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Community of Interest

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To the extent that some aspects of districting plans have been denominated as traditional redistricting principles, they have acquired a status that is somewhat elevated above other concerns and are, generally, perceived as being either neutral in application and/or effect. Three concerns frequently mentioned in this category are the “three Cs” of compactness, contiguity and communities of interest. These notes will deal with the last of these, the community of interest¹.

Political Subdivisions. As the law of reapportionment was being developed in the 1960s and 1970s, the application was generally limited to political subdivisions. This was a logical construct considering that the main political subdivisions of states, that is, counties in most states, and towns/townships in others, were infrequently split into more than one district unless quite populous. Keeping these units together was easy and provided a direct link between the political hierarchies which had been in place for most of American history.

Of course, once the equality of districting was enforced, splitting units became more probable. Thus, a county, or town, may be split merely to provide a balance of population to an adjoining district. Such a split immediately raises the generic problem that districting raises: which principles should take priority over others. For example, a small portion of a county, e.g., a census block of 100 persons, may be split off to equalize population in a congressional district where the deviation for population tolerance is tighter than that required for a state legislative district. Nevertheless, even in more recent cases, keeping counties intact was an issue². Of course, in some states, there may be constitutional requirements for keeping the main political subdivisions intact as a general rule³.

The follow-up query about political subdivisions vis-à-vis community of interest is whether any political subdivision qualifies or whether there must at least be some

¹ An additional “C” sometimes included in this group is the core of preexisting districts.

² *Miller v. Johnson*, 515 U.S. 900 (1995)

³ *Bartlett v. Strickland*, 556 U.S. ____ (2009): No. 07-689, decided March 2009.

actual connection of the residents by virtue of a local government entity that has some general legislative powers. For example, a town or city would seem to qualify without any problem. However, consider these other situations: a) a county in an area where towns/cities are the main political subdivision; b) county supervisor districts; c) a special government (e.g., water) district; d) wards; or, e) precincts.

Aside from the consideration of a general governmental purpose for the subdivision, the issue also arises as to whether the boundaries of the subdivision are relatively consistent over time⁴. For example, in some areas precinct boundaries are fairly well fixed over time, and some units are merely descriptive terms and do not reflect actual election districts.

Nevertheless, once the political subdivisions were capable of being split, other aspects entered the mix of community of interest. From a generic perspective, one could define a community of interest as any group of persons, or areas, that share some commonality, generally perceived as social, economic or geographic in nature, but also encompassing ideological, racial, ethnic or partisan concerns. A concern for districting is the geographic element and the concentration of persons. With such a definition that allows for the consideration of almost any demographic factor, some concern must be taken as to the degree to which a compact or contiguous district could be made to encompass these persons.

Other Communities. This, of course, brings us to the initial crux of communities of interest at the first level beyond political subdivisions, i.e., voting rights communities. For example, the first prong of the Gingles' preconditions is that a "the minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district."⁵ In other words, the group must be "geographically insular". Does this same standard apply to other groups poised to be considered as a community of interest?

The term community would seem to indicate some geographic consideration as well as some sense that a community exists, i.e., the common concern is recognized to some degree by the residents or the government⁶. But what about the second part of the term: interest? Would there be a cognizable interest amongst all fans of a football team? Or, what about any of the following: a) persons who have an advanced degree; b) persons who are plumbers by trade; c) veterans; d) persons who live within a transportation corridor; e) persons who live in very rural areas; f) persons who vote frequently; or, g) persons whose political behavior is consistent over time. Could any of these groups

⁴ See *Gomillion v. Lightfoot*, 364 U.S. 339 (1960)

⁵ *Thornburg v. Gingles*, 478 U.S. 30 (1986)

⁶ See *Board of Education of Kiryas Joel Village School District*, 512 U.S. 687 (1994)

form an interest that would be worth considering? Do they have “some common thread of relevant interests”?

Of course, even if the line drafters feel that such groups might be geographically insular and can formulate an interest that would be cognizable, the question again arises as to what priority should be given to communities of interest. A related question relates to whether the goal of a district should be community of interests, in a general sense. For example, in one case the Supreme Court summarized a concern with the following: “In short, the social, political and economic makeup of the Eleventh District tells a tale of disparity, not community.”⁸

Data Concerns. A related issue vis-à-vis consideration of a community, of interest, that may be beyond that of a political subdivision or a minority community is how to define them. The census data will clearly indicate the political boundaries for higher level political geography and, in many cases, even the lower level of the precinct. The data provided specifically for the legislative districting, the so-called PL94-171 data, also tally the race and Spanish Origin of persons. After that there are several data concerns.

For example, extended breakdowns of persons as subsets of racial groups are generally available for the Bureau of the Census in specialized products, though they will be released after the PL94 datasets. These would allow for a more detailed break of persons by such groups as Dominican, Haitian, Mexican, etc.

Finding information that is more related to other questions, e.g., ancestry or citizenship status, will mean the researcher must rely upon the American Community Survey (ACS). The ACS data replaces the former “long-form” of the past few census operations. ACS data represent a rolling average in the sense that the survey is ongoing and the data release represents all respondents in the sample over the period time for which the data are released, i.e., 1-year, 3-year, or 5-year datasets. Therefore, ACS data released during 2010 will represent a sample from all respondents from 2005-2006-2007-2008-2009 for a 5-year dataset. The researcher will need the 5-year data to get the data for the lowest level of census geography in the ACS of census tract or block group. Moreover, at least for the ACS data released during 2010, the geography will be that of the 2000 Census and some conversion will be needed.

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⁷ Miller v. Johnson, 515 U.S. 900 (1995)

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