



January 23, 2018

**ANALYSIS OF JANUARY 22, 2018 “JOINT JUDICIAL COMMITTEE - OPTION A”
MAPS**

The Southern Coalition for Social Justice’s analysis of the most recent judicial redistricting proposal continues to demonstrate that legislative leaders have no intention of drawing fair or legal districts for the election of the state’s judicial officers, encroaching on the rights of North Carolinians to enjoy the benefits of an independent judiciary.

This brief analysis follows SCSJ’s January 10th analysis of the maps introduced in the General Assembly on December 13, 2017, and it employs the same methodologies using the same publicly-available data. The present analysis focuses on: (1) comparing the new maps to previous maps that have been introduced; (2) identifying the deviations from the ideal population per judge, which is one way to measure, in both single- and multi-member districts statewide, whether all votes carry approximately the same weight; (3) reviewing the aspects of partisan gerrymandering; and (4) reviewing aspects of racial gerrymandering.

Introduction

On January 22, 2018, state Representative Justin Burr, one of the Co-Chairs of the Joint Select Committee on Judicial Reform and Redistricting and proponent of HB 717, introduced a new draft version of a judicial redistricting map labeled “Joint Judicial Committee—Option A.” There is apparently no publicly available Option B or Option C, so the nomenclature for this presentation is curious. This analysis will focus on the district lines for electing superior and district court judges in this most recent map (1/22 map).

As discussed in SCSJ’s earlier analysis, because the judicial redistricting plans contain both single- and multi-member districts, there is no single ideal population figure for every district, because the number of judges per district varies. One can determine the ideal number of residents per judge by taking the statewide population and dividing it by the number of judges. Districts where the number of “residents per judge” greatly exceeds this ideal “residents per judge” ratio may be deprived of critical judicial resources, and voters in those districts may cast votes that are less effective in choosing candidates for judge than in districts where the “residents per judge” number is lower. Again, this is just one reasonable approach for looking statewide to assess whether North Carolinians are treated equitably when it comes to voting strength.

Comparison of 1/22 Map to Prior Maps

The newly released plans seem to be a combination of version 5 of H717 (H717 v. 5) and the December 13 (12/13) maps. Like the 12/13 map, the 1/22 map has aligned district and superior court districts, which the H717 v. 5 plan did not. The 1/22 map uses the 12/13

configurations in Wake and Cumberland Counties, while incorporating the H717 v. 5 configurations in Mecklenburg, Buncombe, Guilford, and Durham Counties. Forsyth County is divided into roughly the same shape as in the 12/13 map, but some changes have been made, increasing the BVAP from 39.45% in the 12/13 version to 40.87% in the 1/22 version. The Catawba, Burke and Caldwell district configuration from the H717 v. 5 plan is incorporated, as are that earlier version's configurations of Districts 7 and 4. District 9 is a new configuration, a compromise between the two plans. In district configurations where the lines are unchanged, there are a few differences in the numbers of judges assigned to the district. For example, District 8 in northeastern NC now has 3 superior court judges instead of 2, as assigned in both the H717 v. 5 and 12/13 plans.

Population Deviations

In terms of allocating judicial resources and voting strength across the state, the proposed plan is deeply troubling, and, indeed, worse than the last proposed maps introduced in the Joint Select Committee. In the new map for superior court judges, there would be 109 superior court judges elected in total across the state. **When it comes to electing superior court judges, the number of voters per judge in the districts proposed in the 1/22 map varies greatly, ranging from 83.29% over the ideal "residents per judge" standard to 49.48% under the ideal ratio.** In terms of actual people, District 40, comprised of Henderson, Polk and Transylvania Counties, has one judge elected by 160,340 people. In contrast, District 28, comprised of Montgomery and Stanly Counties, elects two judges and has only 88,383 people, meaning "resident per judge ratio" is 44,192:1. **That is, voters in District 28 would have roughly four times the voting strength compared to voters in District 40.** This inequity should deeply trouble anyone who believes that the need for judicial redistricting now is truly motivated by a desire to even the electoral playing field for voters. And just like in the 12/13 map, every single judicial district in Wake, Mecklenburg, and Guilford Counties is substantially overpopulated, meaning the voters and judges in the largest (and most Democratic, based on performance) counties are subject to overworked and understaffed judicial officers under this plan, and voters in those counties enjoy a devalued vote when compared to more rural and suburban parts of the state. And since most of the state's growth has occurred there, this vote inequality is surely even more extreme than the 2010 census data suggests because these are the counties that have experienced the greatest population growth in North Carolina since 2010.

For electing district court judges, with 289 district court judges elected statewide, the proposed district court plan again creates a large and unjustifiable range of "residents per judge." **The plan ranges from 37.94% above the ideal population per judge to 27.48% below the ideal population per judge.** As an example, one district in Mecklenburg has 45,512 people per judge, while District 2, comprised of Beaufort, Hyde, Martin, Tyrrell and Washington Counties, has only 23,927 people per judge. **Voters in District 26A—a Democratic leaning district—have almost 50% less voting strength than voters in District 2, a strong Republican district.**

These significant and unjustified population deviations—even worse than in the last version of the plan—continue to demonstrate how the plan is designed for improper purposes and fails to achieve the one objective that its legislative proponents claim to have: addressing population inequalities in judicial districts.

Political Gerrymandering

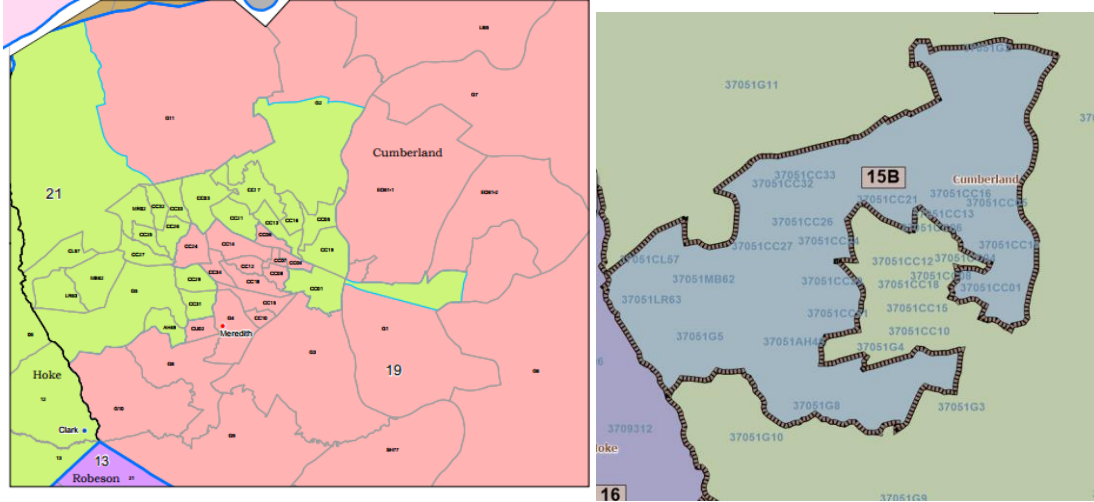
Just as in previous versions of the plan, looking at 2016 election results, it is clear that the districts in the 1/22 plan are designed to ensure that Republicans control a wildly disproportionate number of the judicial seats statewide compared to the share of Republican voters in the state. In the 1/22 plan, Republicans would control 37 of the 59 districts in the superior court and district plans, or 62.71% of the districts. However, that would translate to an even more disproportionate share of the judicial seats for Republicans. Looking at 2016 election results, Republicans would control 75 of the 109 Superior Court seats (68.81%) and would control 199 of the 289 District Court seats (68.86%).

As a reminder, as described in SCSJ's January 10th analysis, the existing structure for electing judges is not a Democratic gerrymander, as some proponents of the new plan have alleged. It actually slightly favors Republicans. But with this new 1/22 proposal, in a state that continues to perform as a purple or swing state, legislative Republicans seek to disproportionately vest one party with a supermajority of the judicial seats statewide.

Racial Gerrymandering

The 1/22 map does nothing to address the racial gerrymandering problems that are evident in the previous versions and, indeed, incorporates the worst racial gerrymandering from the 12/13 map. It incorporates, unchanged, the unjustifiably bizarre district configurations in Cumberland County, which perpetuate the racial gerrymandering a federal court recently ruled that the legislature failed to cure last year.

Below again the is a comparison of the Cumberland-portion of Senate District 21 in the state legislative remedial map, recently invalidated by the federal court in *Covington v. North Carolina*, and Judicial District 15A (it was labeled 15 B in the December 13 plan) in Cumberland County:



Likewise, in Guilford County, the plan continues to pack voters of color into just three districts—Districts 22A, 22B, and 22D. In fact, District 22A even more closely tracks the African-American population in High Point and southwestern Guilford County than did the equivalent district in the 12/13 map. During debate in the Joint Select Committee on Judicial Reform and Redistricting on January 22, 2018, Sen. Joel Ford from Mecklenburg County pointed out that the division of the county into two districts in the 1/22 map divided white, suburban voters from black, urban voters. The legislature continues to attempt to illegally segregate voters into electoral districts, despite unequivocal rebukes from the United States Supreme Court.

Conclusion

The new maps introduced on 1/22 represent no improvement over previous maps. Further, if judicial districts are manipulated for partisan gain, the impartiality of the state’s judiciary will be fatally injured. Judicial redistricting should not be led by legislators—this is not the norm nationwide, and it is not appropriate here. Both the process and the proposals being considered for judicial redistricting infringe on North Carolinians’ right to three independent branches of government.