

STATE OF MINNESOTA
SPECIAL REDISTRICTING PANEL

MX 91-001562

Patricia Cotlow, Phillip Krass
Sharon LaComb, James Stein, and
Theodore Suss, individually and
on behalf of all Citizens of
Minnesota similarly situated,

Plaintiffs,

and

John Walker, Howard Miller,
Don Sudor, and Nkajlo Vangh,

Applicants for Intervention,

vs.

Joan Grove, Secretary of State
of Minnesota; and Dale G. Folstad,
Hennepin County Auditor,
individually and on behalf of
all Minnesota county chief
election officers,

Defendants,

and

The Seventy-seventh Minnesota
State House of Representatives
and the Seventy-seventh Minnesota
State Senate,

Defendant-Intervenors.

PRETRIAL ORDER NO. 2

Establishing Preliminary
Criteria For Legislative
Congressional
Redistricting, Directing
Oral Argument on Reserved
Issues, and Setting
Comprehensive Timetable

In Pretrial Order Number One, the parties were required to submit proposals for criteria to be used in formulating an appropriate congressional and legislative redistricting plan for the State of Minnesota. After issuance of that order the Ramsey

County District Court, in Seventy-seventh Minn. State Senate v. Carlson, No. C3-91-7547 (Minn. Dist. Ct., 2d Judicial Dist., Aug. 2, 1991) determined that Chapter 246, S.F. No. 1571, passed by the legislature May 18, 1991, changing the boundaries of Minnesota legislative districts, was not effectively vetoed and became a validly enacted law of the State of Minnesota. In light of this decision, and the governor's subsequent announcement that the order would not be appealed, the panel has revised the proposed time schedule to provide an opportunity for motions or amendments relating to the validity of the current legislative redistricting and for oral argument on reserved criteria issues.

The preliminary criteria, based on the submission of the parties in conformance with Pretrial Order No. One shall be as follows:

Congressional

1. There will be eight districts, each entitled to elect a single member.
2. The districts will be as nearly equal in population as practicable. Because a court-ordered reapportionment plan must conform to a higher standard of population equality than a legislative reapportionment plan, de minimis deviation from the population norm will be the goal for establishing districts. See Chapman v. Meier, 420 U.S. 1, 95 S. Ct. 751 (1975); Connor v. Finch, 431 U.S. 407, 97 S. Ct. 1828 (1977).
3. The districts will be composed of convenient contiguous territory structured into compact units. Contiguity by water is

sufficient if the water is not a serious obstacle to travel within the district.

4. The districts will be numbered in a regular series, beginning with congressional district one in the southeast corner of the state and ending with district eight in the northeast corner of the state.

5. The districts must not dilute the voting strength of racial or language minority populations. Where a concentration of a racial or language minority makes it possible, the districts must increase the probability that members of the minority will be elected. Any plan adopted by the court shall comply with the applicable provisions of the Federal Voting Rights Act, 42 U.S.C. § 1971, et seq.

6. The districts will be drawn with attention to county, city and township boundaries. A county, city, or township will not be divided into more than one district except as necessary to meet equal population requirements or to form districts that are composed of convenient, contiguous and compact territory. When any county, city or township must be divided into one or more districts, it will be divided into as few districts as practicable. Reynolds v. Sims, 377 U.S. 533, 578-79, 84 S. Ct. 1362, 1390-91 (1964); Swann v. Adams, 385 U.S. 440, 444, 87 S. Ct. 569, 572 (1967).

7. The districts should attempt to preserve communities of interest when that can be done in compliance with the preceding standards. The panel may recognize a community's character as

urban, suburban or rural. See Skolnick v. State Electoral Bd. of Ill., 336 F. Supp. 839 (N.D. Ill. 1971); LaComb v. Growe, 541 F. Supp. 145 (D. Minn. 1982); LaComb v. Growe, 541 F. Supp. 160 (D. Minn. 1982); Maryland Citizens Comm. for Fair Congressional Redistricting, Inc. v. Tawes, 253 F. Supp. 731 (D. Md. 1966), aff'd sub. nom. Alton v. Tawes, 384 U.S. 315, 86 S. Ct. 1590 (1966). Additional communities of interest shall be considered if persuasively established and not in violation of applicable case law.

Legislative

1. The Senate must be composed of 67 members. The House of Representatives must be composed of 134 members.

2. Each district is entitled to elect a single member.

3. A representative district may not be divided in the formation of a senate district.

4. The districts must be substantially equal in population. The population of a district must not deviate from the ideal by more than two percent. Because a court-ordered reapportionment plan must conform to a higher standard of population equality than a legislative reapportionment plan, de minimis deviation from the population norm will be the goal for establishing districts. See Chapman, 420 U.S. 1, 95 S. Ct. 751; Connor, 431 U.S. 407, 97 S. Ct. 1828.

5. The districts must be composed of convenient contiguous territory structured into compact units. Contiguity by water is sufficient if the water is not a serious obstacle to travel within

the district.

6. The districts must be numbered in a regular series, beginning with House district 1a in the northwest corner of the state and proceeding across the state from west to east, north to south, but bypassing the seven-county metropolitan area until the southeast corner has been reached; then to the seven-county metropolitan area outside the cities of Minneapolis and St. Paul; then in Minneapolis and St. Paul.

7. The districts must not dilute the voting strength of racial or language minority populations. Where a concentration of a racial or language minority makes it possible, the districts must increase the probability that members of the minority will be elected. Any plan adopted by the court shall comply with the applicable provisions of the Federal Voting Rights Act, 42 U.S.C. § 1971, et seq.

8. The districts will be drawn with attention to county, city and township boundaries. A county, city, or township will not be divided into more than one district except as necessary to meet equal population requirements or to form districts that are composed of convenient, contiguous and compact territory. When any county, city or township must be divided into one or more districts, it will be divided into as few districts as practicable. Reynolds v. Sims, 377 U.S. 533, 578-79, 84 S. Ct. 1362, 1390-91 (1964); Swann v. Adams, 385 U.S. 440, 444, 87 S. Ct. 569, 572 (1967).

9. The districts should attempt to preserve communities of

interest when that can be done in compliance with the preceding standards. The panel may recognize a community's character as urban, suburban or rural. See Skolnick v. State Electoral Bd. of Ill., 336 F. Supp. 839 (N.D. Ill. 1971); LaComb v. Grove, 541 F. Supp. 145 (D. Minn. 1982); LaComb v. Grove, 541 F. Supp. 160 (D. Minn. 1982); Maryland Citizens Comm. for Fair Congressional Redistricting, Inc. v. Tawes, 253 F. Supp. 731 (D. Md. 1966), aff'd sub. nom. Alton v. Tawes, 384 U.S. 315, 86 S. Ct. 1590 (1966). Additional communities of interest shall be considered if persuasively established and not in violation of applicable case law.

Reserved Issues

1. Whether a provision prohibiting use of election data or voting patterns should be added to the standards.
2. Whether a provision allowing preservation of "prior cores" should be added to the standards.
3. Whether a provision forbidding use of information on incumbents should be added to the standards.
4. Additional considerations in recognizing or rejecting communities of interest.

Timetable

Aug. 20, 1991
1:30

Tour of computer systems being used by the legislature for developing redistricting plans.

Aug. 27, 1991 Submission of any written materials relating to reserved issues in Preliminary Criteria Order.

Aug. 29, 1991
1:30 Oral argument on reserved issues in Preliminary Criteria Order, status briefing or argument on any motions or amendments as a result of decision in Seventy-seventh Minn. State Senate v. Carlson, No. C3-91-7547 (Minn. Dist. Ct., 2d Judicial Dist., Aug. 2, 1991). Stipulation of parties on population figures and base maps to be used in redistricting plan. Absent stipulation, oral argument.

Sept. 13, 1991 Issuance of Final Criteria Order and specification of form for submitting data.

Oct. 7, 1991 Submission of proposed redistricting plans together with written justification and graphs or maps required by Final Criteria Order.

Oct. 18, 1991 Submission of parties' written reaction to each other's plans.

Nov. 20, 1991 Distribution of panel's Redistricting Plan.

• Nov. 30, 1991 Submission of parties' written responses to plan.

• Dec. 7, 1991 Oral argument on plan.

Dec. 20, 1991 Issuance of final decision.

Dated: August 16, 1991

BY THE COURT:

Honorable Harriet Lansing
Honorable Kenneth J. Maas, Jr.
Honorable William E. Walker

Memorandum

The panel has considered and in large part adopted the standards unanimously passed by the Minnesota House and Senate. Because the Minnesota Constitution places primary responsibility for redistricting with the legislature, these standards have been accepted as preferred redistricting policy to the extent the standards apply to the panel's task and are not inconsistent with state or federal constitutional principles, state law or other recognized state policy. Several standards have been augmented or restated to incorporate applicable case law or appropriate suggestions by the parties. Standards reserved for oral argument have been submitted by separate parties, but not all parties have had an opportunity to respond. Because the timetable has been amended to permit response to the Ramsey County District Court's declaration that Chapter 246 is a validly enacted law of the State of Minnesota, the timetable can also permit oral argument on issues relating to the use of election data, prior cores, incumbency information and communities of interest.