

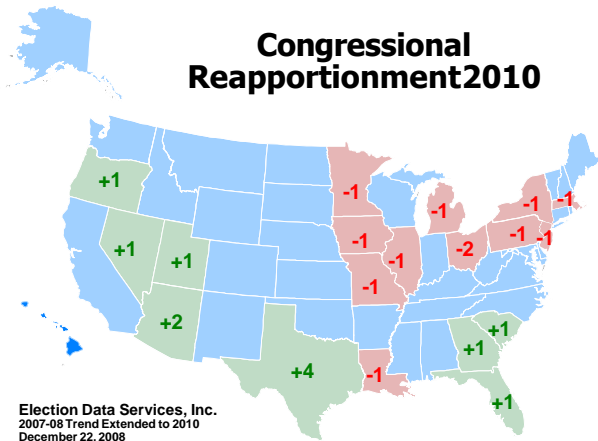
Drawing Maps that Will Stand Up in Court

Peter S. Wattson
Senate Counsel
State of Minnesota

Introduction

- Reapportionment and Redistricting

Congressional Reapportionment 2010



Introduction

- Why Redistrict?
 - Reapportionment of Congressional Seats
 - Population Shifts Within a State

Introduction

- Gerrymandering
 - Packing
 - Fracturing
- The Facts of Life
 - Creating a Gerrymander

Introduction

- The Need for Limits

The Census

- Use Official Census Bureau Population Counts

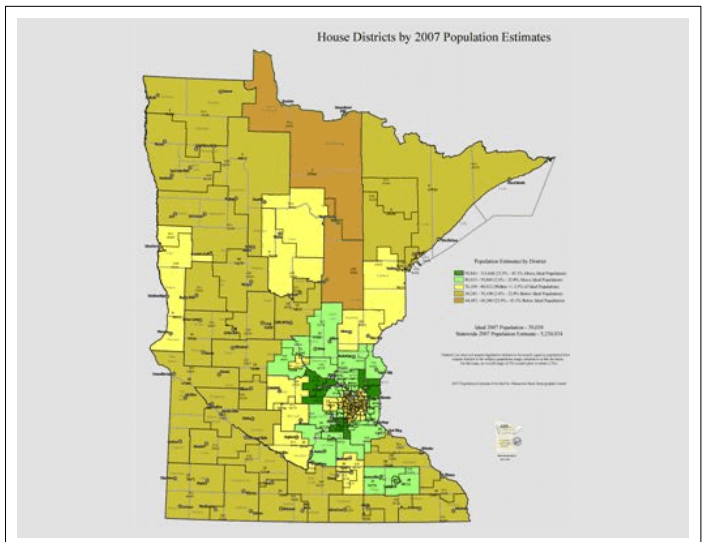
Equal Population

- Measuring Population Equality Among Districts
 - Ideal Population
 - Deviation
 - Average Deviation
 - Overall Range

Equal Population

The Facts of Life

- Absolute Numbers are Less Important than Relative Numbers
- Growth Slower than Average
 - Area Will Grow
- Growth Faster than Average
 - Area Will Shrink



Congressional Districts

- Strict Equality
- Unless Necessary to Achieve "Some Legitimate State Objective"
 - Preserve Political Subdivisions
 - Contiguous Territory
 - Compact
 - Preserve Communities of Interest
 - Preserve the Cores of Prior Districts
 - Avoid Contests Between Incumbents

Legislative Districts

- An Overall Range of Less than 10 Percent
 - Unless Proof of Intentional Discrimination
- Unless Necessary to Achieve Some "Rational State Policy"
 - Affording Representation to Political Subdivisions
 - Other State Policies

Racial and Language Minorities

Voting Rights Act § 2

- No Discriminatory Effect
- Three *Gingles* Preconditions
 - Minority Population Sufficiently Large and Geographically Compact
 - Minority is Politically Cohesive
 - Bloc Voting by White Majority Usually Defeats Minority's Preferred Candidate
- Totality of the Circumstances
- Draw Districts the Minority has a Fair Chance to Win

Voting Rights Act § 5

- "Covered Jurisdictions"
- Preclearance
 - Justice Department
 - U.S. District Court for District of Columbia
- Do Not Regress
 - Ability to Elect a Candidate of Choice
- Do Not Violate § 2 of Voting Rights Act
- You Need Not Maximize the Number of Minority Districts

Equal Protection Clause of the 14th Amendment

- You May Consider Race in Drawing Districts
- Avoid Drawing a Racial Gerrymander

Racial Gerrymanders

- Don't Draw Districts With Bizarre Shapes

North Carolina

Congressional District 12 - 1992



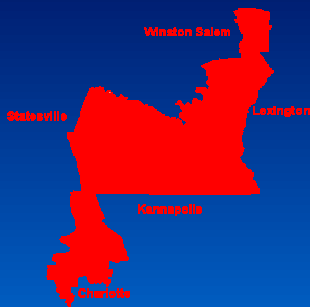
“Reapportionment is one area in which appearances do matter.”

Racial Gerrymanders

- Draw Districts that are “Reasonably Compact”

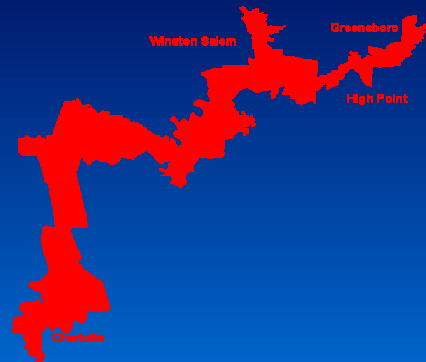
North Carolina

Congressional District 12 - 1998



North Carolina

Congressional District 12 - 2000 (1997)

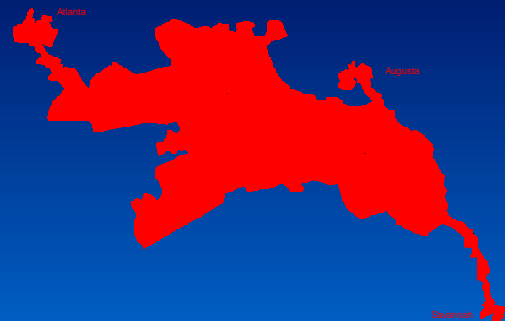


Racial Gerrymanders

- Don't Let Race Be Your Dominant Motive

Georgia

Congressional District 11 - 1992



Georgia

Congressional District 4 - 1996

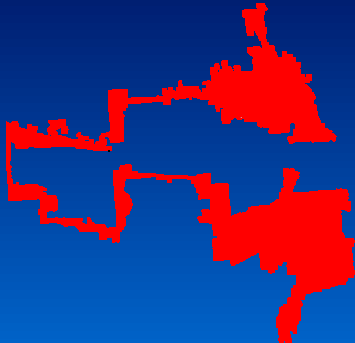


Strict Scrutiny

- A Compelling Governmental Interest
- Narrowly Tailored to Achieve that Interest
 - Remedying Past Discrimination
 - Avoiding Retrogression Under §5
 - Avoiding a Violation of §2

Illinois

Congressional District 4 - 1992



Traditional Districting Principles

- Contiguous Territory
- Compact
- Preserve Political Subdivisions
- Preserve Communities of Interest
- Protect Incumbents
 - Preserve Cores of Prior Districts
 - Avoid Contests Between Incumbents
- Nest House Districts within Senate Districts

Drawing Maps that Will Stand Up in Court

Peter S. Wattson
Senate Counsel
State of Minnesota

<http://www.senate.leg.state.mn.us/departments/scr/REDIST/Draw/Draw.pdf>