

COLUMBIA
PUBLIC HEARING
April 5, 2011



**Testimony by Victoria Middleton, Executive Director
Prepared for the Senate Subcommittee on Redistricting
April 5, 2011 in Columbia, SC**

Thank you for the opportunity to speak. My name is Victoria Middleton, and I am here to testify on behalf of the American Civil Liberties Union of South Carolina.

I'd like to start by thanking the members of the subcommittee for holding this public hearing, and several other public hearings across the state. Because redistricting determines the composition of districts in which individuals elect their representatives, every voter has a vital stake in the outcome of their community's redistricting, and every voter should feel welcome to participate in the process. This sort of collaboration between lawmakers, redistricting experts, individuals and organizations to draw and analyze plans and promote transparency in the redistricting process is absolutely essential.

Fair and equal representation is the cornerstone of American democracy. The U.S. Constitution requires states to apportion their congressional districts according to the "one person, one vote" principle, and the Supreme Court has interpreted the Equal Protection Clause of the Fourteenth Amendment as requiring state legislative seats to be apportioned according to the "one person, one vote" principle as well.

Improper redistricting can result in unequal representation in voting districts, dilution of minority votes and fractured communities. In addition to the "one person, one vote" principle, a redistricting plan must be drawn utilizing traditional redistricting principles (such as compactness, contiguity, preservation of county lines and communities of interest, and competitiveness).

A redistricting plan must also take into consideration the Voting Rights Act, which prohibits the use of redistricting plans that result in diluting minority voting strength. Communities of color, in particular, have faced numerous obstacles to meaningful

participation in the political process, including the redistricting process. The federal Voting Rights Act (VRA) includes protection provisions to ensure these communities' effective involvement in the political process. Compliance with the VRA ensures that racial and language minorities must have an equal opportunity to participate in the political process and elect candidates of choice.

We look forward to collaborating with this committee, individual voters, and other interested parties over the next several months in drawing fair and equal districts for our state legislature and our seven congressional seats.

FLORENCE
PUBLIC HEARING
April 6, 2011

Statement
By
Madie Robinson, President, Florence Branch NAACP
on
Redistricting to the Senate Judiciary Committee
Florence Darlington Technical College
Wednesday, April 6, 2011

The SC Senate Judiciary Committee should proceed with the important process of redistricting by articulating the redistricting principles it intends to follow. Those principles should include transparency, fairness, compliance with the Voting Rights Act and with Equal Protection. You should ensure “one person one vote.” You should redistrict in a way that avoids minority vote dilution. You should be careful to avoid *packing* which is drawing district lines so that the minority population is over-concentrated or “packed” into election districts. You should also be careful to avoid *cracking* (or “fracturing”) which is drawing district lines so that an area of concentrated minority population, which is large enough for separate representation in that it could constitute one or more majority minority or majority-black districts, is divided and spread among several districts that are predominantly white. You should be careful to avoid *stacking* which is drawing district lines so that a large minority population concentration is included with a larger white population with the purpose or effect of depriving minority voters of a voting majority. Stacking most classically happens in the creation or redistricting of multi-member districts, although it can occur in the redistricting of single-member districts. We also respectfully request that you avoid drawing plans that erode minority rights relative to the status quo, that is that you avoid creating retrogressive redistricting plans.

We ask that as part of the transparency and increased community access to the process that the Committee provide interested community members with access to the Senate’s redistricting software or on-line system and, of course, training for members to use that mapping system. We request that you indicate the terminals that will be available to the community and when they will be available. We also request a schedule of the remainder of the redistricting process.

Finally, to the extent that it is the practice to count prison inmates as residents of the localities in which they are imprisoned, and because blacks and Latinos constitute a disproportionately high share of the state and federal prison population in S.C. , we believe this process is harmful to minority interests in the redistricting process. We therefore ask that to help ensure fair redistricting that you count inmates as residents of the locality from which they have come.

CHARLESTON
PUBLIC HEARING
April 7, 2011

LARRY S. HARGETT
CHAIRMAN

GEORGE H. BAILEY
VICE CHAIRMAN

JASON L. WARD
COUNTY ADMINISTRATOR

SANDY W. LAWLEY
CLERK TO COUNCIL



JAY BYARS

DAVID CHINNIS

WILLIE DAVIS

WILLIAM "BILL" HEARN, JR.

RICHARD ROSEBROCK

COUNTY COUNCIL OF DORCHESTER COUNTY

201 JOHNSTON STREET
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STATEMENT BY LARRY HARGETT CHAIRMAN, DORCHESTER COUNTY COUNCIL

Good evening. My name is Larry Hargett. I am Chairman of Dorchester County Council.

I am here to express opinions, on behalf of myself and Dorchester County, about important factors that should determine within Dorchester County the boundaries of districts for the United States Congress, the SC State Senate and the SC House of Representatives.

In order for voters to feel connected to and confidence in the legislators elected to represent them, district boundaries for all elected positions should be drawn to include certain "communities of interest".

In Dorchester County those "communities of interest" are as follows:

1. Lower Dorchester County: The primary "community of interest" in Dorchester County includes residents in Summerville and within a mile or so of both sides of the following roads: Dorchester Road between Ashley Phosphate Road and Orangeburg Road; Trolley Road; Ladson Road; Bacons Bridge Road. Boundaries for legislative districts should include those areas.
2. Upper and Middle Dorchester County: The rural areas West and North of "Lower Dorchester County" as defined above is a "community of interest" distinctly separate from the urban areas of "Lower Dorchester County" as defined above.
3. Summerville: Part of the Town of Summerville is in Berkeley County and part is in Dorchester County. Part of the Town of Summerville is in

the rural areas and part is in the urban areas of Dorchester County. Much of the Town of Summerville is new territory annexed since the last redistricting years ago. Traditionally the Town of Lincolnville and area of Ladson in Charleston County have been considered part of Summerville. As a result of all of this, Summerville no longer is a single "community of interest" and districts within the Town of Summerville could be split.

4. Similarities in Lower Dorchester and Adjoining Charleston and Berkeley Counties: Lower Dorchester County has a population similar in characteristics to that of urban Berkeley County and urban Dorchester County. As a result, district boundaries could include portions of the urban portions of two or three of these counties and result in residents within those boundaries feeling they are being represented as a "community of interest".
5. County Legislative Delegation System: Because of South Carolina's unique County Legislative Delegation system, it is important that Dorchester County have one or more Senators and one or more House members who reside in Dorchester County. Further, because of this County Delegation System and the fact that the residents of lower Dorchester County and adjoining Berkeley and Charleston Counties have common concerns and demographic characteristics, it would be good for state legislators residing in Dorchester, Berkeley and Charleston Counties to serve on each other's legislative delegations by representing some of the geographic area of adjoining counties.

Thank you for the opportunity to express these views about redistricting.

Larry Hargett

Debbie Hammond

From: diana aversano [organizingmadesimple@hotmail.com]
Sent: Thursday, April 07, 2011 2:30 PM
To: Debbie Hammond

Representatives,

I am requesting that the new 7th district be the old Pee Dee District #6.

Myrtle Beach had serious infrastructure issues and the benefits of I-73 are huge.

I'm adamant about not being in the same district as Charleston since we have totally different needs.

I like the fact that my proposed division will allow our Federal Court District to be represented by one US House member instead of the current 3. And I hope that person is a conservative Republican.

And I like the fact that the farming communities will have a voice.

Thank you,
Diana Aversano
3822 Palmetto Dr Myrtle Beach, SC 29577
843-448-9240

*SC Senate Judiciary Committee Reapportionment Subcommittee Public Hearing
Statement of Kaye Lingle Koonce Charleston, SC, April 7, 2011*

Thank you Chairman McConnell. And, welcome to Charleston to those of you who have traveled to attend this 10th hearing. First I want to thank the Subcommittee for holding these hearings and for developing communication systems and processes to demystify Redistricting for your constituents. I appreciate your website and the communication you and your staff are providing on the redistricting process.

I also want to thank the Committee staff who has traveled all over the state for these hearings. As a retired state employee I know that these "new and other duties as assigned" don't usually come with any additional compensation. Managing and attending these hearings has been a significant amount of additional work but you are truly providing a public service. I also know that state employees are often not appreciated -so as a member of the public, thank you.

I am here tonight wearing two hats. I am the Charleston County Executive Committeewoman for the SC Democratic Party. However, I am also here as a lawyer who has volunteered in numerous voter participation and voter protection efforts during the elections for the 29 years, since I graduated from law school. I cut my teeth on SC elections in the 1980s. Sen. McConnell, a gentleman you may know-- Sam McConnell-- was the Chairman of the Republican Party at that time. I learned a lot from sparring with and observing Sam.

I do not mean to imply that I am an expert in election law or redistricting law --or anything else. But, I do have lots of years of experience as a volunteer and an observer. Like most of the folks here, I care very much about fair elections, fair representation and a fair redistricting process. I hope and believe you will do all in your power to draw districts that comply with the all of the federal and state legal requirements. South Carolina can't afford to spend our very limited tax dollars or human resources on lawsuits if we can help it. As this obviously political process heats up and as your colleagues in the General Assembly impose the inevitable political pressures, I hope the Senate and House Reapportionment Committees will do all they can to draw the most defensible plans possible. We all recognize it is likely that we will end up in court, but the stronger the plan, the better-maybe we can at least limit the costs of litigation.

Of course the principles which have been employed in prior South Carolina redistricting plans are still valid and legally required: population equality, compactness, contiguity, preserving political subdivisions, preserving communities of interest and the cores of the current districts as well as the requirements of the Voting Rights Act and all other applicable state and federal laws. You note I didn't mention the principle of protecting incumbents. I'm pretty sure that principle will be taken into account by the Committees without any encouragement from the public.

I look forward to having the opportunity as an interested citizen to have access to your plans in a timely manner. Your constituents want to be able to continue to provide meaningful input at the community level throughout the process.

I'll just mention one example where timely public input could have saved a lot of time, energy and money on a line drawing issue. Several years ago the General Assembly changed the polling place for the voters in the Charleston precinct who voted at Joseph Floyd Manor. For those of you not from Charleston, Joseph Floyd Manor is a high rise for senior citizens and disabled persons. Before the change there were two precincts which voted on the first floor of that 12 story building. However when the Gen. Assembly redrew the precinct lines the residents of the building were drawn OUT of that precinct and they had to vote in a precinct a couple of miles up the road at the Freddy Whaley Community Center in Rosemont. I believe it was an honest mistake—it was hard to figure out who made the mistake because the fingers were pointed in all directions—mainly between legislators and the county election commission.

Regardless, it was a mistake that could have been avoided if precinct officers of both parties—or anyone who lived in that precinct— had been asked to review it. My point is, the electorate and party leaders of both parties can provide useful information to improve the process if given the opportunity. These hearings are a start, but please continue to reach out to keep the public-and party leaders in both parties-involved.

There is one "community of interest" concept I ask you to add to your considerations. I think we all agree that districts, both at the state senate and congressional levels, should be drawn to reflect the actual communities that exist in the state. For instance, cities, suburbs and adjoining municipalities often share an identity, culture and economy that ought to be within the same district as much as possible. But there are lots of ways to define communities of interest. I think a common sense consideration of community of interest would be to look at the media markets in the state and how they are related to our communities. For example, the two congressional districts which split Charleston County now—the 1st and the 6th districts encompass several media markets-Charleston, Florence, Columbia and probably Myrtle Beach. That is inefficient for the candidates in terms of campaigning and in communicating directly with constituents. More importantly, it is also confusing for the citizens in those districts. Voters in the various media markets see and hear advertisements for two-or more- congressional candidates. Major media outlets in the districts must cover multiple members of congress in stories about federal legislation and elections, citizens wishing to comment on incumbent's pledges and votes must do so in multiple media outlets. It isn't always clear as to what media covers which districts. As I said, incumbents—and opponents-must spend on radio, TV and print media in an inefficient manner, as much of the advertising dollars reach voters who are not in the district.

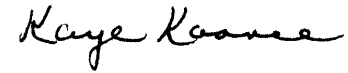
I discovered this concept when I was researching how community of interests is best defined. The idea came from a 2010 Indiana Law review article by Jason Miller. I have attached it to these remarks and I hope you will consider it.

My second point is related to the legal authority and responsibility for the redistricting process. This point may be more relevant for the next redistricting process. However, if, or maybe I should say when, the General Assembly's redistricting plans are litigated, a redistricting commission may be a useful tool.

About 20 states have adopted one of the many versions of these commissions. It appears for some of the findings that states which use commissions are not as likely to have as many lawsuits as states which rely solely on legislatures to redraw the lines, so I hope you are willing to consider adopting a commission approach as a more cost effective and transparent method of drawing the redistricting plans. As you probably know, there is a tremendous amount of information available about the various kinds of commissions from the National Conference of State Legislatures so I won't go through the various types of commissions. I have provided the NCSL Commission chart as an attachment to this statement.

Again, thank you for the opportunity to participate in the process. I look forward to continuing to be involved as you go forward.

**Respectfully submitted,
Kaye Lingle Koonce, Esq.
176 Peachtree St.
Charleston, SC. 29403**



Community as a Redistricting Principle: Consulting Media Markets in Drawing District Lines

JASON C. MILLER*

Very soon, legislators, commissioners, and judges will begin battling over how to draw the lines for the next decade's legislative districts. In trying to meet the federal legal requirements, line drawers will look at federal requirements like population equality¹ and race;² state requirements like protecting county and municipal lines,³ compactness,⁴ and contiguity;⁵ and practical political requirements like protecting incumbents⁶ and gerrymandering for partisan advantage.⁷ But hopefully, somewhere in the mix, there is room for common-sense goals like increasing voter participation and drawing districts that fit public expectations. To achieve these goals, legislative districts, both for Congress and the state house, should be drawn to reflect the actual communities that exist in that state. A city and its suburbs or nearby neighboring cities share an identity, culture, and economy that simply ought to be linked in the same district to the extent possible. Perhaps most importantly, communities often share the same media

* Associate at Sherman & Howard L.L.C. in Denver, Colorado. University of Michigan J.D. 2009. The author would like to thank Ellen Katz, Laura Davis, and Nicole Traxler-Wright for their feedback on this Article. The views expressed in this Article are the author's alone.

1. *Karcher v. Daggett*, 462 U.S. 725, 732 (1983) (requiring "absolute equality" of population in congressional districts).

2. *See, e.g., Bartlett v. Strickland*, 129 S. Ct. 1231, 1238 (2009) (deciding whether Voting Rights Act requires a district be drawn to help racial minority elect preferred candidate) (plurality opinion); *see also* Ellen D. Katz, *From Laredo to Fort Worth: Race, Politics, and the Texas Redistricting Case*, 105 MICH. L. REV. FIRST IMPRESSIONS 38, 39 (2006) ("[J]urisdictions must respect at least some existing racially-defined communities . . .").

3. *E.g., MICH. COMP. LAWS* § 3.63(c) (2004) (requiring that the redistricting plan break as few county, city, and township boundaries as reasonably possible); *IOWA CODE* § 42.4(2) (2009) ("[D]istrict boundaries shall coincide with the boundaries of political subdivisions of the state."); *see also Vieth v. Jubelirer*, 541 U.S. 267, 298 (2004) (discussing protection of political subdivision lines).

4. *See, e.g., MONT. CONST.* art. 5, § 14; *IOWA CODE* § 42.4(4) (2009); *MICH. COMP. LAWS* § 3.63(c) (2004).

5. *See, e.g., MONT. CONST.* art. 5, § 14; *IOWA CODE* § 42.4(3) (2009); *MICH. COMP. LAWS* § 3.63(c) (2004).

6. *See Vieth*, 541 U.S. at 300 (mentioning "the time-honored criterion of incumbent protection").

7. Bonnie Erbe, *Democrats Must Keep Politics in 2010 Census: Gerrymander—and Gender-mander—Away!*, U.S. NEWS & WORLD REP. (Mar. 3, 2009), <http://www.usnews.com/blogs/erbe/2009/03/03/democrats-must-keep-politics-in-2010-census-gerrymander-and-gender-mander-away.html> (describing partisan gerrymandering as a uniquely American tradition, like Thanksgiving).

market. Two current congressional districts offer examples of lines that ignore these common-sense boundaries and unnecessarily split communities.⁸

Michigan's Seventh Congressional District grabs the suburbs of Lansing, where Michigan State University's green and white colors dominate, and links them with Ann Arbor, home of its arch-rival University of Michigan.⁹ The district splits the Ann Arbor area in half, with lines drawn for partisan advantage rather than to reflect any common-sense approach. The rest of the district includes rural areas of southern Michigan. The distinctive communities in this district have nothing in common and the obvious community lines, apparent on any map or to anyone who lives in this district, are ignored. Furthermore, the district crosses four media markets—Detroit, Lansing, Toledo, and Grand Rapids/Kalamazoo/Battle Creek.¹⁰ The major newspapers in the district must cover multiple members of Congress in any story about federal legislation; opponents wishing to criticize the incumbent on broadcast television or radio would spend inefficiently, as much of their advertising dollars would reach voters outside of the district.¹¹ The reality of the district's shape almost certainly influences campaign strategy, whether or not it ultimately drives up the cost.¹² The lines respect city and most county borders, but do so by linking an odd series of counties and subdivisions at the expense of actual communities.

8. This problem, of course, is not limited to my two examples. "These gerrymandered districts often cover wide areas of territory, generally encompassing numerous communities and many different media markets." Jeffrey G. Hamilton, Comment, *Deeper into the Political Thicket: Racial and Political Gerrymandering and the Supreme Court*, 43 EMORY L.J. 1519, 1557 (1994).

9. CENTER FOR GEOGRAPHIC INFORMATION, DEPARTMENT OF INFORMATION TECHNOLOGY, MICHIGAN'S 15 CONGRESSIONAL DISTRICTS: 2001 APPORTIONMENT PLAN (2002), available at http://www.michigan.gov/documents/Congress01-state-E_43697_7.pdf.

10. Fitzy, *7th District Media Markets – Part II*, WALBERG WATCH (July 8, 2008, 6:02 PM), http://walbergwatch.blogspot.com/2008_07_01_archive.html.

11. As one court explained in a slightly different context, "the lack of congruence between media markets and district boundaries render [television] advertising an inefficient and ineffective way to communicate with voters." *Landell v. Sorrell*, 382 F.3d 91, 130 (2d Cir. 2004). Campaigns in such areas might turn to cable advertising as an alternative to broadcasting into other districts or states.

12. See Shanto Iyengar, Daniel H. Lowenstein & Seth Masket, *The Stealth Campaign: Experimental Studies of Slate Mail in California*, 17 J.L. & POL. 295, 300 (2001) ("[F]or candidates running in districts much smaller than the media markets in which they are located, mail generally is the only economically feasible medium."); see also Seth Grossman, *Creating Competitive and Informative Campaigns: A Comprehensive Approach to "Free Air Time" for Political Candidates*, 22 YALE L. & POL'Y REV. 351, 383 (2004) ("Cable, on the other hand, enables candidates to more precisely channel their messages to individuals within their voting districts—to be more 'geoefficient,' in the jargon of cable-television sales representatives. This quality of cable television is . . . important to . . . candidates who represent[] a district that is within a large media market or covers multiple media markets . . .").

Some districts do not even have the decency to respect city lines. Ohio's Thirteenth Congressional District cuts a jagged, diagonal line from Lake Erie across the Cleveland suburbs and down into Akron. Summit County, with Akron as its county seat, is carved into three jagged districts that divide individual neighborhoods. Akron's eastern suburbs are in a district dominated by Youngstown to the east. Of course, drawing districts with equal population requires some bending of community and local government lines to even out the population, but the greater Akron area is large enough to fill its own congressional district.¹³ There are numerous advantages to putting a community like Akron into a single congressional district.

When a congressional district covers a single media market, or at least does not snake across several, it makes it easier for the media to track and report on the representative and his or her actions. This in turn makes it easier for the public to identify their elected official and that official's actions. And a single media market also makes it easier to publicly oppose or challenge a representative's policies through letters to the editor, paid media, or "earned media" generated through demonstrations.¹⁴ This might help to explain the link between media markets and voter turnout, as the evidence indicates that people who live in districts drawn around media market lines—and not necessarily political subdivision lines—are more likely to vote.¹⁵ This is likely the result of voters being more informed about the candidates.¹⁶ The data shows that "[t]he more a district conforms to its media environment, the more likely it is that citizens are able to recall the names of candidates running for office in that district."¹⁷ The increased information costs and difficulty in learning about candidates when districts do not conform to media markets stifle participation.¹⁸ Furthermore, disrupting media markets might particularly burden minority voter turnout.¹⁹

13. In 2000 the average size of a congressional district was 646,952. Congressional Apportionment, NATIONALATLAS.GOV, http://www.nationalatlas.gov/articles/boundaries/a_conApport.html#two. The Akron metro area had a population of 694,960 in 2000. *Akron, OH MSA Population and Components of Change*, REAL ESTATE CTR., <http://recenter.tamu.edu/data/popm/pm0080.htm>.

14. "Earned media" is a common political phrase for free media, as contrasted with paid media such as advertisements. Examples include op-eds and news coverage. See use of the phrase in Manu Raju, Jonathan Martin & John Bresnahan, *Finger-Pointing Begins for Dems*, POLITICO (Jan. 19, 2010, 12:29 AM), <http://dyn.politico.com/printstory.cfm?uuid=44530A92-18FE-70B2-A84AAC11926FC1EE>.

15. Richard N. Engstrom, *District Geography and Voters*, in REDISTRICTING IN THE NEW MILLENNIUM 65, 77 (Peter F. Galderisi ed., 2005) ("[P]eople who live in districts with greater levels of conformity to media markets are more likely to turn out to vote than those in districts with lower levels of conformity to media-market boundaries.").

16. *Id.* at 78.

17. *Id.*

18. *Id.* at 77-78.

19. Felix Oberholzer-Gee & Joel Waldfogel, *Strength in Numbers: Group Size and Political Mobilization*, 48 J.L. & ECON. 73, 74 (2005).

More name identification, an easier time identifying the official's votes on key issues, and higher voter turnout create the possibility for greater accountability. It is harder to get voters involved and active in the political process if they cannot figure out who their representative is—people often have trouble understanding that they can live in the same town and have different representatives, or why the U.S. House website requires them to use their ZIP+4 to email their member of Congress. Many grassroots political organizations are created based on the community, not the artificial district lines.²⁰ Anti-war groups organize in Ann Arbor, but find their community split in two. Pro-life groups in the greater Akron area have to help their members identify their member of Congress before encouraging them to express their opinion.²¹ As Judge Jones explained:

Traditional, objective districting criteria are a concomitant part of truly “representative” single member districting plans. Organized political activity takes place most effectively within neighborhoods and communities; on a larger scale, these organizing units may evolve into media markets and geographic regions. When natural geographic and political boundaries are arbitrarily cut, the influence of local organizations is seriously diminished. After the civic and veterans groups, labor unions, chambers of commerce, religious congregations, and school boards are subdivided among districts, they can no longer importune *their* Congressman and expect to wield the same degree of influence that they would if all their members were voters in his district. Similarly, local groups are disadvantaged from effectively organizing in an election campaign because their numbers, money, and neighborhoods are split. Another casualty of abandoning traditional districting principles is likely to be voter participation in the electoral process. A citizen will be discouraged from undertaking grass-roots activity if, for instance, she has attempted to distribute leaflets in her congressman's district only to find that she could not locate its boundaries.²²

20. That a district's shape can interfere with normal organizing seems obvious. See *Pope v. Blue*, 809 F. Supp. 392, 397 n.4 (W.D.N.C. 1992) (“Interference with normal organizing and campaigning activities could be expected to be particularly acute in this district, which spans the state's three largest media markets and stretches over 160 miles.”).

21. See *Engstrom*, *supra* note 15, at 67 (“[N]ot knowing where a district takes an unexpected right turn means not knowing who in the immediate area is, and is not, in the district. This confusion about district boundaries can lead to confusion about which legislative race to pay attention to and who among one's neighbors is also in the relevant district.”).

22. *Vera v. Richards*, 861 F. Supp. 1304, 1334 n.43 (S.D. Tex. 1994) (three-judge panel) (invalidating a redistricting plan) (emphasis in original).

Sprawling, irregularly shaped districts may have competing interests and lack a sense of community.²³ Districts drawn around publicly understood communities should be easier to represent. When people live and work in the same district, rather than crossing a district line in a short commute, their economic interests might be easier to understand and stand up for. Even political party leaders might find advantages in having districts drawn up around communities. Party leaders are often faced with the difficult task of recruiting candidates to run against incumbents in “safe” districts. These sacrificial lambs may have no chance of winning, but they offer voters a choice and play a vital, but threatened, role in our democracy.²⁴ When district lines make little sense, instead of simply seeking out willing party activists or community leaders, party hacks must get out their maps and investigate which precinct their candidate hopefuls live in. Diagonal districts that do not reflect community lines and that zigzag through media markets could make it harder and more costly for a challenger to get her message out,²⁵ adding difficulty to the candidate recruitment process. And, at the very least, community boundaries are a much more legitimate basis than the partisanship or incumbent protection that motivates most redistricting.

The problems with considering community as a redistricting principle are easy to overcome if the line drawers desire to do so.²⁶ While the equal-population requirement necessarily forces communities to be broken if they do not fit the exact number required of equivalent congressional districts, line drawers can make at least some effort to mitigate this when possible. And when it is possible to draw an entire district around a single and distinct community—such as the Akron metropolitan area—they should. Defining communities presents its own difficulty because “community” is a nebulous and somewhat subjective term. But a little bit of common sense can go a long way in this regard, as most informed people have some idea of how the metropolitan areas in their state think of themselves.

Moreover, media markets might be a useful starting tool, as they offer a clear identification of the boundaries of a community.²⁷ Media markets are important for

23. See *DeGrandy v. Wetherell*, 794 F. Supp. 1076, 1086 (N.D. Fla. 1992) (“This long, irregularly shaped district traverses parts of seventeen counties and involves three major media markets. The communities linked in this sprawling district are likely to have competing interests and do not constitute communities of interest.”).

24. For a discussion on the shortage of candidates, see Jason C. Miller, *The Unwise and Unconstitutional Hatch Act: Why State and Local Government Employees Should Be Free to Run for Public Office*, 34 S. ILL. U. L.J. 313 (2010).

25. See Engstrom, *supra* note 15, at 82–83 (“Cleaner district-media market relationships should make it easier for challengers to get their names out to potential voters, therefore increasing their chances of defeating incumbents.”).

26. See, e.g., *Daggett v. Kimmelman*, Nos. 82-297, 82-388, 1988 U.S. Dist. LEXIS 1296, at *9 (D.N.J. Feb. 16, 1988) (noting that line drawer had made “reference to media markets” in fashioning district).

27. Sometimes communities and their media markets straddle state lines, and in such cases districts will obviously have to split them. See, e.g., Bradley A. Smith & Jason Robert Owen, *Boundary-Based Restrictions in Boundless Broadcast Media Markets*: McConnell v.

two reasons. First, they are important as actual media markets—a concentration of people consuming the same newspapers and television and radio stations—because the ease of gathering and disseminating information about candidates increases voter turnout. Second, media markets are important as indicia of practical community boundaries, driven in part by market forces and a spontaneous-order process. Even if the importance of traditional broadcast media outlets is waning, local-focused new media, such as local and regional political blogs, seem to continue to fit the old media market lines. Media market boundaries are probably most important for congressional districts because of their size—many state legislative districts might naturally conform to media markets—but in all cases districts should conform to media markets to the extent reasonable under the circumstances.

The location of actual communities, whether analyzed through defined media markets or more complex formulations that look at additional boundaries (such as school districts), should be among the criteria line drawers consider during redistricting. Community boundaries as defined by media markets should not be the only criteria for courts to base a decision on, but should be included among the many factors examined when forced to decide among competing plans.²⁸ More scholarship is needed to examine the significance of media markets to redistricting,²⁹ but there are good reasons to include common sense community considerations in any push for redistricting reform or discussion of the optimal way to create districts.

FEC's *Underinclusive Overbreadth Analysis*, 18 STAN. L. & POL'Y REV. 240, 253 (2007) ("The Cincinnati media market covers southwestern Ohio and parts of Indiana and northern Kentucky."). But in most circumstances, media markets will offer a helpful starting point for identifying community lines.

28. A few courts have already looked at media markets in deciding redistricting cases. See, e.g., *Session v. Perry*, 298 F. Supp. 2d 451, 502 (E.D. Tex. 2004) (discussing media markets); *Johnson v. Miller*, 864 F. Supp. 1354, 1365 (S.D. Ga. 1994) (noting that one of the reasons the state rejected a proposed districting plan was that "a candidate to be successful will have to run in four major media markets in Georgia"); *Shaw v. Hunt*, 861 F. Supp. 408, 472 (E.D.N.C. 1994) (noting that both parties submitted evidence of media markets in a redistricting case); *Arizonans for Fair Representation v. Symington*, 828 F. Supp. 684, 691 (D. Ariz. 1992) (considering media markets in choosing among redistricting plans).

29. See Engstrom, *supra* note 15, at 82 (noting that media markets are "rarely discussed in analyses of redistricting questions").

**OTHER COMMENTS
RECEIVED**

**Submitted by: James E. Clyburn, M. C.
Sixth Congressional District, South Carolina**

Members of the Sub-Committee, Members of the Committee, Ladies and Gentlemen: Thank you very much for allowing me to submit this statement.

All of us are pleased that South Carolina's population growth qualifies us for a seventh Congressional District for the next ten years. I understand that growth requires each district to be comprised of 660,767 persons or within a tolerable deviation. I also appreciate the efforts you are making to gather input from a cross section of South Carolinians.

I want to begin by making it clear that I have no problem with the current composition of the 6th District, which I proudly represent. Of course, the fact that I do not get 100 percent of the votes when I stand for elections indicates that not all of the people in the District agree with my positions, but such is the case with all state and federal elected officials. The fact is, none of us are perfect beings and it is impossible for any of us to be all things to all people. We all do the best that we can; the 63 to 68 percent which I usually get at election time are pretty comfortable margins. But, as you deliberate and contemplate configurations, I respectfully request that you give due consideration to the three Cs of redistricting - Compactness, Contiguousness, and Communities of Interest.

Being on the low end of the requirement for seven districts rather than the high end of six districts as we were at the conclusion of the last two decennial counts, provides us with an excellent opportunity to make our Congressional Districts much more compact, contiguous and compatible. Currently, the smallest congressional districts are the Fourth which is comprised of all or portions of four counties and the First which is comprised of all or portions of five counties. The largest districts are the Fifth which is comprised of all or portions of fourteen counties and the Sixth which is comprised of all or portions of fifteen counties.

Orangeburg, Calhoun and Richland counties are currently split between the second and sixth congressional districts. I believe that placing Orangeburg and Calhoun counties wholly within the sixth congressional district would contribute greatly to the 3Cs in both the Second and Sixth districts. Although I believe that placing more of Richland in the

Sixth district will enhance the 3Cs, keeping Fort Jackson in the Second is important economically and requires that the split be maintained.

Charleston, Berkeley, Dorchester, and Georgetown counties are currently split between the First and Sixth districts. In view of where the state's growth has been, where incumbents currently live, and in spite of my love for and attachment to Charleston and Georgetown, it will probably contribute greatly to the 3 Cs if Georgetown and Charleston were wholly within the First. The 3 Cs will be maintained, however, by keeping the northern ends of Berkeley and Dorchester counties in the Sixth district. I do not believe the courts or local governments would take too kindly to counties being split **three** ways.

The counties of Florence, Sumter and Lee are currently split between the Fifth and Sixth districts. If the projections I have seen are accurate, I believe it will contribute greatly to the 3 Cs if substantial portions of that part of Florence that are currently in the Sixth District were placed in the new District and all or a substantial portion of that part of Florence that is now in the Fifth were placed in the Sixth. Although it may require some tweaking because of population shifts, I believe that maintaining splits in Sumter and Lee will enhance the 3Cs and the protection of the Ninth Air Force and the Third Army Headquarters. This is critical to Sumter's economy.

The Sixth congressional district of South Carolina is comprised of several communities of interest. To begin with all but four of the counties that I envision making up the 6th district, lie along the I-95 Corridor, and three of those counties Calhoun, Sumter and Williamsburg lie within ten miles of I-95.

The existing Sixth District, as well as the "new" Sixth District that I propose is comprised of many small, rural, poor communities, its current core constituency has severe infrastructure needs. Many rural communities throughout the district do not have water systems and dilapidated septic systems are prevalent. The installation and rebuilding of infrastructure in these rural areas make them communities of interest as political leaders increasingly look to the federal government to provide resources to help them improve their quality of life.

All but one of the counties in the existing Sixth District as well as my proposed Sixth are considered rural. Richland county, the one that is not considered rural, has very

large rural tracts. Lake Marion - South Carolina's largest lake - is situated at the center of the existing, and proposed, Sixth District. The lake is bisected by I-95. I have invested a lot of time and energy to the I-95 Corridor and am committed to continue changing the demographics of that region. The recently created Lake Marion Regional Water Agency will provide water and wastewater infrastructure to Berkeley, Calhoun, Clarendon, Dorchester, Orangeburg and Sumter Counties, and will dramatically improve the quality of life and enhance economic development along that corridor.

All six of the state's four-year Historically Black Colleges and Universities are in the existing and proposed Sixth district and they represent a strong community of interest. Allen University and Benedict College in Columbia; Claflin and South Carolina State Universities are in Orangeburg, Morris College is in Sumter, and Voorhees College is in Denmark. They have unique constituencies, histories and needs which form common threads that bind them together.

In addition, I am hopeful that splits in voting precincts are avoided. The existing Sixth district has 22 precincts that are split with the second district, 26 with the first district and 16 precincts are split with the fifth district. In instances where political subdivisions must be split to conform with population requirements, I am requesting that the splits occur along existing precinct lines, major thoroughfares or natural formation such as rivers or streams.

I have been keeping up with the public meetings, and I know how political and contentious this process can become. I do not envy your task, and hope to the extent possible, the core of existing districts can be maintained in order to allow for a continuation of similar representation.

Incumbency protection and economic considerations are constitutionally acceptable standards for redrawing district lines. And although race cannot be the **predominant** factor the courts have consistently held that race can be a factor when drawing congressional district lines. If the Sixth congressional district is dramatically altered, South Carolina would risk losing the only district where, for the past 20 years, African Americans have had the opportunity to elect a congressional representative of their choosing.

SUMTER
PUBLIC HEARING
March 24, 2011

Senate Redistricting Mailbox

From: Loretta Mckinley [lorettamckinley@yahoo.com]
Sent: Monday, March 28, 2011 8:43 AM
To: Senate Redistricting Mailbox
Subject: Redistricting

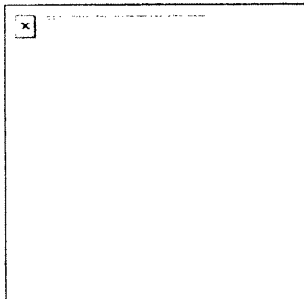
I attended the public forum on Thursday, March 24th in Sumter. Many of those who spoke seemed only concerned with "race" in terms of who would win elections in the newly formed districts. After having worked long and hard along with my 9 year old daughter on Jim Pratt's campaign against James Clyburn. I realize no matter who runs nor how hard we work, James Clyburn will ALWAYS be the winner and his constituents the losers. I saw the sacrifices that Jim and Karen Pratt endured in attempt to win the 6th congressional district and ultimately make our district better.

IF gerrymandering for sole purpose of race is your intention then why not just be honest??? Why put us all through the long hard road of an election? Why not just say "the 6th congressional district belongs to James Clyburn?" Just make it an appointed position....or whatever district you all decide will now be his. Why play the game so to speak.

I am one of the unfortunate ones who lives in the 6th congressional district. I do not give a rip about the color of anyone's skin, whether it be white, black, brown, purple, etc!!!! What I do care about are qualifications, ability and the knowledge to be a great leader and representative. James Clyburn does not fit the bill. I emailed his office for more than a solid year before I ever received the first response and then it was general and "prefabricated." I feel as though I don't even have a representative. In fact, when I do have issues I just contact my U.S. Senators or Governor Haley. At least they seem somewhat interested in the needs of SC people. Jim Clyburn could care less. In fact, most of the allocations of money he proposed directly benefited HIS family, not even the people of his own race. Besides, I support term limits and he is way beyond that.

Thank you for your time,
Loretta McKinley Hulse

"Freedom is never more than one generation away from extinction.



We didn't pass it to our children in the bloodstream. It must be fought for, protected, and handed on for them to do the same, or one day we will spend our sunset years telling our children and our children's children what it was once like in the United States where men were free." Ronald Reagan.

AIKEN
PUBLIC HEARING
March 29, 2011

Senate Redistricting Mailbox

From: Claude ODonovan [odclaud@att.net]
Sent: Friday, April 01, 2011 1:45 PM
To: Senate Redistricting Mailbox
Subject: Aiken County/SRA

Gentlemen:

I attended the hearing here in Aiken but reserved my thoughts to communicate with you in writing via email.

My concern is that you may give weight to Joe Wilson's seniority and let him have Aiken county. I like Joe but Jeff Duncan has consistently shown for our region even before he represented us. As a SC State Representative he visited the Savannah River Site on numerous occasions and even organized a tour of other Rep's. He recently organized a tour for all the SC US House members so they would have a greater appreciation of It's value to South Carolina.

Jeff has served as the Chairman of the SC State house Committee on Agriculture Natural Resources, Environmental Affairs. He currently sits on the US Congress Natural Resources committee.

Jeff also served on the US Department of the Interior's Outer Continental Shelf's 5 year Planning Sub-Committee for making recommendations on oil and natural gas leases on offshore areas. In addition, he served on the state's Natural Gas Offshore Study Committee and was appointed to represent the state of South Carolina on the DrillingSouthern States Energy Board.

Thank you for your service and consideration on this.
Claude O'Donovan
803-624-6050