



COUNCIL REDISTRICTING COMMISSION MINUTES

May 20, 2021

The Council Redistricting Commission of the City of Mesa met in the lower-level meeting room of the Council Chambers, 57 East 1st Street, on May 20, 2021, at 2:01 p.m.

COMMISSION PRESENT

Deanna Villanueva-Saucedo, Chairperson
Elaine Miner, Vice Chair
Catherine Jiang
Greg Marek
Jo Martin

COMMISSION ABSENT

None

STAFF PRESENT

Dee Ann Mickelsen
Jeffrey Robbins
Sarah Staudinger

1. Call to Order.

Chairperson Villanueva-Saucedo conducted a roll call.

2. Summary of May 19, 2021, Redistricting Commission Meeting.

Connie Malloy, Redistricting Partners trainer, noted the Commission could consider adapting the timeline discussed in Attachment 2, Page 21, from the May 19, 2021, Redistricting Commission meeting and update the dates formally offered to the public to avoid any confusion.

Chairperson Villanueva-Saucedo confirmed that would be appropriate.

City Attorney II Sarah Staudinger stated redistricting is defined in the Mesa City Charter under Article II, Section 201(A)1-5, which talks specifically about the composition of the City Council being made up of six districts and a mayor, with the district boundaries being set by a five-person non-partisan Commission. She remarked Section 201(A)3 also covers the process of the Commission bringing a recommendation to the City Council, who will either approve the map or provide recommendations; however, the Commission is under no obligation to accept or act on them. She explained when the Commission provides a second proposal, it shall be deemed final.

Ms. Staudinger reported Section 201(A)5 says that the boundaries shall be substantially equalized by geography and population according to the census data. She emphasized a current councilmember cannot be removed from their district, as set forth in the Charter, as well as the fact that district maps cannot be redrawn between the first day nominating papers for Mayor or Councilmember are filed, March 7, 2022, and the date of the General Election, November 8, 2022. **(See Attachment 1)**

Economic Development Project Manager Jeffrey Robbins informed the Commission that while the March 7, 2022, date is the hard deadline in the Charter, candidates will need time to gather signatures, which is the reason the City Manager has requested that the map be submitted to Council for possible action at the November 15, 2021, Council meeting.

Chairperson Villanueva-Saucedo admitted the timeline will be a challenge for the Commission, as well as the fact that incumbents cannot be removed from their district, which automatically puts a pin on the map. She asked for clarification on whether that pertains to all incumbents and not just those that might be eligible for new terms.

City Clerk Dee Ann Mickelsen confirmed that applies to every single district no matter if the incumbent will run in the next election or not.

Commission Member Marek inquired which councilmembers are up for reelection and which ones have met their term.

Ms. Mickelsen explained for 2022, Councilmembers Luna and Thompson, Districts 5 and 6, respectively, are term limited and are not eligible to run in 2022, and Vice Mayor Duff is eligible to run in 2022. She added the Mayor and remaining Councilmember terms will end in 2024.

In response to a question from Commission Member Marek regarding whether those Councilmembers can be considered incumbents if they are term limited, Ms. Mickelsen explained the Councilmembers will still be in office when the lines are redrawn and the requirement to keep them within their district must be followed, regardless of their ability to run in the next election.

3. Hear a presentation on redistricting: Legal Overview.

Ms. Malloy introduced Michael Li, Senior Counsel for the Brennan Center Democracy Program, and displayed a PowerPoint presentation. She explained Mr. Li's expertise encompasses redistricting, voting, and elections. **(See Attachment 2)**

Mr. Li stated the main legal reason for redistricting is that the Constitution requires districts be equally populated, and once census numbers are received the districts must be redrawn to make that happen. He indicated redrawing districts is also an opportunity to ensure various other laws are followed, including the federal Voting Rights Act (VRA) of 1965, which impacted how districts are drawn in areas where there are large communities of minorities. He noted the VRA forbids discrimination based on race, ethnicity, or membership in a language minority. He remarked redrawing districts provides the change within the community to be reflected in the makeup of the City Council. (See Page 2 of Attachment 2)

Mr. Li discussed the two basic sources of federal law that apply to redistricting as the U.S. Constitution, which deals with population equality and imposes rules on race, and the VRA. He stated courts have interpreted the Constitution to require that districts be equally populated and summarized the 10% rule as the largest district cannot be more than 10% different than the smallest district. He remarked the 10% rule is flexible when meeting legitimate government needs, especially if by following the requirement communities of interest (COI) would be split. He identified two distinct Constitutional requirements around race that must be followed are that the Commission cannot intentionally discriminate based on race, color, or membership in a language minority; and second, cannot excessively consider race. (See Pages 4 through 6 of Attachment 2)

Mr. Li stated when maps were last redrawn in Mesa after the 2010 census, both Section 5 and 2 of the VRA applied to Arizona, but currently only Section 2 applies. He commented Section 5 required states that had a history of discrimination based on race or ethnicity submit all election law changes, including redistricting plans, to the federal government for approval. He mentioned to receive approval of a map the two things that must be shown are that there was no dilution in the voting power of racial and language minorities, and that there was no intentional discrimination. He described Supreme Court case *Shelby County v. Holder*, which brought about changes to Section 5. (See Pages 7 through 10 of Attachment 2)

Mr. Li reported Section 2 of the VRA applies nationwide to every level of government and prohibits discriminatory intent, and in certain cases bars discriminatory effect; however, the VRA can require electorally favorable districts be drawn with communities of color if certain conditions are met. He added Section 2 does not require proportional representation. (See Page 11 of Attachment 2)

Mr. Li explained the three-part test to determine whether minority opportunity districts should be drawn, which entails whether the minority group is sufficiently large and compact to draw a district, whether the minority group votes cohesively, and in a way that if you did not draw the electorally favorable district the minority's preferred candidate would never win. He pointed out under Section 2, if the "totality of circumstances" is met, the obligation is to create a minority opportunity district. He highlighted other factors to consider when determining the totality of circumstances. (See Pages 12 through 14 of Attachment 2)

Mr. Li provided background on court cases where the totality of circumstance test came into play. He mentioned this is not a back-of-the-envelope calculation and legal should be consulted to conduct an analysis during this process. (See Pages 15 through 17 of Attachment 2).

Mr. Li advised the Constitution prohibits racial gerrymandering, which is when a district is drawn predominately on the basis of race. He said the obligation is to consider the makeup of the community with similar backgrounds, and draw districts where people have something in common beyond race. He provided examples of gerrymandering in North Carolina and Texas. He said there is a fine line the Commission has to walk and is another reason to consult legal counsel during the process. (See Pages 18 and 19 of Attachment 2)

Mr. Li suggested that questions come up regarding race and politics and said the Supreme Court has ruled states cannot use race as a proxy for doing other illicit things. (See Page 20 of Attachment 2)

Mr. Li stated the key thing to remember is the Supremacy Clause of the Constitution establishes that federal law has priority over state and local laws. (See Page 22 of Attachment 2)

Mr. Li advised that Mesa does not have rules on keeping COI together, competitiveness or compactness, keeping political subdivisions or neighborhoods together, nor on contiguity, which provides a lot of leeway in drawing maps. (See Page 24 of Attachment 2)

Mr. Li explained that many complaints about how districts are drawn are based on COI being split up. He said that adopting a rule on COI is something that can be helpful, and he gave several factors and examples of COI. He mentioned the importance of letting communities define what they are looking for. (See Pages 25 and 26 of Attachment 2)

Mr. Li summarized the Arizona case *Brnovich v. Democratic National Committee* that is under review with the Supreme Court, which may affect redistricting. (See Page 28 of Attachment 2)

Mr. Li highlighted federal legislation that might impact redistricting include the For the People Act (HR1) and the John Lewis Memorial Voting Rights Act of 2020. He mentioned the John Lewis VRA would recreate a coverage formula for determining what states and localities had to submit redistricting plans and other election law changes to the federal government for approval, which Arizona would be covered under. He commented the John Lewis VRA has not yet passed either house. He said the For the People Act would be a transformative bill on congressional redistricting and would not affect state or local level redistricting. (See Pages 29 through 31 of Attachment 2)

Chairperson Villanueva-Saucedo provided a historical perspective on the previous redistricting in 2010 which had to be submitted to the Department of Justice for preclearance, and that the citizens that put forth the initiative to create the Redistricting Commission focused on minority representation and the balance of geography in their representation. She remarked that District 4 was created specifically to be a minority/majority district because of the concentration of Hispanic neighborhoods based on the census tract. She advised some work has already been done in terms of where certain populations reside and the Commission does not have to start from scratch. She said the new census data will show where communities have moved and what the composition looks like now.

Commission Member Miner asked for a scenario where the three-part test was used to illustrate the totality of circumstances.

Mr. Li stated under Section 2 of the VRA there is an obligation to draw a district that is electorally favorable to a community of color if certain preconditions are met, and those preconditions include having a large enough community to draw a district and contain racially polarized voting where white voters and people of color have preferred candidates. He shared an example in North Carolina where black voters may prefer black candidates, not just party affiliation, and where white voters may never vote for black or Hispanic candidates. He mentioned that much of the country has a racial divide and people prefer candidates of their own race. He said assuming there is enough totality of the circumstances met, then there is an obligation to have a district created to elect their preferred candidate.

In response to a question from Commission Member Jiang regarding what the 10% deviation in population is based on and how it is calculated, Mr. Li remarked usually jurisdictions will use the

census population because it is the best information available. He said supplemental data can be used; however, the Commission should get legal advice to make sure the data is reliable and whether it is legally permitted.

Mr. Li clarified when drawing districts that are electorally favorable for communities of color, that does not mean you cannot voluntarily choose to draw a district that is favorable for a community. He added even when there is an obligation under federal law you could choose to draw a district that is electorally favorable for Asians, or Latinos, or any group you chose; the important point is to make sure that group is at the table providing input.

Chairperson Villanueva-Saucedo thanked Mr. Li for the presentation.

Chairperson Villanueva-Saucedo acknowledged that Arizona has one of the worst undercounts in the nation, but at a bloc level the data is available to make the best decision. She indicated the importance of listening to the communities on what the community considers COI and community cohesiveness.

Commission Member Miner inquired about not relying solely on census information and using data from other areas to come up with the numbers during the redistricting process.

Chairperson Villanueva-Saucedo stated she knows of others using supplemental information, but if information is needed at a census bloc level, it is highly unlikely there will be any supplemental information that breaks it down to that degree. She continued by saying the Charter may not mention compactness or contiguity, but that is an established best practice, and the Commission can use that as a guiding principle.

Ms. Staudinger expanded by saying the Charter says that redistricting should be based on census data and does not really open it up for other considerations.

Commission Member Marek commented the Commission should conduct outreach and make a concerted effort to reach those segments of the community that are often undercounted to gain their perspective, which could be the supplemental information that can be considered.

Commission Member Martin questioned how to obtain voting data when complying with the VRA and looking at the three-step process regarding minority cohesiveness and how citizens voted?

Ms. Mickelsen stated she does not believe there is exact demographic data on how certain people vote. She said there is probably information out there that can be collected but is not certain how exact the data would be.

Ms. Malloy added that if there is a question or concern regarding COI in Mesa, there are datasets available that could be contracted with through legal counsel. She mentioned there are a number of experts across the country that specialize in racially polarized voter analysis and voter file data is pulled to assess how people have voted historically.

Ms. Staudinger encouraged putting the item on a future meeting agenda for further discussion. She reviewed the difference between census data, which will give you the numbers for equalizing the population, and speaking to people to obtain information.

4. Discuss and take action on calendaring for outreach hearings.

Chairperson Villanueva-Saucedo discussed outreach options and having one physical hearing within each district. She stated Commission attendance is not required at each meeting but encourages participation to listen to the community. She added the purpose is to obtain community feedback regarding how the residents view their COI, how they define their community, and whether the lines reflect their community.

Mr. Robbins advised the dates reflect a path to the November 15, 2021, Council date. He remarked the meetings in August will be for public outreach.

Kimi Shigetani, Chief Administrative Officer at Redistricting Partners, expanded by saying that the public outreach hearings are a time to listen to the community input, to work with the online mapping tool, introduce the mapping tool to the community and make sure everyone is trained. She indicated the meetings for September 1, 2021, are after the anticipated release of the census legacy data and are map drawing hearings using the information gathered during community outreach. She remarked the October dates are hearings to produce lines, make them available to the public, and receive feedback.

Discussion ensued regarding potential outreach dates, times, and locations, as well as the options of in-person or virtual meetings.

Additional discussion took place regarding advertising the public outreach hearings as a citywide option rather than district specific to provide more opportunities to attend.

In response to a question posed by Commission Member Martin, Ms. Shigetani stated the virtual meeting will be conducted using Zoom to utilize the recording and breakout room functions. She remarked the inclination would be to disable the chat feature and ask individuals to direct their questions to the question-and-answer feature with a staff member online answering the questions as they are received.

It was moved by Commission Member Villanueva-Saucedo, seconded by Commission Member Martin, that the proposed tentative in-person Redistricting outreach hearings for Thursday, August 12, 2021, at 6:00 p.m.; Saturday, August 14, 2021, at 10:00 a.m.; Tuesday, August 17, 2021, at 6:00 p.m.; Wednesday, August 18, 2021, at 12:00 p.m.; Thursday, August 26, 2021, at 6:00 p.m.; Saturday, August 28, 2021, at 10:00 a.m.; and virtually Wednesday, August 25, 2021, at 6:00 p.m. be adopted.

Upon tabulation of votes, it showed:

AYES – Villanueva-Saucedo – Martin – Marek – Miner – Jiang
NAYES – None

Carried unanimously.

(Chairperson Villanueva-Saucedo declared a recess at 3:43. The meeting reconvened at 3:53 p.m.)

5. Hear a presentation on Communities of Interest.

Ms. Malloy introduced Angelo Ancheta, who displayed a PowerPoint presentation **(See Attachment 3)**.

Mr. Ancheta stated the presentation will cover definitional issues in terms of COI and their importance. He remarked how the Commission looks at COI will depend on how the Commission decides to apply COI in Mesa and figuring out how to balance the available criteria. He stated part of the process is working through your own knowledge of the City of Mesa and understanding that there will be gaps. He added part of the process is getting a sense of how the public views the city and how to development a strategy. (See Page 2 of Attachment 3).

Mr. Ancheta noted census data will not be available for several months and the Commission will not be able to get too detailed in terms of actual district lines, but COI information can be gathered to try and figure out how COI will feed into the draft maps by looking at different factors like neighborhoods and communities and how they form the basis for actual districts. He said on the opposite side, distinctions might arise through data or testimony as you are going through this process that point out how COI can be quite different. He mentioned the multiple criteria mandated by federal law will assist in looking at the unofficial criteria moving forward, and many factors must be weighed when moving forward through the process. (See Page 3 of Attachment 3)

Mr. Ancheta commented there is no fixed definition in the Mesa City Charter on COI which allows the Commission to lay out their thoughts on what COI ought to be for the redistricting cycle. He reminded the Commission that specific factors regarding population equality, geographic equality, and incumbents come into play. (See Page 4 of Attachment 3)

Mr. Ancheta covered examples of COI definitions used by other states. He noted the broad terms when defining COI or ways and looking at a group that shares COI. (See Pages 5 and 6 of Attachment 3)

Mr. Ancheta continued by saying most places that specify COI typically have a list of things not included. He mentioned Austin, Texas included amendments to city law to include an independent commission but have specific exclusions to COI such as relationships with political parties, incumbents, or political candidates. (See Page 7 of Attachment 3)

Mr. Ancheta presented a local government example of a neighborhood near an airport, which could be considered a COI based on noise issues or traffic and zoning considerations. (See Page 8 of Attachment 3)

Mr. Ancheta pointed out potential problems that can arise when race or ethnicity become a basis for a community. He mentioned that Mesa has at least one district that raises VRA implications. He stated there is caselaw involving the federal Constitution where it is not necessarily unlawful to use race as a predominate factor but must be careful that it is not the overriding consideration. He informed the Commission Members to be mindful of how consideration of race or ethnicity plays into things such as geography. (See Page 9 of Attachment 3)

Mr. Ancheta highlighted some of the challenges in implementation. He explained having more specificity in the definition of community can be helpful because often the public will be open-ended when defining community if not given enough guidance. He indicated testimony will have a subjective perspective on what is considered community. He suggested COI are not necessarily things that fit within a particular district and that citizens often think about local issues and must be reminded the redistricting focuses on Mesa City Council and sticking within the six districts. He discussed other sources of information as a way of supporting the testimony received from the public. He outlined gaps in information or inconsistent information and that the Commission may need to do more outreach in a particular part of the city to reconcile the information being presented. He noted at times there may be nefarious interests within the city that provide false information. (See Page 10 of Attachment 3)

Mr. Ancheta stated there is no one-size-fits-all approach to developing strategies and emphasized the importance of education and outreach. He advised the Commission to use the tools available, such as media, and the DistrictR app, and be open to receiving different types of information. He suggested providing multiple opportunities to the public to view multiple drafts, use iterative mapping, and commenting on the progress. He noted the best comments will come after something tangible is available. (See Page 11 of Attachment 3)

In response to a question from Commission Member Martin regarding what COI looks like in regard to the transportation concept, Mr. Ancheta commented a lot of times when you have freeways or highways, or natural boundaries like rivers or lakes, there is division and distinction between communities. He said very often when there is a transportation throughfare there is something that distinguishes one side from the other, which can be a basis for a shared set of interests in terms of zoning or noise.

In response to a question from Commission Member Jiang regarding whether there is literature available to the Commission that lists the parameters to follow, Mr. Ancheta said, depending on what is needed, there is a lot of information out there. He deferred to Redistricting Partners to provide recommendations.

Chairperson Villanueva-Saucedo thanked Mr. Ancheta for the presentation.

6. Items from citizens present.

There were no items from citizens present.

7. Adjournment.

Without objection, the Council Redistricting Commission adjourned at 4:51 p.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Council Redistricting Commission of the City of Mesa, Arizona, held on the 20th day of May 2021. I further certify that the meeting was duly called and held and that a quorum was present.

DEE ANN MICKELSEN, CITY CLERK

Redistricting as Defined in the Mesa City Charter

Article II, Section 201 (A) 1-5

General Rules

- 6 geographical districts
- Boundaries established by a 5 person nonpartisan Commission
- Districts must be equalized by geography and population
- Council incumbents must remain in their current district boundaries
- Boundaries must be drawn by the first day nominating papers may be filed (March 7, 2022)

Process

- Mesa City Council must review and approve the Commission's map recommendations
 - City Council may approve or disapprove first recommendation
 - If disapproved, the second recommendation from the Commission must be approved by the City Council
- The Commission is under no obligation to respond to City Council direction

Redistricting: Legal Overview

City of Meza, Arizona

Michael C. Li

Brennan Center for Justice at
New York University School of Law

May 19, 2021

Why re-draw district lines?

Legal reasons

- Constitutional mandate
- Compliance with non-discrimination requirements of Voting Rights Act

Illegal reasons

- Suppress minority votes

Practical & prudential reasons

- Population moves, creating lopsided districts where some people have far more representation than others.

Federal Redistricting Law

Two Main Sources of Federal Rules

- **U.S. Constitution**
 - Population equality
 - Rules on race
- **Voting Rights Act of 1965 (VRA)**

Constitutional Requirements: Population Equality

- (Substantially) equal population:
- No requirement of “mathematical exactitude” - some deviation (<10%) permitted to serve legitimate governmental interests (e.g., keeping a neighborhood or subdivision together)
- Current accepted, universal practice is to use total population.

Constitutional Requirements: Race

- Two distinct requirements:
 - **No intentional discrimination** based on race, color or membership in a language minority group (Fourteenth and Fifteenth Amendments).
 - **No excessive consideration of race** (racial gerrymandering – analyzed under a predominance standard).

Voting Rights Act of 1965 (VRA)

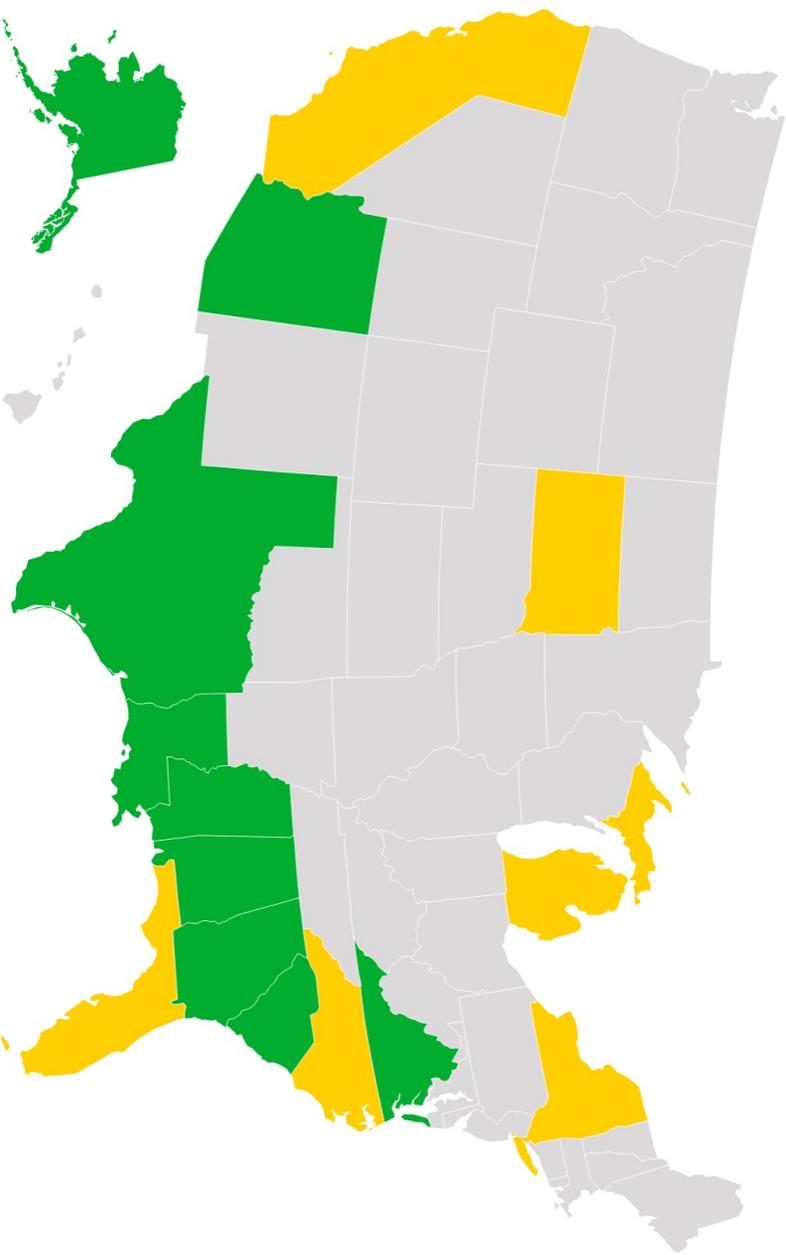
Section 5

Section 2



States Covered by Section 5 of the Voting Rights Act Prior to June 2013

● Whole state covered ● State partially covered



Section 5 Preclearance

Required certain jurisdictions (including AZ) to get pre-approval of election-law changes:

- Covered jurisdictions had to prove that new district map:
- Was not intended to dilute strength of minority votes

AND

- Did not leave minority voters worse off (regardless of intent)
- *But ended (now now at least) in 2013*

Shelby County v. Holder (2013)

- 2013: U.S. Supreme Court struck down part of the VRA that determined which jurisdictions must “preclear” changes
- Section 5 still exists, but no jurisdictions are subject to its requirements because Congress has not enacted a new “coverage formula.”
- Leaves Section 2 as the main federal protection against voting rights discrimination

Section 2 of the VRA

- Still in effect and, unlike Section 5, applies nationwide
- Applies to discriminatory *intent* and discriminatory *effect*
- Requires drawing of district electorally favorable to a community of color if certain prerequisites are met
- BUT Does not mandate proportional representation

Complying with the Voting Rights Act

1. **Compactness:** Is the minority group sufficiently large and geographically compact to be able to draw a 50%+1 district?
2. **Minority cohesiveness:** Do minorities vote cohesively (i.e., prefer the same candidates)?
3. **Racial polarization:** Do whites tend to vote for sufficiently as a bloc such that they usually defeat the minority group's preferred candidate?

If “yes” to all 3, look at “totality of the circumstances”

“Totality of the circumstances”

- Based on the totality of the circumstances:
 - Including the social and historical conditions linked to race discrimination
 - Is the political process equally open to minority voters?

Totality of the circumstances”

- Factors to consider include:
 - History of official discrimination in the jurisdiction affecting the right to vote
 - Degree of discrimination against minorities in socioeconomic areas (education, employment, health)
 - Extent to which minority candidates have won elections
 - Whether policy justification for redistricting plan is tenuous

Section 2 in the Supreme Court

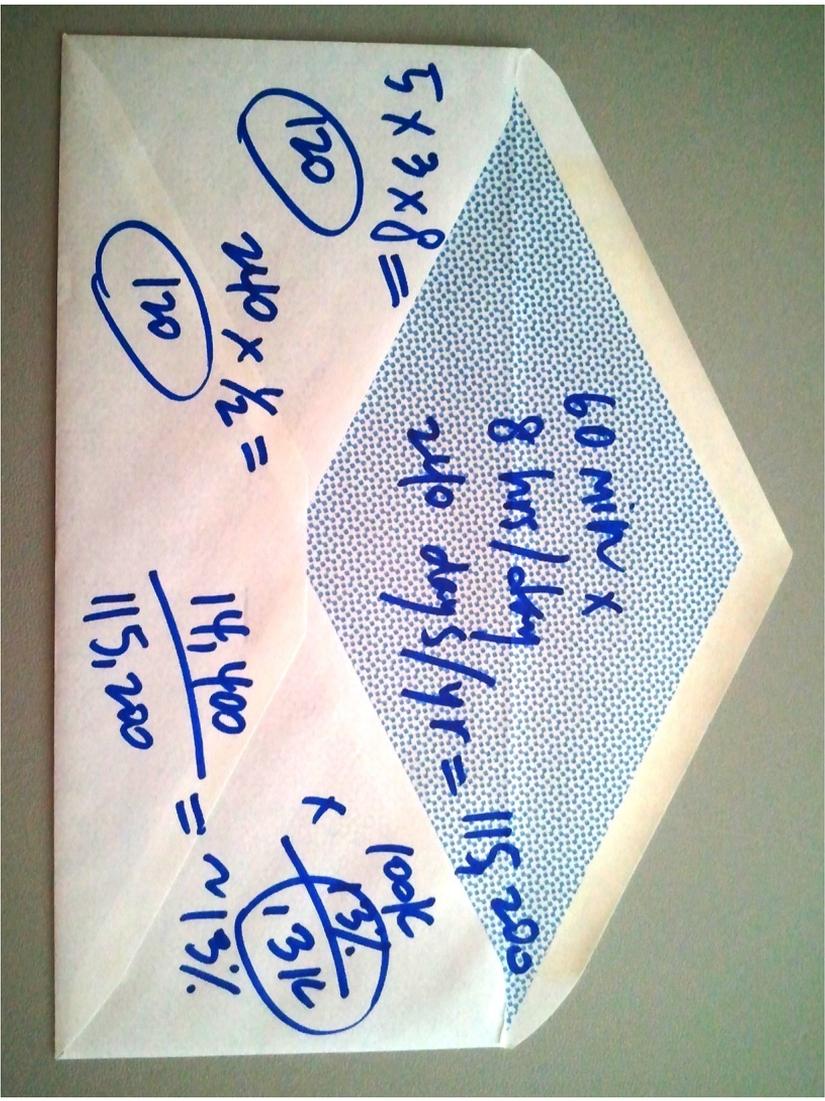
- ▶ *Thornburg v. Gingles* (1986): Vote dilution claims require an “intensely local appraisal” based on the “totality of the circumstances”
- ▶ *Johnson v. De Grandy* (1994): “The ultimate right of Section 2 is equality of opportunity, not a guarantee of electoral success for the minority-preferred candidates”

Section 2 in the Supreme Court

▶ *Cooper v. Harris* (2017): Even where racial identification is highly correlated with political affiliation, courts must make a “sensitive inquiry” into all “circumstantial and direct evidence of intent” to determine whether plaintiffs “have managed to disentangle race from politics”

▶ *Abbott v. Perez* (2018): Legislatures are entitled to a presumption of good faith in redistricting cases

Section 2 is Not a Back of Envelope Calculation



Constitutional Prohibition: Racial Gerrymandering

- Constitutional claim that dates to the 1990s.
- Districts cannot be drawn **predominately** on the basis of race.
 - Note: Discriminatory intent not required.
- Sometimes has been hard for courts to apply in practice (race vs. politics).

Racial Gerrymandering: TX-30 in 1991



But Consider: *Cooper v. Harris* (2016)

1. A plaintiff succeeds at this stage even if the evidence reveals that a legislature elevated race to the predominant criterion in order to advance other goals, including political ones. See *Bush v. Vera*, 517 U.S. 952, 968–970, 116 S.Ct. 1941, 135 L.Ed.2d 248 (1996) (plurality opinion) (holding that race predominated when a legislature deliberately “spread[] the Black population” among several districts in

Local Rules

What's Required

First and foremost, follow federal law. The Supremacy Clause (Article VI, para. 2):

- “This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land.”

What's Required

City Charter, Article II, Section 201 (A)(5):

- “Substantially equalized by geography and population”
- Incumbent council members cannot be removed from district they were elected to represent
- Process must be completed before filing of nominating papers begins

What's Not (Specifically) Covered by Law

- Communities of interest
- Competitiveness
- Compactness
- Other political subdivisions
- Contiguity

(In other words, a whole lot)

Types of Communities of Interest

- Share similar living standards
- Use the same transportation facilities
- Have similar work opportunities
- Have access to the same media of communication

Examples of Communities of Interest

- Neighborhoods
- Students
- Organized student housing
- Shared age
- Shared racial demographics

BUT NOT

relationships with political parties, incumbents, or political candidates.

Looking Ahead: Possible Changes

Section 2 Under Examination

Grnovich v. Democratic National Committee

- Arizona case currently before the U.S. Supreme Court
- DNC challenged two Arizona voting laws/policies as being unconstitutional and violating Section 2 of the VRA
- Now, the State of Arizona and others are claiming that Section 2 itself may be unconstitutional

New Voting Rights Laws on the Horizon

- ▶ For the People Act (HR 1)
- ▶ John Lewis Memorial Voting Rights Act of 2020
- ▶ (f/k/a the Voting Rights Advancement Act of 2019)

John Lewis Voting Rights Act

- Already passed in the House of Representatives in 2019
 - Revives Section 5 by creating new formulas to determine which jurisdictions subject to preclearance
 - Two sets of criteria: historical and practice-based
 - Any redistricting must be pre-cleared if any racial or language minority group has experienced a population increase over the past decade of at least 10,000 or 20% of the voting age population of the jurisdiction

For the People Act (HR 1 / S 1)

- Only would apply to congressional redistricting:
 - Ban gerrymandering
 - Set uniform national rules for map drawing
 - Require independent commissions to draw all congressional districts (beginning in 2031)



Michael C. Li

michael.li@nyu.edu

Communities of Interest and Public Input

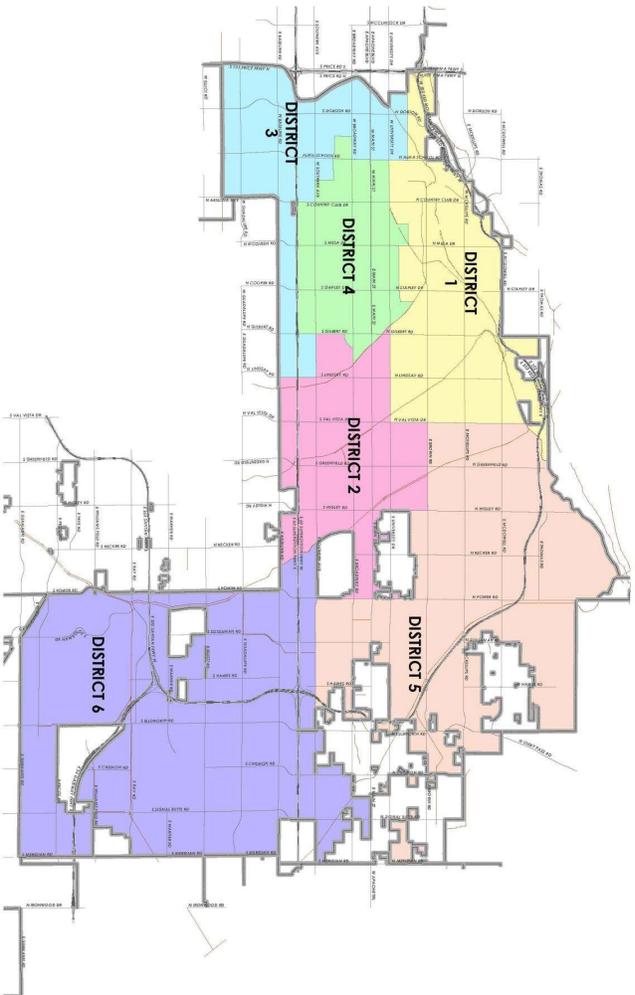
Mesa, Arizona Redistricting Commission

May 20, 2021

Angelo Ancheta

angelo@ancheta.law

Overview



Why are Communities of Interest Important?

Defining “Communities of Interest”

Challenges in Implementation

Designing Public Input Strategies

Why are Communities of Interest Important?

- Closely Tied to Public Input
- Can Obtain Information Prior to Receipt of 2020 Census Data
- Can Serve as Building Blocks for Districts
- Can Provide a Basis for Distinctions and District Boundaries
- One of Multiple Redistricting Criteria
 - May Intersect with Other Criteria, such as Voting Rights Act Compliance
 - May Be in Tension with Other Criteria, such as Population Equality or Compactness

Defining “Communities of Interest”

- No Fixed Definition or Ranking in Mesa City Charter
- Arizona Congressional/State-Level Redistricting
 - Arizona Constitution: “District boundaries shall respect communities of interest to the extent practicable.”
 - Arizona Case Law: Deference to Commission and Allowed Flexibility
- Definitions Vary, But Typically Focus on Shared or Common Interests Among Groups or Neighborhoods Tied to Representation

Defining “Communities of Interest”

- Examples of Definitions or Guidelines:
 - California Fair Maps Act (Local Redistricting):
 - “A ‘community of interest’ is a population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation.”
 - Montana Discretionary Guidelines:
 - “Communities of interest can be based on such things as trade areas, geographic locations, communication and transportation networks, media markets, Indian reservations, urban/rural splits, similarity in social cultural and economic interests, and prevalent occupations and lifestyles.”

Defining “Communities of Interest”

Colorado:

- (I) "Community of interest" means any group in Colorado that shares one or more substantial interests that may be the subject of federal [or state] legislative action, is composed of a reasonably proximate population, and thus should be considered for inclusion within a single district for purposes of ensuring its fair and effective representation.
- (II) Such interests include but are not limited to matters reflecting:
 - (A) Shared public policy concerns of urban, rural, agricultural, industrial, or trade areas; and
 - (B) Shared public policy concerns such as education, employment, environment, public health, transportation, water needs and supplies, and issues of demonstrable regional significance.
- (III) Groups that may comprise a community of interest include racial, ethnic, and language minority groups, subject to compliance with subsections [that] . . . protect against the denial or abridgement of the right to vote due to a person's race or language minority group.

Defining “Communities of Interest”

- Examples of Exclusions:
 - Austin, TX:
 - “Communities of interest shall not include relationships with political parties, incumbents, or political candidates.”
 - But see Mesa City Charter: “The redrawing of district boundaries shall not remove the residence of an incumbent Councilmember from the district he was elected to represent during his term in that office.”

Defining “Communities of Interest”

- Local Government Example – Neighborhoods Near an Airport
 - Geographic Proximity
 - Common Policy Issues:
 - Noise Abatement
 - Traffic
 - Zoning
 - Additional Commonalities:
 - Income Levels
 - Property Values; Renter vs. Homeowner

Defining “Communities of Interest”

- Special Consideration: Race or Ethnicity
 - Close Relationship to Federal Voting Rights Act
 - Federal Constitutional Issues When Using Race as a “Predominant Factor”
 - Should Look at Multiple Factors That Overlap With Race
 - E.g., Neighborhood Proximity, Socioeconomic Status
 - Be Attentive to Geography and Population Concentrations, As Well As Dispersion

Challenges in Implementation

- Definitions
 - Open-Ended vs. Enumerated
 - Importance of Fitting Within District Boundaries
- Relative Rankings of Redistricting Criteria
- Subjective vs. Objective Information
 - Public Comments, Testimony, Maps
 - Corroborating Information, Including Census Data
- Gaps in Information
- Inconsistent Information
- Manipulability

Designing Public Input Strategies

- Education and Outreach
- Accessibility Issues: Disability, Language
- Multiple Channels for Input
 - Public Hearings and Testimony
 - Attention to Expanding Participation, Community Locations, Hours
 - Submissions
 - Commission-Generated Forms (e.g.: <https://drawmycacommunity.org>)
 - Low-Tech Can Be Just as Effective
 - Mesa-Specific Online Tools: DistrictR
- Iterative Mapping
 - Drafts and Comments