

Members

Sen. Randall Head, Chairperson
Sen. Sue Landske
Sen. Susan Glick
Sen. Timothy Lanane
Sen. James Arnold
Sen. Vi Simpson
Rep. Eric Koch, Vice-Chairperson
Rep. Woody Burton
Rep. David Wolkins
Rep. John Bartlett
Rep. Cherrish Pryor
Rep. Phil GiaQuinta



INTERIM STUDY COMMITTEE ON REDISTRICTING

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

Chris Baker, Fiscal Analyst for the Committee
Robert Rudolph, Attorney for the Committee

Authority: Legislative Council Resolution 11-01

MEETING MINUTES¹

Meeting Date: October 7, 2011
Meeting Time: 10:30 A.M.
Meeting Place: State House, 200 W. Washington St.,
Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Sen. Randall Head, Chairperson; Sen. Sue Landske; Sen. Timothy Lanane; Sen. James Arnold; Rep. Eric Koch, Vice-Chairperson; Rep. Woody Burton; Rep. John Bartlett; Rep. Cherrish Pryor.

Members Absent: Sen. Susan Glick; Sen. Vi Simpson; Rep. Phil GiaQuinta; Rep. David Wolkins.

Chairman Senator Randall Head called the meeting to order at 10:43 A.M. Testimony began immediately after introductions of committee members and Legislative Services Agency staff.

State Senator Connie Lawson-

Senator Lawson described SB 80-2010. She said the bill passed the Senate in a bipartisan manner, noting that Senator Lanane was a coauthor. She said the bill would have done the right thing to add needed criteria to redistricting. She continued that Indiana has no language in the Indiana Code to specify how districts are to be mapped other than they must be contiguous. She mentioned a small exception to the statute in Indiana Code, Title 2, that accounts for small geographic "slivers."

Representative Bartlett asked Senator Lawson what happened to SB 80-2010 in the House of Representatives and if she may consider bringing it back in the future. Senator Lawson replied that the bill did not get a hearing in the House and that she may consider bringing it back during

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative>. Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

a future session of the General Assembly.

Senator Lanane asked if during the time the bill was being considered if the General Assembly had looked at the possibility that the additional criteria would increase the number of court challenges.

Senator Lawson replied it was a concern to her as to when appropriate deviations from tighter criteria would be considered. She said preventing voter confusion was foremost in her thoughts.

Representative Prior asked if the criteria proposed in SB 80-2010 were for both legislative and federal redistricting.

Senator Lawson answered that the bill's intent was for state legislative districts only. She said she could not recall how the discussion ended up with respect to including congressional districts. She continued that she would consider congressional districts along with legislative districts in the future.

Senator Lawson concluded her testimony by reading a constituent letter urging the expansion of similar redistricting criteria as proposed in SB 80-2010 to the local-level election districts.

Professor Justin Levitt, Loyola Law School, Los Angeles, California-

Professor Levitt began by verbally applauding the effort Indiana is now making to explore options to reform current redistricting practices. He said in ten years the efforts made now would benefit the citizens of Indiana. He discussed examples of misuse of the redistricting process and the litigation that could result of such misuse. He described the various ways that other states handle redistricting using a slide presentation (See Exhibit A).

While Professor Levitt's presentation touched on the types of bodies that conduct redistricting in other states, Chairman Head interjected that it seems that there are three categories of redistricting bodies: legislatures, advisory boards, and independent boards.

Representative Prior asked if advisory boards are appointed.

Professor Levitt responded to Representative Prior that states are different. He mentioned that Iowa has a legislative services board which is further advised by another independent board. He continued that legislatures almost always want some role in the process. He described Iowa's redistricting process where the legislature can approve maps drawn by the independent commission or send it back with recommendations for changes. He said that in its four redistricting cycles of existence, that the Iowa legislature has never failed to adopt the maps presented on the first or second introduction.

Professor Levitt described the role of cultural differences between states. He said the Iowa system would not work in New York as New York's advisory board is heavily influenced by the New York state legislature. He described Colorado's commission as a combination of both elected politicians and lay members.

Chairman Head said there appeared to be substantial differences in the numbers that Professor Levitt reported. The Chairman recalled that Mr. Storey of the National Conference of State Legislatures (NCSL) reported a different percentage of redistricting plans that were challenged when an independent commission was used. He also said Professor Levitt's percentage of challenges differed from Mr. Storey's when the legislature decided the maps without an independent commission.

Professor Levitt replied he was not certain why the numbers appear different. He said timing could be a factor. He continued that if district maps are drawn more closely to election time, there may be more suits filed.

Professor Levitt continued with a depiction of the California commission. He listed the criteria for membership: no federal or state office holder, no employee or party candidate, no registered lobbyists, no paid legislative staff, and no maxed-out contributors. He said the board consists of five Republicans, five Democrats, and four members representing no party. He continued that the California board requires nine votes to act, with three votes each from the three groups comprising the commission's membership.

Senator Lanane asked how the California board membership was winnowed down to 14 members.

Professor Levitt replied that the California State Auditors Bureau took many steps to reach a suitable candidate pool. He said it was similar to jury selection. He mentioned that California had one further qualification: the commission membership must reflect the ethnic diversity of the state. He said the first eight members were selected from the pool of candidates by random bingo balls. He continued that the eight bingo-ball selections then picked the remaining six members.

Representative Bartlett asked Professor Levitt about the noncounting of prisoners across state lines and what can be done about it.

Professor Levitt replied there is, as yet, no process for prisoners to be accounted over state lines. He commented on the problems that a large prison population that cannot vote can have in local elections. He mentioned the example of Anamosa, Iowa, where a candidate won a local ward election by receiving two votes as a write-in. Professor Levitt continued that the election winner did not even realize they had been elected to the office until the following morning.

Professor Levitt also suggested the Indiana General Assembly send a resolution to the U.S. Bureau of Census requesting an alternative way for the Bureau to count the prison population. He said that locals are clamoring for a change in the way prisoners are apportioned.

Professor Kelsey Kauffman, DePauw University-

Professor Kauffman touched on the problems that prisons have caused in local county commission and school board elections. She said the options were to count prisoners in the jurisdictions of incarceration, disfranchise the prisoners, or count them in their home district of origin. She mentioned the lack of redistricting occurring in county commissioner and school board districts across the state. She provided documentation supporting her presentation (Refer to Exhibit B for further information on Professor Kauffman's presentation).

Former State Representative Bill Ruppel-

Mr. Ruppel stated he resides in North Manchester, Indiana. He recommended the state pursue an independent redistricting commission. He suggested putting the commission into the State Constitution. He said, with some tweaks, that he liked the Iowa approach. He thought it would be important to rank the redistricting criteria for the independent board to pursue. He urged that precincts should be kept whole in the rural areas of the state.

Mr. Ruppel stressed the importance of establishing the commission by the constitution and not under the statute. He said there are a fair number of citizens that are concerned and that a statutory establishment requiring only 51% of the vote of the legislature would not make the

people happy. Particularly, he continued, if a simple majority could change the framework of an independent commission just before the next redistricting cycle. He said if it had to be statutory in conception, the commission language should not be able to be changed without a two-thirds majority in both houses. He said the people in Indiana are truthful and expect the redistricting process to be truthful and not have the appearance of smoke and mirrors.

Mr. Ruppel also addressed the prisoner and college population dilemma. He recommended placing in the State Constitution that these persons need to be counted in the state population but not counted in local election districts for purposes of redistricting.

Karen Kay Leonard, representing the League of Women Voters (LOWV)-

Ms. Leonard stressed the importance for redistricting to be an open and transparent process. She listed four main concerns. First, she said the LOWV advocated compactness of districts with nesting of House districts within Senate districts. Second, she mentioned the need to maintain boundaries of interest. Third, she stressed the desire to make the districts as competitive as possible.

Finally, Ms. Leonard said that the redistricting process should avoid protecting incumbents. She read from a prepared statement (Exhibit C) that advocated for an independent, nonpartisan redistricting commission.

Julia Vaughn, Policy Director of Common Cause Indiana-

Ms. Vaughn said she appreciated Professor Levitt's appearance before the Committee today. She mentioned her appreciation for the cooperation of the League of Women Voters and the American Association of Retired Persons.

Ms. Vaughn continued that she looked forward to the second year of the Committee's work. She said there is significant public interest on this issue. She supported an independent redistricting commission with ranked criteria.

She continued that there was a need to have a conversation with the people of Indiana. She said that there is a need for more dialogue on the communities of interest criteria. She stressed the need for the process to be more transparent.

Ms. Vaughn mentioned the possibility of finding catchy names for some districts could further enhance public interest. She mentioned the "I-65 district" as an example.

Representative Burton mentioned the way the House and Senate tried to make the redistricting process during the 2011 session transparent. He said dialog has been occurring within the state. He asked Ms. Vaughn what else can we do.

Ms. Vaughn answered that this process is very big and asked for the process to slow down.

Chairman Head asked if there is any software available for interested persons to draw their own maps.

Ms. Vaughn mentioned a couple of options but that most available software is mostly for congressional map drawing.

Chairman Head replied that it is almost impossible for persons on their own to draw all districts at the state level and fit the criteria suggested with just a software package.

Ms. Vaughn said there is a need to travel the state to get more input from the citizens.

Chairman Head said in response that the efforts made in the 2011 redistricting were the most transparent they have ever been.

Ms. Vaughn agreed with the Chairman's comment.

Representative Koch commented on Professor Kauffman's testimony. He said in response to what he heard, he was shocked at the lack of redistricting occurring at the local level. He suggested a letter be drafted to local county and school officials from the chairs and ranking members of both standing election committees reminding them of their duties to redistrict.

Seeing no further business to come before the Committee, Chairman Head adjourned the meeting at 12:34 P.M.

Indiana redistricting

Professor Justin Levitt

October 7, 2011

-
- Present practice
 - Alternatives
 - Recommendations

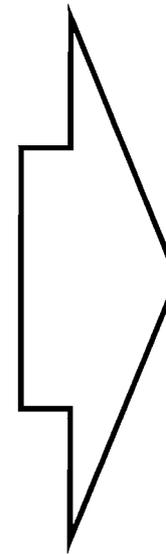
-
- Present practice
 - Alternatives
 - Recommendations

Madison County, IL

- “Threats, coercion, bullying, and a skewed view of the law”
- “So far short of representing the electorate that it seems the citizens [] were not so much as an afterthought.”
- “We are going to shove [the map] up your f----- a-- and you are going to like it, and I’ll f--- any Republican I can.”

(Mis)use of the redistricting process

- Carving up communities
- Rewarding particular friends
- Punishing particular foes
- Driving power to leadership
- Jeopardizing basic civility



Litigation

Litigation in 2001

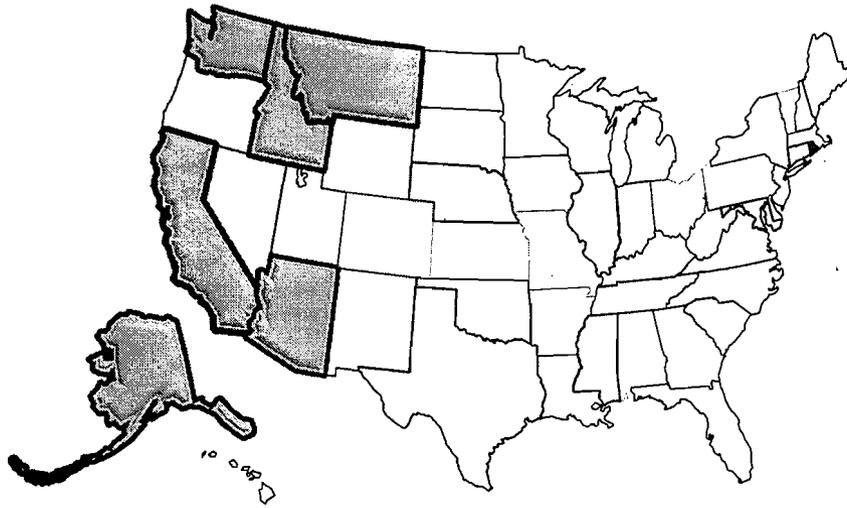
- Legislature does not control: 50% were sued
- Legislature controls: 60% were sued

- Legislature does not control: 17% struck by court
- Legislature controls: 31% struck by court

-
- Present practice
 - Alternatives
 - Recommendations

Redistricting institutions

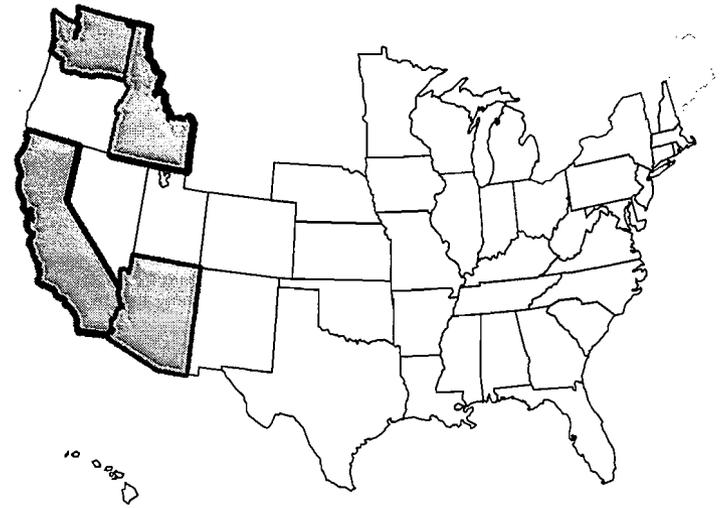
State legislative districts



Primary control in the legislature

Primary control outside legislature

Congressional districts



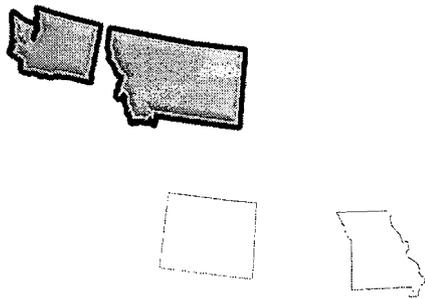
Advisory

Politician

Independent

Redistricting institutions

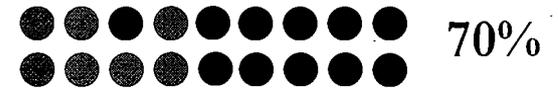
State legislative districts



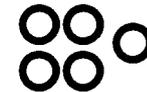
Colorado



Missouri



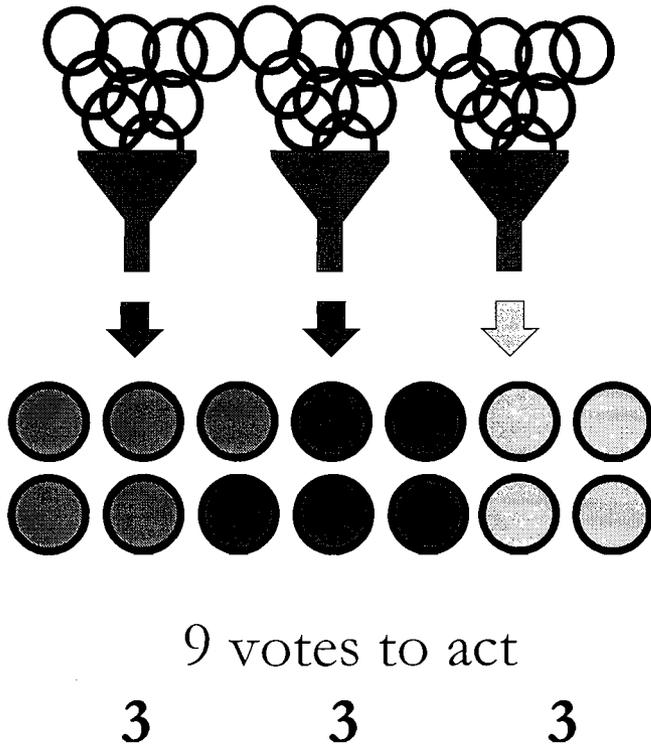
Montana



Washington



California



Within 10 years

- No federal/state office
- No employee of party or candidate
- No registered lobbyist
- No paid legislative staff
- No maxed-out contributors

Diversity reflecting the state

Constitutional / legislative change

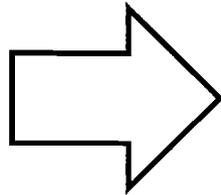
- “The General Assembly elected during the year in which a federal decennial census is taken shall fix by law the number of Senators and Representatives and apportion them among districts according to the number of inhabitants in each district, as revealed by that federal decennial census.”

Constitutional / legislative change

- “The General Assembly elected during the year in which a federal decennial census is taken shall fix by law the number of Senators and Representatives and apportion them among districts according to the number of inhabitants in each district, as revealed by that federal decennial census.”

Constitutional / legislative change

Other
process



- Vote up/down as is
- Minor modification
- Guidance for court

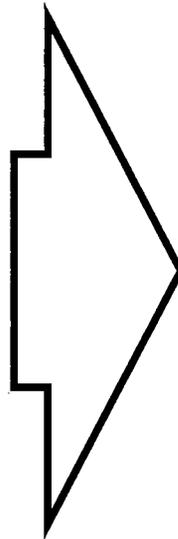
- Already have commission by statute backup for congressional districts

Ranked criteria

- Equal population
- Voting Rights Act
- Contiguity
- Political geography
- Compactness
- Nesting
- Political candidates

Political geography

- City
- County
- Local neighborhood
- Local community of interest



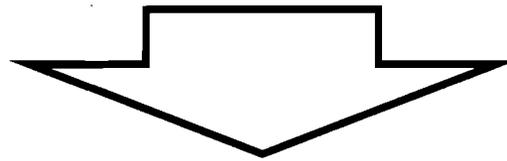
“a contiguous population which shares common social and economic interests that should be included within a single district . . .”

- urban
- rural
- industrial
- agricultural
- living standards
- transportation
- employment
- media markets
- etc. . . .

Compactness

- Often: geometric shapes or proxies

BUT people don't often
set out to live in circles



- California: don't bypass nearby population

Political candidates

- Can't consider residence
- Can't draw districts in order to favor/disfavor incumbent, candidate, or party
- **Can** consider party registration/voting info (and may have to, for Voting Rights Act)
- No priority for drawing districts that are half-Democratic and half-Republican

-
- Present practice
 - Alternatives
 - Recommendations

Principles for effective redistricting

1. Meaningful independence
2. Meaningful diversity
3. Meaningful guidance
4. Meaningful transparency

Meaningful independence

1

- One of the players shouldn't also be the umpire
- Not the same as taking politics out of redistricting
- Legislature can still have a role
 - Select those who draw the lines
 - Review (and perhaps tweak) lines afterward

Meaningful diversity

2

- Those who draw the lines should reflect the state
- Need sufficient size
- Need ability to choose diverse membership
- Needs to be expressly stated

Meaningful guidance

3

- Criteria that reflect basic goals
- Enough flexibility to accommodate local exceptions
- Communities of interest

Meaningful transparency

4

- Multiple opportunities for meaningful public input
- Data and tools to facilitate response
- Some explanation from redistricting body

Further information

Justin Levitt

Loyola Law School

justin.levitt@lls.edu

IC 36-2-3-4

Election of fiscal body; division of county into districts; single-member district criteria

Sec. 4. (a) This subsection does not apply to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The county executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection (d). If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the fiscal body shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the fiscal body shall be elected by the voters of the whole county.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (d). One (1) member of the fiscal body shall be elected by the voters of each of these seven (7) single-member districts.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The fiscal body shall divide the county into nine (9) single-member districts that comply with subsection (d). Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the fiscal body shall be elected by the voters of each of these nine (9) single-member districts.

(d) Single-member districts established under subsection (a), (b), or (c) must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) not cross precinct boundary lines;

(3) contain, as nearly as possible, equal population; and

(4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(e) A division under subsection (a), (b), or (c) shall be made:

(1) during the first year after a year in which a federal decennial census is conducted; and

(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.144; Acts 1981, P.L.17, SEC.10; Acts 1981, P.L.5, SEC.2; P.L.10-1988, SEC.237; P.L.13-1988, SEC.14; P.L.5-1989, SEC.88; P.L.12-1992, SEC.153; P.L.122-2000, SEC.21; P.L.230-2005, SEC.83.

Indiana Code re School Board Redistricting

IC 20-23-8-8

Limitations on the plan

Sec. 8. (a) A plan is subject to the following limitations:

(1) A member of the governing body may not serve for a term of more than four (4) years, but a member may succeed himself or herself in office. This limitation does not apply to members who hold over during an interim period to effect a new plan awaiting the selection and qualification of a member under the new plan.

(2) The plan, if the members are:

(A) to be elected, shall conform with one (1) of the types of board organization permitted by IC 20-23-4-27; or

(B) appointed, shall conform with one (1) of the types permitted by IC 20-23-4-28.

(3) The terms of the members of the governing body, either elected to or taking office on or before the time the plan takes effect, may not be shortened. The terms of the members taking office under the plan may be shortened to make the plan workable on a permanent basis.

(4) If the plan provides for electoral districts, where a member of the governing body is elected solely by the voters of a single district, the districts must be as near as practicable equal in population. The districts shall be reapportioned and their boundaries changed, if necessary, by resolution of the governing body before the election next following the effective date of the subsequent decennial census to preserve the equality by resolution of the governing body.

(5) The plan shall comply with the:

(A) Constitution of the State of Indiana; and

(B) Constitution of the United States;

including the equal protection clauses of both constitutions.

(6) The provisions of IC 20-23-4-26 through IC 20-23-4-33 relating to the board of trustees of a community school corporation and to the community school corporation, including provisions relating to powers of the board and corporation and provisions relating to the mechanics of selection of the board, where elected and where appointed, apply to a governing body set up by a plan under this chapter and to the school corporation.

(b) The limitations set forth in this section do not have to be specifically set forth in a plan but are a part of the plan. A plan shall be construed, if possible, to comply with this chapter. If a provision of the plan or an application of the plan violates this chapter, the invalidity does not affect the other provisions or applications of the plan that can be given effect without the invalid provision or application. The provisions of a plan are severable. *As added by P.L.1-2005, SEC.7. Amended by P.L.2-2006, SEC.99.*

119V6W

1 of 100 DOCUMENTS

VIGO COUNTY REPUBLICAN CENTRAL COMMITTEE, JEFF JUNKENS,
EMILY JUNKENS, DAVID LOHR, LINDA LOHR, JAMES C. MAY, and
DEBORAH MAY, Plaintiffs, v. VIGO COUNTY COMMISSIONERS, Defendant.

TH 93-54-C

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
INDIANA, TERRE HAUTE DIVISION

834 F. Supp. 1080; 1993 U.S. Dist. LEXIS 15057

October 15, 1993, Entered

CASE SUMMARY:

PROCEDURAL POSTURE: Defendants, county commissioners, sought dismissal of a suit by plaintiffs, voters and political organization, alleging that the commissioners' redistrict plan violated the Equal Protection Clause of the U.S. Const. amend. XIV and Ind. Code Ann. § 36-2-3-4(a) and (d).

OVERVIEW: Plaintiffs were registered voters and a political organization. Defendants were the county commissioners. The voters and organization sued the commissioners over a redistricting plan for county council districts. They alleged the plan was unconstitutional because it contained an excessive population deviation. The commissioners sought, but the court denied, dismissal. The plan violated the Equal Protection Clause and § 36-2-3-4 for failing to construct reasonably compact districts with as equal population as possible. The court adopted the voters' and organization's plan because it was superior to the commissioners' plan. The commissioners' plan had a 3.8 percent population deviation, nearly 10 times the .41 percent deviation in the voters' and organization's plan. Other deficiencies included districts that were not contiguous and did not follow natural boundaries.

OUTCOME: The court denied the commissioners' motion to dismiss and for judgment in the voters' and political organization's suit alleging that the redistrict plan violated federal and state law.

Constitutional Law > Substantive Due Process > Voting Districts & Representatives

[HN1] The Equal Protection Clause of the U.S. Const. amend. XIV requires substantial equality of population among the various districts, so that a vote of any citizen is approximately equal in weight to that of any other citizen. To comport with the principles of equal protection, a state or local governmental entity must make an honest and good-faith effort to construct its districts as nearly of equal population as is practicable, but absolute equality is a practical impossibility.

Constitutional Law > Substantive Due Process > Voting Districts & Representatives

[HN2] Deviations from the equal-protection principle are permissible if such deviations are justified by legitimate state interests: So long as the divergences from a strict population standard are based on legitimate considerations incident to the effectuation of a rational state policy, some deviations from the equal-protection principle are constitutionally permissible.

Constitutional Law > Substantive Due Process > Voting Districts & Representatives

[HN3] In determining whether deviations are legitimate, courts essentially follow a four-step analysis. First, the plaintiff must show that the population deviation is greater than 10 percent. Second, the court considers whether the defendant's justifications for the deviation further legitimate state interests, and are not arbitrary or discriminatory. Third, the defendant must show that any deviation from equality is no greater than necessary to

serve the asserted state interests. Finally, the court considers whether the deviation is tolerable in light of the goal of substantial population equality.

Evidence > Procedural Considerations > Inferences & Presumptions

[HN4] If a state or local unit of government makes a good faith effort to comply with federal and state redistricting laws, any plan with a population deviation of less than 10 percent is presumed to be constitutional. However, the threshold test does not apply when a case is already in court precisely because the reapportionment plan at issue was far beyond the de minimis threshold.

Constitutional Law > Substantive Due Process > Voting Districts & Representatives

[HN5] Deviations from population equality must be justified by legitimate state interests.

Constitutional Law > Substantive Due Process > Voting Districts & Representatives

[HN6] The court must determine whether a redistricting plan's deviation from total population equality is justified by any of the following state interests: Keeping districts contiguous, keeping them compact, following natural boundaries, not crossing precinct lines, and including whole townships. Ind. Code Ann. § 36-2-3-4 (Supp. 1993).

Constitutional Law > Substantive Due Process > Voting Districts & Representatives

[HN7] If another redistricting plan could serve the same policy substantially as well while providing smaller deviations from equality, it can hardly be said that the deviations advance the policy.

Governments > State & Territorial Governments > Elections

[HN8] Ind. Code Ann. § 36-2-3-4(a) (Supp. 1993) requires the county commissioners to divide the county into four contiguous, single member districts that comply with subsection (d). Indiana law further require that single-member districts must: (1) Be compact, subject only to natural boundary lines, such as railroads, major highways, rivers, creeks, parks, and major industrial complexes; (2) Not cross precinct boundary lines; (3) Contain, as nearly as possible, equal population; and (4) Include whole townships, except when a division is clearly necessary to accomplish redistricting under this section. § 36-2-3-4(d)(Supp. 1993).

Governments > State & Territorial Governments > Elections

[HN9] A district lacks contiguity only when a portion of the district is separated from the remainder of the district by another district. The term "contiguous territory" has been defined as territory touching, adjoining and connected, as distinguished from territory separated by other territory.

COUNSEL: [**1] For Plaintiffs: James Bopp, Jr., Richard E. Coleson, Bopp Coleson & Bostrom, Terre Haute, Indiana.

For Defendant: Robert L. Wright, Wright Shagley & Lowery, Terre Haute, Indiana.

JUDGES: Tinder

OPINIONBY: JOHN DANIEL TINDER

OPINION:

[*1082] ENTRY FOLLOWING TRIAL

The United States Constitution and various laws of the State of Indiana seek to insure that each person's vote has equal weight. Unfortunately, this noble and democratic concept is often strained in practice. This case illustrates how the reality of political pragmatism, if unchecked, can endanger this fundamental concept of equality. This court treads carefully into this arena, given the principles of federalism and the separation of powers on which our republican form of government is founded. Nonetheless, this court must adjudicate the case and controversy before it. If this court failed to act, some of the voters of Vigo County, Indiana would be in danger of losing the equality of voting promised to them by law.

FINDINGS OF FACT n1

n1 If any finding of fact is more appropriately a conclusion of law, or if any conclusion of law is more appropriately a finding of fact, or if there are mixed findings and conclusions, they should be considered as what they are, rather than what they are labeled.

[**2]

The County Council of Vigo County, Indiana consists of seven members, three of whom are elected at large and four of whom are elected from single-member districts. In 1974, the Vigo County Commissioners (the Commissioners) adopted an ordinance creating four County Council districts (the 1974 Plan). n2

n2 The ordinance is codified under Vigo County Code § 1-3-3.

The Plaintiffs are six registered voters residing in Vigo County and a political organization which has sponsored candidates for election to the Vigo County Council in the past, and which intends to sponsor such candidates in the 1994 election.

The Commissioners did not attempt to redistrict Vigo County n3 until after the Plaintiffs filed this lawsuit alleging that the 1974 Plan violated the Equal Protection Clause of the Fourteenth Amendment. Specifically, the Plaintiffs contended that the 1974 Plan [*1083] was unconstitutional because it contained an excessive population deviation.

n3 *Indiana Code § 36-2-3-4(e)* and Vigo County Code § 1-3-3 required the

Commissioners to redistrict the County Council districts in 1981. However, the Commissioners failed to do so. On August 15, 1983, the Commissioners recodified the County Council districts as set forth in the 1974 Plan. *Indiana Code § 36-2-3-4(e)* and Vigo County Code § 1-3-3 also required the Commissioners to redistrict in 1991. Again, however, the Commissioners declined to do so.

[**3]

Based upon the 1990 census, the population of Vigo County is 106,107. Therefore, the ideal population n4 for each of the four County Council districts is 26,527. When the Plaintiffs filed this action, the population of the four county council districts under the 1974 Plan and based upon 1990 census data was:

District 1	28,613
District 2	25,289
District 3	21,502
District 4	30,703

Based upon these population figures, the 1974 Plan represents approximately a 37% total deviation n5 from the 26,527 ideal-population figure. n6

n4 The term "ideal population" means the average population of the four districts if they are constituted as equally in population as possible. "Ideal Population" is not to be confused with the term "Ideal Plan" or "More Ideal Plan" that the Plaintiffs used in their briefs and at trial to describe their plan. For clarity, the Plaintiffs' plan will be referred to herein simply as the "Plaintiffs' Plan."

n5 "Total deviation" is determined by adding the deviation of the district with the largest population to the deviation of the district with the smallest population. "Average deviation" is determined by averaging the deviation of all the districts. *Farnum v. Burns*, 561 F. Supp. 83, 87 n.5 (D.R.I. 1983). [**4]

n6 The court notes that the population data used by the Commissioners differs from the Census figures. However, the differences did little or nothing to alter the rankings of the plans. Unfortunately, the Defendants failed to authenticate the source of the figures they used and failed to adequately explain the minor differences. On the other hand, the Plaintiffs' expert witness, Norman Primus, identified his data as originating from the Census Bureau of the United States. Accordingly, the court uses the Plaintiffs' data in this entry, and notes that the minor differences between the parties data are inconsequential.

In response to the Plaintiffs' lawsuit, the Commissioners admitted n7 that the 1974 Plan violated the Equal Protection Clause, and redistricted Vigo County on June 21, 1993 (the June 21 Plan). The June 21 Plan reflects the Commissioners' first effort to redistrict Vigo County since 1974. The June 21 Plan was codified under Vigo County Ordinance No. 93-1-3-3, and contained a total population deviation of 8.41%. The Commissioners achieved the results in this Plan by employing John Hanley, [**5] who had been involved

in drawing the boundaries for elections in Terre Haute and Vigo County since approximately 1940. The Commissioners directed Hanley simply to reduce the population deviation below 10%. That was the only criterion Hanley received.

counties be divided into four contiguous, single-member districts that (1) are compact, [**6] subject only to natural boundary lines; (2) do not cross precinct boundary lines; (3) contain, as nearly as possible, equal population; and (4) include whole townships, except when a division is necessary for redistricting.

n7 The Commissioners first admitted this in their May 18, 1993 motion to continue the preliminary injunction hearing. Throughout the litigation, the Commissioners did not contest the Plaintiffs' contention that the 1974 Plan violated the Equal Protection Clause.

Responding to the amended complaint, the Commissioners went back to Hanley and directed him to try to get the deviation lower. Hanley went back to his data and eventually got the deviation down to 3.8%. Subsequently, the Commissioners adopted a revised version of Ordinance No. 93-1-3-3 on August 23, 1993 (the August 23 Plan) based on Hanley's revisions, resulting in a total population deviation of 927, or 3.8%.

The Plaintiffs responded to the June 21 Plan by amending their complaint, alleging that the June 21 Plan violated the Equal Protection Clause because the Commissioners did not make a good faith effort to create districts with the smallest population deviation possible. The Plaintiffs' amended complaint also contained a state-law claim, alleging that the Commissioners violated *Indiana Code* § 36-2-3-4(a) and (d), which require that

The Plaintiffs have presented a redistricting plan for the Vigo County Council districts (the Plaintiffs' Plan), reflecting a total population deviation of 109, or .41%. The division of the districts is set out in Plaintiffs' trial Exhibit 11 as follows: [*1084]

DISTRICT 1

NEVINS TOWNSHIP
LOST CREEK TOWNSHIP
OTTER CREEK TOWNSHIP
HARRISON TOWNSHIP PRECINCTS
6-A 6-E
6-B 7-I
6-C 7-J
6-D

DISTRICT 2

FAYETTE TOWNSHIP
SUGAR CREEK TOWNSHIP
HARRISON TOWNSHIP PRECINCTS
1-A 1-H 5-C
1-C 2-C 5-D
1-D 2-E 5-H
1-F 5-A 5-I
1-G 5-B

[**7]

DISTRICT 3

HARRISON TOWNSHIP PRECINCTS
2-B 3-G 4-B 7-A 7-G

2-F 3-H 4-D 7-B 7-K
 3-B 3-I 4-F 7-C 8-A
 3-C 3-J 4-G 7-D 8-B
 3-E 3-K 5-G 7-E 8-C
 3-F 4-A 6-F 7-F 8-H

DISTRICT 4

RILEY TOWNSHIP
 PIERSON TOWNSHIP
 HONEY CREEK TOWNSHIP
 LINTON TOWNSHIP
 PRAIRIETON TOWNSHIP
 PRAIRIE CREEK TOWNSHIP
 HARRISON TOWNSHIP PRECINCTS

2-H 8-E
 2-I 8-F
 2-J 8-I
 8-D

The hearing on the request for a Preliminary Injunction was combined with the trial on the merits. The trial was held on August 27, 1993.

CONCLUSIONS OF LAW

I. JURISDICTION

A. Jurisdiction Over Federal Constitutional Claim

This court has jurisdiction over the Plaintiffs' federal constitutional claim under Article III, section 2 of the United States Constitution and under *42 U.S.C. § 1983*, *28 U.S.C. § 1331*, and *28 U.S.C. § 1343(3)-(4)*.

B. Supplemental Jurisdiction Over State-Law Claim

This court has supplemental jurisdiction over the Plaintiffs' state claim under *28 U.S.C. § 1367*. n8

n8 *28 U.S.C. § 1367* governs supplemental jurisdiction, and provides in pertinent part:

(a) Except as provided in sub-sections (b) and (c) or as expressly provided otherwise by the Federal statute, in any civil action where the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims

that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. . . .

(c) The district courts may decline to exercise supplemental jurisdiction over a claim under sub-section (a) if -

(1) The claim raises a novel or complex issue of State law,

* * *

(3) The district court has dismissed all claims over which it has original jurisdiction,

28 U.S.C.A. § 1367 (West 1976).

[**8]

The Plaintiffs' federal and state claims involve a common nucleus of operative facts. Indiana law requires that a lawful redistricting plan be in place by December 31, 1993 in preparation for the upcoming County

Council district elections which will take place in November 1994. *Ind. Code* § 36-2-3-4(f) (Burns Supp. 1993). Therefore, it is in the interests of judicial economy, convenience, and fairness for this court to exercise its discretionary supplemental jurisdiction over the Plaintiffs' state-law claim. See *United Mine Workers v. Gibbs*, 383 U.S. 715, 726, 16 L. Ed. 2d 218, 86 S. Ct. 1130 (1966). The Commissioners do not challenge the Plaintiffs' standing to bring this action.

II. CONSTITUTIONAL CLAIM

A. The Equal Protection Clause Requires Voting Districts to be as Close in Population as Possible.

[HN1] The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution requires "substantial equality of population among the various districts, so that a vote of any citizen is approximately equal in weight to that of any other citizen" *Reynolds v. Sims*, 377 U.S. 533, 579, 12 L. Ed. 2d 506, 84 S. Ct. 1362 (1964). To comport with the principles of [**9] equal protection, a state or local governmental entity must make "an honest and good-faith effort to construct its districts 'as nearly of equal population as is practicable,' but . . . absolute equality [is] a 'practical impossibility.'" [*1085] *Gaffney v. Cummings*, 412 U.S. 735, 743, 37 L. Ed. 2d 298, 93 S. Ct. 2321 (1973); see also, *Mahan v. Howell*, 410 U.S. 315, 324-25, 35 L. Ed. 2d 320, 93 S. Ct. 979 (1973). [HN2] Deviations from the equal-protection principle are permissible if such deviations are justified by legitimate state interests:

So long as the divergences from a strict population standard are based on legitimate considerations incident to the effectuation of a rational state policy, some deviations from the equal-protection principle are constitutionally permissible . . .

Reynolds, 377 U.S. at 579.

[HN3] In determining whether deviations are legitimate, courts essentially follow a four-step analysis. *Brown v. Thomson*, 462 U.S. 835, 852, 77 L. Ed. 2d 214, 103 S. Ct. 2690 (1983) (Brennan, J., dissenting, joined by White, Marshall, and Blackmun, JJ.). First, the plaintiff must show that the population deviation is greater than 10%. n9 Secondly, the court considers [**10] whether the defendant's justifications for the deviation further legitimate state interests, and are not arbitrary or discriminatory. Thirdly, the defendant must show that any deviation from equality is no greater than necessary

to serve the asserted state interests. Finally, the court considers whether the deviation is tolerable in light of the goal of substantial population equality. n10 *Id.*

n9 "We have come to establish a rough threshold of 10% maximum deviation from equality (adding together the deviations from average district size of the most underrepresented and most overrepresented districts); below that level, deviations will ordinarily be considered *de minimis*." *Brown*, 462 U.S. at 852.

n10 The Seventh Circuit has summarized this analysis as follows:

Initially, plaintiffs bear the burden of proving that the deviation from population equality is substantial. Once plaintiffs prove a prima facie case of discrimination, the burden shifts to defendants to show either that the deviation is unavoidable, or that the deviation is justified by an attempt to effectuate a rational state policy.

Sutton v. Dunne, 681 F.2d 484, 486-87 (7th Cir. 1982) (citations omitted), cert. denied, 460 U.S. 1081, 76 L. Ed. 2d 342, 103 S. Ct. 1768 (1983).

[**11]

B. Four-Step Analysis

1. Prima Facie Case of Discrimination Shown When Total Deviation Exceeds 10% ("Threshold Test").

When the Plaintiffs filed their lawsuit, the districting plan that was in effect (the 1974 Plan) had a population deviation of approximately 37%. The Commissioners reacted to the Plaintiffs' law suit by passing the June 21 Plan which lowered the maximum deviation to under 10%. After the Plaintiffs attacked the June 21 Plan, the Commissioners adopted the August 23 Plan which brought the deviation down to 3.8%. The Commissioners argue that the court should approve the August 23 Plan, at least for purposes of federal constitutionality under the Equal Protection Clause, because it is within the 10% *de minimis* threshold.

[HN4] If a state or local unit of government makes a *good faith* effort to comply with federal and state redistricting laws, any plan with a population deviation

of less than 10% is presumed to be constitutional. *Brown*, 462 U.S. at 842. Notably, the Commissioners did not redistrict until they were forced to do so by this lawsuit. Had the Commissioners' 1974 Plan been within the 10% de minimis threshold when [**12] the Plaintiffs' filed suit, the court would not have found, without more, a presumption of violation of the Equal Protection Clause. However, the threshold test does not apply when a case is already in court precisely because the reapportionment plan at issue was far beyond the de minimis threshold. See *Connor v. Finch*, 431 U.S. 407, 414-18, 52 L. Ed. 2d 465, 97 S. Ct. 1828 (1977). In other words, because the court is engaged in active scrutiny of the Commissioners' plan pursuant to an ongoing lawsuit, the Commissioners may not simply draw up a revised plan with less than a 10% deviation and expect to be exempted from explaining why a plan with a lower deviation was not adopted.

The August 23 plan does not reflect a good faith effort to redistrict according to the criteria mandated by federal constitutional and state statutory law because the Commissioners made no effort to draw the districts as [*1086] equal in population as possible. As evidenced by the trial testimony of John Hanley, n11 the impetus behind the June 21 Plan was simply to move precincts between districts until the population deviation was less than 10% and then stop, despite the fact that it was possible to achieve districts [**13] with a significantly lower population deviation. This is not a good faith effort to make the population as equal as possible. It is, at best, a minimal effort to avoid the consequences of this suit. The evidence does not support a conclusion that the Commissioners made a sincere effort to attain reasonably equal districts, even after their constitutional obligation to do so was put directly to them by this suit. Simply stated, governmental entities may not disregard population equality when constructing districts and then ease barely into compliance with the 10% de minimis threshold only if they are sued.

n11 It should be noted that this court intends no criticism of Mr. Hanley, a native of Vigo County since his birth in 1912. He is a bright and diligent man who carries in his head a wealth of historical knowledge regarding the political and geographic boundaries of that county. He performed his duties on this matter exactly as he was directed by the Commissioners. The court has no doubt that Mr. Hanley could have reached the same level of equality among the districts as the Plaintiffs' Plan if he had been assigned that mission. Most remarkably, Mr. Hanley performed his work with only the benefit of a pencil, a note

pad, and a few maps--no high-tech computers were necessary for him.

[**14]

Because the population deviation existing when the Plaintiffs filed suit exceeded 10%, because the Commissioners ignored the redistricting required by law in 1981, and because their initial efforts to mitigate the deviation appears to have been an effort to dodge this suit rather than to fulfill their constitutional obligation, the court concludes that the Plaintiffs made out a prima facie case of discrimination.

2. The Commissioners' Reasons for the Deviations Must Further Legitimate State Interests.

After a plaintiff shows that the deviation at issue is sufficiently large to make out a prima facie case of discrimination, the court considers the quality of the reasons advanced by the governmental entity to explain the deviation. [HN5] "Deviations from population equality must be justified by legitimate state interests." *Abate v. Mundt*, 403 U.S. 182, 185, 29 L. Ed. 2d 399, 91 S. Ct. 1904 (1971). Here, the legitimate state interests are codified. [HN6] The court must determine whether the August 23 Plan's deviation n12 from total population equality is justified by any of the following state interests: Keeping districts contiguous, keeping them compact, following natural boundaries, not [**15] crossing precinct lines, and including whole townships. Ind. Code. § 36-2-3-4 (Burns Supp. 1993).

n12 That is, the 3.8% deviation remaining after Mr. Hanley's second effort.

The Commissioners offered no explanation for the deviation. Consequently, the court has no basis upon which to approve the August 23 Plan containing a higher deviation than the Plaintiffs' Plan. Indeed, it is unlikely that such justification exists because the Plaintiffs' Plan is more contiguous, more compact, and more respectful of natural boundaries.

3. The Commissioners Must Show that the Deviation From Equality Is No Greater than Necessary to Serve Legitimate State Interests.

Even assuming that the Commissioners justified the deviation by legitimate state interests, they must further show that such deviation is not greater than is necessary to serve such state interests. However, they cannot make such a showing if the Plaintiffs' Plan contains a smaller deviation and serves those state interests substantially as well. [HN7] "If another plan [**16] could serve that policy substantially as well while providing smaller

deviations from equality, it can hardly be said that the deviations advance the policy." *Brown*, 462 U.S. at 852. The Plaintiffs' Plan contains less deviation than any of the Commissioners' proposed plans. Specifically, the Commissioners' August 23 Plan has a 3.8% deviation, while the Plaintiffs' Plan has a .41% deviation.

In sum, the August 23 Plan violates the Equal Protection Clause of the Fourteenth Amendment because the Commissioners did [*1087] not make a good faith effort to create districts as equal in population as possible, and the population deviation in the Commissioners' August 23 Plan is not justified by any legitimate state interest. Not only is the Plaintiffs' plan lower in population deviation than the August 23 Plan, it more closely conforms to the asserted state interests set forth in *Indiana Code* § 36-2-3-4. Accordingly, judgment will be entered for the Plaintiffs on Count I of their amended complaint.

III. INDIANA'S REDISTRICTING STATUTE

[HN8] Indiana law required the Commissioners to "divide the county into four (4) *contiguous*, single member districts that comply [**17] with subsection (d). . . ." *Ind. Code* § 36-2-3-4(a) (Burns Supp. 1993). Indiana law further required that single-member districts must:

- (1) Be *compact*, subject only to *natural boundary lines* (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) Not cross *precinct boundary lines*;
- (3) Contain, as nearly as possible, *equal population*; and
- (4) Include *whole townships*, except when a division is clearly necessary to accomplish redistricting under this section.

Ind. Code § 36-2-3-4(d) (Burns Supp. 1993) (emphasis added).

Thus, the factors to consider are: contiguity, compactness, natural boundaries, precinct boundaries, township boundaries, and equal population.

A. Contiguity: The Plaintiffs argue that the August 23 Plan violates Indiana law because it is not contiguous. Specifically, the Plaintiffs contend that contiguity is lacking because under the August 23 Plan, the Wabash River geographically separates the southern part of District 2 (Prairieton and Prairie Creek Townships) from the northern part (Fayette, Sugar Creek, and part of Harrison Townships). No tunnel, ferry, or bridge traverses the Wabash River [**18] connecting the southern part of District 2 with the northern part.

The Plaintiffs' argument, however, is without merit because [HN9] a district lacks contiguity only when a portion of the district is separated from the remainder of the district *by another district*. See *Mader v. Crowell*, 498 F. Supp. 226, 229 (M.D. Tenn. 1980) (the portion of a state senate district that was separated from another by a river, with no bridge over the river in the district, was contiguous with and adjoined the remaining portion of the district). n13 "The term 'contiguous territory' has been defined as 'territory touching, adjoining and connected, as distinguished from territory separated by other territory.'" *Schneider v. Rockefeller*, 38 A.D.2d 495, 499-500, 331 N.Y.S.2d 270 (N.Y. App. Div. 1972) (citation omitted) (state legislative reapportionment statute was valid despite division of certain districts by bodies of water). Here, District 2 is divided by the Wabash River; it is not divided by another district. The requirement of "contiguity" is not violated because water divides part of a district. *Id.* at 500. Although no physical [**19] structure, such as a bridge, provides for foot or motor passage between the northern and southern parts of District 2, the Plaintiffs do not claim that the pertinent portion of the Wabash River cannot be crossed by watercraft. As the court in *Mader* noted,

A person obviously could cross the river by boat without entering another district. Plaintiffs' reading, however, requires an inference that only terrestrial, distinguished from marine, forms of transportation are intended. The court does not believe that convenience or ease of travel is an essential element of contiguity.

498 F. Supp. at 228-29.

n13 The Indiana Legislature did not define the word "contiguous" as having any special meaning. Accordingly, this court assumes that it has an ordinary meaning, such as found in *Black's Law Dictionary*: "In close proximity; neighboring; adjoining; near in succession; in actual close contact; touching at a point or along a boundary; bounded or traversed by. The term is not synonymous with 'vicinal.'" *Black's Law Dictionary* 320 (6th ed. 1990). Further, interpretations of this simple word by courts of other jurisdictions in similar contexts is also helpful to understand what it means in this enactment.

[**20]

Although the court rejects the Plaintiffs' argument that the August 23 Plan lacks contiguity, [*1088] the contiguity issue is mooted by the court's acceptance of the Plaintiffs' Plan. The Plaintiffs' Plan is superior to the August 23 Plan in this regard because it follows the natural boundary of the Wabash River. The Plaintiffs' Plan draws the border between District 2 and District 4 along the River, resulting in no district being divided by the River. The court further concludes that the Plaintiffs' Plan is superior in terms of contiguity because trial testimony indicated that the Commissioners did not even consider the contiguity-of-districts requirement when they formulated the August 23 Plan. Such failure of the Commissioners to consider a key element of the statutory requirement indicates a failure to make a good faith effort to create lawful districts.

B. Compactness: The shorter the length of internal boundary lines between districts, the more compact the districts are. Thus, the measure of internal boundary lines is an accurate measure of compactness. The Plaintiffs' Plan has 40.88 miles of internal district boundaries. The August 23 Plan has 53.52 miles (12.64 miles longer [**21] than the Plaintiffs' Plan), making the August 23 Plan 31% larger in internal district boundaries. Thus, the Plaintiffs' Plan is superior to the August 23 Plan in terms of compactness. Additionally, the Plaintiffs' Plan is more visually compact, with districts more nearly square in shape and with straighter boundary lines. Further, the record does not reflect that the Commissioners made a good faith effort to make the districts as compact as possible. Indeed, Vigo County Commissioner James Adams testified that he could not recall any efforts by the Commissioners to make the districts compact.

Likewise, the Plaintiffs' Plan is superior with regard to following natural boundaries, particularly in following the Wabash River as a boundary between District 2 and District 4. In contrast, the August 23 plan does not follow the Wabash River boundary between Sugar Creek and Prairieon Townships.

C. Precinct Boundaries: The Plaintiffs' Plan and the August 23 Plan are equal with respect to precinct boundaries. Neither plan divides any precincts.

D. Township Boundaries: The Plaintiffs' Plan and the August 23 Plan are equal with respect to township boundaries. Both plans leave all [**22] township boundaries intact except for Harrison Township, which must be subdivided due to its large population.

E. Population Deviation: The August 23 Plan has a total population deviation of 3.8%, which is almost ten times greater than the Plaintiffs' Plan with a total deviation of only .41%. Thus, the Plaintiffs' Plan is

superior to the August 23 Plan in terms of population deviation.

In sum, the August Plan violates state-law requirements because the districts are not reasonably compact and are not as equal in population as possible. In contrast, the Plaintiffs' Plan is equal to or superior to the August 23 Plan and fully complies with the applicable requirements of federal and state law.

IV. CONCLUSION

The Commissioners' August 23 plan violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and *Indiana Code* § 36-2-3-4 for failing to construct districts with as equal population as possible and for failing to have reasonably compact districts. The districts in the Plaintiffs' Plan are closer in population and are more compact than those in the Commissioners' August 23 Plan. Other significant deficiencies exist in the August [**23] 23 Plan with regard to three key governmental interests specified in the Indiana statute: the requirements that the districts be contiguous, *Ind. Code* § 36-2-3-4(a), and follow natural boundaries. *Ind. Code* § 36-2-3-4(d)(1) (Burns Supp. 1993). In contrast, the districts in the Plaintiffs' Plan are not separated by the Wabash River, and the Plaintiffs' Plan follows the dominating natural boundary of the Wabash River in areas where following it is essential.

In view of the above conclusions, the motion to dismiss and motion for judgment on the evidence made by the Commissioners at trial are hereby DENIED.

Due to the apparent refusal or inability of the Commissioners to adopt, in good faith, a [*1089] lawful redistricting plan, and due to the necessity of having a lawful plan in place prior to December 31, 1993, the Court will order the adoption of the Plaintiffs' Plan as the redistricting plan for Vigo County Council districts for purposes of the 1994 council-member election. A judgment to that effect in favor of the Plaintiffs on both counts will be issued along with this entry. Further, as the "prevailing parties" on Count I, the Plaintiffs are entitled to an award of costs and attorney fees. [**24] 28 U.S.C.A. § 1988 (West 1982).

ALL OF WHICH IS ENTERED this 15th day of October, 1993.

John Daniel Tinder, Judge

United States District Court

JUDGMENT

For the reasons set forth in the entry in this cause issued this same date, Judgment is entered in favor of the Plaintiffs and against the Defendants on both counts of the complaint. Further, the Commissioners of Vigo

County Indiana are ORDERED to adopt the Plaintiffs' Plan as the district map for the Vigo County Council districts for the November 1994 election. Specifically, the Commissioners' districts shall be divided as follows:

DISTRICT 1

NEVINS TOWNSHIP
 LOST CREEK TOWNSHIP
 OTTER CREEK TOWNSHIP
 HARRISON TOWNSHIP PRECINCTS

6-A	6-E
6-B	7-I
6-C	7-J
6-D	

DISTRICT 2

FAYETTE TOWNSHIP
 SUGAR CREEK TOWNSHIP
 HARRISON TOWNSHIP PRECINCTS

1-A	1-H	5-C
1-C	2-C	5-D
1-D	2-E	5-H
1-F	5-A	5-I
1-G	5-B	

DISTRICT 3

HARRISON TOWNSHIP PRECINCTS

2-B	3-G	4-B	7-A	7-G
2-F	3-H	4-D	7-B	7-K
3-B	3-I	4-F	7-C	8-A
3-C	3-J	4-G	7-D	8-B
3-E	3-K	5-G	7-E	8-C
3-F	4-A	6-F	7-F	8-H

DISTRICT 4

RILEY TOWNSHIP
 PIERSON TOWNSHIP
 HONEY CREEK TOWNSHIP
 LINTON TOWNSHIP
 PRAIRIETON TOWNSHIP
 PRAIRIE CREEK TOWNSHIP
 HARRISON TOWNSHIP PRECINCTS

2-H	8-E
-----	-----

RILEY TOWNSHIP
PIERSON TOWNSHIP
HONEY CREEK TOWNSHIP
LINTON TOWNSHIP
PRAIRIETON TOWNSHIP
PRAIRIE CREEK TOWNSHIP
HARRISON TOWNSHIP PRECINCTS
 2-I 8-F
 2-J 8-I
 8-D

[**25]

Finally, the Plaintiffs' costs and attorney fees shall be assessed against the Defendants, and the Plaintiffs have thirty days from the date of this Judgment to file their bill of costs and petition for attorney fees. The Defendants will have fifteen days to respond, and the Plaintiffs will have seven days to reply.

This Judgment is final immediately, and the determination of the amount of the fees and costs which

still remains to be done shall not delay the finality of the matters determined herein.

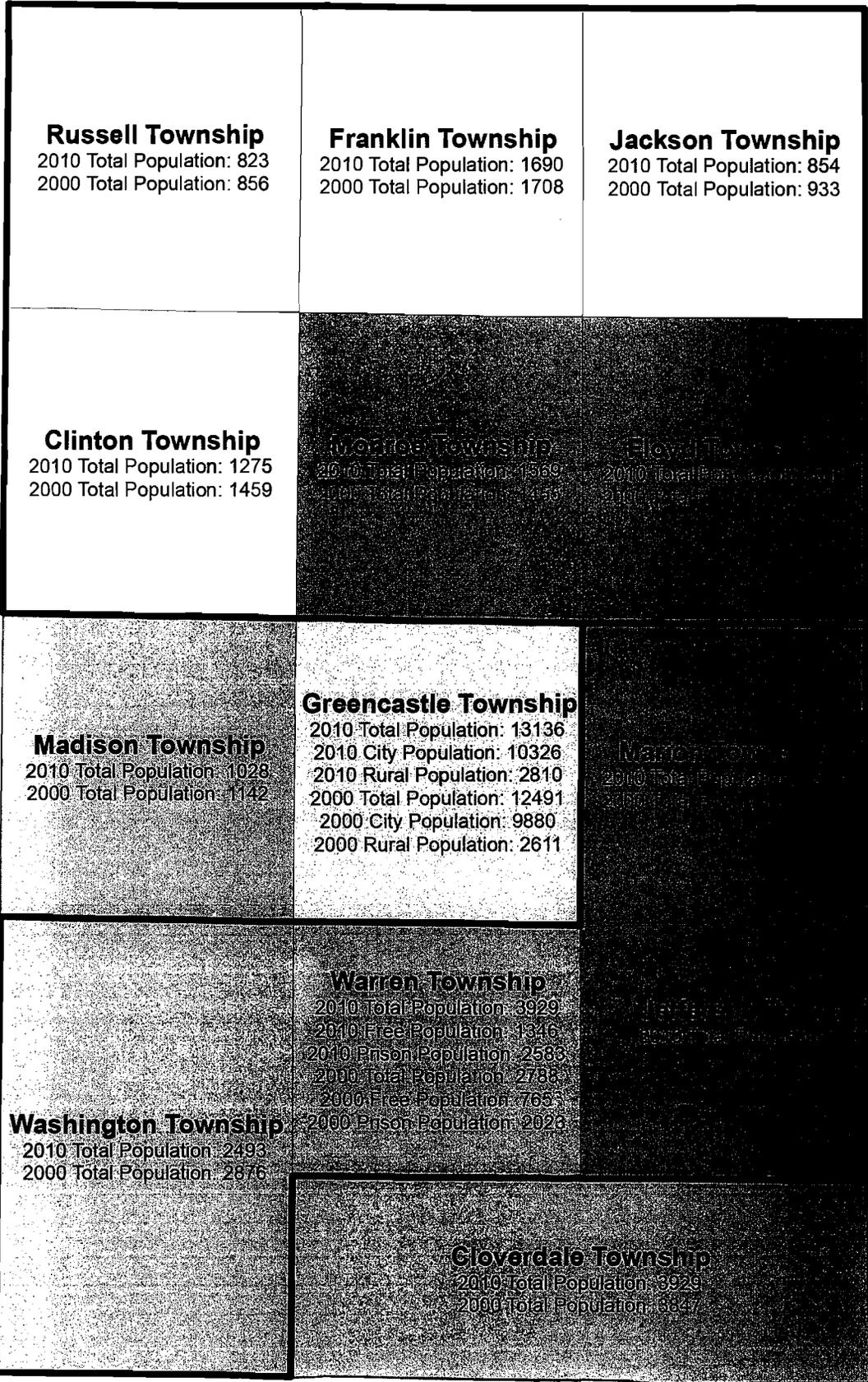
ALL OF WHICH IS ORDERED this 15th day of October, 1993.

John Daniel Tinder, Judge

United States District Court

Putnam County Council Districts

(with North & South Putnam School Districts)



- North/South Putnam Schools
- Township Boundary
- County Council District 1
- County Council District 2
- County Council District 3
- County Council District 4

District Populations		
	2010	2000
District 2:	8,806	7,919
District 3:	11,379	10,653
District 4:	15,133	12,801



North American Datum 1983
Universal Transverse Mercator Zone 16N

Data Sources:
Indiana Map - inmap.indiana.edu
U.S. Census Bureau - factfinder2.census.gov/main.html

Map generated with assistance from the DePauw GIS Center (Spring 2011) and created as part of a student project for HONR 300B. DePauw University is not responsible for inadvertant inaccuracies in the data.

INDIANA COUNTY COUNCILS AND REDISTRICTING IN 2001: COUNTIES OF INTEREST

COUNTY	TOWNSHIP	2000 POPULATION	D1	D2	D3	D4	AVERAGE DISTRICT POP.	DEVIATION *	NOTES
Clay		26556					6,639	Minimum 24%	
	Brazil	8516	x	x					D1 is mostly the city of Brazil; it shares Brazil Township with D2 (which also has Dick Johnson and Van Buren Townships). The average of D1 and D2 is 6,499. The Clay County clerk's office said they are planning to redistrict this year Note: D4 is non-contiguous (except perhaps by a small thread of land) and not compact
	Cass	335				335			
	Dick Johnson	1338		x					
	Harrison	2366				2366			
	Jackson	2602			2602				
	Lewis	1510				1510			
	Perry	960				960			
	Posey	3984			3984				
	Sugar Ridge	999			999				
	Van Buren	3144		x					
Washington	802				802				
					7,585	5,973			
Crawford		10743					2,685.75	74.9%	
	Boone	174				174		Crawford County follows township lines completely.	
	Jennings	1386	1386						
	Johnson	556			556				
	Liberty	2045		2045					
	Ohio	689				689			
	Patoka	1402			1402				
	Sterling	1668		1668					
	Union	838				838			
	Whiskey Run	1985	1985						
			3371	3713	1958	1701			
Daviess		29820					7,455	Minimum 11.7%	
	Barr	4193		x				D2, D3 and D4 split Washington Township. Their average is 7,237. The deviation is probably much higher than 11.7% Note: D4 appears to be non-contiguous and is, at least, non-compact.	
	Bogard	1189	1189						
	Elmore	1235	1235						
	Harrison	673			x				
	Madison	2793	2793						
	Reeve	696			x				
	Steele	930	930						
	Van Buren	1960	1960						
	Veale	1041				x			
Washington	15110		x	x	x				
			8107						

* Largest District minus smallest District divided by the average of all districts

INDIANA COUNTY COUNCILS AND REDISTRICTING IN 2001: COUNTIES OF INTEREST

Decatur		24555				6,138.75	Minimum 14.2%	
	Adams	1910				1910		Washington Township is divided into D1 (most of the city of Greensburg) and D2. The average of D1 and 2 is 6,103. The Decatur clerk's office said they redistricted in 2002 and that they are planning to redistrict this year. Note: D1 appears to be non-contiguous.
	Clay	1266				1266		
	Clinton	473				473		
	Fugit	1788				1788		
	Jackson	1040		1040				
	Marion	1637			1637			
	Salt Creek	1174				1174		
	Sand Creek	3061			3061			
	Washington	12206	x	x				
					5738	6611		
Dubois		39674				9,918.5	Estimated 32%	
	Bainbridge	14950	2850	12100				Dubois County uses township lines except for the City of Jasper, which is its own district (D2). The 2,850 people who live in the part of Bainbridge that is not within Jasper City (Bainbridge precincts 1 and 7) are in D1. If that division is correct, then the deviation is at least 32%.
	Boone	795	795					
	Cass	2185				2185		
	Columbia	885			885			
	Ferdinand	3622			3622			
	Hall	1109			1109			
	Harbison	1601	1601					
	Jackson	2070			2070			
	Jefferson	1638			1638			
	Madison	2112	2112					
	Marion	1529	1529					
	Patoka	7178				7178		
			8887	12100	9324	9363		
Fountain		17954				4,488.5	6.3%	
	Cain	1090	1090					Fountain County uses township lines entirely, and has a deviation below 10%
	Davis	635				635		
	Fulton	674			674			
	Jackson	718	718					
	Logan	3968				3968		
	Millcreek	1610	1610					
	Richland	908	908					
	Shawnee	616		616				
	Troy	3801		3801				
	Van Buren	3121			3121			
	Wabash	813			813			
			4326	4417	4608	4603		

INDIANA COUNTY COUNCILS AND REDISTRICTING IN 2001: COUNTIES OF INTEREST

County	Township	2001	2011	2001	2011	2001	2011	Deviation	Notes
Franklin		22151				5,537.75		9.7%	Franklin County used township lines completely in 2001 and was in compliance, though just barely. If Franklin County uses the same township lines to redistrict in 2011, however, the deviation will be an unacceptable 17% due to population shifts over the past decade.
	Bath	400		400					
	Blooming	1141	1141						
	Brookville	5800				5800			
	Butler	1175			1175				
	Fairfield	473	473						
	Highland	1335		1335					
	Laurel	1650	1650						
	Metamora	976	976						
	Posey	1030	1030						
	Ray	3690			3690				
	Salt Creek	943			943				
	Springfield	1178		1178					
Whitewater	2360		2360						
			5270	5273	5808	5800			
Hancock		55391				13,847.75		Minimum 11.1%	D2 and D3 share Center Township (D2 also has Buck and D3 has Blue River). The average of D2 and D3 is 14,041. If either D2 or D3 is larger than D4 (14,420), then the deviation will be greater than 11.1%.
	Blue River	1328			x				
	Brandywine	2255				2255			
	Brown	2579	2579						
	Buck Creek	6659		x					
	Center	20096		x	x				
	Green	1622	1622						
	Jackson	1793	1793						
	Sugar Creek	12165				12165			
	Vernon	6894	6894						
			12888			14420			
Harrison		34325				8,581.25		33.4%	Harrison County follows township lines exclusively.
	Blue River	1923	1923						
	Boone	1217				1217			
	Franklin	3642		3642					
	Harrison	10303			10303				
	Heth	1199				1199			
	Jackson	5213		5213					
	Morgan	3819	3819						
	Posey	2725				2725			
	Spencer	1694	1694						
	Taylor	718				718			
	Washington	256				256			
	Webster	1616				1616			
			7436	8855	10303	7731			

INDIANA COUNTY COUNCILS AND REDISTRICTING IN 2001: COUNTIES OF INTEREST

Hendricks		104093			26,023.25	20.2%	
	Brown	8142		8142			Hendricks County uses township lines exclusively.
	Center	9744			9744		
	Clay	2211			2211		
	Eel River	1713			1713		
	Franklin	1198			1198		
	Guilford	22895		22895			
	Liberty	5072		5072			
	Lincoln	18967	18967				
	Marion	1398			1398		
	Middle	4657			4657		
	Union	1777			1777		
	Washington	26319	26319				
			26319	27109	27967	22698	
Jay		21806			5,451.5	Estimated 31.2%	
	Bearcreek	1368		1368			Jay County follows township lines except for the City of Portland (D3), which is in Wayne Township. The rest of Wayne Township is part of D4. If that division is correct, then the deviation is 31%. (Even so, the minimum possible deviation is 14.7%.)
	Greene	1038		1038			
	Jackson	866		866			
	Jefferson	802			802		
	Knox	510		510			
	Madison	608			608		
	Noble	690			690		
	Penn	1308		1308			
	Pike	910			910		
	Richland	4916	4916				
	Wabash	628		628			
	Wayne	8162			6437	1725	
			4916	5718	6437	4735	
Lagrange		34909			8,727.25	41.0%	
	Bloomfield	5512	5512				Lagrange County follows township lines exclusively.
	Clay	2888			2888		
	Clearspring	4005			4005		
	Eden	3459			3459		
	Greenfield	1258	1258				
	Johnson	3304			3304		
	Lima	2387		2387			
	Milford	2955			2955		
	Newbury	4411		4411			
	Springfield	1284			1284		
	Van Buren	3446		3446			
			6770	10244	10352	7543	

INDIANA COUNTY COUNCILS AND REDISTRICTING IN 2001: COUNTIES OF INTEREST

Lawrence		45922				11,480.5	Minimum 21%	
	Bono	803	803					Shawswick Township is divided into D3 and D4. The average for those two districts is 10,299. Thus, the minimum deviation is 21%
	Guthrie	1583		1583				
	Indian Creek	2662		2662				
	Marion	9491	9491					
	Marshall	4551		4551				
	Perry	1893		1893				
	Pleasant Run	1922		1922				
	Shawswick	20598			x	x		
	Spice Valley	2419	2419					
			12713	12611				
Miami		36082				9,020.5	Minimum 31%	
	Allen	746			746			District 4 follows township lines with a population of 6920. The average of Districts 1, 2, and 3 is 9720. Therefore, the deviation is at least 31%.
	Butler	838	x					
	Clay	933	x					
	Deer Creek	1729	x					
	Erie	497			497			
	Harrison	816	x					
	Jackson	1928	x					
	Jefferson	2730			2730			
	Perry	906			906			
	Peru	12666	x	x				
	Pipe Creek	6677	x					
	Richland	1149			1149			
	Union	892			892			
	Washington	3575	x					
						6920		
Morgan		66689				16,672.25	Minimum 19%	
	Adams	1231			1231			D4 follows township lines. The average for D1, D2 and D3 is 17,465. Thus the minimum deviation is 19%.
	Ashland	1482			1482			
	Baker	747			747			
	Brown	13491						
	Clay	4178						
	Greene	2967						
	Gregg	2878			2878			
	Harrison	1601						
	Jackson	3089						
	Jefferson	3281			3281			
	Madison	7391						
	Monroe	4674			4674			
	Ray	1701						
	Washington	17978						
			0	0	0	14293		

INDIANA COUNTY COUNCILS AND REDISTRICTING IN 2001: COUNTIES OF INTEREST

County		Total Population	Number of Districts	Average District Size	Deviation from Average	Notes
Newton		14566		3,641.5	26.4%	
Beaver		1667	1667			Newton County follows township lines exclusively.
Colfax		176		176		
Grant	1293	1293				
Iroquois		1428	1428			
Jackson		439		439		
Jefferson	2248	2248				
Lake		2465		2465		
Lincoln		4268		4268		
McClellan		228		228		
Washington		354	354			
		3541	3449	3308	4268	
Ohio		5623		1,405.75	Minimum 9.5%	
Cass		649		649		Randolph Township is divided into D1, D2, and D3, with an average size of 1,372. Assuming that there is some variation in size among these three districts, the deviation is almost surely greater than 10%.
Pike		362		362		
Randolph	4117	x	x	x		
Union		495		495		
				1506		
Owen		21786		5,446.5	38.7%	
Clay		2553		2553		Owen County is divided along township lines.
Franklin		1155		1155		
Harrison	473	473				
Jackson		1981		1981		
Jefferson		1078		1078		
Jennings		839		839		
Lafayette		1287		1287		
Marion		1004		1004		
Montgomery	1225	1225				
Morgan		1200		1200		
Taylor	993	993				
Washington	6399	6399				
Wayne	1599	1599				
		4290	6399	5307	5790	

INDIANA COUNTY COUNCILS AND REDISTRICTING IN 2001: COUNTIES OF INTEREST

Perry		18899				4,724.75	Minimum 57.7%	
	Anderson	1536				1536		D1, D2 and D3 are wholly contained within Troy Township. D1 and D2 divide Tell City (pop: 7845); D3 is the rest of that township. Thus the estimated (average) population for D1 and D2 is 3,923, and the estimated population of D3 is 4,284. Using those figures, the estimated minimum deviation is 60%. Even assuming that D1-3 were equally divided (average=4,043), the minimum deviation would be 57.7%
	Clark	1250				1250		
	Leopold	720				720		
	Oil	2032				2032		
	Tobin	709				709		
	Troy	12129	x	x	x			
	Union	523				523		
						6770		
Pulaski		13755				3,438.75	Minimum 9.3%	
	Beaver	479		x				Monroe is the only split township and is divided between D1 and D2. The average for D1 and D2 is 3456. Assuming both districts are that size, the deviation is 9.3%. If either of those districts is greater than 3625, however, then the deviation is greater than 10%.
	Cass	1013				1013		
	Franklin	698				698		
	Harrison	657	x					
	Indian Creek	756		x				
	Jefferson	546				546		
	Monroe	4015	x	x				
	Rich Grove	887				887		
	Salem	1500				1500		
	Tippecanoe	1130				1130		
	Van Buren	1005	x					
	White Post	1069				1069		
						3261	3582	
Putnam		36019				9,004.75	93.2%	
	Clinton	1459	1459					Putnam County, which had not redistricted in at least 40 years, is divided along township lines. However, the commissioners are redistricting this year.
	Cloverdale	3847				3847		
	Floyd	3173			3173			
	Franklin	1708	1708					
	Greencastle	12491					12491	
	Jackson	933	933					
	Jefferson	1311			1311			
	Madison	1142				1142		
	Marion	1980			1980			
	Monroe	1455			1455			
	Russell	856						
	Warren	2788				2788		
	Washington	2876				2876		
			4100	7919	10653	12491		

INDIANA COUNTY COUNCILS AND REDISTRICTING IN 2001: COUNTIES OF INTEREST

Randolph		27401				6,850.25	27.6%	
	Franklin	1375		1375				Randolph County follows township lines exclusively.
	Green	1098		1098				
	Greensfork	1201			1201			
	Jackson	678	678					
	Monroe	3819		3819				
	Stoney Creek	1082		1082				
	Union	2278			2278			
	Ward	1218	1218					
	Washington	2288			2288			
	Wayne	4703	4703					
	White River	7661				7661		
			6599	7374	5767	7661		
Spencer		20391				5,097.75	17.3%	
	Carter	3121			3121			Spencer follows township lines exclusively.
	Clay	2494			2494			
	Grass	1390	1390					
	Hammond	1607				1607		
	Harrison	2036				2036		
	Huff	1089				1089		
	Jackson	868	868					
	Luce	2694	2694					
	Ohio	5092		5092				
			4952	5092	5615	4732		
Starke		23556				5,889	27.1%	
	California	2116			2116			Starke County follows township lines exclusively.
	Center	6271		6271				
	Davis	1142	1142					
	Jackson	526	526					
	North Bend	1294			1294			
	Oregon	3074	3074					
	Railroad	1353				1353		
	Washington	2793			2793			
	Wayne	4987				4987		
			4742	6271	6203	6340		
Steuben		33214				8,303.5	Minimum 10.6%	
	Clear Lake	687	687					[See note next page]
	Fremont	2467	2467					
	Jackson	1783			x			
	Jamestown	3389	3389					

INDIANA COUNTY COUNCILS AND REDISTRICTING IN 2001: COUNTIES OF INTEREST

Warren		8419				2,104.75	24.8%	
	Adams	561				561		Warren County follows township lines exclusively.
	Jordan	254	254					
	Kent	421	421					
	Liberty	850		850				
	Medina	452				452		
	Mound	438	438					
	Pike	1185		1185				
	Pine	436				436		
	Prairie	290	290					
	Steuben	427	427					
	Warren	754				754		
	Washington	2351			2351			
			1830	2035	2351	2203		
Wells		27600				6900	Minimum 25%	
	Chester	1002 x						Wells County follows township lines for D2 and D3. Harrison Twnshp, which contains Bluffton City, is divided between D1 and D4. The average for D1 and D4 is 6,266. Therefore, the minimum deviation is 25%.
	Harrison	8616 x				x		
	Jackson	871 x						
	Jefferson	5676			5876			
	Lancaster	5411		5411				
	Liberty	1177 x						
	Nottingham	1065 x						
	Rock Creek	1670		1670				
	Union	2112			2112			
				7081	7988			
White		25267				6,316.75	Minimum 25%	
	Big Creek	856 x						D2 consists of three whole townships. The average for D1, D3, and D4 is 6,698. If D1, D3, and D4 were divided exactly equally, then the deviation would be 25%, but is probably substantially higher.
	Cass	590				x		
	Honey Creek	1235 x						
	Jackson	681				x		
	Liberty	2225				x		
	Lincoln	635				x		
	Monon	3272		3272				
	Prairie	3191 x						
	Princeton	1529		1529				
	Round Grove	246 x						
	Union	10436 x			x	x		
	West Point	371			371			
				5172				

Testimony before Redistricting Study Committee
by League of Women Voters of Indiana
on Friday 7 October 2011
Statehouse, Rm. 431, Indianapolis, IN

Good morning.

I am Karen Kay Leonard, President of League of Women Voters of Indiana. As a 91-year-old organization which encourages informed and active citizen participation in government, the League has long been interested in redistricting.

Thank you for the opportunity to speak about our views. League of Women Voters of Indiana believes the redistricting process must be open and transparent, and we regard the following features as important:

- **Compactness** – Nest ^{the} of House districts within Senate districts, to keep communities of interest together whenever possible, and to observe the requirements of the Voting Rights Act.
- **Boundaries** -- Respect natural and political lines, such as counties, cities and towns, and townships.
- **Competition** – To the greatest extent feasible, draw districts which will produce candidates from more than one party. Not every community will do so, of course, for people tend to live among others who are like-minded. But the goal should be as many competitive districts as possible.
- **Incumbents** – Avoid protecting the territory of an incumbent, for voters should choose their legislators, not legislators their voters.

The Indiana Citizens Redistricting Commission, which held public meetings around the state, was formed to demonstrate that diverse citizens can work together using a process that is non- partisan, inclusive, and fair.

We know that the Indiana House and Senate maps could be finalized as late the start of 2012. League of Women Voters supports eliminating the multiple conflicts of interest that skew the current process by establishing an independent, non- partisan commission to create the district boundaries.

Thank you.