County case, empowerment is measured as the election of an American Indian to the San Juan County Commission in 1986; political participation is measured as voter turnout in county elections. What is expected is that voter turnout among American Indians living in San Juan County will increase after empowerment. To elaborate, there should be a marked increase in voter turnout in 1988; since an Indian was first elected in 1986. This election would be the first in which empowerment would affect turnout. Further an

increase in voter turnout should not been seen among non-Indians (or Whites) in the community or at most only a minor increase in turnout after empowerment of American Indians. The study examined both the immediate effect of empowerment and the long-term effect of empowerment on voters in San Juan County.

Data for the analysis were voter turnout, provided by the San Juan County clerk, for elections held beginning in 1978 through 2008, a thirty-year period. These data include sixteen elections for county commissioners. Four of these elections (1978, 1980, 1982, 1984) occurred under the at-large system and the elections between 1986 and 2008 were under the single-member district system. The first single-member district election was in 1986. The first election for the Indian commission district was in 1986 because of the staggered system used to elect commissioners. Commission District 2 was also up for election in 1986.

Several different analyses were completed to determine whether Indian empowerment affected turnout among Indians in San Juan County. The initial analysis examined turnout over the thirty-year period by commission districts. This type of analysis allows for a comparison of the three commission districts to determine if turnout in the Indian commissioner district (District 3) differed over time from turnout in the non-Indian commission districts (Districts 1 and 2). While this analysis showed a minor increase in turnout among voters in the Indian commissioners' district following empowerment, it also indicated some increase in turnout in the non-Indian commissioners districts. Thus, to further isolate or separate the Indian and non-Indian voters, several additional analyses were completed. The next analysis examined the turnout by comparing precincts on reservation with those off reservation. This is an important

additional analysis because several precincts on reservation (either partially or completely) are in commission Districts 1 and 2. Again, these two districts are majority White commission districts and have never elected an Indian as a commissioner. By grouping precincts into “Indian” and “non-Indian” categories, a better analysis and comparison of Indian and non-Indian voters can be completed. Finally, to distinguish Indian voters from non-Indian voters even more thoroughly, a further narrowing of precincts was completed. This analysis distinguished precincts that are completely on reservation from all other precincts. It is slightly different from the third analysis which compared all reservation precincts (precincts that were partially or completely on reservation) with nonreservation precincts. These latter two analyses allow for a distinction to be made between Indian and non-Indian voters by simply identifying those precincts on reservation and those off. Findings from these analyses indicate that empowerment had a strong and positive effect on Indian political participation in San Juan County.

San Juan County Commission Districts and Voting Precincts

San Juan County’s precincts have remained relatively stable since 1978 in terms of the boundaries.⁶ In 1978 and 1980, San Juan County had eighteen precincts (Precincts 1 to 18). In 1982, one additional precinct was added (Precinct 19). In 1984, San Juan County added one additional precinct (Precinct 20). As noted, three commissioners are in San Juan County. The Indian majority district is commission District 3; the other two

⁶ The fact that the precincts have remained relatively stable is helpful to the analysis of the data. Because there is relatively minor change in the boundary lines, the comparison of the precinct data over time is more consistent.

districts (commission Districts 1 and 2) are populated mostly by non-Indians. The precincts that each commissioner represents, since 1986, are noted in Table 5.2.

Five of the twenty precincts are completely on the Navajo Reservation and one is completely on the White Mesa Reservation. Precincts 1 and 12 are partially on the Navajo Reservation and partially off the reservation. The remaining twelve precincts are completely off the reservation (see Table 5.2). The map in Appendix D indicates the precinct lines since the 1984 election.⁷ The precincts are also named according to place, which assists in locating and identifying the region within the country where the precinct lies (see Table 5.2).

Voter Turnout by County Commission Districts

After a brief explanation of how voter turnout has changed over the past thirty years, this section provides an explanation as to how turnout differs among the three commission districts. Voter turnout in San Juan County over the thirty-year period shows significant growth. The countywide turnout in 1978 was 2,821 voters; by 2008, 5,186 voters were in the county (see Table 5.3 and Figure 5.1) for an increase of 84% over a thirty-year period. However, most of this increase can be attributed to increases in turnout in commission District 3, the Indian-majority district. Turnout in District 3 increased from 450 voters in 1978 to 1,448 voters in 2008 for an increase of 222%.

⁷ In 2006, the turnout data for Precinct 17 were merged with Precinct 11; and the turnout data for Precinct 18 were merged with Precinct 10. It is unclear why the data for these precincts were merged, but author was unable to obtain data from the clerk that would show turnout in each of these four precincts individually for this election year.

Table 5.2: Precincts in San Juan County, Utah (1986-2008)

Precinct Number	Precinct Name	On Reservation/ Off Reservation/ Partially On	Commission District
1	Bluff	Partial	3
2	Montezuma Creek	On	3
3	Aneth	On	3
4	Cedar Point	Off	1
5	Ucolo	Off	1
6	La Sal	Off	1
7	Spanish Valley	Off	1
8	No. Monticello	Off	1
9	So. Monticello	Off	1
10	NW Blanding	Off	2
11	SW Blanding	Off	2
12	Mexican Hat	Partial	3
13	Ol Jato	On	1
14	Navajo Mountain	On	1
15	Hall's Crossing	Off	1
16	Red Mesa	On	3
17	SE Blanding	Off	2
18	NE Blanding	Off	2
19	Cn. Monticello	Off	1
20	White Mesa	On	2

Table 5.3: San Juan County, Utah, Election Turnout, 1978-2008, All Precincts

No.	1978	1980	1982	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008
1	175	205	232	214	231	201	353	311	243	297	274	320	259	303	267	337
2	88	215	245	231	205	257	455	377	303	335	281	352	264	362	360	387
3	82	141	200	201	251	298	335	298	310	270	212	316	262	326	350	361
4	29	23	26	19	15	17	14	16	12	17	9	12	12	15	11	20
5	88	99	101	108	100	111	103	126	111	138	109	130	106	147	120	139
6	101	152	114	108	82	72	68	103	72	110	83	121	89	136	85	134
7	27	27	23	32	16	21	21	27	21	59	39	67	59	136	96	194
8	477	523	262	284	233	214	228	233	181	226	170	252	185	222	109	173
9	452	487	347	355	327	326	331	354	265	332	227	355	301	389	191	409
10	295	391	371	406	365	381	389	392	350	428	325	438	372	413	571	432
11	199	268	276	293	238	267	267	275	217	264	231	290	236	279	458	271
12	82	103	122	120	151	159	202	224	159	158	143	185	69	159	132	163
13	128	232	206	281	229	371	325	429	376	419	384	444	434	475	439	497
14	96	125	112	145	156	175	184	186	207	187	140	200	154	194	180	193
15	27	34	52	44	30	37	18	32	12	32	19	27	10	30	17	14
16	23	60	188	142	159	174	150	168	164	169	158	164	134	183	165	200
17	215	328	322	324	311	328	309	347	274	355	283	385	325	382		404
18	237	318	307	291	253	283	272	306	242	334	277	386	344	399		344
19			320	314	291	305	326	341	269	286	221	288	223	305	150	338
20				33	45	33	82	39	36	38	27	39	32	26	9	34
Canvass		15		0								65	117	138	102	142
early voting				0											342	
TOTAL	2821	3746	3826	3945	3688	4030	4432	4584	3824	4454	3612	4836	3987	5019	4154	5186
%		0.32	0.02	0.03	-0.07	0.09	0.1	0.03	-0.17	0.16	-0.19	0.33	-0.18	0.25	-0.17	0.24

Table 5.3: continued

No.	1978	1980	1982	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008
Comm. 1 Totals	1425	1702	1563	1690	1479	1649	1618	1847	1526	1806	1401	1896	1573	2049	1398	2111
%		0.19	-0.08	0.08	-0.12	0.11	-0.01	0.14	-0.17	0.18	-0.22	0.35	-0.17	0.30	-0.31	0.51
Comm. 2 Totals	946	1305	1276	1347	1212	1292	1319	1359	1119	1419	1143	1538	1309	1499	1038	1485
%		0.37	-0.02	0.05	-0.1	0.06	0.02	0.03	-0.17	0.26	-0.19	0.34	-0.14	0.14	-0.30	0.43
Comm. 3 Totals	450	724	987	908	997	1089	1495	1378	1179	1229	1068	1337	988	1333	1274	1448
%		0.60	0.36	-0.08	0.09	0.09	0.37	-0.07	-0.14	0.04	-0.13	0.25	-0.26	0.34	-0.04	0.13

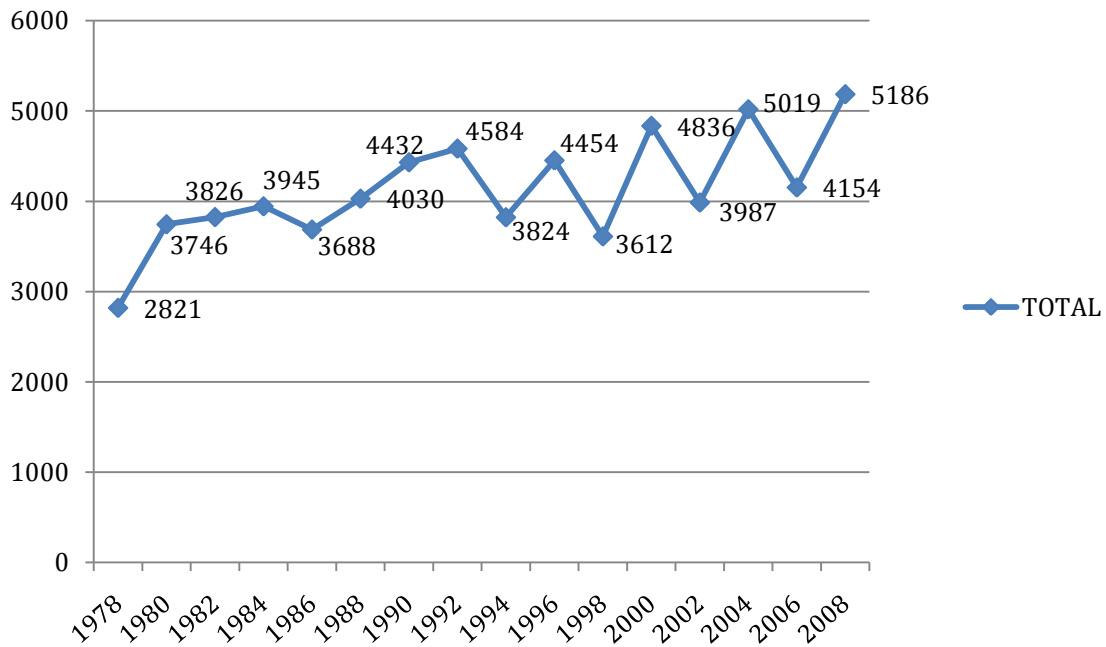


Fig. 5.1. San Juan County, Utah: Election Turnout, 1978 to 2008.

Figure 5.1 indicates that empowerment has had a long-term effect on turnout in these precincts. In contrast, turnout in commission Districts 1 and 2 combined over the thirty-year period increased 52% from 2,371 in 1984 to 3,596 in 2008). Although this is a large increase in turnout over time, it is nowhere near the rate of increase experienced in the Indian-majority district.

If the empowerment hypothesis is correct, an increase in Indian turnout should be seen the election year after empowerment, indicating an immediate effect of empowerment on turnout. In this case, an Indian was elected to the commission in 1986; therefore, empowerment should first affect turnout in the 1988 election. The study examined turnout in the three commission districts to see if there is a difference in

turnout between the Indian commissioner's district and the other two districts. Overall, turnout in the county increased 9% from 1986 to 1988. Turnout in the Indian commissioner's district increased by 9% from 1986 to 1988, which is a small increase and on par with the overall county increase. Turnout in District 1 increased by 11.5% from 1986 to 1988, which is not surprising since this seat was open for election in 1988. Turnout in District 2 increased by just 6.6% (see Table 5.3 and Figure 5.2). The increase in the Indian commissioner's district is not as high as expected. The large increase in District 1 is much higher than anticipated by the hypothesis. Thus, additional analysis is called for to better separate Indian and non-Indian voters. This type of analysis can be done by looking at turnout in specific precincts, those that are on the reservation, rather than just looking at precincts within each of the three county commissioner districts.

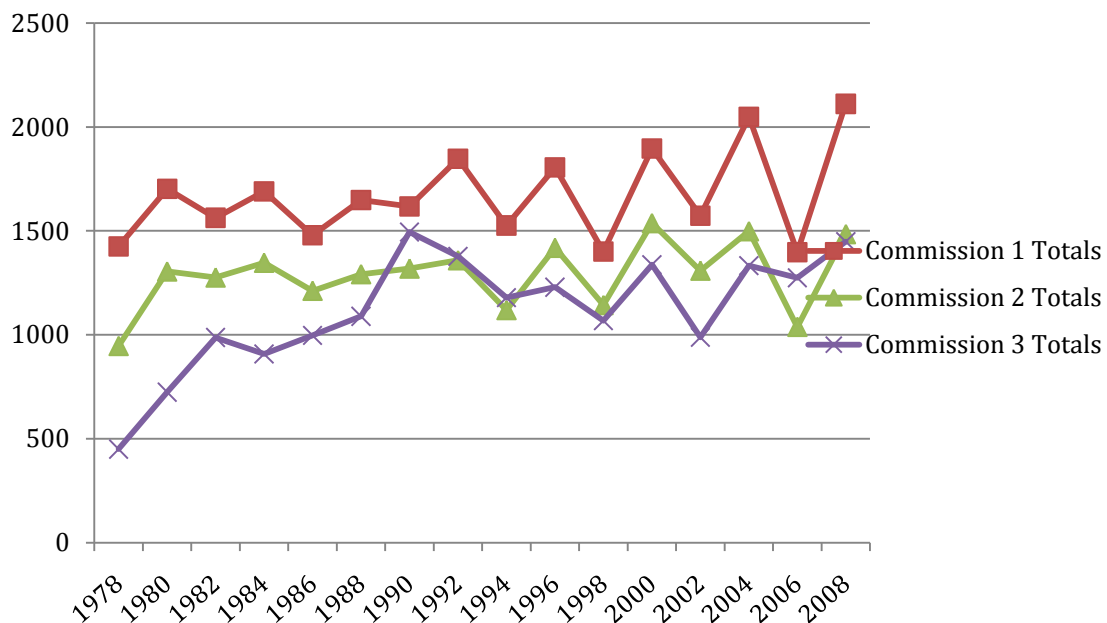


Fig. 5.2 San Juan County, Utah: Turnout by Commission District, 1978 to 2008.

Comparison of Indian and Non-Indian Precincts

This section compares turnout in “Indian precincts” with “non-Indian precincts” to determine whether there is a difference in voter behavior in these two areas. Indian precincts are those voting precincts that are partially or completely on the reservation (see Table 5.2). It is helpful to remember that not all of these precincts are in the Indian commissioner’s district; in fact, three of these precincts are in the other commissioner’s districts. Two of these precincts are within commission District 1 (Precinct 13 and 14), and Precinct 20 lies in commission District 2. Non-Indian precincts are those that are completely off the reservation.

To begin, the study examined turnout over the thirty-year period, and then examined turnout immediately after empowerment. This initial analysis indicated that the effect of empowerment was longlasting. Turnout in the “Indian precincts” increased from 674 voters in 1978 to 2,172 voters in 2008, which is an increase of 222% over a thirty-year period (see Table 5.4 and Figure 5.3). For comparison, turnout in the non-Indian precincts increased by 34% during the same period of time (see Table 5.5 and Figure 5.4). Table 5.4 and Table 5.5 also illustrate the change in turnout, by percentage, from election year to election year. For example, as shown in Table 5.4, turnout in the Indian precincts increased by 25% between 1988 and 1990.

To determine if the hypothesis was correct, the study also examined the turnout immediately after empowerment by looking at turnout in the Indian precincts in 1988 to determine whether there was a marked increase after the election of an Indian to the commission. Between 1986 and 1988, turnout in the Indian precincts increased by 17% from 1,427 voters to 1,668 voters. Turnout increased again in these precincts in 1990 by

Table 5.4: San Juan County, UT, Turnout 1978-2008, Turnout in "Indian Precincts" (those partially or completely on reservation)

No.	1978	1980	1982	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008
1	175	205	232	214	231	201	353	311	243	297	274	320	259	303	267	337
2	88	215	245	231	205	257	455	377	303	335	281	352	264	362	360	387
3	82	141	200	201	251	298	335	298	310	270	212	316	262	326	350	361
12	82	103	122	120	151	159	202	224	159	158	143	185	69	159	132	163
13	128	232	206	281	229	371	325	429	376	419	384	444	434	475	439	497
14	96	125	112	145	156	175	184	186	207	187	140	200	154	194	180	193
16	23	60	188	142	159	174	150	168	164	169	158	164	134	183	165	200
20				33	45	33	82	39	36	38	27	39	32	26	9	34
TOTAL	674	1081	1305	1367	1427	1668	2086	2032	1798	1873	1619	2020	1608	2028	1902	2172
% Change		0.60	0.21	0.05	0.04	0.17	0.25	-0.03	-0.12	0.04	-0.14	0.25	-0.20	0.26	-0.06	0.14

Source: San Juan County, Utah General Election Results, 1978-2008.

25% from 1,668 voters to 2,086 voters - the year that Indian candidates ran for every elected office in San Juan County as well as the year of an intense voter registration effort and “get-out-the-vote” drive. The increase in voter turnout in 1990 for Indian voters is consistent with the empowerment theory; that is as minorities begin to gain knowledge and efficacy, their participation rates increase. Voter turnout in 1990 was the highest at any point until 2008.

To provide some comparison and an understanding of where the growth in turnout has occurred in San Juan County, the study also examined turnout in the non-Indian precincts (see Table 5.2). These precincts are in either commission District 1 or 2. Turnout in the non-Indian precincts only increased slightly (by just 5% between 1986 and 1988) compared with the increase of 17% for the Indian precincts. Further, when turnout increased substantially (25%) for the Indian precincts from 1988 to 1990, turnout in the non-Indian precincts declined by 1%.

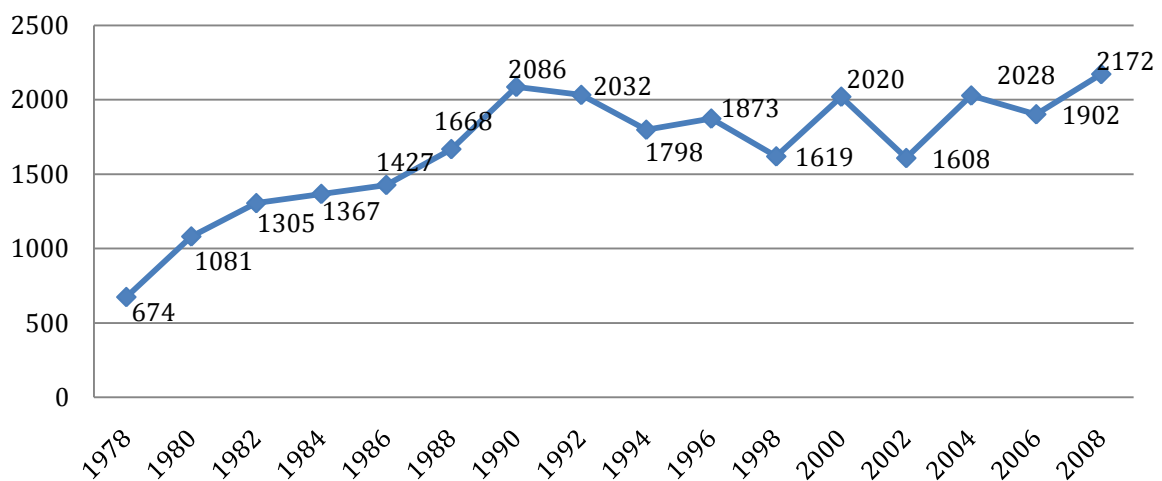


Fig. 5.3. San Juan County, Utah: Turnout in Indian Precincts.

Table 5.5: San Juan County, UT, Turnout 1978-2008, Turnout in "Non-Indian Precincts"

No.	1978	1980	1982	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008
4	29	23	26	19	15	17	14	16	12	17	9	12	12	15	11	20
5	88	99	101	108	100	111	103	126	111	138	109	130	106	147	120	139
6	101	152	114	108	82	72	68	103	72	110	83	121	89	136	85	134
7	27	27	23	32	16	21	21	27	21	59	39	67	59	136	96	194
8	477	523	262	284	233	214	228	233	181	226	170	252	185	222	109	173
9	452	487	347	355	327	326	331	354	265	332	227	355	301	389	191	409
10	295	391	371	406	365	381	389	392	350	428	325	438	372	413	571	432
11	199	268	276	293	238	267	267	275	217	264	231	290	236	279	458	271
15	27	34	52	44	30	37	18	32	12	32	19	27	10	30	17	14
17	215	328	322	324	311	328	309	347	274	355	283	385	325	382		404
18	237	318	307	291	253	283	272	306	242	334	277	386	344	399		344
19			320	314	291	305	326	341	269	286	221	288	223	305	150	338
TOTAL	2147	2650	2521	2578	2261	2362	2346	2552	2026	2581	1993	2751	2262	2853	1808	2872
% change		0.23	-0.05	0.02	-0.12	0.05	-0.01	0.09	-0.21	0.27	-0.23	0.38	-0.18	0.26	-0.37	0.59

Source: San Juan County, Utah General Election Results, 1978-2008.

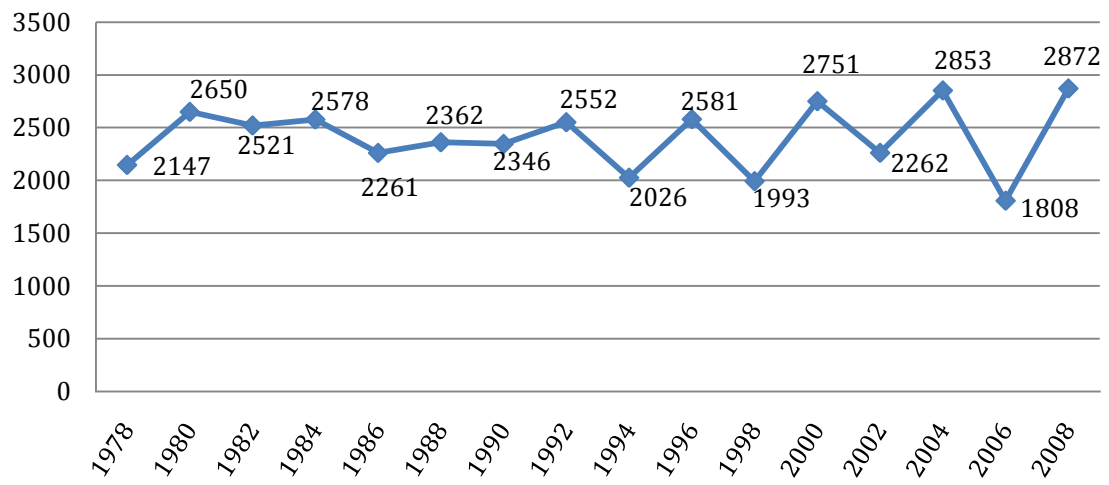


Fig. 5.4. San Juan County, Utah: Turnout in Non-Indian Precincts.

Comparison of Reservation Precincts With Nonreservation Precincts

The analysis above examined turnout in “Indian” precincts: those precincts that are either partially or completely on the reservation. Additional analysis was conducted for precincts that are completely on the reservation and compare them with all other precincts. This analysis further narrows the voters who are on reservation (Indians) and compares them with those off reservation to determine whether empowerment has any effect on turnout among American Indians in San Juan County (see Table 5.2).

To begin, I examined turnout over the thirty-year period of this study, and then I turned my attention to examine turnout immediately after empowerment. Turnout for the reservation precincts in 1978 was 417 people. By 2008, turnout was 1,672 people, an increase of 301% over thirty years. It is also interesting to note the change in turnout from election to election. A large increase was seen in turnout between 1978 and 1980. The turnout continued to increase from 1978 through 1990, and then slightly declines. It appears that beginning in 1992, the turnout starts to fluctuate with the presidential election cycle. In other words, a higher turnout is seen in presidential election years and a lower turnout is seen in mid-term election years (see Table 5.6 and Figure 5.5).

Turnout on nonreservation precincts increased by 46% over this same period of time. Although this figure is large, it is nowhere near the 301% increase seen in the reservation precincts. Further, as predicted by the hypothesis, turnout on the reservation increased immediately after empowerment. A 25% increase was seen in turnout between 1986 and 1988 for reservation voters (see Table 5.6). In comparison, only a 3% increase was seen in turnout for voters who live off the reservation or in precincts that are partially off the reservation (see Figure 5.6 and Table 5.7).

Table 5.6: San Juan County, UT, Turnout 1978-2008, Turnout in Reservation Precincts (precincts completely on reservation)

No.	1978	1980	1982	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008
2	88	215	245	231	205	257	455	377	303	335	281	352	264	362	360	387
3	82	141	200	201	251	298	335	298	310	270	212	316	262	326	350	361
13	128	232	206	281	229	371	325	429	376	419	384	444	434	475	439	497
14	96	125	112	145	156	175	184	186	207	187	140	200	154	194	180	193
16	23	60	188	142	159	174	150	168	164	169	158	164	134	183	165	200
20				33	45	33	82	39	36	38	27	39	32	26	9	34
TOTAL	417	773	951	1033	1045	1308	1531	1497	1396	1418	1202	1515	1280	1566	1503	1672
% change		0.85	0.23	0.09	0.01	0.25	0.17	-0.02	-0.07	0.02	-0.15	0.26	-0.16	0.22	-0.04	0.11

Source: San Juan County, Utah General Election Results, 1978-2008.

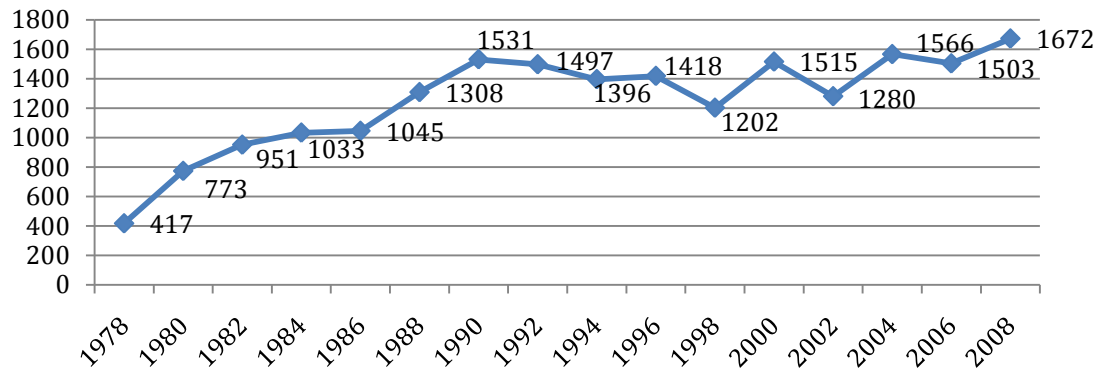


Fig. 5.5. San Juan County, Utah: Turnout in Reservation Precincts.

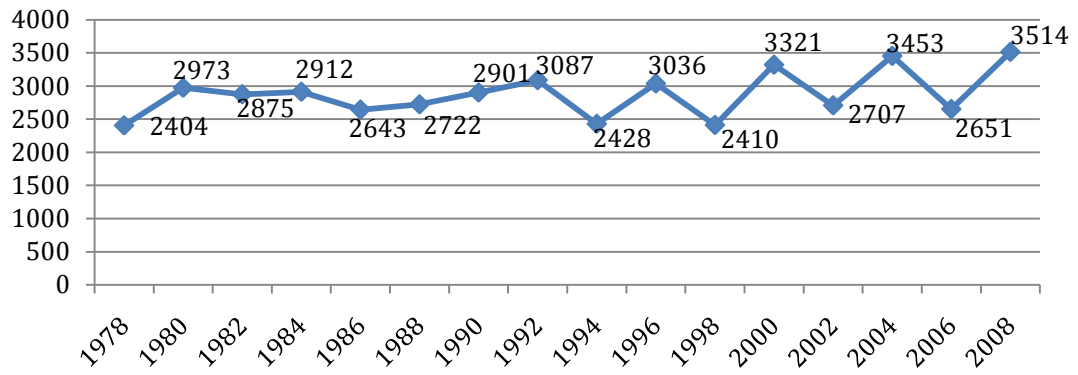


Fig. 5.6. San Juan County, Utah: Turnout in Off-Reservation Precincts.

Table 5.7: San Juan County, Utah, Election Turnout, 1978-2008, Off-Reservation Precincts (precincts that are completely or partially off the reservation)

No.	1978	1980	1982	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008
1	175	205	232	214	231	201	353	311	243	297	274	320	259	303	267	337
4	29	23	26	19	15	17	14	16	12	17	9	12	12	15	11	20
5	88	99	101	108	100	111	103	126	111	138	109	130	106	147	120	139
6	101	152	114	108	82	72	68	103	72	110	83	121	89	136	85	134
7	27	27	23	32	16	21	21	27	21	59	39	67	59	136	96	194
8	477	523	262	284	233	214	228	233	181	226	170	252	185	222	109	173
9	452	487	347	355	327	326	331	354	265	332	227	355	301	389	191	409
10	295	391	371	406	365	381	389	392	350	428	325	438	372	413	571	432
11	199	268	276	293	238	267	267	275	217	264	231	290	236	279	458	271
12	82	103	122	120	151	159	202	224	159	158	143	185	69	159	132	163
15	27	34	52	44	30	37	18	32	12	32	19	27	10	30	17	14
17	215	328	322	324	311	328	309	347	274	355	283	385	325	382		404
18	237	318	307	291	253	283	272	306	242	334	277	386	344	399		344
19			320	314	291	305	326	341	269	286	221	288	223	305	150	338
Canvass		15		0								65	117	138	102	142
early voting				0											342	
TOTAL	2404	2973	2875	2912	2643	2722	2901	3087	2428	3036	2410	3321	2707	3453	2651	3514
% Change		0.24	-0.03	0.01	-0.09	0.03	0.07	0.06	-0.21	0.25	-0.21	0.38	-0.19	0.28	-0.23	0.33

Source: San Juan County, Utah General Election Results, 1978-2008.

Findings for San Juan County, Utah: Interview Data

Following analysis of the turnout data, semistructured interviews were conducted by phone in spring 2010 with four political elites in San Juan County, Utah, to determine the effect the election of an Indian had on participation in the county as well as to determine whether any changes in how Indians regard county government have occurred since his election in 1986. The elites included elected officials, a former elected official, and a politically active individual. Interviews lasted, on average, twelve minutes.

The interviews provided additional information as to whether empowerment is a plausible way to understand the increase in turnout among Indians in San Juan County. Interviewees were asked two groupings of questions. To begin, the interviewees were each asked about the effect of Maryboy's election to the San Juan County commission on participation among Indians living in the county and the reasons why the election of an Indian to the commission may have caused more Indians to register and to vote. The second set of questions probed whether the election of an Indian to the commission has influenced how Indians regard county government. Specific questions asked about whether the election of an Indian affected trust in government among Indians, Indians' perceptions of government in terms of responsiveness, and whether Indians believe their votes matter.

These questions addressed critical aspects of the empowerment theory. First, they explored whether the election of an Indian to the commission affected participation rates among Indians. In other words, do Indians participate in elections at higher rates after empowerment than prior to empowerment? Second the questions delve into the issue of whether the election of an Indian affected how Indians view government. Answers to

these questions revealed reasons for the positive impact of empowerment on turnout among Indians.

In terms of the initial question as to whether the election of an Indian to the county commission had impacted participation rates among Indians, all interviewees agreed that participation among American Indians had improved since Maryboy's election. Most believed that participation increases were a direct result of Maryboy's election, as it affected how Indians viewed government. One respondent said: "People realized they can have a say in that position Opened doors Anybody's capable of participating in the electoral process." Similarly, another respondent noted: "I think the effect was positive. For the first time, there was a voice in the county government regarding goods and services provided to people...I think people know if they vote in a Native American person, that person will be receptive to their needs and their requests."

One person indicated that he was unsure as to whether the increase in participation was because of having a Native American on the commission, or an increased effort to get more registered voters. This individual noted that there was an increase in turnout when there was a viable Native American candidate, especially in commission races.

The second set of interview questions showed the effect of empowerment on how Indians perceive government. These questions revealed that visible representation matters. In other words, having an Indian in elected office sends a message of inclusion to Indians in the community and it heightens participation of Indians in elections. "They feel a bigger part of it because they do have someone they identify with when they come in or have contact with." Another person said: "I think when they go to Monticello, to

the county commission meetings, they see a Native American person. When they bring an issue before the commission, normally a Navajo or Native American commission is receptive to their concerns and the issues they bring to county government.”

Another important aspect of the empowerment theory is whether the minority group begins to see government as more responsive after empowerment, which has the effect of changing the cost-benefit analysis for minority members. That is, if they believe the benefit of participation is greater than the cost, they will participate in higher numbers. When asked whether Indians believe government is more responsive since the election of an Indian to the county commission, some individuals agreed. In addition, many individuals interviewed shared examples of the way in which the county has been more responsive to American Indians’ concerns, including road improvements made by the county within the reservation boundary, better coordination between the tribe and county on public safety issues, more funding for seniors living on the reservation, and increased input from Native Americans on public land issues and hunting rights. It appears that American Indian voters receive cues from the political context, indicating the likelihood of policy responsiveness; in turn, this positively impacted their willingness to vote on election day.

In terms of the cost-benefit analysis, all interviewees indicated that Indians believe that their vote matters since an Indian is now on the commission. One person indicated that younger people have a stronger sense that their vote counts: “Feel that now they can be heard...Now they can make some [headway] on certain things, politically.” Others made similar statements: “Starting to understand ... their vote can make a difference.” “I think they do. I think they recognize that person represents their race.”

The results are mixed, however, as to whether Indians feel more trusting of government since the election of an Indian to the commission nearly twenty-five years ago. One individual indicated that he did not know whether Indians felt more trusting of government now. Another said that he believed that Indians are more trusting towards county government today. A third person said that trust varies among American Indians in the county by age. The younger generation, according to him, is more open and has a more trusting attitude than older people. A fourth person said, "It's probably going to take a while before that occurs."

Overall, the interviews indicated that the election of an Indian to the county commission in San Juan County had a positive impact on turnout in the county. It was also found that Indians view county government differently (more positively) since the election of an Indian to the commission in 1986, and believe their vote matters. These results are supporting evidence that empowerment had positive effects on turnout for Indian residents in San Juan County, Utah.

Conclusion

The effect of empowerment on American Indians living in San Juan County has been substantial. Over the thirty-year period of this study turnout among Indians living on reservation increased 301%, while turnout for all precincts off reservation increased by 46%. A substantial jump was seen in turnout immediately after the point of empowerment, which is evident in the high turnout in the 1988 and 1990 elections. This increase immediately after empowerment is in line with the empowerment theory: when individuals gain knowledge and begin to feel their vote matters, they become more politically active. The interview data support this conclusion that American Indians

began to identify with their elected county commissioner, began to believe that county government was “receptive to their concerns,” began to gain knowledge of the political system, and began to believe that their vote mattered.

CHAPTER 6

BIG HORN COUNTY, MONTANA

This chapter examines Big Horn County, Montana. The first section of the chapter provides an historical background, including laws, other relevant legal proceedings, a demographic analysis, an explanation of the voting rights case, and the results of the case. The second section examines the findings of the research that voter turnout among American Indians in Big Horn County increased after empowerment and that voter turnout among non-Indians in the county declined.

Big Horn County, Montana Background

In 1983, the American Civil Liberties Union filed a voting rights lawsuit on behalf of American Indians living in Big Horn County, Montana. The plaintiffs challenged the at-large system for electing the Board of Commissioners for Big Horn County and the school board on the grounds that the system violates Section 2 of the Voting Rights Act (42 USC 1973) and the Fourteenth and Fifteenth Amendments. The plaintiffs claimed that the at-large system denied them an equal opportunity to participate in the political process and to elect representatives of their choice (*Windy Boy v. County of Big Horn*, 1986, 647 F. Supp 1002). The case was referred to the “Second Battle of Big Horn” (Wood 1986).

Big Horn County is located in the southeastern portion of Montana. Geographically, the county is large, covering 5,023 square miles (larger than the state of Connecticut). Two reservations are within the county, the Northern Cheyenne Reservation and the Crow Reservation, which comprise two-thirds of the county. According to the 1980 Census, an estimated 11,096 people lived in the county, 52.1% White, 46.2% Indian, and 1.7% other races. Most Indians living in the county are members of the Crow and Northern Cheyenne Tribes, and 90% of the Native Americans in Big Horn County lived on reservations. Hardin is the county capital. In 1980, 83.6% of the town's residents were White, and 13.2% were Indian. Nearly half of the White residents in the county lived in Hardin at the time of the lawsuit (*Windy Boy v. County of Big Horn*, 1986, 647 F. Supp 1002).

The population has grown since 1980 (see Table 6.1). According to the 2008 Census, the population was 12,841 people, an increase of 16% between 1980 and 2008. Most of the growth in population has occurred in the American Indian population. The 1980 Census estimated that 5,125 American Indians lived in Big Horn County. That number increased to 7,756 American Indians in 2008, which is an increase of 2,631 people or 51%. In 1980, the percentage of Indians of the whole population in Big Horn County was 46.2%. The percentage increased by 2008 so that Indians made up 60% of the population in Big Horn County. The White population actually declined during this same period. In 1980, the White population was 5,781, and decreased to 4,456 people by 2008, which is a decrease of 1,325 people or 23%. The percentage of Whites of the

Table 6.1: Population Trends for Big Horn County, MT, 1980-2008

Population	1980	1990	2000	2008
Total	11,096	11,337	12,671	12,841
	5,781	4,916	4,638	4,456
White	(52.1%)	(43.4%)	(36.6%)	(34.7%)
American Indian	5,125	6,289	7,560	7,756
	(46.2%)	(55.5%)	(59.7%)	(60.4%)
Other	190	132	473	629
	(1.7%)	(1.2%)	(3.7%)	(4.9%)

Note: Racial data not available for the 2008 Population Estimate.

Source: U.S. Census Bureau, 2008 Population Estimates, 2000 Census, 1990 Census, 1980 Census.

whole population also declined during this period. In 1980, Whites comprised 52% of the population. By 2008, Whites only comprised 35% of the population in Big Horn County (see Table 6.1).

At the time of the case, clear disparities existed between Whites and Indians.

“The statistics demonstrate that Indians in Big Horn County do not fare well relative to Whites. Indian per capita income at \$2,987 is less than half of that for Whites. Indian life expectancy is 46, compared to life expectancy of 70 years of age for Whites.

Unemployment among Indians at 32.6% is eight times that of Whites. Some studies have shown unemployment well over 50 percent. Over a third of Indian households have no phone” (*Windy Boy v. County of Big Horn*, 1986, 647 F. Supp 1002).

History of Voting Discrimination in Big Horn County, Montana

Discrimination against American Indians in Big Horn County in terms of voting rights was well entrenched in the county at the time of the voting rights lawsuit in the mid-1980s. Specific territorial and state laws prohibited or diluted the votes of American Indians living in Montana. “In 1871, the Montana territory denied voting rights to persons under ‘guardianship’ and outlawed voting precincts at Indian agencies, training

posts in Indian Country, or ‘on any Indian reservation whatever’ (Svingen 1987, 276).

The Montana Enabling Act of 1889 granted voting rights to all male citizens without regard to race or color, with the exception of Indians not taxed (Svingen 1987, 276).

Two other laws restricted voting rights to taxpayers and to resident freeholders listed on city or county tax rolls: (a) Montana Laws 1897, and (b) Montana Laws 1903. The Montana State Legislature also passed a law in 1911 that declared anyone living on an Indian or military reservation who had not previously acquired residency in the state would not be a resident: Montana Laws 1911.

In 1927, shortly after passage of the Indian Citizenship Act, the Montana State Legislature passed a law allowing counties to elect commissioners at-large. Each county would allow for a three-commissioner system, terms would be six years and on a two-year staggered basis (Montana Laws 1927), the result of which can dilute the votes of minorities. It seems likely that the new laws were a response to the growing potential of the Indian voter.

Shortly after the passage of the Indian Citizenship Act, the *Hardin Tribune* focused on newly-won Indian voting rights. News accounts and editorials drew front-page attention to Indian voting potential, and pondered its impact on upcoming elections. Robert Yellowtail attracted a great deal of news coverage when he ran for state office in the fall of 1924. The *Tribune* estimated 5,000 then 9,000 Montana Indians would vote in the 1924 elections, and it closely monitored the number of Indian people who registered in Big Horn County. Clearly, Big Horn County’s non-Indian population dreaded the possibility of an Indian being voted into county or state office. (Svingen 1987, 278)

In 1937, the state mandated that all deputy voter registrars must be taxpaying residents, excluding Indians; that same year Montana cancelled all voter registrations and required re-registration. “Indian registration had risen steadily, but after the 1937

cancellation process, Indian voting numbers remained depressed, not returning to the pre-1937 levels until the 1980s” (Svingen 1987, 279).¹

Voting Rights Act Case in Big Horn County, Montana

The Voting Rights Project of the American Civil Liberties Union (ACLU) filed a voting rights lawsuit in 1983 on behalf of American Indians living in Big Horn County, Montana.² The plaintiffs, including lead plaintiff Janine Windy Boy, challenged the at-large system for electing the Board of Commissioners for Big Horn County and the school board on the grounds that the system violates Section 2 of the VRA (42 USC 1973) and the Fourteenth and Fifteenth Amendments. The plaintiffs claimed that the at-large system denied them the equal opportunity to participate in the political process and to elect representatives of their choice (*Windy Boy v. County of Big Horn*, 1986, 647 F. Supp 1002).

At the time of the case, Big Horn County was governed by a three-person commission, elected through an at-large system. At one point, the Montana constitution required at-large systems for electing commissioners, but this no longer was a requirement at the time of the case. In fact, two counties in Montana had already adopted single-member systems by 1983.

Although the elections were held through an at-large system, the county was divided into three districts and one commissioner had to reside in each district. This

¹ McDonald (2010) provides an in-depth description of laws in Montana that prohibited or restricted American Indians from voting.

² The ACLU’s Voting Rights Project had been actively involved in voting rights cases for African Americans mostly in the South. Its first case on behalf of American Indians outside of the South was *Windy Boy v. Big Horn County* filed in 1983. Their first American Indian voting rights case was *Canady v. Lumberton City Board of Education* (1981) in North Carolina, a Section 5 Voting Rights Act case addressing preclearance.

electoral system was studied twice prior to the filing of the voting rights case in the early 1980s. The two studies, which occurred in the years prior to the case, recommended that the at-large system for electing commissioners should be dropped and a district system be adopted (*Windy Boy v. County of Big Horn*, 1986, 647 F. Supp 1002).

Testimony in the *Wind Boy* trial included (a) voter registration and vote irregularities; (b) removal of Indians' names from the voting list thus preventing people from voting on election day in 1982 and 1984; (c) names removed from lists between the primary and general elections; (d) interference with the right to register to vote; (e) irregularities in the distribution of registration cards; (f) lack of appointments of Indians to boards and commissions in the county (only fourteen Indians appointed to boards/commissions since 1924); (g) and in the past, laws prohibiting voting precincts from being on Indian reservations (*Windy Boy v. County of Big Horn*, 1986, 647 F. Supp 1002). When Janine Windy Boy, the lead plaintiff in the case, was elected, the Big Horn County democratic chairwomen, the White members of the county party bolted and formed their own party (Shaw 1986).

The lack of success of Indian candidates is also a critical point, as this is important evidence examined by the courts. Of the numerous Indians who have run for county or school board positions since 1924, only one Indian has been successful in Big Horn County. Wayne Moccassin was elected to the school board in 1984. "His election was in part a result of unique circumstances in 1984, as three White candidates split the White vote" (*Windy Boy v. County of Big Horn*, 1986, 647 F. Supp 1002).

Several comments from elected officials and prominent members of the community illuminate the conflicts over voting between Whites and Indians at the time of the case.

Commissioner Ed Miller said the following: “‘Things were fine around here. Now they want to vote,’ he said with genuine disbelief. ‘What next?’” He continued by saying that he “‘longs for the good old days when ‘our Indians’ were content to remain on the reservation.’” (Shaw 1986, A-4).

County Clerk Joyce Lippert said the following: “‘appalled that ‘these people’ might be elected. ‘The possibility is frightening that they would control the purse strings of this county.’” (Shaw 1986, A-5).

While this case focused primarily upon violations of voting rights, the court also determined that there were other forms of discrimination occurring; of particular note is employment discrimination. In 1980, 5.5% of the county’s employees were Indian; in 1984, the figure was 8%. The percentage of Indians employed by the county is substantially below the percentage of the Indian population. In fact, 41% of the population over 18 years of age in Big Horn County is American Indian. Even the county attorney and members of the Board of Commissioners testified at the voting rights trial that discrimination in hiring had been a problem in the county in recent years (*Windy Boy v. County of Big Horn*, 1986, 647 F. Supp 1002).

In 1986, the U.S. District Court for the District of Montana found that the at-large system violates Section 2 and required the county to propose an election system by which some or all of the county commissioners would be elected by district and all or some school board members would be elected by district (*Windy Boy v. County of Big Horn*, 1986, 647 F. Supp 1002). “No other conclusion can be reached than that the right of some Indians to register and to vote has been seriously interfered with by the county and

there was enough testimony to make it appear that it was not an isolated occurrence. This testimony was clearly the most important in this case for it tends to show an intent to discriminate against Indians” (*Windy Boy v. County of Big Horn*, 1986, 647 F. Supp 1002).

Laughlin McDonald, the attorney for the American Civil Liberties Union, helped illustrate the importance of voting rights for American Indians when he talked about the situation in Big Horn County: “Whites were doing to Indians what people in the South stopped doing to blacks 20 years ago” (Shaw 1986, A-4). Commissioner Miller refuted that idea as he responded to the decision by the Court: “We’ll appeal to the Supreme Court. The Voting Rights Act is a bad thing. I don’t see no comparison with Negroes in the South” (Shaw 1986, A-4).

The county was required to propose a remedy to the court that would require the election of some or all commissioners and school board members by district (*Windy Boy v. County of Big Horn*, 1986, 647 F. Supp 1002). The county created a single-member district system for electing commissioners, which was implemented for the 1986 election. John Doyle, an American Indian, was elected that year from District 2. Commissioner Doyle continues to hold this seat. In addition, in 1996, John Pretty-on-Top, an Indian, was elected from District 1. He also continues to serve as a commissioner.

Findings for Big Horn County, Montana: Election Turnout Data

According to the empowerment theory, as the minority group becomes empowered, they will become more politically active. This level of political activity rises as a result of increased levels of knowledge and efficacy. This case study examines empowerment, measured as the election of an American Indian to the Big Horn County

Commission in 1986; political participation is measured as voter turnout in county elections. What is expected is that voter turnout among American Indians living in Big Horn County will increase after empowerment. To elaborate, there should be a marked increase in voter turnout in 1988; since an Indian was first elected in 1986, this would be the first election when empowerment would affect turnout. Further, there should not be an increase in turnout among non-Indians (or Whites) in the community or, at most, only a minor increase in turnout after the empowerment of American Indians.

The study examined the election turnout data for Big Horn County, Montana, between 1978 and 2008, a thirty-year period that includes sixteen elections for county commissioners. Four of these elections (1978, 1980, 1982, 1984) occurred under the at-large system; the elections between 1986 and 2008 were under the single-member district system. The first single-member district election was in 1986; further, the first election for the Indian-majority commission seat (commission District 2) was in 1986 due to the staggered system used to elect commissioners. John Doyle, an Indian, was elected from commission District 2 in 1986. In addition, even though commission District 1 is not considered Indian majority, John Pretty-on-Top, an Indian, was elected as the commissioner to represent this district in 1996. Since that time, two of the three commissioners in the county have been Indian.

Several different analyses were completed. The first analysis examined countywide turnout for the thirty-year period and turnout in each of the three commission districts over this period. The second analysis examined turnout under the at-large system and the single-member district system for electing commissioners. It also provided a comparison between the Indian-majority commissioner district (commissioner District 2)

and the non-Indian-majority commissioner districts (commission Districts 1 and 3). The third analysis explored the turnout between precincts that are on reservation with those that are off reservation; this was an important additional analysis because several precincts that are on reservation (either partially or completely) are in commission District 1 and 3. Again, these two districts are majority White commission districts and have never elected an Indian as a commissioner. By grouping precincts into “Indian” and “non-Indian” categories, a better analysis and comparison of Indian and non-Indian voters can be completed. Finally, to distinguish Indian voters from non-Indian voters, a further narrowing of precincts was completed. This analysis distinguished precincts that are completely on reservation with all other precincts. It is also slightly different from the third analysis, which compared all reservation precincts (i.e., precincts that were partially or completely on reservation) with nonreservation precincts.

Big Horn County Commission Districts and Voting Precincts

The precincts in Big Horn County have changed a great deal over the thirty-year period. In 1978, there were twenty precincts. In 1980, there were nineteen precincts. In 1982 there were eighteen precincts. In 1984 there were eighteen precincts; these precinct lines differed from the 1982 election. From 1986 to 1992, there were eighteen precincts; again, the precinct lines were adjusted. From 1994 to 2002, there were nineteen precincts. Since 2004, there have been twenty precincts (see Table 6.2).

Ten of the precincts in Big Horn County are completely on reservation, two are partially on reservation, and eight precincts are off reservation (see Table 6.3). As noted, three commissioners are in Big Horn County. The precincts they represent, since 1986, are noted in Table 6.3.

Table 6.2: Precincts in Big Horn County, Montana, 1978-2008

1978	1980	1982	1984	1986- 1992	1994- 2002	2004- 2008
1	2	2	1	1	1	1
2	3	3	2	2	2	2
3	4	4	3	3	3	3
4	6	6	6	4	4	3E
6	7	7	7-1	6	5	4
7	8	8	7-2	7 (or 7-1)	6	4E
8	9	9	8	7-2	7	5
9	10	10	9	8	8	6
10	11	11	10	9	9	7
11	14	14	14	10	10	8
14	15	15	15	14	14	9
15	16	17	17	15	15	10
16	17	18	18	17	17	14
17	18	19	19	18	18	15
18	19	20	20	19	19	17
19	20	21	21	21	21	18
20	21	25	25	25	25	19
21	25	26	26	26	26	21
25	26					25
26						26

Turnout by Commission Districts

This section looks at turnout, countywide, from 1978 to 2008. Turnout in 1978 included 3,269 voters and it increased to 5,306 voters in 2008 (see Table 6.4 and Figure 6.1) for an increase of 62.3%. An analysis and comparison of the turnout in the majority-Indian commission district (District 2) with commission Districts 1 and 3 were completed to determine if voters in the Indian commission district had been affected by empowerment and then compared those results with voter turnout for the other commission districts.

Table 6.3: Precincts in Relation to the Reservation in Big Horn County, Montana, 2004-2008

Precinct	On Reservation/ Off Reservation/ Partially On	Commission District
1	Partial	1
2	On	1
3	Off	1
3E	Off	1
4	Off	3
4E	Off	3
5	On	2
6	Off	3
7	On	2
8	On	1
9	On	1
10	Partial	2
14	On	1
15	On	1
17	Off	3
18	Off	3
19	Off	3
21	On	1
25	On	2
26	On	2

The analysis looked at turnout from 1986 to 2008.³ The analysis examined turnout over time for these three districts as a means to evaluate whether empowerment has a long-lasting effect. Second, the analysis also examined turnout in the election after empowerment to determine if there was an immediate effect on voter turnout. In both instances, it appeared that empowerment has a positive long-lasting effect and an immediate effect on Indian turnout.

³ An analysis of precinct data prior to 1986 was not done because precinct maps for prior elections could not be obtained from the county clerk. Without the precinct maps, it was impossible to determine where the precinct lines would have been in relation to the reservations.

To begin, I looked at the long-lasting effect of turnout on voters in Big Horn County by commission district (see Table 6.4 and Figure 6.2). The turnout in District 2, the Indian-majority commission district, increased from 1986 to 2008. In 1986, there were 1,220 voters; by 2008, turnout was 1,723, which is an increase in turnout of 41.96% in District 2 between 1986 and 2008. Turnout in the other districts provided a comparison. The turnout in 1986 for commission Districts 1 and 3, combined, was 3,088 people. In 2008, the turnout for these two commission districts was 3,574 people, which is an increase of only 16%. These results indicate that the effect of empowerment on Indian voters is long-lasting.

Second, I examined the immediate impact of empowerment on voters in Big Horn County by examining turnout in the first election after empowerment (see Table 6.4). In this case, empowerment occurred in 1986 when John Doyle was elected as the first Indian commissioner in Big Horn County; therefore, I examined turnout in the 1988 election. Turnout for commission District 2, the Indian-majority district, remained stable immediately after empowerment; that is, turnout was the same in both the 1986 and 1988 elections in this district. In both elections, 1,220 votes were cast in District 2. In comparison, voter turnout declined in the other two commission districts in 1988. In District 1, turnout declined by 2%, and in District 3, turnout declined by 4%.

These results are in alignment with the hypothesis. However, additional analysis can be done to further or better distinguish Indian voters from non-Indian voters, as will be shown in the following sections.

Table 6.4: Big Horn County, MT, Election Turnout, 1978-2008, All Precincts

No.	1978	1980	1982	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008
1	79	0	0	351	191	181	157	189	193	211	194	227	190	189	197	212
2	90	99	122	138	111	120	87	136	93	106	83	115	89	126	116	146
3	110	115	141	150	135	118	117	135	119	118	111	123	121	78	74	81
3E														49	48	48
4	70	77	101	0	249	279	232	271	210	222	185	215	212	121	126	129
4E														98	94	91
5									161	185	151	196	216	196	244	289
6	58	61	74	78	87	75	73	78	66	72	49	53	52	67	67	78
7 (or 7-1)	392	466	775	499	385	348	399	440	552	642	582	669	703	692	854	963
7-2				444	426	400	416	436								
8	166	159	190	197	147	130	106	156	128	129	103	107	113	109	114	151
9	135	188	205	223	191	177	192	205	166	195	133	159	164	189	207	230
10	49	59	54	84	88	94	75	79	78	71	70	69	59	60	53	58
11	34	47	50													
14	112	148	154	201	147	156	125	155	151	178	123	170	143	224	231	257
15	156	198	252	302	248	278	234	263	245	291	219	273	241	295	328	393
16	251	294	0													
17	272	296	554	565	467	423	381	464	319	337	297	335	302	351	415	424
18	304	328	511	500	403	386	331	370	300	290	215	266	275	349	315	345
19	334	355	483	465	395	358	313	368	455	436	344	430	412	426	423	475
20	272	367	530	255	0	0	0	0								
21	59	104	224	244	404	384	382	429	397	462	327	429	395	403	458	514
25	221	294	344	361	69	64	72	93	97	111	80	106	103	59	53	70
26	105	134	216	352	165	239	147	249	242	290	231	311	292	292	319	352
TOTALS	3269	3789	4980	5409	4308	4210	3839	4516	3972	4346	3497	4253	4082	4373	4736	5306
% Change		0.16	0.31	0.09	-0.20	-0.02	-0.09	0.18	-0.12	0.09	-0.20	0.22	-0.04	0.07	0.08	0.12

Table 6.4: continued

No.	1978	1980	1982	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008
Commission 1 Totals					1574	1544	1400	1668	1492	1690	1293	1603	1456	1662	1773	2032
Commission 1 % change						-0.019	-0.093	0.191	-0.106	0.133	-0.235	0.24	-0.092	0.142	0.067	0.146
Commission 2 Totals					1220	1220	1182	1375	1196	1371	1163	1404	1425	1299	1523	1732
Commission 2 % change						0	-0.031	0.163	-0.130	0.146	-0.152	0.207	0.015	-0.088	0.172	0.137
Commission 3 Totals					1514	1446	1257	1473	1284	1285	1041	1246	1201	1411	1440	1542
Commission 3 % change						-0.05	-0.13	0.17	-0.13	0.00	-0.19	0.20	-0.04	0.17	0.02	0.07

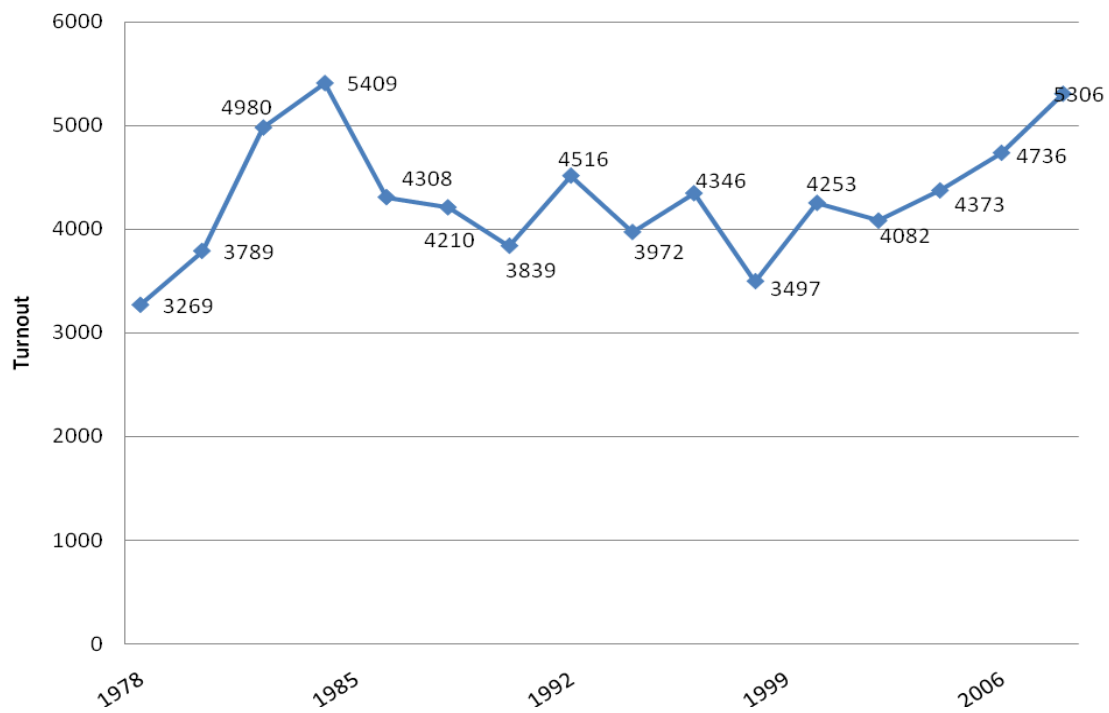


Fig. 6.1. Big Horn County, Montana: County Turnout, 1978 to 2008.

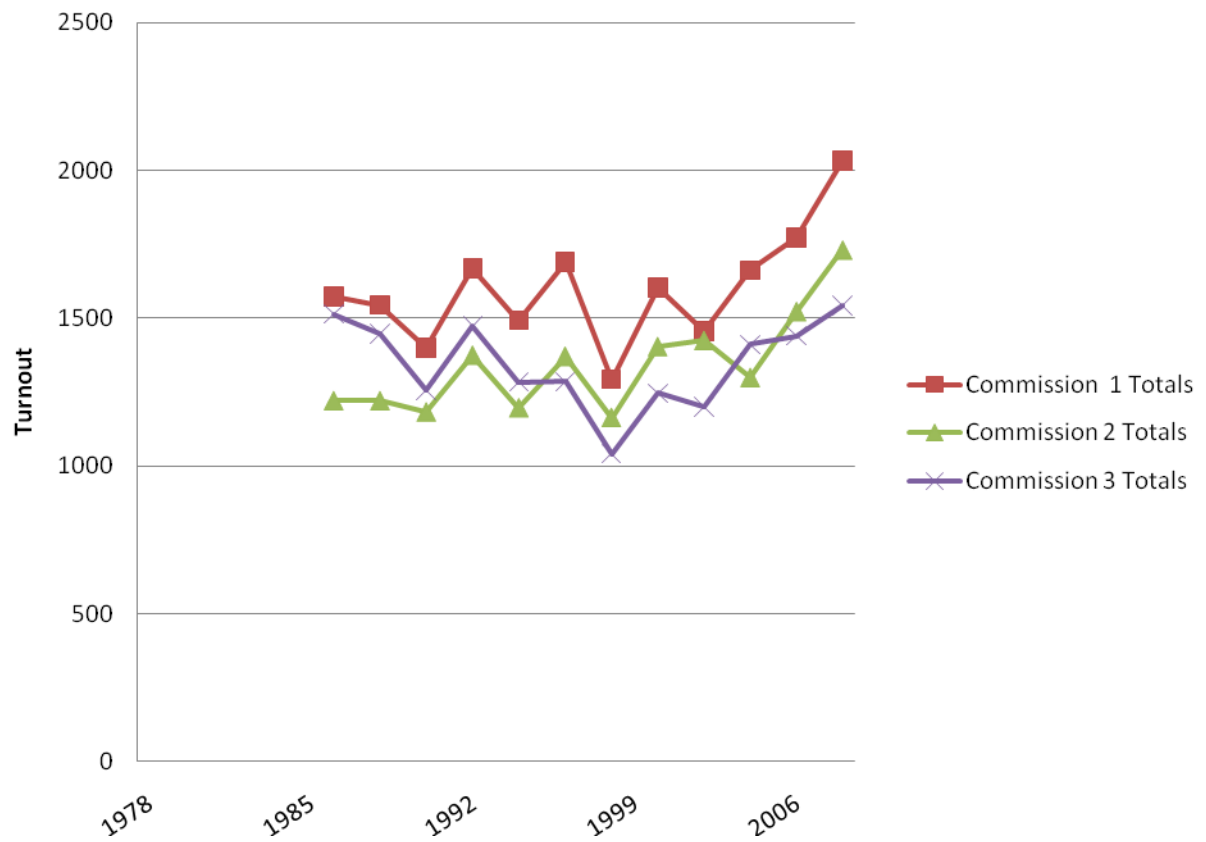


Fig. 6.2. Big Horn County, Montana: Turnout by Commission District, 1978 to 2008.

Comparison of Indian Precincts With Non-Indian Precincts

This section compares turnout in “Indian precincts” with “non-Indian precincts” to determine if there was a difference in voter behavior in these two areas. The distinction between the two groups or areas was designed to separate the Indian population from the non-Indian population. Indian precincts are those voting precincts that are partially or completely on reservation (see Table 6.3). Non-Indian precincts are those that are completely off reservation. Turnout for these groups was analyzed over time, from 1986 to 2008, to determine the long-lasting effect of empowerment and after empowerment to determine if there was an immediate effect on turnout.

The data indicated that empowerment has a long-lasting effect on American Indian turnout. Turnout in 1986 for the Indian precincts was 2,659. The 2008 turnout for Indian precincts was 3,635. Over the twenty-two year period turnout on the “Indian” precincts increased 37% (see Table 6.5 and Figure 6.3). In comparison, turnout for the non-Indian precincts showed a minor increase of 1% for this same period. The 1986 turnout for non-Indian precincts was 1,649, and the 2008 turnout for non-Indian precincts was 1,671 (see Table 6.6 and Figure 6.3).

There also appears to be an immediate effect on turnout due to empowerment. Voter turnout on the Indian precincts remained relatively stable from 1986 to 1988 (see Table 6.5 and Figure 6.3). In contrast, turnout on the non-Indian precincts declined by 5% during this same period of time (see Table 6.6 and Figure 6.4).

Table 6.5: Big Horn County, MT, Turnout for Indian Precincts (precincts either partially or completely on reservation)

No.	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008
1	351	191	181	157	189	193	211	194	227	190	189	197	212
2	138	111	120	87	136	93	106	83	115	89	126	116	146
5						161	185	151	196	216	196	244	289
6	78	87	75	73	78	66	72	49	53	52			
7 (or 7-1)	499	385	348	399	440	552	642	582	669	703	692	854	963
7-2	444	426	400	416	436								
8	197	147	130	106	156	128	129	103	107	113	109	114	151
9	223	191	177	192	205	166	195	133	159	164	189	207	230
10	84	88	94	75	79	78	71	70	69	59	60	53	58
14	201	147	156	125	155	151	178	123	170	143	224	231	257
15	302	248	278	234	263	245	291	219	273	241	295	328	393
20	255	0	0	0	0								
21	244	404	384	382	429	397	462	327	429	395	403	458	514
25	361	69	64	72	93	97	111	80	106	103	59	53	70
26	352	165	239	147	249	242	290	231	311	292	292	319	352
TOTAL S	3729	2659	2646	2465	2908	2569	2943	2345	2884	2760	2834	3174	3635
% Change		-0.287	-0.005	-0.068	0.180	-0.117	0.146	-0.203	0.230	-0.043	0.027	0.120	0.145

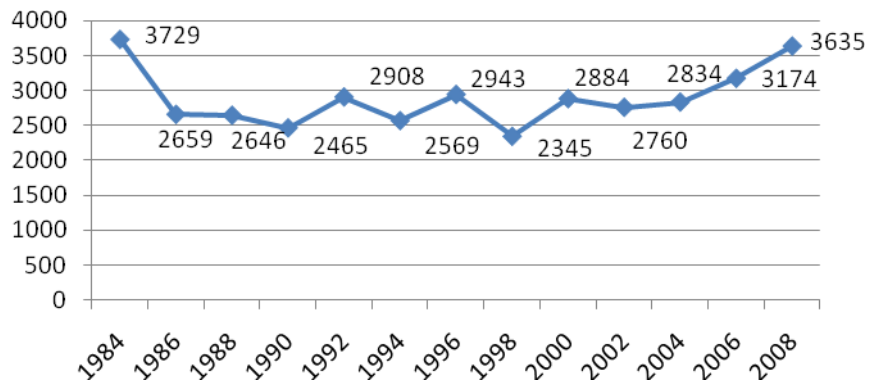


Fig. 6.3. Big Horn County, Montana: Turnout in Indian Precincts.

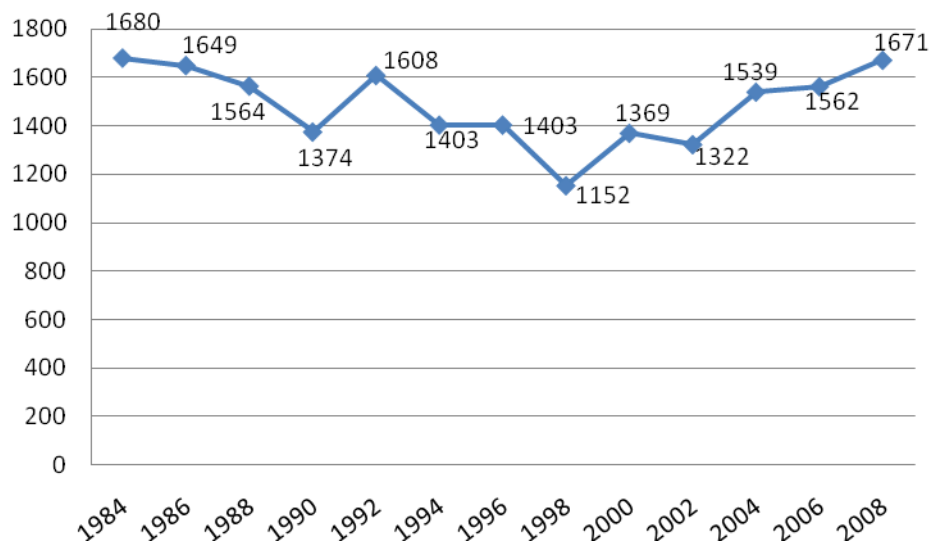


Fig. 6.4. Big Horn County, Montana: Turnout in Non-Indian Precincts.

Table 6.6: Big Horn County, MT, Turnout in Non-Indian Precincts

No.	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008
3	150	135	118	117	135	119	118	111	123	121	78	74	81
3E											49	48	48
4	0	249	279	232	271	210	222	185	215	212	121	126	129
4E											98	94	91
6											67	67	78
17	565	467	423	381	464	319	337	297	335	302	351	415	424
18	500	403	386	331	370	300	290	215	266	275	349	315	345
19	465	395	358	313	368	455	436	344	430	412	426	423	475
TOTALS	1680	1649	1564	1374	1608	1403	1403	1152	1369	1322	1539	1562	1671
% Change		-0.018	-0.052	-0.121	0.170	-0.127	0	-0.1789	0.188	-0.0343	0.1641	0.0149	0.0698

Comparison of Reservation Precincts With Nonreservation Precincts

The above analysis can be narrowed further to distinguish Indian voters from non-Indian voters by examining turnout on the reservation by excluding precincts that are partially on reservation and examining turnout of precincts that are completely on reservation. This analysis examined turnout by two groups: (a) precincts that are completely on reservation (reservation precincts) and (b) precincts that are completely or partially off reservation (nonreservation precincts). The analysis again examined both the long-term impact of empowerment and the immediate impact on voter turnout.

Empowerment appears to be positively affecting American Indian turnout in the longterm. The turnout for reservation precincts was 2,293 in 1986; by 2008, the turnout was 3,365, which is an increase of 47% in twenty-two years (see Table 6.7 and Figure 6.5). In contrast, turnout in precincts off reservation experienced a 11% decline in turnout between 1986 and 2008 (see Table 6.8 and Figure 6.6).

Empowerment also appears to positively affect American Indian turnout immediately after the election of an Indian to the county commission in Big Horn County. Reservation turnout grew less than 1% between 1986 and 1988; however, in comparison, turnout for precincts off reservation declined by 5% immediately after empowerment. So, while there is limited change in turnout among American Indians immediately after empowerment, in contrast to turnout in the other area of the county, it is a positive effect. Further, over time, growth has been seen in turnout for American Indian voters, while turnout in other regions of the county have experienced a decline.

Table 6.7: Big Horn County, MT, Turnout for Reservation Precincts

No.	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008
2	138	111	120	87	136	93	106	83	115	89	126	116	146
5						161	185	151	196	216	196	244	289
7 (or 7-1)	499	385	348	399	440	552	642	582	669	703	692	854	963
7-2	444	426	400	416	436								
8	197	147	130	106	156	128	129	103	107	113	109	114	151
9	223	191	177	192	205	166	195	133	159	164	189	207	230
14	201	147	156	125	155	151	178	123	170	143	224	231	257
15	302	248	278	234	263	245	291	219	273	241	295	328	393
20	255	0	0	0	0								
21	244	404	384	382	429	397	462	327	429	395	403	458	514
25	361	69	64	72	93	97	111	80	106	103	59	53	70
26	352	165	239	147	249	242	290	231	311	292	292	319	352
TOTALS	3216	2293	2296	2160	2562	2232	2589	2032	2535	2459	2585	2924	3365
% Change		-0.287	0.0013	-0.059	0.186	-0.129	0.1599	-0.215	0.248	-0.03	0.051	0.131	0.151

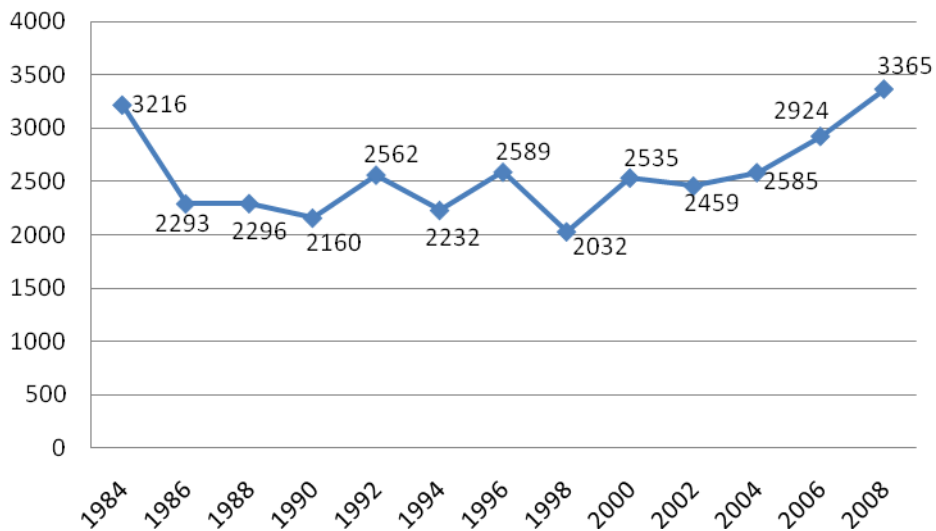


Fig. 6.5. Big Horn County, Montana: Turnout in Reservation Precincts.

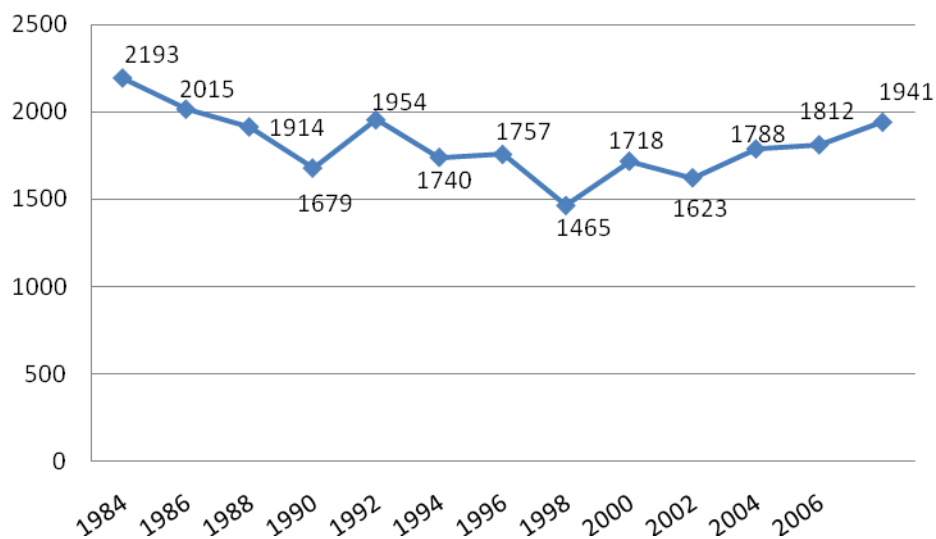


Fig. 6.6. Big Horn County, Montana: Turnout in Off-Reservation Precincts.

Table 6.8: Big Horn County, MT, Turnout for Off-Reservation Precincts (precincts that are completely or partially off the reservation)

No.	1984	1986	1988	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008
1	351	191	181	157	189	193	211	194	227	190	189	197	212
3	150	135	118	117	135	119	118	111	123	121	78	74	81
3E											49	48	48
4	0	249	279	232	271	210	222	185	215	212	121	126	129
4E											98	94	91
6	78	87	75	73	78	66	72	49	53	52	67	67	78
10	84	88	94	75	79	78	71	70	69	59	60	53	58
11													
16													
17	565	467	423	381	464	319	337	297	335	302	351	415	424
18	500	403	386	331	370	300	290	215	266	275	349	315	345
19	465	395	358	313	368	455	436	344	430	412	426	423	475
TOTALS	2193	2015	1914	1679	1954	1740	1757	1465	1718	1623	1788	1812	1941
% Change		-0.081	-0.050	-0.123	0.164	-0.11	0.01	-0.166	0.173	-0.055	0.1017	0.013	0.071

Findings for Big Horn County, Montana: Interview Data

Following analysis of the turnout data, interviews were conducted in spring 2010 with three political elites from Big Horn County, Montana, to determine the effect the election of an Indian to the commission had on participation in the county as well as to determine if any changes in how Indians regard county government have occurred since the election of John Doyle in 1986. The elites included a current elected official, a former county clerk, and a politically active individual who was involved in the voting rights lawsuit. The shortest interview lasted thirteen minutes, another interview lasted thirty-four minutes, and the longest interview lasted one hour, thirty-three minutes.

As the turnout data show, participation in Big Horn County increased slightly following the election of John Doyle to the commission in 1986. However, the election data are only one piece to the puzzle. The other important piece are the interview data. The interviewees were each asked about the effect of Commissioner Doyle's election on participation among Indians living in the county. All agreed that participation among American Indians has improved since his election; however, it appears that the election of Commissioner Doyle in 1986 was part of a more encompassing change towards a more empowered Indian community.

Indians, in particular members of the Crow Tribe, had become more active in elections prior to Doyle's election in 1986. In fact, Big Horn County elected an Indian to the Montana House of Representatives in 1982, and "the momentum started building there." "When she got elected, it really encouraged even more people to register and the election of [19]'84 was absolutely the biggest voter registration for Indian people in Big Horn County." One interviewee indicated that in 1984 Indian voters were heavily

mobilized for candidates, there were active campaigns on the reservation, and “a sleeping giant awoke” that was able to begin electing candidates to public office. That election in 1984 was two years prior to the election of John Doyle to the commission. A study in the late 1980s also indicated the following: “During the 1970s and 1980s, Indian people in Big Horn County became more vote-conscious, and a voter registration drive produced as many as 2,000 Indian registrants” (Svingen 1987, 282). Then, in 1982, “four Indian and pro-Indian candidates entered the Democratic primary election, and defeated their non-Indian opponents” (Svingen 1987, 282). The election turnout data show an increase in turnout (31%) in the county from 1980 to 1982 (see Figure 6.1 and Table 6.4). While the election of John Doyle in 1986 may have been one empowering event, the entire political context in Big Horn County was changing, and the political atmosphere prior to his election was shifting to create a context of empowerment for the Indian people.

One individual noted the direct impact of the election of Indians to the commission on turnout. He noted that there was higher turnout among Indians after John Doyle took office in 1986, and he believed that individuals began to see government as more responsive to Indians and that Indians believed that their votes mattered. Another person noted that before the election of an Indian to the commission, all funding from the county was spent in Hardin and North Hardin (off reservation) with little money to the reservation. However with the election of John Doyle and John Pretty on Top, he believed that funds were more equitably spent and problems on the reservation were being addressed. He believed that, “when they [Indian residents] saw that, then the movement began...They saw the benefits that they never got before. And then after more people got into it, in the offices, they got more.”

A former county clerk agreed that turnout after John Doyle was elected increased “because they want to vote for their tribal member.” She also believed that having John Doyle run for commission “opened up the possibility that, which has panned out over the year, other Natives running for other offices and that in turn would make more people register” and vote. This statement fits perfectly with the hypothesis used in this study that visible representation positively affects political participation for minorities.

Overall, the interviews indicated that the Indian people began to believe that their vote mattered. For example, the interviewees said: “They feel it. The Indian vote is strong in Montana since this happened.” “They’re an active voting community.” “I’m sure they do [feel their vote matters].”

Not only did American Indians begin winning commission seats, but they also began winning other county offices. As noted earlier, this affect was an additional effect of empowerment: that Indians began running and winning office. Currently, the county treasurer, county attorney, sheriff, county clerk, district court clerk, and two of the commissioners in Big Horn County are American Indian, which is a significant change from 1984 when Indians held no county office.

The interviews also revealed changes in how Indians regard county government before and after the election of an American Indian to the county commission. When describing the situation in the 1980s, prior to empowerment, interviewees said the following: “It was terrible.” “Outrageous.” “There was a color bar.” “Jim Crow was as strong as ever.”

All interviewees provided examples of the ways in which Indians view county government differently after Commissioner Doyle’s election. Many interviewees

indicated that Indians view county government differently since the election of Indians to the commission as well as to other county offices. For example, one person said “The county courthouse was a place nobody ever wanted to go because that was all a domain of White folks. The only reason you’d go there is because you got arrested.” Another person said: “Commissioners are definitely a conduit to so much information. I do believe they lead to voters being interested and people registering and actually getting out to vote. Definitely.”

Some individuals also believed that Indians see government as more responsive since an Indian has been elected to the commission. In addition, many individuals interviewed shared ways in which the county has been more responsive to American Indians’ concerns. Several discussed examples, including road improvements made by the county on roads within the reservation boundary, plowing snow in the winter, sewer, a nursing home in the county, fire and ambulance services, garbage collection, and law and order issues.

Yes, I’ve seen a lot of change. Coming in, visiting, looking at programs, looking at grant money, applying for grant monies that are available; especially Indian farmers and ranchers. There’s ag[ricultural] money out there that before they were not aware of and were never participants of.

The former county clerk believed that because Indians believe they now have a voice, they see county government as more responsive. “You know, that just stands to reason. If you have a population that doesn’t have a voice, a presence, on a board, then you more likely would think that you don’t have anybody speaking for you.” The interviews provided supporting evidence that Indians in Big Horn County took cues from the political contest that government was more responsive to their needs and preferences in

terms of policies and that this in turn had a positive effect on political behavior, as expected by the empowerment theory.

As the empowerment theory indicates, minority participation will increase when people believe the benefits of participating outweigh the costs. Overall, the interviews indicate that the election of an Indian to the county commission in Big Horn County had a positive effect on turnout among Indians in the county and that Indians view county government differently, more positively, because of the election of an Indian to the commission in 1986.

Conclusion

The role of empowerment in Big Horn County is evident not only in the turnout data, which show that turnout for Indians increased slightly while turnout for Whites declined after empowerment, but also, and possibly more importantly, the interview data suggest that John Doyle's election was only one of a number of political empowerment events occurring simultaneously in Big Horn County in the early 1980s. Voters were becoming more active prior to Commissioner Doyle's election in 1986, more Indian and pro-Indian candidates were running for office, an Indian was elected to the Montana House from Big Horn County, registration drives were occurring, and all of this seems to have positively affected turnout.

CHAPTER 7

ROOSEVELT COUNTY, MONTANA

This chapter examines Roosevelt County, Montana. The first section of the chapter provides an historical background, including laws, other relevant legal proceedings, a demographic analysis, an explanation of the voting rights case, and results of the case. The second section examines the findings of the research, which indicate that empowerment had a positive effect on Indian voting rates in Roosevelt County, while at the same had little or no effect on turnout rates among non-Indians.

Roosevelt County, Montana, Background

Roosevelt County is located in northeastern Montana. Similar to other counties in this study, it is a large county in terms of land mass, and it is rural. The county is approximately 2,355 square miles in size. Fort Peck Reservation, home to members of the Assiniboine and Sioux Tribes, is a large reservation that sits across several counties, including Roosevelt County. According to the 1990 Census, the population in Roosevelt County was 10,999 people (see Table 7.1). The population has since declined to estimated total of 10,089 in 2008, a decrease of 8%. The White population in Roosevelt County declined from 5,545 people in 1990 to 3,662 people in 2008, a decrease of 34%. The American Indian population has increased from 5,355 people in 1990 to 6,074 people in 2000, an increase of 13% (see Table 7.1).

Table 7.1: Population Trends for Roosevelt County, MT, 1990-2008

Population	1990	2000	2008
Total	10,999	10,620	10,089
White	5,545 (50.4%)	4,347 (40.9%)	3,662 (36.3%)
American Indian	5,355 (48.7%)	5,921 (55.8%)	6074 (60.2%)
Other	99 (1%)	352 (3%)	353 (3.5%)

Note: Racial data were not available for the 2008 Population Estimate.

Source: U.S. Census Bureau, 2008 Population Estimates, 2000 Census, 1990 Census.

By 2008, the population figures had shifted. Whites no longer made up the majority of Roosevelt County's population. The American Indian population grew from 49% of the county population in 1990 to 60% of the population in 2008. Although Whites comprised 50% of the population in 1990, by 2008, they made up only 36% of the county population (see Table 7.1).

History of Voting Discrimination in Roosevelt County, Montana

As noted in the previous chapter, territorial and state laws prohibited or diluted the votes of American Indians living in Montana. In the complaint filed against Roosevelt County, some details emerged about the racial discrimination in elections and other aspects of life. For example, the complaint stated that "social, civic and political life in Roosevelt County is divided along racial lines. This racial polarization results in Indian candidates having less opportunity to solicit the votes of the majority of voters, who are white, than the opportunity available to white candidates to solicit the votes of those white voters" (*U.S. v. Roosevelt County, Montana*, Complaint 1999, 3). The complaint continued by noting that Indian people in the county "continue to bear the effects of past discrimination in voting and other areas, such as education, employment and housing"

(*U.S. v. Roosevelt County, Montana*, Complaint 1999, 4). In addition, “The socioeconomic status of the Indian citizens of Roosevelt County is markedly lower than the socioeconomic status of the White citizens of the county. The depressed socioeconomic status of the Indian population of the county is related to the effects of past racial discrimination” (*U.S. v. Roosevelt County, Montana*, Complaint, 1999, 4).

The history of discrimination in Roosevelt County dates back to the territorial period. “In 1871, the Montana territory denied voting rights to persons under ‘guardianship’ and outlawed voting precincts at Indian agencies, training posts in Indian Country, or ‘on any Indian reservation whatever’” (Svingen 1987, 276). A brief summary of the laws of Montana illustrates the history of the discrimination. When Montana was established as a state in 1889, The Montana Enabling Act granted voting rights to all male citizens without regard to race or color, with the exception of Indians not taxed (Svingen 1987, 276). Additional state laws restricted voting rights to taxpayers and to resident freeholders listed on city or county tax roles (Montana Laws 1897; Montana Laws 1903). In 1911, the Montana State Legislature also passed a law declaring that anyone living on an Indian or military reservation who had not previously acquired residency in the state would not be a resident (Montana Laws 1911).

Several laws were passed after passage of the federal Indian Citizenship Act that prohibited Indians from fully participating in the electoral process. In 1927, the Montana State Legislature passed a law allowing counties to elect commissioners at-large. Each county was allowed to create a three-commissioner system, terms would be six years and on a two-year staggered basis, and, again, commissioners were allowed to be elected at-large rather than from single-member districts (Montana Laws 1927, 72). The result of at-

large elections can dilute the votes of minorities, as noted in previous chapters. In 1937, Montana mandated that all deputy voter registrars must be taxpaying residents, excluding Indians; in the same year, Montana cancelled all voter registrations and required re-registration. “Indian registration had risen steadily, but after the 1937 cancellation process, Indian voting numbers remained depressed, not returning to the pre-1937 levels until the 1980s” (Svingen 1987, 279).

Voting Rights Act Case in Roosevelt County, Montana

In 1999, the U.S. Department of Justice filed a Voting Rights Act case against Roosevelt County, Montana, alleging that the county’s at-large system for elected commissioners violated Section 2 of the Voting Rights Act. The county commission at the time was composed of three members who qualified to run for office by residing in one of three residential districts but who were elected at-large by all voters in the county. The six-year terms for the commissioners were staggered so that only one position on the commission was open to election every two years (*U.S. v. Roosevelt County, Montana*, 2000). Although Indians made up more than 48% of the total population in the county, no Indian had ever been elected to the county commission or to any other countywide office in the eighty-year history of the county (*U.S. v. Roosevelt County, Montana*, Press Release, 2000). However, Gary McDonald was appointed to the county commission in 1999 to fill the remainder of another person’s term on the commission.

The parties agreed to settle the cases without further litigation. “There is a reasonable or strong basis for concluding that the factors identified in *Thornburg v. Gingles*, 478 U.S. 30 (1986) as probative of a vote dilution claim under Section 2 of the Voting Rights Act could be shown, i.e., that Indians are sufficiently numerous and

geographically compact that they can form an effective voting majority in a single-member district, that Indian voters generally vote for Indian preferred candidates and non-Indian voters generally vote for non-Indian candidates” (*U.S. v. Roosevelt County, Montana*, Consent Decree, 2000, 6).

The consent decree between the U.S. Department of Justice and Roosevelt County notes that the U.S. Department of Justice “could present evidence sufficient to establish a prima facie showing the Indian citizens in Montana and Roosevelt County have suffered from a history of racial discrimination in voting and other areas. There is a likelihood that Plaintiff could show that in Roosevelt County, the effects of this past discrimination continue to hinder Indian citizens’ present-day ability to participate effectively in the political process” (*U.S. v. Roosevelt County, Montana*, Consent Decree, 2000).

The consent decree was finalized in 2000, and Roosevelt County agreed to replace its at-large system for electing commissioners with a single-member system beginning with the 2000 elections. A map showing the boundaries of the three districts for the at-large system is in Appendix I. The terms for the commissioners are six years. District 2, at the time of the case, was represented by Commissioner MacDonald and was open for election in 2000. District 1 was open for election in 2002, and District 3 was open for election in 2004.

Findings for Roosevelt County, Montana: Election Turnout Data

The hypothesis for this case is that in the first election after empowerment (2000) more American Indian voters in Roosevelt County will vote than in the past. Further, there should be no increase or only a minor increase in voter turnout among non-Indians in the county.

The study examined the election turnout in Roosevelt County, Montana, between 1996 and 2008, a twelve-year period, that includes seven elections for county commissioners. Two of these elections (1996 and 1998) occurred under the at-large system; the elections between 2000 and 2008 were under the single-member district system. The first single-member district election was in 2000; further, the first election for the Indian-majority commission seat (commission District 2) was in 2000 because of the staggered system used to elect commissioners. Gary McDonald, an Indian, was appointed to the county commission in 1999, and he first ran for and won the election in 2000.

Several analyses were completed to determine the role of empowerment on voter turnout for both Indians and non-Indians in Roosevelt County. The initial analysis examined countywide turnout for the thirty-year period to determine any differences in county turnout after empowerment. A separate analysis distinguished Indian and non-Indian voters by examining turnout data by precincts. One of the analyses explored the turnout disparities among precincts that are on reservation with those that are off reservation. This analysis is important because several precincts on reservation (either partially or completely) are in commission Districts 1 and 2. Again, these two districts are majority White commission districts and have never elected an Indian as a commissioner. By grouping precincts into “Indian” and “non-Indian” categories, a more clear comparison of Indian and non-Indian voters can be shown. An additional analysis was completed to further distinguish Indian voters from non-Indian voters by examining precincts that are completely on reservation with all other precincts. These results are

slightly different from the third analysis that compared all reservation precincts (i.e., precincts that were partially or completely on reservation) with nonreservation precincts.

Another analysis was necessary in this case study, which was unnecessary in the prior two cases. Because of the large numbers of Whites living within reservation boundaries, the Indian population was not as high on the precincts on reservation, making it difficult to accurately compare Indian voters with non-Indian voters. Therefore, a population density map was obtained from the U.S. Census Bureau that indicates the percentage of Indians living in Roosevelt County by Census tract. The precinct map for Roosevelt County was overlaid on the population density map, indicating which precincts had high Indian populations, medium Indian populations, and low Indian populations. This allowed for a comparison of these three groupings to determine how voting turnout varies over time among these groups and, more importantly, to determine the effect of empowerment on Indian and non-Indian voters in Roosevelt County.

Roosevelt County Commission Districts and Voting Precincts

The precincts in Roosevelt County have changed slightly over the twelve-year period (see Table 7.2). From 1996 to 2002, there were twelve precincts. Since 2004, there have been thirteen precincts. The boundaries for the precincts have also changed slightly (Maps comparing precinct lines are shown in Appendices J and K).

The majority of precincts are on reservation. In fact, ten of the twelve precincts are within the reservation boundaries. Two of the precincts are partially on and partially off reservation. Only one precinct is completely off reservation (see Table 7.3). However, much of the land within the reservation is privately owned.

Table 7.2: Precincts in Roosevelt County, Montana, 1996-2008

1996-2002	2004-2008
2	2
10	10
12	12
15	15
18	16
20	17
24	18
26	20
27	22
28	24
31	26
35	27
	28

Table 7.3: Precincts in Relation to the Reservation in Roosevelt County, Montana, 2004-2008

Precinct	On Reservation/ Off Reservation/ Partially On	Commission Districts
2	Off	1
10	Partial	1
12	Partial	1
15	On	1
16	On	1
17	On	1
18	On	2
20	On	2
22	On	2
24	On	3
26	On	2 and 3
27	On	3
28	On	3

County Turnout

The first analysis examined turnout in the county for a twelve-year period (from 1996 to 2008), which included seven elections for the county commission. Turnout increased only slightly, 1.3% over this period. Turnout in 1996 was 4,151, and by 2008, it had increased to 4,203 (see Table 7.4 and Figure 7.1).¹

The at-large system existed prior to the 2000 election; the single-member district system was implemented in 2000. Turnout during the at-large years (1996 and 1998) shows a wide difference in turnout levels. Turnout in 1996 was 4,151 and turnout in 1998 was 3,246, for a decline of 22%. The turnout in 2000, the first election under the single-member district system, was 3,960 voters, for an increase of 22% from the 1998 election. Turnout did not return to the high level of turnout in 1996. Turnout from 2000 to 2008 increased 6%, from 3,960 to 4,203 voters (see Table 7.4 and Figure 7.1).

Comparison of Indian Precincts With Non-Indian Precincts

This section compares turnout in Indian precincts with non-Indian precincts to determine if there is a difference in voter behavior in these two areas. Indian precincts are those that are partially or completely on reservation. The analysis explored both the long-term effect of empowerment on turnout as well as the immediate impact of empowerment on turnout.

¹ A comparison of turnout for the three commission districts was impossible because data from the Montana Secretary of State's Office only provided turnout data for entire precincts. One of the precincts (Precinct 26) in Roosevelt County is divided between two commission districts, commission Districts 2 and 3. I was unable to obtain data from the county clerk in Roosevelt County that would indicate the turnout for the two commissioners for that precinct.

Table 7.4: Roosevelt County, Montana, Election Turnout, All Precincts, 1996-2008

Precinct	1996	1998	2000	2002	2004	2006	2008
2	200	172	147	162	198	171	214
10	240	206	182	201	211	196	208
12	449	370	393	376	432	455	453
15	201	112	204	233	227	226	251
16					271	230	282
17					131	108	124
18	980	778	999	658	779	756	813
20	67	58	69	69	72	60	65
22					150	160	191
24	532	390	512	344	458	463	475
26	657	532	630	476	616	577	597
27	462	310	490	334	364	362	365
28	114	105	111	101	170	162	165
31	157	139	151	118			
35	92	74	72	76			
TOTAL	4151	3246	3960	3148	4079	3926	4203
% Change		-	-	-	-	-	-
		0.21802	0.219963	0.20505	0.295743	0.03751	0.070555

Note: Percentage change indicates change in turnout from election year to election year.

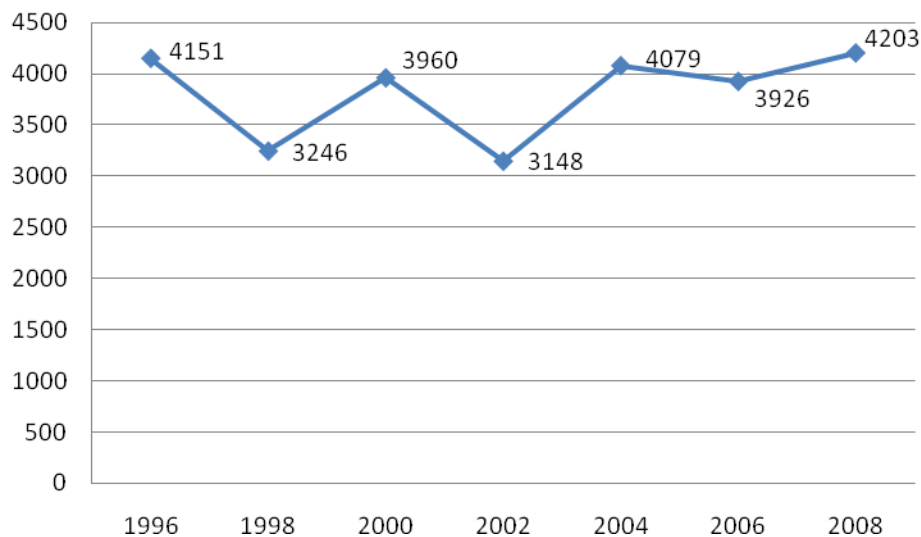


Fig. 7.1. Roosevelt County, Montana: Turnout, 1996 to 2008.

The data for this section indicate no real long-term impact on turnout because of empowerment. Turnout in Indian precincts showed a minor increase of 1% from 1996 to 2008. More specifically, turnout in 1996 in the Indian precincts was 3,951 voters; by 2008, turnout in these precincts increased to 3,989 voters, which is a minor increase of thirty-eight voters over this twelve-year period (see Table 7.5 and Figure 7.2). In comparison, an increase was seen over the same period of time, in turnout in the precinct completely off reservation. Only one precinct was completely off reservation in Roosevelt County, Precinct 2. A 7% increase in voter turnout was seen in this precinct from 1996 to 2008. Turnout in 1996 was 200 voters increasing by fourteen voters to 214 voters in 2008 (see Table 7.6 and Figure 7.3).

It was also important to examine turnout in 2000, the first year an Indian ran for reelection. Turnout increased from the previous year by 24% on the Indian precincts, that is, turnout grew from 3,074 voters in 1998 to 3,813 voters in 2000 (see Table 7.5), which is an increase of 739 voters in the Indian precincts or 24%. However, as the data in Table 7.5 revealed, turnout fluctuated by more than 20% from election year to election year in Indian precincts during this period of time. Therefore, it is difficult to determine with certainty any effect of empowerment on turnout in these particular precincts.

The turnout in non-Indian precincts declined between 1998 and 2000. Turnout in 1998 for non-Indian precinct was 172 voters, dropping to 147 voters in 2000 (see Table 7.6), for a decline of 25 voters or 14.5%. Again, turnout in this precinct fluctuates, but, in this case, turnout dropped in both the 1998 and 2000 elections.

Table 7.5: Roosevelt County, Montana, Election Turnout, Indian Precincts, 1996-2008

Precinct	1996	1998	2000	2002	2004	2006	2008
10	240	206	182	201	211	196	208
12	449	370	393	376	432	455	453
15	201	112	204	233	227	226	251
16					271	230	282
17					131	108	124
18	980	778	999	658	779	756	813
20	67	58	69	69	72	60	65
22					150	160	191
24	532	390	512	344	458	463	475
26	657	532	630	476	616	577	597
27	462	310	490	334	364	362	365
28	114	105	111	101	170	162	165
31	157	139	151	118			
35	92	74	72	76			
TOTAL	3951	3074	3813	2986	3881	3755	3989
% Change		-0.22	0.24	-0.22	0.30	-0.03	0.06

Note: Percentage change indicates change in turnout from election year to election year.

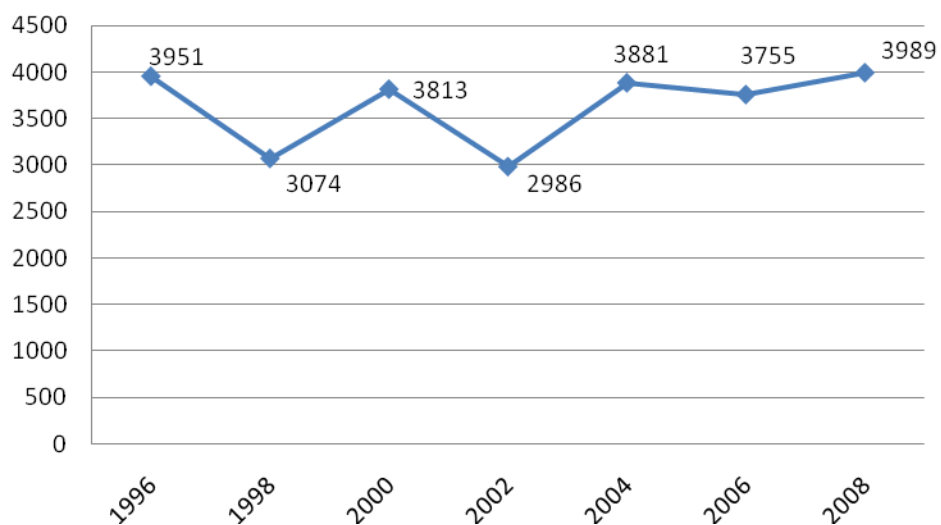


Fig. 7.2. Roosevelt County, Montana: Turnout in Indian Precincts.

Table 7.6: Roosevelt County, Montana, Election Turnout, Non-Indian Precinct, 1996-2008

Precinct	1996	1998	2000	2002	2004	2006	2008
2	200	172	147	162	198	171	214
TOTAL	200	172	147	162	198	171	214
% Change		-0.14	-0.15	0.10	0.22	-0.14	0.25

Note: Percentage change indicates change in turnout from election year to election year.

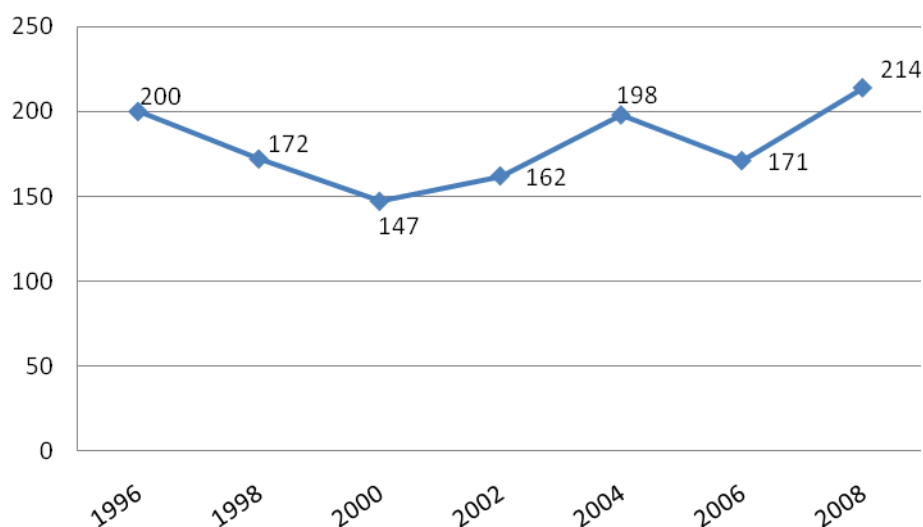


Fig. 7.3. Roosevelt County, Montana: Turnout in Non-Indian Precinct.

Comparison of Reservation Precincts With Nonreservation Precincts

This analysis compared turnout in reservation precincts with nonreservation precincts. This analysis further distinguished Indian voters from non-Indian voters by examining turnout in reservation precincts with precincts off reservation. The analysis was slightly different from the previous analysis as it defined reservation precincts as those precincts that are completely on reservation. Nonreservation precincts are those that are off-reservation or partially on/off reservation. Again, the analysis looked at both long-term effects as well as immediate effects of empowerment on turnout rates.

Turnout for reservation precincts (i.e., those that are completely on reservation) increased slightly from 1996 to 2008. Turnout in 1996 was 3,262 voters increasing to 3,328 voters in 2008 for an increase of sixty-six voters or 2%. Turnout for off reservation precincts declined between 1996 and 2008. Turnout for off-reservation precincts in 1996 was 889 voters and by 2008 turnout declined to 875 voters, for a decline of fourteen voters or 1.6%.

Turnout change between 1998 and 2000, the first year after an Indian held office and the first year of single-member districting, showed no effect of empowerment on American Indians in Roosevelt County. Turnout increased for reservation precincts from 2,498 voters in 1998 to 3,238 voters in 2000 (see Table 7.7 and Figure 7.4), which is an increase of 740 voters or 29.6%. Turnout declined between 1998 and 2000 for the off-reservation precincts. Turnout in 1998 for off reservation precincts was 748; it decline to 722 in 2000. This is a decline of 3% for off-reservation precinct turnout between 1998 and 2000 (see Table 7.8 and Figure 7.5).

Comparison Using U.S Census Bureau Data

Roosevelt County was unlike other counties in this study because of tracts of land within the reservation boundary that are privately owned. This situation required an additional analysis to ensure that an accurate comparison was being made between Indian voters and non-Indian voters. The U.S. Census Bureau tracks population density in specific census tract areas by race. These data were used to determine racial composition in small areas throughout Roosevelt County. Combining two maps (the first from the U.S. Census Bureau that indicates population density by race in five census track areas and the second, a precinct map, from the Roosevelt County Clerk's Office), it became

Table 7.7: Roosevelt, Montana, Election Turnout, Reservation Precincts, 1996-2008

Precinct	1996	1998	2000	2002	2004	2006	2008
15	201	112	204	233	227	226	251
16					271	230	282
17					131	108	124
18	980	778	999	658	779	756	813
20	67	58	69	69	72	60	65
22					150	160	191
24	532	390	512	344	458	463	475
26	657	532	630	476	616	577	597
27	462	310	490	334	364	362	365
28	114	105	111	101	170	162	165
31	157	139	151	118			
35	92	74	72	76			
TOTAL	3262	2498	3238	2409	3238	3104	3328
% Change		-0.23	0.30	-0.26	0.34	-0.04	0.07

Note: Percentage change indicates change in turnout from election year to election year.

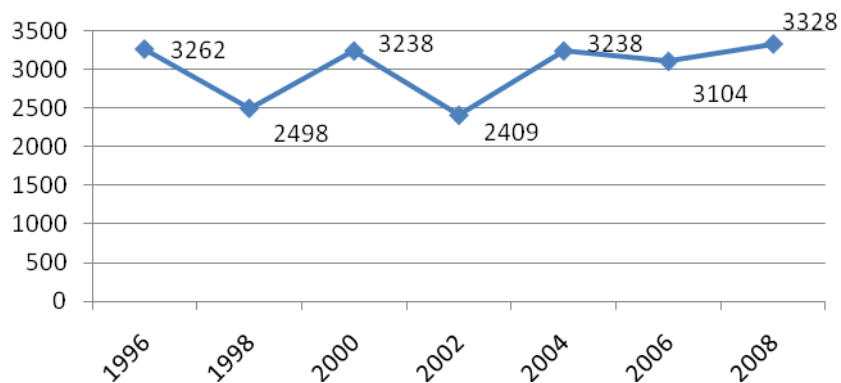


Fig. 7.4. Roosevelt County, Montana: Turnout in Reservation Precincts.

Table 7.8: Roosevelt County, Montana, Election Turnout, Off-Reservation Precincts, 1996-2008

Precinct	1996	1998	2000	2002	2004	2006	2008
2	200	172	147	162	198	171	214
10	240	206	182	201	211	196	208
12	449	370	393	376	432	455	453
TOTAL	889	748	722	739	841	822	875
% Change		-0.16	-0.03	0.02	0.14	-0.02	0.06

Note: Percentage change indicates change in turnout from election year to election year.

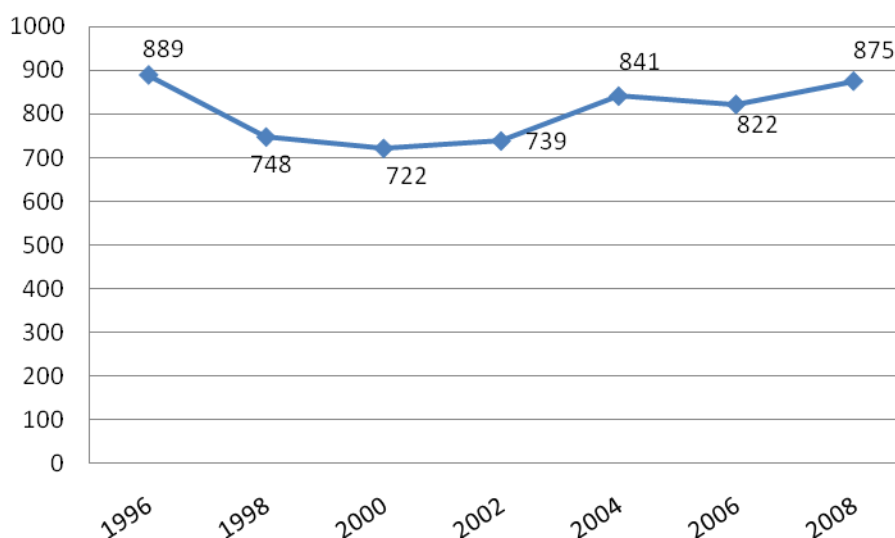


Fig. 7.5. Roosevelt County, Montana: Turnout in Off-Reservation Precincts.

clear which precincts in the county had a high percentage of American Indians and which precincts in the county had a low percentage of American Indians (see Appendix J).

The five census tract areas show populations of American Indians ranging from 4.6% in one area to 79.1% in another area (see Table 7.9). The precincts considered to have a high percentage of American Indians (78%-79%) are Precincts 15, 16, 17, 18, 20, and 35. The precincts considered to have a moderate percentage of American Indians

Table 7.9: Population in Census Tract Areas for Roosevelt County, MT by Race

Census Tract	American Indian	White	Other
1	33%	65%	2%
2	54%	43%	3%
3	79%	19%	2%
4	78%	16%	6%
5	5%	91%	4%

Note: The census tracts are not numbered. I did the numbering and identified the tract area from the left to the right side of the map.

Source: U.S. Census Bureau, Census 2000 Summary File 1, Matrices P1, and P7, Roosevelt County, Montana.

(33%-54%) are Precincts 10, 22, 24, 26, 27, 28, and 31. The precincts considered to have a small percentage of American Indians (5%) are Precincts 2 and 12.

Precincts with a high percentage of Indians had an increase of 322 voters between 1996 and 2008, which is an increase of 31.5% over the twelve-year period (see Table 7.10 and Figure 7.6). Turnout between 1998, the last year of the at-large system, and 2000, the first year of the single-member system and the first opportunity for reelecting the American Indian county commissioner, increased 31.5%.

Precincts with a percentage of Indians at a medium-size had a decrease in turnout of 161 voters between 1996 and 2008, which is a decrease of 7.4% over the twelve-year period (see Table 7.11 and Figure 7.7). Turnout in precincts with a moderate percentage of American Indians fell between the 1996 and 2000 elections, when the county first switched to the single-member district system, from 2,161 voters to 2,076 voters, which is a decline of eighty-six voters or 4%. Turnout between 1998, the last year of the at-large system, and 2000, the first year of the single-member system and the first reelection of an American Indian commissioner, increased by 23.4% in medium-sized precincts.

Table 7.10: Roosevelt County, Montana, Election Turnout 1996-2008, Precincts with a High Population of Indians

Precinct	1996	1998	2000	2002	2004	2006	2008
15	201	112	204	233	227	226	251
16					271	230	282
17					131	108	124
18	980	778	999	658	779	756	813
20	67	58	69	69	72	60	65
35	92	74	72	76			
TOTAL	1340	1022	1344	1036	1480	1380	1535
% Change		-0.24	0.32	-0.23	0.43	-0.07	0.11

Note: Percentage change indicates change in turnout from election year to election year.

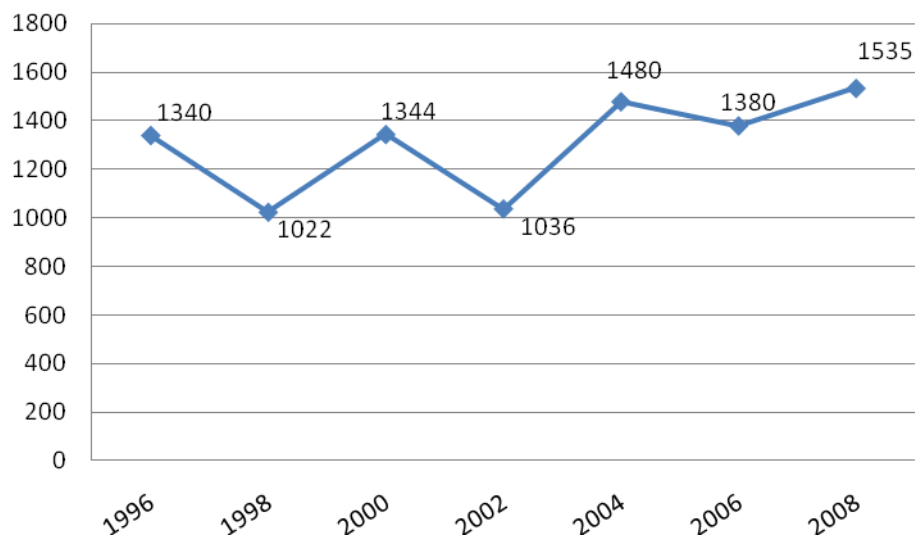


Fig. 7.6. Roosevelt County, Montana: Turnout in Precincts with High Populations of Indians.

Table 7.11: Roosevelt County, Montana, Election Turnout 1996-2008, Precincts with a Moderate Population of Indians

Precinct	1996	1998	2000	2002	2004	2006	2008
10	240	206	182	201	211	196	208
22					150	160	191
24	532	390	512	344	458	463	475
26	657	532	630	476	616	577	597
27	462	310	490	334	364	362	365
28	114	105	111	101	170	162	165
31	157	139	151	118			
TOTAL	2162	1682	2076	1574	1969	1920	2001
% Change		-0.22	0.23	-0.24	0.25	-0.02	0.04

Note: % Change indicates change in turnout from election year to election year.

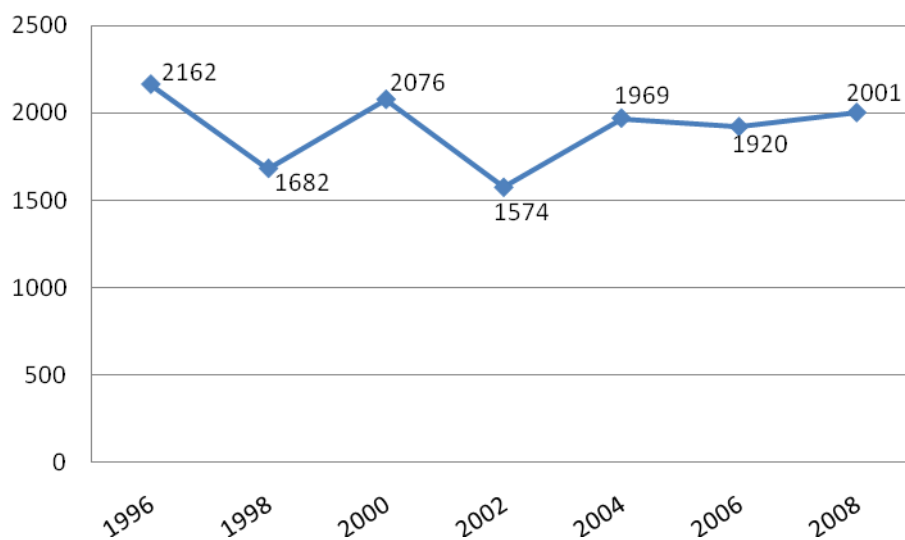


Fig. 7.7. Roosevelt County, Montana: Turnout in Precincts with Moderate Populations of Indians.

Table 7.12: Roosevelt County, Montana, Election Turnout 1996-2008, Precincts with a Low Population of Indians

Precinct	1996	1998	2000	2002	2004	2006	2008
2	200	172	147	162	198	171	214
12	449	370	393	376	432	455	453
TOTAL	649	542	540	538	630	626	667
% Change		-0.16487	-0.00369	-0.0037	0.17100 4	-0.00635	0.06549 5

Note: % Change indicates change in turnout from election year to election year.

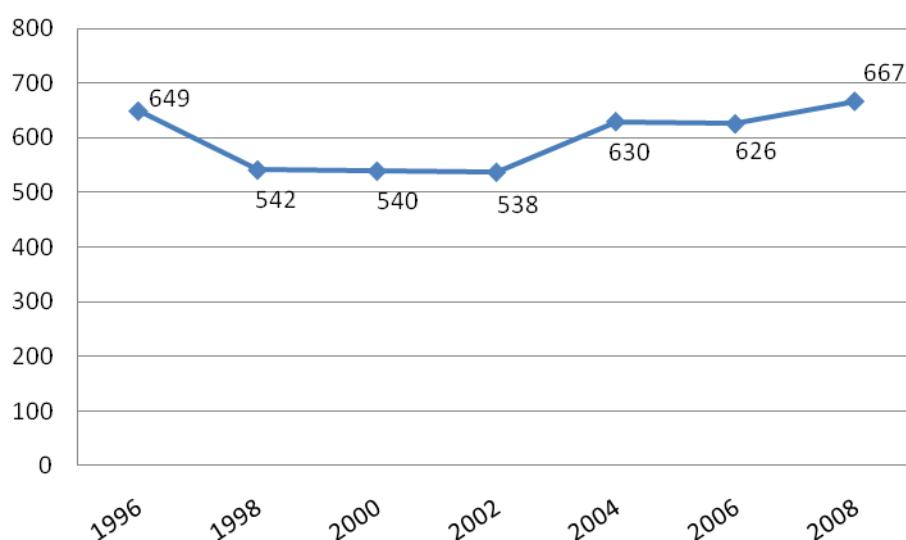


Fig. 7.8. Roosevelt County, Montana: Turnout in Precincts with Low Populations of Indians.

Turnout in precincts with a low population of American Indians increased slightly between 1996 and 2008 (see Table 7.12 and Figure 7.8), which is an increase of eighteen people or 2.8%. Turnout in precincts with a low population of American Indians declined from 1996 to 2000 by 109 voters which is a decrease of 16.8%. The number of voters also declined between 1998 and 2000, the year the county implemented the single-member system and the first reelection of an American Indian to the commission, from 542 voters to 540 voters, for a decline of less than 1%.

Comparing the three groups of data indicates that American Indian turnout was positively affected by empowerment and that turnout among non-Indians was not affected by the empowerment of American Indians. For the period of this study (1996 to 2008) turnout in precincts with a high percentage of Indians increases 31.5%. In contrast, turnout for precincts with moderate populations of Indians decreased 7.4% over the twelve-year period and turnout for precincts with low populations of Indians increased by 2.8%.

Findings for Roosevelt County, Montana: Interview Data

Following analysis of the turnout data, semistructured interviews were conducted by phone in spring 2010 with two political elites in Big Horn County to determine the effect the election of an Indian had on participation in the county as well as to determine if any changes in how Indians regard county government had occurred. One interview lasted ten minutes and the other lasted thirty minutes.

As the turnout data show, turnout among American Indians increased following the appointment of Gary McDonald to the commission in 1998. The interviewees were each asked about the effect of McDonald's appointment and subsequent election in 2000 to the Roosevelt County commission on participation among Indians living in the county.

The most interesting finding from the interview data for Roosevelt County is the belief among the interviewees that turnout among American Indians decreased in 2000, the year Gary McDonald ran for office. The interviewees were surprised to learn that turnout among American Indians increased from 1998 to 2000. Interviewees indicated that they were told that there was a lower turnout in 2000 and suspected that turnout as a percentage of the population was lower on reservation precincts because of redistricting

in 2000 for the single-member district system. Interviewees believed that more individuals were living within certain reservation precincts; thus, the percentage of individuals living in these areas who voted in 2000 was lower. The turnout data show an increase in actual turnout in precincts with high populations of Indians (31% increase), median populations of Indians (23% increase), and a small drop in turnout for precincts with low Indian populations (less than a 1% decline from 1998 to 2000). When asked the reason for the low turnout, one person responded: “Hard time to get them to vote. Maybe they feel they’re not represented, but we have a hard time getting them to vote.”

One elected official noted that he had an effect on Indian turnout the first time he ran because “there wasn’t a house that I missed. I went to every door in my district.” In the subsequent election, this official said that he continued to campaign at every home in his district.

Two interviewees noted that turnout fluctuates based on presidential elections. The fact that turnout is higher in presidential years than in midterm election years for both White and Native American voters. The 2008 election had the highest turnout in county history, with one person attributing this to Obama’s campaigning for Indian votes in Montana. He noted that Indian voters in Roosevelt County heavily identify themselves as Democrats and that elderly Indian women in the county wore campaign t-shirts and referred to themselves as “Obama-Mamas.”

The interviewees addressed changes in how Indians regard county government in terms of involvement, trust, and responsiveness of government and whether Indians believe their vote matters. Two of the elected officials believed that Indians are more involved in government, more Indians are running for county office, applying for county

jobs, and three Indians currently hold public office in the county (i.e., sheriff, county attorney, and county commission). They said that “more Indians [are] involved in it” and that “well, maybe they can feel that they can come visit...more free. I think the Indian people kind a feel free to come up to talk to us, where maybe they didn’t at one time.”

Interviewees also believed that Indians feel like their vote matters since an Indian was elected to the Roosevelt County Commission: “I’m sure they do, especially in that Indian district,” and “Yes, it has started a reaction where they are starting to say, ‘hey, maybe we better be looking at this county stuff.’ More interesting to them when there is a Native American involved.”

However, it is unclear whether Indians in Roosevelt County believe government is more responsive since an Indian was appointed to the commission. Both interviewees responded that they did not know how to answer my question about government responsiveness: “I don’t know how to answer that. I would like to think that they feel that. I think the tribal government itself does.” “I don’t know how to answer that.”

The elected officials interviewed for this study noted that they have made efforts in working with tribal governments. One official stated that they have “made a lot of giant steps” in bringing together Roosevelt County and the Fort Peck tribes. It is also unclear if Indians currently feel more trusting of government. One official noted, “I’m hoping they are getting that way.”

Conclusion

In the late 1990s, Roosevelt County was described as a community “divided along racial lines.” The at-large system for electing county commissioners supported this polarization. Following the appointment of the first American Indian to the commission

in 1999 and his subsequent election in 2000, substantial changes in turnout have occurred for American Indians. The analysis completed for this study indicates that immediately after empowerment voter turnout among American Indians increased, while the turnout rate for Whites declined. For example, precincts with a high Indian population increased their turnout by 32% immediately after empowerment. The impact empowerment has on turnout seems to have a long-term effect as well. For the period studied between 1996 and 2008, turnout increased by 32% on precincts with high Indian populations. Precincts with moderate populations of American Indians had similar increases in turnout over the twelve-year period, a 23% increase immediately after empowerment in 2000. Precincts with high populations of Whites showed a decline in turnout in 2000 and only slight growth (2.8%) over the twelve-year period. However, what is uncertain is how much of an effect the election of an Indian to the commission has had on the increase in turnout among Indians in Roosevelt County.

CHAPTER 8

CONCLUSION

The immense challenges that American Indians have faced to be full citizens in the American democratic system have been well documented and need not be repeated in-depth again. Yet, it is important to recall that from the earliest point in U.S. history, the founding of the national government, tribes, and the Indians have been caught in a complex legal status. Even after Indians were granted full citizenship in 1924, new barriers were constructed by state and local governments to bar Indians' participation in the democratic process. The Voting Rights Act and litigation on behalf of the Indians since 1965 have forced change to the structures, systems, and procedures of elections throughout the nation, thus granting Indians their full right to vote and elect candidates of their choice.

The full impact of the Voting Rights Act must consider not only the legal victories and successes of Indian candidates but also the positive effects that their new-found level of empowerment has had on political behavior of the minority group. As American Indians have achieved significant representation in county offices, a positive effect on participation rates among Indians has also been seen in those newly empowered communities. This effect on participation rates comes primarily through (a) visible representation and (b) changed perception of government responsiveness. The

empowerment of Indians has created visible representation, and Indians have positively responded. Visible representation sends a message of inclusion to group members. As Indians begin to identify with their representatives, they become less alienated and more involved in the process. The Indians also begin to view government as more responsive to their needs and preferences after empowerment; essentially, Indians begin to see the value of participating. The major contextual change in these case studies was the election of an Indian to county government for the first time in history. This contextual change led to changes in individual perceptions and attitudes among Indians and ultimately, led to a willingness to participate in the election process. The positive response of American Indians to empowerment, as shown in this study, was substantial in both the immediacy of the effect of empowerment and the long-lasting impact of empowerment.

Although the findings of this study are valuable to voting rights scholars, the impact of the findings is also an important addition to scholarly work on the American voter. The study both advances the scholarly understanding of American Indians' political behavior, and bolsters the explanatory power of the empowerment theory. To summarize, political scientists have emphasized individual-level factors, with a particular emphasis placed upon socioeconomic status, when studying political behavior. Without diminishing the importance of these variables, it is necessary to point out the limitations of research when only such variables are examined. Primarily, socioeconomic models do not adequately explain voter turnout for American Indians. Indian participation rates are lower than participation rates among non-Indians, even when socioeconomic status is controlled (Lien 2000; Peterson 1997). By moving beyond the individual variables to explore the relationship between participation and the context in which an individual

lives, as this study does, it is clear that contextual factors, in this case empowerment for the minority population, have positive effects on voting behavior. Second, up to this point, the empowerment theory has, up to this point, been used to explain the behavior of African American and Hispanic voters. Previous studies have shown that voters can have both positive and immediate responses to empowerment. This study of American Indian voters supports the finding that minority voters have both positive and immediate behavioral changes once empowered. In addition, this study shows that empowerment has long-term effects on American Indian voters. In other words, American Indian voter turnout continues to increase over time, and the response to empowerment is not a one-time, immediate change.

This study clearly shows that American Indian voters positively respond to new-found empowerment. As American Indians are elected to county office for the first time in the history of each county, American Indian voters begin to identify with their elected officials, feel comfortable approaching county government through Indian officials, and begin seeing county government as receptive and responsive to their needs. The election of an Indian to the county commission in each of the counties is a major contextual change that influenced both attitudes and behaviors among Indians. In the sections that follow, summary of the findings for each of the three counties are given, theoretical significance of this study is discussed, and concluding remarks are made on how this study may influence voting rights scholarship.

San Juan County, Utah

In the southeastern portion of Utah sits rural San Juan County, home to two American Indian reservations: the Navajo reservation, which also spans into New Mexico and Arizona, and the White Mesa Ute Reservation. San Juan County has a long history of discrimination that involved American Indians, reaching into the realms of health care, education, and voting rights. A significant and substantial change to county government occurred in 1986 when Mark Maryboy was elected as the first American Indian to serve on the county commission. Maryboy was the first Indian ever elected to any county office in San Juan. His election was the direct result of litigation filed under the Voting Rights Act, which required the county to switch from at-large elections to single-member district elections for county commission seats.

The new-found level of empowerment, as measured by Maryboy's election, had a profound and positive effect on the political behavior of American Indians in the county. The election turnout data for San Juan County show that, as this minority group became empowered, their voting turnout increased immediately after empowerment; this increase in turnout persisted over time. It is also important to note that Indian empowerment had no substantial effect on White political behavior.

In the 1988 election, the first election after empowerment, turnout among those living on the reservation increased 25% from the prior election year. In comparison, turnout in off reservation precincts (i.e., those that are completely or partially off reservation) increased by just 3% between 1986 and 1988. The comparison of voters on reservation (predominately American Indians) with those off reservation (predominately

White) indicates that empowerment had a positive and substantial impact on Indian voters immediately after empowerment.

The findings also show that empowerment had a long-lasting and positive effect on Indian voters in San Juan County. Turnout in 1978 for reservation voters was low; just 417 people voted that year. By 2008, 1,672 people from the reservation precincts voted; this is an increase of 301% between 1978 and 2008. In comparison, nonreservation turnout increased by 46% over this same period of time. The findings are clear that American Indians in San Juan County positively responded to empowerment immediately; this effect persisted over time.

As the interview data substantiate, American Indian voters began to experience changes in attitudes that influenced their behavior. Indians began to see government more in a positive light, identified with their elected commissioner, saw government as “receptive to their concerns,” and began to believe their vote mattered. These attitude changes, along with beginning to identify with their representative (visible description), positively influenced American Indian voter behavior in San Juan County.

Big Horn County, Montana

In the 1980s, Big Horn County could easily have been described as a racially polarized community where “Jim Crow was as strong as ever” (anonymous interview). In terms of the political situation, American Indians began making gains into elected office in the early 1980s, first with the election of an Indian from the county to the Montana Legislature. This election was the first in a series of successes for Indians in the early 1980s. In 1983, the ACLU filed a Voting Rights Act lawsuit on behalf of American Indians, challenging the at-large system for electing commissioners. As a result, the

county was required to replace the at-large system in 1986 with a single-member district system. The result of this structural change was the election of John Doyle, an Indian, to the commission in 1986. Along with the election of an Indian to the Montana Legislature and an Indian to the school board, Doyle's election helped to create an atmosphere of empowerment for Indians in Big Horn County.

The new level of empowerment for Indian voters in Big Horn County had a positive effect on voter behavior. Election turnout data indicate the positive effect of Doyle's election. In 1988, voters from the precincts on the reservation turned out at a slightly higher rate, approximately 1%, than in the 1986 election. In contrast, voting in off reservation precincts actually declined 5% between 1986 and 1988. Although empowerment seems to have a limited positive effect on American Indians immediately after empowerment (as measured by Doyle's election), in contrast, turnout for non-Indians declined.

Although empowerment may have had a limited effect immediately after Doyle's election, strong and positive effects remain over time. Turnout on the reservation precincts increased 47% between 1986 and 2008. This increase indicates that empowerment has long-term influences on political behavior among American Indians in Big Horn County. In contrast, turnout off reservation declined by 11% during this same time period. This difference indicates that empowerment had no positive effect on White political behavior.

This is no small change for a county that was so polarized that some American Indians did not want to go to the County Courthouse "because that was all the domain of White folks" (anonymous interview). In the nearly thirty years since empowerment, a

significant change has been seen in voter behavior because of two factors: (a) Perception of government has changed and (b) Indian people identify with their elected officials now. Not only did empowerment affect the political behavior of Indians, as measured by increased levels of turnout on election day, but it also ushered in a wholly new county government as Indians began running for and winning elected office in the county. As of 2010, the county treasurer, county attorney, county sheriff, county clerk, district court clerk, and two county commissioners are American Indian.

Roosevelt County, Montana

In 1999, the U.S. Department of Justice filed a Voting Rights Act case against Roosevelt County, a large rural county in northeastern Montana, alleging that the at-large system for electing commissioners violated the voting rights of the Assiniboine and Sioux Indians in the county. In 2000, the county agreed to dismantle the at-large system and replace it with a single-member district system for electing commissioners. However, prior to this change, the county appointed Gary McDonald, an Indian, to fill a vacated commission seat. The appointment of McDonald in 1999 is defined here as the point of empowerment for American Indians in Roosevelt County. The effect of empowerment on Indians in Roosevelt County, however, does not appear to be as positive as it was in the other two counties.

McDonald's appointment to the county commission had a mixed effect on American Indian voting behavior. Voters seemed not to respond immediately to empowerment; however, it does appear that in the long term empowerment may have affected the political behavior of American Indians. In 2000, the first election after empowerment, voter turnout increased by 32% in those precincts identified as having

populations with a high percentage of American Indians. Turnout in precincts with moderate populations of Indians increased by 23% and turnout in precincts with low populations of Indians declined by 3%. The initial impression is that Indians immediately responded positively to empowerment. However, the jump in turnout in 2000 seems to be part of a cyclical pattern for voters in Roosevelt County and not a response to empowerment (see Tables 7.10, 7.11, and 7.12). Turnout in the county jumps in presidential election years and declines in midterm election years for all voters, including American Indian voters.

A slight empowerment effect is apparent in the long term on Indians in Roosevelt County. Turnout increased 31% between 1996 and 2008 for precincts that are considered to have high populations of American Indians. Turnout in precincts with moderate populations of Indians declined by 7% during the same twelve-year period, and turnout increased by 3% in precincts with low populations of American Indians. Perhaps, voters simply did not respond immediately to empowerment, as measured by the appointment of an Indian to the commission, but they did respond over the longer time period to empowerment.

American Indians and the Empowerment Theory

Primarily, this study is an important theoretical addition to the wider field of political behavior by testing the empowerment theory to determine how it applies to American Indians. As noted in previous chapters, much of the work in political behavior has been focused upon either individual characteristics or social contextual factors. Although much has been learned about the political behavior of individuals and groups by focusing upon individual characteristics such as socioeconomic status or individual

attitudes and by focusing upon the contextual factors such as mobilization, neither focus alone is sufficient. This study may help scholars better understand the relationship between empowerment and Indian voting behavior.

The findings of this study indicate that the empowerment theory has strong explanatory power for American Indians. As in other studies of minority populations, this study shows that empowerment has immediate and positive effects on voting behavior. This study, however, makes an important contribution to the theory of empowerment. It shows that empowerment has a long term effect on voting behavior. In San Juan County, Indian voter turnout increased 301% over thirty years; in Big Horn County, voter turnout increased 47% between 1986 and 2008; and in Roosevelt County, turnout increased 32% between 1996 and 2008. These findings show that significant changes in voter behavior over long periods of time and illustrate that American Indians continue to respond to empowerment over time.

The study also leaves some avenues open for future research. First, the study does not account for any effects that tribal culture may have on voter behavior. It is known that tribal culture influences behavior in nontribal elections. For example, Prindeville and Gomez (1992) found that tribal culture and traditions for some Pueblo tribes hindered women's political participation in both tribal and nontribal politics. The present study did not account for tribal culture, but it may well be a factor that influences the political behavior of American Indians in addition to other known individual-level and contextual-level variables. Second, the study illustrates the importance of population density when conducting analysis of voter behavior. In both San Juan County and Big Horn County, there were dense populations of American Indians and most precincts

reflected the segregation of the Indian and White populations, allowing for analysis and comparison of voter turnout data. For example, San Juan County had several precincts with Indians comprising 98% of the population. The populations of Whites and Indians in Roosevelt County were less segregated. In fact, some precincts had mixed populations (e.g., 54% Indian and 46% non-Indian), making it difficult to make comparisons between Indian and non-Indian voters at the precinct level. It would be helpful for future research to examine other means of distinguishing between Indian and non-Indian voters to allow for comparisons and analyses of voter data when populations are more mixed.

This study offers a second significant benefit: it expands the scholarly knowledge of American Indian political behavior, a severely understudied area of political behavior. Currently, little research exists on the voting behavior of American Indians (O'Brien 1989; Prindeville and Gomez 1999). Two scholars noted that “there is a dearth of information about the politics of American Indians. With few notable exceptions mainstream political scientists have generally failed to examine either the diversity of tribal governments operating across the United States or the character of Indian politics on or off Indian lands” (Prindeville and Gomez 1999, 19).

Voting Rights Literature

Although this study is primarily dedicated to the field of political behavior, it adds to the field of voting rights research as well. This study expands on the idea that the Voting Rights Act has broader impact than just guaranteeing individuals the right to vote and elect those of their choice. It shows that the Voting Rights Act and litigation to enforce the act in Indian Country can have profound influence upon the political behavior of American Indians.

My previous research shows that the Voting Rights Act has positive effects on the Indian community and on Indian candidates. When at-large electoral structures are replaced with single-member district systems, Indians are successful at winning elected office, which is clear in the three jurisdictions studied in this dissertation and in Thurston County, Nebraska; Roosevelt County, Montana; Blaine County, Montana; Holbrook Unified School District in Arizona; Grant-Cibola School District in New Mexico; McKinley School District in New Mexico; Bernalillo School District in New Mexico; Cibola County, New Mexico; Cuba School District in New Mexico; and San Juan College Board in New Mexico. In fact, in the fifteen cases studied previously, an Indian won elected office in only one instance under an at-large system. In all but two instances of these fifteen cases, once the single-member district system was implemented, Indian candidates were successful (McCool, Olson, and Robinson 2007). Once Indians are elected, they appear to become more influential in the political process, improving services, Indians' access to government, and Indians' perceptions of government (McCool, Olson, and Robinson 2007). These results are similar to the positive effects the Voting Rights Act has had on African Americans and Hispanics (see Browning, Marshall, and Tabb 1984; Campbell and Faegin 1975; Cole 1976; Dye and Renick 1981; Eisinger 1982; Keech 1968).

The evidence produced in the findings show that American Indians positively respond to empowerment and that the Voting Rights Act has a broader effect than previously understood. The changes required through litigation in Section 2 cases have been shown to positively affect the success of Indian candidates, positively effect resources, services, and policies in the counties. This study shows an interesting

extension of the Voting Rights Act. In addition to affecting the rights of Indians to vote and the success of Indian candidates, American Indians living in these communities positively respond to having Indians elected to public office. The effect of empowerment on voting behavior is both immediate and long lasting for American Indians.

Final Remarks

Previous studies of minority political behavior have demonstrated that empowerment, as measured by the election of a minority to public office, has positive effects on participation among members of the minority community. Application of the empowerment theory to American Indians is useful in explaining participation rates among this minority group because of the theory's emphasis on political context and attitudinal factors. This dissertation explored the role of empowerment on American Indian participation by comparing turnout prior to empowerment to turnout after empowerment in the following three counties in the U.S.: (a) San Juan County, Utah; (b) Big Horn County, Montana; and (c) Roosevelt County, Montana.

The findings indicate that turnout among Indians after empowerment, as defined by an Indian holding elected office, was higher than turnout prior to empowerment because of the positive effect of empowerment on perceptions and attitudes among American Indians. As American Indians were elected to county office for the first time in the history of each county, American Indian voters began to identify with their elected official(s), began to feel comfortable approaching county government through the Indian officials, and began seeing county government as receptive and responsive to their needs. The election of an Indian to county office was a major contextual change in each of the three counties. This change had a positive impact on voter participation among Indians by

influencing their perceptions of government and attitudes of American Indians. Further, the positive effect of empowerment on American Indian voters is both immediate and long lasting. The positive effect on American Indian political behavior is evident immediately after empowerment; that is, Indians vote at higher rates in the first election after empowerment than prior to empowerment. Turnout continues to increase over time for American Indians compared with non-Indian populations, indicating the long-lasting, positive effects of empowerment on Indian political behavior. The findings show that the election of Indians to public office has a positive and long-lasting influence on Indian voting.

APPENDIX A

AMERICAN INDIAN VOTING RIGHTS ACT CASES

Case Name	
Klahr v. Williams	339 F. Supp. 922 (D. Ariz. 1972)
Apache County, et al. v. U.S.	256 F. Supp. 903 (D.D.C. 1966)
Goodluck, et al. v. Apache County consolidated with: U.S. v. Arizona	417 F. Supp. 13 (D. Ariz. 1975); aff'd 429 U.S. 876 (1976)
Little Thunder, et al. v. South Dakota, et al.	518 F.2d 1253 (8th Circ. 1975)
Maine v. U.S.	Order and partial summary judgment, Sept. 17, 1976; stipulation July 5, 1977
Simenson v. Bell and Plotkin (originally Simenson v. Levi and Barabba)	Memorandum and order, Jan. 24, 1978
New Mexico v. U.S.	Order, July 30, 1976
Choctaw and McCurtain Counties v. U.S.	Order, May 12, 1978
Independent School Dist. Of Tulsa v. Bell	Memorandum opinion, December 7, 1977
Apache County High School District (Arizona) v. U.S.	Memorandum opinion, June 12, 1980
U.S. v. Town of Bartelme, et al.	Order, February 17, 1978
U.S. v. Humboldt County, et al.	Order, September 7, 1978
US v. Thurston County, NE	Consent decree May 9, 1979
U.S. v. Tripp County, SD, et al.	Order, February 6, 1979
U.S. v. South Dakota; Fall River County, SD; et al.	636 F. 2d. 241(8 th Circ. 1980)
U.S. v. County of San Juan NM, et al.	Stipulation, April 8, 1980
U.S. v. County of San Juan NM, et al.	Stipulation, April 8, 1980
U.S. v. South Dakota; Tripp County, Fall River County	Order, May 20, 1980
Canady v. Lumberton City	454 U.S. 957 (1981)
South Dakota, et al. v. U.S.	Consent decree, Dec. 2, 1981
Goddard, et al. v. Babbitt, et al.	536 F. Supp. 538 (D. Ariz. 1982)
Sanchez, et al. v. King, et al.	550 F. Supp. 13 (D.N.M. 1982); aff'd 459 U.S. 801 (1983); order on remand Aug. 8, 1984
Shakopee Mdewakanton Sioux Community, Edith Crooks, and the U.S. (intervenor) v. City of Prior Lake, MN	771 F.2d 1153 (8 th Circ. 1985)
Windy Boy v. Big Horn County, MT	647 F. Supp 1002 (D.Mont. 1986)
U.S. v. San Juan County, UT, et al.	Settlement and order, April 4, 1984
U.S. v. San Juan County, UT, et al.	Settlement and order, January 11, 1983
Largo v. McKinley Consolidated School District	Consent decree, March 21, 198

Estevan v. Grants-Cibola County School District	Order to enjoin election, Dec. 17, 1984
Buckanaga v. Sisseton School Dist., SD	804 F.2d 469 (8 th Circ. 1986); 15 Indian L.Rep. 3119 (D.S.D. 1988).
American Horse v. Kundert	Order, November 5, 1984
Felipe and Ascencio v. Cibola County Commission	Consent decree, Feb. 18, 1987
Tso v. Cuba Independent School District	Consent decree, May 18, 1987
Fiddler v. Sieker	Order, October 22, 1986
Black Bull, et al. v. Dupree School District	Settlement, May 14, 1986
Kirk, et al. v. San Juan College Board	Order, February 1987
U.S. v. McKinley County, NM	941 F. Supp. 1062 (D.N.M. 1996)
U.S. v. McKinley County, NM	Consent decree, Jan. 13, 1986
Casuse, et al. v. City of Gallup, NM	746 P.2d 1103 (N.M. 1987)
Clark v. Holbrook Unified School District, et al.	703 F. Supp. 56 (D.C. Ariz. 1989)
US v. Arizona, et al.	Consent decrees, May 22, 1989 and Sept. 28, 1993; dismissed Dec. 14, 1995.
Bowannie v. Bernalillo School District	Consent decree, Nov. 23, 1988
U.S. v. State of New Mexico; Sandoval County, NM; et al.	Settlement in 1990; consent orders in 1994, and 1997
Cuthair, et al. v. Montezuma-Cortez, CO School District, et al.	7 F. Supp. 2d 1152 (D.Col. 1998)
Grinnell v. Sinner	District Court in ND dismisses case.
Stabler, et al. v. Thurston County, NE, et al.	129 F3d 1015 (8 th Circ. 1997); cert denied 1998 U.S. LEXIS 3119
U.S. v. Cibola County, NM, et al.	Joint stipulation April 21, 1994; order April 22, 2004
U.S. v. Socorro County, NM, et al.	Consent agreement, April 11, 1994
U.S. v. Arizona, et al.	1994 U.S. Dist. LEXIS 17606
Arizona v. Reno, et al.	887 F. Supp. 318 (D.D.C. 1995); cert granted but then dismissed pursuant to Rule 46, 516 U.S. 1155 (1996)
Old Person, et al. v. Brown, et al. (originally Old Person v. Cooney)	230 F.3d 1113 (9 th Circ. 2000); 182 F. Supp. 2d 1002 (D. Mont., 2002)
U.S. v. Parshall, ND, School District	None
U.S. v. Bernalillo County, NM, et al.	Consent decree, April 27, 1998; stipulation July 1, 2003
Matt et al., v. Ronan School District, et al.	Stipulation, January 13, 2000
U.S. v. Blaine County, MT, et al.	363 F.3d 897 (9 th Circ. 2004)

Alden et al. v. Rosebud County Board of Commissioners, et al.	Order, May 10, 2000
U.S. v. Day County and Enemy Swim Sanitary District, SD	Consent decree with county, May 14, 1999; with sanitary district n/a
U.S. v. Roosevelt County, MT, Board of Commissioners	Consent agreement, March 24, 2000
U.S. v. Benson County, ND	Consent judgement and decree March 10, 2000
Emery, et al. v. Hunt, et al.	615 N.W.2d 590 (S.D. 2000) USDC order, Aug. 10, 2000 272 F.3d 1042 (8 th Circ. 2001) (fees)
McConnell, et al v Blaine Co., et al.	Denial of intervention: 37 Fed. Appx. 276; 2002 U.S. App. LEXIS 10883 (9 th Circ. 2002)
Vigil v. Lujan (consolidated with Padilla v. Johnson)	191 F. Supp. 2d 1273 (D.N.M 2001); dismissed as moot, March 15, 2002
Jepsen v. Viginl-Giron	Findings and Conclusions, Jan. 24, 2002
Bone Shirt, et al. v. Hazeltine, et al.	Re preclearance: 200 F. Supp. 2d 1150 (D.S.D. 2002) Re vote dilution: 336 F. Supp. 2d 976 (D.S.D. 2004)
Frank, et al. v. Forest County, WI, et al.	336 F.3d 570 (7 th Circ. 2003)
Quick Bear Quiver, et al. v. Hazeltine, et al.	Consent order, Nov. 8, 2002
Navajo Nation, et al. v. Arizona Independent Redistricting Commission, et al.	230 F. Supp. 2d 998 (D.Ariz. 2002)
Weddell, et al. v. Wagner Community School District, et al.	Consent decree, March 18, 2003
Cottier, et al. v. City of Martin, SD, et al. (originally Wilcox v. Martin)	551 F.3d 733, 2008
Kirkie, et al. v. Buffalo County, SD, et al.	Consent decree, Feb. 10, 2004.
ACLU of Minnesota v. Kiffmeyer	Consent decree, Sept. 12, 2005
Daschle v. Thune	Order Nov. 2, 2004
Blackmoon et al. v. Charles Mix County, et al.	Consent decree, Dec. 4, 2007
Large v. Fremont County, WY	Complaint filed Oct 20, 2005
Hartung v. City of Billings	No. CV-05-96-BLG-RWA (D. Mont)
Intertribal Council of Arizona v. Brewer	Complaint filed May 24, 2006
Janis v. Nelson	2009 U.S. Dist. LEXIS 121089

APPENDIX B

SECTION 5 COVERED JURISDICTIONS

States Covered as a Whole	
	Alabama
	Alaska
	Arizona
	Georgia
	Louisiana
	Mississippi
	South Carolina
	Texas
	Virginia

Covered Counties in States Not Covered as a Whole	
California:	
	Kings County
	Merced County
	Monterey County
	Yuba County
	Yuba County
Florida:	
	Collier County
	Hardee County
	Hendry County
	Hillsborough County
	Monroe County
New York:	
	Bronx County
	Bronx County
	Kings County
	Kings County
	New York County
North Carolina:	
	Anson County

	Beaufort County
	Bertie County
	Bladen County
	Camden County
	Caswell County
	Chowan County
	Cleveland County
	Craven County
	Cumberland County
	Edgecombe County
	Franklin County
	Gaston County
	Gates County
	Granville County
	Greene County
	Guilford County
	Halifax County
	Harnett County
	Hertford County
	Hoke County
	Jackson County
	Lee County
	Lenoir County
	Martin County
	Nash County
	Northampton County
	Onslow County
	Pasquotank County
	Perquimans County
	Person County
	Pitt County
	Robeson County
	Rockingham County
	Scotland County

	Union County
	Vance County
	Washington County
	Wayne County
	Wilson County
South Dakota:	
	Shannon County
	Todd County

Covered Townships in States Not Covered as a Whole		
Michigan:		
	Allegan County:	Clyde Township
	Saginaw County:	Buena Vista Township
New Hampshire:		
	Cheshire County:	Rindge Town
	Coos County:	Millsfield Township
		Pinkhams Grant
		Stewartstown Town
		Stratford Town
	Grafton County:	Benton Town
	Hillsborough County:	Antrim Town
	Merrimack County:	Boscawen Town
	Rockingham County:	Newington Town
	Sullivan County:	Unity Town

Notes: Fifteen political subdivisions in Virginia (Augusta, Botetourt, Essex, Frederick, Greene, Middlesex, Pulaski, Roanoke, Rockingham, Shenandoah, and Warren Counties and the Cities of Fairfax, Harrisonburg, Salem and Winchester) have "bailed out" from coverage pursuant to Section 4 of the Voting Rights Act. The United States consented to the declaratory judgment in each of those cases.

APPENDIX C

SECTION 203 COVERED JURISDICTIONS FOR
AMERICAN INDIAN AND ALASKAN
NATIVES, EFFECTIVE 2002

State and Political Subdivision	American Indian/Alaskan Native Covered Language Minority Group
Alaska:	
Aleutians West Census Area	Aleut.
Bethel Census Area	Eskimo, American Indian (Tribe not specified), American Indian (Other Tribe specified).
Denali Borough	Athabascan.
Dillingham Census Area	Eskimo, American Indian (Other Tribe specified), Native (Other Group specified).
Kenai Peninsula Borough	American Indian (Tribe not specified) and Aleut.
Lake and Peninsula Borough	Athabascan, Aleut, and Eskimo.
Nome Census Area	Eskimo.
North Slope Borough	American Indian (Tribe not specified), and Eskimo.
Northwest Arctic Borough	Eskimo and Alaska Native (Other Group specified).
Southeast Fairbanks Census Area	Athabascan and Native (Other Group specified).
Valdez-Cordova Census Area	Athabascan.
Wade Hampton Census Area	Eskimo, American Indian (Chickasaw), and American Indian (Tribe not specified).
Yukon-Koyukuk Census Area	Athabascan, Eskimo, American Indian (Other Tribe specified).
Arizona:	
Apache County	American Indian (Apache, Navajo, and Pueblo).
Coconino County	American Indian (Navajo and Pueblo).
Gila County	American Indian (Apache).
Graham County	American Indian (Apache).
Maricopa County	American Indian (Tohono O'Odham).
Navajo County	American Indian (Apache, Navajo, and Pueblo).
Pima County	American Indian (Tohono O'Odham and Yaqui).
Pinal County	American Indian (Apache and Tohono O'Odham).
Yuma County	American Indian (Yuman).
California:	
Imperial County	American Indian (Central or South American and Yuman).
Riverside County	American Indian (Central or South American).
Colorado:	
La Plata County	American Indian (Navajo and Ute).
Montezuma County	American Indian (Navajo and Ute).
Florida:	
Broward County	American Indian (Seminole).

Collier County	American Indian (Seminole).
Glades County	American Indian (Seminole).
Idaho:	
Bannock County	American Indian (Other Tribe specified).
Bingham County	American Indian (Other Tribe specified).
Caribou County	American Indian (Other Tribe specified).
Owyhee County	American Indian (Other Tribe specified).
Power County	American Indian (Other Tribe specified).
Louisiana:	
Allen Parish	American Indian (Other Tribe specified).
Mississippi:	
Attala County	American Indian (Choctaw).
Jackson County	American Indian (Choctaw).
Jones County	American Indian (Choctaw).
Kemper County	American Indian (Choctaw).
Leake County	American Indian (Choctaw).
Neshoba County	American Indian (Choctaw).
Newton County	American Indian (Choctaw).
Scott County	American Indian (Choctaw).
Winston County	American Indian (Choctaw).
Montana:	
Big Horn County	American Indian (Cheyenne).
Rosebud County	American Indian (Cheyenne).
Nebraska:	
Sheridan County	American Indian (Sioux).
Nevada:	
Elko County	American Indian (Other Tribe specified and Shoshone).
Humboldt County	American Indian (Other Tribe specified).
Lyon County	American Indian (Paiute).
Nye County	American Indian (Shoshone).
White Pine County	American Indian (Shoshone).
New Mexico:	
Bernalillo County	American Indian (Navajo and Pueblo).
Catron County	American Indian (Pueblo).
Cibola County	American Indian (Navajo and Pueblo).
McKinley County	American Indian (Navajo and Pueblo).
Rio Arriba County	American Indian (Navajo).

San Juan County	American Indian (Navajo and Ute).
Sandoval County	American Indian (Navajo and Pueblo).
Santa Fe County	American Indian (Pueblo).
Socorro County	American Indian (Navajo and Pueblo).
Taos County	American Indian (Pueblo).
Valencia County	American Indian (Pueblo).
North Dakota:	
Richland County	American Indian (Sioux).
Sargent County	American Indian (Sioux).
Oregon:	
Malheur County	American Indian (Other Tribe specified).
South Dakota:	
Bennett County	American Indian (Sioux).
Codington County	American Indian (Sioux).
Day County	American Indian (Sioux).
Dewey County	American Indian (Sioux).
Grant County	American Indian (Sioux).
Gregory County	American Indian (Sioux).
Haakon County	American Indian (Sioux).
Jackson County	American Indian (Sioux).
Lyman County	American Indian (Sioux).
Marshall County	American Indian (Sioux).
Meade County	American Indian (Sioux and Cheyenne).
Mellette County	American Indian (Sioux).
Roberts County	American Indian (Sioux).
Shannon County	American Indian (Sioux).
Stanley County	American Indian (Sioux).
Todd County	American Indian (Sioux).
Tripp County	American Indian (Sioux).
Ziebach County	American Indian (Sioux).
Texas:	
El Paso County	American Indian (Pueblo).
Maverick County	American Indian (Other Tribe specified).
Utah:	
San Juan County	American Indian (Navajo and Ute).

Source: Federal Register. 2002. Vol. 67, No. 144, Friday, July 26, 2002, Notices, pg. 48871-48877.

APPENDIX D

SAN JUAN COUNTY, UTAH,

PRECINCT MAP,

1986-2008

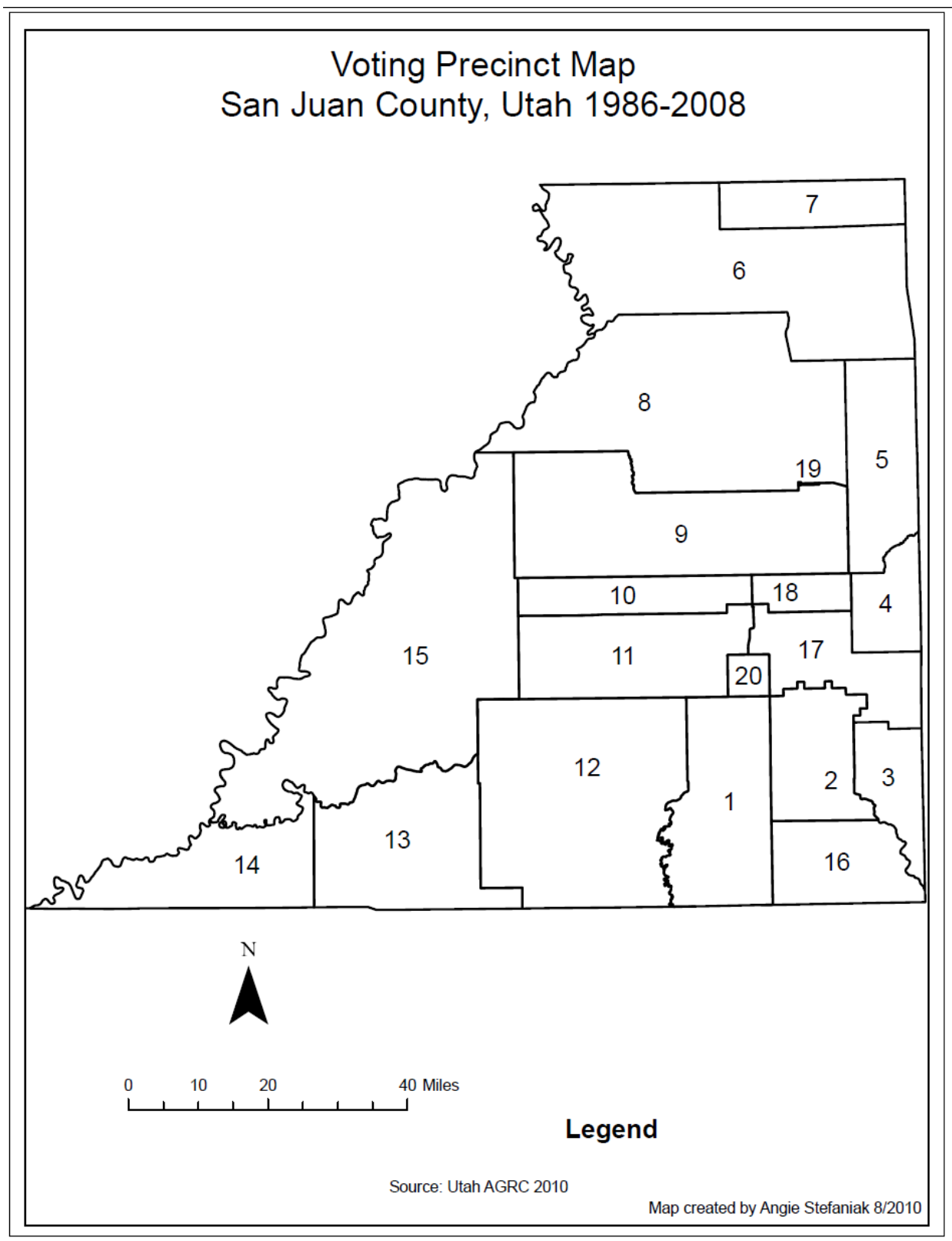


Figure D.1. Voting Precinct Map, San Juan County, Utah, 1986-2008.

Source: Utah AGRC 2010.

APPENDIX E

SAN JUAN COUNTY, UTAH, POPULATION DENSITY
FOR AMERICAN INDIANS, WITH AN OVERLAY
OF THE PRECINCTS, MAP

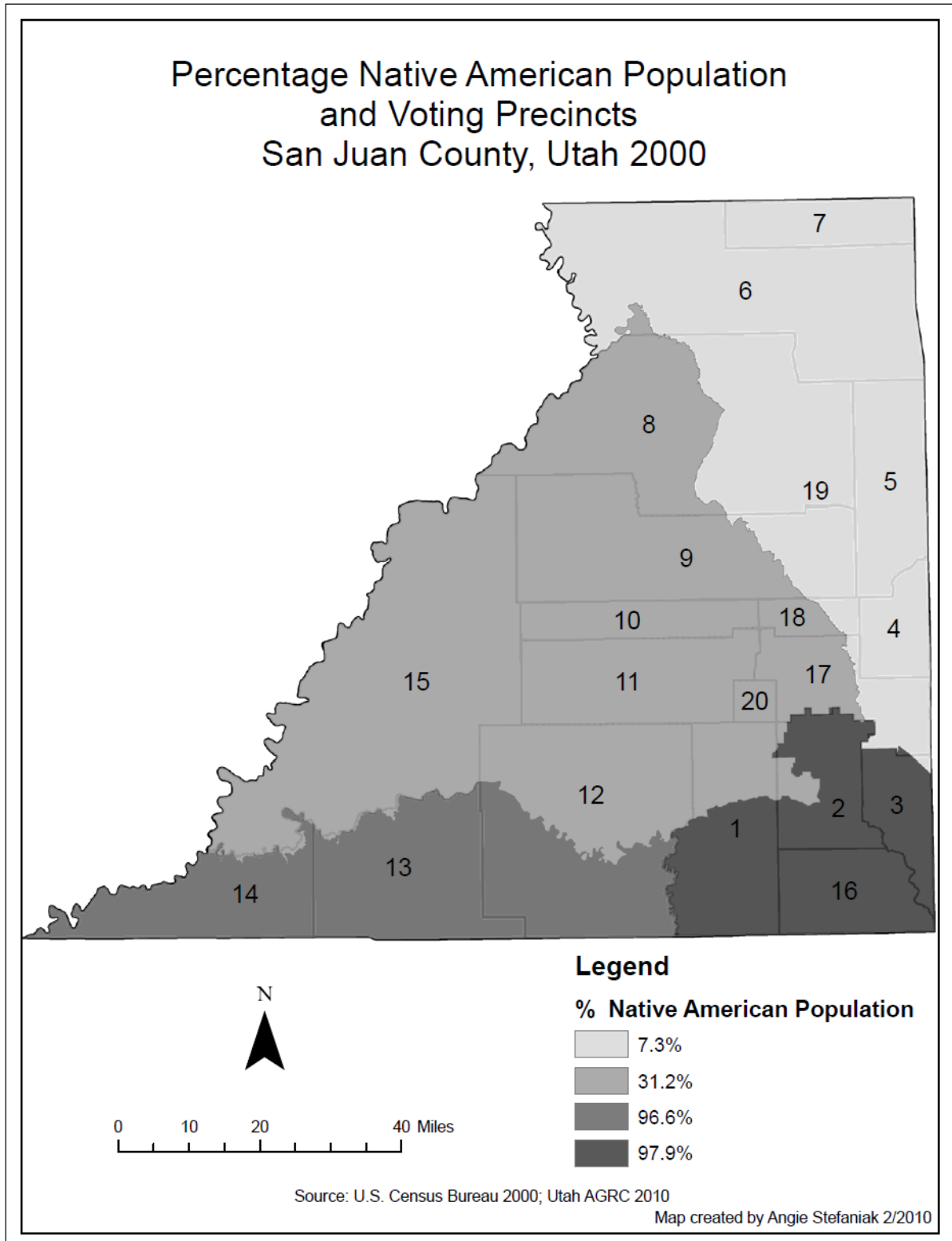


Figure E.1. Percentage Native American Population and Voting Precincts, San Juan County, Utah, 2000.

Source: U.S. Census Bureau 2000; Utah AGRC 2010.

APPENDIX F

BIG HORN COUNTY, MONTANA,

PRECINCT MAP,

2008

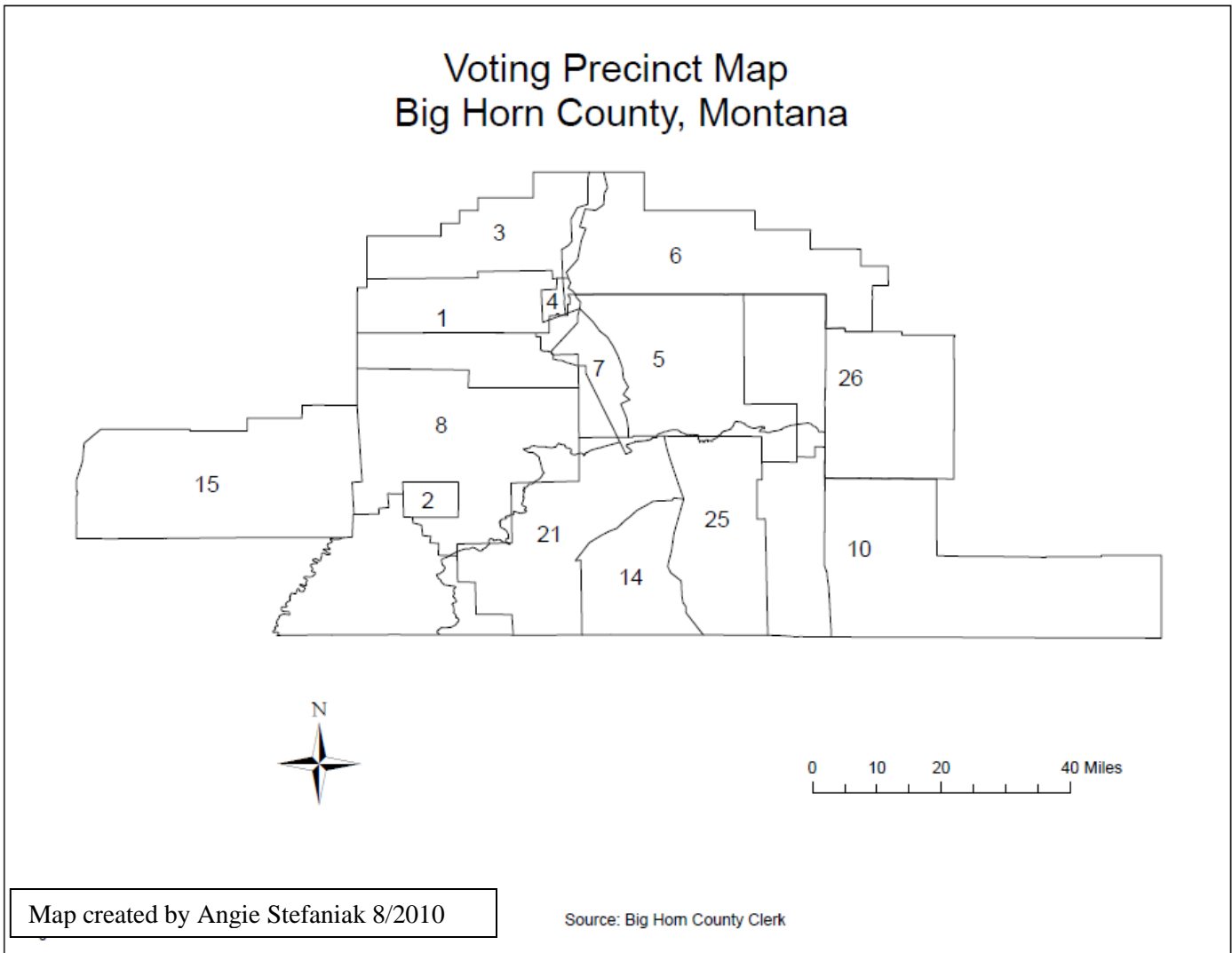


Figure F.1. Voting Precinct Map, Big Horn County, Montana, 2008.
Source: Big Horn County Clerk.

APPENDIX G

BIG HORN COUNTY, MONTANA, POPULATION DENSITY
FOR AMERICAN INDIANS, WITH AN OVERLAY
OF THE PRECINCTS, MAP

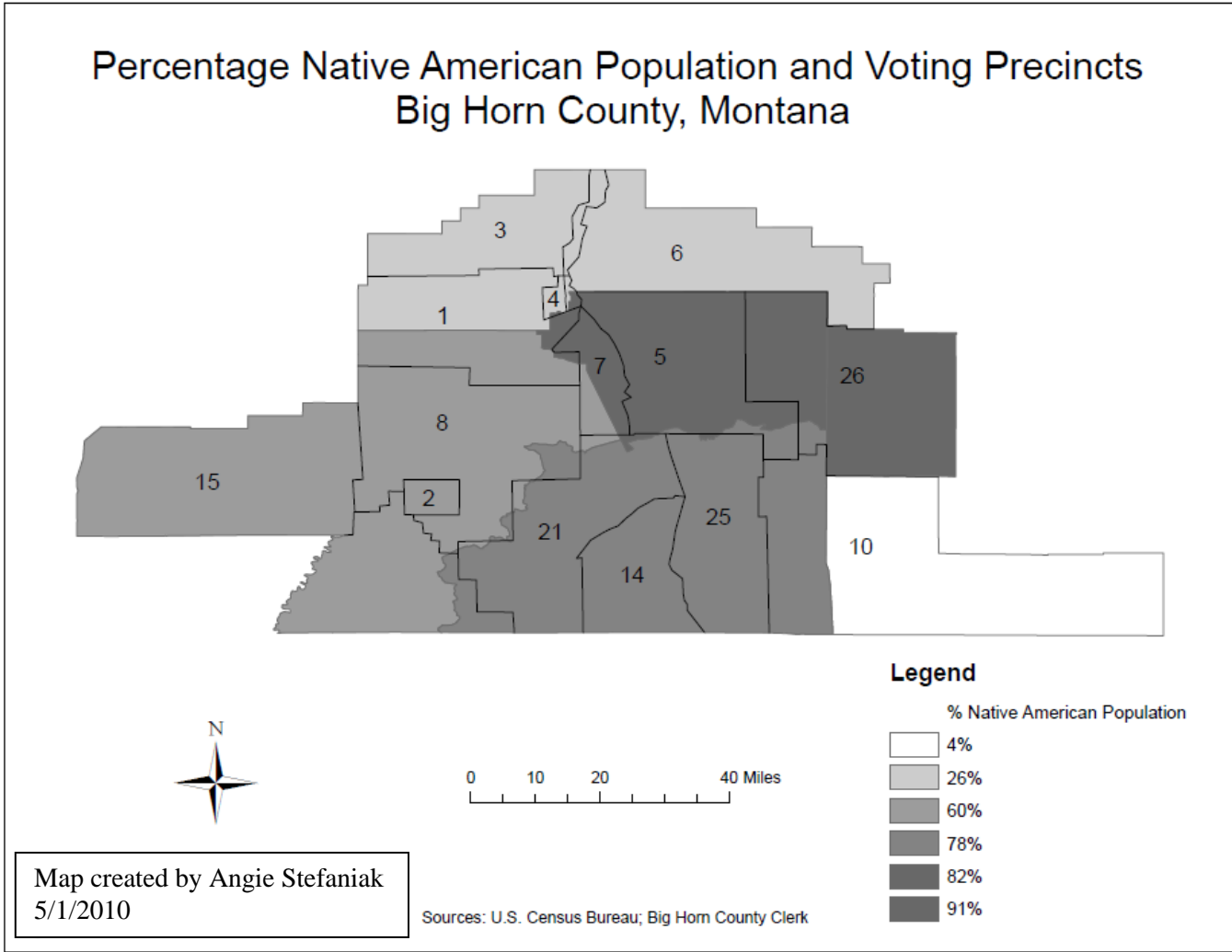


Figure G.1. Percentage Native American Population and Voting Precincts, Big Horn County, Montana, 2000.
Source: U.S. Census Bureau; Big Horn County Clerk.

APPENDIX H

ROOSEVELT COUNTY, MONTANA,

PRECINCT MAP,

2008

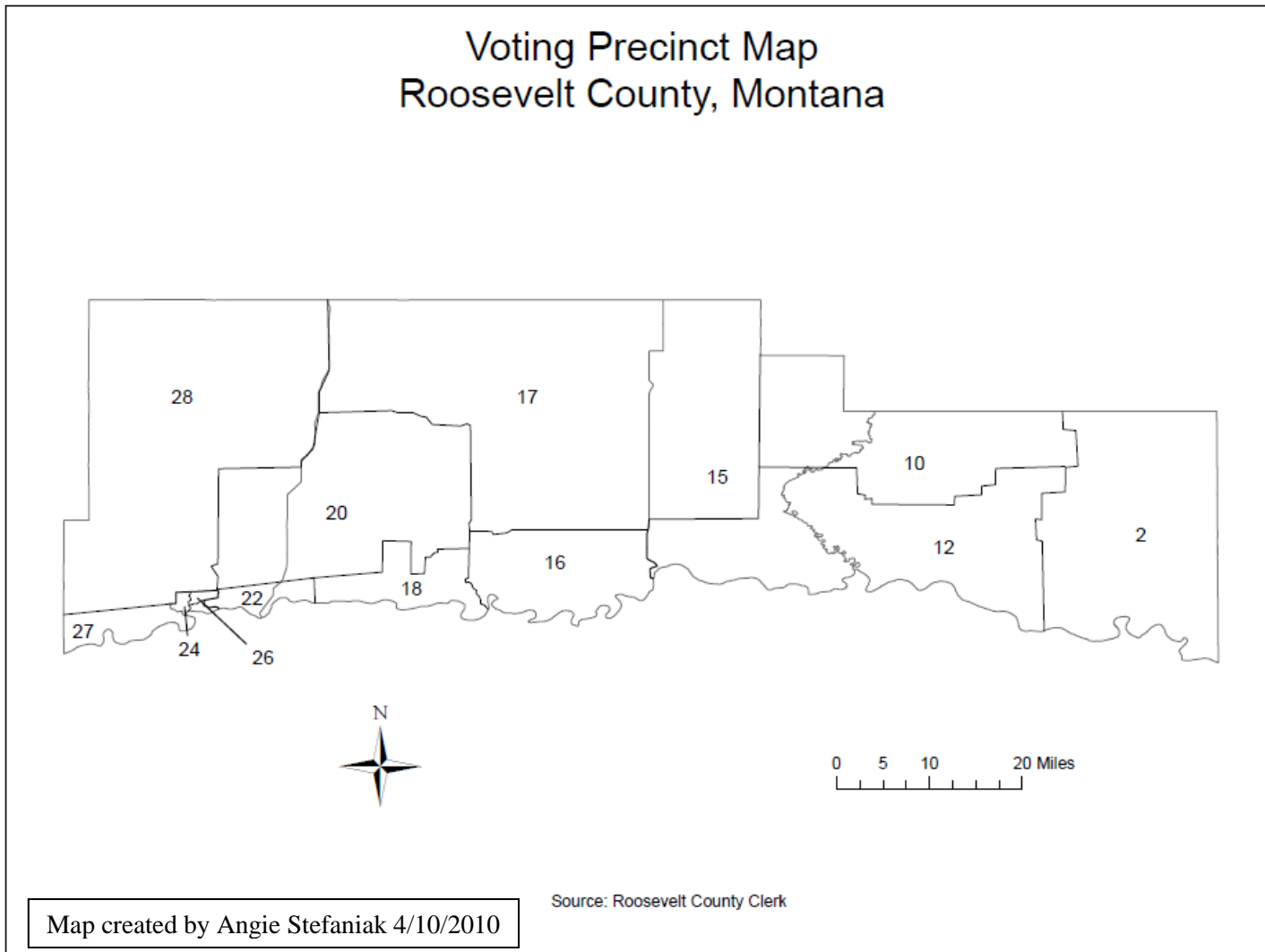


Figure H.1. Voting Precinct Map, Roosevelt County, Montana, 2008.
 Source: Roosevelt County Clerk.

APPENDIX I

ROOSEVELT COUNTY, MONTANA, COMMISSION

DISTRICTS AND PRECINCT LINES MAP,

2002-2008

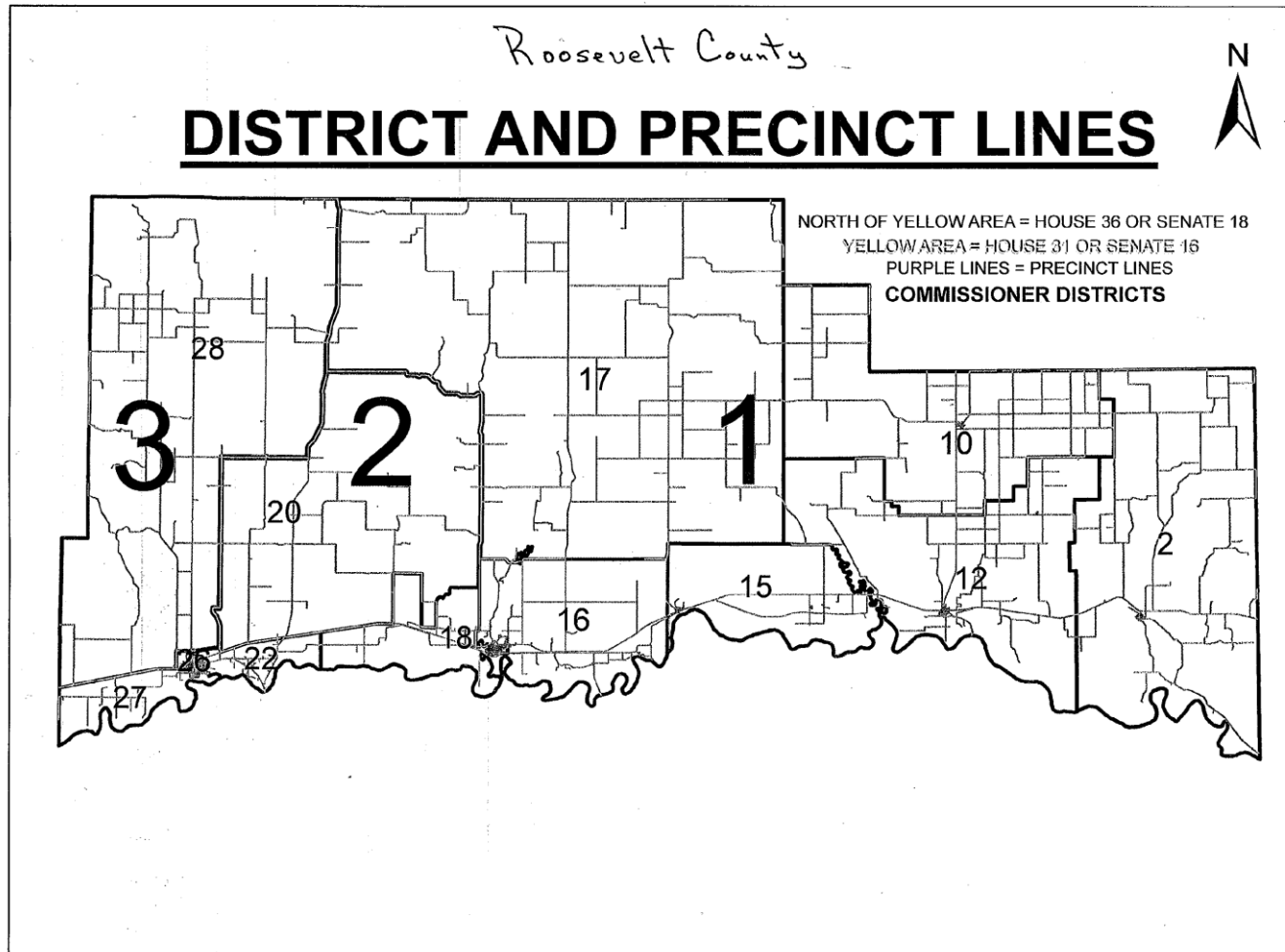


Figure I.1. Roosevelt County, Montana, District and Precinct Lines Map.
Source: Roosevelt County Clerk.

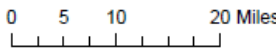
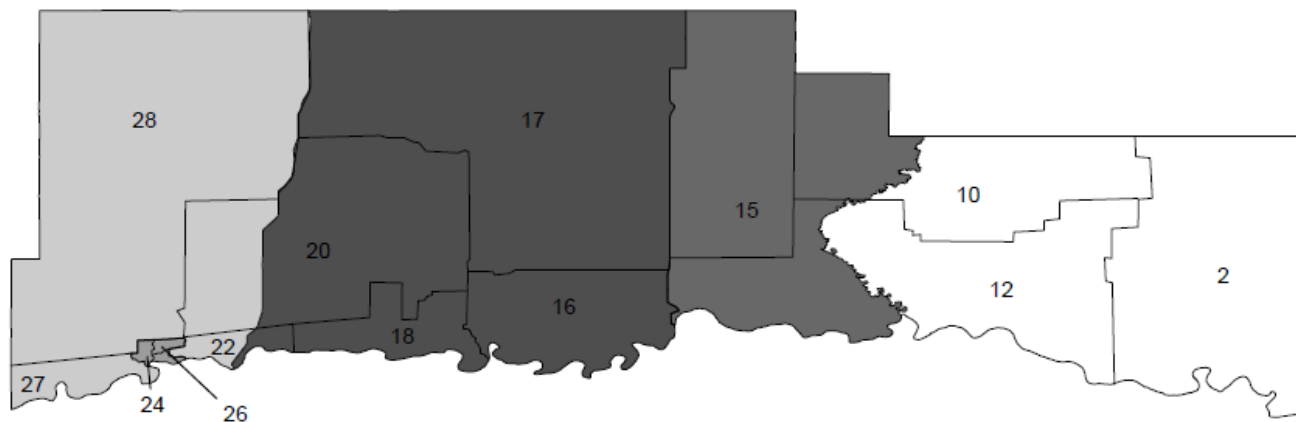
APPENDIX J

ROOSEVELT COUNTY, MONTANA, POPULATION DENSITY

FOR AMERICAN INDIANS, WITH AN OVERLAY

OF THE PRECINCTS, MAP, 2008

Percentage Native American Population and Voting Precincts Roosevelt County, Montana



Legend

% Native American Population

	4.6%
	32.7%
	53.6%
	77.6%
	79.1%

Sources: U.S. Census Bureau; Roosevelt County Clerk

Map created by Angie Stefaniak 4/2010

Figure J.1 Percentage Native American Population and Voting Precincts, Roosevelt County, Montana, 2008.
 Source: U.S. Census Bureau; Roosevelt County Clerk.

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